

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

Case No. 011-139

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

Plaintiff,

v.

PIERCE ENTERPRISES, INC., d/b/a
EXIT 231 TRUCK WASH

Defendant.

COMPLAINT

COMES NOW the Nebraska Department of Environmental Quality (hereinafter the "Department" or "Plaintiff"), who institutes this action through Jon C. Bruning, Attorney General, and alleges and states as follows:

FIRST CLAIM

1. Plaintiff is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. §81-1504(1) (Reissue 1999) of exercising exclusive supervision, administration and enforcement of the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 (Reissue 1999, Cum Supp. 2006, Supp. 2007) et seq. and all rules and regulations promulgated thereunder.

2. At all times material herein Defendant, Pierce Enterprises, Inc., doing business as Exit 231 Truck Wash, Darr Nebraska, operated a truck wash in Dawson County, Nebraska.

3. Pursuant to the Neb. Rev. Stat. §81-1506 (2) (b) it is unlawful for any person to construct, install modify or operate disposal system without obtaining the necessary permits for the Department.

4. Since the 1970s and continuing until March of 2011, Defendant or its

STATE OF NEBRASKA
DAWSON COUNTY

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predecessors have operated a wastewater disposal system without obtaining the necessary permit(s) or approvals from the Department.

5. Pursuant to Neb. Rev. Stat. §81-1508.02 (2) a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation, and in the case of continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

6. Plaintiff hereby incorporates by reference each and every allegation contained in paragraphs 1 and 2 of its First Claim.

7. On or about August 24, 2007, Plaintiff issued an Administrative Order, ordering Defendant to apply for a wastewater land application permit by October 1, 2007, and by February 1, 2008, to submit plans and specifications for to the Department for review and approval a wastewater treatment/storage facility to meet current design standards. Defendant was to then begin construction by May 1, 2008, and finish construction by November 1, 2008. This Administrative Order was not contested and became a final order.

8. Defendant did not submit plans and specifications for a wastewater treatment/storage facility to meet current standards by February 1, 2008, and did not begin construction by May 1, 2008 as required by the Order.

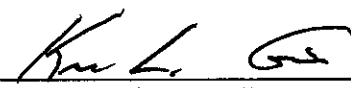
9. Neb. Rev. Stat. §81-1508.02 (1) (b) (Reissue 1999) makes it unlawful for any person to "violate... any order of the director."

10. Pursuant to Neb. Rev. Stat. §81-1508.02 (1) (b) and (2) (Reissue 1999) where there has been a violation of an order of the director, a civil penalty is provided in the amount of not more than \$10,000 (ten thousand dollars) for each day of violation.

WHEREFORE, Plaintiff prays that judgment be entered in favor of Plaintiff and against Defendant in the form of civil penalties as provided in Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 1999), and further that all costs of this action be taxed to Defendant.

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

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