

IN THE DISTRICT COURT OF WEBSTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
Plaintiff, )  
v. )  
GOTTSCH FEEDING CORPORATION, )  
Defendant. )

Case No. CI 10-61

**CONSENT DECREE**

**FILED**

AUG 30 2010

LONNIE KNEHANS  
CLERK OF DISTRICT COURT  
WEBSTER COUNTY, NEBRASKA

The Nebraska Department of Environmental Quality (NDEQ), through its counsel, Attorney General Jon C. Bruning, and Gottsch Feeding Corporation, through its counsel, Anna L. Stehlik, 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 the defendant under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.*, and all rules and regulations promulgated under the Act.

2. In its complaint, NDEQ alleges that defendant violated Neb. Rev. Stat. § 81-1506(1)(a) when allegedly in February, 2007, the Defendant discharged cattle waste from its livestock operation into Dry Creek, a water of the state, in Webster 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 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



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admission by the defendant 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 Defendant shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02, in the amount of \$3,000, as well as court costs in the amount of \$82, to the Webster County District Court. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$1,500 of the civil penalty shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$1,500 of the civil penalty shall be paid to this Court no more than six months from the entry of this consent decree by the Court. However, if Defendant maintains compliance with and does not violate either the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., the Livestock Waste Management Act, Neb. Rev. Stat. § 54-2416 et seq, or Title 130 of the Nebraska Administrative Code, "Livestock Waste Control Regulations", during the six months following the entry of this consent decree, then payment of this \$1,500 of civil penalties will be waived.

C. To qualify for the waiver of \$1,500 of civil penalties as described in paragraph 5(B), Defendants shall 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 statutes and regulatory provisions listed in paragraph 5(B). The State will file a satisfaction of judgment within 10 days of receiving Defendant's Request for Waiver if Defendant has complied with the statutes and regulations listed in paragraph 5(B) during the six months following the entry of this consent decree. If Defendant violates the statutes or regulatory provisions in paragraph 5(B) during the six months following the entry of this consent decree, the State may file an objection to Defendant's Request for Waiver and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. IT IS FURTHER ORDERED that the defendant shall pay, as a supplemental environmental project, the sum of \$3,000 to the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by State law, at the sole discretion of the Nebraska Attorney General. This payment shall be paid as a lump-sum payment within thirty (30) days of the entry of this consent decree by this Court.

7. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against Defendant for future violations of any statutes or regulations.

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

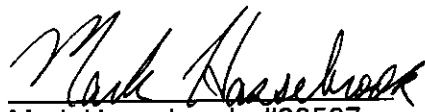
DATED: August 19<sup>th</sup>, 2010, in Webster County, Nebraska.

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:   
Mark Hassebrook, #23507  
Assistant Attorney General  
2115 State Capitol Building  
P.O. Box 98920  
Lincoln, Nebraska 68509-8920  
(402) 471-2682  
mark.hassebrook@nebraska.gov  
Attorneys for Plaintiff.

GOTTSCH FEEDING CORPORATION,  
Defendant.

By:   
Anna L. Stehlik, #15621  
P.O. Box 609  
Hastings, Nebraska 68902  
(402) 463-3191  
Attorney for Defendant