

COPY

IN THE DISTRICT COURT FOR CLAY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 MICHAEL J. LINDER, Director)
 DEPARTMENT OF ENVIRONMENTAL)
 QUALITY,)
)
 Plaintiff,)
)
 v.)
)
 INLAND FOODS, LLC,)
)
 Defendant.)

Case No. 08 125

CONSENT DECREE

FILED
IN THE DISTRICT COURT OF
CLAY COUNTY, NEBRASKA

SEP 10 2008

11:00 AM
JONI BITTERMAN
CLERK OF THE DISTRICT COURT

The State of Nebraska, on the relation of the Nebraska Department of Environmental Quality (NDEQ) and through its counsel, Attorney General Jon C. Bruning, and Inland Foods, LLC (Inland Foods), through its counsel, Anna Stehlik, jointly file this consent decree and agree to this Court's entry of the following terms and orders:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed in this case is a justiciable cause of action against Inland Foods under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 1999, Cum. Supp. 2006, and Supp. 2007), the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 et seq. (Reissue 2004, Cum. Supp. 2006, Supp. 2007), and all rules and regulations promulgated those acts..

2. In its complaint, the State alleges that (i) on September 28 and 29, 2006, Inland Foods' predecessor allowed or caused a discharge of livestock waste from its property to wetlands in the McMurtrey National Wildlife Refuge in Clay County, Nebraska; (ii) Inland Foods' predecessor failed to report the September 28-29, 2006, discharge event to NDEQ within 24 hours of the event, and (iii) sometime prior to March

7, 2006, Inland Foods' predecessor had constructed an unpermitted PVC pipe to drain a building storage pit into a fresh water drainage channel.

3. The parties agree that settlement of this matter 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 Inland Foods, with respect to such issues. Therefore, and for only the purpose 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 State's complaint. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in the State's complaint, provided that such claims were known to the State, 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 THEREFORE ORDERED that Inland Foods shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), in the amount of \$9,000 and court costs in the amount of \$79 to the District Court for Clay County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$4,500 of the civil penalty, as well as the \$79 in court costs, shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$4,500 of the civil penalty shall be paid to this Court no more than 180 days from the entry of this consent decree by the Court. However, if Inland Foods

maintains compliance with and does not violate either the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., the Livestock Waste Management Act, Neb. Rev. Stat. §§ 54-2416 to 54-2435 (Reissue 2004, Cum. Supp. 2006, and Supp. 2007), or Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations", during the 180 days following the entry of this consent decree, then payment of this \$4,500 of civil penalties will be waived.

C. To qualify for the waiver of \$4,500 of civil penalties as described in paragraph 5(B), Inland Foods shall file a showing with the Court within 15 days following the due date of the civil penalties establishing that it has maintained compliance with the statutes and regulatory provisions listed in paragraph 5(B). The State will file a satisfaction of judgment within 10 days of receiving Inland Foods' showing if Inland Foods has complied with the statutes and regulations listed in paragraph 5(B) during the 180 days following the entry of this consent decree. If Inland Foods violates the statutes or regulatory provisions in paragraph 5(B) during the 180 days following the entry of this consent decree, the State may file an objection to Inland Foods' showing and the determination of this waiver provision shall be stayed pending ongoing enforcement proceedings.

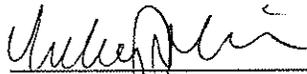
6. IT IS FURTHER ORDERED that Inland Foods, shall pay, as a supplemental environmental project, the sum of \$9,000 to the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by State law, at the sole discretion of the Nebraska Attorney General. This payment shall be paid as a lump-sum payment within 30 days of the entry of this consent decree by this Court.

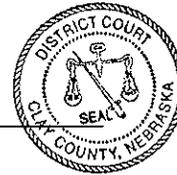
7. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against Inland Foods for future violations of any statutes or regulations.

8. The undersigned consent without further notice to the form and entry of this consent decree.

DATED THIS 10th day of September, 2008, in Clay County, Nebraska.

BY THE COURT:


District Judge



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

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