

IN THE DISTRICT COURT FOR HALL COUNTY, NEBRASKA

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

Plaintiff,

v.

TERRY L. GAY, d/b/a TRIPLE S  
PLUMBING,

Defendant.

Case No. CI 12-1189

J

CONSENT DECREE

**FILED**

DEC 12 2012

VALORIE BENDIXEN  
CLERK OF DISTRICT COURT

12 DE 12 3 55

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ) and through its counsel, Attorney General Jon C. Bruning and Assistant Attorney General Kevin L. Griess, and Terry L. Gay, d/b/a Triple S Plumbing, through his counsel, William A. Francis, 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 Triple S Plumbing under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq., and all rules and regulations promulgated those acts.

2. In its complaint, the State alleged that on June 30, 2011, Gay constructed an onsite wastewater treatment system in Hall County, Nebraska that differed from the system approved by NDEQ, in violation of 124 Neb. Admin. Code, ch. 3, § 4.03.



000275328D08



E9429002702

PLF, Atty, Def.

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 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 Gay with respect to such issues.

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 between them 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 Gay shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2008), in the amount of \$1,250 and court costs in the amount of \$82 to the Hall County District Court. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$625 of the civil penalty shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$625 of the civil penalty shall be paid to this Court no later than six months from the date this consent decree is entered. However, payment of this \$625 of civil penalties will be waived if Gay maintains compliance with and does not violate the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et.

seq., or Title 124 of the Nebraska Administrative Code, "Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems," during the six months following entry of this consent decree.

C. To qualify for the waiver of \$625 of civil penalties as described in paragraph 5(B), Gay shall file a Request for Waiver with the Court within 15 days following the due date of the civil penalties establishing that he 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 Gay's Request for Waiver if Gay has complied with the statutes and regulations listed in paragraph 5(B) during the six months following entry of this consent decree. If Gay violates the statutes or regulatory provisions in paragraph 5(B) during the six months following entry of this consent decree, the State may file an objection to Gay's Request for Waiver and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

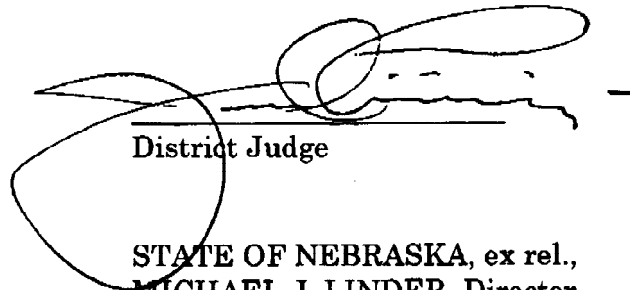
6. IT IS FURTHER ORDERED that Gay shall pay, as a supplemental environmental project, the sum of \$1,250 to the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by State law, at the sole discretion of 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. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against Gay for future violations of any statutes or regulations.

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

DATED THIS 12 day of December, 2012, in Hall County, Nebraska.

BY THE COURT:

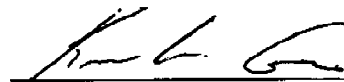


District Judge

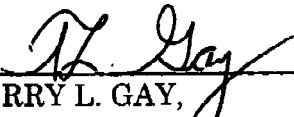
STATE OF NEBRASKA, ex rel.,  
MICHAEL J. LINDER, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENTAL QUALITY, Plaintiff

By JON C. BRUNING, #20351  
Attorney General

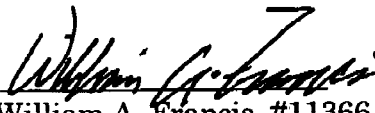
By:



Kevin L. Griess, #22182  
Assistant Attorney General  
2115 State Capitol Building  
P.O. Box 98920  
Lincoln, Nebraska 68509-8920  
(402) 471-2682  
kevin.griess@nebraska.gov  
Attorneys for Plaintiff

  
TERRY L. GAY,  
d/b/a TRIPLE S PLUMBING,  
Defendant

11-30-12  
Dated

By:   
William A. Francis, #11366  
Cunningham, Blackburn, Francis, Brock &  
Cunningham  
222 N. Cedar St.  
PO Box 2280  
Grand Island, NE 68802  
(308) 384-2636  
wfrancis@gilegal.com  
Attorney for Defendant