

IN THE DISTRICT COURT FOR GAGE COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
)	COMPLAINT
Plaintiff,)	
v.)	
)	
RHEN MARSHALL, INC.,)	
A Nebraska corporation,)	
Defendant.)	

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

FIRST CLAIM

1. NDEQ is the agency of the State of Nebraska charged with the duty, under 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 et seq. (Reissue 2008) and all rules and regulations promulgated under the Act, including Title 128 of the Nebraska Administrative Code, "Nebraska Hazardous Waste Regulations."

2. Rhen Marshall Inc. ("the defendant") is a Nebraska corporation and owns an automobile accessory business in Beatrice, Gage County, Nebraska.

3. 129 Neb. Admin. Code, ch. 12, § 001 prohibits the treatment, storage, or disposal of any hazardous waste without a permit. 128 Neb. Admin. Code, ch. 3, § 013, classifies ethyl ether as a hazardous waste.

4. On December 4, 2006, the defendant disposed starting fluid containing ethyl ether by puncturing numerous starting fluid containers and dumping their contents

onto the ground at its Beatrice facility. The defendant took these actions without a permit as required by 129 Neb. Admin. Code, ch. 12. § 001.

5. Under Neb. Rev. Stat. § 81-1506(3)(c) (Reissue 2008), it is unlawful to violate any rule or regulation promulgated under the Environmental Protection Act. Each such violation subjects a person, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), to a civil penalty of no more than \$10,000 per day. In the case of a continuing violation, each day is a separate offense.

SECOND CLAIM

6. The State incorporates paragraphs 1 through 5 above.

7. 128 Neb. Admin. Code, ch. 4, § 002 requires any person who generates a solid waste to determine if that solid waste is a hazardous waste.


8. Prior to and following the December 4, 2006 disposal of the starting fluid containers containing ethyl ether, the defendant failed to make a hazardous waste determination under 128 Neb. Admin. Code, ch. 4, § 002.

The State requests that judgment be entered in favor of the State and against the defendant in the form of civil penalties as provided in § 81-1508.02, and that all costs of this action be taxed to the defendant.

Dated: July 9, 2009.

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

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