

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

THE CASE OF:	)	Case No. 3210
	)	
	)	COMPLAINT, COMPLIANCE ORDER
Rick Trans, Inc.	)	AND NOTICE OF OPPORTUNITY
An Illinois Corporation,	)	FOR HEARING
Spill No. RA#010813-JB-1245	)	
FID#998955	)	
Respondent.	)	

PRELIMINARY STATEMENT

This Complaint, Compliance Order and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 (Reissue 2008, Cum. Supp. 2012) of the Nebraska Environmental Protection Act, and Neb. Rev. Stat. §81-1501 et. seq. The Respondent is Rick Trans, Inc., an Illinois Corporation. The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department") and is charged with enforcing the Nebraska Environmental Protection Act.

The Complainant has determined that Respondent is in violation of Neb. Rev. Stat. §81-1506(1)(a) and Title 126 Nebraska Administrative Code, Rules and Regulations Pertaining to the Management of Wastes (hereinafter "Title 126"). The Complaint below establishes the violations.

COMPLAINT

1. Respondent owned and operated a semi-truck and is an Illinois Corporation involved in the trucking business.
2. On or about January 1, 2013, Respondent's semi-truck pulled onto the shoulder of Interstate 80, near mile marker 164, westbound, near Hershey, Nebraska, as its drive shaft broke and punctured its saddle tank dumping approximately 30 gallons



of diesel fuel. Respondent took no action to clean up the diesel fuel-contaminated soil, properly dispose of it, nor did it submit a report of response actions when requested.

3. On or about January 17, 2013 and March 4, 2013, Respondent received letters from the NDEQ, in which it was informed that a release of petroleum from the operation of its truck had occurred and that Respondent was responsible for securing the release, identifying the affected environment, and completing any necessary remedial action. The Respondent did not assess the release, take any remedial action, or send information requested into the Department.

4. Neb. Rev. Stat. §81-1506 (1)(a) states that it is unlawful for any person to cause pollution of any air, waters, or land of the state, or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters, or land of the state.

5. Respondent, in violation of Title 126, Chapter 18, section 001.01, and 81-1506 (1) (a), has discharged oil into or upon the waters or land of the state and such violation is continuing. Respondent has also violated Title 126, Chapter 18, Section 003.01, which states that whenever an oil or hazardous substance is released, it shall be the duty of the responsible person to take or cause to be taken, within 24 hours, all necessary steps to stop the release and contain all released material and as soon as the release has been stopped and contained, the responsible person shall take action to preclude continued or future releases.

6. The Director of the DEQ is authorized pursuant to Neb. Rev. Stat. §81-1504(7) and 81-1507(1) to issue this order to prohibit or abate discharges of wastes into the air, waters or land of the state and that the necessary corrective action be taken.

### COMPLIANCE ORDER

7. IT IS HEREBY ORDERED that, within forty five (45) days of receipt of this Compliance Order, Respondent shall submit to the Department a plan to assess the extent of the contamination to the soil and ground water and perform all necessary remedial actions.

8. IT IS FURTHER ORDERED that Respondent shall complete the contamination assessment and remedial actions contained in the plan within forty five (45) days of the Department's written approval of the plan. Respondent shall provide proof of completion in writing to the Department.

9. NDEQ reserves its rights to order Respondent to conduct further investigation, remediation and monitoring based on the above information.

10. Any failure by Respondent to carry out paragraphs 7, 8 or further orders as set out in paragraph 9 may result in penalties of up to \$10,000 per day.

11. Information to be submitted under this Order shall be sent to:

Dale Busch  
Petroleum Remediation Section  
Water Quality Division  
Nebraska Department of Environmental Quality  
P.O. Box 98922  
Lincoln, Nebraska 68509-8922  
Telephone number (402) 471-4237.

### NOTICE OF OPPORTUNITY TO REQUEST A HEARING

12. This Order shall become final, pursuant to Neb. Rev. Stat. §81-1507(1), unless Respondent files an answer and requests, 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.

13. The request for hearing and an answer may be filed by mailing to: Michael J. Linder, Director, State of Nebraska Department of Environmental Quality, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or may be delivered to the NDEQ's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska. 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.

#### SETTLEMENT CONFERENCE

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

15. 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

16. 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.

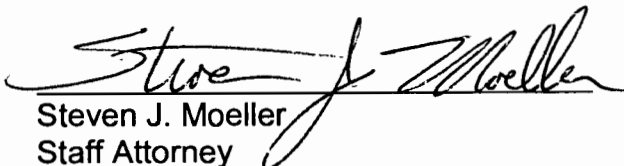
September 11 2013  
Date

  
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 was served by certified United States mail, postage prepaid, return receipt requested this 11 day of September 2013 upon the Respondent's registered agent listed below:

Ryszard Kobierski, 4039 N. Oriole Ave., Norridge IL, 60706

  
Steven J. Moeller  
Staff Attorney