



evaluated by the EPA-approved method, or recorded by a continuous emissions monitoring system operated and maintained pursuant to 40 C.F.R. Part 60 Appendix B....”

4. On October 27, 2008, Defendant caused and allowed emissions from its scrubber stack that were in excess of twenty percent (20%) opacity.

5. Neb. Rev. Stat. §81-1508.02 provides that violating NDEQ regulations promulgated pursuant to the Act subjects a person to a civil penalty of not more than ten thousand dollars (\$10,000) per day, and in the case of a continuing violation, each day shall constitute a separate offense.

#### SECOND CLAIM

6. The State incorporates by reference paragraphs 1 through 5 of the First Claim.

7. The issuance of an air quality construction permit to Vontz on June 5, 2003, obligated Vontz to keep records of monthly totals and the previous 12-month-totals of asphalt produced, gallons of fuel burned in the diesel generator, fuel type used, amount of fuel used in the drum dryer, and to conduct visible emissions checks during daily operations.

8. On July 11, 2007, October 25, 2008, and July 20, 2009, Vontz failed to maintain and make available to an NDEQ representative all records required under Defendant’s permit.

9. Neb. Rev. Stat. §81-1508.02(1)(b) provides that it shall be unlawful to violate any requirement of a permit issued under the authority entrusted in NDEQ.

#### THIRD CLAIM

10. NDEQ hereby incorporates paragraphs 1 through 5 of the First Claim and paragraphs 6 through 9 of the Second Claim.

11. The issuance of an air quality construction permit to Vontz on June 5, 2003, obligated Vontz to “notify the Director at least 20 days in advance of any proposed change in source location.”


12. On or before June 30, 2008, Vontz relocated its plant to Hall County, Nebraska.

13. Vontz failed to give NDEQ notice of the relocation to Hall County as required by its permit, and NDEQ had no such notice until the plant was discovered in Hall County on October 27, 2008.

WHEREFORE, the State requests that the Court enter judgment against Vontz in the form of a civil penalty as provided under Neb. Rev. Stat. §81-1508.02 (Reissue 2008), that all court costs herein be taxed to Defendant, and such other relief as the Court deems just and equitable.

STATE OF NEBRASKA, ex rel.,  
MICHAEL J. LINDER, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

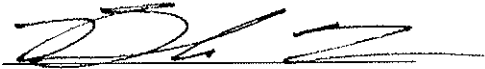
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on this 17 day of May, 2011 addressed to Defendant as follows:

Vontz Paving, Inc.  
2355 W. Hwy 6  
Hastings, NE 68901



Blake E. Johnson  
Assistant Attorney General