

IN THE DISTRICT COURT FOR CLAY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
)	COMPLAINT
Plaintiff,)	
v.)	
)	
INLAND FOODS, LLC,)	
)	
Defendant.)	

The State of Nebraska, on the relation of the Nebraska Department of Environmental Quality (NDEQ), alleges the following:

1. NDEQ is the agency of the State of Nebraska charged with the duty, under Neb. Rev. Stat. § 81-1504(1) (Reissue 1999), of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 1999, Cum. Supp. 2006, and Supp. 2007), the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 et seq. (Reissue 2004, Cum. Supp. 2006, Supp. 2007), and all rules and regulations promulgated those acts.

2. Inland Foods, LLC owns and operates an animal feeding operation in Clay County, Nebraska. Prior to December 2007, the animal feeding operation was owned and operated by Inland Foods Partnership. In December 2007, Inland Foods Partnership changed its form of business from a partnership to its current form: a limited liability company. As a result, Inland Foods, LLC succeeded Inland Foods Partnership as the owner and operator of the animal feeding operation and assumed responsibility for any potential claims against Inland Foods Partnership arising out of Inland Foods Partnership's operation of the animal feeding operation.

FIRST CLAIM

3. Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations," chapter 2, § 008.02, prohibits anyone who owns or operates an animal feeding operation from allowing or causing a discharge of livestock waste.

4. Under Neb. Rev. Stat. § 81-1506(5)(d), it is unlawful for any person to violate any rule or regulation promulgated under the Livestock Waste Management Act.

5. On September 28, 2006, and continuing through September 29, 2006, Inland Foods allowed or caused a discharge of livestock waste from its property to wetlands in the McMurtrey National Wildlife Refuge in Clay County, Nebraska.

6. Under Neb. Rev. Stat. § 81-1508.02, a civil penalty is provided for in the amount of not more than \$10,000 for each day of violation. In the case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

7. The State incorporates by reference each and every allegation contained in paragraphs 1 through 6.

8. Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations," chapter 2, § 010, requires any person who owns or operates an animal feeding operation to report any discharge of manure, litter or process wastewater to NDEQ within 24 hours of the event.

9. Inland Foods failed to report the September 28-29, 2006, discharge event to NDEQ within 24 hours of the event.

THIRD CLAIM

10. The State hereby incorporates by reference each and every allegation contained in paragraphs 1, 2 and 6.

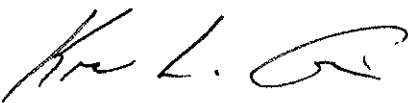
11. Neb. Rev. Stat. § 81-1506(2)(e) states that it is unlawful for any person to construct or use any new outlet for the discharge or emission of any wastes into the waters or land of the state without the necessary permit.

12. Prior to March 7, 2006, Inland Foods had constructed an unpermitted PVC pipe to drain the B1-9 building storage pit into a fresh water drainage channel.

WHEREFORE, the State prays that judgment be entered in its favor and against Inland Foods in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 and further that all costs of this action be taxed to Inland Foods.

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

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