

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Plaintiff, )  
v. )  
DINSDALE BROS., INC., )  
Defendant. )

Case No. 11-241

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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 as plaintiff and alleges as follows:

I. FIRST CAUSE OF ACTION

1. 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. §81-1504 (4) (Reissue 2008) to administer and enforce the Livestock Management Act §54-2416 *et seq.* (Reissue 2004, Cum Supp. 2008, LB 56 Laws 2009) Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 2008) and all rules and regulations created thereunder.

2. Defendant, Dinsdale Bros., Inc., owns and operates large concentrated animal feeding operations near Palmer. One is in Merrick County, Nebraska, and known as Dinsdale Bros., South Lot. Another is in Nance County, Nebraska, and known as Dinsdale Bros., North Lot.

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3. Pursuant to Neb. Rev. Stat. §81-1506(2)(a) (Reissue 2008), it is unlawful for any person to “[d]ischarge any pollutant into waters of the state without obtaining a permit as required by the National Pollutant Discharge Elimination System created by the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, and by rules and regulations adopted and promulgated pursuant to section 81-1505”

4. On January 4, 2009, January 5, 2009, February 3, 2010, and February 4, 2010, the defendant discharged livestock waste from an irrigation pipe at its animal feeding operation to waters of the state when it did not have a permit, approval, or exemption from the department to do so.

5. Pursuant to Neb. Rev. Stat. §81-1508.02 (Reissue 2008) a civil penalty not to exceed ten thousand dollars (\$10,000) per day is provided in cases of violation of the Livestock Waste Management Act and the Environmental Protection Act and rules and regulations promulgated thereunder.

## II. SECOND CAUSE OF ACTION

6. NDEQ hereby incorporates by reference the allegations contained in paragraphs 1-5 of the plaintiffs’ First Cause of Action.

7. Pursuant to Neb. Rev. Stat. §81-1508.02(1)(b) it shall be unlawful to violate any permit or license condition issued by NDEQ.

8. On July 26, 2006, NDEQ issued Defendant a permit which required construction of a structure identified as Holding Pond 2 and a groundwater monitoring well as soon as possible.

9. Beginning on January 1, 2008 Defendant failed to complete the holding pond and monitoring well in violation of its July 26, 2006 permit.

WHEREFORE the plaintiff prays that judgment on its complaint be entered against the defendant in the form of a civil penalty as provided under Neb. Rev. Stat. §81-1508.02 (Reissue 2008), together with the costs of the action.

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

By JON C. BRUNING, #20351  
Attorney General

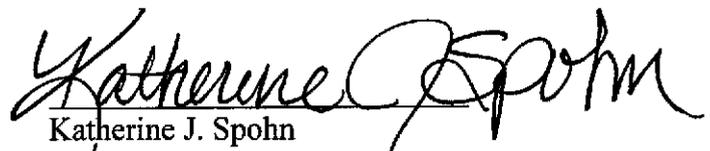
By   
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*Attorneys for Plaintiff.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on this 18<sup>th</sup> day of January, 2011, addressed to the Defendant's attorney of record as follows:

Stephen D. Mossman  
Mattson Ricketts, Davies, Stewart & Calkins  
134 S 13<sup>th</sup> Street, Suite 1200  
Lincoln, Nebraska 68508-1901

  
Katherine J. Spohn  
Special Counsel to the Attorney General