

IN THE DISTRICT COURT OF WHEELER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	
MICHAEL J. LINDER, Director)	
NEBRASKA DEPARTMENT OF)	CASE NO. _____
ENVIRONMENTAL QUALITY,)	
Plaintiff,)	
v.)	COMPLAINT and REQUEST
)	FOR INJUNCTION
DAVID HOERLE, d/b/a Royal Flush)	
Truck Wash,)	
Defendant.)	

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality ("NDEQ" or "Department"), alleges the following:

FIRST CLAIM

1. The Nebraska Department of Environmental Quality, Plaintiff, is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 2008) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. §81-1501 (Reissue 2008 and Supp. 2009) *et seq.*, along with all rules and regulations promulgated there under.

2. At all times material herein Defendant, David Hoerle, doing business as Royal Flush Truck Wash, owns and operates a Truck Wash located three (3) miles south of Bartlett on Highway 281, Wheeler County, Nebraska. The legal description for the property is NE1/4 of the NE1/4, Section 35, Township 22 North, Range 11 West, Wheeler County, Nebraska.



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

4. On or about March 2010, and continuing through to the present time, the Defendant operated a disposal system at the above described truck wash without obtaining the necessary permit(s) from the Department.

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

SECOND CLAIM

6. Plaintiff hereby incorporates by reference all preceding paragraphs as fully set forth herein.

7. In addition to civil penalties, Plaintiff further requests the Court enter an injunction pursuant to Neb. Rev. Stat. §81-1508 (2), enjoining the Defendant from continued operation of the truck wash until Defendant complies with all requirements of the applicable statutes and regulations.

WHEREFORE, the Plaintiff prays that judgment be entered in favor of the Plaintiff and against the Defendant in the form of civil penalties and injunction as provided in Neb. Rev. Stat. § 81-1508.02 and 81-1508(2), and further that all cost of this action be taxed to the Defendant.

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

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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 29th day of October, 2012, addressed to the Defendant's attorney of record as follows:

Greg Jensen
1532 L Street
P.O. Box 310
Ord, Nebraska 68862

Ryan Post
Ryan S. Post
Assistant Attorney General