

IN THE DISTRICT COURT OF BOONE COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)
 MICHAEL J. LINDER, Director,)
 NEBRASKA DEPARTMENT OF)
 ENVIRONMENTAL QUALITY,)
)
 Plaintiff,)
)
 v.)
)
 James D. Pillen, d/b/a)
 Mt. Echo Reproduction Facility,)
)
 Defendant.)

Case No. CI 08-75

CONSENT DECREE

FILED IN THE OFFICE OF THE CLERK
OF THE DISTRICT COURT
BOONE COUNTY NEBRASKA

JAN 06 2009

CLERK OF THE DISTRICT COURT
ELLEN L. HIRSCH BY CAROLYN J. FROSS, DEPUTY
Carolyn J. Fross

Plaintiff, the Nebraska Department of Environmental Quality, proceeding on its Complaint filed herein and appearing through its counsel, Jon Bruning, Attorney General, and the Defendant, James D. Pillen, d/b/a Mt. Echo Reproduction Facility, through its counsel, Jeffery T. Peetz, 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 as follows:

1. This Court has jurisdiction of the parties and the subject matter of this action. The complaint filed herein constitutes a justiciable cause of action against the Defendant under the Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.* (Reissue 1999, Cum. Supp. 2006 and Supp. 2007).

2. On or about August 27, 2007, the Defendant allowed or caused a discharge of livestock waste to waters of the State at its Mt. Echo Reproduction Facility in Boone County, Nebraska.

3. Pursuant to Neb. Rev. Stat. § 81-1506(1)(a) (Cum. Supp. 2006), it is unlawful for any person to cause pollution of waters of the state.

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. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Order by the Court.

5. This Consent Decree shall be in full satisfaction of all civil penalties between the parties for the discharge alleged in the Complaint. The director of the Department reserves the right to take further action in accordance with Neb. Rev. Stat. § 54-2431 (Reissue 2004) as may be deemed necessary and appropriate.

6. IT IS THEREFORE ORDERED that the Defendant shall pay to the Clerk of the District Court a civil penalty in the amount of four thousand dollars (\$4,000.00), pursuant to Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), 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. Said penalty is to be paid within then (10) days of the entry of this Consent Decree by the Court.

7. IT IS FURTHER ORDERED that the Defendant shall pay, as a Supplemental Environmental Project, the sum of four thousand dollars (\$4,000.00) 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.

8. Defendant admits for the purpose of Neb. Rev. Stat. §54-2431 (Reissue 2004) that a discharge took place at its site in Boone County, Nebraska operated by James D. Pillen d/b/a Mt. Echo Reproduction Facility.

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

Dated this 6th day of January, 2008, in Boone County, Nebraska.

BY THE COURT:



Boone County District Judge

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

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Defendant

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Attorney for Defendant

CERTIFICATE OF SERVICE

It is hereby certified that on this 4th day of December 2008, a true and accurate copy of the foregoing Consent Decree has been served upon Defendant herein by placing a copy of the same in the United State Mail, first class postage prepaid, addressed to Defendant's attorney of record.


Katherine J. Spohn
Assistant Attorney General