

IN THE DISTRICT COURT OF FRONTIER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Plaintiff, )  
v. )  
STANTON L. NELSON, )  
Defendant. )

Case No. CF 12-25

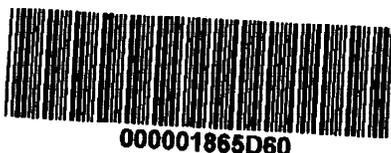
**CONSENT DECREE**

COMES NOW the parties, Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ" or "Department"), proceeding on its Complaint filed herein and appearing through its Counsel, Jon C. Bruning, Attorney General, and the Defendant, Stanton L. Nelson, 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 under pursuant to Neb. Rev. Stat. §81-15,117 et seq. (Reissue 2008), the Nebraska Petroleum Products and Hazardous Substances and Storage and Handling Act, and all rules, regulations, and orders promulgated thereunder.

2. At all times material herein Defendant, Stanton Nelson owned and operated a facility called Nelson Service, 111 West 2<sup>nd</sup> St., Curtis, Frontier County, Nebraska, 69025 ("Facility"). As part of the operation of the Facility, Mr. Nelson used underground storage tanks (UST) to store the petroleum product being sold.



Filed  
By Clark District Court  
Frontier, County, NE  
Date 11-13-12



3. NDEQ alleges that on or about April 14, 1999, a petroleum release was discovered while excavating 2 USTs from Nelson Service and a remedial action plan was not completed in violation of Neb. Rev. Stat. § 81-15,124.

4. 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 Defendant with respect to such issues.

5. This consent decree shall be in full satisfaction of all claims between the parties alleged in NDEQ'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 NDEQ'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.

6. IT IS THEREFORE ORDERED that Defendant shall pay to the Clerk of the District Court of Frontier County a civil penalty in the amount of \$10,000.00 pursuant to Neb. Rev. Stat. §81-15,125 as well as court costs in the amount of \$82.00. Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution, and shall be deemed due and owing as follows:

A. \$5,000.00 of said civil penalty amount will be paid within 10 days of entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.

B. \$5,000.00 of the said penalty shall be paid to this Court within 180 days of entry of this Consent Decree by the Court. However, if the Defendant complies with all applicable environmental statutes and regulations as well as the timeline set forth below for compliance, payment of the \$5,000.00 in civil penalties will be waived:

(i) Defendant shall take steps to immediately complete the site closure, including:

(a) Within 45 days of NDEQ approval of site closure, Defendant shall properly abandon the monitoring wells pursuant to Title 178; and

(b) Within 105 days of entry of this Consent Decree, Defendant shall provide notice of decommissioning of the wells to the Department of Natural Resources pursuant to Title 178; or

(ii) Defendant shall properly maintain the retained wells in accordance with Title 178.

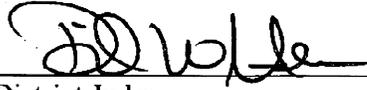
C. To qualify for the \$5,000.00 waiver of civil penalties as stated in paragraph 6(B), Defendant will file with the Court, and serve on NDEQ, a showing within fifteen (15) days prior to the due date of the civil penalties. The showing will certify that Defendant have maintained compliance with all requirements listed in paragraph 6(B). The State will file a satisfaction of judgment within ten (10) days of receiving Defendant's showing. If Defendant violates the requirements in paragraph 6(B) during the 180 days following the entry of this Consent Decree, NDEQ, in its sole discretion, may file an objection to Defendant's showing. If NDEQ files an objection to Defendant showing, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

7. This consent decree will have no effect on any enforcement action brought by NDEQ against Defendant 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 13<sup>th</sup> day of ~~October~~ <sup>November</sup>, 2012, in Frontier County, Nebraska.

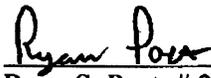
BY THE COURT:



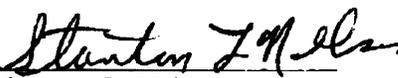
District Judge

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

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Attorney General

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STANTON L. NELSON, Defendant

By:   
Stanton L. Nelson  
Nelson Service  
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Defendant