

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
 MICHAEL J. LINDER, Director )  
 DEPARTMENT OF ENVIRONMENTAL )  
 QUALITY, )  
 Plaintiff, )  
 v. )  
 CORNHUSKER ENERGY LEXINGTON, )  
 LLC, a corporation authorized to do business )  
 in Nebraska, )  
 Defendant. )

Case No. 0212-460

CONSENT DECREE

COMES NOW the parties, Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon Bruning, Attorney General, and the Defendant, Cornhusker Energy Lexington, LLC, a corporation authorized to do business in Nebraska, 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.

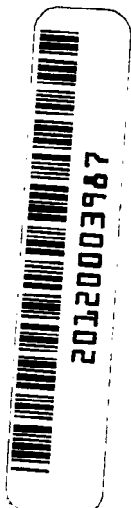
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

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 2010) the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. Cornhusker Energy allegedly violated its construction permit due to its inability to test a faulty boiler installed at its facility. Because of the faulty boiler, Cornhusker Energy was not able to conduct a performance test within 180 days of initial start-up of the boiler, timely perform a relative accuracy test audit on the boiler, determine compliance with the applicable NOx standards using a 30-day rolling average, and timely submit excess emissions and

STATE OF NEBRASKA  
DAWSON COUNTY

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FILED BY SHERRY WARNER  
CLERK OF DISTRICT COURT



monitoring systems reports regarding the emissions from the boiler. Cornhusker Energy also failed to timely submit a Class II operating permit.

3. 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 makes no admission and 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.

4. This consent decree shall be in full satisfaction of all claims between the parties alleged in the State's complaint. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in the State's complaint, provided that such claims were known to the State, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the consent decree. This consent decree will have no effect on any enforcement action brought by Plaintiff against Defendant for future violations of any statutes or regulations.

5. The parties agree that the complaint filed herein constitutes a justiciable cause of action against the Defendant and consent without further notice to the form and entry of this consent decree.

6. IT IS THEREFORE ORDERED that Cornhusker Energy Lexington, LLC, shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of \$7,290.00 (seven thousand two hundred ninety dollars) and court costs in the amount of \$82.00

to the District Court for Dawson County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution. Payment of said civil penalty shall be paid in 3 (three) monthly installments of \$2430.00 (Two thousand four hundred thirty dollars), with the first payment due within 30 days of entry of this consent decree by this Court.

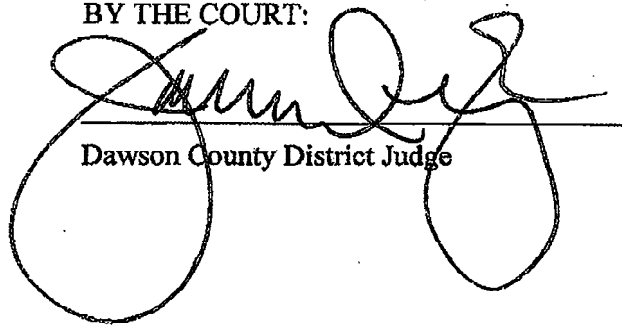
7. IT IS FURTHER ORDERED that Cornhusker Energy Lexington, LLC, shall pay, as a supplemental environmental project, the sum of \$7,290.00 to Lexington Public Schools to cover the costs of the projects identified in Exhibit A. This payment shall be paid as a lump-sum payment within 30 days of the entry of this consent decree by this Court.

8. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against Cornhusker Energy Lexington, LLC, 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 30 day of November, 2012, in Dawson County, Nebraska.

BY THE COURT:

  
Dawson County District Judge

**CERTIFICATE**


The undersigned certifies that the foregoing document was served upon all pro se parties to the above cause and to each of the attorneys of record hereto at their respective addresses as shown on the pleadings on Nov 30, 2012

U.S. Mail  FAX K. Spohn  
 Hand Delivered  Certified Mail M. Mosler

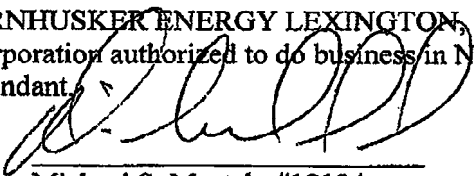
Signature: \_\_\_\_\_

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

By: Jon C. Bruning, #20351  
Attorney General

By:   
Katherine J. Spohn, #22979  
Deputy Attorney General  
2115 State Capitol Building  
P.O. Box 98920  
Lincoln, Nebraska 68509-8920  
(402) 471-2682  
Attorney for Plaintiff.


CORNHUSKER ENERGY LEXINGTON, LLC,  
a corporation authorized to do business in Nebraska  
Defendant.

By:   
Michael S. Mostek, #18134  
Koley Jessen P.C., L.L.O.  
One Pacific Place  
1125 South 103<sup>rd</sup> Street, Suite 800  
Omaha, Nebraska 68124  
Attorney for Defendant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Consent Decree has been served upon Defendant by regular United States mail, first class postage prepaid on this 27<sup>th</sup> day of November, 2012, addressed to the Defendant's attorney of record as follows:

Michael S. Mostek  
Koley Jessen P.C., L.L.O.  
One Pacific Place  
1125 South 103<sup>rd</sup> Street, Suite 800  
Omaha, Nebraska 68124

  
Katherine J. Spohn  
Deputy Attorney General

### Lexington's Cornhusker Energy Project

LCEP will provide an opportunity to educate our students and community in the areas of solar and wind energy and how it may be used in everyday life. We will also compare, contrast, and evaluate the amount of energy created by the wind turbine to that of the solar panels.

We will put a wind turbine on top of the high school gym and solar panels on top of the north wing of the high school building. We plan to put lights in one science room to be run off the power and store energy in 250 AMP batteries. We will put a charger controller on the system if necessary and possibly a hot water heater to divert any extra energy.

1 wind turbine (400 W)	\$500
1 tower for wind turbine	500
1 solar package (2 - 110 W Panels)	2,000
1 solar panel (110W)	500
Mounting brackets for panels	300
Electric Meters	500
Lights for classroom	200
Used light fixtures from school	0
Wiring	400
3 batteries (250 AMP)	1,640
Charger controller	250
Miscellaneous (pipe, brackets, screws)	300
<i>Shipping charges</i>	<i>200</i>
	<hr/>
	\$7,290

