


IN THE DISTRICT COURT OF DAKOTA COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
 MICHAEL J. LINDER, Director )  
 DEPARTMENT OF ENVIRONMENTAL )  
 QUALITY, )  
 Plaintiff, )  
 v. )  
 SIOUXLAND ETHANOL, LLC, a limited )  
 liability company authorized to do business )  
 in Nebraska )  
 Defendant. )

Case No. CX 11-187

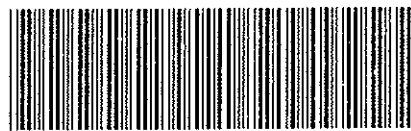
COMPLAINT  
 STATE OF NEBRASKA  
 DAKOTA COUNTY (SS)  
 FILED  
 AUG 15 2011  
 CLERK OF DISTRICT COURT  
 BY  DEPUTY

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 as follows:

I. FIRST CAUSE OF ACTION

1. Plaintiff, Nebraska Department of Environmental Quality, 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 1999) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. §81-1501 et seq. (Reissue 1999, Cum Supp. 2006) and all rules, regulations, orders, and permits created thereunder. NDEQ is also charged with the duty, pursuant to Neb. Rev. Stat. §1504 (1) and (4) (Reissue 1999), 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. Defendant, Siouxland Ethanol, LLC, is a limited liability company authorized to do business in Nebraska. Defendant owns and operates an ethanol production plant in Dakota County, Nebraska. Regular operations of Defendant's facility emit pollutions to the air of the state, including hazardous air pollutants (HAPs) and volatile organic compounds (VOCs).



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DEPARTMENT OF JUSTICE

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STATE OF NEBRASKA

3. Pursuant to Neb. Rev. Stat. §81-1506 (4)(b) (Reissue 1999, Cum Supp. 2006) , “It shall be unlawful to ...[v]iolate any term or conditions of an air pollution permit or any emission limit set in the permit...”

4. At all times material herein, operation of Defendant has been subject to the terms of an air quality construction permit issued by NDEQ on November 17, 2005, which required control of all VOC and HAP emissions by the CO<sub>2</sub> scrubber.

5. During compliance inspections on September 3, 2007 and again on August 28, 2008, leaks were observed from pressure release valves and dampers in violation of Defendant’s permit.

6. Pursuant to Neb. Rev. Stat. §81-1504 (11) (Reissue 1999) a civil penalty is provided in instances of violation of permits issued by the Nebraska Department of Environmental Quality in an amount not to exceed ten thousand dollars (\$10,000), with each continuing day constituting a separate offense.

## II. SECOND CAUSE OF ACTION

7. The plaintiff incorporates by reference the allegations of paragraphs 1-6 of the Complaint.

8. On May 8, 2008, NDEQ modified Defendant’s construction permit to require continuous recording of the scrubbing liquid flow rate and chemical additions flow rate.

9. On August 28, 2008, Defendant violated its permit in failing to continuously record the flow rate of the chemical addition.

10. WHEREFORE the plaintiff prays that the court enter judgment on each cause of action against the defendant in the form of a civil penalty as provided under Neb. Rev. Stat. §81-1508.02 and further prays that all court costs herein 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   
Katherine J. Spohn, #22979  
Special Counsel to the Attorney General  
2115 State Capitol Building  
P.O. Box 98920  
Lincoln, Nebraska 68509-8920  
(402) 471-2682  
katie.spohn@nebraska.gov  
*Attorneys for Plaintiff.*

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on this 12<sup>th</sup> day of August, 2011, addressed to the Defendant's attorney of record as follows:

Siouxland Ethanol, L.L.C.  
Chuck Hofland, General Manager  
110 East Elk Street  
Jackson, Nebraska 68743

  
Katherine J. Spohn  
Special Counsel to the Attorney General