

IN THE DISTRICT COURT OF PHELPS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
Plaintiff,)	COMPLAINT
v.)	
)	
DAHLGREN CATTLE CO., INC.,)	
)	
Defendant.)	
)	

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:

1. The Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to 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 (Reissue 1999, Cum Supp. 2006, supp. 2007) *et seq.* and the Livestock Waste Management Act, Neb. Rev. Stat. §54-2401 (Cum. Supp 2006, Supp. 2007) *et seq.*, along with all rules and regulations promulgated thereunder.

2. At all times material herein the Defendant, Dahlgren Cattle Co., Inc., owned and operated an animal feeding operation, located in Phelps County, Nebraska.

3. Pursuant to Neb. Rev. Stat. §81-1506 (1) (a) (Reissue 1999), it is unlawful for any person to cause pollution of any waters of the state or place or cause to be placed wastes in a location where they are likely to cause pollution of any air, waters, or land of the state.

4. On or about July 3, 2007, the Defendant discharged cattle waste from its

animal feeding operation, causing pollution of waters of the state, in Phelps County, Nebraska.

5. Pursuant to Neb. Rev. Stat. §81-1508.02 (2), a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation. In case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

6. Plaintiff hereby incorporates by reference paragraphs 1-5 as if fully set forth herein.

7. Neb. Rev. Stat. §81-1506 (5) (c) states that it shall be unlawful for any person to violate any term or condition of an animal feeding operation permit.

8. Defendant's animal feeding operation was issued a General National Pollutant Discharge Elimination System Permit, Number NEG010000. This permit, which was in effect at all times material to this complaint, states in part, that the permittee shall allow an authorized representative of the Department to enter upon the permittee's premises where a regulated LWCF or activity is located or conducted.

9. On or about July, 3, 2007, an authorized representative of the Department was denied entry onto the Defendant's premises where a LWCF is located in Phelps County, Nebraska.

THIRD CLAIM

10. Plaintiff hereby incorporates by reference paragraphs 1-9 as if fully set forth herein.

11. Neb. Rev. Stat. §81-1506 (2) (b) states that it shall be unlawful for any person to construct, install, modify or operate any disposal system or part thereof or any

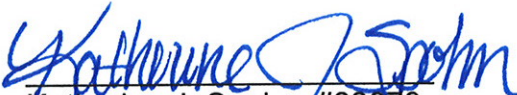
extension or addition thereto without obtaining the necessary permits from the department.

12. On or about July 10, 2007, the Defendant modified or operated its disposal system by using an unpermitted method or equipment for land application of its waste.

WHEREFORE, 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 (2), 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


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Consent Decree has been served upon the Defendant by regular United States mail, first class postage prepaid on this 18th day of July, 2008 addressed to the Defendant's attorney of record as follows:

Stephen D. Mossman, #19859
Mattson, Ricketts, Davies, Stewart & Calkins
134 South 13th Street, Suite 1200
Lincoln, NE 68508


Katherine J. Spohn
Assistant Attorney General