

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

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

Case No. CI 07-35

Plaintiff, )

v. )

**CONSENT DECREE**

NORTHEAST COOPERATIVE )  
A Dissolved Corporation, )

Defendant. )

STATE OF NEBRASKA  
DIXON COUNTY  
FILED  
JUN 19 2007  
*Johnnie Gibson*  
CLERK OF DISTRICT COURT

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, Northeast Cooperative and its attorney Rocky Weber, 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 under Neb. Rev. Stat. §81-15,117 *et seq.* (Reissue 1999, Cum. Supp. 2006), the Nebraska Petroleum Products and Hazardous Substances and Storage and Handling Act, the Petroleum Release Remedial Action Act, Neb. Rev. Stat. § 66-1501 *et seq.* (Reissue 2003, Cum. Supp. 2006) and all rules, regulations, and orders promulgated thereunder.
2. The court has jurisdiction to hear this cause of action.
3. In its Complaint, Plaintiff alleges that the Defendant has failed to conduct remedial investigation and/or action at the site alleged in the Complaint,

located at 206 Oak Street, Wakefield, Dixon County, Nebraska (hereinafter the "site"), in order to restore the site to its condition and capacity prior to the release of petroleum, in violation of the Nebraska Petroleum Products and Hazardous Substances Storage and Handling Act. Plaintiff also alleges that the oil contamination remains in the ground and the responsibility to investigate and, if necessary, remediate this site is ongoing.

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, and nothing in this Consent Decree should be construed as an admission against the interests of the Defendant. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order 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 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 State of Nebraska, Department of Environmental Quality, the amount of \$25,000 (twenty five thousand dollars), to be used for investigation and, if necessary, remediation at the site.

- a. This amount is to be paid within sixty (60) days of the entry of this Consent Decree by the Court.
- b. The State will deposit this money into the account authorized by Title 200, The Petroleum Release Remedial Action Reimbursement Fund, upon receipt, in accordance with Neb. Rev. Stat. §81-15,124(3).
- c. Upon receipt of the above-described amount, the Nebraska Department of Environmental Quality will declare the site an "orphan site," as that term is used by the NDEQ, and Plaintiff will independently undertake the investigation, and if necessary, the remediation of the site. Upon payment of the above-described amount, Defendants will be relieved of further liability relating to the cause of action alleged in the Complaint relating to the site, including reporting or any other obligations that might otherwise be applicable to owners or operators (i.e., responsible persons) under the Act.

DATED THIS 19<sup>th</sup> day of June, 2007.

BY THE COURT:  
[Signature]

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

By: JON C. BRUNING #20351,  
Attorney General

[Signature]  
By: Natalee J. Hart  
Natalee J. Hart, #22716  
Assistant Attorney General  
2115 State Capitol Building  
Lincoln, NE 68509  
Tel. (402) 471-2682  
natalee.hart@ago.ne.gov  
Attorneys for Plaintiff.

NORTHEAST COOPERATIVE, Defendant

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on June 19, 2007

By:  U.S. Mail       FAX  
 Hand Delivered       Overnight Courier  
 Certified Mail       Other

Signature [Signature]

cc: Natalee Hart  
Rocky Weber

By: [Signature]  
Rocky Weber, #18190  
Crosby Guenzel LLP  
Federal Trust Building  
134 South 13th Street, Suite 400  
Lincoln NE 68508  
Attorney for Defendant.