

IN THE DISTRICT COURT OF BUFFALO COUNTY, NEBRASKA

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

Plaintiff,)

v.)

Janet M. Slegers, Wood River Dairy)
L.L.C., and Aspen Dairy, a Nebraska)
General Partnership,)

Defendants.)

Case No. CI 08249

CONSENT DECREE

CLERK OF DISTRICT COURT
BUFFALO COUNTY, NE
2008 APR 14 PM 1 38

FILED
SHARON MAULER

Plaintiff, the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through its counsel, Jon C. Bruning, Attorney General, and the Defendants, Janet M. Slegers, Wood River Dairy L.L.C., and Aspen Dairy, a Nebraska General Partnership ("Defendants"), 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. The Court has jurisdiction of the parties and the subject matter of this action. The Complaint herein sets forth justiciable causes of action against Defendants.

2. NDEQ, in its Complaint, alleges that on about March 8, 2007, the Defendants Slegers and Wood River allowed or caused a discharge of livestock waste to waters of the State and failed to report the discharge event to the Department within 24 hours of the event. In addition, on or about July 2, 2006, Defendants Slegers and Aspen failed to comply with their construction approval by not completing construction of the livestock

waste control facilities for the expanded solid waste storage area by July 1, 2006. Finally, on or about August 3, 2006, and continuing daily thereafter, Defendant Wood River operated a disposal system without obtaining the necessary permits from the Department.

3. NDEQ further alleges that Defendant is therefore subject to a civil penalty as provided in Neb. Rev. Stat. §81-1508.02(2) (Reissue 1999).

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. Defendant, without admitting any allegations of the Complaint, agrees to the form and entry of this Consent Decree for purposes of settlement only.

5. The parties agree that this Consent Decree shall be in full satisfaction of all claims alleged in the Complaint and arising out of the same transaction or occurrence asserted therein, provided that such claims were known to the State of Nebraska as of the date of the filing of this Consent Decree.

6. IT IS THEREFORE ORDERED that Defendant shall pay to the Clerk of the District Court of Buffalo County a civil penalty in the sum of thirty-two thousand dollars (\$32,000.00) pursuant to Neb. Rev. Stat. § 81-1508.02, together with court costs 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.

a. Said civil penalty will be due and owing on October 15, 2008. In the event that the following conditions are met, the civil penalties will be waived:

1. Obtain the appropriate state permit to allow for continued operation of the facility.

2. Submit an application to the Department to control runoff from the feed storage area.

3. Submit a certification of completion form for the expanded solid storage area.

4. Submit an application for a National Pollutant Discharge Elimination System (NPDES) permit.

5. Maintain compliance with the following provisions:

i. Environmental Protection Act, Neb. Rev. Stat. §81-1501 *et seq.*;

ii. Livestock Waste Management Act, Neb. Rev. Stat. §54-2401 *et seq.*;

iii. Title 117 of the Nebraska Administrative Code, Rules and Regulations pertaining to Nebraska Surface Water Quality Standards;

iv. Title 119 of the Nebraska Administrative Code, Rules and Regulations pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System.

v. Title 130 of the Nebraska Administrative Code, Rules and Regulations pertaining to Livestock Waste Control.

b. To qualify for the waiver of civil penalties as stated in paragraph (6)(a), Defendant shall file a showing with the Court by October 1, 2008 establishing that it

has maintained compliance as required in this Consent Decree.

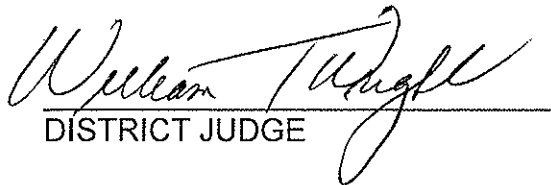
7. IT IS FURTHER ORDERED that the Defendant shall pay, as a Supplemental Environmental Project, the sum of \$32,000 (Thirty two thousand dollars) into the Attorney General's Environmental Protection Fund to be used for environmental safety, training, public awareness, or other related uses as permitted by state law, at the sole discretion of the Nebraska Attorney General. Said payment shall be paid in 12 (twelve) monthly installments of \$2,666.67 with the first due and owing on May 17, 2008 and each subsequent payment due and owing on the 17th of every month thereafter until paid in full.

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

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

Dated this ^{14th} day of April, 2008.

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: 
Katherine J. Spohn, #22979
Assistant Attorney General
2115 State Capitol Building
Lincoln, NE 68509
Tel. (402) 471-2682
Attorneys for Plaintiff.

JANET M. SLEGERS, WOOD RIVER DAIRY
L.L.C., and ASPEN DAIRY, a Nebraska
General Partnership, Defendant,

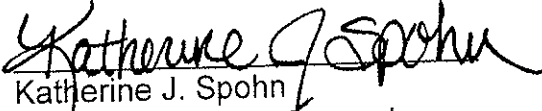
By: 
Janet M. Slegers
30955 Hwy 183
Miller, NE 68858

Defendants.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Consent Decree has been served upon the Defendants by regular United States mail, first class postage prepaid on this ___ day of April, 2008 addressed to the Defendants as follows:

Janet M. Slegers
30955 Hwy. 183
Miller, NE 68858


Katherine J. Spohn
Assistant Attorney General