

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

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

Plaintiff,)

v.)

NATUREWORKS LLC, a limited liability)
company authorized to do business in)
Nebraska,)

Defendant.)

COMPLAINT

COMES NOW Michael J. Linder, Director of the Department of Environmental Quality (hereinafter "NDEQ" or "Plaintiff"), who institutes this action through Jon C. Bruning, Attorney General of the State of Nebraska, as plaintiff and alleges and states as follows:

FIRST CLAIM

1. The Plaintiff is 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 Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 1999, Cum. Supp, 2000, Supp. 2003), and all rules and regulations promulgated thereunder.

2. The Defendant, NatureWorks, LLC, (hereinafter "NatureWorks"), formerly known as Cargill Dow LLC, is a limited liability company authorized to do business in Nebraska. NatureWorks owns and operates a corn-derived plastic fiber and packaging manufacturing plant in Washington County, Nebraska. Regular operations for

NatureWorks' facility emit air pollutants into the air of the state, including volatile organic compounds (VOCs) and hazardous air pollutants (HAPs), the latter of which include acetaldehyde and methyl-ethyl ketone.

3. Pursuant to Neb. Rev. Stat. §81-1506(4)(b)(Cum. Supp. 2004), it shall be unlawful to “[v]iolate any term or condition of an air pollution permit or any emission limit set in the permit”.

4. At all times material herein, NatureWorks' facility has been subject to the terms of an air quality construction permit issued by NDEQ pursuant to Neb. Rev. Stat. §81-1504(11) on November 6, 2001 which limited the amount of VOCs to be emitted from the vacuum pumps at NatureWorks' facility.

5. On or around December 16, 2003, NatureWorks emitted volatile organic compounds (VOCs) from its vacuum pumps in excess of the VOC emission limits established in its permit in violation of Neb. Rev. Stat. §81-1506(4)(b).

6. Neb. Rev. Stat. §81-1508.02(2) (Reissue 1999) provides that any person who violates §81-1506 or §81-1508.02(1) shall be subject to a civil penalty of no more than \$10,000 (ten thousand dollars) per day. In the case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

7. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 6 herein.

8. Neb. Rev. Stat. §81-1508.02(1)(e) makes it unlawful to violate any provision or fail to perform any duty imposed by the Environmental Protection Act or the rules and regulations adopted thereunder.

9. Title 129, Chapter 19 of the Nebraska Administrative Code, which incorporates 40 C.F.R. §52.21 by reference, requires that prior to construction, a major stationary source in an area designated as attainment shall first obtain a Prevention of Significant Deterioration of Air Quality Permit (hereinafter "PSD Air Quality Permit") and shall install necessary air pollution control equipment.

10. On or around December 16, 2003 and continuing daily thereafter until December 15, 2005, NatureWorks constructed a major stationary source in an area designated as attainment without obtaining a PSD Air Quality Permit or installing necessary air pollution control equipment in violation of Title 129, Chapter 19 of the Nebraska Administrative Code, which incorporates 40 C.F.R. §52.21 by reference.

THIRD CLAIM

11. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 through 10 herein.

12. Neb. Rev. Stat. §81-1508.02(1)(e) makes it unlawful to violate any provision or fail to perform any duty imposed by the Environmental Protection Act or the rules and regulations adopted thereunder.

13. Pursuant to Title 129, Chapter 27, Section 002 of the Nebraska Administrative Code, a major stationary source which has the potential to emit any hazardous air pollutant ("HAP") in an amount equal to or in excess of two and one-half

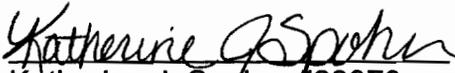
(2.5) tons/year and an aggregate of all HAPs in excess of 10.0 tons/year must obtain a construction permit which implements best available control technology.

14. On or around December 16, 2003 and continuing daily thereafter until December 15, 2005, NatureWorks constructed a source which had the potential to emit any hazardous air pollutant ("HAP") in an amount equal to or in excess of two and one-half (2.5) tons/year and an aggregate of all HAPs in excess of 10.0 tons/year without obtaining a permit which implemented best available control technology in violation of Title 129, Chapter 27, Section 002.

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

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

By: Jon C. Bruning, #20351
Attorney General

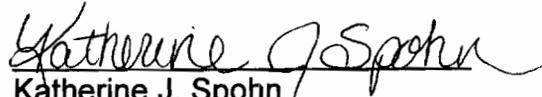
By: 
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(402) 471-2682

Attorney for Plaintiff

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 ____ day of November, 2006 addressed to the Defendant's attorney of record as follows:

Kelly R. Dahl, Attorney
Baird Holm, LLP
1500 Woodmen Tower
1700 Farnam Street
Omaha, NE 68102-2068


Katherine J. Spohn
Assistant Attorney General