

IN THE DISTRICT COURT OF DIXON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,
JIM MACY, Director,
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

v.

NATURALLY RECYCLED PROTEINS,
LLC.

Defendant.

Case No. CI-17-03

CONSENT DECREE

STATE OF NEBRASKA
DIXON COUNTY
FILED

JAN 17 2017

Jackie King-Coughlin
CLERK OF DISTRICT COURT

COMES NOW the parties, Plaintiff, Jim Macy, Director of the Nebraska Department of Environmental Quality ("NDEQ"), proceeding on the Complaint filed herein and appearing through Counsel, Douglas J. Peterson, Attorney General, and Defendant, Naturally Recycled Proteins, LLC ("NRP") and each party having consented to the making and entering of this Consent Decree without trial, request the entry of this Consent Decree.

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 the Environmental Protection Act, Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014), and all rules, regulations, and orders promulgated thereunder.
2. In the Complaint, the Plaintiff alleged that Defendant constructed two dryers and coolers at its facility located at 58555 Highway 35 East in Wakefield, Nebraska ("the facility") without first receiving a Construction Permit from NDEQ and operated the facility as a major source without applying for a Class I Operating Permit.
3. The parties agree that settlement of this matter is in the public interest and that entry of this

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JOURNAL

BOOK 41 PAGE 367-370



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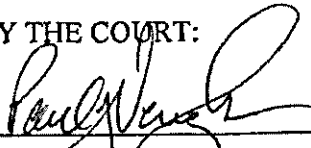
Consent Decree is the most appropriate means of resolving their dispute. The parties desire to conclude this case without trial or adjudication of any issues of fact or law and without this Consent Decree constituting an admission by NRP with respect to such issues.

4. This Consent Decree shall be in full satisfaction of all claims between the parties as alleged in the Plaintiff's Complaint.
5. IT IS THEREFORE ORDERED that NRP shall pay a civil penalty under Neb. Rev. Stat. § 81-1508.02(2) (Reissue 2014), in the amount of forty thousand dollars (\$40,000.00) as well as court costs in the amount of eighty three dollars (\$83.00), to the District Court for Dixon County, Nebraska. The civil penalty will be handled as provided by Article VII, Section V, of the Nebraska Constitution.
 - a. Twenty thousand dollars (\$20,000.00) of the civil penalty shall be paid upon entry of this Consent Decree and is payable to the Clerk of this Court.
 - b. Twenty thousand dollars (\$20,000.00) of the civil penalty shall be paid no more than one hundred and eighty (180) days from the entry of this Consent Decree. However, if the Defendant maintains compliance with the provisions of the Environmental Protection Act ("the Act"), Neb. Rev. Stat. § 81-1501 *et seq.* (Reissue 2014) and the rules and regulations adopted pursuant to the Act during the one hundred and eighty (180) days following the entry of this Consent Decree, payment of this twenty thousand dollars (\$20,000.00) in civil penalties shall be waived.
 - c. The Defendant shall file with the Court and serve upon the Plaintiff a Showing of Compliance ("Showing") within fifteen (15) days prior to the due date of the civil penalties under Paragraph 5(b). The Showing must certify that the Defendant has

- maintained compliance with all requirements listed in Paragraph 5(b).
- d. The Plaintiff shall file a Satisfaction of Judgment after the Defendant files the Showing and within ten (10) days after the completion of the one hundred eighty (180) day compliance period. However, if the Defendant violates the requirements in Paragraph 5(b) during the one hundred and eighty (180) days following the entry of this Consent Decree, the Plaintiff, in its sole discretion, may file an Objection to the Defendant's Showing. If the Plaintiff files such an Objection, the determination of this waiver provision shall be stayed pending ongoing enforcement proceedings.
 6. This Consent Decree will have no effect on any enforcement action brought by NDEQ against NRP 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 17 day of January 2017, in Dixon County, Nebraska.


BY THE COURT:



District Judge of Dixon County, Nebraska

STATE OF NEBRASKA, ex rel.,
JIM MACY, Director,
NEBRASKA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
Plaintiff

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