

IN THE DISTRICT COURT FOR BUFFALO COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.,)
 MICHAEL J. LINDER, Director)
 DEPARTMENT OF)
 ENVIRONMENTAL)
 QUALITY,)
)
 Plaintiff,)
 v.)
)
 BS WASH, INC., a Nebraska)
 corporation,)
)
 Defendant.)

Case No. CI 11-245

JOINT STIPULATION TO AMEND
 CONSENT DECREE

FILED
 SHARON K MAULER
 12 FEB 2 PM 10 39
 DISTRICT COURT
 BUFFALO COUNTY, NE

The State of Nebraska, on behalf of the Nebraska Department of Environmental Quality (NDEQ), and BS Wash, Inc., a Nebraska corporation, jointly file this stipulation to amend the consent decree approved and entered by this Court on April 4, 2011. The parties seek to amend the April 4, 2011 consent decree by striking paragraphs 5 and 6 of that consent decree and replacing them with the following:

5. IT IS THEREFORE ORDERED that BS Wash shall complete construction of its wastewater works in accordance with construction permit #09-0029, which was approved by NDEQ on January 12, 2010, and in accordance with the following schedule:

A. BS Wash shall place an order for a synthetic lagoon liner by February 6, 2012. In the event that BS Wash fails to place an order for a synthetic lagoon liner by February 6, 2012, BS Wash shall pay a stipulated

penalty of \$100 per day, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6, until such order is placed.

B. BS Wash shall complete the filling of the base of the lagoon by March 25, 2012. In the event that BS Wash fails to complete the filling of the base of the lagoon by March 25, 2012, BS Wash shall pay a stipulated penalty of \$100 per day, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6, until such step is completed.

C. BS Wash shall complete construction of the side slopes and berms of the lagoon by April 20, 2012. In the event that BS Wash fails to complete construction of the side slopes and berms of the lagoon by April 20, 2012, BS Wash shall pay a stipulated penalty of \$100 per day, cumulative to any other stipulated penalties owed under paragraph 5A-5F and 6, until such step is completed.

D. BS Wash shall complete a survey of the lagoon surface for a liner by April 30, 2012. In the event that BS Wash fails to complete a survey of the lagoon surface for a liner by April 30, 2012, BS Wash shall pay a stipulated penalty of \$100 per day, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6, until such step is completed.

E. BS Wash shall install the lagoon liner by May 18, 2012. In the event that BS Wash fails to install the lagoon liner by May 18, 2012, BS Wash shall pay a stipulated penalty of \$100 per day, cumulative to any other

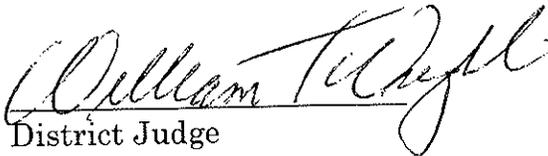
stipulated penalties owed under paragraphs 5A-5F and 6, until such step is completed.

F. BS Wash shall complete testing of the liner and any necessary repairs of the liner by May 31, 2012. In the event that BS Wash fails to complete testing of the liner and any necessary repairs of the liner by May 31, 2012, BS Wash shall pay a stipulated penalty of \$100 per day, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6, until such step is completed.

6. BS Wash shall complete construction of its wastewater works and notify NDEQ that construction has been completed by June 30, 2012. In the event that BS Wash fails to complete construction of its wastewater works and notify NDEQ that construction has been completed by June 30, 2012, BS Wash shall pay a stipulated penalty of \$30,000, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6. In addition, if BS Wash violates any provision of the Nebraska Environmental Protection Act, Neb. Rev. Stat. § 81-1501 et. seq., or any rules and regulations promulgated under that Act, between the date this amended consent decree is entered and the date BS Wash completes construction of its wastewater works, BS Wash agrees to pay an additional civil penalty of \$10,000, cumulative to any other stipulated penalties owed under paragraphs 5A-5F and 6.

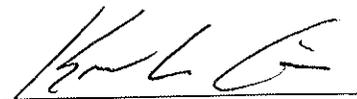
DATED THIS _____ day of February, 2012, in Buffalo County, Nebraska.

BY THE COURT:

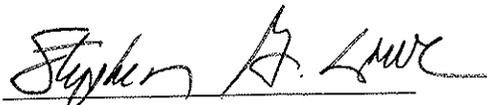

District Judge

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

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Defendant

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Notice of Judgement
Mailed to Kevin Griess & Stephen
and Lowe
on 2/2/12
Sharon K. Mauler
Clerk of the District Court
By KB