

IN THE DISTRICT COURT FOR PLATTE COUNTY, NEBRASKA

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

Case No. CI-10-218

CONSENT DECREE

Plaintiff,

v.

AJ & SONS TRUCKING, INC.,

Defendant.

FILED
MARLENE M VETICK, CLERK

SEP 21 2011

DISTRICT COURT
PLATTE COUNTY, NEBR.



The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), and AJ & Sons Trucking, Inc., a Nebraska corporation, 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 AJ & Sons under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2008), and the rules and regulations promulgated under that Act.

2. In its complaint, the State generally alleges that AJ & Sons operated a wastewater lagoon system without the necessary permits and also violated the terms of an October 2007 administrative order entered by NDEQ. Among other things, the State's complaint requested that an injunction be entered against AJ & Sons requiring it to take certain actions to bring its operation and facilities into compliance with the pertinent regulations. With the entry of this consent decree,



the State acknowledges that AJ & Sons has fully complied with the State's requirements and no further actions are necessary to bring AJ & Sons' operation and facilities into compliance with the Nebraska Environmental Protection Act and the rules and regulations promulgated under the Act.

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 trial or adjudication of any issues of fact or law, without this consent decree constituting an admission by AJ & Sons with respect to such issues. 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, if 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 AJ & Sons shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), in the amount of \$1,000 to the district court for Platte County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution and shall be paid to this Court no more than six months from the entry of this consent decree by the

Court. However, if AJ & Sons does not violate any provision of the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., or any rules and regulations promulgated under that Act during the six months following the entry of this consent decree, then payment of this \$1,000 of civil penalties will be waived. To qualify for the waiver of \$1,000 of civil penalties as described above, AJ & Sons will file a Request for Waiver with the Court within 15 days following the due date of the civil penalties establishing that it has maintained compliance with the Nebraska Environmental Protection Act and regulations promulgated under the Act. The State will file a satisfaction of judgment within 10 days of receiving AJ & Sons' Request for Waiver if AJ & Sons has complied with the Nebraska Environmental Protection Act and regulations promulgated under the Act during the six months following the entry of this consent decree. If AJ & Sons violates the Nebraska Environmental Protection Act, or the regulations promulgated under the Act, during the six months following the entry of this consent decree, the State may file an objection to AJ & Sons' Request for Waiver and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against AJ & Sons for future violations of the Nebraska Environmental Protection Act or the rules and regulations promulgated under the Act.

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

DATED THIS 16th day of September, 2011, in Platte County, Nebraska.

BY THE COURT:



The Honorable Robert R. Steinke,
District Judge

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

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