

IN THE DISTRICT COURT FOR PHELPS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,	)	Case No. _____
MICHAEL J. LINDER, Director	)	
DEPARTMENT OF	)	
ENVIRONMENTAL QUALITY,	)	
	)	<b>COMPLAINT</b>
Plaintiff,	)	
v.	)	
	)	
MAYES GENERAL PARTNERSHIP,	)	
	)	
Defendant.	)	

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), alleges the following:

1. NDEQ is the agency of the State of Nebraska charged under Neb. Rev. Stat. § 81-1504(1) (Reissue 2008), with exercising exclusive supervision of the administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2008, Supp. 2009), the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 et seq. (Reissue 2004, Cum. Supp. 2008, Supp. 2009), and all rules and regulations promulgated under those acts, including Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations."

2. Mayes General Partnership is a Nebraska general partnership and at all relevant times operated a large concentrated animal feeding operation in Phelps County, Nebraska.

3. Under Neb. Rev. Stat. § 81-1506(1)(a) (Reissue 2008), it is unlawful for any person to cause pollution of any waters of the state or place or cause to be

placed wastes in a location where they are likely to cause pollution of any air, waters, or land of the state.

4. On August 1, 2007, Mayes discharged livestock waste from its animal feeding operation into waters of the state in Phelps County, Nebraska.

5. Under 130 Neb. Admin. Code, ch. 12, § 001.04, an owner or operator of a large concentrated animal feeding operation is required to monitor its irrigation distribution system while in use to insure the system operates as intended.

6. On August 1, 2007, Mayes failed to monitor the irrigation distribution system used by it to apply livestock waste for agricultural purposes.

7. Under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), it is unlawful for any person to violate any permit or license condition or limitation.

8. At all relevant times, Mayes operated its large concentrated animal feeding operation under a National Pollutant Discharge Elimination System (NPDES) permit.

9. Under the terms of its NPDES permit, Mayes was required to provide written notification to NDEQ of a discharge of livestock waste from its animal feeding operation within 7 days of the discharge.

10. Mayes failed to provide written notification to NDEQ within 7 days of the August 1, 2007 discharge from its animal feeding operation.

11. Under § 81-1508.02(2), any violation of § 81-1506 or § 81-1508.02 shall subject a person to a civil penalty of no more than \$10,000 per day.

The State requests that judgment be entered in favor of the State and against Mayes in the form of civil penalties, as provided under § 81-1508.02(2), and that all costs of this action be taxed to Mayes.

Dated: November 12, 2010.

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

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