

IN THE DISTRICT COURT OF PLATTE COUNTY, NEBRASKA

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

Plaintiff,

v.

LINDSAY IRRIGATION SOLUTIONS,
LLC,

Defendant.

Case No. CI24-259

CONSENT DECREE

FILED
MARLENE M. VETICK, CLERK
JUN 28 2024
DISTRICT COURT
PLATTE COUNTY, NE

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 Defendant, Lindsay Irrigation Solutions, LLC, a Nebraska limited liability company, appearing through counsel, 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 Defendant’s facility is located in Platte County and the events at issue took place in Platte County.

2. In the Complaint, Plaintiff alleges Defendant violated the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. § 81-1501 *et seq.*, and applicable rules and regulations by failing to operate its facility to minimize a release of hazardous waste to surface water of the state; discharging hazardous waste and other waste to a water of the state without authorization; and causing or

cc: M. W. et al / M. Hilgers
A. Tugan



placing or causing to be placed hazardous waste in a location likely to cause water and land pollution.

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. 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.

5. IT IS THEREFORE ORDERED that Defendant shall pay a civil penalty, under Neb. Rev. Stat. § 81-1508.02(2), in the amount of sixty thousand dollars (\$60,000.00) to the District Court for Platte County, Nebraska, as well as reimburse the Plaintiff for court costs in the amount of eighty-seven dollars (\$87.00), subject to the following:

- A. Thirty thousand dollars (\$30,000.00) 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 Platte County. Defendant shall also reimburse the Plaintiff for court costs in the amount of eighty-seven dollars (\$87.00) within thirty (30) days of entry of the Consent Decree and made payable to the Nebraska Attorney General's Office;
- B. The remaining thirty thousand dollars (\$30,000.00) shall be waived if Defendant complies with the following condition: Defendant's facility in Lindsay, Nebraska shall have no material violations of NEPA, applicable Department rules and regulations, or any Department-issued permits for a period of six (6) months from entry of this Consent

Decree by the District Court (“six-month compliance period”).

- C. If Defendant does not comply with the terms and conditions of Paragraph 5(B), above, then the remaining thirty thousand dollars (\$30,000.00) will not be waived and, instead, Defendant shall pay the remaining half of the civil penalty to the Clerk of the District Court for Platte County within thirty (30) days of notice of failure to comply with and satisfy the terms and conditions for waiver of the remaining half of the civil penalty;
- D. All civil penalty payments made by the Defendant will be deposited by the District Court and remitted to the County Treasurer for Platte County for use and support of the common schools in Platte County as directed by Article VII, Section 5, of the Nebraska Constitution; and
- E. No later than thirty (30) days after the end of the six-month compliance period, Defendant shall provide Plaintiff with a Showing of Compliance. This Showing of Compliance must indicate 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 if Department verifies Defendant fully complied with the terms and conditions in this Consent Decree. If Defendant, however, does not submit a Showing of Compliance or fails to comply with the 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 to recover any unpaid civil penalties.

6. 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.

7. 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 or applicable 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.

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

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

DATED this 28th day of June, 2024, in Platte County, Nebraska.

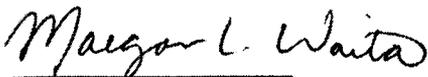
BY THE COURT:



District Judge of Platte County, Nebraska

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

By: MICHAEL T. HILGERS, #24483
Attorney General

By: 
Maegan L. Woita, #26287
Assistant Attorney General
2115 State Capitol
P.O. Box 98920
Lincoln, Nebraska 68509-8920
Tel. (402) 471-1912
maegan.woita@nebraska.gov
Attorneys for Plaintiff

LINDSAY IRRIGATION SOLUTIONS,
LLC, Defendant,

BY: 
Andrew S. Tugan, #26917
Koley Jessen P.C., L.L.O.
1125 South 103rd St., Suite 800
(402) 343-3755
andrew.tugan@koleyjessen.com
Attorney for Defendant