

IN THE DISTRICT COURT OF HALL COUNTY, NEBRASKA

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STATE OF NEBRASKA, ex rel.,)
 JIM MACY, Director, NEBRASKA)
 DEPARTMENT OF ENVIRONMENT AND)
 ENERGY,)
)
 Plaintiff,)
)
 v.)
)
 VONTZ PAVING, INC.,)
)
 Defendant.)
)
)

Case No. 20-447

CONSENT DECREE

FILED

JUL 06 2020

**VALORIE BENDIXEN
CLERK OF DISTRICT COURT**

COMES NOW Plaintiff, the State of Nebraska on behalf of Jim Macy, Director of the Nebraska Department of Environment and Energy (“NDEE”), proceeding on the Complaint filed herein and appearing through counsel, Douglas J. Peterson, Attorney General, and Defendant, Vontz Paving, Inc. (“Vontz Paving”), and each party having consented to the making and entering of the Consent Decree without trial, request entry of this Consent Decree.

JUL 6 3 45

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction over this action pursuant to Neb. Rev. Stat. § 24-302 and venue is proper pursuant to Neb. Rev. Stat. § 25-403.01, as the events at issue took place in Hall County.
2. In the Complaint, NDEE alleges that Vontz Paving violated the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq., and Title 129 of the Nebraska Administrative Code by allowing emissions in excess of 20% opacity.
3. The parties agree settlement of this matter is in the public interest and 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. The parties further desire to conclude this case without this Consent Decree constituting an admission by Vontz Paving with respect to such issues.

4. This Consent Decree will be in full satisfaction of all claims between the parties alleged in Plaintiff's Complaint and the Consent Decree. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and set forth in the 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 NDEE against Vontz Paving for future violations of any statutes or regulations.

5. IT IS THEREFORE ORDERED:

A. Vontz Paving will pay a stipulated civil penalty in the amount of six thousand dollars (\$6,000) to the District Court of Hall County, Nebraska, as described below. The civil penalty will be remitted to the County Treasurer of Hall County for distribution in accordance with Article VII, section 5, of the Nebraska Constitution.

- i. Three thousand dollars (\$3,000) of the civil penalty to be paid upon entry of the Consent Decree and payable to the Clerk of the District Court for Hall County; and
- ii. The remaining three thousand dollars (\$3,000) of the civil penalty shall be waived if Vontz Paving has no violations of the Nebraska Environmental Protection Act or applicable NDEE regulations until December 1, 2020.

iii. If Vontz Paving does not comply with the terms and conditions listed above, the remaining three thousand dollars (\$3,000) will be payable to the Clerk of the District Court for Hall County.

B. Vontz Paving shall provide Plaintiff with a showing of compliance no later December 8, 2020. The showing of compliance must indicate Vontz Paving complied with all of the terms and conditions listed in Paragraph A(ii) of this Consent Decree.

C. Plaintiff will file a Satisfaction of Judgment with the Court after Vontz Paving provides its showing of compliance and NDEE has verified that compliance was achieved. If Vontz Paving, however, violates any of the terms and conditions of Paragraph A(ii) of this Consent Decree during the period of compliance following entry of the Consent Decree, then Plaintiff, in its sole discretion, may file a motion to enforce the terms of the Consent Decree for the remaining three thousand dollars (\$3,000). 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 the Plaintiff against the Vontz Paving for any future violations of any statutes, regulations, or permits.

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

DATED this 6th day of July 2020, in Hall County, Nebraska

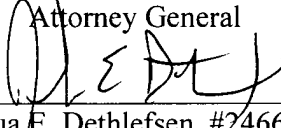
BY THE COURT:



District Judge of Hall County, Nebraska

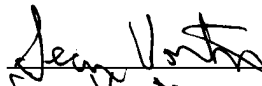
STATE OF NEBRASKA, ex rel.,
JIM MACY, Director
NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY,
Plaintiff

By: Douglas J. Peterson, #18146
Attorney General

By: 

Joshua E. Dethlefsen, #24667
Assistant Attorney General
2115 State Capitol Building
Lincoln, Nebraska 68509-8920
Telephone: (402) 471-1813
joshua.dethlefsen@nebraska.gov

VONTZ PAVING, INC.

By: 

Name: Sean Vontz

Title: Vice President

CERTIFICATE OF SERVICE

I, the undersigned, certify that on July 6, 2020, I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Vontz Paving, Inc.
2355 West Hwy 6
Hastings, NE 68901

Joshua E Dethlefsen
joshua.dethlefsen@nebraska.gov



Date: July 6, 2020

BY THE COURT:

Valorie Bendixen

CLERK