

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
NEDAK ETHANOL, LLC, a limited)
liability company authorized to do)
business in Nebraska,)
Defendant.)

Case No. CE 12-38

CONSENT DECREE

HOLT COUNTY,
NEBRASKA
FILED

SS

MAR 12 2012

JUNIOR YOUNG 2:25PM
CLERK OF THE DISTRICT COURT
KAREN SPERLING - DEPUTY

COMES NOW the parties, Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon Bruning, Attorney General, and the Defendant, NEDAK Ethanol, LLC, a corporation authorized to do business in Nebraska, appearing through its counsel, Don Blankenau, 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 2010) the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.

2. In its Complaint, NDEQ alleges on June 23, 2009, air emissions from NEDAK's facility were uncontrolled due to a leaking pressure valve and uncovered bolt holes, in violation of the Act. In addition, NEDAK failed to use proper equipment to continuously monitor flow rate and failed to control emissions by chemical additions to



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its facility's wet scrubber. Finally, on June 14, 2010, NEDAK failed to observe the presence of visible emissions and to time report such emissions to NDEQ.

3. 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 makes no admission and 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.

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

5. The parties agree that the complaint filed herein constitutes a justiciable cause of action against the Defendant and consent without further notice to the form and entry of this Consent Decree.

6. IT IS THEREFORE ORDERED that NEDAK Ethanol, LLC, shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of

\$25,000.00 and court costs in the amount of \$82.00 to the district court for Holt County. Payment of the civil penalty and court costs shall be paid upon 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 NEDAK Ethanol, LLC, 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 12th day of March, 2012, in Holt County, Nebraska.

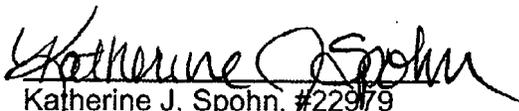
BY THE COURT:



Holt County District Judge

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

By: Jon C. Bruning, #20351
Attorney General

By: 
Katherine J. Spohn, #22979
Special Counsel to the Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
Attorney for Plaintiff.

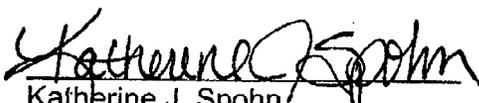
NEDAK ETHANOL, LLC,
a corporation authorized to do business in
Nebraska
Defendant,

By: 
Don Blankenau, Esq.
Blankenau Wilmoth LLP
206 South 13th Street, Suite 1425
Lincoln, NE 68508
Attorney for Defendant.

CERTIFICATE OF SERVICE

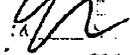
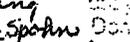
The undersigned hereby certifies that a copy of the foregoing Consent Decree has been served upon Defendant by regular United States mail, first class postage prepaid on this 6th day of March, 2012, addressed to the Defendant's attorney of record as follows:

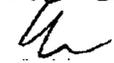
Don Blankenau, Esq.
Blankenau Wilmoth LLP
206 South 13th Street, Suite 1425
Lincoln, NE 68508


Katherine J. Spohn
Special Counsel to the Attorney General

The Clerk of the Court is ordered to perform those acts checked by the undersigned in this case the sooner provided they are required by the following:

1. Make a copy of this report to all parties of record and for to the attorney of record of each party.
Done on Mar. 12, 2012 KS
2. Enter the judgment of the Court in the records of the Court.
Done on Mar 12 2012 KS
3. List's certificate of service on the day of the judgment.

Copy to 
Submitting 
Katherine Spohn
Office Atty General
PO Box 98720
Lincoln NE 68509-8920

Consent Decree entered
Done on Mar 12, 2012 KS

Don Blankenau
206 So 13th St Ste 1425
Lincoln NE 68508