

IN THE DISTRICT COURT OF GAGE COUNTY, NEBRASKA

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

Case No. CI 12-51

Plaintiff,)

v.)

WALDO FARMS, INC.)

Defendant.)

CONSENT DECREE

FILED
In The Office of the Clerk of the District Court
In Gage County, Nebraska

FEB - 8 2012

Alcaine St. LeBlas
CLERK OF THE DISTRICT COURT
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 Waldo Farms, Inc., 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 Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2010), and all rules and regulations and orders promulgated thereunder.

2. In its Complaint, the State alleges that on or about March 16, 2010, Waldo Farms caused pollution of waters of the state or placed or caused wastes to be placed in a location where they are likely to cause pollution to any waters of the state in violation of § 81-1506(1). Furthermore, Waldo Farms operated a building and waste control system without an operating permit issued by the Plaintiff in violation of § 81-1506(2)(b).

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



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desire to conclude this case without trial or adjudication of any issues of fact or law, without this consent decree constituting an admission by Waldo Farms, Inc., with respect to such issues.

4. 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.

5. IT IS THEREFORE ORDERED that Waldo Farms, Inc., shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of \$37,500.00 as well as court costs in the amount of \$82.00, to the Gage County District Court. The civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$7,500.00 of said civil penalty amount will be paid within ten days of entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.

B. \$30,000.00 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 Waldo Farms, Inc., maintains compliance with and does not violate the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et. seq.*, the Livestock Waste Management Act, Neb. Rev. Stat. § 81-1501 *et seq.*, or any rules and regulations promulgated under either Act, including 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 \$30,000.00 of civil penalties will be waived.

C. To qualify for the \$30,000.00 waiver of civil penalties as stated in paragraph 5(B), Waldo Farms, Inc. will file with the Court, and serve on NDEQ, a showing within fifteen (15) days following the due date of the civil penalties. The showing will certify that Waldo Farms has

maintained compliance with all requirements listed in paragraph 5(B). NDEQ will file a satisfaction of judgment within ten (10) days of receipt of Waldo Farms, Inc.'s showing. If Waldo Farms, Inc. violates the requirements in paragraph 5(B) during the 180 days following the entry of this Consent Decree, NDEQ, in its sole discretion, may file an objection to Waldo Farms, Inc.'s showing. If NDEQ files an objection to Waldo Farms, Inc.'s showing, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. This consent decree will have no effect on any enforcement action brought by NDEQ against Waldo Farms, Inc., for future violations of any statutes or regulations.

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

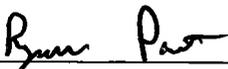
DATED THIS 8th day of February, 2012, in Gage County, Nebraska.

BY THE COURT:


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: 

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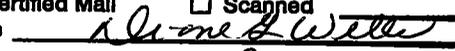
WALDO FARMS, INC.,
Defendant

By: 
Donald G. Blankenau, #18528
Blankenau Wilmoth LLP
206 South 13th Street, Suite 1425
Lincoln, NE 68508-2002
(402) 475-7081
Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on Feb 8 2012

By: Overnight Courier FAX E mailed
 Hand Delivered U.S. Mail Other
 Certified Mail Scanned

Signature 
Ryan Post
Donald Blankenau