

IN THE DISTRICT COURT FOR YORK COUNTY, NEBRASKA

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

Plaintiff, )

v. )

HAMILTON SUNDSTRAND )  
CORPORATION, )

Defendant. )

Case No. CI 08-286

**CONSENT DECREE**

FILED IN THE DISTRICT COURT  
YORK COUNTY, NEBRASKA

DEC 31 2008

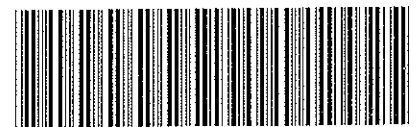
SHARON CUDAS  
CLERK

The State of Nebraska, on the relation of the Nebraska Department of Environmental Quality (NDEQ) and through its counsel, Attorney General Jon C. Bruning, and Hamilton Sundstrand Corporation, through its counsel, John P. Heil, jointly file this consent decree and agree to this Court's entry of the following terms and orders:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed in this case is a justiciable cause of action against Hamilton Sundstrand under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 1999, Cum. Supp. 2006, and Supp. 2007), and all rules and regulations promulgated under the Act.

2. In its complaint, the State alleges that NDEQ conducted an inspection of Hamilton Sundstrand Corporation's manufacturing facility in August 2006 and discovered several violations of Title 128 of the Nebraska Administrative Code, "Nebraska Hazardous Waste Regulations."

3. The parties agree that settlement of this matter is in the public interest and that entry of this consent decree is the most appropriate means of resolving their



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dispute. The parties desire to conclude this case without a trial or adjudication of any issues of fact or law. The parties agree that the entry of this consent decree is not an admission by Hamilton Sundstrand of any of the issues or violations alleged in the State's complaint. Therefore, and for only the purpose of this consent decree, the parties agree to the entry of this order by the Court.

4. This consent decree shall be in full satisfaction of all claims between the parties alleged in the State's complaint. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and in the State's complaint, provided that such claims were known to the State, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the consent decree.

5. IT IS THEREFORE ORDERED that Hamilton Sundstrand shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), in the amount of \$33,000 and court costs in the amount of \$79 to the district court for York County. This civil penalty shall be handled by the Court as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$16,500 of the civil penalty, as well as the \$79 in court costs, shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$16,500 of the civil penalty shall be paid to this Court no more than 180 days from the entry of this consent decree by the Court. However, if Hamilton Sundstrand maintains compliance with and does not violate either the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., or Title 128 of the

Nebraska Administrative Code, "Nebraska Hazardous Waste Regulations", during the 180 days following the entry of this consent decree, then payment of this \$16,500 of civil penalties will be waived.

C. To qualify for the waiver of \$16,500 of civil penalties as described in paragraph 5(B), Hamilton Sundstrand will file with the Court, and serve on the State, a Request for Waiver within 30 days following the six month anniversary of the approval of this consent decree. The Request for Waiver will show that Hamilton Sundstrand has maintained compliance with the statutes and regulatory provisions listed in paragraph 5(B). The State will file a satisfaction of judgment within 10 days of receiving Hamilton Sundstrand's Request for Waiver if Hamilton Sundstrand has complied with the statutes and regulations listed in paragraph 5(B) during the 180 days following the entry of this consent decree. If Hamilton Sundstrand violates any of the statutes or regulatory provisions in paragraph 5(B) during the 180 days following the entry of this consent decree, the State, in its sole discretion, may file an objection to Hamilton Sundstrand's Request for Waiver. If the State files an objection to Hamilton Sundstrand's Request for Waiver, the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

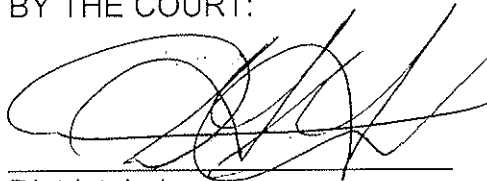
6. IT IS FURTHER ORDERED that Hamilton Sundstrand shall pay, as a supplemental environmental project, the sum of \$16,500 to the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General. This payment shall be paid as a lump-sum payment within 30 days of the entry of this consent decree by this Court.

7. IT IS FURTHER ORDERED that Hamilton Sundstrand shall pay, as a supplemental environmental project, the sum of \$16,500 to the Upper Big Blue Natural Resource District to be used for the Cornerstone Resources Observation Plot – Test Irrigation Project (CROP-TIP). This payment shall be paid as a lump-sum payment within 30 days of the entry of this consent decree by this Court.

8. The undersigned consent without further notice to the form and entry of this consent decree.

DATED: December 31, 2008, in York County, Nebraska.

BY THE COURT:

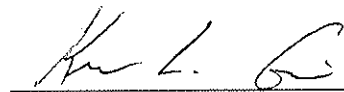


District Judge

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

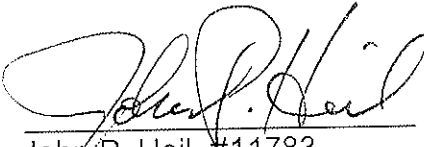
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Attorney General

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
HAMILTON SUNDSTRAND  
CORPORATION,  
Defendant

By:   
John P. Heil, #11783  
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1700 Farnam St.  
Omaha, NE, 68102  
(402) 636-8202  
jheil@bairdholm.com  
Attorney for Defendant

**CERTIFICATE 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 January 2, 2009.

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

Signature: Sharilyn Ramsay 

Kevin Griess  
John Heil