

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

SYNGENTA SEEDS, LLC,

Plaintiff,

v.

ALTEN, LLC; MEAD CATTLE
COMPANY, LLC; GREEN DISPOSAL
MEAD LLC; TANNER SHAW; and
SCOTT TINGELHOFF,

Defendants.

CASE NO. 8:22-cv-71

COMPLAINT

COMES NOW Plaintiff, Syngenta Seeds, LLC (“Syngenta”), and for its Complaint against the Defendants, states and alleges as follows:

NATURE OF THE CASE

1. Syngenta brings this lawsuit to hold Defendants accountable for their failure to address environmental hazards they caused and to recoup the substantial money Syngenta has spent on correcting Defendants’ failed environmental management.

2. Defendant AltEn, LLC (“AltEn”) owns an ethanol manufacturing facility in Mead, Nebraska (“AltEn Facility”). Defendants Mead Cattle Company, LLC (“Mead Cattle”) and Green Disposal Mead, LLC (“Green Disposal”) conducted operations at the AltEn Facility. Defendants Tanner Shaw (“Shaw”) and Scott Tingelhoff (“Tingelhoff”) ran all of those companies’ operations.

3. Defendants mismanaged and ultimately abandoned the AltEn Facility last winter, leaving significant environmental risks. They left millions of gallons of untreated waste water on the site. Lagoons holding the wastewater were overfilled and at risk of failing. Thousands of tons of waste from AltEn’s ethanol refining process remained unattended. Environmental controls were lacking or nonexistent.

4. Defendants refused to remedy the mess. They disregarded their obligations under federal and state environmental laws, forcing the State of Nebraska to file a lawsuit to enforce these obligations.

5. Last year, Syngenta, along with five other seed suppliers to AltEn, stepped up to the plate and volunteered to address immediate risks at the site, although they had not caused the AltEn mess. They did what Defendants were obligated to do but did not. They took action to protect the people and environment surrounding the AltEn Facility. They formed a response group, the AltEn Facility Response Group (“AFRG”), to stabilize environmental conditions at the AltEn Facility necessitated by the Defendants' improper and unlawful actions.

6. The AFRG has already spent several millions of dollars performing that work, and site conditions are significantly improved as a result. Syngenta brings this lawsuit to recover from Defendants their share of those costs. Defendants should have done the work that the AFRG has done, and they should reimburse Syngenta.

PARTIES

7. Syngenta is a Delaware limited liability company. Its single member is Syngenta Corporation, which is a Delaware corporation whose principal place of business is in Delaware.

8. AltEn is a Kansas limited liability company with its principal office located at 5225 Renner Road, Shawnee, Kansas 66217. Upon information and belief, AltEn's known member is Platte River Green Fuels, LLC. Platte River Green Fuels, LLC is a Kansas limited liability company and its known members are E3 Platte River, LLC, and Falcon Energy, LLC, which are identified in Platte River Green Fuels, LLC's Annual Report for the State of Kansas with an address of 5225 Renner Road, Shawnee, Kansas 66217. E3 Platte River, LLC is a Kansas limited liability company and its known members are Falcon Energy, LLC and E3 Bio Fuels, LLC, which are identified in E3 Platte River LLC's Annual Report for the State of Kansas with an address of 5225 Renner Road, Shawnee, Kansas. Upon information and belief, Falcon Energy, LLC is a Delaware limited liability company

with an address of 5225 Renner Road, Shawnee, Kansas 66217. Upon information and belief, E3 Bio Fuels, LLC is a Delaware limited liability company and its known member is Earth, Energy & Environment, LLC. Earth, Energy & Environment, LLC is a Kansas limited liability company and has two known members, Dennis Langley (now deceased) and Langley Group Ltd., a Kansas for-profit corporation with an address of 5225 Rennder Road, Shawnee, Kansas 66217. All of the members and submembers of AltEn share AltEn's principal address. That address is not an office building. It is a residential property that until recently was owned by the late Dennis Langley, a principal of AltEn.

9. Mead Cattle is a Nebraska limited liability company, with its principal office located at 1344 County Road 10, Mead, Nebraska 68041 (the same as the AltEn Facility). Upon information and belief, the members and submembers of Mead Cattle trace back to one or more of the entities and other persons identified in Paragraph 8.

10. Green Disposal is a Nebraska limited liability company, with its principal office located at 1344 County Road 10, Mead, Nebraska 68041 (the same as the AltEn Facility). Green Disposal owns and previously operated a biochar production unit at the AltEn Facility. Upon information and belief, the members and submembers of Green Disposal trace back to one or more of the entities and other persons identified in Paragraph 8.

11. At all relevant times, upon information and belief, AltEn, Mead Cattle, and Green Disposal were operated and/or managed by the same persons, among whom were Shaw and Tingelhoff, and Shaw's stepfather, Dennis Langley, then a resident of Kansas who is now deceased.

12. Shaw is an individual who, upon information and belief, is domiciled in and is a citizen of Kansas City, Missouri and/or Kansas City, Kansas. At all relevant times, Shaw was and is the President and Chief Executive Officer of AltEn, Mead Cattle, and Green Disposal.

13. Tingelhoff is an individual and a citizen of Nebraska. At all relevant times herein, Tingelhoff was and is currently the General Manager of AltEn.

JURISDICTION AND VENUE

14. This Court has diversity jurisdiction under 28 U.S.C. § 1332 because this is a civil action between citizens of different states, and the amount in controversy exceeds the required threshold.

15. For purposes of diversity jurisdiction, Syngenta is a citizen of Delaware, and, upon review of information publicly available to Syngenta, none of the named Defendants or their respective members or submembers is a citizen of Delaware.

16. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

17. This Court has personal jurisdiction over the Defendants. They either have contacts with the State of Nebraska sufficient to establish general jurisdiction over them here and/or committed acts in and otherwise have sufficient minimum contacts with the State of Nebraska such that they could reasonably expect to be haled into court in this forum.

18. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events, transactions, and occurrences giving rise to the claims occurred in this District.

FACTUAL ALLEGATIONS

AltEn's Ethanol Manufacturing Facility and Related Operations

19. The AltEn Facility made ethanol for use as an engine fuel and fuel additive. Ethanol is an organic chemical compound produced by the distillation of organic materials like corn, wheat, sorghum, milo seed, and other grains (collectively, "Seed"). Distiller's grains, also called "wet cake," are a byproduct of ethanol production. Wet cake is essentially the residue of the organic materials from which the ethanol is produced.

20. The ethanol plant at issue was built in 2007 and originally owned by E3 Biofuels-Mead, LLC. The groundbreaking ceremony for the plant was attended by U.S. Environmental Protection Agency ("EPA") and Nebraska State officials. AltEn eventually acquired it in or about 2013 following E3 Biofuels-Mead, LLC's

bankruptcy. After becoming the owner of the AltEn Facility, AltEn obtained state and federal permits that subjected it to numerous regulatory requirements and inspections.

21. AltEn operated the AltEn Facility for several years, producing approximately 24,000,000 gallons of ethanol annually, until it abruptly abandoned the site last winter.

22. At all times relevant to this action, Mead Cattle owned and operated a cattle feedlot adjacent to the AltEn Facility. Mead Cattle's operations functioned in conjunction with the AltEn Facility. Mead Cattle sent manure to the AltEn Facility. The manure was fed into two "digesters" that turned the manure into methane, which AltEn used to power its ethanol production. All five of the lagoons where Mead Cattle sent manure from its feedlot were located on the AltEn Facility.

23. At all times relevant to this action, Green Disposal owned and operated equipment at the AltEn Facility to make biochar from wet cake generated by AltEn's ethanol production. Biochar is a charcoal made by burning biomass at high temperatures in an inert (air-free) oven. Green Disposal's biochar was intended to be added to soil to enhance the soil's fertility.

24. Green Disposal stored its biochar at the AltEn Facility in large totes made of a flexible, woven fabric called "supersacks."

25. An aerial photograph of the AltEn site is attached hereto as **Exhibit A**.

26. AltEn, Mead Cattle, and Green Disposal shared an entrance onto the AltEn Facility's property. The sole entry point to Mead Cattle's property was from the AltEn Facility's property.

27. The AltEn Facility and Mead Cattle's property also shared a natural gas pipeline. AltEn and Mead Cattle shared their property for other aspects of their operations as well.

28. At all times relevant to this action, Tingelhoff and Shaw managed the AltEn Facility and oversaw and directed its operations, as well as the operations of Mead Cattle and Green Disposal.

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