

IN THE DISTRICT COURT OF MADISON COUNTY, NEBRASKA

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

Plaintiff,)

v.)

LONNIE MOORE AND)
DULCIE DAWN MOORE,)
Husband and Wife)

Defendants.)

Case No. 12-428 K

COMPLAINT

FILED
10:11 A.M. _____ P.M.

AUG 31 2012

IN DISTRICT COURT OF
MADISON COUNTY, NEBR.
MARJORIE BENTON PER. CLERK

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through Jon C. 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) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008) *et seq.*, along with all rules and regulations promulgated thereunder.

2. At all times material herein the Defendants, Lonnie Moore and Dulcie Dawn Moore, husband and wife, owned a home with a wastewater system located at 83698 Jolene Drive, Norfolk, Nebraska.

3. On or about May 21, 2009, Plaintiff issued a Compliant, Compliance Order and Notice of Opportunity for Hearing, ordering Defendant to (paragraph 8-11):



000104393D07



20120004046

- “8. ...immediately cease the discharge of wastewater to the land surface and take steps, as needed, to clean up any waste on the land surface. Any alternative wastewater disposal must be approved by the department in advance.
9. ...by July 1, 2009, submit a written response to the Department outlining what steps have been taken to prevent further discharges.
10. ...by August 1, 2009, shall file a complete permit application with the Department that complies with Title 124 and by September 15, 2009, shall complete the repairs or replacement of the onsite wastewater system.
11. ...ensure that any work on the wastewater treatment system is done by a certified professional as set out in Title 124.”

4. A hearing on the Order was not requested and the Order became a final order. Defendant did not perform items 8-11 above.

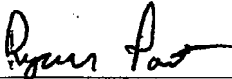
5. Neb. Rev. Stat. §81-1508.02 (1) (b) (Reissue 2008) makes it unlawful for any person to “violate...any order of the director.”

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 (ten thousand dollars) for each day of violation, and in the case of continuing violation, each day shall constitute a separate offense.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of civil penalties as provided in Neb. Rev. Stat. §81-1508.02 (Reissue 2008), and further that all costs of this action be taxed to the Defendant.

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

By: Jon C. Bruning, #20351
Attorney General


By: 

Ryan S. Post, #24714
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
Tel. (402) 471-1814
ryan.post@nebraska.gov
Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 29th day of August, 2012 addressed to the Defendant as follows:

Lonnie & Dulcie Moore
83698 Jolene Drive
Norfolk, NE 68701



Ryan S. Post
Assistant Attorney General