

IN THE DISTRICT COURT FOR DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. _____
MICHAEL J. LINDER, Director)	
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
)	COMPLAINT
Plaintiff,)	
v.)	
)	
JANE BELLAMY ROHMAN,)	
d/b/a Plum Creek Cattle,)	
)	
Defendant.)	

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

FIRST CLAIM

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), and the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 et seq. (Reissue 2004, Cum. Supp. 2008), along with all rules, regulations, and orders promulgated under those Acts, including Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations."

2. At all relevant times, Jane Bellamy Rohman, doing business as Plum Creek Cattle, owned and operated an animal feeding operation located in Dawson County, Nebraska.

3. Under Neb. Rev. Stat. § 81-1506(1)(a) (Reissue 1999), 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. Similarly, under Neb. Rev. Stat. § 81-1508.02(1)(e), it is unlawful for any person to violate any provision of the Environmental Protection Act, Livestock Waste Management Act, or the rules and regulations adopted and promulgated under those Acts

4. On April 16, 2008, Rohman discharged livestock waste from her animal feeding operation into Plum Creek Reservoir, a water of the state, in Dawson County, Nebraska.

5. Under Neb. Rev. Stat. § 81-1508.02(2), each violation of § 81-1506 or § 81-1508.02 subjects a person to a civil penalty of no more than \$10,000 for each day of violation. In case of a continuing violation, each day shall constitute a separate offense.

SECOND CLAIM

6. The State incorporates each allegation contained in paragraphs 1, 2, and 5 in its First Claim.

7. Under 130 Neb. Admin. Code, ch. 2, § 008.13, it is unlawful for any person who owns or operates an animal feeding operation to 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.

8. Under 130 Neb. Admin. Code, ch. 4, §§ 006.01 and 006.05, terms and conditions applicable to all construction approvals and construction and operating permits include a compliance schedule established by NDEQ for completing construction of a livestock waste control facility and submittal of plans for the design, installation, and operation of a ground water monitoring system, and implementation of such a monitoring system in a timeframe approved by NDEQ.

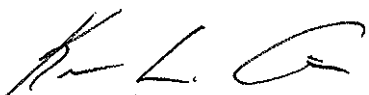
9. On April 10, 2006, Rohman received construction approval from NDEQ for a new livestock waste control facility at her animal feeding operation. The terms of the construction approval required that Rohman complete construction of the livestock waste control facility by December 1, 2006, and also required that Rohman submit to NDEQ a ground water monitoring plan by July 1, 2006.

10. Rohman failed to complete construction of her livestock waste control facility by December 1, 2006, and failed to submit a ground water monitoring plan to NDEQ by July 1, 2006.

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


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

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CERTIFICATE OF SERVICE

It is hereby certified that on this 8th day of October, 2009, a true and accurate copy of the foregoing Complaint has been served on the Defendant by placing a copy of the same in the United States Mail, first class postage prepaid, addressed to the Defendant's attorney of record.



Kevin L. Griess, #22182
Assistant Attorney General