

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	CASE NO. 3179
Steven Clason	)	
Furnas County, Nebraska	)	COMPLAINT, COMPLIANCE
	)	ORDER AND NOTICE OF
	)	OPPORTUNITY FOR HEARING
Respondent.	)	

I. INTRODUCTION

This Complaint, Compliance Order and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. §81-1507 (Reissue 2008, Cum. Supp. 2010). Complainant has determined that the respondent is in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 et. seq. (Reissue 2008, Cum. Supp. 2010) and Title 130, *Rules and Regulations Pertaining to Livestock Waste Control*. The Complainant is the Director, State of Nebraska Department of Environmental Quality (hereinafter "NDEQ" or "Department"). The Respondent is Steven Clason, Furnas County. The Complaint below establishes the violations.

II. COMPLAINT

1. Respondent is Steven Clason, who owns and operates a cattle feeding operation located at NE1/4, NW1/4, Section 21, Township 02N, Range 22W, Furnas County, Nebraska.

2. 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 place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters or land.



3. Respondent discharged livestock waste from his facility on July 9 through July 11, 2012, to waters and lands of the State and placed, or caused to be placed, wastes in a location where they caused or were likely to cause pollution of waters or land of the State.

4. The Respondent is a "person" as defined in Neb. Rev. Stat. §81-1502(10).

5. Respondent has violated Neb. Rev. Stat. 81-1506 (1) (a).

6. The Director of the NDEQ is authorized pursuant to Neb. Rev. Stat. §81-1504(7) to issue this order requiring the construction of livestock waste control facilities or any parts thereof to prevent, control, or abate pollution.

### III. COMPLIANCE ORDER

7. The Respondent is ordered to perform, within the following time frames, the following activities:

- A. By January 1, 2013 submit details in writing to the department as to measures taken to prevent any further discharges.
- B. By June 1, 2013 reseed perennial vegetation in ditches damaged by the operation's discharges and provide proof of completion of this activity to NDEQ.
- C. By June 1, 2013- Submit a complete application for a Construction and operating permit to the Department.
- D. By November 1, 2013 – Finish construction of a Livestock Waste Control Facility, as approved by NDEQ, in accordance

with plans and specifications and meet all other regulatory requirements.

- E. If paragraphs 7a, 7b, 7c, or 7d above are not complied with by Respondent, upon written notice by the Department the cattle shall be removed from the west pens of the operation and these pens shall be properly cleaned. No more than 299 cattle are allowed in the remaining pens until the construction is completed and an approval to operate is issued by NDEQ.

8. Respondent shall submit monthly progress reports to NDEQ on the activities listed in paragraph 7 of this Order. These reports shall contain information regarding the activities associated with the project, construction schedule and completion date.

9. The Respondent shall respond promptly to any written communication by the NDEQ to modify any submitted documents and by making the required modifications or changes no later than 30 days after receipt or date specified in written comments by NDEQ. Any delay in responding to such communication shall be construed as non-compliance with this Order.

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

Dennis Heitmann  
Agricultural Section Supervisor  
Water Quality Division  
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 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.

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, State of 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.

#### V. SETTLEMENT CONFERENCE


13. 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.

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.

#### VI. 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 fine up to \$10,000 per day as set out in Neb. Rev. Stat. Section 81-1508.02.

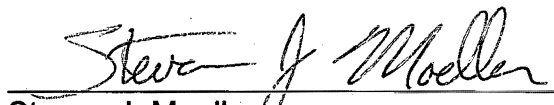
November 15 2012  
Date

  
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<sup>th</sup> day of November 2012 upon the Respondent listed below:

Steven Clason.  
42828 Hwy 89  
Beaver City, Nebraska 68926

  
Steven J. Moeller  
Staff Attorney