

IN THE DISTRICT COURT FOR ADAMS COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
MICHAEL J. LINDER, Director,)
DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
Plaintiff,)
v.)
AG PROCESSING INC a cooperative,)
a/k/a AGP SOY PROCESSING,)
Defendant.)

Case No. C113-605

CONSENT DECREE

FILED
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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, Ag Processing Inc a cooperative, a/k/a AGP Soy Processing, 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, NDEQ alleges that from January 10, 2009, through July 20, 2010, Defendant had emissions of H₂SO₄ and PM/PM10 that exceeded the limits set forth in their air quality permit of September 11, 2006. Defendant denies all of said allegations, affirmatively states that it believes it has established compliance with the limits as defined in the permit and has asserted certain affirmative defenses which Defendant believes would bar NDEQ's

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complaint. However, in order to avoid the expense and disruption of litigation Defendant is willing to enter into this Consent Decree.

3. The parties agree that settlement of these matters and entry of this Consent Decree is the most efficient 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 makes no admission and 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. Neither this Consent Decree nor the entry of any final order or judgment by the Court pursuant to this Consent Decree shall be offered, used or admitted in evidence in any proceeding or litigation, whether civil or criminal.

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

5. The parties agree that the complaint filed herein constitutes a justiciable cause of action against the Defendant and consent without further notice to the form and entry of this Consent Decree.

6. IT IS THEREFORE ORDERED that Defendant shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02 (Reissue 2010), in the amount of \$8,500.00 and court costs in the

amount of \$82.00 to the District Court for Adams County. This civil penalty shall be handled as provided in Article VII, Section V, of the Nebraska Constitution, and shall be paid to this Court upon entry of this consent decree by the Court.


7. IT IS FURTHER ORDERED that the Defendant shall pay, as a voluntary supplemental environmental project, \$8,500.00 to the Attorney General's Environmental Protection Fund for funding of a Wind for Schools Project in Adams County, Nebraska. This payment shall be paid as a lump-sum payment within thirty (30) days of the entry of the consent decree.

8. This consent decree will have no effect on any enforcement action brought by NDEQ against Defendant for future violations of any statutes or regulations.

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

DATED THIS 2 day of Jan, 201~~3~~⁴, in Adams County, Nebraska.

BY THE COURT:



District Judge of Adams County

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


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