

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

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

Case No. 08-249

Plaintiff,)

AMENDED CONSENT DECREE

v.)

Janet M. Slegers, Wood River Dairy)
L.L.C., and Aspen Dairy, a Nebraska)
General Partnership,)

Defendants.)

FILED
SHARON K HAULER
2008 FEB 12 PM 1 51
CLERK OF DISTRICT COURT
BUFFALO COUNTY, NE

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 Defendants, Janet M. Slegers, Wood River Dairy L.L.C., and Aspen Dairy, a Nebraska General Partnership ("Defendants"), appearing through its counsel, Stephen D. Mossman, and each party having consented to the making and entering of this Amended Consent Decree without trial, the Court finds that the Amended Consent Decree should be and hereby is entered.

IT IS THEREFORE ORDERED AND DECREED as follows:

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 Defendants.

2. On April 14, 2008, this Court entered a Consent Decree between NDEQ and Defendants assessing civil penalties of \$32,000 for a March 8, 2007 discharge, failure to timely complete construction of Defendants' livestock waste control facilities and for operating a disposal system without obtaining the necessary permits from the Department.

3. Pursuant to Paragraph 6(a) of the Consent Decree, Defendants' civil penalties would be waived if Defendants obtained the appropriate permits, completed construction, and maintained compliance with all environmental statutes and regulations until October 15, 2008.

4. The parties agree that Defendants are not entitled to a complete waiver of the civil penalties based on the following allegations:

- a. On or about July 9, 2008, Respondents discharged livestock waste into waters of the state in Buffalo County, Nebraska, in violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- b. On or about September 4, 2008, Respondents discharged livestock waste into waters of the state in Buffalo County, Nebraska, in violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- c. On or about October 1, 2008, Respondents discharged livestock waste into waters of the state in Buffalo County, Nebraska, in violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- d. On or about February 12, 2009, Respondents discharged livestock waste into waters of the state in Buffalo County, Nebraska, in violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).
- e. On or about April 22, 2009, Respondents discharged livestock waste into waters of the state in Buffalo County, Nebraska, in violation of Neb. Rev. Stat. Section 81-1506 (1) (a) and (2) (a)).

4. The parties agree that settlement of these matters is in the public interest and that entry of this Amended Consent Decree is the most appropriate means of resolving

their dispute. Defendant agrees to the form and entry of this Amended Consent Decree for purposes of settlement only.

5. The parties agree that this Consent Decree shall be in full satisfaction of all claims alleged in the Complaint and this Amended Consent Decree and arising out of the same transactions or occurrences asserted therein, provided that such claims were known to the State of Nebraska as of the date of the filing of this Amended Consent Decree.

6. IT IS THEREFORE ORDERED that Defendant is ineligible for the complete waiver of civil penalties set forth in the April 14, 2008 Consent Decree and shall pay to the Clerk of the District Court of Buffalo County a civil penalty in the sum of sixteen thousand dollars (\$16,000.00) pursuant to Neb. Rev. Stat. § 81-1508.02. The civil penalty shall be paid to this Court no more than 30 days from the entry of this Amended Consent Decree by the Court and shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

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

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

Dated this 12th day of February, 2010.

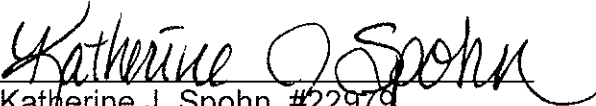
Notice of Judgement
Mailed to Michael Under
and Katherine Spohn, Stephen Mossman
on 2/12/10
Sharon K. Mauler
Clerk of the District Court
By KB

BY THE COURT:

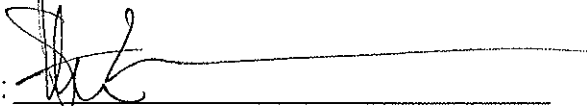
William Wright
DISTRICT JUDGE

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

By: JON C. BRUNING #20351
Attorney General

By: 
Katherine J. Spohn, #22979
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Lincoln, NE 68509
Tel. (402) 471-2682
Attorneys for Plaintiff.

JANET M. SLEGGERS, WOOD RIVER DAIRY
L.L.C., and ASPEN DAIRY, a Nebraska
General Partnership, Defendant,


By: 
Stephen D. Mossman, #19859
Attorney at Law
MATTSON, RICKETTS, DAVIES,
STEWART & CALKINS
134 South 13th Street, Suite 1200
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Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Amended Consent Decree has been served upon the Defendants by regular United States mail, first class postage prepaid on this 8th day of February, 2010 addressed to the Defendants as follows:

Stephen D. Mossman
MATTSON, RICKETTS, DAVIES,
STEWART & CALKINS
134 South 13th Street, Suite 1200
Lincoln, NE 68508


Katherine J. Spohn
Special Counsel to the Attorney General