

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
)
v.)
)
MANN HAY COMPANY, INC.,)
A Nebraska authorized corporation,)
)
Defendant.)
)

Case No. _____

COMPLAINT

COMES NOW, Michael J. Linder, Director of the Department of Environmental Quality, who institutes this action through Jon C. Bruning, Attorney General, on behalf of the State of Nebraska, and alleges as follows:

FIRST CLAIM

1. The plaintiff, the Nebraska Department of Environmental Quality (“NDEQ”), is at all times material herein the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. §81-1501 *et. seq.* (Reissue 1999, Cum. Supp. 2004, Supp. 2005) and all rules, regulations, and permits created thereunder.
2. The defendant, Mann Hay Company, Inc., (“Defendant”) is a corporation authorized to do business in Nebraska. Defendant owns and operates an alfalfa dehydration plant in the town of Gothenburg, Dawson County, Nebraska. As a regular part of its day-to-day operations, Defendant grinds and dries alfalfa on its premises. Such grinding, drying, handling, and transfer operations generate dust and particulate emissions.

3. Pursuant to Neb. Rev. Stat. §81-1508.02(1)(b) (Reissue 1999), it is unlawful to “violate any air... quality standards, [or] any emission or effluent standards or limitations” contained in the Environmental Protection Act or the rules or regulations adopted and promulgated pursuant to such act.

4. The Nebraska Environmental Quality Council, pursuant to Neb. Rev. Stat. §81-1505(1) and (12), duly adopted a rule relating to particulate emissions, found in Title 129, Chapter 20, which provides in pertinent part,

“005.02 No person shall cause or allow emissions from any existing alfalfa dehydration plant dryer which are of an opacity equal to or greater than thirty percent (30%).”

5. On January 25, 2006, Defendant caused and allowed emissions from an alfalfa dehydration plant dryer that were in excess of thirty percent (30%), to wit: 59% as determined by EPA approved Method 9.

6. Pursuant to Neb. Rev. Stat. §81-1508.02, a civil penalty, not to exceed ten thousand dollars (\$10,000.00) per day is provided in cases of violations of regulations.

SECOND CLAIM

7. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 6 herein.

8. Pursuant to Neb. Rev. Stat. §81-1505(1) and (12), the Nebraska Environmental Quality Council also duly adopted a rule relating to particulate emissions, found in Title 129, Chapter 32, which provides in pertinent part:

“001 Handling, Transportation, Storing. No person may cause or permit the handling, transporting or storage of any material in a manner which may

allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.”

9. On January 25, and February 13, 2006, Defendant caused and permitted the handling and storage of material so that particulate matter originating on its premises remained visible in the air beyond Defendant’s premises.

10. Pursuant to Neb. Rev. Stat. §81-1508.02, a civil penalty, not to exceed ten thousand dollars (\$10,000.00) per day is provided in cases of violations of regulations.

WHEREFORE, NDEQ prays that judgment on its Claim be entered herein against Defendant in the form of a civil penalty as provided under §81-1508.02, together with the costs of the action.

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

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