

JUL - 9, 2012
Becky Johnson

IN THE DISTRICT COURT OF ARTHUR COUNTY, NEBRASKA

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

Plaintiff,

CHAD A. COONEY,

Defendant.

Case No. CL-12-2

CONSENT DECREE

10 AM

JUL 2, 2012

Becky Johnson

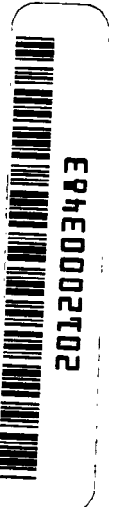
COMES NOW the parties, Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through its Counsel, Jon Bruning, Attorney General, and the Defendant Chad A. Cooney, appearing through his counsel, Randy Fair, and each party having consented 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, ADJUDGED, AND DECREED as follows:

1. The Court has jurisdiction of the parties and the subject matter of this action pursuant to Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2010), and all rules and regulations and orders promulgated thereunder.

2. In its Complaint, the State alleges that Chad A. Cooney failed to comply with a November 12, 2008, Compliance Order of the Director of NDEQ. The Order required compliance beginning November 12, 2008. Chad A. Cooney continued to operate in violation of an order of the Director in violation of § 81-1508.02. Chad A. Cooney complied with the order on or about April 23, 2010.

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 Chad A. Cooney, with respect to such issues.

4. This consent decree shall be in full satisfaction of all claims between the parties alleged in NDEQ'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 NDEQ's complaint, provided that such claims were known to NDEQ, or were reasonably ascertainable from information in NDEQ's possession, as of the date of the filing of the consent decree.

5. IT IS THEREFORE ORDERED that Chad A. Cooney, shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02(2) (Reissue 2010), in the amount of \$1,000.00 as well as court costs in the amount of \$82.00, to the Arthur County District Court. The civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

6. This consent decree will have no effect on any enforcement action brought by NDEQ against Chad A. Cooney, for future violations of any statutes or regulations.

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

DATED THIS 9th day of July, 2012, in chambers in Lincoln DSE Arthur County, Nebraska.

BY THE COURT:

Phillip E. Roberts
District Judge

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

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