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SHARON K MAULER

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CLERK OF DISTRICT COURT
BUFFALO COUNTY NE

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
Plaintiff,)
v.)
LIBERTY CLEANERS AND)
LAUNDERERS,)
Defendant.)

Case No. CI060519

CONSENT DECREE

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 Liberty Cleaners and Launderers, appearing through its counsel Shirley Williams, 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 1999, Cum. Supp, 2004, Supp. 2005), the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. The Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that the Defendant generated hazardous trichloroethylene waste, also known as perchloroethylene, and also known as perc, or PCE, waste without making a hazardous waste determination in violation of Neb. Rev. Stat. §81-

1508.02(1)(b), Neb. Rev. Stat. §81-1508.02(1)(e), and Title 128, Chapter 4, Section 002; and on fourteen different occasions in 2003 and 2004, failed to include codes for lead and selenium on its land disposal restriction notification forms, in violation of Neb. Rev. Stat. §81-1508.02(1)(b), Neb. Rev. Stat. §81-1508.02(1)(e), and Title 128, Chapter 20, Section 006.

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. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Consent Decree 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, or were reasonably ascertainable from information in the State's possession, 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 Clerk of the District Court a civil penalty in the amount of fourteen thousand dollars (\$14,000.00),

pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs herein in the amount of seventy-nine dollars (\$79.00). Said penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution.

- A. \$7,000 (seven thousand dollars) of said penalty will be due and owing thirty (30) days from the entry of this Consent Decree by the Court.
- B. \$7,000.00 (seven thousand dollars) of said penalty will be due and owing twelve months following the approval of this Consent Decree by the Court. In the event that said Defendant achieves and maintains compliance with the following obligations and provisions, during the time period between the approval of this Consent Decree by the District Court and twelve months following that approval, the \$7,000.00 (seven thousand dollars) of civil penalties will be waived:
 - i. Comply with the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.*;
 - ii. Comply with Title 128 of the Nebraska Administrative Code, "Nebraska Hazardous Waste Regulations."
- C. To qualify for the \$7,000.00 waiver of civil penalties as stated in paragraph 8(B), Defendant shall file a showing with the Court within 30 (thirty) days following the due date of the civil penalties establishing that it has maintained compliance as required. If the Defendant does not receive a Notice of Violation from Plaintiff and is not a party to a legal action initiated by the Plaintiff disputing compliance with the statutes and regulatory provisions in paragraph 8(B) during the relevant time period of twelve months

from the date of entry of this Consent Decree by the District Court, Plaintiff shall file a Satisfaction of Judgment in the case within ten days of receipt of Defendant's showing. If Defendant receives a Notice of Violation from Plaintiff, or is a party to legal action initiated by the Plaintiff disputing compliance with the statutes and regulatory provisions in paragraph 8(B) during the twelve months after the entry of this Consent Decree by the District Court, Plaintiff shall file an objection to Defendant's showing and determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

9. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, the sum of twelve thousand five dollars (\$12,500.00) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General. This sum shall be paid as a lump-sum payment due no later than thirty days after the approval of this Consent Decree by the Court.

10. IT IS ORDERED that the Defendant will provide \$1,000.00 (one thousand dollars) to the Iowa-Nebraska Dry Cleaner and Launderers Association to bring a national speaker to an upcoming conference and pay \$500 (five hundred dollars) to place flyers in the City of Kearney's annual billing documents to announce the city's new residential water disposal facility and how to utilize it.

11. IT IS ALSO ORDERED that the Defendant will, by August 1, 2006, request and schedule a Compliance Assistance Visit with the NDEQ RCRA program, under the

Compliance Assistance Program as described in Attachment A hereto. The NDEQ must schedule the Compliance Assistance Visit for a date no later than December 31, 2006. Any violations discovered during the Compliance Assistance visit will not invoke the provisions of paragraph 8(B) above, or cause the imposition of the \$7,000.00 waiveable penalty under paragraph 8, above.

DATED THIS 2 day of August, 2006, in Buffalo County, Nebraska.

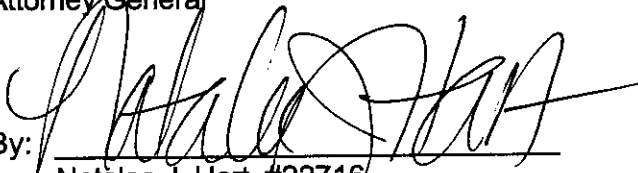
BY THE COURT:



District Judge

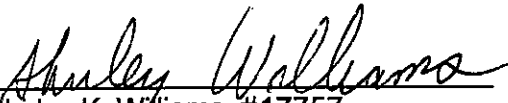
STATE OF NEBRASKA ex rel.,
MICHAEL J. LINDER, Director
Department of Environmental
Quality, Plaintiff,

By: JON C. BRUNING #20351,
Attorney General

By: 

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LIBERTY CLEANERS AND LAUNDERERS,
Defendant,

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Attorney for Defendant.



NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

ENVIRONMENTAL FACT SHEET

06-193

February 2006

NDEQ Compliance Assistance Program

Introduction

The Nebraska Department of Environmental Quality (NDEQ) is required by statute and is committed to providing compliance assistance to the regulated community. Compliance assistance is preferable to enforcement in achieving regulatory compliance and as such the NDEQ emphasizes providing assistance as a primary course of action toward achieving compliance. By having staff members whose primary function is providing assistance and integrating the practices of compliance assistance into all NDEQ functions, effective assistance is available to Nebraska businesses that promote regulatory compliance and ultimately enhances Nebraska's environment.

What Assistance is Available?

As the state's lead environmental agency, the NDEQ has knowledge of and access to many of the resources and tools available to help you achieve and go beyond your environmental compliance obligations. Compliance assistance is available in many forms and on a variety of topics. Whether you have questions regarding hazardous waste, air quality, water quality, pollution prevention, energy conservation, or any other environmentally related issue, the NDEQ's assistance program is available to help you understand, comply with, and potentially surpass the environmental regulations. Some of the areas where the NDEQ can provide assistance are:

- Determining what permits you may need to apply for and who the NDEQ contact is for those permits;
- Providing technical assistance for completing permit applications, emission inventories, discharge monitoring reports and other required documents;
- Explaining regulations and their application to your situation;
- Listing contacts in other federal, state, or local agencies that you may need to contact for assistance;
- Providing informative Fact Sheets, Guidance Documents, pamphlets, websites and many other environmental resources; and
- Identifying energy conservation, waste reduction, and other pollution prevention measures you can take that may result in reducing your regulatory requirements.

How To Get Assistance

- **Website information:** The NDEQ's website, www.deq.state.ne.us, has numerous Fact Sheets and Guidance Documents designed to help businesses and the public understand Nebraska's environmental regulations. Additionally, NDEQ's regulations and many of the NDEQ's permit applications are posted on the website.
- **Workshops, seminars, and conferences:** The NDEQ hosts, participates in, and presents current regulatory information at these events. Dates of these events are posted on a Calendar of Events on the NDEQ website under the What's New About NDEQ section.
- **Phone:** Much of the assistance that the NDEQ provides is through phone calls and e-mails. If you know which program you need assistance with, use the phone numbers of assistance providers located in the following section of this document. Or you can call NDEQ's toll free number at 1-877-253-2603 or e-mail NDEQ at moreinfo@ndeq.state.ne.us.
- **Compliance assistance visits:** Upon your request, NDEQ compliance assistance staff will come to your facility and meet with you and others in your organization. During a compliance assistance visit, we can advise you of your regulatory obligations and inform you of possible options to achieve and maintain regulatory compliance and/or direct you to other experts.



Who Provides Assistance?

All NDEQ staff members have a role in providing assistance, but to better serve the regulated community and the public, the NDEQ has staff members whose primary role is to provide assistance. Please call any of the following programs for answers to your questions:

- **Small Business & Public Assistance (SBPA) Program Coordinator, (402) 471-8697.** The SBPA program provides air, waste, and water environmental assistance to the regulated community and the public. While the SBPA program does not issue permits, it does include a One-Stop Permitting program that is designed to help you evaluate what NDEQ permits you may need to apply for and the process you need to follow during the application process. The SBPA program is a general clearinghouse for information about and contacts for environmental programs administered by the NDEQ and other local, state or federal agencies and will help you get to the right people to answer your questions. The SBPA program also maintains a current list of consultants providing environmental services. The SBPA program also can provide on-site compliance assistance and information about non-regulatory programs such as Environmental Management Systems and Pollution Prevention. The SBPA program coordinator also serves as the NDEQ's Public Advocate and Small Business Ombudsman, and in this role can assist you if you have concerns or problems.
- **Air Quality Environmental Assistance Coordinator, (402) 471-6624.** The Air Quality Environmental Assistance program is dedicated to providing the public, industries, and government agencies assistance in understanding and complying with the air quality regulations. The assistance coordinator can help you interpret and understand the federal and state air quality regulations that may apply to you. If you have questions related to emission calculations, the air permitting process, or completing air permits applications, the assistance coordinator will be able to help you. This staff member will also perform on-site compliance assistance visits, when requested, to provide specific air quality information related to your business.
- **Air Quality Construction Permit Hotline (877) 834-0474.** The Air Quality Construction Permit Hotline was established to enhance customer service. The hotline is available to assist air quality construction permit applicants in completing new applications. The hotline staff will answer questions related to construction permit forms, fees, pre-application meetings, emission calculations, the permitting process, and the status of your construction permit application.
- **Waste Management Environmental Assistance Coordinator, (402) 471-8308.** The Waste Management Environmental Assistance program provides regulatory and waste minimization assistance to business, government, and individuals. The assistance coordinator can help solve your regulatory questions about hazardous waste and non-hazardous waste. This staff member can answer questions about how to do waste determinations, how the waste regulations apply to your situation, and finding appropriate disposal options. The program also offers on-site compliance assistance visits that are not inspections.
- **Water Quality Program Assistance, (402) 471-4220.** Due to the great variety of water quality related assistance available, you will be directed to the appropriate NDEQ water quality staff by calling this number. The NDEQ can provide water quality assistance or guidance for groundwater protection; septic system installation and maintenance; wastewater treatment system operators' training, system engineering and discharge requirements; livestock waste control requirements; storm water regulatory requirements; and surface water quality issues.
- **Nebraska Environmental Partnerships (NEP) Program Coordinator, (402) 471-3193.** The NEP program assists communities with obtaining grant and loan money for evaluating and constructing wastewater and drinking water systems. This assistance entails the NEP program coordinator working closely with communities to secure consulting engineer services, State Revolving Fund money, and access to appropriate NDEQ staff for information about regulatory issues.
- **NDEQ Regulatory Staff.** Much of the assistance the NDEQ provides is through the interaction of the regulated community with the NDEQ's inspection, engineering, and permitting staff members. Oftentimes during permit development or on-site inspections, environmental issues arise either within or outside of the individual NDEQ staff member's area of expertise. The NDEQ's regulatory staff will provide you with guidance for addressing these issues or refer you to the appropriate NDEQ staff.