

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF
David and DeEtte Bailey,
Husband and Wife, d/b/a
Double D Cleaners,
Respondents.
FID#63654

Case No. 3228
COMPLAINT, COMPLIANCE ORDER, AND
NOTICE OF OPPORTUNITY FOR HEARING

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507(1) of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to -1532 (Reissue 2008, Cum. Sup. 2012). The Complainant is Michael J. Linder, Director of the Nebraska Department of Environmental Quality (NDEQ or Department). The Respondents are David and DeEtte Bailey, Husband and Wife, doing business as Double D Cleaners, Holdrege, Nebraska.

2. The Department is the agency of the state of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1) & (4), of exercising exclusive general supervision, administration, and enforcement of the Nebraska Environmental Protection Act, Neb. Rev. Stat. §§ 81-1501 to -1532, and all rules, regulations, and permits promulgated thereunder. The authority of NDEQ to require compliance measures is expressed in Neb. Rev. Stat. § 81-1504 (1), (4) and § 81-1507.

3. Respondents own and operate Double D Cleaners, a dry cleaning establishment which uses perchloroethylene (hereinafter “perc”) and which is located at 414 West Ave., Holdrege, Ne 68949.

4. Neb. Rev. Stat. § 81-1502(10) defines Respondents as “persons.”

5. Neb. Rev. Stat. § 81-1508.02(1)(b) states that it is unlawful to violate any monitoring, record keeping or reporting regulations promulgated pursuant to the Environmental Protection Act. Pursuant to Neb. Rev. Stat. §81-1505 (Reissue 2008, cum. Supp. 2012), the Nebraska Environmental Quality Council adopted and promulgated Title 129 of the Nebraska Administrative Code, *Nebraska Air Quality Regulations*. At all times material herein, Title 129, Section 001.09, incorporated into the Nebraska regulations the “National Emissions Standards for Hazardous Air



Pollutants”, 40CFR Part 63, Subpart M, covering Perchloroethylene Dry Cleaning Facilities.

6. On or about June 11, 2013:
 - a. Respondents failed to record and maintain records for the outgoing perc vapor temperature on a weekly basis from the condenser as required in 40 CFR, Part 63.323 and 63.324;
 - b. Respondents failed to record monthly and rolling 12 month totals of perc purchases on site as required by 40 CFR, Part 63.323 and Part 63.324;
 - c. Respondents failed to record weekly inspections and corrective action on dry cleaner and condenser as required in 40 CFR, Part 63.324;
 - d. Respondents failed to document the use of a halogenated or perc gas detector to perform monthly leak checks as required by 40 CFR 63.322, 63.323 and 63.324;
 - e. Respondents failed to submit a compliance status notification as required in 40 CFR, Part 63.324(f).
7. The Director finds that Respondents have violated Neb. Rev. Stat. §§ 81-1508.02 (1)(b).
8. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. § 81-1507 (1) to issue this order requiring Respondents to cease non-reporting and record keeping violations under the act.

COMPLIANCE ORDER

9. IT IS THEREFORE ORDERED that the Respondents shall:
 - a. Perform all monitoring and record keeping required in 40 CFR, Part 63, Subpart M.
 - b. Submit reports to the Department, on a quarterly basis, of all monitoring and record keeping required in 40 CFR, Part 63, Subpart M.

10. Any information to be submitted under this Order shall be sent to:

Todd Ellis
Air Division Compliance Section Supervisor
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Telephone number: (402) 471-2186

IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

11. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondents file an answer and request, in writing, a hearing no later than thirty days after receipt of this Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

12. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Title 115, Neb. Admin. Code, Rules of Practice and Procedure, Chapter 7. The answer and request for hearing may be filed by mail to:

Michael J. Linder, Director
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, Nebraska 68509-8922

or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

SETTLEMENT CONFERENCE

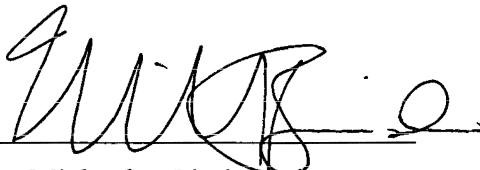
13. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Steven J. Moeller, Attorney, Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

14. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

INJUNCTIVE RELIEF AND PENALTY PROVISIONS

15. The NDEQ reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the NDEQ from pursuing such enforcement. Failure to obey this order may result in fines up to \$10,000, per violation, per day, as set out in Neb. Rev. Stat. § 81-1508.02.

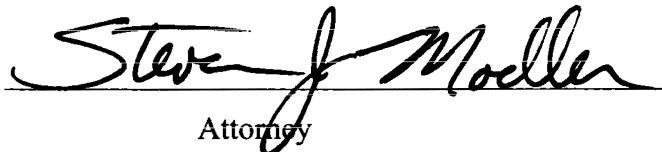
Sept 13 2013
Date


Michael J. Linder, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint, Compliance Order and Notice of Opportunity for Hearing, with attachments, was served by certified United States mail, postage prepaid, return receipt requested this 16 day of September 2013 upon the Respondents listed below:

David and DeEtte Bailey
Double D Cleaners
414 West Avenue
Holdrege, Nebraska 68949


Attorney