

IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)	
MICHAEL J. LINDER, Director,)	
NEBRASKA DEPARTMENT OF)	
ENVIRONMENTAL QUALITY,)	
)	
Plaintiff,)	COMPLAINT
)	
v.)	
)	
DUTTON-LAINSON COMPANY, a)	
corporation authorized to do business in)	
Nebraska,)	
)	
Defendant.)	

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality (hereinafter "NDEQ" or "Plaintiff"), who institutes this action through Jon C. Bruning, Attorney General of the State of Nebraska, as plaintiff and alleges and states as follows:

FIRST CLAIM

1. 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 *et seq.* (Reissue 1999, Cum. Supp, 2000, Supp. 2003), and all rules and regulations promulgated thereunder.

2. Defendant, Dutton-Lainson Company (hereinafter "Dutton-Lainson"), is a corporation authorized to do business in Nebraska. Dutton-Lainson owns and operates a fabricated metal products manufacturing facility in Adams County, Nebraska.

3. Pursuant to Neb. Rev. Stat. §81-1506(4)(b)(Cum. Supp. 2006), it shall be unlawful to “[v]iolate any term or condition of an air pollution permit....”

4. At all times material herein, Dutton-Lainson has been subject to the terms of an air quality construction permit issued by NDEQ pursuant to Neb. Rev. Stat. §81-1504(11) on July 16, 2003.

5. The permit issued to Dutton-Lainson provides in pertinent part as follows:

Specific Conditions XXXI....(G) The batch vapor cleaning machine control combination... shall be monitored as follows:...(1) Determine during each monitoring period whether each control device used to comply with these standards meets the following requirements...(a) Ensure weekly that the chilled air blanket temperature (in °F), measured at the center of the air blanket during idle mode, is no greater than 30% of the solvent boiling point (57° F for trichloroethylene).

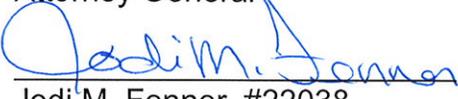
6. Beginning on or around May 20, 2005 and continuing on twenty-one separate occasions thereafter until November 18, 2005, Dutton-Lainson failed to comply with condition XXXI. (G) of its air permit in that it failed to ensure that the chilled air blanket temperature measured at the center of the air blanket during idling mode did not exceeds 57° F.

7. Neb. Rev. Stat. §81-1508.02(2) (Reissue 1999) provides that any person who violates §81-1506 or §81-1508.02(1) shall be subject to a civil penalty of no more than \$10,000 (ten thousand dollars) per day. In the case of a continuing violation, each day shall constitute a separate offense.

WHEREFORE, Plaintiff prays that judgment be entered in favor of Plaintiff and against Defendants in the form of civil penalties as provided in Neb. Rev. Stat. §81-1508.02(2), and that all costs of this action be taxed to Defendants.

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

By: Jon C. Bruning, #20351
Attorney General

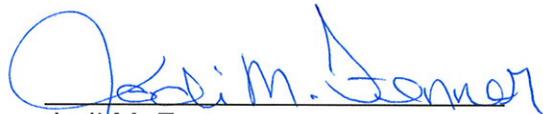
By: 
Jodi M. Fenner, #22038
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P.O. Box 98920
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 21st day of May, 2007 addressed to the Defendant's attorney of record as follows:

David H. Fisher, Attorney
Dunmire, Fisher & Hastings
202 Heritage Bank Bldg.
P.O. Box 1044
Hastings, NE 68902-1044


Jodi M. Fenner
Assistant Attorney General