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IN THE DISTRICT COURT FOR BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 MICHAEL J. LINDER, Director)
 DEPARTMENT OF)
 ENVIRONMENTAL)
 QUALITY,)
)
 Plaintiff,)
)
 v.)
)
 BS WASH, INC., a Nebraska)
 corporation,)
)
 Defendant.)

Case No. CI11245

COMPLAINT

FILED
 SHARON K MAULER
 2011 APR 1 AM 10 03
 CLERK OF DISTRICT COURT
 BUFFALO COUNTY, NE

The State of Nebraska, on behalf 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 2008), of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq., and all rules and regulations promulgated that Act.

2. BS Wash, Inc. is a Nebraska corporation. At all relevant times, BS Wash owned and operated a truck wash facility in Buffalo County, Nebraska, used for washing livestock trailers.

3. On February 4, 2010, BS Wash discharged wastewater from its truck wash facility into Elm Creek, a water of the state, without a permit, in violation of Neb. Rev. Stat. § 81-1506(2)(a) and 119 Neb. Admin. Code, ch. 2, § 001.



4. Prior to August 1, 2007, BS Wash modified its wastewater works without a construction permit and has operated the wastewater works since that date with the unpermitted modification in violation of Neb. Rev. Stat. § 81-1506(2)(b).

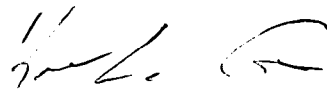
5. On February 4, 2010, BS Wash operated its wastewater works so that the water level in its wastewater lagoon was maintained in the area designed for freeboard, in violation of 123 Neb. Admin. Code, ch. 11, § 008.07.

4. Under Neb. Rev. Stat. § 81-1508.02(2), each violation of the Environmental Protection Act, or the rules and regulations promulgated under the Act, subjects a person to a civil penalty of no more than \$10,000 per day. In the case of a continuing violation, each day is a separate offense. In addition, under § 81-1508, a court may enter an injunction to remedy violation of the Act or any rule or regulation promulgated under it.

WHEREFORE, the State asks that judgment be entered in its favor and against BS Wash in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 and that all costs of this action be taxed to BS Wash. In addition, the State asks that this Court enter an injunction, enjoining BS Wash from continued operation of its truck wash unless BS Wash complies with all requirements of the applicable statutes, regulations, and permit conditions and completes approved modification of its wastewater works as described in construction permit 09-0029, approved by NDEQ in January 2010.

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

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