

COPY

IN THE DISTRICT COURT OF RED WILLOW COUNTY, NEBRASKA

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

Case No. CI06-158

CONSENT DECREE

CLERK OF DISTRICT COURT
RED WILLOW CO., NEB.

2006 OCT -6 AM 11:28

FILED
BEVERLY DOUGLASS

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, Valmont Industries, Inc., appearing through its counsel, Andrew Massey 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, 2004), 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 various violations of Neb. Rev. Stat. §§ 81-1501 *et seq.* and Title 128 of the Nebraska Administrative Code.
4. Although the Second Claim in Plaintiff's Complaint alleges violations regarding Defendant's contingency plan materials maintained on the Defendant's premises, Defendant has

established to Plaintiff that it had fulfilled its contingency plan responsibilities with the emergency response entities in the local community.

5. 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. The Defendant agrees to the form and entry of this Consent Decree for the purposes of settlement only, and nothing herein shall be construed as an admission of any issues of fact or law by Defendant. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

6. 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.

7. 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); the civil penalty will be due and owing sixty days after the approval of this Consent Decree by the District Court.

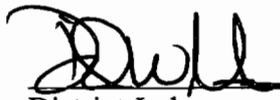
8. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, the sum of seven thousand five hundred dollars (\$7,500.00) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related 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 sixty days after the entry of this consent decree by the Court.

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

DATED THIS 6th day of October, 2006, in Red Willow County, Nebraska.

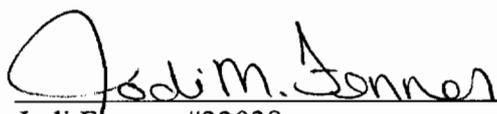
BY THE COURT:



District Judge

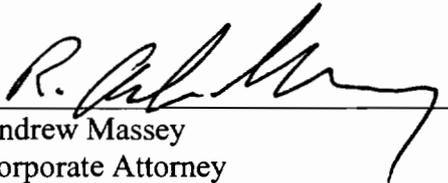
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