

**IN THE DISTRICT COURT OF ADAMS COUNTY, NEBRASKA**

STATE OF NEBRASKA, ex rel.,	)	
JIM MACY, Director,	)	Case No. 22-187
NEBRASKA DEPARTMENT OF	)	
ENVIRONMENT AND ENERGY,	)	
	)	
Plaintiff,	)	<b>CONSENT DECREE</b>
	)	
v.	)	
	)	
A-1 FIBERGLASS, INC.,	)	
	)	
Defendant.	)	

COMES NOW Plaintiff, the State of Nebraska on behalf of Jim Macy, Director of the Nebraska Department of Environment and Energy (“Department”), proceeding on the Complaint filed herein and appearing through counsel, Douglas J. Peterson, Attorney General, and Defendant, A-1 Fiberglass, Inc., a Nebraska corporation, appearing through counsel, and each party having consented to the making and entering of this Consent Decree without trial, request entry of this Consent Decree.

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

1. This Court has jurisdiction over the subject-matter of this action, pursuant to Neb. Rev. Stat. § 24-302, and over the parties to this action. Venue is proper pursuant to Neb. Rev. Stat. § 25-403.01, as Defendant’s facility is located in Adams County and the events at issue took place in Adams County.

2. In the Complaint, Plaintiff alleges Defendant violated the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. § 81-1501 *et seq.*, and applicable rules and regulations by, *inter alia*, improperly accumulating, storing, and managing hazardous wastes, as well as failing to make hazardous waste determinations at its facility in Hastings, Nebraska. Plaintiff also alleges Defendant also violated NEPA and applicable rules and regulations by causing or allowing a release of an oil or hazardous substance upon the land of the state at its facility in Hastings, Nebraska.



3. The parties agree settlement of this matter is in the public interest and 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. The parties further desire to conclude this case without this Consent Decree constituting an admission by Defendant with respect to such issues.

4. This Consent Decree will be in full satisfaction of all claims between the parties alleged in Plaintiff's Complaint. This Consent Decree does not satisfy any unknown or future violations of any statutes or rules and regulations.

5. IT IS THEREFORE ORDERED that Defendant shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02(2), in the amount of one-hundred thousand dollars (\$100,000.00) to the District Court for Adams County, Nebraska, as well as reimburse the Plaintiff for court costs in the amount of eighty-five dollars (\$85.00), subject to the following:

- A. Twenty-five thousand dollars (\$25,000.00) of the civil penalty shall be paid by Defendant within fourteen (14) days of entry of the Consent Decree and made payable to the Clerk of the District Court for Adams County. Defendant shall also reimburse the Plaintiff for court costs in the amount of eighty-five dollars (\$85.00) within thirty (30) days of entry of the Consent Decree and made payable to the Nebraska Attorney General's Office;
- B. Twenty-five thousand dollars (\$25,000.00) of the civil penalty shall be paid by Defendant no later than August 9, 2022 and made payable to the Clerk of the District Court for Adams County;
- C. The remaining fifty thousand dollars (\$50,000.00) shall be waived if Defendant complies with the following terms and conditions:
  - i. Defendant shall implement the Closure Plan approved by the Department on January 27,

2022. Defendant shall submit a Clean Closure Certification statement no later than July 26, 2022;
- ii. Defendant shall have an operating manual prepared by a third-party that is specific to its facility in Hastings and that covers hazardous waste generation, storage, determination, and monthly counting (“Operating Manual”). The Operating Manual must be submitted to the Department no later than June 26, 2022. The Operating Manual is subject to the Department’s review and acceptance;
  - iii. Defendant shall provide to all relevant employees a third-party Resource Conservation and Recovery Act training course (“Training Course”) that is specific to Defendant’s facility in Hastings and is in accordance with the Operating Manual no later than July 26, 2022. Defendant shall submit evidence to the Department showing when the Training Course was provided, what employees took the Training Course, and what information was covered during the Training Course no later than August 2, 2022; and
  - iv. Defendant shall not have any violations of NEPA, applicable rules and regulations, or any issued permits during the compliance period of this Consent Decree. The compliance period runs from entry of the Consent Decree by the Court until the Department’s approval of the closure

activity at the Defendant's facility in  
Hastings pursuant to the Closure Plan  
approved by the Department.

- D. If Defendant does not comply with the terms and conditions of Paragraph 5(C), above, then the remaining fifty thousand dollars (\$50,000.00) will not be waived and, instead, Defendant shall pay the remaining half of the civil penalty to the Clerk of the District Court for Adams County within thirty (30) days of notice of failure to comply with, and satisfy the terms and conditions for waiver of the remaining half of the civil penalty;
- E. All civil penalty payments made by the Defendant will be deposited by the Court and remitted to the County Treasurer for Adams County for use and support of the common schools in Adams County as directed by Article VII, Section 5, of the Nebraska Constitution; and
- F. No later than fourteen (14) days after the Department approves of the closure activity at the Defendant's facility in Hastings pursuant to the Closure Plan approved by the Department or all other terms and conditions in Paragraph 5(C) are completed, whichever is later, Defendant shall provide Plaintiff with a Showing of Compliance. This Showing of Compliance must indicate Defendant complied with all terms and conditions in the Consent Decree. The Department will verify compliance with the Consent Decree. Plaintiff will file a Satisfaction of Judgment with the Court after Defendant provides its Showing of Compliance and the Department verifies Defendant fully complied with all terms and conditions in this Consent Decree. If Defendant, however, does not comply with all terms and conditions of the Consent Decree during the compliance period, then Plaintiff, in its sole discretion, may file with the Court a motion to enforce the terms of the

Consent Decree to recover any unpaid civil penalties and to demand completion of any terms and conditions under the Consent Decree, if necessary.

6. This Consent Decree is binding on Defendant's successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Defendant under this Consent Decree.

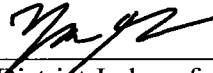
7. This Consent Decree will have no preclusive effect on any enforcement action brought by Plaintiff against Defendant for unknown or future violations of any statutes or rules and regulations. Defendant acknowledges that noncompliance with the terms and conditions set forth in this Consent Decree may also be violations of NEPA or applicable rules and regulations, and this Consent Decree does not preclude Plaintiff from bringing an independent enforcement action seeking civil penalties and/or injunctive relief for such violations.

8. Plaintiff reserves its rights to seek civil penalties and/or injunctive relief against Defendant for unknown or future violations of NEPA and applicable rules and regulations.

9. The undersigned consent without further notice to the form and entry of this Consent Decree.

DATED this 1 day of June 2022, in Adams County, Nebraska.

BY THE COURT:

  
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District Judge of Adams County, Nebraska  
Hon. Morgan R. Farquhar

STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director, NEBRASKA  
DEPARTMENT OF ENVIRONMENT  
AND ENERGY, Plaintiff

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A-1 FIBERGLASS, LLC, Defendant

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