

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
Plaintiff,)
v.)
JANET M. SLEGGERS, WOOD RIVER)
DAIRY L.L.C., and ASPEN DAIRY,)
a Nebraska General Partnership,)
Defendants.)

CASE NO. _____

COMPLAINT

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

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 1999) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 1999) *et seq.* and the Livestock Waste Management Act, Neb. Rev. Stat. §54-2416 (Reissue 1999) *et seq.*, along with all rules and regulations promulgated there under.

2. At all times material herein Defendant, Janet M. Slegers (hereinafter "Slegers") owned or operated an animal feeding operation, located in Buffalo County, Nebraska. Defendant Aspen Dairy, a Nebraska General Partnership (hereinafter "Aspen"), also owned or operated this animal feeding operation, located in Buffalo County, Nebraska, from 1998 to August 3, 2006. Defendant,

Wood River Dairy, L.L.C., (hereinafter "Wood River") has also owned or operated this animal feeding operation since August 3, 2006.

3. Pursuant to Neb. Rev. Stat. §81-1506(1)(a) it is unlawful to cause pollution of any air, waters, or land of the state or to place 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 8, 2007, the Defendants Slegers and Wood River allowed or caused a discharge of livestock waste to waters of the State.

5. Pursuant to Neb. Rev. Stat. §81-1508.02 (1) and (2) a civil penalty is provided in the amount of not more than \$10,000 (Ten thousand dollars) for each day of violation, and in the case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

6. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1-5 as if fully set forth herein.

7. The Nebraska Environmental Quality Council, pursuant to the authority granted to it under Neb. Rev. Stat. §81-1504(1), adopted Title 130 of the Nebraska Administrative Code, *Rules and Regulations Pertaining to Livestock Waste Control*.

8. Title 130, Chapter 2, Section 009, requires any person who owns or operates an animal feeding operation to report any discharge of manure, litter or process wastewater to the Department within 24 hours of the event.

9. Pursuant to Neb. Rev. Stat. §81-1506 (5) (d) it is unlawful for any person to violate any rule or regulation adopted by the Council.

10. On or about March 8, 2007, Defendants Slegers and Wood River failed to report the discharge event to the Department within 24 hours of the event.

THIRD CLAIM

11. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1-10 as if fully set forth herein.

12. Title 130, Chapter 2, Section 008.13, requires the permittee to comply with the terms of a construction approval or an operating permit.

13. On or about July 2, 2006, Defendants Slegers and Aspen Dairy failed to comply with their construction approval by not completing construction of the livestock waste control facilities for the expanded solid waste storage area by July 1, 2006.

FOURTH CLAIM

14. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1, 2 and 7 of its First Claim.

15. Pursuant to Neb. Rev. Stat. §81-1506 (2) (b) it is unlawful for any person to operate any disposal system without obtaining the necessary permits from the Department.

16. On or about August 3, 2006, and continuing daily thereafter, Defendant Wood River operated a disposal system without obtaining the necessary permits from the Department.

FIFTH CLAIM

17. Plaintiff hereby incorporates by reference each and every allegation contained in its First Claim and Third Claim.

18. The Director, pursuant to Neb. Rev. Stat. § 81-1508 (2) (Reissue 1999), asks the Court for an injunction enjoining the Defendants from any further livestock operations unless they obtain the appropriate state permit to allow for continued operation of the facility; submit an application to the Department to control runoff from the feed storage area; submit a certification of completion form for the expanded solid storage area; and submit an application for a National Pollutant Discharge Elimination System (NPDES) permit.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendants in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), an injunction be entered and further that all costs of this action be taxed to the Defendants.

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

By JON C. BRUNING, #20351
Attorney General

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendants by regular United States mail, first class postage prepaid on this 9th day of April, 2008 addressed to the Defendants as follows:

Janet M. Slegers
30955 Hwy. 183
Miller, NE 68858


Katherine J. Spohn
Assistant Attorney General