

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF	)	
VALMONT INDUSTRIES,	)	Case No. 2364
INCORPORATED,	)	
Valley, Nebraska IIS 57476	)	CONSENT ORDER
	)	
Respondent.	)	

I. JURISDICTION

1. The Director of the Nebraska Department of Environmental Quality (NDEQ) enters into this Consent Order pursuant to the authority vested in him pursuant to Neb. Rev. Stat. §81-1507(1), the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §81-1501 et seq., and Title 118 – Ground Water Quality Standards and Use Classification.

2. Valmont Industries, Incorporated (Valmont) voluntarily enters into this Consent Order as a Delaware corporation authorized to do business in Nebraska. Valmont owns and operates a manufacturing facility located in Valley, Nebraska that is engaged in metal fabrication (including rolling, shaping and welding cold steel, hot dip galvanizing, painting and pole bending) for the production of center-pivot and linear irrigation systems, light wall steel tubing, street and area light poles, traffic signal poles and electrical transmission structures.

3. Valmont's facility is a manufacturing facility (NED007267214) that has been the subject of a permit issued jointly by the NDEQ and the U.S. Environmental Protection Agency (EPA) pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6901 et seq. (RCRA), NEPA, and Title 128 – Hazardous Waste Management Regulations (RCRA permit). The conditions and requirements of this Consent Order are independent of the

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requirements of the RCRA permit. The parties intend that the actions required by this Consent Order shall be complementary to and not inconsistent with the RCRA permit.

## II. PARTIES BOUND

4. The parties agree that this Consent Order shall have the force and effect of a final order of the Director of NDEQ.

5. Valmont consents and agrees to comply with and be bound by the terms of this Consent Order and not to contest the authority or jurisdiction of the NDEQ to issue or enforce this Consent Order or the basis or validity of this Consent Order in any action to enforce its provisions.

6. This Consent Order applies to and is binding upon the NDEQ, Valmont, and their successors and assigns. No change in ownership or corporate status of Valmont, including but not limited to any transfer of assets or real or personal property, shall alter Valmont's obligations and responsibilities under this Consent Order. Valmont agrees to provide a copy of this Consent Order to any subsequent owners or successors of the company and/or the facility as a whole before ownership rights in the company or facility are transferred. Valmont shall notify the NDEQ by certified mail of the commencement of voluntary or involuntary proceeding under Title 11 (Bankruptcy) U.S. Code, naming Valmont as debtor, within 10 days after commencement of the proceeding.

7. Valmont shall provide a copy of this Consent Order to all personnel, contractors, subcontractors, and consultants retained to conduct or monitor any work performed pursuant to this Consent Order. Notwithstanding the terms of any contract, Valmont is responsible for compliance with this Consent Order and for ensuring that all such persons perform such work in accordance with this Consent Order.

### III. DEFINITIONS

8. The terms used in this Consent Order shall have the same meaning as those in Nebraska Statutes and Title 118 unless this Consent Order provides otherwise. Where the terms are not so defined, a standard dictionary reference or the generally accepted scientific or industrial meaning shall define the meaning associated with such terms. Days shall mean calendar days unless otherwise specified.

### IV. FINDINGS OF FACT

9. The Valmont facility in Valley, Nebraska is located in the Southwest  $\frac{1}{4}$  of Section 25, the Southeast  $\frac{1}{4}$  of Section 26 and the Southwest and Southeast  $\frac{1}{4}$ s of the Northeast  $\frac{1}{4}$  of Section 26, Township 16 North, Range 9 East in Douglas County, Nebraska. The approximately 350-acre facility lies in the Platte River Valley on relatively flat terrain.

10. Valmont began operations in 1946 as a farm implement manufacturer and began galvanizing operations in 1966. Valmont is currently engaged in metal fabrication for the production of center pivot and linear irrigation systems, light wall steel tubing, street and area light poles, traffic signal poles, and electrical transmission structures.

11. As a result of manufacturing activities at the facility, releases to the ground water of zinc and sulfate occurred over a period of years. The primary sources of the zinc and sulfate were most likely two surface impoundments, designated as the North Surface Impoundment (NSI) and the South Surface Impoundment (SSI), that were previously used to manage wastewaters from Valmont's galvanizing process. The NSI operated from the mid-1970's until 1984 and was closed in 1987. The SSI started operations in late 1984 and received neutralized

spent pickle liquor until November 8, 1985 when this unit stopped receiving these materials. Closure of the SSI commenced on May 30, 1991 and the SSI was certified closed in June 1993.

12. Valmont began ground water monitoring in 1985 to determine the presence of contamination. From 1989 to the present, Valmont has conducted multiple investigations in order to characterize the horizontal and vertical extent of all ground water contamination originating from its facility, including zinc and sulfate concentrations in ground water.

13. Zinc and sulfate concentrations have historically been detected at levels above the maximum contaminant levels (MCLs) established in Title 118, Chapter 4, of 5 milligrams per liter (mg/l) and 250 mg/l respectively. Historical ground water monitoring data indicates that sulfate concentrations have ranged from a high of 1260 mg/l to 11 mg/l and zinc concentrations have ranged from a high of 49 mg/l to 0.023 mg/l. Concentrations of both contaminants have exhibited a downward trend. During the most recent sampling event in November 2008, sulfate concentrations ranged from 13.2 mg/l to 826 mg/l and zinc concentrations ranged from 0.036 mg/l to 6.240 mg/l. The sulfate contaminant plume has migrated off-site and down-gradient in concentrations above the MCL. The zinc contaminant plume is confined to the facility and is currently not found off-site above the MCL.

14. The zinc and sulfate MCLs adopted under Title 118 have been promulgated as “additional parameters affecting use” of groundwater for water supply purposes, and as such were not established by the State of Nebraska as “public health parameters.” Consistent with the regulatory status of these MCLs, Valmont has previously prepared a site-specific human health risk assessment for concentrations of zinc and sulfate detected in groundwater at and near the Facility, which defined proposed site -specific groundwater protection standards of 33 mg/L (or potentially 37 mg/L) for zinc and 1,200 mg/L for sulfate. This site-specific risk assessment has

been reviewed by the Nebraska Department of Health and Human Services (NDHHS), and the NDHHS has recommended site-specific risk-based groundwater cleanup levels of 10 mg/l and 500 mg/l for zinc and sulfate, respectively, for impacted groundwater areas at and near the Valmont facility.

15. Other than the zinc and sulfate conditions, all of the known hazardous waste management activities and solid waste management units at the facility have been regulated and managed under RCRA and are not the subject of this Consent Order.

#### V. NDEQ'S CONCLUSIONS OF LAW AND DETERMINATIONS

16. Valmont is a responsible party as defined by Title 118, Chapter 1.

17. As a result of Valmont's manufacturing and waste disposal activities, Valmont has caused releases of zinc and sulfate that have caused contamination of the ground water on-site and off-site at the facility above the MCLs established in Title 118, Chapter 4. These releases constitute a degradation of the ground water within the meaning of Title 118, Chapter 3.

18. The release of contaminants are events to which the Ground Water Remedial Action Protocol (Protocol), found at Title 118, Appendix A, shall apply.

19. The Director has determined that the actions required by this Consent Order are necessary and appropriate to protect the public health, welfare, or the environment.

#### VI. CONSENT TO ADMINISTRATIVE ORDER

20. Valmont waives its rights to an administrative hearing and/or judicial review of this Consent Order and agrees that this Consent Order is the final and binding decision of the Director of the NDEQ, except as provided in the Protocol, Step 8, regarding the determination of cleanup levels. The Parties agree that settlement of this matter is in the public interest and desire to settle the matter without any hearing or adjudication of fact or law. Valmont agrees to the

entry of this Consent Order without any admission of fact or law, but for the purposes of this Consent Order agrees to be bound by the terms of this Consent Order; provided, however, that Valmont retains the right to controvert in any other subsequent proceedings, other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections IV and V of this Consent Order.

## VII. WORK TO BE PERFORMED

21. The NDEQ acknowledges that Valmont has completed some of the work required by this Consent Order and may have available information and data required by this Consent Order. This previous work may be used to meet the requirements of this Consent Order upon submission to and formal approval by the NDEQ in a manner prescribed herein and as may be necessary to support determinations required under the Protocol.

22. Pursuant to the Protocol, Valmont shall investigate and restore the contaminated ground water at its facility and down-gradient from the facility to concentrations that achieve the groundwater cleanup levels for zinc and sulfate to be established pursuant to Title 118, Step 8. Work to be performed includes, but is not limited to, defining the areal and vertical extent of the zinc and sulfate in ground water to MCLs, identifying and controlling the sources of zinc and sulfate in the ground water, developing and implementing remedial actions (as may be necessary), and developing and implementing ground water monitoring to determine the efficacy of such remedial actions, to the extent necessary to assure compliance with the final ground water cleanup levels for zinc and sulfate.

23. Valmont shall conduct the following activities:

A. Within 90 days of the effective date of this Consent Order, Valmont shall evaluate all data and information collected to date for zinc and sulfate and submit to the NDEQ for its review

and approval, a Preliminary Detailed Site Assessment Report addressing the recommended information requirements for both the Step 6 (Protocol Attachment A) Assessment and the Step 7 Assessment (Protocol Attachment B). Valmont shall identify any additional investigatory work necessary to complete the Final Detailed Site Assessment Report and accomplish the objective of this Consent Order.

B. For additional investigatory work determined to be necessary by Valmont and approved by NDEQ, or determined to be necessary by NDEQ after review of the Preliminary Detailed Site Assessment Report and requested of Valmont, Valmont shall submit a supplemental investigatory work plan and proposed schedule for completion to the NDEQ for review and approval. Additional work shall be performed in a manner consistent with the purposes and objectives of this Consent Order and in accordance with acceptable professional standards. Valmont shall initiate work under any approved supplemental work plan within 30 days of approval by NDEQ.

C. Within 90 days of NDEQ approval of the Preliminary Detailed Site Assessment Report or from the completion of all additional work specified in any approved supplemental investigation work plan, whichever is later, Valmont shall submit a Final Detailed Site Assessment Report to the NDEQ for review and approval sufficient to inform the determinations necessary by the NDEQ in accordance with Step 8 of the Protocol.

24. The NDEQ shall determine the Remedial Action Class assigned for the zinc and sulfate ground water conditions addressed by this Consent Order based on information submitted by Valmont in the Final Detailed Site Assessment Report and set a preliminary cleanup level for zinc and sulfate in accordance with Step 8 of the Protocol. Unless new information in the Final Detailed Site Assessment Report warrants reconsideration, the NDEQ intends to propose

preliminary cleanup levels that are generally equivalent to the site-specific risk-based groundwater cleanup levels of 10 mg/l and 500 mg/l for zinc and sulfate, respectively, previously recommended by the NDHHS. The NDEQ shall provide Valmont an opportunity to propose an alternate cleanup level which conforms to Title 118 requirements within 60 days after notification of the preliminary cleanup level.

25. Subject to the NDEQ's consideration of any proposed alternate cleanup levels, the NDEQ shall establish proposed final ground water cleanup levels in accordance with the procedures in the Title 118 Protocol, Step 8.

26. In accordance with Step 8, the NDEQ shall provide notice to the public of the NDEQ decision on the remedial action necessary, including the proposed final cleanup levels, for a minimum of 30 days and provide an opportunity for any person to submit written comments or request a public hearing. The parties agree that long-term groundwater monitoring shall be considered as one type of remedial action as contemplated by this Consent Decree.

27. Within 60 days following the NDEQ's final decision, Valmont shall submit to the NDEQ for review and approval a proposed Final Remedial Action Work Plan and implementation schedule for performance of the final remedial action selected by the NDEQ, to the extent necessary to assure compliance with the final ground water cleanup levels for zinc and sulfate.

28. Within 90 days of approval by NDEQ of the Final Remedial Action Work Plan, Valmont shall initiate activities in accordance with the approved plan and schedule and continue operations under this plan until final cleanup levels for the ground water have been achieved.

#### VIII. QUALITY ASSURANCE AND DATA AVAILABILITY



29. Concurrently with submittal of the Preliminary Detailed Site Assessment Report, if not before, Valmont shall prepare and submit to the NDEQ a Quality Assurance Project Plan (QAPP) that conforms to EPA guidance. The QAPP shall be subject to review and approval by NDEQ. Valmont shall ensure that work performed, samples collected and analyses conducted conform to the requirements for the QAPP.

30. All results of samplings, tests, modeling or other data, including raw data, generated by Valmont or on Valmont's behalf, pursuant to this Consent Order shall be submitted in the format prescribed by the NDEQ and in semi-annual progress reports.

31. Valmont shall notify the NDEQ at least 15 days in advance of all scheduled sampling events conducted pursuant to this Consent Order to provide an opportunity for the NDEQ to collect split samples. At the request of NDEQ, Valmont shall provide or allow NDEQ or its authorized representatives to take split samples of all samples collected by Valmont, its contractors or consultants, pursuant to this Consent Order.

#### IX. GROUND WATER MONITORING

32. Concurrently with submittal of the Preliminary Detailed Site Assessment Report, Valmont shall prepare and submit to NDEQ for review and approval a proposed ground water monitoring plan and schedule for the zinc and sulfate addressed in this Consent Order, including identification of specific monitoring wells, construction details, a map of the location, frequency of monitoring, sampling and analysis requirements, and compliance with the QAPP.

33. Valmont shall inspect the integrity of all ground water data collection points (including monitoring wells, piezometers, observation wells, etc.) and remediation system(s), if any, during each data collection event. Maintenance and inspection shall include the identification and prompt repair or replacement of wells or remediation system equipment due to

any type of damage or malfunction. Valmont shall inspect the ground water monitoring wells and assess their ability to continue to yield representative samples. These inspections and assessments shall be conducted in accordance with procedures outlined in the QAPP.

34. If the NDEQ determines that additional wells are required, Valmont shall install new ground water monitoring wells, observation wells, and/or piezometers in accordance with applicable regulations and standards.

35. Valmont shall submit written requests to the NDEQ prior to making any planned modifications to the ground water monitoring or remediation systems.

#### X. ACCESS

36. Valmont shall provide NDEQ and/or their authorized representatives access to the facility premises, at reasonable times, for purposes of overseeing accomplishment of the zinc and sulfate remediation activities including, but not limited to, the following: sampling or monitoring parameters, conducting contamination investigations, reviewing and/or copying records, performing compliance inspections, performing remedial action(s), and observing or monitoring the overall progress of the work conducted pursuant to plans approved under this Consent Order. NDEQ agrees to follow appropriate health and safety practice in accordance with NDEQ policy while on-site at the facility.

37. To the extent that access to property not presently owned or controlled by Valmont is necessary for any investigation or work required under this Consent Order, Valmont shall use its best efforts to obtain site access agreements from the present owners. Best efforts shall include, but not be limited to, agreement to reasonable conditions for access. Valmont shall notify the NDEQ as soon as possible in the event that any property owner refuses to provide such access.

38. Notwithstanding any provision of this Consent Order, NDEQ retains all of its access and information-gathering authorities and rights under the NEPA and other applicable statute and regulation.

#### XI. REVIEW AND APPROVAL OF WORK PLANS AND REPORTS

39. The following procedures shall apply to the review and approval of all work plans and reports required by this Consent Order:

A. The NDEQ shall provide good faith review of any technical issue by qualified personnel as expeditiously as practicable and provide timely notification to Valmont of the results of such review.

B. In the event that any submittal is disapproved, in whole or in part, or approved upon specified conditions, the NDEQ shall promptly send Valmont a notice of deficiency identifying those parts of the submittal that do not meet the terms of this Consent Order, any referenced guidance document, or schedule of implementation. Thereafter, Valmont shall amend and submit to the NDEQ a revised submittal and perform such additional or modified work in accordance with the NDEQ's determination within 30 days of receipt of the notice or such time as specified by the NDEQ in such notice, unless Valmont provides NDEQ with a written statement of dispute pursuant to Section XV.

C. Subject to any resolution of dispute, Valmont shall implement any necessary work required by such letter. If Valmont fails to submit an approvable document by the due date specified in the notice of deficiency or as provided in the resolution of the dispute, the NDEQ may modify the submission to cure the deficiencies without providing Valmont further opportunity to revise its submission and require implementation accordingly.

40. All work plans, reports, and other items required to be submitted to the NDEQ under this Consent Order shall, upon approval or modification by the NDEQ, be enforceable under this Consent Order.

## XII. PROGRESS REPORTS

41. Beginning with the effective date of this Consent Order and unless superseded by a final remedial action decision or termination of this Consent Order, Valmont shall submit written progress reports to the NDEQ, on at least a semi-annual basis unless a less frequent monitoring schedule is approved by the NDEQ, containing at a minimum the following information:

A. A summary of all activities undertaken during the reporting period to comply with the Consent Order,

B. All results of sampling and tests and all other data gathered or received during the reporting period in the furtherance of this Consent Order,

C. A description of work planned for the next reporting period, and

D. A description of all problems encountered and steps taken to resolve these problems, and any anticipated problems.

## XIII. RECORD PRESERVATION

43. Valmont agrees that it will preserve, during the pendency of this Consent Order and for a minimum of at least 3 years after its termination, all data, records and documents in its possession or in the possession of its agents, contractors, successors, and assigns which relate in any way to Valmont's obligations under this Consent Order. The retention period for all required records is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the NDEQ.

## XIV. NOTIFICATION

44. Unless otherwise specified, all reports, notifications, correspondence, or other submittals relating to or required under this Consent Order shall be in writing and shall be sent as follows:

A. Two copies of all documents to be submitted to NDEQ shall be sent to:

Mike Felix  
Remediation Section  
Waste Management Division  
Nebraska Department of Environmental Quality  
1200 N Street, Suite 400  
P.O. Box 98922  
Lincoln, NE 68509-8922

B. Documents to be submitted to Valmont shall be sent to:

William R. Taylor  
Director, Environmental, Health and Safety  
Valmont Industries, Inc.  
P.O. Box 358  
Valley, NE 68064-0358

#### XV. DISPUTE RESOLUTION

45. Any disputes concerning work required by this Consent Order and for which dispute resolution has been expressly provided for, shall be resolved in accordance with the procedures in this Section. In addition, during the pendency of any dispute, following the issuance of a notice of deficiency or other notice of matters subject to dispute resolution, Valmont shall continue to implement those portions of the Consent Order that are not in dispute.

46. NDEQ and Valmont, through their respective Project Managers, shall at all times attempt to resolve informally all disputes related to implementation of this Consent Order.

47. If Valmont objects to any notice of deficiency or other notice relating to matters subject to dispute resolution, Valmont shall provide NDEQ's Project Manager with a written

statement of dispute, stating the specific objections and the specific reasons therefore within 15 days of receipt of said notice.

48. The NDEQ and Valmont shall then have an additional 15 days to reach a mutual resolution. If agreement is reached between the parties, it shall be memorialized in writing and signed by both parties. Valmont agrees to implement the agreement as so resolved.

49. If a mutual resolution is not reached within these 14 days, the NDEQ Division Administrator for the Waste Management Division shall review the dispute, request any additional information from Valmont as necessary, and provide an opportunity for a meeting or a telephone conference with Valmont or its representatives. The Division Administrator shall provide a written decision on the dispute, setting forth the reasons for the determination. Unless Valmont requests review by the Director of NDEQ within 7 days of receipt of the written decision by the NDEQ Division Administrator, Valmont shall proceed in accordance with the decision of the NDEQ Division Administrator.

50. If within 7 days of receipt of the written decision by the NDEQ Division Administrator, Valmont requests, in writing, a review by the Director of NDEQ, the Director shall take into account any additional information submitted by Valmont and shall provide an opportunity for a meeting or a telephone conference with Valmont or its representatives. Valmont shall proceed in accordance with the written decision of the Director of NDEQ resolving the dispute; subject to Valmont's reservation of rights under paragraph 53 hereof.

51. The deadline for completion of any work directly affected by such a dispute shall be extended for a period of time equal to the actual time taken to resolve the dispute in accordance with the procedures of this Section or such other time as is determined by the NDEQ. Valmont is not relieved of its obligations to perform work and conduct activities and submit documents

unaffected by the dispute in accordance with the schedules set forth in any approved work plan, while a matter is pending in dispute resolution.

## XVI. RESERVATION OF RIGHTS

52. The NDEQ expressly reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Valmont's activities under this Consent Order, including but not limited to, seeking legal or equitable relief to enforce the terms of this Consent Order as the NDEQ deems necessary and appropriate, or to seek penalties for violation of any terms of the Consent Order.

53. In any such action by the NDEQ to enforce the terms of this Consent Order, Valmont agrees that it will not contest the basis or validity of this Consent Order or its terms; provided, however, that Valmont may raise any legal, equitable or other defense due to impossibility of performance, *force majeure* or other appropriate grounds for delayed or non-performance hereunder. In addition, Valmont expressly reserves all rights it may have to oppose and defend against any and all claims and actions asserted by the NDEQ in any other action except an action to enforce the provisions of this Consent Order.

54. Except as provided under a final NDEQ Termination and Satisfaction determination under paragraph 63 hereof, this Consent Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which the NDEQ has under NEPA or any other statutory, regulatory, or common law authority.

55. The NDEQ reserves the right to disapprove any work performed by Valmont pursuant to this Consent Order and to request or direct that Valmont perform additional tasks.

56. Pursuant to NEPA, and any rules and regulations promulgated thereunder, the NDEQ reserves the right to require Valmont to perform additional investigation, remediation, or other

work necessary to accomplish the objectives of this Consent Order based upon the requisite findings specified under NEPA or applicable law. In the event that such a determination is made, the NDEQ shall promptly notify Valmont in writing of such determination along with a description of the required additional work and a reasonable proposed schedule for implementation. Valmont shall respond to NDEQ's notice within 15 days of receipt of NDEQ's request for additional work.

57. Nothing in this Consent Order shall be construed to prevent the NDEQ from taking any action authorized by law or to require further actions or additional work at the site pursuant to applicable law.

58. The parties agree that Valmont shall have the right to appeal the establishment of final cleanup levels, but such appeal shall not delay remedial action under the Consent Order.

#### XVII. OTHER APPLICABLE LAWS

59. All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Valmont shall obtain or require its authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

60. The NDEQ may at any time request additional information in furtherance of the objectives of this Consent Order.

#### XVIII. INDEMNIFICATION

61. Except with respect to any claims or causes of action arising from or relating to the NDEQ's and/or the State's errors, omissions or gross negligence, Valmont agrees to hold the State of Nebraska, its agencies, departments, employees, and independent contractors harmless and to indemnify the State of Nebraska for any and all claims or causes of action including, but



not limited to, claims for property damage or personal injury arising from or on account of acts or omissions of Valmont, its employees, agents, successors, assignees, contractors, or any other persons, in carrying out activities under this Consent Order.

62. The State of Nebraska, any agency, or authorized representative shall not be deemed a party to any contract involving the Facility and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of the Facility, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

#### XIX. NEGATION OF AGENCY RELATIONSHIP

63. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the NDEQ and Valmont. The NDEQ is not authorized to represent or act on behalf of Valmont in any matter relating to the subject matter of this Consent Order and Valmont is not authorized to represent or act on behalf of NDEQ in any matter relating to the subject matter of this Consent Order.

#### XX. AMENDMENT

64. This Consent Order may only be amended by a mutual written agreement between the parties, signed by an authorized representative of each party.

#### XXI. TERMINATION AND SATISFACTION

65. The provisions of this Consent Order shall be deemed satisfied upon Valmont's receipt of written notice from the NDEQ that Valmont has demonstrated, to the satisfaction of the NDEQ, that the terms of this Consent Order, including any additional tasks determined by the NDEQ to be required pursuant to this Consent Order, have been satisfactorily completed. Upon termination of this Consent Order, Valmont shall be deemed to have fulfilled its

obligations and have no further liability under this Consent Order and Title 118 with respect to the NDEQ's findings of fact and conclusions of law set forth in paragraphs 11 through 17 hereof.

## XXII. EFFECTIVE DATE

64. The effective date of this Consent Order shall be the date on which Valmont receives a true and correct copy of the fully executed Consent Order.

IT IS SO AGREED:

DATE: June 26, 2010

BY: /s/ Terry J. McClain

Terry J. McClain

Senior Vice President and Chief Financial Officer

Valmont Industries, Incorporated

IT IS SO AGREED AND ORDERED:

DATE: August 2, 2010

BY: /s/ Michael J. Linder

Michael J. Linder

Director

Nebraska Department of Environmental

Quality