

IN THE DISTRICT COURT FOR VALLEY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
DEPARTMENT OF ENVIRONMENTAL )  
QUALITY, )  
 )  
Plaintiff, )  
v. )  
 )  
VERASUN ENERGY CORPORATION, )  
 )  
Defendant. )

Case No. CI 08 42

**CONSENT DECREE**

**FILED**

**AUG 11 2008**

**VALLEY CO. DISTRICT COURT**

The State of Nebraska, on the relation of the Nebraska Department of Environmental Quality (NDEQ), and VeraSun Energy 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 VeraSun under the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq. (Reissue 1999, Cum. Supp. 2006, and Supp. 2007), and the rules and regulations promulgated under that Act.

2. In its complaint, the State alleges that from March 15, 2006 to May 2, 2007, VeraSun's predecessor constructed a wastewater works at its ethanol plant without first obtaining a construction permit from NDEQ, and that this action violated Title 123 of the Nebraska Administrative Code, "Rules and Regulations for the Design, Operation and Maintenance of Wastewater Works," chapter 3, § 001.

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

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issues of fact or law, without this consent decree constituting an admission by VeraSun 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 VeraSun shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 1999), in the amount of \$15,000 and court costs in the amount of \$79 to the District Court for Valley County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution.

A. \$5,000 of the civil penalty, as well as the \$79 in court costs, shall be paid to this Court no more than 30 days from the entry of this consent decree by the Court.

B. \$10,000 of the civil penalty shall be paid to this Court no more than one year from the entry of this consent decree by the Court. However, if VeraSun 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 during the year following the entry of this consent decree, then payment of this \$10,000 of civil penalties will be waived.

C. To qualify for the waiver of \$10,000 of civil penalties as described in paragraph 5(B), VeraSun will file a showing with the Court within 15 days following the due date of the civil penalties establishing that it has maintained compliance with the statutes and regulatory provisions mentioned in paragraph 5(B). The State will file a satisfaction of judgment within 10 days of receiving VeraSun's showing if VeraSun has complied with the statutes and regulations mentioned in paragraph 5(B) during the year following the entry of this consent decree. If VeraSun violates the statutes and regulatory provisions in paragraph 5(B) during the year following the entry of this consent decree, the State may file an objection to VeraSun's showing and the determination of this waiver provision will be stayed pending ongoing enforcement proceedings.

6. This consent decree will have no effect on any enforcement action brought by the State or NDEQ against VeraSun 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 6th day of August, 2008, in Valley County, Nebraska.

BY THE COURT:

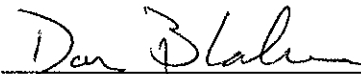
  
\_\_\_\_\_  
District Judge

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

By JON C. BRUNING, #20351  
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VERASUN ENERGY CORPORATION,  
Defendant

By:   
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Attorney for Defendant

IN THE DISTRICT COURT OF Valley COUNTY, NEBRASKA

NOTICE OF JUDGMENT

Dept of Environmental Quality v. Verasun Energy Corp

Case ID: CI 08 42

Judgment has been entered.

Judgment Date: 08/11/2008

Date: AUGUST 12, 2008

BY THE COURT:

*Janette D. Lindsey*  
Clerk



Jon Bruning  
2115 State Capitol  
P.O. Box 98920  
Lincoln, NE 68509-8920

DEPARTMENT OF JUSTICE

AUG 14 2008

STATE OF NEBRASKA