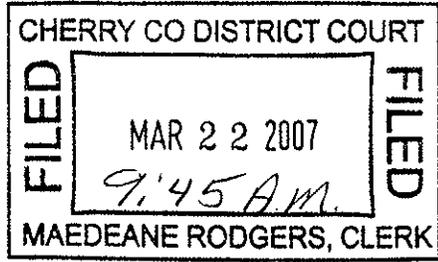


MAR 23 2007
STATE OF NEBRASKA



IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA *WW 9795*

STATE OF NEBRASKA,)	Case NO. CI 04-100
)	
Plaintiff,)	
vs.)	CONSENT DECREE
)	
WILLIAM WARD,)	
)	
Defendant.)	
)	

COME NOW the parties, Plaintiff, the State of Nebraska, proceeding on its First Amended Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendant, William Ward, appearing through its counsel Rodney Palmer, 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, 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 and also pursuant to Neb. Rev. Stat. § 71-6301 *et seq.* (2006), the Asbestos Control Act and all rules and regulations and orders promulgated thereunder.
2. The First Amended Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that the Defendant violated various provisions of the Nebraska Environmental Protection Act, found at Neb. Rev. Stat. § 81-1501 *et seq.* and the Asbestos Control Act found at Neb. Rev. Stat. § 71-6301 *et seq.*
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. Although the City of Valentine is not a party to this action, it agrees by participation in this settlement that it accepts the terms contained in this Consent Decree for full satisfaction of landfill invoices sent to the Defendant on December 9, 2004, in the amount of \$37,636.90.

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

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

9. IT IS THEREFORE ORDERED that the Defendant, shall pay to the Clerk of the District Court a civil penalty in the amount of fifteen thousand dollars (\$15,000.00), pursuant to Neb. Rev. Stat. § 81-1508.02 and Neb. Rev. Stat. § 71-6314.03. Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution.

- A. \$7,500 (seven thousand five hundred dollars) of said penalty will be due in increments of \$400 (four hundred dollars) per month, on the first day of each month, beginning 30 days after the Court's approval of this Consent Decree.
- B. \$7,500.00 (seven thousand five dollars) of said penalty will be deferred for six months and will be waived at the end of the six month period if the defendant does not further violate:
- i. the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.*
 - ii. the Nebraska Asbestos Control Act, Neb. Rev. Stat. § 71-6301 *et seq.*
- C. If the Defendant further violates the Nebraska Environmental Protection Act or the Nebraska Asbestos Control Act within the prescribed 6 month period, then the deferred \$7,500 in penalties will not be waived, but instead will be due in \$400 monthly installments beginning within 30 days of the Court's finding of a violation.
- D. No interest will accrue on the civil penalties as long as they are paid within the time periods set forth in this Consent Decree.

10. IT IS FURTHER ORDERED that the Defendant shall pay ten thousand dollars (\$10,000.00) to the City of Valentine as full disposition of the landfill fee dispute regarding the waste at issue in this case. Payment of the landfill fees will be due in increments of \$600 (six hundred dollars) per month, on the first day of each month, beginning 30 days after the Court's

approval of this Consent Decree. No interest will accrue on the landfill fees as long as they are paid within the time periods set forth in the Consent Decree.

11. IT IS FURTHER ORDERED that Defendant shall pay seventy six dollars and fifty cents (\$76.50) to the Nebraska Department of Environmental Quality to cover the court costs related to this action.

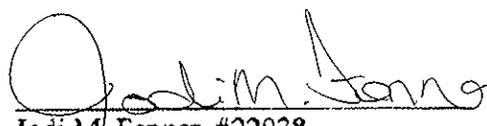
DATED THIS 21st day of March, 2007, in Cherry County, Nebraska.

BY THE COURT:


District Judge

STATE OF NEBRASKA

By: JON C. BRUNING, #20351
Attorney General

By: 
Jodi M. Fenner, #22038
Assistant Attorney General
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By: 
Justin C. Rammell
Certified Senior Law Clerk

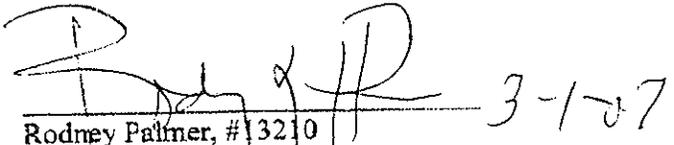
CITY OF VALENTINE

By: Shane Stewart
Shane Stewart
City Manager

By: Rowdy Klucnder
Rowdy Klucnder
President, City Council
Ex officio Mayor

WILLIAM WARD, Defendant,


William Ward

By:  3-1-07
Rodney Palmer, #13210
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