

IN THE DISTRICT COURT FOR PIERCE COUNTY, NEBRASKA

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

Plaintiff, )

v. )

CITY OF PLAINVIEW d/b/a )  
CITY OF PLAINVIEW POWER PLANT, )  
a Nebraska municipality, )

Defendant. )

Case No. CI 15-54

**CONSENT DECREE**

OFFICE OF THE CLERK OF DISTRICT COURT  
**FILED**

SEP 24 2015

**2:40 PM**  
VICKIE PRINCE  
Clerk of District Court, Pierce County, NE

COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality (“NDEQ”), proceeding on its Complaint filed herein and appearing through his Counsel, Douglas J. Peterson, Attorney General, and Defendant, City of Plainview, 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 operated its power plant without a current Class I operating permit; failed to submit timely reports, air emissions inventories, and compliance certifications; failed to keep records at the facility for a minimum of five (5) years; failed to document monthly calculations; and failed to keep fuel consumption records, all in violation of the Environmental Protection Act and the conditions of Defendant’s Class I operating permit.



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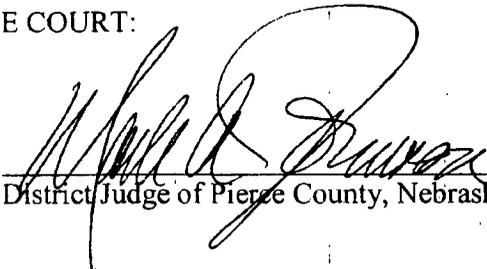
3. The parties agree that settlement of this matter is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law, without this Consent Decree constituting an admission by the Defendant, with respect to such issues.
4. This Consent Decree shall be in full satisfaction of all claims 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 (2) (Reissue 2014), in the amount of sixteen thousand dollars (\$16,000.00) as well as court costs in the amount of eighty two dollars (\$82.00), to the District Court for Pierce County, Nebraska. The civil penalty shall be handled as provided by Article VII, Section V, of the Constitution of the State of Nebraska.
  - a. Six thousand dollars (\$6,000.00) 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. The remaining ten thousand dollars (\$10,000.00) in civil penalties shall be paid no more than two (2) years from the entry of this Consent Decree by the Court. However, if the Defendant complies with Paragraph 6 of the Consent Decree, payment of this remaining ten thousand dollars (\$10,000.00) in civil penalties shall be waived.
6. IT IS FURTHER ORDERED that the Defendant shall submit to NDEQ an application for a Class II operating permit within one hundred and eighty (180) days from the entry of this Consent Decree. The Defendant shall also maintain compliance with all record

keeping requirements pursuant to the Environmental Protection Act and its current operating permit for a period of two (2) years from the entry of this Consent Decree.

7. IT IS FURTHER ORDERED that the Defendant shall file with the Court and serve upon the Plaintiff a Showing that certifies the Defendant has maintained compliance with all requirements listed in Paragraph 6 herein. The Defendant shall have sixty (60) days following the end of the two (2) year period to file the Showing. The Plaintiff shall file a Satisfaction of Judgment within thirty (30) days of receipt of the Defendant's Showing. However, if the Defendant does not comply with the requirements in Paragraph 6, 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 the waiver provision under Paragraph 5(b) shall be stayed pending ongoing enforcement proceedings.
8. This Consent Decree shall have no effect on any enforcement action brought by NDEQ against the Defendant for future violations of any statutes or regulations.
9. The undersigned consent without further notice to the form and entry of this Consent Decree.

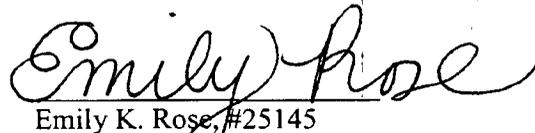
DATED THIS 14<sup>th</sup> day of September 2015, in Pierce County, Nebraska.

BY THE COURT:

  
District Judge of Pierce County, Nebraska

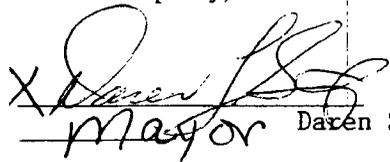
STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

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CITY OF PLAINVIEW d/b/a  
CITY OF PLAINVIEW POWER PLANT,  
a Nebraska municipality, Defendant

By:   
Mayor Daren Seip

Defendant