

AUG - 9 2007

STATE OF NEBRASKA

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

Case No. CI 07-500

STATE OF NEBRASKA, ex rel. )  
 MICHAEL J. LINDER, Director, )  
 NEBRASKA DEPARTMENT OF )  
 ENVIRONMENTAL QUALITY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 SAHLING KENWORTH, INC., )  
 )  
 Defendant. )

**CONSENT DECREE**

FILED  
 SHARON K MAULER  
 2007 AUG 8 PM 2 10  
 CLERK OF DISTRICT COURT  
 BUFFALO COUNTY, NE

COME NOW the parties, Plaintiff, the Department of Environmental Quality (hereinafter "NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendant Sahling Kenworth, Inc., appearing through its counsel, Larry E. Butler, 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 herby is entered.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction of the parties and the subject matter of this action pursuant to Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 1999, Cum. Supp, 2006), the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. The Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that the Defendant generated solid paint waste without conducting a hazardous waste determination in violation of Title 128, Chapter 4, Section 002; generated spent washer fluid, mixed it with used oil, and burned it in a heater, without conducting a hazardous waste determination in violation of

Title 128, Chapter 4, Section 002; and failed to include all applicable hazardous waste numbers on the one-time notice that is sent to each treatment or storage facility receiving hazardous waste.

4. 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. The Defendant agrees to the form and entry of this Consent Decree for the purposes of settlement only. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Consent Decree by the Court.

5. This Consent Decree shall be in full satisfaction of all claims alleged in the complaint filed herein and any claims arising out of the same transaction or occurrences asserted therein, 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.

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

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

8. IT IS THEREFORE ORDERED that the Defendant shall pay to the Clerk of the District Court a civil penalty in the amount of seven thousand five hundred dollars (\$7,500.00), pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs herein

in the amount of seventy-nine dollars (\$79.00), to be paid no later than 90 (ninety) days after the approval of this Consent Decree by the Court.

9. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, the sum of seven thousand five hundred dollars (\$7,500.00) 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. This sum shall be paid as a lump-sum payment due no later than 90 (ninety) days after the entry of this consent decree by the Court.

DATED THIS 8<sup>th</sup> day of August, 2007, in Buffalo County, Nebraska.

BY THE COURT:

  
\_\_\_\_\_  
District Judge

STATE OF NEBRASKA ex rel.,  
MICHAEL J. LINDER, Director  
Department of Environmental  
Quality, Plaintiff,

By: JON C. BRUNING #20351,  
Attorney General

By: 

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SAHLING KENWORTH, INC.,

By: 

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