

IN THE DISTRICT COURT OF DAWSON COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)	Case No. CI-23-195
THADDEUS D. FINERAN, Interim)	
Director,)	
NEBRASKA DEPARTMENT OF)	
ENVIRONMENT AND ENERGY,)	
)	
Plaintiff,)	CONSENT DECREE
)	
v.)	
)	
DAWSON FEEDERS, INC.,)	
)	
Defendant.)	

COMES NOW Plaintiff, the State of Nebraska on behalf of Thaddeus D. Fineran, Interim Director of the Nebraska Department of Environment and Energy (“Department”), proceeding on the Complaint filed herein and appearing through counsel, Michael T. Hilgers, Nebraska Attorney General, and Joshua E. Dethlefsen, Assistant Attorney General, and Defendant, Dawson Feeders, Inc., and each party having consented to the making and entering of this 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 the subject-matter of this action, pursuant to Neb. Rev. Stat. § 24-302, and over the parties to this action. Venue is proper pursuant to Neb. Rev. Stat. § 25-403.01, as the events at issue took place in Dawson County.

2. In the Complaint, Plaintiff alleges Defendant violated the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. § 81-1501 *et seq.*, and the Livestock Waste Management Act (“LWMA”), Neb. Rev. Stat. § 54-2416 *et seq.*, by, *inter alia*, operating a livestock waste control facility in violation of permit conditions, discharging livestock waste onto lands and waters of the state, and failing to notify the Department of discharges as required by law.

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 Defendant with respect to such issues.

4. The parties acknowledge that Dawson Feeders, Inc. has changed ownership since the majority of the violations at issue occurred, and this Consent Decree takes into account the efforts new ownership has taken to rectify violations at the facility.

5. This Consent Decree will be in full satisfaction of all claims between the parties alleged in Plaintiff's Complaint. This Consent Decree does not satisfy any unknown or future violations of any statutes or rules and regulations.

6. IT IS THEREFORE ORDERED that Defendant shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02(2), in the amount of eight thousand dollars (\$8,000.00) to the District Court for Red Willow County, Nebraska, as well as reimburse the Plaintiff for court costs in the amount of eighty-six dollars (\$86.00), subject to the following:

- A. Four thousand dollars (\$4,000.00) of the civil penalty shall be paid by Defendant within thirty (30) days of entry of the Consent Decree and made payable to the Clerk of the District Court for Dawson County. Defendant shall also reimburse the Plaintiff for court costs in the amount of eighty-six dollars (\$86.00) within thirty (30) days of entry of the Consent Decree and made payable to the Nebraska Attorney General's Office; and
- B. The remaining four thousand dollars (\$4,000.00) of the civil penalty shall be waived if Defendant remains in compliance with NEPA, LWMA, and all other environmental laws, including applicable rules

and regulations, for a period of six months from the entry of the Consent Decree.

- C. If Defendant does not comply with all of the requirements of Paragraph 5(B), above, then the remaining four thousand dollars (\$4,000.00) will not be waived and, instead, Defendant shall pay the remaining half of civil penalty to the Clerk of the District Court for Dawson County within thirty (30) days of notice of failure to comply with and satisfy the requirements for waiver of the remaining half of the civil penalty.
- D. The civil penalty will be deposited by the Court and remitted to the County Treasurer for Dawson County for use and support of the common schools in Dawson County as directed by Article VII, Section 5, of the Nebraska Constitution.
- E. No later than fourteen (14) days after the six-month compliance period ends, Defendant shall provide Plaintiff with a Showing of Compliance. This Showing of Compliance must demonstrate Defendant complied with all terms and conditions in the Consent Decree. The Department will verify compliance with the Consent Decree. Plaintiff will file a Satisfaction of Judgment with the Court after Defendant provides its Showing of Compliance and the Department verifies Defendant fully complied with all terms and conditions in this Consent Decree. If Defendant, however, does not comply with all terms and conditions of the Consent Decree during the six-month compliance period, then Plaintiff, in its sole discretion, may file with the Court a motion to enforce the terms of the

Consent Decree and to recover any unpaid civil penalties.

7. This Consent Decree is binding on Defendant's successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Defendant under this Consent Decree.

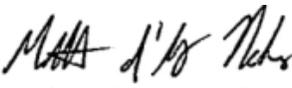
8. This Consent Decree will have no preclusive effect on any enforcement action brought by Plaintiff against Defendant for unknown or future violations of any statutes or rules and regulations. Defendant acknowledges that noncompliance with the terms and conditions set forth in this Consent Decree may also be violations of NEPA, LWMA, or other applicable statutes, rules, and regulations, and this Consent Decree does not preclude Plaintiff from bringing an independent enforcement action seeking civil penalties and/or injunctive relief for such violations.

9. Plaintiff reserves its rights to seek civil penalties and/or injunctive relief against Defendant for unknown or future violations of NEPA, LWMA, and other applicable statutes, rules, and regulations.

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

DATED this 21st day of May 2024, in Dawson County, Nebraska.

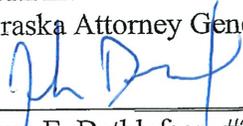
BY THE COURT:



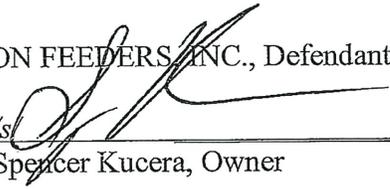
District Judge of Dawson County, Nebraska

STATE OF NEBRASKA, ex rel.,
THADDEUS D. FINERAN, Interim
Director, NEBRASKA DEPARTMENT OF
ENVIRONMENT AND ENERGY, Plaintiff

BY: MICHAEL T. HILGERS, #24483
Nebraska Attorney General

BY: 
/s/ _____
Joshua E. Dethlefsen, #24667
Assistant Attorney General
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joshua.dethlefsen@nebraska.gov
Attorneys for Plaintiff

DAWSON FEEDERS, INC., Defendant

BY: 
/s/ _____
Spencer Kucera, Owner

CERTIFICATE OF SERVICE

I, the undersigned, certify that on May 21, 2024 , 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:

Dawson Feeders Inc
43751 Rd. 758
Lexington, NE 68850

Michael T Hilgers
katie.beiermann@nebraska.gov

Joshua E Dethlefsen
joshua.dethlefsen@nebraska.gov

Date: May 21, 2024

BY THE COURT:

Becky Joripa
CLERK

