

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
NEBRASKA DEPARTMENT OF)	
ENVIRONMENTAL QUALITY,)	
)	
Plaintiff,)	
)	
v.)	COMPLAINT
)	
CROW BUTTE RESOURCES, INC., a)	
Nebraska Corporation,)	
)	
Defendant.)	

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 Nebraska Department of Environmental Quality (hereinafter NDEQ), is at all times alleged herein, the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 1999), of exercising exclusive general supervision, administration, and enforcement of the Environmental Protection Act (hereinafter the Act), Neb. Rev. Stat. §81-1501 *et seq* (Reissue 1999 and Cum. Supp. 2006) and all rules, regulations, and permits created thereunder.

2. Defendant Crow Butte Resources, Inc. (hereinafter CBR), at all times alleged herein, is a Nebraska corporation which owns and operates an in-situ uranium mining facility which is located on approximately 2,840 acres in all or portions of Sections 11, 12, and 13 of Township 31 North, Range 52 West of the

6th P.M., Dawes County, Nebraska, and Sections 18, 19, 20, 29, and 30 of Township 31 North, Range 51 West of the 6th P.M., Dawes County, Nebraska.

3. Pursuant to its authority under Neb. Rev. Stat. §81-1504(11) (Cum. Supp. 2006), NDEQ issued an Underground Injection Control (hereinafter UIC) Permit to CBR, UIC Permit No. NE0122611 which required:

All of the liquid waste streams shall be collected and retained in the lined evaporation ponds, or disposed of in a permitted deep disposal well as approved by the Department. This permit does not authorize any wastewater discharge to the land surface or surface waters of the State.

4. Violation of a permit condition or limitation is a violation of Neb. Rev. Stat. §81-1508.02(1)(b).

5. Beginning on or about July 1, 2003, and continuing daily thereafter until March 31, 2006, Defendant CBR violated its UIC Permit No. NE0122611 by releasing well development water upon the surface of the ground during CBR's well development and drilling process.

6. Pursuant to Neb. Rev. Stat. §81-1508.02, a civil penalty, not to exceed ten thousand dollars (\$10,000.00), is warranted for each day of violation.

SECOND CLAIM

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

8. Defendant CBR's UIC Permit No. NE0122611 further prohibited the use of Chadron Formation well development water as drilling water and required Defendants to treat well development water from the Chadron Formation as a liquid waste stream to be collected and retained in lined evaporation ponds.

9. Beginning on or about July 1, 2003, and continuing daily thereafter until on or about March 31, 2006, Defendant CBR, used Chadron Formation well development water as drilling water in violation of UIC Permit No. NE0122611.

THIRD CLAIM

10. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 9 as if fully stated herein.

11. At all times alleged herein, Nebraska Administrative Code Title 122 "Rules and Regulations for Underground Injection and Mineral Production Wells" (hereinafter Title 122) was in full force and effect and applied to the Defendant's facility and activities.

12. Title 122, Chapter 4, §001 prohibits an owner or operator from constructing an injection well or mineral production well in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water if the presence of the contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health and safety of persons.

13. Defendant CBR, on a daily basis from on or about July 1, 2003 until March 31, 2006, constructed injection wells and mineral production wells in a manner that had the potential to allow the movement of fluid containing contaminants into an underground source of drinking water, in violation of Title 122, Chapter 4, §001.

14. Neb. Rev. Stat. §81-1508.02(1)(e) (Cum. Supp. 2006) makes it

unlawful for any person to violate any rules or regulations adopted and promulgated pursuant to such Act.

FOURTH CLAIM

15. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 14 as if fully stated herein.

21. Title 122 Chapter 21 §001.06 further requires a permittee to provide written notification to NDEQ of any noncompliance which may endanger the health and safety of persons or cause pollution of the environment within five days of the time the permittee becomes aware of the noncompliance.

23. Defendant CBR became aware of the noncompliance on or about March 31, 2006 and failed to provide written notification to NDEQ as required by Title 122 Chapter 21 §001.06 until May 12, 2006.

WHEREFORE, NDEQ prays that judgment on its Claims be entered herein in favor of NDEQ and against Defendant in the form of a civil penalty as provided under Neb. Rev. Stat. §81-1508.02, together with the costs of the action and such other relief as the Court deems just and equitable.

STATE OF NEBRASKA ex rel.
MICHAEL J. LINDER, Director
Department of Environmental
Quality, Plaintiff,

BY: JON BRUNING #20351
Attorney General

BY: _____
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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 ___ day of May, 2008 addressed to the Defendant's attorney of record as follows:

Mark D. McGuire
McGuire and Norby
605 South 14th Street, Suite 100
Lincoln, NE 68508

Katherine J. Spohn
Assistant Attorney General