

**FILED**  
IN THE DISTRICT COURT OF  
CLAY COUNTY, NEBRASKA

IN THE DISTRICT COURT OF CLAY COUNTY, NEBRASKA

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

Plaintiff, )

v. )

HEARTLAND SWINE, INC., )

Defendant. )

Case No. CI 12-107

MAR 12 2014

9:25 AM

JONI SKALKA  
CLERK OF THE DISTRICT COURT

**CONSENT DECREE**

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, Heartland Swine, Inc., by and through its attorneys Rembolt Ludtke LLP, 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 January 30 and 31, 2012, Defendant placed or caused to be placed swine waste from its animal feeding operation in a location where it was likely to cause pollution to any waters of the state in violation of § 81- 1506(1). Further, the State alleges that on or about January 30 and 31, 2012, and continuing until November 21, 2012, Defendant operated a waste control



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system involving a pipe to a conservation pond without an operating permit issued by Plaintiff. In its Answer, Defendant has denied the State's allegations.

3. The parties agree that settlement of this matter is in the interests of both parties 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 named parties alleged in NDEQ's complaint. The named parties also agree to release any and all claims or actions between the named parties 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 or reasonably available to and/or obtainable by NDEQ, as of the date of the filing of the consent decree.

5. IT IS THEREFORE ORDERED that Heartland Swine, Inc. shall pay an amount to the State in the form of a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of \$10,000.00 as well as court costs in the amount of \$82.00, to the Clay County District Court. The civil penalty amount shall be handled as provided in Article VII, Section V, of the Nebraska Constitution. The civil penalty amount will be paid within twenty days of entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.

6. IT IS FURTHER ORDERED that Heartland Swine, Inc. shall pay, as a voluntary supplemental environmental project, \$10,000.00 to the Sutton Volunteer Fire

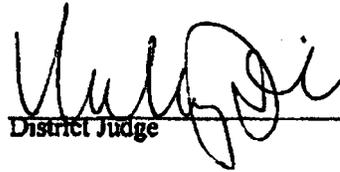
Department to be used at the sole discretion of the Sutton Volunteer Fire Department for the purchase of equipment used to extract petroleum products from bodies of water. This payment shall be paid as a lump-sum payment within twenty days of the entry of the Consent Decree by this Court.

7. This consent decree will have no effect on any enforcement action brought by NDEQ against Heartland Swine, Inc. 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 12<sup>th</sup> day of March 2014 in Clay County, Nebraska.

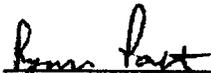
BY THE COURT:

  
District Judge



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

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Heartland Swine, Inc.,  
Defendant

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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 March 13 2014

By:  U.S. Mail <sup>RP-AG</sup>  FAX  
 Hand Delivered <sup>DEF</sup>  E-Mail <sup>DB</sup>  
 Certified Mail  Other:

Signature Joni Skalka 