

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

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

Plaintiff,

v.

ANTHONY CARTER and  
JANET CARTER, individuals,

Defendants.

Case No. CI 12-1233

CONSENT DECREE

**FILED**

DEC 28 2012

VALORIE BENDIXEN  
CLERK OF DISTRICT COURT

COME NOW the parties, Plaintiff, Michael J. Linder, Director of the Nebraska Department of Environmental Quality (hereinafter "NDEQ"), proceeding on his Complaint filed herein and appearing through his Counsel, Jon Bruning, Attorney General, and Defendants, Anthony Carter and Janet Carter, individuals residing at 530 Ravenwood Court, Grand Island, Hall County, Nebraska, 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.

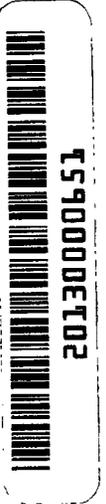
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IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction of the parties and the subject matter of this action pursuant to the Nebraska Environmental Protection Act, NEB.REV.STAT. § 81-1501 *et seq.* (Reissue 2008), and all rules and regulations and orders promulgated thereunder.
2. In the Complaint, Plaintiff alleged, in pertinent part, that Defendants failed to comply with a Final Order of the NDEQ director which required Defendants to take certain steps to bring their on-site wastewater treatment system into compliance with applicable statutes and regulations, in violation of NEB.REV.STAT. § 81-1508.02(1)(b), which makes it unlawful for any person to "violate ... any order of the [NDEQ] director."



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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 Defendants with respect to such issues.

4. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in Plaintiff'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 Plaintiff's complaint, provided that such claims were known to NDEQ, or were reasonably ascertainable from information in NDEQ's possession, as of the date of the filing of the Consent Decree.

5. IT IS THEREFORE ORDERED that Defendants shall pay a civil penalty, under NEB.REV.STAT. § 81-1508.02 (Reissue 2008), in the amount of \$6,500.00 as well as court costs in the amount of \$82.00, to the District Court of Hall County, Nebraska. The civil penalty shall be handled as provided in Article VII, Section V, of the Constitution of the State of Nebraska.

- a. \$2,000.00 of said civil penalty shall be paid within ten days of entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.
- b. \$4,500.00 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 Defendants obtain from NDEQ approval of an acceptable design of Defendants' on-site wastewater treatment system located at 530 Ravenwood Court, Grand Island, Hall County, Nebraska, and complete construction of the same during the 180 days following the entry of this Consent Decree, then payment of this \$4,500.00 of civil penalties shall be waived.
- c. To qualify for the \$4,500.00 waiver of civil penalties as stated in paragraph 5(b), Defendants shall file with the Court and serve upon Plaintiff a showing within

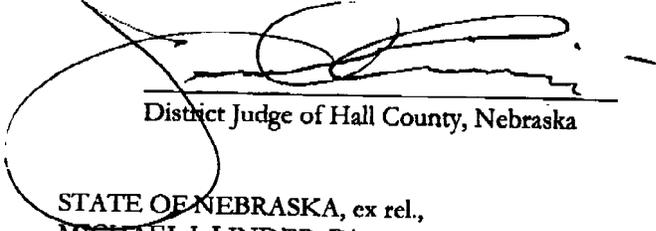
fifteen (15) days prior to the due date of the civil penalties. The showing will certify that Defendants have complied with all requirements set forth in paragraph 5(b). Plaintiff shall file a satisfaction of judgment within ten (10) days of receipt of Defendants' showing. If Defendants violate the requirements in paragraph 5(b) during the 180 days following the entry of this Consent Decree, Plaintiff, in its sole discretion, may file an objection to Defendants' showing. If Plaintiff files an objection to Defendants' showing, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. This Consent Decree shall have no effect on any enforcement action brought by NDEQ against Defendants for future violations of any statutes or regulations.

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

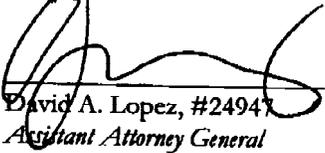
DATED THIS 28 day of Dec, 2012, in Hall County, Nebraska.

BY THE COURT:

  
District Judge of Hall County, Nebraska

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

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