

COPY

3-1-06

IN THE DISTRICT COURT OF DEUEL COUNTY, NEBRASKA

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

Case No. CI 05-29

CONSENT DECREE

Plaintiff,)

v.)

FARMERS COOPERATIVE OIL CO.,)
A Dissolved Corporation, and)
FARMERS COOPERATIVE)
ASSOCIATION, A Nebraska)
Corporation,)

Defendants.)

FILED

DATED 3-2-06

POLLY L. OLSON
DEUEL COUNTY, NE DISTRICT COURT

BY Shirley Chelton

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 Defendants, Farmers Cooperative Oil Co. and Farmers Cooperative Association, and their attorney William Kutilek, 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 pursuant to Neb. Rev. Stat. §81-15,117 *et seq.* (Reissue 1999, Cum Supp. 2004), the Nebraska Petroleum Products and Hazardous Substances and Storage and Handling Act, and all rules, regulations, and orders promulgated thereunder.

2. The court has jurisdiction to hear this cause of action.

DEPARTMENT OF JUSTICE

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STATE OF NEBRASKA

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.

7. IT IS THEREFORE ORDERED that the Defendants shall pay to the State of Nebraska, Department of Environmental Quality, the amount of \$13,716.00 (thirteen thousand seven hundred and sixteen 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.

3. In its Complaint, Plaintiff alleges that the Defendants have failed to complete remedial action at the site alleged in the Complaint, located at 301 Pine Street, Big Springs, Deuel County, Nebraska (hereinafter "the site"), in order to restore the site to its condition and capacity prior to the release of petroleum at the site, 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. By Motion dated October 31, 2005, the Defendants dispute the Plaintiff's claim and assert that the Complaint fails to state a cause of action upon which relief may be granted.

5. 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 Defendants with respect to such issues. The Defendants agree 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 Defendants. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

6. 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

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

DATED THIS 1st day of March, 2006.

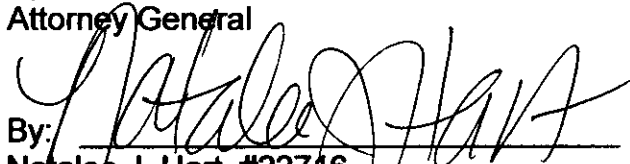
BY THE COURT:



The Honorable Kristine R. Cecava

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

By: JON C. BRUNING #20351,
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FARMERS COOPERATIVE OIL CO.,
Defendant

By: Lon Stretesky, Chairman
Lon Stretesky, Chairman

FARMERS COOPERATIVE ASSOCIATION,
Defendant

By: Timothy Jimenez
Timothy Jimenez, General Manager

APPROVED AS TO FORM AND CONTENT:

By: William R. Kutilek
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