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IN THE DISTRICT COURT FOR HALL COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel., )  
 JIM MACY, Director )  
 NEBRASKA DEPARTMENT OF )  
 ENVIRONMENT AND ENERGY, )  
 )  
 Plaintiff, )  
 v. )  
 )  
 HORNADY MANUFACTURING )  
 COMPANY, )  
 )  
 Defendant. )

Case No. CI 20-305

CONSENT DECREE

FILED  
NOV 05 2020

NOV 5 2020

VALORIE BENDIXEN  
CLERK OF DISTRICT COURT

COMES NOW Plaintiff, the State of Nebraska on behalf of Jim Macy, Director of the Nebraska Department of Environment and Energy (“NDEE”), proceeding on the Complaint filed herein and appearing through counsel, Douglas J. Peterson, Attorney General, and Defendant, Hornady Manufacturing Company (“Hornady”), and each party having consented to the making and entering of the Consent Decree without trial, request entry of this Consent Decree.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

1. This Court has jurisdiction over this action pursuant to Neb. Rev. Stat. § 24-302 and venue is proper pursuant to Neb. Rev. Stat. § 25-403.01, as the events at issue took place in Hall County.
2. In the Complaint, NDEE alleges that Hornady violated the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et seq., and Title 128 of the Nebraska Administrative Code by storing hazardous waste in excess of 180 days without a permit, improper speculative accumulation, and failure to take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. Hornady disputes these allegations.



3. The parties agree settlement of this matter is in the public interest and 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 issues of fact or law. The parties further desire to conclude this case without this Consent Decree constituting an admission by Hornady with respect to such issues; Hornady making no such admission.

4. This Consent Decree will be in full satisfaction of all claims between the parties alleged in NDEE's Complaint and the Consent Decree. The parties also agree to release any and all claims or actions arising out of the same transaction or occurrences referenced above and set forth in the 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 NDEE against Hornady for future violations of any statutes or regulations.

5. IT IS THEREFORE ORDERED:

A. Hornady will pay a stipulated civil penalty in the amount of fifty thousand dollars (\$50,000) to the District Court of Hall County, Nebraska, as described below. The civil penalty will be remitted to the County Treasurer of Hall County for distribution in accordance with Article VII, section 5, of the Nebraska Constitution.

- i. Twenty-five thousand dollars (\$25,000) of the civil penalty to be paid upon entry of the Consent Decree and payable to the Clerk of the District Court for Hall County; and
- ii. The remaining twenty-five thousand dollars (\$25,000) of the civil penalty shall be waived if Hornady has no material violations of the Nebraska Environmental Protection Act or applicable NDEE

regulations at their manufacturing plant located at 3625 W Old Potash Hwy, Grand Island, NE from October 8, 2020, until January 8, 2021.

iii. If Hornady does not comply with the terms and conditions listed in Paragraph A(ii), the remaining twenty-five thousand dollars (\$25,000) will be payable to the Clerk of the District Court for Hall County.

B. Hornady shall provide NDEE with a showing of compliance no later than January 18, 2021. The showing of compliance must indicate Hornady complied with all of the terms and conditions listed in Paragraph A(ii) of this Consent Decree.

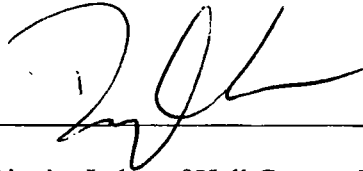
C. NDEE will file a Satisfaction of Judgment with the Court after Hornady provides its showing of compliance and NDEE has verified that compliance was achieved. If Hornady, however, violates any of the terms and conditions of Paragraph A(ii) of this Consent Decree during the period of compliance following entry of the Consent Decree, then NDEE, in its sole discretion, may file a motion to enforce the terms of the Consent Decree for the remaining twenty-five thousand dollars (\$25,000). 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 NDEE against Hornady for any future violations of any statutes, regulations, or permits.

7. The undersigned consent without further notice to the form and entry of this Consent Decree.

DATED this 4<sup>th</sup> day of November 2020, in Hall County, Nebraska

BY THE COURT:



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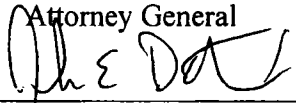
District Judge of Hall County, Nebraska

STATE OF NEBRASKA, ex rel.,  
JIM MACY, Director  
NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY,  
Plaintiff

By: Douglas J. Peterson, #18146

Attorney General

By:



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Joshua E. Dethlefsen, #24667

Assistant Attorney General

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Telephone: (402) 471-1813

joshua.dethlefsen@nebraska.gov

HORNADY MANUFACTURING  
COMPANY, Defendant

By:



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Austin L. McKillip, #23212

CLINE WILLIAMS WRIGHT

JOHNSON & OLDFATHER, L.L.P.

233 South 13<sup>th</sup> Street

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Telephone: (402) 474-6900

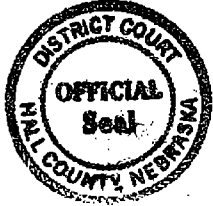
amckillip@clinewilliams.com

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on November 5, 2020, I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Austin L McKillip  
amckillip@clinewilliams.com

Joshua E Dethlefsen  
joshua.dethlefsen@nebraska.gov



Date: November 5, 2020

BY THE COURT:

*Valorie Bendyjen*

CLERK