

IN THE DISTRICT COURT OF DAKOTA COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
JIM MACY, Director, )  
NEBRASKA DEPARTMENT OF )  
ENVIRONMENTAL QUALITY, )  
 )  
Plaintiff, )  
v. )  
 )  
TYSON FRESH MEATS, INC. )  
 )  
Defendant. )

Case No: CT 16-108

**CONSENT DECREE**  
STATE OF NEBRASKA  
DAKOTA COUNTY (SS)  
FILED

APR 27 2016

  
CLERK OF DISTRICT COURT  
BY \_\_\_\_\_ DEPUTY

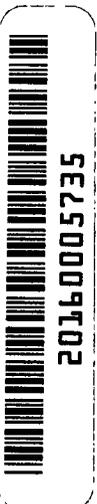
COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on the Complaint filed herein and appearing through Counsel, Douglas J. Peterson, Attorney General, and Defendant, Tyson Fresh Meats, Inc. ("Tyson"), and each party having consented to the making and entering of this Consent Decree without trial, request the entry of this Consent Decree.

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 Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014), and all rules, regulations, and orders promulgated thereunder.
2. In the Complaint, the Plaintiff alleged that on or about May 6, 2015, and June 24, 2015, Tyson violated the terms of its operating permit for its Dakota City facility by exceeding emission limits for SO<sub>2</sub> and NO<sub>x</sub>.
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



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to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by Tyson, with respect to such issues.

4. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in the Plaintiffs' Complaint.
5. IT IS THEREFORE ORDERED that Tyson shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), in the amount of fifteen thousand dollars (\$15,000.00) as well as court costs in the amount of eighty two dollars (\$82.00), to the District Court for Dakota County, Nebraska. The civil penalty will be handled as provided by Article VII, Section V, of the Nebraska Constitution.
  - a. Seven thousand five hundred dollars (\$7,500.00) of the civil penalty shall be paid within thirty (30) days of the entry of this Consent Decree and is payable to the Clerk of this Court.
  - b. Seven thousand five hundred dollars (\$7,500.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree. However, if the Defendant's Dakota City facility maintains compliance with the provisions of the Environmental Protection Act and the rules or regulations adopted pursuant to the Act during the one hundred and eighty (180) days following the entry of this Consent Decree, payment of this seven thousand five hundred dollars (\$7,500.00) in civil penalties shall be waived.
  - c. The Defendant shall file with the Court and serve upon the Plaintiff a Showing within fifteen (15) days prior to the due date of the civil penalties under Paragraph 5(b). The Showing must certify that the Defendant has maintained compliance with all requirements listed in Paragraph 5(b).

- d. The Plaintiff shall file a Satisfaction of Judgment within ten (10) days of receipt of the Defendant's Showing. However, if the Defendant violates the requirements in Paragraph 5(b) during the one hundred and eighty (180) days following the entry of this Consent Decree, the Plaintiff, in its sole discretion, may file an Objection to the Defendant's Showing. If the Plaintiff files such an Objection, the determination of this waiver provision shall be stayed pending ongoing enforcement proceedings.
6. This Consent Decree will have no effect on any enforcement action brought by NDEQ against Tyson 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 27 day of April 2016, in Dakota County, Nebraska.

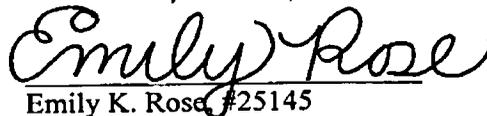
BY THE COURT:



District Judge of Dakota County, Nebraska

STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director,  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY,  
Plaintiff

By: Douglas J. Peterson, #18146  
Attorney General

By: 

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Attorneys for Plaintiff.

TYSON FRESH MEATS, INC.,  
Defendant

By:   
Chris Rupp  
Vice President, Beef Operations  
Tyson Fresh Meats, Inc.

Defendant.