

IN THE DISTRICT COURT OF DAKOTA COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
SIOUXLAND ETHANOL, LLC, a limited)
liability company authorized to do business)
in Nebraska)
Defendant.)

Case No. CT 11-187

CONSENT DECREE

STATE OF NEBRASKA
DAKOTA COUNTY (S.)
FILED
AUG 15 2011
BY [Signature]
CLERK OF DISTRICT COURT
DEPUTY

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, Siouxland Ethanol, LLC, 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. In its Complaint, Plaintiff alleges during compliance inspections on September 3, 2007 and August 28, 2008, leaks were observed from pressure release valves and dampers, in violation of the requirement of Siouxland Ethanol, LLC’s permit to control all emissions from the fermentation process. In addition, Siouxland Ethanol, LLC failed to install equipment for continuously monitoring the flow rate of chemical additions to the scrubbers, as required in its 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 Siouxland Ethanol shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of \$9,000.00 and court costs in the amount of \$82.00 to the district court for Dakota County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$2,000.00 of the civil penalty shall be paid to this Court no more than ten (10) days from the entry of this consent decree by the Court.

B. \$7,000.00 of the civil penalty shall be paid to this Court no more than six months from the entry of this consent decree by the Court. In the event Defendant maintains compliance with the following obligations and provisions, during the time period between the approval of this Consent Decree by the District Court and 180 days following that approval, the \$7,000.00 of civil penalties will be waived:

- i. The Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq*;
- ii. Title 129 of the Nebraska Administrative Code, “Nebraska Air Quality Regulations”;
- iii. Defendant’s Nebraska Air Quality Construction permit issued pursuant to Title 129.

C. To qualify for the waiver of \$7,000.00 of civil penalties as described in paragraph 6(B), Siouxland Ethanol will file a Request for Waiver with the Court within 15 days following the due date of the civil penalties establishing that it has maintained compliance with the statutes and regulatory provisions mentioned in paragraph 6(B). The State will file a satisfaction of judgment within 10 days of receiving Siouxland Ethanol’s Request for Waiver if Siouxland Ethanol has complied with the statutes and regulations mentioned in paragraph 6(B) during the six months following the entry of this consent decree. If Siouxland Ethanol violates the statutes and regulatory provisions in paragraph 6(B) during the six months following the entry of this consent decree, the State may file an objection to Siouxland Ethanol’s Request for Waiver and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

7. IT IS FURTHER ORDERED that Siouxland Ethanol shall pay, as a supplemental environmental project, the sum of \$12,000.00 to the South Sioux City Municipal Foundation to repair damage caused to its parks and campgrounds by recent Missouri River flooding, including debris and silt removal, tree planting, and other damages caused by flood waters. This payment shall be paid as a lump-sum payment within ten (10) days of the entry of this consent decree by this Court.

Dated this 9th day of August, 2011, in Dakota County, Nebraska.

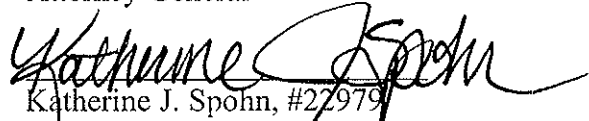
BY THE COURT:



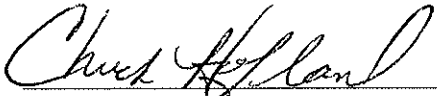
Dakota County District Judge

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
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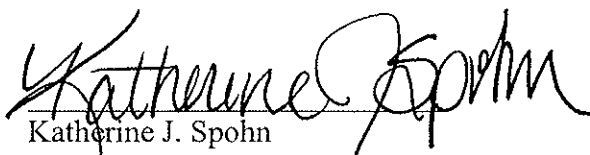
SIOUXLAND ETHANOL, LLC,
Defendant,

By: 
Siouxland Ethanol, L.L.C.
Chuck Hofland, General Manager

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 12th day of August, 2011, addressed to the Defendant's attorney of record as follows:

Siouxland Ethanol, L.L.C.
Chuck Hofland, General Manager
110 East Elk Street
Jackson, Nebraska 68743


Katherine J. Spohn
Special Counsel to the Attorney General