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June 23, 2026

7:47AM

U.S. EPA REGION 7  
HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

|                                         |   |                                          |
|-----------------------------------------|---|------------------------------------------|
| In the Matter of:                       | ) |                                          |
|                                         | ) | Docket No. CWA-07-2026-0067              |
| Heidelberg Materials US Cement LLC      | ) |                                          |
|                                         | ) |                                          |
| Respondent.                             | ) | Findings of Violation and Administrative |
|                                         | ) | Order for Compliance on Consent          |
| Proceedings under Section 309(a) of the | ) |                                          |
| Clean Water Act, 33 U.S.C. § 1319(a)    | ) |                                          |
|                                         | ) |                                          |

**Preliminary Statement**

1. The following Findings of Violation and Administrative Order for Compliance on Consent (Order) are made and issued pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The authority to issue this Order has been duly delegated to the Director of the Enforcement and Compliance Assurance Division of EPA, Region 7.

2. Respondent is Heidelberg Materials US Cement LLC (Respondent), a limited liability company doing business in the state of Iowa.

3. EPA, together with Respondent, enter into this Order to address alleged violations of the CWA and National Pollutant Discharge Elimination System (NPDES) permits at Respondent's cement manufacturing facility in Mason City, Iowa (Facility). The parties have reached agreement on actions and timeframes for Respondent to attain compliance, which are set forth in Paragraphs 108 through 121, below.

4. By entering into this Order, Respondent: (1) consents to and agrees not to contest EPA's authority or jurisdiction to issue or enforce this Order; (2) consents to personal service of this Order by electronic mail; (3) agrees to undertake all actions required by the terms and conditions of this Order; (4) consents to be bound by the requirements set forth herein; and (5) waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including, but not limited to, any right of judicial review of this Order under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

5. The provisions of Paragraph 4 notwithstanding, Respondent reserves its right to contest any issue of fact or law in and to defend any proceeding seeking to assess or impose any civil judicial or administrative penalty upon Respondent in connection with any alleged violation of the CWA or NPDES permits for the Facility, whether set forth in this Order or otherwise.

6. Respondent admits this Order’s jurisdictional allegations and neither admits nor denies this Order’s factual allegations and Findings of Violation.

### **Statutory and Regulatory Background**

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the CWA establishes the NPDES program and requires an NPDES permit for the discharge of pollutants.

8. The CWA prohibits the discharge of “pollutants” from a “point source” into a “navigable water” of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

9. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth the requirements for the issuance of NPDES permits for the discharge of stormwater. It requires, in part, that a discharge of stormwater associated with industrial activity must comply with the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

10. Pursuant to Section 402(p) of the CWA, 33, U.S.C. § 1342(p), EPA promulgated regulations at 40 C.F.R. § 122.26 that set forth the NPDES permit requirements for stormwater discharges.

11. 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(c) require dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

12. Included in the categories of facilities considered to be engaging in industrial activity are facilities classified within Standard Industrial Classification (SIC) Group 32, which covers concrete products and includes SIC Code 3241, which applies to hydraulic cement manufacturing including portland cement.

13. The Iowa Department of Natural Resources (IDNR) is the state agency with the authority to administer the federal NPDES program in Iowa pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

14. On September 1, 2019, IDNR issued Lehigh Cement Company LLC<sup>1</sup> an NPDES permit identified as Iowa permit no. 1750113 and as EPA permit no. IA0072907 for stormwater discharges to the Winnebago River from the cement kiln dust remediation site (Winnebago River Permit). The Winnebago River Permit expired on August 31, 2024; however, IDNR has administratively extended the Permit pending renewal. Therefore, the Permit remains in effect until IDNR issues a renewed permit.

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<sup>1</sup> In January 2023, Respondent changed its name from Lehigh Cement Company LLC to Heidelberg Materials US Cement LLC.

15. On February 1, 2022, IDNR issued Lehigh Cement Company LLC an NPDES permit identified as Iowa permit no. 1700100 and as EPA permit no. IA0001945 (Calmus Creek Permit), which expires on January 31, 2027. On May 1, 2024, IDNR issued Respondent an amendment to Calmus Creek Permit, which updated facility and owner information; removed certain outfalls and associated monitoring requirements, added a monthly effluent monitoring requirement for temperature at Outfalls 002, 005 and 006; revised schedule dates; and made other minor changes. Calmus Creek Permit authorizes landfill leachate, wastewater, stormwater, and noncontact cooling water discharges to Calmus Creek.

16. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that, whenever EPA finds that any person is in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or is in violation of any condition or limitation implementing Section 301 of the CWA in a NPDES permit, EPA shall issue an order requiring such person to comply with Section 301 or such permit requirements, or bring a civil action under Section 309(b) of the CWA, 33 U.S.C. § 1319(b). Section 309(a)(5) of the CWA, 33 U.S.C. § 1319(a)(5), requires that any such order shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

### **Definitions**

17. Terms used in this Order that are defined in the CWA, regulations promulgated under the CWA, or applicable NPDES Permits issued to Respondent for the Facility have the meanings assigned to them in the CWA, regulations, or applicable NPDES Permits unless otherwise provided in this Order.

18. “Day” or “days” means a calendar day or calendar days unless expressly stated to be a business day. In computing any period of time under this Order, should the last day fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

19. Section 502(12)(A) of the CWA, 33 U.S.C. § 1362(12)(A), defines “discharge of a pollutant,” as any addition of any pollutant to navigable waters from any point source.

20. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines “navigable waters,” in part, as the waters of the United States.

21. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines “person” as an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

22. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines “point source,” as any discernible, confined and discrete conveyance from which pollutants are or may be discharged.

23. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines “pollutant,” as dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

24. 40 C.F.R. § 122.26(b)(14) defines “stormwater discharge associated with industrial activity” as the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing, or raw material storage areas at an industrial plant.

### **Findings of Fact and Conclusions of Law**

25. Respondent is a limited liability company and is therefore a “person” as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

26. Respondent owns and operates the Facility, which is a portland cement manufacturing facility and cement kiln dust remediation site located at 700 25<sup>th</sup> Street Northwest in Mason City, Iowa.

27. The Facility includes a cement manufacturing plant, stockpiles of raw materials, a landfill, an open pit quarry, a wastewater treatment plant, and cement kiln dust remediation site encompassing approximately 345 acres located along the bank of Calmus Creek, which flows to the Winnebago River.

28. As part of the cement manufacturing process, Respondent uses limestone, clay, foundry sands, coal ash and blast furnace slag as raw material inputs, coal and natural gas as traditional fuels, and seed including corn seed treated with pesticides as an alternative fuel. Limestone and clay are mined from the open pit quarry on the northwest corner of the Facility.

29. Wastewater and/or stormwater from the Facility may include *E. coli*, ammonia, constituents which affect pH and carbonaceous biochemical oxygen demand (CBOD), chloride, suspended solids, minerals, dust, volatile compounds, heavy metals, coal fines, toxic metals such as chromium and cadmium, oil and grease, and pesticides from treated seed.

30. Wastewater and stormwater discharges from the Facility contain “pollutants” as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

31. Respondent’s Calmus Creek Permit authorizes the discharge of pollutants through at least eight designated outfalls to Calmus Creek, and Respondent’s Winnebago River Permit authorizes the discharge of pollutants through one designated outfall to the Winnebago River (collectively, the NPDES Permits).

32. Calmus Creek, a perennial water, flows into the Winnebago River, a traditional navigable water, approximately one and a quarter (1.25) miles downstream of the Facility. The Winnebago River flows approximately twenty-one (21) miles into the Shell Rock River, a traditional navigable water.

33. Calmus Creek, Winnebago River, and Shell Rock River are perennial waterbodies with year-round flow.

34. Calmus Creek and the Winnebago River are “navigable waters” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

35. IDNR designated Calmus Creek and the Winnebago River as Class A1 primary contact recreation waterbodies, which means the waters’ presumed recreational uses include full body immersion with prolonged and direct contact with the water, such as swimming and water skiing. Both waterbodies are impaired pursuant to Section 303(d) of the CWA, 33 U.S.C. § 1313. Calmus Creek is impaired for biological reasons due to a low biotic index for fish and macroinvertebrates, and the Winnebago River is impaired due to elevated bacteria (*E. coli*).

36. The Facility contains “stormwater discharges associated with industrial activity” as defined by 40 C.F.R. § 122.26(b)(14), and “point sources” as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

37. Discharges from wastewater and stormwater runoff result in the addition of pollutants from point sources to navigable waters and thus is the “discharge of pollutants” as defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

38. Respondent’s discharge of pollutants associated with an industrial activity, as defined by 40 C.F.R. § 122.26(b)(14), requires a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

39. Calmus Creek Permit, Part III, requires Respondent to update and implement a Stormwater Pollution Prevention Plan (SWPPP). The purpose of the SWPPP is to ensure the design, implementation, management, and maintenance of Best Management Practices in order to reduce the amount of pollutants in stormwater discharges associated with industrial activities at the Facility. It further requires the Facility to implement the provisions of the SWPPP as a condition of the Permit.

40. On November 14 through 17, 2022, and on May 19 through 21, 2025, EPA conducted inspections of the Facility pursuant to Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to evaluate Respondent’s compliance with the Permits and CWA (the Inspections).

41. During the Inspections, EPA inspectors reviewed Respondent’s records and obtained copies of documents related to the Permits, including Discharge Monitoring Reports (DMRs), the Facility’s SWPPP, and inspection records. The EPA inspectors also toured the Facility, observed discharge locations, and took photographs and videos.

42. EPA emailed Respondent copies of the Inspection reports on February 22, 2023, and July 16, 2025, respectively.

**Findings of Violation**

**Count 1**

**Failure to Comply with Effluent Limitations**

43. The facts stated above are herein incorporated by reference.

44. Respondent violated the effluent limits of the Calmus Creek Permit as described in the chart below.

| Location and Parameter                                   | Monitoring Period | Permitted Effluent Limit | Respondent's Reported Value |
|----------------------------------------------------------|-------------------|--------------------------|-----------------------------|
| Outfall 001: Total Suspended Solids (TSS) 30-Day Average | 3/2022            | 30 mg/L                  | 50 mg/L                     |
| Outfall 001: TSS Daily Maximum                           | 3/9/2022          | 45 mg/L                  | 50 mg/L                     |
| Outfall 012: TSS Daily Maximum                           | 9/17/2025         | 50 mg/L                  | 52 mg/L                     |

45. Respondent violated the effluent limits of the Winnebago River Permit as described in the chart below.

| Location and Parameter           | Monitoring Period | Permitted Effluent Limit | Respondent's Reported Value |
|----------------------------------|-------------------|--------------------------|-----------------------------|
| Outfall 001: Iron 30-Day Average | 5/2022            | 1 mg/L                   | 1.06 mg/L                   |
| Outfall 001: Iron Daily Maximum  | 5/10/2022         | 1 mg/L                   | 1.44 mg/L                   |
| Outfall 001: Iron Daily Maximum  | 5/10/2022         | 6.67 lbs/day             | 8.61 lbs/day                |
| Outfall 001: TSS 30-Day Average  | 3/2023            | 30 mg/L                  | 56.38 mg/L                  |
| Outfall 001: TSS Daily Maximum   | 3/27/2023         | 45 mg/L                  | 106 mg/L                    |
| Outfall 001: TSS 30-Day Average  | 9/2024            | 30 mg/L                  | 89.1 mg/L                   |
| Outfall 001: TSS Daily Maximum   | 9/9/2024          | 45 mg/L                  | 89.1 mg/L                   |
| Outfall 001: TSS 30-Day Average  | 9/2025            | 30 mg/L                  | 38 mg/L                     |
| Outfall 001: TSS Daily Maximum   | 9/22/2025         | 45 mg/L                  | 47 mg/L                     |
| Outfall 001: TSS 30-Day Average  | 10/2025           | 30 mg/L                  | 46 mg/L                     |
| Outfall 001: TSS Daily Maximum   | 10/6/2025         | 45 mg/L                  | 46 mg/L                     |
| Outfall 001: TSS 30-Day Average  | 12/2025           | 30 mg/L                  | 31 mg/L                     |
| Outfall 001: TSS Daily Maximum   | 12/1/2025         | 45 mg/L                  | 76 mg/L                     |

46. Respondent's failures to comply with the NPDES Permits' effluent limitations are violations of Section 301(a) of the CWA, 33 U.S.C. § 1311, and the conditions and limitations of the NPDES Permits.

**Count 2**  
**Failure to Comply with Monitoring and Reporting Requirements**

47. The facts stated above are herein incorporated by reference.
48. Calmus Creek Permit, Condition (a) of Monitoring and Reporting Requirements, requires that “samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.” Representative sampling ensures that the sample reflects the quality, chemistry, and composition of the discharge, and prevents misleading, inaccurate data. In addition to determining compliance with effluent limits, representative sampling ensures that stormwater controls can be accurately evaluated and updated as needed, as required by Part III of the Calmus Creek Permit.
49. The Calmus Creek Permit requires the following wastewater parameter sampling:
- a. Outfall 002: collect quarterly grab samples of pH and TSS from final effluent during qualifying storm event;
  - b. Outfall 006: collect grab sample of pH once (1) per month from final effluent and conduct quarterly visual inspection of stormwater from final effluent during qualifying storm event;
  - c. Outfall 007: collect quarterly grab samples of pH and TSS from final effluent during qualifying storm event; and
  - d. Outfall 012: collect quarterly grab samples of pH and TSS from final effluent during qualifying storm event.
50. EPA’s 2025 Inspection documented that Respondent was collecting samples that were not representative of the volume and nature of discharges. Specifically, the Inspection documented that:
- a. Respondent collected samples for Outfalls 006 and 007 within Calmus Creek, which dilutes the samples such that they were not representative of the effluent discharging from those Outfalls; and
  - b. Respondent’s chosen sampling location for Outfall 012, south of the craneway at the intersection of multiple drainage channels, was upstream from the sampling location identified in the SWPPP and did not capture stormwater runoff from pollutant sources located downstream, including runoff from the southwest corner of the coal pile.
51. Calmus Creek Permit, Condition (e) of Monitoring and Reporting Requirements, requires the results of all monitoring to be recorded on forms provided by, or approved by, IDNR and to be submitted to the appropriate regional field office of the department by the fifteenth (15th) day following the close of the reporting period. Reporting is on a monthly basis, ending on the last day of each reporting period.
52. The Calmus Creek Permit requires the following wastewater parameter sampling frequencies and locations for Outfall 001:

- a. Biochemical Oxygen Demand (BOD5): one (1) twenty-four (24) hour composite sample every six (6) months from raw waste (i.e., influent);
- b. Carbonaceous Biochemical Oxygen Demand (CBOD5): one (1) twenty-four (24) hour composite sample every three (3) months from effluent prior to disinfection;
- c. pH: one (1) grab sample every three (3) months from final effluent (after disinfection but prior to mixing with stormwater runoff from Outfall 012);
- d. TSS: one (1) twenty-four (24) hour composite sample every three (3) months from effluent prior to disinfection;
- e. Chloride: one (1) twenty-four (24) hour composite sample every week from final effluent (after disinfection but prior to mixing with stormwater runoff from Outfall 012);

53. Respondent violated the monitoring and reporting requirements of the Calmus Creek Permit as described in the chart below.

| Location and Parameter           | Reporting Period          | Reporting Due Date | Violation                                                                                                                         |
|----------------------------------|---------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Outfall 001: CBOD                | April - June 2022         | 7/15/2022          | Submitted on 3/7/2024; late submittal by over one year and seven months                                                           |
| Outfall 001: CBOD                | July - Sept 2022          | 10/15/2022         | Submitted on 3/7/2024; late submittal by over one year and four months                                                            |
| Outfall 001: pH, CBOD, TSS       | Oct - Dec 2022            | 1/15/2023          | Submitted on 3/7/2024; late submittal by over one year and one month                                                              |
| Outfall 001: pH, CBOD, TSS       | Jan - March 2023          | 4/15/2023          | Failed to report pH results for the entire quarter; TSS and CBOD results submitted on 3/7/2024, late submittal by over ten months |
| Outfall 001: pH, CBOD, TSS       | April - June 2023         | 7/15/2023          | Submitted on 3/7/2024; late submittal by over seven months                                                                        |
| Outfall 001: pH, CBOD            | Oct - Dec 2023            | 1/15/2024          | Submitted on 3/7/2024; late submittal                                                                                             |
| Outfall 001: Chloride            | Nov 22 2024 - Nov 28 2024 | 12/15/2024         | Failed to report results                                                                                                          |
| Outfall 001, Raw Waste: TSS, BOD | Jan - June 2025           | 7/15/2025          | Failed to report results                                                                                                          |
| Outfall 001, Raw Waste: TSS, BOD | July - Dec 2025           | 1/15/2026          | Failed to report results                                                                                                          |

54. Respondent's failures to comply with the monitoring and reporting requirements described above are violations of the conditions and limitations of the Calmus Creek Permit.

### **Count 3**

#### **Failure to Update SWPPP and/or Inadequate SWPPP**

55. The facts stated above are herein incorporated by reference.

56. Calmus Creek Permit, Part III, Keeping Plans Current, Condition 1, requires Respondent to amend the SWPPP "whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the potential for the discharge of pollutants to waters of the United States or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing the discharge of pollutants from sources identified under Part III.A.2 of this permit, or in otherwise achieving the general objectives of controlling pollutants in stormwater discharges associated with industrial activity."

57. Calmus Creek Permit, Part III.A.2.a, requires the SWPPP to include a site map that includes, at a minimum: the location of all structures (manufacturing buildings, garages, etc.); impervious areas; the location of each stormwater outfall and/or connection to the municipal storm sewer; types of discharges included in each discharge; an outline of the portions of the drainage area of each outfall within the Facility boundaries and a prediction of the direction of flow in each area; each existing structural control measure to reduce pollutants in stormwater runoff; surface water bodies; locations where materials are exposed to precipitation; and location of major spills or leaks identified under Part III.A.2.c of the Calmus Creek Permit. The map shall also indicate the locations of the following activities: any bag house or other air pollution control device; the portion of the site where regular sweeping or equivalent housekeeping measures will be implemented to prevent the accumulation of spilled materials or settled dust; fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for treatment, storage, or disposal of wastes; storage tanks and other containers; processing and storage areas; access roads; rail cars and tracks; the location of transfer of substances in bulk; and machinery.

58. EPA's Inspections documented that Respondent's SWPPP and site map were missing information and not accurate and/or updated. EPA's Inspections documented that from at least 2022 through 2025, Respondent's SWPPP and site map did not identify the locations of all structures, outfalls, stormwater drainage areas, structural control measures, storage tanks and other containers, loading/unloading areas, locations of transfer of substances in bulk, locations used for the treatment, storage or disposal of wastes, and all surface water bodies.

59. Specifically, EPA's Inspections documented that the SWPPP and site map did not identify:

- a. all outfalls discharging to Calmus Creek, including at least three outfalls located along the west side of the west haul road running northwest to the landfill; a drainage pipe discharging stormwater runoff from the southwest parking lot; and runoff from the main entrance/exit driveway of the manufacturing plant

discharging to West 25<sup>th</sup> Street North;

- b. seed loading and unloading areas; and
- c. all sedimentation basins, including the basins receiving runoff from the north material storage and loading areas and the basins leading to Outfall 007.

60. Specifically, EPA's Inspections documented that the SWPPP and site map were inaccurate and not updated as follows:

- a. the drainage area identified for Outfall 012 was not accurate based on the topography of the area;
- b. the locations of Outfalls 001 and 002 were not labeled and/or in the wrong location on the site map; and
- c. a large area of Calmus Creek near Outfalls 006 and 007 was inaccurately identified as a freshwater pond.

61. Respondent's failures to update and include all required information in the SWPPP and site map are violations of the conditions and limitations of the Calmus Creek Permit.

#### **Count 4**

##### **Failure to Identify Pollutant Sources and Significant Materials**

62. The facts stated above are herein incorporated by reference.

63. Calmus Creek Permit, Part III.A.2, requires the Facility's SWPPP to describe the potential sources which may reasonably be expected to add pollutants to stormwater discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the Facility, and to identify all activities and significant materials that may potentially be pollutant sources.

64. Calmus Creek Permit, Part III.A.2.b, requires the SWPPP to include an inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of "significant materials" that have been handled, treated, or disposed of in a manner to allow exposure to stormwater beginning from three years prior to the issuance of this permit, method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with stormwater runoff beginning three years prior to the issuance of this permit to the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in stormwater runoff; and a description of any treatment the stormwater receives.

65. Calmus Creek Permit, Part V.3, defines "significant materials" as including but not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any chemical the Facility is required to report pursuant to Emergency Planning and Community Right-to-Know Act Section 313;

fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

66. Calmus Creek Permit, Part III.A.2.e, requires the SWPPP to include a narrative description of the potential pollutant sources from the following: loading, unloading, and transfer of chemicals; outdoor storage of salt, pallets, coal, drums, containers, fuels, or other materials; outdoor manufacturing or processing activities; significant dust or particulate generating processes; fueling stations; vehicle and equipment maintenance and/or cleaning areas; locations used for the treatment, storage or disposal (on or off site) of wastes and wastewater; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; the location of transfer of substances in bulk; and machinery. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., total suspended solids) of concern shall be identified, and shall consider factors such as the quantity of chemicals used, produced, or discharged, the likelihood of contact with stormwater and the history of significant leaks or spills, and flows with a significant potential for causing erosion shall be identified.

67. EPA's Inspections documented that Respondent did not describe several pollutant sources and significant materials, and pollutants or pollutant parameters of concern in the Facility's SWPPP, including:

- a. stormwater outfalls discharging to Calmus Creek, including at least three outfalls located along the west side of the west haul road running northwest to the landfill, a drainage pipe discharging stormwater runoff from the southwest parking lot, and a curb inlet discharging runoff from the main entrance/exit driveway of the manufacturing plant;
- b. seed treated with pesticides and associated dust, which EPA documented on the ground exposed to stormwater during the 2025 Inspection and which EPA concluded may discharge with stormwater through Outfalls 002, 005 and 012;
- c. coal pile stored outside containing potential pollutants such as constituents which can affect pH, suspended solids, minerals, and dissolved metals that may be discharged through Outfalls 002 and 012. During the 2025 Inspection, EPA observed coal fines in the drainage channel leading to Outfall 012 and in the channel downstream from Outfall 012;
- d. drums containing antifreeze and unlabeled drums containing used oil stored outside;
- e. piles of bulk dry materials stored outside near the craneway and inside the craneway that may contribute suspended solids and other pollutants to stormwater;
- f. dust suppressant chemicals, including asphalt-based products, applied throughout outdoor areas; and
- g. dust, gypsum, and clinker as potential pollutant sources affecting pH and potentially contributing other pollutants.

68. Respondent's failures to describe in the SWPPP all potential sources which may reasonably be expected to add pollutants to stormwater discharges, and to identify all activities and significant materials that may potentially be pollutant sources and associated pollutants or pollutant parameters of concern, are violations of the conditions and limitations of the Calmus Creek Permit.

### **Count 5**

#### **Failure to Implement and Maintain Controls and/or Inadequate Controls**

69. The facts stated above are herein incorporated by reference.

70. Calmus Creek Permit, Part III, requires Respondent to prepare the SWPPP in accordance with good engineering practices.

71. Calmus Creek Permit, Part III.A.3, requires Respondent to develop in the SWPPP a description of stormwater management controls appropriate for the Facility, and implement such controls. The appropriateness and priorities of controls in a Plan shall reflect identified potential sources of pollutants at the Facility.

72. Calmus Creek Permit, Part III.A.3.b, requires Respondent's SWPPP to consider the potential of various sources at the Facility to contribute pollutants to stormwater discharges associated with industrial activity when determining reasonable and appropriate structural measures. The Plan shall provide that measures that Respondent determines to be reasonable and appropriate shall be implemented and maintained.

73. EPA's Inspections documented that Respondent's SWPPP did not describe, and Respondent had not implemented, stormwater control measures appropriate for the Facility and has not maintained existing controls. Specifically:

- a. there were no and/or inadequate control measures implemented for the pollutant sources and significant materials described in Paragraph 67, above;
- b. there were no control measures implemented to reduce the discharge of pollutants in stormwater runoff at certain storm drains and sewer inlets, such as those documented in Attachment 1 of EPA's 2025 Inspection report;
- c. there were no control measures implemented to reduce the discharge of pollutants from the hoop house and the area south of the palletizer building, which contained exposed treated seed and stockpiled materials. During the 2025 Inspection, EPA documented turbid stormwater runoff from these areas flowing in the general direction of Outfall 002;
- d. there were inadequate control measures to prevent the discharge of stored or spilled material and to ensure the mitigation of pollutants in runoff. During the 2025 Inspection, EPA documented refuse derived fuel feed material present in a storm sewer inlet and along the banks of Calmus Creek, drums stored uncovered outdoors without spill prevention measures, a trash dumpster overflowing, and waste on the ground at the trash dumpster and in the discharge channel for Outfall 012;

- e. there were inadequate control measures for treating pH in runoff, including from sources that would affect pH such as dust, limestone, clinker and coal fines;
- f. control measures were not installed and/or implemented to effectively reduce stormwater pollution, including straw wattles located at drain inlets and channels that were installed incorrectly, and concrete barriers that contained gaps which resulted in stormwater bypassing the controls, as documented during EPA's 2025 Inspection;
- g. certain selected control measures were not appropriate to effectively reduce stormwater pollution in accordance with good engineering practices, including the use of wattles on storm sewer inlets which were not suitable/appropriate for use on impervious surfaces and the floating booms at Outfalls 006 and 007 which were ineffective at reducing solids prior to discharge, as documented during the 2025 Inspection. In addition, Appendix C of the SWPPP states that, as best management practices, Respondent shall "maintain culverts and storm drains for free flow of storm water" and "remove sediment from...storm drains...as needed." Removing sediment from culverts and storm drains on an as needed basis is not a good engineering practice to effectively reduce the discharge of pollutants because the control measures should be implemented prior to pollution reaching the storm drains or culverts;
- h. SWPPP Section 2.7 states "storm water routed to sedimentation basins is passively treated by infiltration." However, during the 2025 Inspection, EPA documented that stormwater routed to the sediment basins upstream of Outfall 007 did not provide adequate detention time for settling solids, especially during rain events, and thus the control measure did not effectively reduce the discharge of pollutants; and
- i. material from conveyors operating above the sedimentation basins leading to Outfall 007 had fallen into the basins and accumulated in piles as documented by EPA during the 2025 Inspection.

74. Respondent's failures to develop, implement and maintain stormwater controls appropriate for the Facility in accordance with good engineering practices are violations of the conditions and limitations of the Calmus Creek Permit.

### **Count 6**

#### **Failure to Develop and Implement a Preventative Maintenance Program**

75. The facts stated above herein are incorporated by reference.

76. Calmus Creek Permit, Part III.A.3.a.(2), requires Respondent to develop in the SWPPP and implement a preventative maintenance program that includes timely inspections and maintenance of stormwater management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

77. Calmus Creek Permit, Standard Condition 9, requires Respondent to operate all facilities and control systems as efficiently as possible and maintain them in working order.

78. EPA's Inspections documented that Respondent did not develop a preventative maintenance program that includes timely inspections and maintenance of equipment and systems to ensure appropriate maintenance of such equipment and systems. Specifically, Respondent's SWPPP did not provide a schedule for maintenance of identified control measures or timelines for taking corrective actions. As examples, Section 3.3 of the SWPPP states control measures will be inspected "on a regular basis," and "if excessive sediment accumulation is noted such that the performance of a basin would soon be compromised, then accumulated sediment will be removed" and "diversion filter berms will be utilized as necessary to slow the flow of storm water in erodible areas and to minimize suspended solids in storm water run off." These actions did not provide for timely inspections and maintenance because they (1) did not specify when inspections will occur; (2) did not specify when conditions warrant maintenance actions (e.g., depth of sediment in basin); and (3) did not provide a schedule for taking corrective actions after identification of a maintenance issue.

79. EPA's Inspections documented that Respondent did not implement a preventative maintenance program that includes timely inspections and maintenance of equipment and systems to ensure they were operated as efficiently as possible in working order. Specifically:

- a. Respondent's stormwater site inspections identified maintenance needs for control measures that were repeated and unaddressed throughout 2024. Respondent's 2024 inspections in May, September, and November identified similar control measure deficiencies, such as ineffective straw wattles and silt fencing in disrepair downslope of the coal pile; inlets buried under heavy solids deposits; straw wattles needing repair or replacement; runoff bypassing controls; and trash and debris on the ground. Also, the inspector noted in some reports the need to find better controls for addressing coal in runoff, but Respondent did not take corrective actions to implement more effective controls. EPA also documented these maintenance needs during the 2025 Inspection.
- b. there were many structural controls damaged, degraded, or not operating correctly and in need of repair and/or replacement. Examples include silt fencing that had collapsed on top of a storm sewer inlet and straw wattles that were damaged and covered in debris. EPA's Inspections documented many areas where stormwater runoff was bypassing inlet controls.
- c. EPA's 2025 Inspection documented several storm sewer drains that were clogged, which caused water to pool on top of the drains and may result in stormwater runoff flowing to other areas of the site that may not be designed to treat increased stormwater flows and associated pollutants.
- d. EPA's 2025 Inspection documented a large hole in the roof of the building where seed was being processed, which could allow dust containing pesticides from seed processing to be emitted onto the roof where it could accumulate and be exposed to precipitation.

80. Respondent's failures to develop and implement a preventative maintenance program that includes timely inspections and maintenance of stormwater management devices are violations of the conditions and limitations of the Calmus Creek Permit.

**Count 7**  
**Failure to Conduct Good Housekeeping**

81. The facts stated above are herein incorporated by reference.

82. Calmus Creek Permit, Part III.A.3.a.(1), requires Respondent to include in the SWPPP and implement a program to maintain areas that may contribute pollutants to stormwater discharges in a clean, orderly manner. At a minimum, Respondent shall prevent or minimize the discharge of spilled cement, aggregate (including sand or gravel), kiln dust, fly ash, settled dust or other significant materials in stormwater from paved portions of the site that are exposed to stormwater. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The SWPPP shall indicate the frequency of sweeping or other measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation. Further, the Facility shall prevent the exposure of fine granular solids such as cement, fly ash, and kiln dust to stormwater. Where practicable, these materials shall be stored in enclosed silos, hoppers, or buildings, in covered areas, or under covering.

83. Respondent's SWPPP states that "[t]he facility will maintain all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, storing materials in appropriate containers, identifying and controlling on-site sources of dust from roadways to minimize stormwater contamination from the deposition of dust on areas exposed to precipitation ...."

84. Respondent's SWPPP did not indicate the frequency of sweeping or other good housekeeping measures.

85. EPA's Inspections documented that Respondent did not maintain areas that contribute pollutants to stormwater discharges in a clean, orderly manner. Specifically:

- a. during the Inspections, EPA observed dust on the ground, equipment, vehicles, and rooftops throughout the Facility;
- b. during the 2025 Inspection, EPA observed treated seed present on the ground at offloading areas near the hoop house and rotochopper, and seed dust on the ground of the offloading area for belowground storage;
- c. during the 2025 Inspection, EPA observed trash, used air filters, packaging debris, and refuse derived fuel waste present on the ground in numerous areas throughout the Facility; and
- d. Respondent's sweeping logs for 2020 through 2025 showed inadequate and irregular sweeping activities in the production areas, including logs with no documented sweeping activities from July 26, 2024 through September 30, 2024. Respondent did not provide any sweeping logs from October 1, 2024 through

May 19, 2025. In addition, only one sweeper was in operation for the entire Facility during the 2025 Inspection.

86. Respondent's failures to maintain areas that may contribute to pollutants to stormwater discharges in a clean, orderly manner are violations of the conditions and limitations of the Calmus Creek Permit.

**Count 8**  
**Failure to Develop Spill Prevention and Response Procedures**

87. The facts stated above are herein incorporated by reference.

88. Calmus Creek Permit, Part III.A.3.a.(3), requires Respondent to develop and include in the SWPPP spill prevention and response procedures. Areas where potential spills (that can contribute pollutants to stormwater discharges) can occur and their accompanying drainage points shall be identified clearly in the SWPPP. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the SWPPP should be considered. Procedures for cleaning up spills shall be identified in the SWPPP and made available to the appropriate personnel. The necessary equipment to implement a clean up (e.g., absorbent materials) should be available to personnel.

89. Calmus Creek Permit, Part I, does not authorize non-stormwater discharges unless specifically identified elsewhere in the Permit.

90. On January 5 through 6, 2026, March 11, 2026, and May 3, 2026, Respondent reported spills of scrubber filtrate water related to scrubber maintenance activities that resulted in discharges to Calmus Creek. These were unauthorized discharges in violation of Section 301 of the CWA and the terms and conditions of the Calmus Creek Permit.

91. Section 3.5 of Respondent's SWPPP states "[t]he typical amount of liquid that could be spilled is the amount that resides in a vehicle or piece of equipment. Spills or leaks of liquids would flow to one of the sedimentation basins or one of the uncontained outfalls. If liquids are spilled, prompt response and clean up measures will be implemented" and "[i]f material is released off-site, it is critical that the material is identified, and appropriate control measures are promptly taken." Appendix C of the SWPPP includes the following as best management practices for spill prevention response: spill response materials will be kept in close proximity to liquid handling areas; spill of liquids will be cleaned up promptly using absorbent materials and properly disposed; and spills of solid materials will be collected either manually or with the appropriate equipment and disposed of.

92. Respondent's SWPPP did not identify the areas at the Facility where potential spills can occur and their accompanying drainage points, and did not specify material handling procedures, storage requirements, and use of equipment where appropriate and identify procedures for cleaning up spills. Respondent's spill prevention and response procedures were lacking information about procedures such that it is unclear how appropriate personnel should respond if a spill occurs at the Facility.

93. Respondent's failures to identify in the SWPPP the areas at the Facility where potential spills can occur and their accompanying drainage points, specify material handling procedures, storage requirements, and use of equipment where appropriate and identify procedures for cleaning up spills are violations of the conditions and limitations of the Calmus Creek Permit.

**Count 9**  
**Failure to Implement an Adequate Inspection Program**

94. The facts stated above are herein incorporated by reference.

95. Calmus Creek Permit, Part III.A.3.a.(4), requires Respondent to include in the SWPPP and conduct at least quarterly inspections to assess the effectiveness of the SWPPP. Such inspections shall be documented and this documentation shall be retained as part of the SWPPP. Changes based on the results of these inspections shall be made in a timely manner. All areas exposed to precipitation shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loading shall be evaluated to determine whether they are adequate and properly implemented or whether additional control measures are needed. Structural stormwater management measures (diking, berming, curbing, sediment and erosion control measures, stabilization controls, etc.) shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the SWPPP, such as spill response equipment, shall be made.

96. EPA's 2025 Inspection documented that Respondent did not conduct quarterly inspections of all areas exposed to precipitation. Specifically, Respondent's inspection reports did not include all discharge points at the Facility, including stormwater runoff from the manufacturing plant parking lot and driveway, haul road, and railroad tracks.

97. EPA's 2025 Inspection documented that Respondent did not make changes to control measures after deficiencies were identified during site inspections. Stormwater inspections conducted by Respondent showed control measures were ineffective at reducing the discharge of pollutants, yet Respondent did not change existing or implement additional controls. For example, Respondent's September 24, 2024 inspection photos documented storm inlets buried under debris and solids deposits; storm inlets without controls; refuse-derived fuel material and solids on top of a storm inlet without controls; erosion around storm inlets allowing runoff to bypass controls; surfaces coated in dust; and degraded straw wattles. EPA's Inspections documented control measures in similar conditions, such as surfaces coated in dust; degraded straw wattles; and inappropriate selection of straw wattles as a control measure.

98. Respondent's failures to conduct quarterly inspections of all areas exposed to precipitation and to make changes based on the results of inspections are violations of the conditions and limitations of the Calmus Creek Permit.

**Count 10**  
**Failure to Provide Notice of Changed and/or Planned Conditions**

99. The facts stated above are herein incorporated by reference.

100. Calmus Creek Permit, Standard Condition 16, requires Respondent to notify IDNR of any changes in existing conditions or information on which this permit is based.

101. Calmus Creek Permit, Standard Condition 17, requires Respondent to notify IDNR 30 days prior to any planned physical alterations or additions to the permitted facility. For facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new permit application. Notice is required only when, among other things, the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in the permit.

102. The 2025 Inspection documented that the Calmus Creek Permit is inaccurate in several material aspects, and Respondent did not notify IDNR of changed conditions and/or planned changes at the Facility. Specifically, the Permit does not identify all outfalls discharging to Calmus Creek, including at least three outfalls located along the west side of the haul road running northwest to the landfill; a drainage pipe discharging stormwater runoff from the southwest parking lot; and a curb inlet discharging runoff from the main entrance/exit driveway of the manufacturing plant.

103. Winnebago River Permit, Standard Condition 15, states that Respondent shall give notice to IDNR 30 days prior to any planned physical alterations or additions to the permitted facility. Notice is only required when, among other things, the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to the effluent limitations in the permit.

104. Winnebago River Permit, Standard Condition 21, requires that Respondent to submit relevant facts and information when becoming aware that Respondent failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application.

105. Winnebago River Permit, Standard Condition 22, requires Respondent to notify IDNR of any changes in existing conditions or information on which the permit is based.

106. The 2025 Inspection documented that the Winnebago River Permit is inaccurate in several material aspects, and Respondent did not notify IDNR of changed conditions and/or planned changes at the Facility. Specifically, the Permit states Outfall 001 includes the discharge of water from the cement kiln dust remediation site, which enters the arch pond and is then pumped to a treatment plant prior to discharging to the Winnebago River. However, during the 2025 Inspection, EPA documented that stormwater runoff from the manufacturing plant was also directed to the arch pond through underground piping. Respondent's "NPDES Form 1," submitted as part of the permit application for the Winnebago River Permit, did not include

information about stormwater runoff and associated pollutants from the manufacturing plant discharging to the arch pond.

107. Respondent's failures to notify IDNR of changes in existing conditions or information on which the Permits are based are violations of the conditions and limitations of the Permits.

### **Order for Compliance**

Based on the findings set forth above, and, pursuant to the authority of Section 309(a) of the CWA, 33 U.S.C. § 1319(a), Respondent agrees to and is hereby ordered as follows:

108. Respondent shall take all necessary actions to come into compliance with all applicable requirements of the Permits and CWA, including but not limited to the compliance actions set forth below.

109. Within (30) days of the Effective Date, Respondent shall:

- a. Comply with all reporting requirements of the Permits, including reporting results timely.
- b. Propose to EPA, and immediately thereafter implement future sampling at, revised locations for collecting samples at Outfalls 006, 007 and 012 of the Calmus Creek Permit such that the locations will result in representative samples during storm events for all required parameters and report results timely. If EPA disagrees that the proposed sampling locations are representative, it shall notify Respondent of its concerns within thirty (30) days and Respondent shall provide a response to EPA within ten (10) days of receipt.
- c. Inspect all areas of the Facility exposed to precipitation and correct all deficiencies identified during such inspections within seven (7) days or provide reasoning as to why corrective actions were not completed and an anticipated completion date.

110. Within thirty (30) days of the Effective Date, Respondent shall revise and implement the Facility's SWPPP as follows:

- a. Accurately depict in the site map the location of structures, outfalls, stormwater drainage areas, structural and nonstructural control measures, storage tanks and other containers, loading and unloading areas, locations of transfer of substances in bulk, locations used for the treatment, storage or disposal of wastes, and all surface water bodies, including but not limited to the location of: (i) Calmus Creek Permit Outfalls 001, 002 and 012; (ii) outfalls discharging to Calmus Creek; (iii) seed unloading and processing areas; (iv) sedimentation basins; (v) Calmus Creek Permit Outfall 012 stormwater drainage area; (vi) the portion of Calmus Creek known locally as the "Cooling Waters Pond"; and (vii) the craneway;

- b. Identify all significant materials and pollutant sources and the specific pollutants associated with each significant material and pollutant source;
- c. Describe and implement a preventative maintenance program that includes timely inspection, testing, road sweeping, and maintenance of Facility equipment, systems and stormwater management devices; and
- d. Describe and implement a good housekeeping program that includes the frequency of road sweeping and other measures taken to minimize the presence of materials on paved portions of the Facility exposed to stormwater;
- e. Describe and implement spill prevention and response procedures that (i) identify areas of potential spills that can contribute pollutants to stormwater discharges, including areas where scrubber filtrate water may spill due to scrubber maintenance activities; (ii) identify the accompanying drainage points for potential spill areas; (iii) identify procedures for cleaning up spills; and (iv) identify use of equipment where appropriate; and
- f. Any other changes necessary to meet all applicable requirements of the Permits.

111. Within 60 (sixty) days of the Effective Date, Respondent shall submit a notification to IDNR of the changes in existing conditions or information upon which the Permits are based, including those identified in Paragraphs 102 and 106, above.

112. Work Plan: Within ninety (90) days of the Effective Date, Respondent shall submit a Work Plan to EPA for review and comment that includes measures intended to eliminate effluent violations and appropriate control measures that reflect identified pollutant sources and significant materials at the Facility. The Work Plan shall include:

- a. The name, contact information, and qualifications of the consultant retained to develop the Work Plan and the contractor retained to perform the work.
- b. Proposed actions to eliminate effluent exceedances at Winnebago River Permit Outfall 001 and Calmus Creek Permit Outfalls 001 and 012, including but not limited to, repair and/or maintenance of existing stormwater and wastewater control measures, modification of existing stormwater and wastewater control measures, and/or installation of additional stormwater and wastewater control measures.
- c. Description of how stormwater flows will be managed at the Facility, identification of existing, improved, and/or additional control measures to be repaired, maintained, modified, and/or installed, and explanation of how these measures will reduce stormwater pollution in accordance with good engineering practices. This may include repair and/or maintenance of the seed processing building; sewer inlets; straw wattles; silt fencing; concrete barriers; and reconstruction of sedimentation basins where appropriate, including justification for the sizing and design to effectively settle pollutants prior to discharge in accordance with good engineering practices.
- d. Map of each drainage area or sector showing existing controls and proposed additional controls to be implemented and/or constructed.

- e. A schedule for implementation of compliance actions, including significant milestones.

113. Work Plan Review and Comment: EPA will review the Work Plan and may provide written comments. If EPA provides comments identifying deficiencies in the Work Plan and requests that Respondent respond to those comments, Respondent shall provide a written response to EPA within fifteen (15) business days of receipt of such comments.

114. Work Plan Acceptance and Implementation: Upon EPA's acceptance of the Work Plan, Respondent shall implement the Work Plan in accordance with the approved schedule. The Work Plan, as accepted, shall be incorporated by reference and fully enforceable under the terms of this Order. As applicable, Respondent shall notify IDNR of planned physical alterations or additions to the Facility, or changes in existing conditions or information upon which the Permits are based.

### **Reporting Requirements**

115. Quarterly Reports: Respondent shall submit quarterly reports describing the actions taken to comply with this Order and come into compliance with the terms of the Permits and CWA. Beginning on the Effective Date, these reports are due on the 30<sup>th</sup> day after the conclusion of each calendar quarter until the Order is terminated. Each quarterly report shall include, for the previous three (3) month period:

- a. SWPPP. A statement that no revisions were made to the SWPPP, or a summary of any revisions made to the SWPPP. Respondent shall submit a complete copy of the revised SWPPP with the site map as part of the first quarterly report due following the compliance deadline set forth in Paragraph 110, above.
- b. Work Plan Reporting. Upon EPA's approval of the Work Plan, Respondent shall include a status report that includes photographs (where appropriate to document completed field actions, including repaired and constructed control measures) and narrative descriptions of work progress, any problems encountered, actions taken to construct and repair control measures, and implement other control measures.
- c. SWPPP Implementation. Copies of stormwater inspection records including documentation of corrected deficiencies and/or maintenance performed, and sweeping logs.
- d. DMRs. All discharge monitoring reports and associated laboratory analysis.
- e. Permit Violations. Any violations of the Calmus Creek Permit and Winnebago River Permit, including the specific condition violated, the duration, and the corrective actions taken or to be taken.

116. Completion Report: Within forty-five (45) days of completion of the work identified in the Work Plan, Respondent shall submit a completion report, which shall include photographs documenting completion of the work if not already submitted, copies of relevant documents, and a signed statement indicating that the work is complete.

## Submissions

117. All documents required to be submitted by this Order shall include the following written statement as described in 40 C.F.R. § 122.22, followed by signature of a duly authorized representative of Respondent:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

118. All information required to be submitted under this Order shall be submitted by email to:

Hannah Lewis  
[lewis.hannah@epa.gov](mailto:lewis.hannah@epa.gov)  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency Region 7  
11201 Renner Boulevard  
Lenexa, Kansas 66219;

and

Ted Petersen  
[Ted.Petersen@dnr.iowa.gov](mailto:Ted.Petersen@dnr.iowa.gov)  
Field Services and Compliance Bureau  
Iowa Department of Natural Resources  
6200 Park Avenue, Suite 200  
Des Moines, Iowa 50321.

119. Electronic submissions will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically shall be submitted in hard copy to the mailing address provided above.

120. Respondent may assert a business confidentiality claim covering part or all of the information submitted to EPA under this Order, but only to the extent and manner described in 40 C.F.R. Part 2, Subpart B. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

121. EPA correspondence to Respondent under this Order shall be sent via electronic mail to:

[midwest-legal@heidelbergmaterials.com](mailto:midwest-legal@heidelbergmaterials.com);

and

Patrick Karamaga  
Plant Manager  
[patrick.karamaga@heidelbergmaterials.com](mailto:patrick.karamaga@heidelbergmaterials.com)  
Heidelberg Materials Mason City Plant  
700 25<sup>th</sup> Street St NW  
Mason City, Iowa 50401;

and

Adam Swercheck  
Director Environmental Compliance  
[adam.swercheck@heidelbergmaterials.com](mailto:adam.swercheck@heidelbergmaterials.com)  
7535 Windsor Drive  
Allentown, Pennsylvania 18106;

and

Charles E. McChesney  
Sr. Assoc. General Counsel  
[charles.mcchesney@heidelbergmaterials.com](mailto:charles.mcchesney@heidelbergmaterials.com)  
600 River Avenue Suite 200  
Pittsburgh, Pennsylvania 15212.

### **General Provisions**

#### **Effect of Compliance with the Terms of this Order**

122. Compliance with the terms of this Order shall not relieve Respondent of liability for, preclude EPA from, initiating an administrative or judicial enforcement action to recover penalties for any violations of the CWA or to seek injunctive relief pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

123. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of its responsibility to obtain any required local, state, and/or federal permits.

124. This Order, including EPA's acceptance of the Work Plan, does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. § 1251 *et seq.*, all of which remain in full force and effect. EPA retains the right to seek any and all remedies available under

Section 309 of the CWA, 33 U.S.C. § 1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, injunctive relief, or other appropriate relief under the CWA for any violation whatsoever.

125. Failure to comply with this Order may subject Respondent to penalties of up to \$68,455 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.

126. This Order supersedes in its entirety EPA's unilateral administrative order issued May 22, 2026, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), and that Order is hereby rescinded.

### **Taxpayer Identification Number**

127. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent's failure to provide IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent herein agrees that:

- a. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at [sherrer.dana@epa.gov](mailto:sherrer.dana@epa.gov) within 30 days after the Effective Date of this Order, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

### **Access and Requests for Information**

128. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect property owned or operated by Respondent and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318, and/or any other authority.

### **Modification and Severability**

129. At EPA's sole discretion, extensions of the deadlines required by this Order may be made by EPA by written notice to Respondent, without further amendment to the Order. EPA's consent for a requested extension will not be unreasonably withheld. All other modifications to this Order may be made only by mutual agreement of the Parties, pursuant to a written amendment signed by each Party.

130. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

### **Parties Bound**

131. This Order shall apply to and be binding upon the Respondent, its agents, successors and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Order.

132. The undersigned representative of Respondent certifies that they are fully authorized to enter into the terms and conditions of this Order and to bind the party they represent to this document.

### **Effective Date**

133. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by EPA. All time periods herein shall be calculated therefrom unless otherwise provided in this Order.

### **Termination**

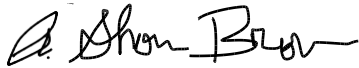
134. This Order shall remain in effect until EPA's determination that Respondent has satisfactorily completed the requirements of this Order. After Respondent has satisfactorily completed the requirements set forth in this Order, Respondent shall submit to EPA a written request for termination. If EPA agrees that Respondent has satisfactorily complied with the requirements of this Order, EPA shall provide Respondent a written notice of termination. EPA reserves the right to unilaterally terminate this Order in its unreviewable discretion.

**For the Complainant, U.S. Environmental Protection Agency:**

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Alyse Stoy  
Acting Director  
Enforcement and Compliance Assurance Division

**For the Respondent, Heidelberg Materials US Cement LLC:**



A. Shonn Brown (Jun 19, 2026 16:33:17 CDT)

Signature

A. Shonn Brown

Name

Vice President & General Counsel

Title

19/06/2026

Date

**CERTIFICATE OF SERVICE**

I certify that on the date noted below I delivered this Findings of Violation and Administrative Order for Compliance on Consent to the Regional Hearing Clerk, U.S. Environmental Protection Agency, by electronic mail to *R7\_Hearing\_Clerk\_Filings@epa.gov*. I further certify that on the date noted below I sent a copy of the foregoing Order as follows:

Copy emailed to representatives for Complainant:

*barton.kasey@epa.gov*

Kasey Barton

EPA Region 7 Office of Regional Counsel

*lewis.hannah@epa.gov*

Hannah Lewis

EPA Region 7 Enforcement and Compliance Assurance Division

*venerable.carrie@epa.gov*

Carrie Venerable

EPA Region 7 Office of Regional Counsel

Copy emailed to representatives for Respondent:

*tbergere@atllp.com*

Timothy J. Bergere, Attorney

Armstrong Teasdale LLP

*adam.swercheck@heidelbergmaterials.com*

Adam Swercheck, Environmental Director

Heidelberg Materials US Cement LLC

Copy emailed to IDNR:

*ted.petersen@dnr.iowa.gov*

Ted Petersen

Field Services and Compliance Bureau

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Signed and Dated