

IN THE DISTRICT COURT FOR GREELEY COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
MICHAEL J. LINDER, Director )  
NEBRASKA DEPARTMENT OF )  
ENVIRONMENTAL QUALITY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GGP, LLC d/b/a Wolbach Foods, )  
 )  
Defendant. )

Case No. CJ-13-22

CONSENT DECREE  
CJ 22 Pages 283-286

The Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through counsel, Jon C. Bruning, Attorney General, and GGP, LLC d/b/a Wolbach Foods ("GGP"), appearing through counsel, Stephen D. Mossman, each having consented to the making and entry of this Consent Decree without trial, request the Court enter this Consent Decree.

WHEREAS:

1. The Court has jurisdiction of the parties and the subject matter of this action. The Complaint herein sets forth all justifiable causes of action against GGP.
2. NDEQ, in its Complaint, alleges that prior to and including January 25, 2010, GGP was pumping livestock waste into a non-lined and unpermitted truck wash lagoon without obtaining the proper permits and approvals in violation of Neb. Rev. Stat. §81-1506(5)(b) and Title 130.
3. NDEQ alleges GGP is therefore subject to a civil penalty as provided in Neb. Rev. Stat. §81-1508.02(2) (Reissue 2008).
4. NDEQ and GGP agree settlement of this matter is in the public interest and entry of this Consent Decree is the appropriate means of resolving the dispute. GGP, without



STATE OF NEBRASKA }  
COUNTY OF GREELEY } SS FILED  
October 22, 2013  
Wendy A. Grossalt  
Clerk of the District Court



admitting any allegations of the Complaint, agrees to the form and entry of this Consent Decree for purposes of settlement only. 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 GGP with respect to such issues.

5. NDEQ and GGP agree this Consent Decree shall be in full satisfaction of all claims alleged in the Complaint, arising out of the same transaction or occurrence referenced therein or alleged in NDEQ Notice of Violation letters dated February 3, 2010 and November 5, 2010, provided such claims were known to NDEQ as of the date of entry of this Consent Decree.

IT IS THEREFORE ORDERED:

6. GGP shall pay to the Clerk of the District Court of Greeley County a civil penalty in the amount of six thousand dollars (\$6,000.00) pursuant to Neb. Rev. Stat. §81-1508.02. The civil penalty is to be handled pursuant to Article VII, Section V, of the Nebraska Constitution. GGP shall pay eighty-two dollars (\$82.00) for the costs of this action.

a. Three thousand dollars (\$3,000.00) of the civil penalty shall be imposed immediately upon entry of this Consent Decree, and is due and owing no later than thirty (30) days after the entry of this Consent Decree by the Court.

b. The remaining three thousand dollars (\$3,000.00) will be due and owing 180 days after the entry of this Consent Decree by the Court. In the event GGP maintains compliance with the following obligations and provisions throughout the time period between the entry of this Consent Decree and 180 days following entry, three thousand dollars (\$3,000.00) of civil penalties will be waived:

- 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 130 of the Nebraska Administrative Code, Rules and Regulations pertaining to Livestock Waste Control; and
- v. GGP's construction and operating permit.

c. To qualify for the waiver of civil penalties provided in paragraph 6(b), GGP shall file a showing of compliance with the Court within thirty (30) days following the due date of the civil penalties demonstrating compliance was maintained as required. If GGP does not receive a notice of violation from NDEQ and is not a party to legal action initiated by NDEQ disputing compliance with the statutes and regulatory provisions in paragraph 6(b) during the relevant time period, NDEQ shall file a satisfaction of judgment in the case within ten (10) days of receipt of GGP's showing of compliance.

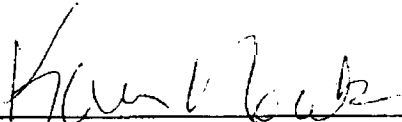
d. If GGP receives a notice of violation, or is a party to legal action initiated by NDEQ disputing compliance with the statutes and regulatory provisions in paragraph 6(b) during the relative time period, the three thousand dollars (\$3,000.00) shall become due and owing immediately. NDEQ shall file an objection to GGP's showing of compliance and applicability of this waiver provision will be stayed pending ongoing enforcement proceedings.

7. This Consent Decree will have no effect on any enforcement action brought by NDEQ against GGP for future violations of any statutes or regulations or GGP's ability to pursue other parties for liability related to the circumstances giving rise to this action.

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

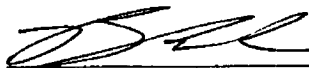
Dated this \_\_ day of October, 2013.

BY THE COURT:

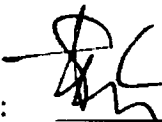
  
\_\_\_\_\_  
DISTRICT JUDGE

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

By: JON C. BRUNING  
Attorney General

By:   
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GGP, LLC d/b/a Wolbach Foods, Defendant,

By:   
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