

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
NEBRASKA DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Plaintiff,)
)
v.)
)
MANN HAY COMPANY, INC.,)
A Nebraska authorized corporation,)
)
Defendant.)

Case No. *206-410*

CONSENT DECREE

FILED
2006 OCT 5 PM 2:00
CLERK OF DISTRICT COURT
DAWSON CO., NEB.

Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the defendant, Mann Hay Company, Inc. ("Defendant"), 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 AND DECREED:

1. The court has jurisdiction of the parties and the subject matter of this action. The Complaint herein sets forth justiciable causes of action against the defendant.
2. NDEQ in its complaint alleges that Defendant on January 25, 2006 caused and allowed emissions from its alfalfa dehydration plant dryer of greater than thirty percent (30%) opacity as measured by EPA approved Method 9, in violation of Neb. Rev. Stat. §81-1508.02(1)(b) (Reissue 1999) and Title 129, Chapter 20, Section 005.02 of the Nebraska Air Quality Regulations.
3. In addition, on January 25, and February 13, 2006, Defendant caused and

permitted the handling and storage of material so that particulate matter originating on its premises remained visible in the air beyond Defendant's premises in violation of Neb. Rev. Stat. §81-1508.02(1)(b) (Reissue 1999) and Title 129, Chapter 32, Section 001 of the Nebraska Air Quality Regulations.

4. NDEQ further alleges that Defendant is therefore subject to a civil penalty as provided in Neb. Rev. Stat. §81-1508.02(2) (Reissue 1999).

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. Defendant, without admitting any allegations of the complaint, agrees to the form and entry of this consent decree for purposes of settlement only.

6. The parties agree that this consent decree shall be in full satisfaction of all claims alleged in the complaint and arising out of the same transaction or occurrence asserted therein, provided that such claims were known to the State of Nebraska as of the date of the filing of this consent decree.

7. IT IS THEREFORE ORDERED that Defendant shall pay to the Clerk of the District Court of Dawson County a civil penalty in the sum of ten thousand dollars (\$10,000.00) pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs 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. \$5,000 (Five thousand dollars) of said penalty and the costs of the action are to be paid in two monthly installments of \$2,500 (Two thousand five hundred dollars) with the first being due and owing within ten (10) days of the

signing of this consent decree and the second being due and owing on October 15, 2006.

b. The remaining civil penalty of \$5,000 (Five thousand dollars) will be due and owing on December 1, 2006. In the event that proper controls are installed, including an auger which will control the emissions from the sock house and general repairs of the sock house, by December 1, 2006, the remaining \$5,000 (Five thousand dollars) of civil penalties will be waived.

c. To qualify for the \$5,000 waiver of civil penalties as stated in paragraph (7)(b), Defendant shall file a showing with the Court by December 1, 2006 establishing that it has maintained compliance as required.

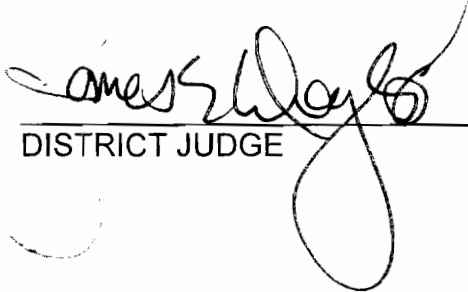
8. IT IS FURTHER ORDERED that the Defendant shall pay, as a Supplemental Environmental Project, the sum of \$7,500 (Seven thousand five hundred dollars) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General.

9. This Consent Decree will have no effect on any enforcement action brought by Plaintiff against Defendant for future violations of any statutes or regulations.

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

Dated this 5th day of ~~September~~ October, 2006.

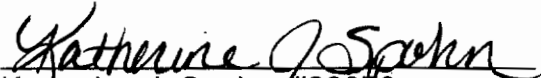
BY THE COURT:



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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Attorneys for Plaintiff

MANN HAY COMPANY, INC., Defendant,

By: 