

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

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

Plaintiff,

v.

NEBRASKA CORN PROCESSING, LLC,
a company authorized to do business
in Nebraska,

Defendant.

Case No. ¹²⁻4871

CONSENT DECREE

LANCASTER COUNTY
2012 DEC 31 PM 1 55
CLERK OF THE
DISTRICT COURT

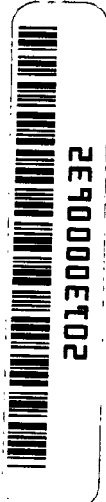
COME NOW the parties, Plaintiff, Michael J. Linder, Director of the Nebraska Department of Environmental Quality (hereinafter "NDEQ"), proceeding on his Complaint filed herein and appearing through his Counsel, Jon Bruning, Attorney General, and Defendant, Nebraska Corn Processing, LLC, and each party 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 the Environmental Protection Act, NEB.REV.STAT. § 81-1501 *et seq.* (Reissue 2008), and all rules and regulations and orders promulgated thereunder.

2. In the Complaint, the Plaintiff alleged, in pertinent part, that the Defendant exceeded the volatile organic compound emissions limit set forth in the permit issued to Defendant for the operation of an ethanol production plant in Furnas County, Nebraska.

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



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

4. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in Plaintiff'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 Plaintiff'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 Nebraska Corn Processing, LLC, shall pay a civil penalty, under NEB.REV.STAT. § 81-1508.02 (Reissue 2008), in the amount of \$12,000.00 as well as court costs in the amount of \$82.00, to the District Court of Lancaster County, Nebraska. The civil penalty shall be handled as provided in Article VII, Section V, of the Constitution of the State of Nebraska.

- a. \$6,000.00 of said civil penalty shall be paid within ten (10) days of the entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.
- b. \$6,000.00 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 Nebraska Corn Processing, LLC, maintains compliance with and does not violate any provisions of its air quality permit or of the Nebraska Environmental Protection Act, NEB.REV.STAT. § 81-1501 *et seq.* (Reissue 2008), pertaining to air pollution or any rules and regulations pertaining to air pollution promulgated under the Act during the 180 days following the entry of this Consent Decree, then payment of this \$6,000.00 of civil penalties will be waived.
- c. To qualify for the \$6,000.00 waiver of civil penalties as stated in paragraph 5(b), Nebraska Corn Processing, LLC, will file with the Court and serve upon Plaintiff a

showing within fifteen (15) days prior to the due date of the civil penalties. The showing will certify that Nebraska Corn Processing, LLC, has maintained compliance with all requirements listed in paragraph 5(b). Plaintiff shall file a satisfaction of judgment within ten (10) days of receipt of Nebraska Corn Processing, LLC's showing. If Nebraska Corn Processing, LLC, violates the requirements in paragraph 5(b) during the 180 days following the entry of this Consent Decree, Plaintiff, in its sole discretion, may file an objection to Nebraska Corn Processing, LLC's showing. If Plaintiff files an objection to Nebraska Corn Processing, LLC's showing, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. IT IS FURTHER ORDERED that Nebraska Corn Processing, LLC shall pay, as a voluntary supplemental environmental project, \$6,000.00 to the Fire Department of Cambridge, Furnas County, Nebraska, to be used for environmental safety, training, public awareness, equipment or other related uses as permitted by state law, at the sole discretion of the Cambridge Fire Department. This payment shall be paid as a lump-sum payment within ten (10) days of the entry of the Consent Decree by this Court.

7. IT IS FURTHER ORDERED that Nebraska Corn Processing, LLC shall pay, as a voluntary supplemental environmental project, \$6,000.00 to the Cambridge, Nebraska Public High School chapter of the Future Farmers of America Organization to be used for the development and construction of a greenhouse for the purposes of environmental education and environmental awareness. This payment shall be paid as a lump-sum payment within ten (10) days of the entry of the Consent Decree by this Court.

8. This Consent Decree will have no effect on any enforcement action brought by NDEQ against Nebraska Corn Processing, LLC, for future violations of any statutes or regulations.

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

DATED THIS 31 day of December, 2012, in Lancaster County, Nebraska.

BY THE COURT:

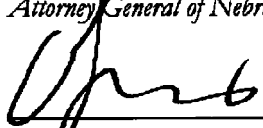


Lancaster County District Judge


Andrew Jacobsen

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

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