

IN THE DISTRICT COURT OF CUMING COUNTY, NEBRASKA

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

Plaintiff,

v.

DONALD KNOBBE, DEAN KNOBBE,
and THOMAS KNOBBE, individuals
doing business as KORNER PIG
COMPANY, a Nebraska partnership,

Defendants.

Case No. _____

COMPLAINT

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality, who institutes this action through, Jon Bruning, Attorney General, on behalf of the State of Nebraska as plaintiff and alleges as follows:

1. The Plaintiff, the Nebraska Department of Environmental Quality, is at all times material herein the agency 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, Cum. Supp. 2010) and all rules, regulations, orders, and permits issued thereunder.

2. The Defendants, Donald Knobbe, Dean Knobbe, and Thomas Knobbe, individuals doing business as Korner Pig Company, a Nebraska partnership pursuant to NEB.REV.STAT. § 67-401 *et seq.* (Reissue 2009), conduct business in Cuming County, Nebraska. At all times material herein, Defendants owned a swine facility located at 974 Highway 32, West Point, Cuming County, Nebraska legally described as SE ¼, Section 33, Township N 22, Range E 05, Cuming County, Nebraska.



3. NEB.REV.STAT. § 81-1502 (10) (Reissue 2008) is in effect at all times material herein and defines defendants as a “person.”

4. NEB.REV.STAT. § 81-1506 (1) (Reissue 2008) is in effect at all times material herein and states that it is unlawful for any person. “(a) To cause pollution of any air, waters, or land of the state or place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state...”

5. NEB.REV.STAT. § 81-1508.02 (1)(b) (Reissue 2008) is in effect at all times material herein and states that it is unlawful to violate any regulations promulgated pursuant to the Environmental Protection Act or the Livestock Waste Management Act. Pursuant to NEB.REV.STAT. §§ 81-1505 and 54-2435, the Nebraska Environmental Quality Council adopted *Livestock Waste Control Regulations*, promulgated at 130 NEB.ADMIN.CODE, which is in effect at all times material herein.

6. 130 NEB.ADMIN.CODE, Ch. 11, § 005 states that “[a]ll livestock wastes removed from the facility and the animal feeding operation itself shall be land applied or stockpiled in a manner which will not contribute to water pollution.” 130 NEB.ADMIN.CODE, Ch. 11, § 011 states, “The owner of an animal feeding operation shall maintain the production area for periods of time when it is not in operation. If the operation has been discontinued and ceased operation, the following minimum closure requirements shall also be followed:

011.01 Remove all accumulated manure, litter, and process wastewater, including any sludge and sediment; follow agronomic practices including the sampling and testing of any wastes removed; and dispose in an agronomic manner...”

7. On or about March 24, 2011, Defendants allowed livestock waste to flow out of a damaged earthen pit and flow toward Pebble Creek via a grader ditch, culvert, and

spring-fed drainage. This constitutes a violation of § 81-1506 (1) and 130 NEB.ADMIN.CODE, Ch. 11, §§ 005, 011, and 011.01.

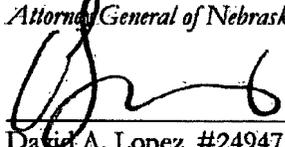
8. Pursuant to NEB.REV.STAT. § 81-1508.02 (Reissue 2008), a civil penalty not to exceed ten thousand dollars (\$10,000) per day per violation is provided in cases of violation of the Environmental Protection Act, the Livestock Waste Management Act, or the rules and regulations adopted and promulgated pursuant to such acts.

WHEREFORE, Plaintiff prays this Court enter judgment herein against the Defendants in the form of a civil penalty as provided under NEB.REV.STAT. § 81-1508.02 (Reissue 2008), and Plaintiff further prays that all court costs herein be taxed to the Defendants.

Respectfully submitted this 21st day of November, 2012.

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

By: JON BRUNING, #20351
Attorney General of Nebraska

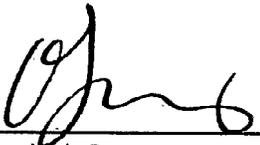
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on Defendant by regular United States mail, first class postage prepaid on this 21st day of November, 2012, addressed to the Defendant's attorney of record as follows.

Stephen D. Mossman, Esq.
Mattson Ricketts Davies Stewart & Calkins
134 South 13th Street, Suite 1200
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David A. Lopez
Assistant Attorney General