

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
CLEARWATER FALLS, L.L.C.,)
Defendant.)

Case No. C106-2111

CONSENT DECREE

COME NOW the parties, Plaintiff, the Department of Environmental Quality (hereinafter "NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendant Clearwater Falls, LLC, appearing through its counsel Michael S. Mostek, 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.

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 Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 1999, Cum. Supp, 2004, Supp. 2005), the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. The Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that the Defendant constructed a residential sewer system without the proper permit in violation of Neb. Rev. Stat. §81-1506(2)(b) and Title 123, Chapter 3, Section 001.

4. The parties agree that settlement of these matters 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. The Defendant agrees to the form and entry of this Consent Decree for the purposes of settlement only. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Consent Decree by the Court.

5. This Consent Decree shall be in full satisfaction of all claims alleged in the complaint filed herein and any claims arising out of the same transaction or occurrences asserted therein, provided that such claims were known to the State of Nebraska, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the Consent Decree.

6. This Consent Decree will have no effect on any enforcement action brought by Plaintiff against Defendant for future violations of any statutes or regulations.

7. The undersigned consent without further notice to the form and entry of the foregoing Consent Decree.

8. IT IS THEREFORE ORDERED that the Defendant shall pay to the Clerk of the District Court a civil penalty in the amount of twenty-two thousand five hundred dollars (\$22,500.00), pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs herein in the amount of seventy-nine dollars (\$79.00). Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution. Said penalty is to be paid within thirty (30) days of the entry of this Consent Decree by the Court.

9. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, the sum of twenty two thousand five hundred dollars (\$22,500) to the Nebraska Housing Resource, Inc. to be used for the development and implementation of an educational program in the area of stormwater for the State of Nebraska. The educational program may use the funds at its discretion, and the funds may be utilized for, but not necessarily limited to, the development and/or maintenance of the training program, developed in order to educate those regulated by NDEQ and/or the United States Environmental Protection Agency in the area of stormwater. This sum shall be paid as a lump-sum payment due thirty (30) days after the entry of this Consent Decree by the Court, and shall be sent to:

Nebraska Housing Resource, Inc.
Attn: Roger Massey, Executive Director
1230 O Street, Suite 204
Lincoln, Nebraska 68508

10. IT IS ALSO ORDERED that the Defendant shall comply with changes required by the NDEQ to correct deficiencies relating to construction of the lift station at the site referenced in the Complaint in order for the lift station to comply with NDEQ rules, regulations, and/or design standards.

DATED THIS 6th day of December, 2006, in Sarpy County, Nebraska.

BY THE COURT:

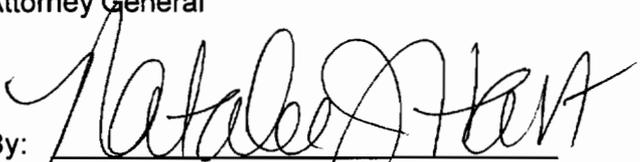


District Judge

SIGNED COPY

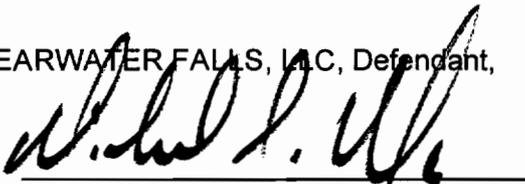
STATE OF NEBRASKA ex rel.,
MICHAEL J. LINDER, Director
Department of Environmental
Quality, Plaintiff,

By: JON C. BRUNING #20351,
Attorney General

By: 

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CLEARWATER FALLS, LLC, Defendant,

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