

IN THE DISTRICT COURT OF SCOTTS BLUFF COUNTY, NEBRASKA
 STATE OF NEBRASKA, ex rel.,) Case No. CI -02-331^L
 MICHAEL J. LINDER, Director)
 DEPARTMENT OF ENVIRONMENTAL)
 QUALITY,) **CONSENT DECREE**
 Plaintiff,)
 v.)
)
 BEREAN FUNDAMENTAL CHURCH OF)
 MITCHELL, NEBRASKA a/k/a)
 MITCHELL BEREAN CHURCH,)
)
 Defendant.)

COME NOW the parties, Plaintiff, the Department of Environmental Quality (hereinafter "NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendant, Berean Fundamental Church of Mitchell, Nebraska, a/k/a Mitchell Berean Church, appearing through its counsel DaNay Kalkowski, 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 Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 1999, Cum. Supp. 2006), the Nebraska Environmental Protection Act, and all rules and regulations and orders promulgated thereunder.
2. The Complaint filed herein constitutes a justiciable cause of action against the Defendant.
3. In its Complaint, Plaintiff alleges that the Defendant failed to comply with a "Complaint, Order, and Notice of Opportunity for Hearing" (hereinafter "Administrative Order") which was issued by the NDEQ on or about February 16, 2006 and which



000042605D21

FILED May 2 20 07
 Ann Rosenberry
 CLERK OF THE DIST COURT
 BY Santos Castro DEPUTY

became final on or about March 18, 2006. The Administrative Order is attached hereto as "Attachment A."

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. The Defendant agrees to the form and entry of this Consent Decree for the purposes of settlement only. Therefore, and for only the purposes of this Consent Decree, the parties agree to the entry of this Consent Decree by the Court.

5. This Consent Decree shall be in full satisfaction of all claims alleged in the complaint filed herein and any claims arising out of the same transaction or occurrences asserted therein, provided that such claims were known to the State of Nebraska, or were reasonably ascertainable from information in the State's possession, as of the date of the filing of the Consent Decree.

6. This Consent Decree will have no effect on any enforcement action brought by Plaintiff against Defendant for future violations of any statutes or regulations.

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

8. IT IS THEREFORE ORDERED that the Defendant shall pay to the Clerk of the District Court a civil penalty in the amount of seven thousand five hundred dollars (\$7,500.00), pursuant to Neb. Rev. Stat. § 81-1508.02, 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 ninety (90) days of the entry of this Consent Decree by the Court.

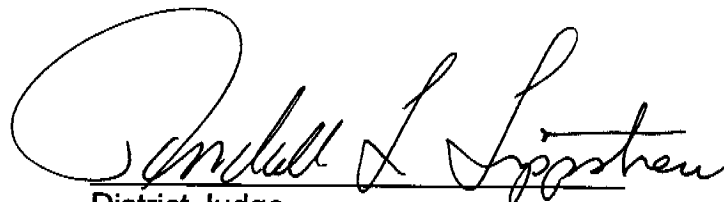
9. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, the sum of seven thousand five hundred dollars (\$7,500.00) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General. This sum shall be paid as a lump-sum payment within ninety (90) days of the entry of this Consent Decree by the Court. .

10. IT IS ALSO ORDERED that the Defendant shall comply with the Administrative Order which is attached hereto as "Attachment A."

11. IT IS ALSO ORDERED that the Defendant shall comply with Title 122 and Title 124 in complying with the Administrative Order.

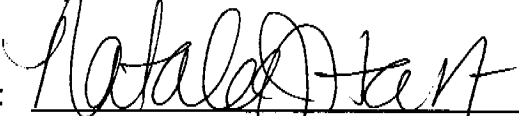
DATED THIS 2 day of May, 2007, in Scotts Bluff County,
Nebraska.

BY THE COURT:


District Judge

STATE OF NEBRASKA ex rel.,
MICHAEL J. LINDER, Director
Department of Environmental
Quality, Plaintiff,

By: JON C. BRUNING #20351,
Attorney General

By: 

Natalee J. Hart, #22716
Assistant Attorney General
2115 State Capitol Building
Lincoln, NE 68509
Tel. (402) 471-2682
natalee.hart@ago.ne.gov
Attorneys for Plaintiff.

Berean Fundamental Church of Mitchell,
Nebraska a/k/a Mitchell Berean Church,
Defendant,

By: 

DaNay Kalkowski, #19837
Seacrest & Kalkowski, P.C.
1111 Lincoln Mall, #350
Lincoln, NE 68508-3905
Tel: (402) 435-6000
danay@sk-law.com
Attorney for Defendant.