

FILED
IN THE DISTRICT COURT FOR PLATTE COUNTY, NEBRASKA

2013 NOV -6 AM 10:08

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

Plaintiff,

v.

BECTON DICKINSON, AND COMPANY,

Defendant.

MAILED
CLERK OF DISTRICT COURT
PLATTE COUNTY, NEBRASKA

Case No. **CI13-510**

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 air emission management procedures violated Nebraska Administrative Code Title 129 "Nebraska Air Quality 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.



20130037942

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 forty-five thousand dollars (\$45,000.00) as well as court costs in the amount of eighty-two dollars (\$82.00) to the District Court for Platte County, Nebraska. The civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution and paid as follows:

- a. Thirty thousand dollars (\$30,000.00) 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 air emissions at BD's facility located in Columbus, 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.

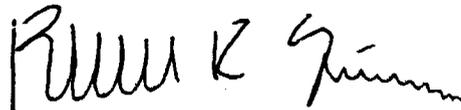
7. To qualify for the penalty waiver set forth in paragraph 6(b), BD must file a Showing of Compliance with the Court fifteen (15) days prior to the date such penalties would become due and owing. The Showing must certify that BD has satisfied the requirements of paragraph 6. NDEQ will file a Satisfaction 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 forty thousand dollars (\$40,000.00) to Keep Columbus Beautiful as a supplemental environmental project to assist with scrap tire recycling and residential beautification projects. Such payment shall be made within fifteen (15) days of the date of entry of the Consent Decree.

Dated this 6th day of November, 2013, in Platte County, Nebraska.

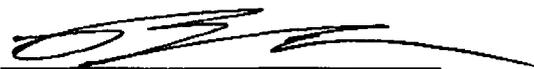
BY THE COURT:



District Judge

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

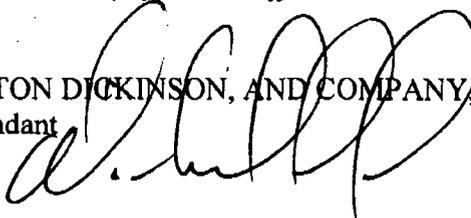
By: JON C. BRUNING, #20351
Attorney General



Blake E. Johnson, #24158
Assistant Attorney General
2115 State Capitol Building
P.O. Box 98920
Lincoln, Nebraska 68509-8920
(402) 471-2682
blake.johnson@nebraska.gov

Attorneys for Plaintiff

BECTON DICKINSON, AND COMPANY,
Defendant



By: Michael S. Mostek #18134
Koley Jessen P.C., L.L.O.
One Pacific Place, # 800
1125 South 103rd Street
Omaha, Nebraska 68124

Attorney for Defendant

XC: Blake E. Johnson
Assistant Attorney General

Michael S. Mostek