

IN THE DISTRICT COURT OF YORK COUNTY, NEBRASKA

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

Case No. _____

Plaintiff,)

COMPLAINT

v.)

HEARTLAND SWINE, INC.,)

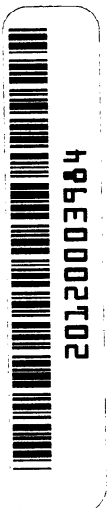
Defendant.)

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (“NDEQ” or “Department”), alleges the following:

FIRST CLAIM

1. The Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 2008, Supp. 2009) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008, Supp. 2009) *et seq.* and the Livestock Waste Management Act, Neb. Rev. Stat. §54-2416 (Reissue 2010) *et seq.*, along with all rules and regulations promulgated thereunder.

2. At all times material herein the Defendant, Heartland Swine, Inc., owned and operated an animal feeding operation located in York County, Nebraska, the legal description being SE1/4, SW1/4, Section 36, Township 9N, Range 4W, York County, Nebraska.



3. Pursuant to Neb. Rev. Stat. §81-1506 (1) (a) (Reissue 2008), “[i]t shall be unlawful for any person to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state. . .”

4. On or about March 27, 2010 and March 28, 2010, placed or caused to be placed swine waste from its animal feeding operation in a location where it was likely to cause pollution of the waters of the state, in York County, Nebraska, including but not limited to a drainage way leading to the Big Blue River.

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 all preceding paragraphs as fully set forth herein.

7. Pursuant to the Nebraska Environmental Quality Council’s authority as expressed in Neb. Rev. Stat. §81-1505 and Neb. Rev. Stat. §54-2435, the Council adopted a rule and standard codified as Title 130, *Rules and Regulations Pertaining to Livestock Waste Control*, which requires in Chapter 2, Section 010, that “[a]ny person who owns or operates an animal feeding operation shall report any discharge of manure, litter, or process wastewater to the Department within 24 hours of the event and provide a written report to the Department within five days of the event.”

8. Defendant did not report the discharge of waste to NDEQ within the requisite 24 hours of the events of March 27, 2010 and March 28, 2010.

9. Defendant did not provide a written report of the discharge of waste to NDEQ within the requisite five days of the events of March 27, 2010 and March 28, 2010.

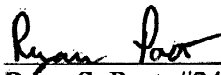
10. It is unlawful for any person to violate or fail to perform any duty imposed by such acts, rules or regulations under Neb. Rev. Stat. §81-1508.02(1)(e).

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(2), and further that all costs of this action be taxed to the Defendant.

DATED this 19th day of November, 2012.

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 Defendant by regular United States mail, first class postage prepaid on this 19th day of November, 2012, addressed to the Defendant as follows:

Kenneth Lorenzen, President
Heartland Swine, Inc.
PO Box 660
2231 Hwy 6
Sutton, Nebraska 68979



Ryan S. Post
Assistant Attorney General

IN THE DISTRICT COURT FOR YORK COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
)
Plaintiff,)
)
v.)
)
HEARTLAND SWINE, INC.,)
)
)
Defendant.)

Case No. _____

PRAECIPE FOR SUMMONS

TO THE CLERK OF SAID COURT:


Please prepare and issue a Summons according to law, together with a copy of the attached Complaint, and deliver to the undersigned attorney who is electing service by certified mail upon the Defendant at the following address:

Kenneth Lorenzen, President
Heartland Swine, Inc.
PO Box 660
2231 Hwy 6
Sutton, Nebraska 68979

DATED this 19th day of November, 2012

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

By JON C. BRUNING, #20351
Attorney General

By 
Ryan Post, #24714
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
ryan.post@nebraska.gov
Attorneys for Plaintiff.