United States Court of Appeals
For the Eighth Circuit

No. 15-2985

Randall S. Krause

Plaintiff - Appellant

v.

City of Omaha

Defendant - Appellee

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: February 11, 2016
Filed: February 22, 2016
[Unpublished]

Before BENTON, BOWMAN, and KELLY, Circuit Judges.

PER CURIAM.

Randall Krause appeals after the district court[1] dismissed his complaint seeking declaratory and injunctive relief under the Resource Conservation and Recovery Act

[1]The Honorable Laurie Smith Camp, Chief Judge, United States District Court for the District of Nebraska.

(RCRA), 42 U.S.C. §§ 6901-6992, related to the City of Omaha's use of sodium chloride and sodium ferrocyanide--a type of road salt to melt snow and ice--on a street located within a flood plain.

After careful review, we conclude that the district court did not err in dismissing Krause's complaint on grounds that the road salt described in the complaint did not meet the statutory definition of "solid waste" under RCRA. See Minn. Majority v. Mansky, 708 F.3d 1051, 1055 (8th Cir. 2013) (dismissal for failure to state claim reviewed de novo; appellate court assumes all facts in complaint to be true and construes all reasonable inferences from those facts favorably to complainant); cf. Ecological Rights Found. v. Pac. Gas & Elec. Co., 713 F.3d 502, 514-18 (9th Cir. 2013) (affirming lower court's dismissal of complaint claiming that utility company had violated RCRA by treating utility poles with wood preservative, which was released over time and was in turn "discarded" by rain water falling on poles; concluding that such wood preservative was not "discarded", and therefore was not "solid waste" under RCRA, where it was released into the environment as an expected consequence of its intended use).

Accordingly, we affirm. See 8th Cir. R. 47B.
