

IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director,)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
CHIEF ETHANOL FUELS, INC.,)
Defendant.)

Case No. CI 11-106

COMPLAINT

ADAMS COUNTY
CLERK OF DIST. COURT

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FILED

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 as plaintiff and alleges and states as follows:

1. The plaintiff, the Nebraska Department of Environmental Quality, is at all times material herein the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. §81-1504 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 2008) and all rules and regulations, orders, and permits created thereunder.

2. The defendant, Chief Ethanol Fuels, Inc., owns and operates an ethanol production plant located in Adams County, Nebraska, and is authorized to do business as a corporation under Nebraska Law.

3. Chief Ethanol Fuels, Inc. is engaged in the production of ethanol from corn in Adams County, Nebraska. In the conduct of its business the Respondent produces air pollutants that it releases to the atmosphere. One item of the Respondent's production equipment is a natural gas-fired boiler called Unit 15-1.



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4. On February 19, 2008, NDEQ issued an air quality construction permit to Chief.

The permit provides in pertinent part as follows:

“(D) The natural gas-fired boiler (emission unit 15-1) shall comply with the following conditions: ...

(2) The maximum heat input shall not exceed 249 MMBtu per hour when fired with natural gas. Natural gas flow rate shall not exceed an average of 249,300 standard cubic feet per hour. The flow rate shall be recorded on an hourly basis and the record kept onsite. The average flow rate shall be calculated as the arithmetic mean of 24 consecutive hourly measurements. Each exceedance of the flow rate restriction shall be reported to the Department within 10 calendar days of the exceedance (Construction Permit issued February 1, 1993) ...

(6) For emission unit 15-1, the source shall comply with the applicable requirements of 40 CFR 60 Subpart Db – Standards of Performance for Industrial – Commercial Institutional Steam Generating Units and Subpart A – General Provisions {Chapter 18, Sections 001.01 and 001.22}

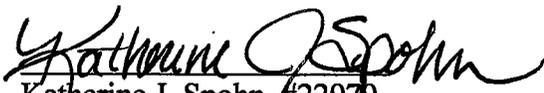
5. During the month of February, 2010, the Respondent operated the natural gas-fired boiler, Unit 15-1, for 14 hours with heat input at a rate that exceeded 250 MM/Btus per hour on a 24-hour average basis (average exceedance of .62 MM/Btu/hr, maximum exceedance of .93 MM/Btu/hr) in violation of the terms of the construction permit.

6. Pursuant to Neb. Rev. Stat. §81-1508.02 (Reissue 2008) a civil penalty is provided in instances of violation of permits issued by the Department of Environmental Quality in an amount not to exceed ten thousand dollars (\$10,000) per offense, with each continuing day constituting a separate offense.

WHEREFORE the plaintiff prays that the court enter judgment herein against the defendant in the form of a civil penalty as provided under Neb. Rev. Stat. §81-1508.02 (Reissue 2008); and the plaintiff further prays that all court costs herein be taxed to the defendant.

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

By JON C. BRUNING, #20351
Attorney General

By 
Katherine J. Spohn, #22979
Special Counsel to the Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
katie.spohn@nebraska.gov

Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

It is hereby certified that on this ^A5th day of February, 2011, a true and accurate copy of the foregoing Complaint has been served upon Defendant herein by placing a copy of the same in the United State Mail, first class postage prepaid, addressed to Defendant's attorney of record.

Michael Mostek
Koley Jessen P.C., L.L.O.,
One Pacific Place
1125 South 103rd Street, Suite 800
Omaha, Nebraska 68124


Katherine J. Spohn
Special Counsel to the Attorney General