

IN THE DISTRICT COURT FOR PHELPS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
BECTON DICKINSON, AND COMPANY,)
Defendant.)

Case No. CI13-112

CONSENT DECREE

The Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein, and Becton Dickinson and Company ("BD"), through counsel, jointly filed this Consent Decree, 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.

1. WHEREAS, this Court has jurisdiction of the parties and the subject matter of this action pursuant to the Nebraska Environmental Protection Act, NEB. REV. STAT. § 81-1501 *et seq.* (Reissue 2008) and all rules, regulations, and orders promulgated and issued thereunder.

2. WHEREAS, in its Complaint, NDEQ alleged that BD's waste management procedures violated Nebraska Administrative Code Title 128 "Nebraska Hazardous Waste Regulations."

3. WHEREAS, 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.



FILED
NOV 19 2013
JENNIFER L. NELSON
CLERK OF DISTRICT COURT
PHELPS COUNTY



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

4. WHEREAS, the Consent Decree shall be in full satisfaction of all claims alleged Complaint. The parties agree to release all claims arising out the same transaction or occurrences referenced in the Complaint, provided such claims were known, or were reasonably ascertainable from information within the parties' possession, as of the date of the entry of the Consent Decree.

5. WHEREAS, this consent decree will have no effect on any enforcement action brought by the State or NDEQ against BD for future violations of any statutes or regulations.

IT IS THEREFORE ORDERED:

6. Becton Dickinson and Company shall pay a civil penalty pursuant to NEB. REV. STAT. § 81-1508.02 in the amount of thirty-eight thousand dollars (\$38,000.00) as well as court costs in the amount of eighty-two dollars (\$82.00) to the District Court for Phelps County, Nebraska. The civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution and paid as follows:

- a. Twenty-three thousand dollars (\$23,000.00) of said civil penalty shall be paid within fifteen (15) days of the date of entry of the Consent Decree.
- b. Fifteen thousand dollars (\$15,000.00) of said civil penalty shall be paid within one-hundred eighty (180) days of the date of entry of the Consent Decree. However, if BD maintains compliance with all rules, regulations, and orders promulgated and issued pursuant to the Nebraska Environmental Protection Act, NEB. REV. STAT. § 81-1501 *et seq.*, that pertain to hazardous waste management at BD's facility located in Holdrege, Nebraska, during the one-hundred eighty (180) days following

the entry date of the Consent Decree, payment of this fifteen thousand dollars (\$15,000.00) shall be waived.

7. To qualify for the penalty waiver set forth in paragraph 6(b), BD must file a Showing of Compliance with the Court fifteen (15) days prior to the date such penalties would become due and owing. The Showing must certify that BD has satisfied the requirements of paragraph 6. NDEQ will file a Satisfaction of Judgment within ten (10) days of receipt of the Showing. However, NDEQ reserves the right to file an objection to BD's Showing and determination of the effect of paragraph 6(b) will be subject to further enforcement proceedings.

IT IS FURTHER ORDERED:

8. BD shall provide seven thousand five-hundred dollars (\$7,500.00) to the Holdrege Volunteer Fire Department as a supplemental environmental project to be used for hazardous material spill response. Such payment shall be made within fifteen (15) days of the date of entry of the Consent Decree.

9. BD shall provide seven thousand five-hundred dollars (\$7,500.00) to the Holdrege Area Recycling Center, operated by Mid-Nebraska Individual Services. Such payment shall be made within fifteen (15) days of the date of entry of the Consent Decree.

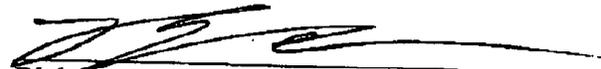
Dated this ___ day of November, 2013, in Phelps County, Nebraska.

BY THE COURT:


District Judge

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

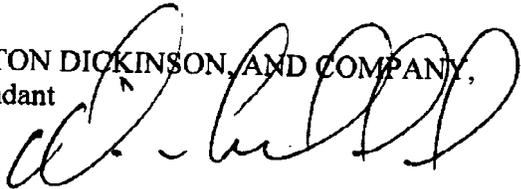
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