

IN THE DISTRICT COURT FOR GREELEY COUNTY, NEBRASKA

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

Plaintiff,

v.

JOSEPH LESLIE

Defendant.

Case No. CI-13-24

COMPLAINT

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

FIRST CLAIM

1. The Plaintiff, the Nebraska Department of Environmental Quality (hereinafter "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 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2008), the Integrated Solid Waste Management Act, Neb. Rev. Stat. § 13-2001 *et seq.* (Reissue 2012) and all rules, regulations, orders, and permits issued thereunder.

2. At all times material herein, the Defendant, Joseph Leslie, owned property located at the junction of Nebraska Highway 91 and Cedar Street in Spalding, Nebraska (hereinafter "property"). The property is legally described as NE ¼, NE ¼, NW ¼, Section 21, Township N 20, Range W 09, Greeley County, Nebraska.

3. Neb. Rev. Stat. § 13-2033 (1) (Reissue 2012) is in effect at all times material herein and states that it is unlawful for any person to "... dump or deposit any solid waste at any place other



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Clerk of the District Court



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than a landfill approved by the [NDEQ] director unless [NDEQ] has granted a permit which allows the dumping or depositing of solid waste at any other facility.”

4. Neb. Rev. Stat. § 81-1506 (3) 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.”

5. On or about the end of January 2012 and November 29, 2012, the Defendant dumped and deposited solid waste on the property without a permit, in violation of §§ 13-2033 (1) and 81-1506 (3) (d).

6. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2008), 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, the Integrated Solid Waste Management Act, and any rules or regulations adopted and promulgated pursuant to such Acts.

SECOND CLAIM

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

8. 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 rules or regulations promulgated under the Environmental Protection Act.

9. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2008, Cum. Supp. 2012), 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.

10. 129 Neb. Admin. Code, Ch. 30, § 001 states that “no person shall cause or allow any open fires.”

11. On or about the end of January 2012 and November 29, 2012, the Defendant caused or allowed an open fire on the property, in violation of Neb. Rev. Stat. § 81-1508.02 (1) (b) and 129 Neb. Admin. Code, Ch. 30, § 001.

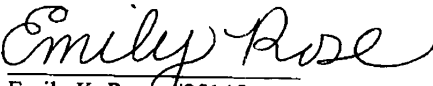
12. Pursuant to Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2008), a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day per violation is provided in cases of violation of the Environmental Protection Act, the Integrated Solid Waste Management Act, and any rules or regulations adopted and promulgated pursuant to such Acts.

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 this action.

Respectfully submitted this ___ day of October, 2013

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

By JON C. BRUNING, #20351
Attorney General

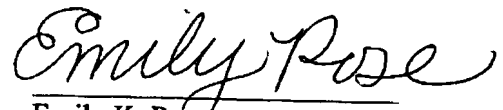
By: 
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Attorneys for Plaintiff

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 29th day of October, 2013, addressed to the Defendant as follows:

Joseph Leslie
P.O. Box 91
Spalding, NE 68665



Emily K. Rose
Assistant Attorney General