

IN THE DISTRICT COURT OF CHASE COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
JIM MACY, Director,)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
)
v.)
)
DAVID HOGSETT, D/B/A DAVID)
HOGSETT LIVESTOCK,)
)
Defendant.)

Case No. CT 16-12

CONSENT DECREE

FILED TIME 2:00 pm
MAY 31 2016
CLERK OF THE DISTRICT COURT
CHASE COUNTY, NEBRASKA

COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on the Complaint filed herein and appearing through Counsel, Douglas J. Peterson, Attorney General, and Defendant, David Hogsett, d/b/a David Hogsett Livestock, and each party having consented to the making and entering of this Consent Decree without trial, request the entry of this Consent Decree.

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 2014), and all rules, regulations, and orders promulgated thereunder.
2. In the Complaint, the Plaintiff alleged that the Defendant constructed a livestock waste control facility ("LWCF") without first receiving a permit from NDEQ and operated such LWCF without obtaining written approval from NDEQ.
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



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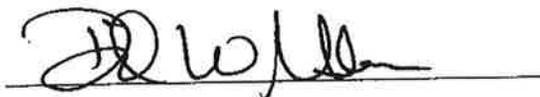
desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendant, with respect to such issues.

4. This Consent Decree shall be in full satisfaction of all claims between the parties alleged in the Plaintiffs' Complaint. The parties agree to release any and all claims or actions out of the same transaction or occurrence referenced above and in the Plaintiffs' 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 entry of this Consent Decree.
5. IT IS THEREFORE ORDERED that the Defendant shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02 (2) (Reissue 2014), in the amount of five thousand dollars (\$5,000.00) as well as court costs in the amount of eighty two dollars (\$82.00), to the District Court for Chase County, Nebraska. The civil penalty will be handled as provided by Article VII, Section V, of the Nebraska Constitution.
 - a. Two thousand five hundred dollars (\$2,500.00) of the civil penalty shall be paid within thirty (30) days of the entry of this Consent Decree and is payable to the Clerk of this Court.
 - b. Two thousand five hundred dollars (\$2,500.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree. However, if the Defendant maintains compliance with the provisions of the Environmental Protection Act, the Livestock Waste Management Act, and the rules or regulations adopted pursuant to such Acts during the one hundred and eighty (180) days following the entry of this Consent Decree, payment of this two thousand five hundred dollars (\$2,500.00) in civil penalties shall be waived.

- c. The Defendant shall file with the Court and serve upon the Plaintiff a Showing within fifteen (15) days prior to the due date of the civil penalties under Paragraph 5(b). The Showing must certify that the Defendant has maintained compliance with all requirements listed in Paragraph 5(b).
 - d. The Plaintiff shall file a Satisfaction of Judgment within ten (10) days of receipt of the Defendant's Showing. However, if the Defendant violates the requirements in Paragraph 5(b) during the one hundred and eighty (180) days following the entry of this Consent Decree, the Plaintiff, in its sole discretion, may file an Objection to the Defendant's Showing. If the Plaintiff files such an Objection, 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 NDEQ against the Defendant for future violations of any statutes or regulations.
 7. The undersigned consent without further notice to the form and entry of this Consent Decree.

DATED THIS 31 day of May 2016, in Chase County, Nebraska.

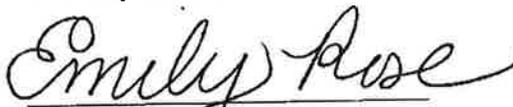
BY THE COURT:



District Judge of Chase County, Nebraska

STATE OF NEBRASKA, ex rel.,
JIM MACY, Director,
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
Plaintiff

By: Douglas J. Peterson, #18146
Attorney General

By: 

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DAVID HOGSETT, D/B/A DAVID HOGSETT
LIVESTOCK,
Defendant

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Attorney for Defendant.