

IN THE DISTRICT COURT FOR SCOTTS BLUFF COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 JIM MACY, Director)
 NEBRASKA DEPARTMENT OF)
 ENVIRONMENTAL QUALITY,)
)
 Plaintiff,)
 v.)
)
 SCHIFF FARMS, INC.)
)
 Defendant.)

Case No. CF-15-577^L

COMPLAINT

COMES NOW Jim Macy, Director of the Nebraska Department of Environmental Quality, who institutes this action through Douglas J. Peterson, Attorney General, on behalf of the State of Nebraska, and alleges as follows:

FIRST 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 2014) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014), and all rules, regulations, orders, and permits issued pursuant to the Act.

2. At all times material herein, the Defendant, Schiff Farms, Inc. managed property located at 330721 County Road "E," Minatare, Scotts Bluff County, Nebraska ("Property").

3. Neb. Rev. Stat. § 81-1506 (3) (Reissue 2014) is in effect at all times material herein and states that it is unlawful for any person to "... (d) After October 1, 1993, dispose of any solid waste at any location other than a solid waste management facility holding a current permit issued by [NDEQ] pursuant to the Integrated Solid Waste Management Act."



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FILED Sept 8 20 15
 Ann Rosenberry
 CLERK OF THE DIST COURT
 BY Antonia Castro DEPUTY

4. On or about January 6th and January 20th 2014, the Defendant disposed of solid waste on the Property without a permit, in violation of Neb. Rev. Stat. § 81-1506 (3) (d) (Reissue 2014).

5. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act and any rules or regulations adopted and promulgated pursuant to such an Act.

SECOND CLAIM

6. The Plaintiff hereby incorporates by reference the allegations contained in its First Claim.

7. Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2014) is in effect at all times material herein and states in pertinent part that it is unlawful to violate any rules or regulations promulgated under the Environmental Protection Act.

8. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2014), the Nebraska Environmental Quality Council adopted the *Nebraska Air Quality Regulations*, promulgated at Title 129 of the Nebraska Administrative Code, which is in effect at all times material herein.

9. 129 Neb. Admin. Code, Ch. 30, § 001 states that “[n]o person shall cause or allow any open fires.”

10. On or about January 6th and January 20th 2014, the Defendant caused or allowed an open fire on the Property, in violation of Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2014) and 129 Neb. Admin. Code, Ch. 30, § 001.

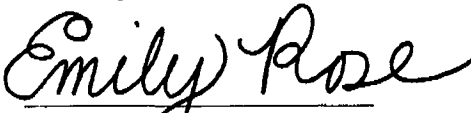
11. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act and any rules or regulations adopted and promulgated pursuant to such an Act.

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 Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014) together with the costs of this action.

Respectfully submitted this 2nd day of September, 2015

STATE OF NEBRASKA, ex rel.,
JIM MACY, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By DOUGLAS J. PETERSON, #18146
Attorney General

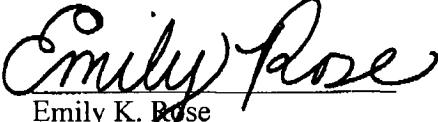
By: 
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served on the Defendant by regular United States mail, first class postage prepaid on this 2nd day of September, 2015, addressed to the Defendant as follows:

Schiff Farms, Inc.
Scott Schiff
330721 County Road "E"
Minatare, NE 69356


Emily K. Rose
Assistant Attorney General