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LANCASTER COUNTY
IN THE DISTRICT COURT FOR LANCASTER COUNTY, NEBRASKA
2013 SEP 26 PM 2 42

STATE OF NEBRASKA, ex rel.,)	CLERK OF THE
MICHAEL J. LINDER, Director)	DISTRICT COURT Case No. CI 12-4381
DEPARTMENT OF ENVIRONMENTAL)	
QUALITY,)	
Plaintiff,)	
)	
v.)	CONSENT DECREE
)	
)	
RR TRUCKING, INC.,)	
)	
Defendant.)	

The Nebraska Department of Environmental Quality ("NDEQ"), proceeding on its Complaint filed herein and appearing through counsel, and RR Trucking, Inc. ("Defendant"), through counsel, Seth Felton, jointly file this Consent Decree and agree to this Court's entry of the following terms and orders.

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

1. This Court has jurisdiction of the parties and the subject matter of this action pursuant to NEB. REV. STAT. § 81-1501 *et seq.* (Reissue 2010; Sup. 2011) and all rules and regulations and orders promulgated thereunder.

2. In its Complaint, NDEQ alleged Defendant was granted funds through the United States' Environmental Protection Agency's ("EPA") Diesel Emissions Reduction Act. The funds were disbursed to Defendant on the condition that he purchase and install five new auxiliary power units ("APUs"). Defendant did not use the grant funds for the contractually agreed-upon purpose. Consequently, NDEQ was required to reimburse EPA for the funds.



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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 issues of fact or law, without this Consent Decree constituting an admission by Defendant with respect to such issues.

4. The Consent Decree shall be in full satisfaction of all claims between the parties alleged in the Complaint. The parties also agree to release any and all claims or actions arising out the same transaction or occurrences referenced above, provided that such claims were known, or were reasonably ascertainable from information in NDEQ's possession, as of the date of entry of the Consent Decree.

5. IT IS THEREFORE ORDERED that RR Trucking, Inc. shall pay thirty-six thousand dollars (\$36,000.00) to the Nebraska Department of Environmental Quality in accordance with the schedule set forth below. Payments shall be made to the "Director, Nebraska Department of Environmental Quality" with notice referring to this action. Payment can be mailed to:

Nebraska Department of Environmental Quality
1200 "N" Street, Suite 400
P.O. Box 98922
Lincoln, Nebraska 68509

a. The first installment shall be in the amount one thousand dollars (\$1,000.00) made no later than October 15, 2013.

b. The second installment of five thousand (\$5,000.00) shall be made no later than April 15, 2014.

c. Each of the remaining installments shall be in the amount of six thousand dollars (\$6,000.00) made in accordance with the following schedule until the balance of the original \$36,000.00 owed to NDEQ is paid in full:

- i. October 15, 2014
- ii. April 15, 2015
- iii. October 15, 2015
- iv. April 15, 2016
- v. October 17, 2016

Defendant shall be provided a ten (10) day grace period for delivery of each payment. Notwithstanding Defendant's reliance upon this grace period for delivery of any payment, subsequent payments shall continue to be delivered in accordance with the schedule set forth above.

6. IT IS FURTHER ORDERED that should Defendant fail to comply with the payment schedule set forth in paragraph 5 of the Consent Decree, Defendant will pay stipulated civil penalties of fifty dollars (\$50.00) per day for the first to thirtieth day of delinquency; one hundred dollars (\$100.00) per day for the thirty-first to sixtieth days of delinquency; and two hundred fifty dollars (\$250.00) per day for each day of delinquency thereafter.

7. Any civil penalty arising under paragraph 6 shall be paid to the District Court for Lancaster County, Nebraska. Such civil penalty shall be handled as provided by Article VII, Section V, of the Constitution of the State of Nebraska. Upon discovery of Defendant's failure to comply with the payment schedule set forth in paragraph 5 of the Consent Decree, NDEQ may provide the Court with notice of such delinquency. Defendant shall have ten (10) days after filing of the notice to negotiate with NDEQ for resolution of the delinquency. If resolution is not

obtained within ten (10) days following the filing of the notice of delinquency, NDEQ may file a motion to find Defendant in contempt for violation of the Consent Decree.

8. NDEQ shall file a Satisfaction of Judgment within ten (10) days of receipt of the final payment.

9. This Consent Decree will have no effect on any enforcement action brought by NDEQ against RR Trucking for future violations of any statutes or regulations.

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

Dated this 26 day of September, 2013, in Lancaster County, Nebraska.


BY THE COURT:



District Judge **Andrew Jacobsen**

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

By: JON C. BRUNING, #20351
Attorney General

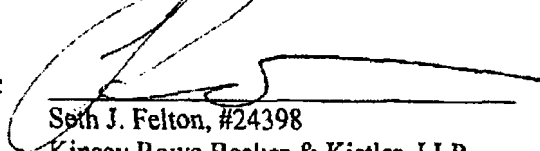


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