

IN THE DISTRICT COURT FOR DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
JIM MACY, Director DEPARTMENT)
OF ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
v.)
)
GOTHENBURG FEED PRODUCTS)
COMPANY,)
)
Defendant.)

Case No. CI 17-223

CONSENT DECREE

COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on the Complaint filed herein and appearing through counsel, Douglas J. Peterson, Attorney General, and Defendant, Gothenburg Feed Products Company 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, Plaintiff alleged that Defendant exceeded its opacity limits at its alfalfa dehydration facility located in Gothenburg, Dawson County, Nebraska ("the facility"), in violation of the Nebraska Environmental Protection Act and Title 129 of the Nebraska Administrative Code.
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



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STATE OF NEBRASKA
DAWSON COUNTY

JUL 24 2017

FILED BY BECKY DORNYA
CLERK OF DISTRICT COURT



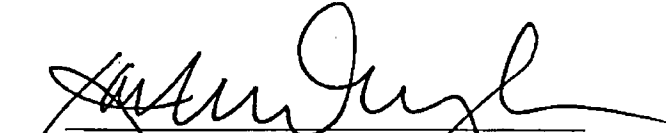
to conclude this case without trial or adjudication of any issues of fact or law and without this Consent Decree constituting an admission by Defendant with respect to such issues.

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 Defendant shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02(2) (Reissue 2014), in the amount of three thousand dollars (\$3,000.00) as well as court costs in the amount of eighty three dollars (\$83.00), to the District Court for Dawson County, Nebraska. The civil penalty will be handled as provided by Article VII, Section V, of the Nebraska Constitution.
 - a. One thousand five hundred dollars (\$1,500.00) of the civil penalty shall be paid upon entry of this Consent Decree and is payable to the Clerk of this Court.
 - b. The remaining one thousand five hundred dollars (\$1,500.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree. However, if Defendant does not exceed its thirty percent (30%) opacity limit as set by 129 Neb. Admin. Code. Ch. 20, Section 005.02 during the one hundred and eighty (180) days following the entry of this Consent Decree, payment of this one thousand five hundred dollars (\$1,500.00) in civil penalties shall be waived.
 - c. The Defendant shall file with the Court and serve upon the Plaintiff a Showing of Compliance within fifteen (15) days prior to the due date of civil penalties under Paragraph 5(b). The Showing of Compliance must certify that Defendant has maintained compliance with all requirements listed in Paragraph 5(b).

- d. The Plaintiff shall file a Satisfaction of Judgment after Defendant files the Showing of Compliance and within ten (10) days after the completion of the one hundred eighty (180) day compliance period. However, if 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, 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 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 _____ day of July, 2017, in Dawson County, Nebraska.

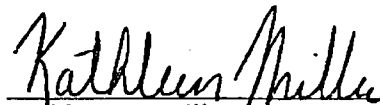
BY THE COURT:




District Judge of Dawson County, Nebraska

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

By: Douglas J. Peterson, #18146
Attorney General

By: 
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GOTHENBURG FEED PRODUCTS
COMPANY,
Defendant

By: 
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Gothenburg, NE 69138-0327
(308) 537-2321
steve@cozadattorney.com
Attorney for Defendant.

CERTIFICATE OF SERVICE

I, the undersigned, certify that on July 25, 2017 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Steve Windrum
steve@cozadattorney.com

Kathleen A Miller
kathleen.miller@nebraska.gov



Date: July 25, 2017

BY THE COURT:

Becky Brupa
CLERK