

JUN 21 2007

STATE OF NEBRASKA

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

Case No. C007-2524

STATE OF NEBRASKA, ex rel.,)
 Michael J. Linder, Director,)
 NEBRASKA DEPARTMENT OF)
 ENVIRONMENTAL QUALITY)
)
 Plaintiff,)
 vs.)
)
 DUNCAN AVIATION, INC.,)
 A Nebraska Corporation,)
)
 Defendant.)

CONSENT DECREE

LANCASTER COUNTY
 2007 JUN 20 AM 7 48
 CLERK OF THE
 DISTRICT COURT

Plaintiff, the State of Nebraska, ex rel., Michael J. Linder, Director,

Nebraska Department of Environmental Quality, proceeding on its Complaint filed herein and appearing through its counsel, Jon Bruning, Attorney General, and the Defendant, Duncan Aviation, Inc., a Nebraska Corporation, represented by Timothy G. Aschoff, and each party having consented to the making and entering of this Consent Decree without trial, the Court finds that the Consent Decree should be and hereby is entered.

IT IS THEREFORE ORDERED AND DECREED as follows:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed herein constitutes a justiciable cause of action against the Defendant under the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 1999, Cum. Supp. 2006).

2. In its Complaint, Plaintiff alleges that the Defendant violated provisions of the Nebraska Environmental Protection Act, found at Neb. Rev. Stat. § 81-1501 *et seq.* and the regulations promulgated thereunder.

3. The parties agree that settlement of these matters is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendant with respect to such issues. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

4. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in the Complaint and the parties further agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in the complaint herein, provided that such claims were known to the State of Nebraska, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the consent decree.

5. IT IS ORDERED that Defendant shall pay into the District Court of Lancaster County a penalty of \$25,000 (twenty-five thousand dollars), and the costs of the action in the amount of \$79.00 (seventy-nine dollars). Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution.

a. \$12,500 (twelve thousand five hundred dollars) of said penalty and the costs of the action are to be paid within thirty (30) days of the approval of this Consent Decree by the District Court.

b. The remaining civil penalty of \$12,500 (twelve thousand five hundred dollars) will be due and owing on July 1, 2008. In the event that Defendant fully implements an Environmental Management System ("EMS") prior to July 1, 2008,

the remaining \$12,500 (twelve thousand five hundred dollars) of civil penalties will be waived. To be considered fully implemented, Duncan Aviation must complete the following with respect to the EMS:

- i. With the assistance of its third party environmental consultant, prepare a written EMS customized to Duncan Aviation's business;
 - ii. Test the EMS in one or more of Duncan Aviation's departments and modify the EMS as needed; and
 - iii. Implement the EMS, including related training, in all departments as identified by the written EMS referenced in paragraph 5(b)(i).
- c. To qualify for the \$12,500 waiver of civil penalties as stated in

paragraph (5)(b), Defendant shall file a showing with the Court prior to the due date of the civil penalties establishing that it has maintained compliance as required.

6. IT IS FURTHER ORDERED that on or before July 1, 2009, Defendant will have an audit of its Environmental Management System performed by an independent contractor approved by the Department of Environmental Quality. The purpose of such audit is to ensure the adequacy of the Environmental Management System. Thus, with the exception of intentional violations, all items noted in this audit will be treated as those in a Department of Environmental Quality compliance assistance inspection, and will not result in enforcement action being taken against Defendant.

7. IT IS FURTHER ORDERED that on or before June 30, 2007, the Defendant shall pay, as a Supplemental Environmental Project, the sum of \$37,500 (thirty-seven thousand five hundred dollars) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or

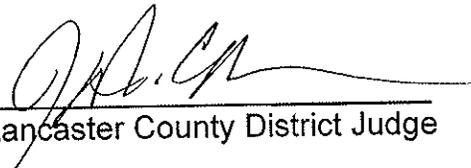
other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General.

8. This Consent Decree will have no effect on any enforcement action brought by Plaintiff against Defendant for future violations of any statutes or regulations..

9. The undersigned consent without further notice to the form and entry of the foregoing Consent Decree.

Dated this 19th day of June, 2007, in Lancaster County, Nebraska.

BY THE COURT:


Lancaster County District Judge

JOHN A. SOLBOM

STATE OF NEBRASKA, ex rel.,
MICHAEL J. LINDER, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY, Plaintiff.

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