

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY,)
)
Plaintiff,)
v.)
)
JOHN L. TIMM.)
)
Defendant.)

Case No. CH 12 117

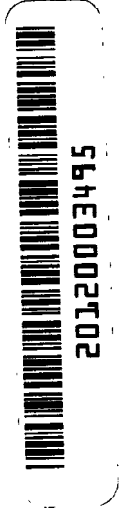
CONSENT DECREE

2012 JUN 11 AM 10:54
WASHINGTON COUNTY, NE
SUSAN PAULSEN
CLERK OF DISTRICT COURT

FILED

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality ("NDEQ"), and through its counsel, Attorney General Jon C. Bruning, and John L. Timm, jointly file this Consent Decree and agree to this Court's entry of the following terms and orders:

1. The 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 Mr. Timm under the Nebraska Environmental Protection Act, NEB. REV. STAT. § 81-1501 *et seq.* (Reissue 2008), and all rules, regulations, and orders promulgated thereunder.
2. In its Complaint herein, the State alleges that between approximately January 2009 and December 2010, John L. Timm adopted a stormwater pollution prevention plan (SWPPP), pursuant to his authorization to discharge stormwater under Permit Number NER 110000, that failed to include the required controls; failed to conduct site inspections as required by the Permit; failed to amend the SWPPP as required by the Permit; and failed to make a copy of the SWPPP available on-site; all in derogation of Nebraska law.
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 John L. Timm, 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 John L. Timm, shall pay a civil penalty, in accordance with NEB. REV. STAT. § 81-1508.02, in the amount of \$2,500.00 as well as court costs in the amount of \$82.00, to the Washington County District Court. The civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution. The civil penalty shall be paid to this Court no more than ten (10) days from the entry of this Consent Decree and is payable to the Clerk of this Court.

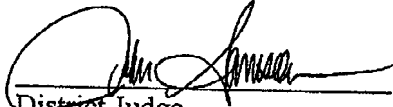
6. IT IS FURTHER ORDERED that John L. Timm shall pay, as a voluntary supplemental environmental project, \$2,500.00 into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General. This payment shall be paid as a lump-sum payment within ten (10) days of the entry of the consent decree by this Court.

7. This consent decree will have no effect on any enforcement action brought by NDEQ against John L. Timm, 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 11 day of ^{June}~~May~~, 2012, in Washington County, Nebraska.

BY THE COURT:

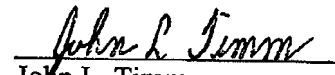

District Judge

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

By: JON C. BRUNING, #20351
Attorney General

By: 
Blake E. Johnson, #24158
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Attorneys for Plaintiff

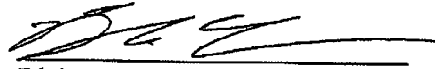
JOHN L. TIMM, Defendant

By: 
John L. Timm
4604 N. Broad
Fremont, NE 68025
Defendant

CERTIFICATE OF SERVICE

I, Blake E. Johnson, hereby certify that a copy of the foregoing Consent Decree has been served upon John L. Timm by regular United States mail, first class postage prepaid on this 6th day of June, 2012, at the addressed below:

John L. Timm
4604 N. Broad
Fremont, NE 68025



Blake Johnson
Assistant Attorney General