

IN THE DISTRICT COURT OF HOWARD COUNTY, NEBRASKA

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

Case No. CI14-37

COMPLAINT

**FILED**

JUL 28 2014

BEV SACK  
HOWARD COUNTY CLERK  
CLERK OF DISTRICT COURT

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**

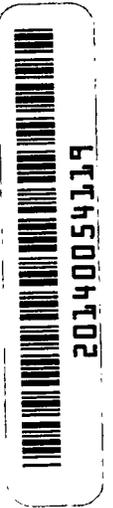
1. The Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), is at all times material herein, the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504 (Reissue 2008) to administer and enforce the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 (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, Dixson Farms, Inc., at all times material herein, owned and operated an animal feeding operation located at SE ¼, NE ¼, Section 12, Township 13N, Range 10W, Howard County, Nebraska.

3. Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008) is in effect at all times material herein and states that it is unlawful for any person "To violate... any order of the



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director...”

4. On or about February 12, 2004, the Director of NDEQ issued a Compliance Order to the Defendant to construct a Livestock Waste Control Facility (“LWCF”) by December 1, 2004, that met all state regulatory requirements.

5. The Compliance Order was not contested by the Defendant and became a final Order on or about March of 2004 under Neb. Rev. Stat. § 81-1507 (1) (Reissue 2008), which is in effect at all times material herein.

6. On or about December 2, 2004, and continuing daily thereafter, the Defendant failed to construct a LWCF that met all state regulatory requirements in violation of the Order and Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008).

7. 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

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

9. 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.

10. 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.”

11. On or about February 24, 2012, the Defendant was issued a Construction and Operating Permit which required that the Defendant complete construction of a LWCF by October 15, 2012.

12. On or about December 20, 2012, NDEQ issued an Addendum to the Construction and Operating Permit that extended the Defendant’s deadline to complete construction of the LWCF to July 1, 2013.

13. On or about July 2, 2013, and continuing daily thereafter, the Defendant failed to complete construction of the LWCF in violation of Neb. Rev. Stat. § 81-1508.02 (1) (b) (Reissue 2008) and Title 130, *Livestock Waste Control Regulations*, Chapter 2, § 008.13.

14. 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 Rose

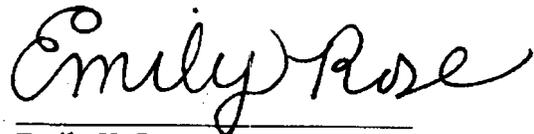
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Attorneys for Plaintiff.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Complaint has been served upon the Defendant by regular United States mail, first class postage prepaid on this 25<sup>th</sup> day of July, 2014 addressed to the Defendant as follows:

William E. Dixon  
567 Friend Road  
St. Paul, NE 68873



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Emily K. Rose  
Assistant Attorney General