

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

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

Case No. CD11-3304

Plaintiff, )

**CONSENT DECREE**

v. )

CLERK'S OFFICE, DISTRICT COURT  
 LANCASTER COUNTY NEBRASKA  
**FILED**

ADAMS LAND & CATTLE CO. )

AUG 10 2011

Defendant. )

*Clerk District Court*

Plaintiff, the Nebraska Department of Environmental Quality, proceeding on its Complaint filed herein and appearing through its counsel, Jon Bruning, Attorney General, and the Defendant, Adams Land & Cattle Co., through its counsel, Michael Mostek, 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 AND DECREED as follows:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed herein constitutes a justiciable cause of action against the Defendant under the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 2008).

2. On or about September 23 and continuing until approximately 7:30 a.m. on September 24, 2010, a 25 year, 24 hour rain event caused a discharge of livestock wastewater from a holding pond at the Defendant's facility to waters of the State in violation of Neb. Rev. Stat. § 81-1506(1)(a). At the time of the rain event, the wastewater level of the holding pond exceeded the "must pump" level established for the pond by applicable regulations and the



Defendant's permit because the Defendant was in the process of dredging sludge from the pond.

4. The parties agree that settlement of these matters 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 trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendant with respect to such issues. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

5. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in the Complaint and the parties further agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in the complaint herein, provided that such claims were known to the State of Nebraska, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the consent decree.

6. IT IS THEREFORE ORDERED that the Defendant shall pay to the Clerk of the District Court a civil penalty in the amount of \$5,800.00 (five thousand eight hundred dollars), pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs herein in the amount of eighty-two dollars (\$82.00). Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution. Said penalty is to be paid within 10 (ten) days of the entry of this Consent Decree by the Court.

7. IT IS FURTHER ORDERED that the Defendant shall pay, as a Supplemental Environmental Project, the sum of \$5,800.00 (five thousand eight hundred dollars) to the Habitat Division of the Broken Bow, Nebraska Chapter of Pheasants Forever to be used for habitat restoration and enhancement, or other related uses as permitted by state law.

8. The undersigned consent without further notice to the form and entry of the foregoing Consent Decree.

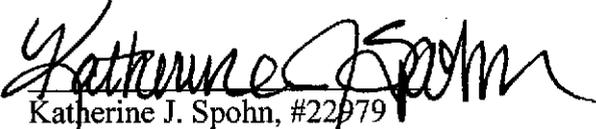
Dated this 10<sup>th</sup> day of August, 2011, in Lancaster County, Nebraska.

BY THE COURT:

  
\_\_\_\_\_  
Lancaster County District Judge

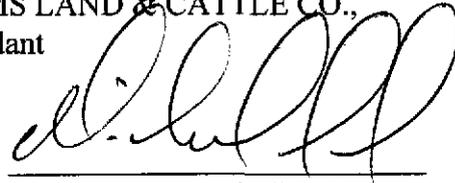
STATE OF NEBRASKA, ex rel.,  
MICHAEL J. LINDER, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

By: Jon C. Bruning, #20351  
Attorney General

By:   
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Attorney for Plaintiff

ADAMS LAND & CATTLE CO.,  
Defendant

By:

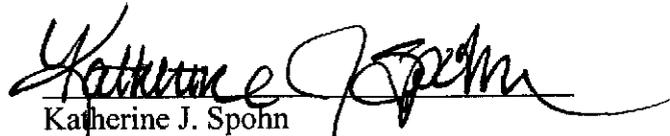


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Attorney for Defendant

CERTIFICATE OF SERVICE

It is hereby certified that on this 8<sup>th</sup> day of August, 2011, a true and accurate copy of the foregoing Consent Decree has been served upon Defendant herein by placing a copy of the same in the United State Mail, first class postage prepaid, addressed to Defendant's attorney of record.

Mike Mostek  
Koley Jessen P.C., L.L.O.  
One Pacific Place  
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Omaha, Nebraska 68124



Katherine J. Spohn  
Special Counsel to the Attorney General