

IN THE DISTRICT COURT FOR BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF )  
ENVIRONMENTAL )  
QUALITY, )  
 )  
Plaintiff, )  
v. )  
 )  
BS WASH, INC., a Nebraska )  
corporation, )  
 )  
Defendant. )

Case No. CI 11245

CONSENT DECREE

FILED  
SHARON K MAULER  
2011 APR 4 AM 8 22  
CLERK OF DISTRICT COURT  
BUFFALO COUNTY, NE

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), and BS Wash, Inc., a Nebraska corporation, 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 BS Wash under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 2008), and the rules and regulations promulgated under that Act.

2. In its complaint, the State generally alleges that BS Wash, in violation of the Nebraska Environmental Protection Act and the rules and regulations promulgated under the Act, (a) discharged wastewater from its truck wash facility without a permit into waters of the state, (b) modified its wastewater works without approval from NDEQ, and (c) operated its wastewater lagoon so that the water level was maintained in the area designed for freeboard.

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 BS Wash with respect to such issues. 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, if 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 BS Wash shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), in the amount of \$10,000 and court costs in the amount of \$82 to the district court for Buffalo County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution. This civil penalty shall be paid to this Court no later than January 12, 2012. However, payment of this \$10,000 civil penalty will be waived if (a) BS Wash does not violate any provision of the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., or any rules and regulations promulgated under that Act, between the date this consent decree is

entered and January 12, 2012, and (b) on or before January 12, 2012, BS Wash completes construction of its wastewater works in accordance with construction permit #09-0029, which was approved by NDEQ on January 12, 2010.

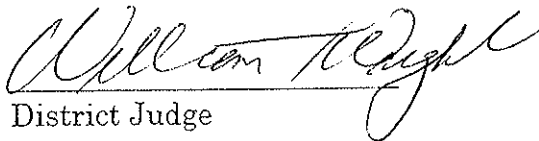
6. To qualify for the waiver of \$10,000 of civil penalties as described in paragraph 5, BS Wash will file a Request for Waiver with the Court no later than January 20, 2012 establishing that it has maintained compliance with the statutes and regulatory provisions mentioned in paragraph 5 and has completed construction of its wastewater works in accordance with construction permit #09-0029. The State will file a satisfaction of judgment within 10 days of receiving BS Wash's Request for Waiver if BS Wash has complied with the statutes and regulations mentioned in paragraph 5 during the time between entry of this consent decree and January 12, 2012 and has completed construction of its wastewater works in accordance with construction permit #09-0029. If BS Wash violates the statutes and regulatory provisions in paragraph 5 between the date this consent decree is entered and January 12, 2012, or if BS Wash fails to complete construction of its wastewater works before January 12, 2012, the State may file an objection to BS Wash's Request for Waiver and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

7. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against BS Wash for future violations of any statutes or regulations.

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

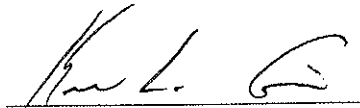
DATED THIS 15<sup>th</sup> day of April ~~March~~, 2011, in Buffalo County, Nebraska.

BY THE COURT:

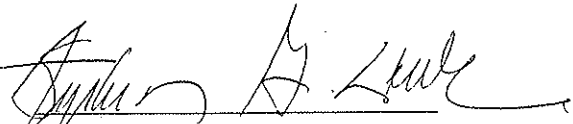
  
District Judge

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

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