

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

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

Plaintiff,

v.

ANTHONY CARTER and
JANET CARTER, individuals,

Defendants.

Case No. _____

COMPLAINT
AND
REQUEST FOR INJUNCTION

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through, Jon Bruning, Attorney General, and alleges and states as follows:

FIRST CLAIM

1. The Nebraska Department of Environmental Quality, Plaintiff, is the agency of the State of Nebraska charged with the duty, pursuant to NEB.REV.STAT. § 81-1504(1) (Reissue 2008, Cum. Supp. 2010) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, NEB.REV.STAT. § 81-1501 *et seq.* (Reissue 2008, Cum. Supp. 2010).

2. At all times material herein Defendants Anthony Carter and Janet Carter, individuals, are the owners of a dwelling on property located at 530 Ravenwood Court, Grand Island, Hall County, Nebraska that has a septic system.

3. On or about December 21, 2011, Plaintiff issued a Complaint, Compliance Order and Notice of Opportunity for Hearing (the "Order"), ordering as follows (paragraph 6 and 7):



“6. Respondents shall within 30 days of receiving this Order have an engineer submit revised drawings showing the as-built conditions of the onsite wastewater treatment system installed at 530 Ravenwood Crt, Grand Island, Nebraska.

7. If current system is not able to be approved by the Department, Respondents by May 1, 2012, shall complete construction or reconstruction of the onsite system in accordance with an approved design or any approved modifications to the design.

a. Respondents shall within 30 days of completion of the construction/reconstruction, submit a Form J signed by the professional engineer who designed the system certifying that the construction is complete and has met all requirements of Title 124.

b. Respondents shall within 45 days of completion of the construction or reconstruction, submit a Form G, system registration free and any applicable late fee.

c. Respondents shall allow NDEQ or its agents access to the property to verify compliance.”

4. A hearing on the Order was not requested and the Order became a final order. Defendants did not perform the items as set out in paragraph 3 above.

5. NEB.REV.STAT. § 81-15080.02(1)(b) makes it unlawful for any person to “violate...any order of the director.”

6. Pursuant to NEB.REV.STAT. § 81-1508.02(1)(b) and (2) where there has been a violation of an order of the Director, a civil penalty is provided in the amount of not more than \$10,000.00 (ten thousand dollars) for each day of violation.

SECOND CLAIM

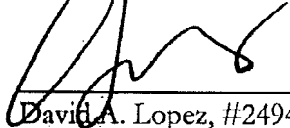
7. Plaintiff hereby incorporates by reference each and every allegation contained in its First Claim.

8. Plaintiff requests the Court enter an injunction pursuant to NEB.REV.STAT. § 81-1508(2) enjoining Defendants from continued violation of the Director’s Order and to have them come into compliance with those requirements in the Order as soon as possible.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendants in the form of civil penalties as provided under NEB.REV.STAT. § 81-1508.02, enjoined as provided by NEB.REV.STAT. § 81-1508(2) and that all costs of this action be taxed to Defendants.

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

By: JON BRUNING, #20351
Attorney General of Nebraska

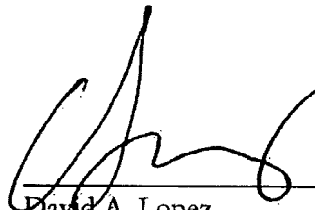
By: 
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint and Request for Injunction has been served on Defendant by regular United States mail, first class postage prepaid on this 24th day of December, 2012, addressed to Defendant's attorney of record as follows.

Alfred E. Corey III, Esq.
Shamberg, Wolf, McDermott & DePue
308 North Locust Street, Suite 501
Grand Island, NE 68801


David A. Lopez
Assistant Attorney General