

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
PATRICK W. RICE, Acting Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Plaintiff, )  
v. )  
ABENGOA BIOENERGY OF NEBRASKA, LLC, )  
A company authorized to do business in Nebraska, )  
Defendant. )

Case No. CI 14167

COMPLAINING

CLERK OF DISTRICT COURT  
BUFFALO COUNTY, NE  
2014 MAR 28 AM 9 39

FILED  
SHARON K. MAULER

The Nebraska Department of Environmental Quality ("Department"), through counsel, alleges the following:

1. The Department is the agency of the State of Nebraska charged with the duty to administer and enforce the provisions of the Nebraska Environmental Protection Act, NEB. REV. STAT. §§ 81- 1501 *et seq.* (REISSUE 2008), along with all rules and regulations promulgated thereunder.

2. Abengoa Bioenergy of Nebraska, LLC, is a limited liability company authorized to do business in Nebraska. The defendant owns and operates an ethanol production plant in Buffalo County, Nebraska. Regular operations of the defendant's facility emit pollutants to the air of the state. Among the defendant's air pollutant emissions are carbon monoxide and hazardous air pollutants (HAPs), including acetaldehyde.

3. At all times material herein, operation of the defendant's facility has been subject to the terms of an air quality construction permit issued by the Department to Abengoa on October 6, 2008, pursuant to NEB. REV. STAT. § 81-1504(11).



4. The permit required the defendant to maintain emissions of Carbon Monoxide (CO) at from the emission unit identified as the dryer/thermal oxidation system (ST1802) at a rate no greater than 7.40 pounds per hour.

5. From October 6, 2008, through July 15, 2010, on 301 days the Defendant emitted CO from the swiss combi dryer/thermal oxidation system at a rate that exceeded 7.40 pounds per hour.

6. The permit further required the defendant to maintain the operating temperature of the dryer/thermal oxidation system (ST1802) at a level set by the most recent compliance test which occurred on November 28, 2007, and was 1641 degrees Fahrenheit.

7. Between October 6, 2008, and July 15, 2010, the defendant operated the swiss combi dryer/thermal oxidation system at temperatures less than 1641 degrees Fahrenheit contrary to the permit.

8. NEB. REV. STAT. § 81-1506(4) makes it unlawful to “[v]iolate any term or condition of an air pollution permit or any emission limit set in the permit.”

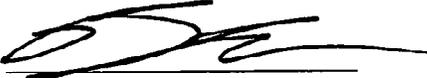
9. Pursuant to NEB. REV. STAT. § 81-1508.02 a civil penalty is provided in instances of violation of permits issued by the Department in the amount not to exceed ten thousand dollars (\$10,000.00), with each continuing day constituting a separate offense.

WHEREFORE the Department requests that the Court enter judgment against Abengoa in the form of a civil penalty as provided under NEB. REV. STAT. § 81-1508.02 and that all costs of this action be taxed to the Abengoa.

Respectfully submitted this 26th day of March, 2014.

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

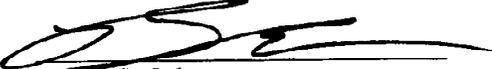
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*Attorneys for Plaintiff.*

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon Defendant by regular United States mail, first class postage prepaid on this 26th day of March 2014, addressed to the Defendant's attorney of record as follows:

Christopher Standlee  
Abengoa Bioenergy  
16150 Main Circle Drive, Suite 300  
Chesterfield, MO 63017-4689

  
Blake E. Johnson