

IN THE DISTRICT COURT OF ARTHUR COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,	)	Case No. _____
MICHAEL J. LINDER, Director	)	
DEPARTMENT OF ENVIRONMENTAL	)	
QUALITY,	)	
	)	<b>COMPLAINT</b>
Plaintiff,	)	
v.	)	
	)	
CHAD A. COONEY	)	
	)	
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 Nebraska Department of Environmental Quality, Plaintiff, is the agency of the State of Nebraska charged with exercising exclusive supervision of the implementation and enforcement of the Private Onsite Wastewater Treatment System Contractors Certification and System Registration Act, Neb. Rev. Stat. § 81-15,236 *et seq.* (Reissue 2008) along with the rules and regulations promulgated pursuant to that Act, including Title 124 of the Nebraska Administrative Code, "Rules and Regulations for the Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems."

2. At all times material herein the Defendant, Chad Cooney, operated the Bunkhouse Bar & Grill in Arthur County, Nebraska. As part of its operation, the Bunkhouse Bar & Grill uses a private onsite wastewater treatment system to convey, store and dispose of the wastewater produced by the Bar.

3. On or about November 12, 2008, Plaintiff issued a Complaint, Compliance Order and Notice of Opportunity for Hearing, ordering Defendant to (paragraph 6-9):



Respondent Shall:

6. Immediately stop pumping on site wastewater treatment systems and immediately stop having non-certified persons pump the onsite wastewater treatment systems.

7. By January 1, 2009 send to the Department in writing the names, addresses and phone numbers of persons currently pumping the Bunkhouse Bar and Grill onsite wastewater treatment system and keep the Department updated in writing as to any changes for 12 months from this Order

8. By January 1, 2009 send to the Department in writing the names, addresses and phone numbers of the persons who have pumped the Bunkhouse Bar and Grill wastewater system in the last two years.

9. By February 1, 2009 have an evaluation by a certified professional installer or engineer as to whether any changes need to be made to the Bunkhouse Bar and Grill wastewater system and report these findings in writing to the Department.

4. A hearing on the Order was not requested and the Order became a final order.

5. On or about April 23, 2010, Defendant complied with the requirements as set out above.

6. Neb. Rev. Stat. §81-1508.02 (1)(b), makes it unlawful for any person to "violate . . . any order of the director."

7. 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.

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

Dated: June 29, 2012.

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

By JON C. BRUNING, #20351  
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*Attorneys for Plaintiff.*

CERTIFICATE OF SERVICE

It is hereby certified that on this 29 day of June, 2012, a true and accurate copy of the foregoing Complaint has been served upon Defendant herein by placing a copy of the same in the United State Mail, first class postage prepaid, addressed to Defendant at:

Randy Fair  
914 East A Street  
P.O. Box 60  
Ogallala, NE 69153

Ryan Post  
Ryan S. Post  
Assistant Attorney General