

IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA

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

Plaintiff, )

v. )

RICHARD RATHJE, )

Defendant. )

Case No. \_\_\_\_\_

**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, and alleges as follows:

**CLAIM**

1. The 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(1) (Reissue 1999) of exercising exclusive supervision, administration and enforcement of the Environmental Protect Act, Neb. Rev. Stat. §81-1501 (Reissue 1999, Cum.Supp.2004 and Supp.2005) *et seq.* and all rules and regulations, and permits created thereunder.

2. Pursuant to the Nebraska Environmental Quality Council's authority to adopt rules for air pollution, as expressed in Neb. Rev. Stat. §81-1505(12), (Reissue 1999), the Council adopted a rule and standard codified as Title 129, Air Quality Regulations.

3. Title 129, Chapter 30, prohibits any person from causing or allowing any open fire that does not fall under one of the exceptions listed in Title 129, Chapter 30.

4. Neb. Rev. State. §81-1508.02(1)(e) states that it is unlawful to violate any other provision or fail to perform any other duty imposed by such acts, rules and regulations.

5. On or about March 20, 2006, and continuing daily thereafter through March 27, 2006, the Defendant, Richard Rathje, caused to be burned or allowed the burning of tires, appliances, car parts, chair frames, and other unidentifiable material at the Tom Deveny property near Ayr, Adams County, Nebraska.

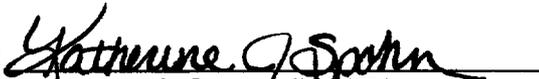
6. At all times material herein the Defendant, Richard Rathje, did not have a permit issued by the Department for open burning for a site located on the Ton Deveny property near Ayr, Adams County, Nebraska, nor did the burning fall into an exception listed in Title 129, Chapter 30.

7. Pursuant to Neb. Rev. Stat. §81-1508.02(2) where there has been a violation of Section 81-1508.02(1)(e), a civil penalty is provided in the amount of not more than \$10,000 for each day of violation.

WHEREFORE, the Plaintiff prays that judgment on its Claim be entered herein against the Defendant in the form of a civil penalty as provided under §81-1508.02, together with the costs of the action.

STATE OF NEBRASKA ex rel.,  
MICHAEL J. LINDER, DIRECTOR,  
Department of Environmental  
Quality, Plaintiff,

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