

IN THE DISTRICT COURT OF HARLAN COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
PATRICK W. RICE, Acting Director,)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
v.)
)
REPUBLICAN VALLEY FEEDERS,)
INC.)
)
Defendant.)

Case No. CI 14-30

COMPLAINT

FILED

JUL 22 2014

CLERK DISTRICT COURT
HARLAN COUNTY, NE

COMES NOW Patrick W. Rice, Acting 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, 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 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 (Reissue 2008) *et seq.*, the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 (Reissue 2010) *et seq.*, and all rules, regulations, and permits issued pursuant to such Acts.

2. The Defendant, Republican Valley Feeders, Inc., at all times material herein, owned and operated an animal feeding operation located at N ½, Section 30, Township 3N, Range 19W, Harlan County, Nebraska.

3. Neb. Rev. Stat. § 81-1506 (2) (b) (Reissue 2008) is in effect at all times material



herein and states that it is unlawful for any person to “construct, install, modify, or operate any disposal system or part thereof or any extension or addition thereto without obtaining necessary permits from the [NDEQ].”

4. On or about July and early August of 2011, the Defendant constructed a Livestock Waste Control Facility without obtaining the necessary permits from NDEQ, in violation of Neb. Rev. Stat. § 81-1506 (2) (b) (Reissue 2008).

5. 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.

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 2008) is in effect at all times material herein and states that it is unlawful to violate any regulations promulgated under the Livestock Waste Management Act. Pursuant to Neb. Rev. Stat. § 81-1505 (Reissue 2008, Cum. Supp. 2012), the Nebraska Environmental Quality Council adopted the *Livestock Waste Control Regulations*, promulgated at Title 130 of the Nebraska Administrative Code, which is in effect at all times material herein.

8. Title 130, *Livestock Waste Control Regulations*, Chapter 2, § 008.13 states that: “Any person who owns or operates an animal feeding operation shall not violate the terms of an operating permit, construction approval, construction and operating permit or NPDES permit or any provision of the Livestock Waste Management Act and regulations.”

9. On or about June 28, 2013, the Defendant was issued a Phased Construction

and Operating Permit which required that the Defendant obtain written authorization from NDEQ prior to operating a Livestock Waste Control Facility.

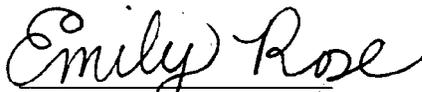
10. On or about January 21, 2014, the Defendant was operating a Livestock Waste Control Facility without written authorization from NDEQ in violation of Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008) and Title 130, *Livestock Waste Control Regulations*, Chapter 2, § 008.13.

11. 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 Livestock Waste Management Act, and the rules or regulations adopted and promulgated pursuant to such Acts.

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

STATE OF NEBRASKA, ex rel.,
PATRICK W. RICE, Acting Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff

By: Jon C. Bruning, #20351
Attorney General

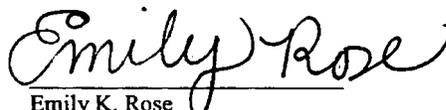
By: 
Emily K. Rose, #25145
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
Tel. (402) 471-2683
emily.rose@nebraska.gov

Attorneys 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 21 day of July, 2014 addressed to the Defendant as follows:

Troy Siebels
Republican Valley Feeders, Inc.
306 North Wyoming Avenue
Orleans, Nebraska 68966


Emily K. Rose
Assistant Attorney General