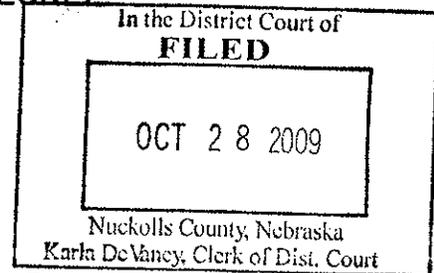


IN THE DISTRICT COURT FOR NUCKOLLS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Plaintiff, )  
v. )  
JAY LYON d/b/a LYON LIME )  
PRODUCTS, )  
Defendant. )

Case No. CI09-64

**CONSENT DECREE**



The State of Nebraska, on the relation of the Nebraska Department of Environmental Quality (NDEQ) and through its counsel, Attorney General Jon C. Bruning, and Jay Lyon, d/b/a Lyon Lime Products, jointly file this consent decree and agree to this Court's entry of the following terms and orders:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed in this case is a justiciable cause of action against Lyon under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2008), and all rules and regulations promulgated under the Act.

2. In its complaint, the State alleged that Lyon violated various provisions of Title 129 of the Nebraska Administrative Code, "Nebraska Air Quality Regulations," by failing to conduct certain performance tests and by allowing particulate matter to become airborne and move beyond Lyon's premises.

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 to conclude this case without a trial or adjudication of any issues of fact or law. The parties agree that the entry of this consent decree is not an



admission by Lyon of any of the issues or violations alleged in the State's complaint. Therefore, and for only the purpose of this consent decree, the parties agree to the entry of this order by the Court.

4. This consent decree shall be in full satisfaction of all claims between the parties alleged in the State'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 the State's 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.

5. IT IS THEREFORE ORDERED that Lyon shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), in the amount of \$6,000 and court costs in the amount of \$82 to the district court for Nuckolls County. This civil penalty shall be handled by the Court as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$3,000 of the civil penalty, as well as the \$80 in court costs, shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$3,000 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 Lyon maintains compliance with and does not violate either the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., or Title 129 of the Nebraska Administrative Code, "Nebraska Air Quality Regulations", during the 180 days following the entry of this consent decree, then payment of this \$3,000 of civil penalties will be waived.

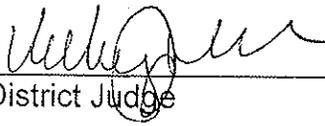
6. To qualify for the waiver of \$3,000 of civil penalties as described in paragraph 5(B), Lyon will file with the Court, and serve on the State, a Request for Waiver within 30 days following the six month anniversary of the approval of this consent decree. The Request for Waiver will show that Lyon has maintained compliance with the statutes and regulatory provisions listed in paragraph 5(B). The State will file a satisfaction of judgment within 10 days of receiving Lyon's Request for Waiver if Lyon has complied with the statutes and regulations listed in paragraph 5(B) during the 180 days following the entry of this consent decree. If Lyon violates any of the statutes or regulatory provisions in paragraph 5(B) during the 180 days following the entry of this consent decree, the State, in its sole discretion, may file an objection to Lyon's Request for Waiver. If the State files an objection to Lyon's Request for Waiver, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

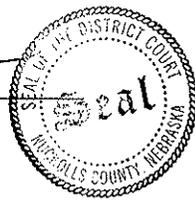
6. IT IS FURTHER ORDERED that Lyon shall pay, as a supplemental environmental project, the sum of \$6,000 to the Attorney General's Environmental Protection Fund. This payment shall be paid as a lump-sum payment within 30 days of the entry of this consent decree by this Court.

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

DATED: October 27, 2009, in Nuckolls County, Nebraska.

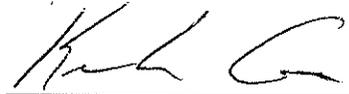
BY THE COURT:

  
District Judge

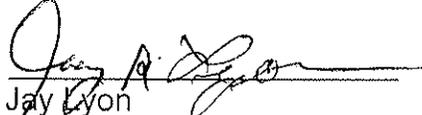


STATE OF NEBRASKA, ex rel.,  
MICHAEL J. LINDER, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

By JON C. BRUNING, #20351  
Attorney General

By:   
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Attorneys for Plaintiff.

JAY LYON, d/b/a, LYON LIME PRODUCTS,  
Defendant

By:   
Jay Lyon  
Lyon Lime Products  
214 1/2 South Main Street  
Smith Center, KS 66967

IN THE DISTRICT COURT OF NUCKOLLS COUNTY, NEBRASKA

NOTICE OF JUDGMENT

State of Nebraska ex rel. v. Lyon, Jay d/b/a Lyon Lime Products

Case ID: CI 09 64

Judgment has been entered.

Judgment Date: 10/28/2009

If a money judgment is owed to the court, payment may be made directly to the court or on-line at: [ne.gov/go/paycourts](http://ne.gov/go/paycourts)

Date: OCTOBER 28, 2009

BY THE COURT:

*Karla DeWaney*  
Clerk



Kevin L Griess  
2115 State Capitol Bldg  
PO Box 98920  
Lincoln, NE 68509-8920

DEPARTMENT OF JUSTICE  
OCT 29 2009  
STATE OF NEBRASKA