



The AltEn plant near Mead, which the state shut down earlier this year, is shown on Aug. 25. Along with the toxic solids spread on land surrounding the site, the environmental cleanup is also focused on removing pesticides from wastewater on the site. Silver Lab Productions, For the Journal Star

## Seed companies suing AltEn for how it handled treated seed

[Chris Dunker](#) Lincoln Journal Star, February 23, 2022

Several agricultural industry giants that formerly supplied AltEn with unplanted seed are now suing the ethanol company for creating an environmental crisis they say has cost millions of dollars to clean up.

In a pair of lawsuits filed in U.S. District Court in Omaha on Tuesday, five of the six members of the AltEn Facility Response Group accuse the biofuel plant near Mead of violating state and federal law governing how pesticide-treated seed should be handled.

The complaints — one filed jointly by Corteva, AgReliant, Beck's Superior Hybrids and Winfield Solutions; the other filed individually by Syngenta — name AltEn and other companies operated by Tanner Shaw at the site, as well as general manager Scott Tingelhoff.

Bayer, the sixth company in the coalition, is not part of the legal filing, but is considering its legal path even as it remains “committed to our participation as a member of the (facility response group),” a spokeswoman said.

AltEn, unlike other ethanol plants that used harvested grain, produced the gasoline additive ethanol with manufactured seeds coated with pesticides that went unsold or could no longer be planted. It eventually became the final destination for nearly all of the discarded seed in North America.

The plant ran afoul of state ag and environmental regulators not long after it started operations, however. The solid and liquid byproducts of AltEn's unique ethanol manufacturing process were discovered to contain high concentrations of pesticides, and deemed a waste product by the state.

The former suppliers to AltEn said the facility's failure to properly handle, manage and store the discarded seed, as well as the waste products it produced, broke state and federal laws, the permits it obtained from the state, as well as the agreements they signed with AltEn.

"These and other failures led to the release of untreated wastewater from a tank at the AltEn plant that flowed onto neighboring properties, the stockpiling of thousands of tons of wet cake byproduct, and the mismanagement of millions of gallons of wastewater in lagoons perilously close to failure," they said.

The lawsuits shed more light onto the relationship between AltEn and its suppliers, which agreed to send discarded seed to the plant on the pretense that it would be disposed of in a safe and effective manner.

AltEn had obtained a permit from the Nebraska Department of Environment and Energy to use treated seed in ethanol production in 2012, the complaint filed by Syngenta states.

Officials with the biofuel company also represented that AltEn "had the requisite experience, knowledge and expertise, suitable facilities and qualified personnel" to dispose of the seed properly, according to the lawsuit.

Corteva subsidiary Pioneer Hi-Bred's memorandum of understanding with AltEn stipulates the ethanol plant "is willing to accept the seed and is prepared to use the seed in compliance with all applicable laws," as well as the terms of its permit.

AgReliant's agreement with AltEn lays out that the ethanol plant "shall see that all appropriate safety and handling precautions are followed to ensure the safety and well-being of persons, property and the environment."

The companies charge AltEn failed to live up to its end of the agreement in multiple ways.

They point to AltEn's lack of plans for how to dispose of the wet cake, the "clear defiance" shown by the company in stockpiling an estimated 84,000 tons of the solid byproduct at the facility, as well as the "stop-use and stop-sale order" issued by the Nebraska Department of Agriculture.

The complaints also outline the environmental violations against Green Disposal, another company owned by Shaw that operated a biochar unit at the site, and the damaged and overfilled lagoon system, which led the Department of Environment and Energy to order the plant to close in February 2021.

After the company completed its shutdown on Feb. 8, 2021, a cold snap caused a pipe on a 4 million-gallon digester tank to burst, releasing a slurry of manure from the neighboring Mead Cattle — formerly owned by Shaw — and ethanol byproducts several miles downstream.

Following the release, the Department of Environment and Energy contacted several seed companies to request their assistance in responding to the environmental conditions.

At the same time, AltEn began laying off its workers and removing records from the site, including drawings, procedures and maintenance records, while also leaving “large quantities of hazardous chemicals in tanks or piping within” the facility, according to the lawsuit.

“(AltEn) abandoned the site and proceeded to dissipate their assets to avoid any responsibility for the conditions they caused,” the companies said, forcing the former suppliers to pay millions of dollars to date to remediate the site.

The “systemic transfer” of assets, the companies allege, included the selling of Mead Cattle to the Texas-based Champion Feeders; Green Disposal’s indication that it planned to sell its biochar equipment; and the sale of more than 80 pieces of equipment, including trucks, forklifts, piping and electrical conduit, at auction since last summer.

Members of the Perivallon Group, a group of residents and researchers that has coordinated response to the environmental crisis, have raised concerns about the sale of equipment as a precursor to AltEn declaring Chapter 11 bankruptcy — an allegation an attorney for the company denied in an interview with the Journal Star earlier this month.

None of the proceeds from the sale have been used to reimburse the seed companies for the cost of cleaning up the AltEn site, the lawsuit states, nor have they been used to pay the costs of maintaining the property — mowing, weed control, snow removal or site security — or to pay utility bills or leases for office buildings and equipment.

In a statement, Corteva said it was “frustrated with how AltEn handled materials at its own site and its failure to follow label requirements and specific safe-handling procedures.”

“To date, AltEn itself has not participated in any actions to stabilize or address the environmental conditions at its own site, and in some cases, has hindered the (facility response group’s) work,” Corteva said in a statement, adding it will continue its voluntary remediation of the site.

Stephen Mossman, a Lincoln attorney representing AltEn, declined to comment on the lawsuits.

The lawsuits ask for a jury trial to award compensation and damages, declare the transfer of assets void, and for an injunction preventing AltEn from further transferring any property.

AltEn is also subject to an ongoing lawsuit filed by the Nebraska Attorney General's Office on March 1, 2021, for violations of state environmental regulations.

Each violation carries a potential fine of \$10,000 per day for each of the 18 causes of action listed in the lawsuit.