

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

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

Case No. _____

Plaintiff,)

COMPLAINT

v.)

NEBRASKA CORN PROCESSING, LLC,)
a company authorized to do business)
in Nebraska,)

Defendant.)

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality, who institutes this action through Jon Bruning, Attorney General, on behalf of the State of Nebraska as Plaintiff and alleges and states as follows:

1. The Plaintiff, the Nebraska Department of Environmental Quality (hereinafter, "NDEQ"), is at all times material herein the agency of the State of Nebraska charged with the duty pursuant to NEB.REV.STAT. § 81-1504 (Reissue 2008) to administer and enforce the Environmental Protection Act, NEB.REV.STAT. § 81-1501 *et seq.* (Reissue 2008) and all rules, regulations, orders, and permits created thereunder. NDEQ is also charged with the duty, pursuant to NEB.REV.STAT. § 81-1504 (1) and (4), to act as the state air pollution control agency for all purposes of the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, as amended.

2. The Defendant, Nebraska Corn Processing, LLC, is a limited liability company authorized to do business in Nebraska. The Defendant owns and operates an ethanol production plant in Furnas County, Nebraska. Regular operations of the Defendant's facility emit pollutants to the air of the state. Among the Defendant's air pollutant emissions are volatile organic compounds (VOCs).



3. NEB.REV.STAT. § 81-1506 (4) provides:

“(4) It shall be unlawful to: Construct or operate an air pollution source without first obtaining a permit required under the Environmental Protection Act and the rules and regulations adopted and promulgated by the council pursuant to subsection (12) of section 81-1505; (b) Violate any term or condition of an air pollution permit or any emission limit set in the permit; or (c) Violate any emission limit or air quality standard established by [the Nebraska Environmental Quality Council]...”

4. At all times material herein a permit issued to the Defendant on August 6, 2009, restricts the rate of emissions of volatile organic compound (VOC) from the Defendant's fermentation and distillation scrubber EP-18 to no more than 13.9 pounds per hour.

5. Air emissions stack testing revealed that on or about June 30, 2010 through on or about April 1, 2011, the Defendant operated its fermentation and distillation scrubber at the rate of 22.7 lbs/hr, contrary to the terms of the permit.

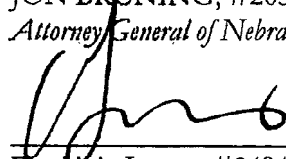
6. Pursuant to NEB.REV.STAT. § 81-1508.02 a civil penalty is provided in instances of violation of permits issued by the Department of Environmental Quality is an amount not to exceed ten thousand dollars (\$10,000), with each continuing day constituting a separate offense.

WHEREFORE, the Plaintiff prays that the Court enter judgment herein against the Defendant in the form of a civil penalty as provided under NEB.REV.STAT. § 81-1508.02; the Plaintiff further prays that all court costs herein be taxed to the Defendant.

Respectfully submitted this 17th day of December, 2012.

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

By: JON BRUNING, #20351
Attorney General of Nebraska

By: 

David A. Lopez, #24947
Assistant Attorney General

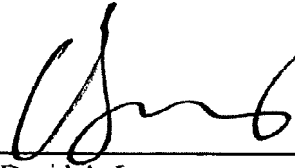
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on Defendant by regular United States mail, first class postage prepaid on this 17th day of December, 2012, addressed to the Defendant's attorney of record as follows.

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David A. Lopez
Assistant Attorney General