

IN THE DISTRICT COURT OF HOWARD COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
PATRICK W. RICE, Acting Director,)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
v.)
)
DIXSON FARMS, INC.)
)
Defendant.)

Case No. CT14-37

CONSENT DECREE

FILED

JUL 28 2014

BEV SACK
HOWARD COUNTY CLERK
CLERK OF DISTRICT COURT

COMES NOW the parties, Plaintiff, Patrick W. Rice, Acting Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through his Counsel, Jon C. Bruning, Attorney General, and Defendant, Dixson Farms, Inc., 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 Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2008), and all rules, regulations, and orders promulgated thereunder.
2. In the Complaint, the Plaintiff alleged, in pertinent part, that the Defendant failed to comply with a final Order of the Director of NDEQ, which required the Defendant to construct a Livestock Waste Control Facility ("LWCF") meeting all state regulatory requirements. In addition, the Defendant failed to timely complete construction under its NDEQ modified construction and operating permit for a LWCF.

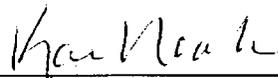


3. The parties agree that settlement of this matter is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by 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 Plaintiff's Complaint.
5. IT IS THEREFORE ORDERED that the Defendant shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), in the amount of twenty thousand dollars (\$20,000.00) as well as court costs in the amount of eighty two dollars (\$82.00), to the District Court for Howard County, Nebraska. The civil penalty will be handled as provided by Article VII, Section V, of the Constitution of the State of Nebraska.
 - a. Ten thousand dollars (\$10,000.00) of the civil penalty shall be paid within thirty (30) days of entry of this Consent Decree by the Court, and is payable to the Clerk of this Court.
 - b. Ten thousand dollars (\$10,000.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree by the Court. However, if the Defendant maintains compliance with and does not violate any provisions of the Nebraska Environmental Protection Act, the Nebraska Livestock Waste Management Act, or any rules and regulations adopted pursuant to such Acts during the one hundred and eighty (180) days following the entry of this Consent Decree, then payment of this ten thousand dollars (\$10,000.00) in civil penalties shall be waived.

- c. To qualify for the ten thousand dollar (\$10,000.00) waiver of civil penalties as stated in Paragraph 5(b), 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. 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. 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 an objection to the Defendant's showing, 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 25th day of July, 2014, in Howard County, Nebraska.

BY THE COURT:



District Judge of Howard County, Nebraska

STATE OF NEBRASKA, ex rel.,
PATRICK W. RICE, Acting Director
NEBRASKA DEPARTMENT OF

ENVIRONMENTAL QUALITY, Plaintiff

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DIXSON FARMS, INC.,
Defendant

By: William E. Dixon
William E. Dixon
President
Defendant.