

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)

The City of Cedar Rapids, Iowa)

Respondent)

Proceedings under Section 309(a) of the)
Clean Water Act, 33 U.S.C. § 1319(a))

Docket No. CWA-07-2008-0029

FINDINGS OF VIOLATION AND
ORDER FOR COMPLIANCE

Preliminary Statement

1. The following Findings of Violation and Order for Compliance (“Order”) are made and issued pursuant to Sections 308(a) and 309(a) of the Clean Water Act (“CWA”), 33 U.S.C. §§ 1318(a) and 1319(a). This Authority has been delegated by the Administrator of the United States Environmental Protection Agency (“EPA”) to the Regional Administrator, EPA Region VII and further delegated to the Director of Region VII’s Water, Wetlands and Pesticides Division.

2. Respondent is the City of Cedar Rapids, Iowa (“Respondent”), a municipality chartered under the laws of the State of Iowa. Respondent is the owner and or operator of the Publicly Owned Treatment Works (“POTW”) and the Municipal Separate Storm Sewer System (“MS4”), located within the corporate boundary of the City of Cedar Rapids, Linn County, Iowa.

Statutory and Regulatory Framework

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, inter alia, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

4. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. Any such discharge is subject to all applicable requirements of the CWA, and regulations promulgated thereunder, as expressed in the specific terms and conditions prescribed in the applicable

permit. Regulations implementing the NPDES permit program under the CWA include, but are not limited to, 40 CFR Parts 122 and 403.

5. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), sets forth requirements for the issuance of NPDES permits for the discharge of storm water. Section 402(p)(2)(D) of the CWA, 33 U.S.C. § 1342(p)(2)(D), requires an NPDES permit to be issued for the discharge of storm water from MS4s serving populations of 100,000 or more but less than 250,000.

6. Section 402(p)(3)(B), 33 U.S.C. § 1342(p)(3)(B), requires that NPDES permits for discharges from municipal storm sewers shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers and shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

7. Pursuant to Section 402(p) of the CWA, 33 U.S.C. § 1342(p), EPA promulgated regulations at 40 C.F.R. § 122.26 setting forth the NPDES permit requirements for storm water discharges, including the following:

a. 40 C.F.R. § 122.26(a)(1)(iv) and 122.26(d) require the operator of a discharge from a medium MS4 to apply for a jurisdiction-wide or system-wide permit;

b. 40 C.F.R. § 122.26(b)(7)(i) defines "medium municipal separate storm sewer system," in part, as being located in an incorporated place with a population of 100,000 or more but less than 250,000; and

c. 40 C.F.R. § 122.26(b)(3) defines "incorporated place," in part, as a city, town, township, or village that is incorporated under the laws of the State in which it is located.

8. The Iowa Department of Natural Resources ("IDNR") is the 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.

Factual Background

9. The Respondent is a municipal corporation chartered under the laws of the State of Iowa, and as such, the Respondent is a "person," as that term is defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2, and is an "incorporated place" as that term is defined in 40 C.F.R. § 122.26(b)(3).

10. At all times relevant to this Order, Respondent owned or operated the POTW and the MS4, located within the corporate boundary of the City of Cedar Rapids, Linn

County, Iowa and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

11. At all relevant times, the POTW and the MS4 were each a "point source" of a "discharge" of "pollutants," as defined by Section 502 of the CWA, 33 U.S.C. § 1362. The POTW discharges to the Cedar River. The MS4 discharges storm water to receiving waters of all areas, except agricultural lands, within the corporate boundaries of the City of Cedar Rapids, served by a MS4 owned or operated by Respondent. The Cedar River and other receiving waters are considered "waters of the United States" within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

POTW Permit

12. The Respondent applied for and was issued NPDES Permit No. IA0042641 for the POTW ("the POTW permit") under Section 402(a) of the CWA, 33 U.S.C. § 1342(a). The current POTW permit was issued on May 5, 1997 and amended on February 2, 2000. The permit expired on May 5, 2002, but has been administratively extended by IDNR and therefore remains in effect. At all relevant times, the Respondent was authorized to discharge from the POTW owned or operated by Respondent to waters of the United States only in accordance with the specific terms and conditions of the POTW permit.

13. The POTW includes all service devices and systems used in wastewater storage, treatment, recycling and reclamation, including sewers, pipes and other conveyances, within the meaning of 40 CFR § 403.3(q).

14. During the week of August 21-25, 2006, EPA conducted a compliance inspection of the POTW for the City of Cedar Rapids, Iowa, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318 (hereafter the "POTW inspection"). Following the POTW inspection, the Respondent submitted additional written information to the EPA inspector. The inspection was conducted at the request of the Water, Wetlands and Pesticides Division, Water Enforcement Branch.

MS4 Permit

15. The Respondent applied for and was issued NPDES Permit No. IA0075566 for the MS4 ("the MS4 permit") under Section 402(p) of the CWA, 33 U.S.C. § 1342(p). The current MS4 permit was issued on May 23, 2005 and expires May 22, 2010. At all relevant times, the Respondent was authorized to discharge from all portions of the MS4 owned or operated by Respondent, to waters of the United States, only in accordance with Respondent's Storm Water Management Program, specific terms and conditions of the MS4 permit, and associated Storm Water Discharge Regulations set forth in 40 C.F.R. § 122.26.

16. Part II of Respondent's MS4 permit requires that Respondent shall implement a Storm Water Management Program ("SWMP") as submitted in Part 2 of the NPDES MS4 permit application, which was completed on December 28, 1995, and was most recently modified in Part II of the MS4 permit issued May 23, 2005. The SWMP identifies commercial and residential construction and industrial activities to be addressed in the SWMP, establishes appropriate control measures for commercial and residential, construction, and industrial activities, and designs a program to prohibit illicit discharges. The SWMP shall be implemented in accordance with Section 402(p)(3)(B) of the CWA, and 40 C.F.R. § 122.26, and is hereby incorporated into this Order by reference.

17. The MS4 includes all municipal separate storm sewers within the meaning of 40 C.F.R. § 122.26(b).

18. During the week of September 11-15, 2006, EPA conducted a compliance audit of the MS4 for the City of Cedar Rapids, Iowa, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318 (hereafter the "MS4 audit"). The MS4 audit was conducted at the request of the Water, Wetlands and Pesticides Division, Water Enforcement Branch.

Findings of Violation

19. The facts stated in paragraphs 9-18 are herein incorporated.

POTW Violations

20. The POTW permit authorizes discharges from Outfall Number 001 in compliance with Final Effluent Limitations specifically identified on page 3b of the amended permit dated February 7, 2000. The POTW permit authorizes no other discharge.

21. Paragraph 8 of the Standard Conditions, Proper Operation and Maintenance, attached to and incorporated into the POTW permit requires the POTW to operate all facilities and control systems as efficiently as possible and to maintain them in good working order.

22. Paragraph 14 of the Standard Conditions, Twenty-Four Hour Reporting, attached to and incorporated into the POTW permit requires oral reporting to IDNR within 24 hours of any noncompliance with permit requirements that may endanger human health or the environment. Paragraph 14 of the Standard Conditions further requires submission of written information to IDNR regarding the noncompliance within five days of the occurrence.

23. The POTW inspection and submitted documentation, referenced in paragraph 14, revealed that since at least May 2003, Respondent has discharged pollutants from point sources within the sanitary sewer collection system, including but not limited to manholes, pump stations, lift stations, sewer line breaks, in-manhole pump structures and

portable pumps within the Respondent's sanitary sewer collection system. Discharges from Respondent's sanitary sewer system, also known as Sanitary Sewer Overflows ("SSOs") are not authorized by the POTW permit.

24. The Respondent prepared a Plan of Action – In-Manhole Sanitary Bypass Pump Removal, dated September 28, 2006, and a revised Plan of Action – Deactivation of In-Manhole Sanitary Sewer Bypass Pump No. 1, dated December 18, 2007. In each Plan of Action, Respondent states that in addition to pumps in certain identified manholes, ". . . portable pumps have been and are used to relieve the sanitary sewer during periods of extreme wet weather."

25. Each SSO event within Respondent's POTW collection is an unauthorized discharge, and therefore is a violation of the terms and conditions of Respondent's POTW permit.

26. Respondent's failure to ensure that all wastewater from the sanitary sewer collection system reaches the treatment plant is a violation of the Proper Operation and Maintenance requirement, Standard Condition 8, of Respondent's POTW permit.

27. The POTW inspection and submitted documentation, referenced in paragraph 14, could not confirm that Respondent provided notice to IDNR of all SSO events, as required by the Twenty-Four Hour Reporting requirement, Standard Condition 14, of Respondent's POTW permit. Any failure to report an SSO event to IDNR as required by such Standard Condition is a violation of the POTW permit.

28. Respondent's violations of the requirements of the POTW permit, as described in paragraphs 20 through 27 above, are violations of Section 301(a) of the CWA, 33 U.S.C. § 1301(a), and a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

MS4 Violations

29. Part II(A) of the MS4 permit requires, in part, that Respondent develop and make available to landowners educational materials which outline proper maintenance procedures of all storm water detention structural controls. Respondent is required to develop the educational materials no later than June 1, 2006 and make them available for the remainder of the duration of the permit.

30. The MS4 audit and submitted documentation, referenced in paragraph 18 above, revealed that Respondent failed to develop and make available to landowners educational materials which outline proper maintenance procedures of structural controls.

31. Part II(B)(3) of the MS4 permit requires that Respondent develop a watershed assessment program and comprehensive land use plan which outlines measures to be implemented which reduce flooding, reduce erosion in ditches and streams, improve

water quality and reduce degradation of habitat for fish and wildlife. Respondent is required to establish the program by July 1, 2006 and implement the program for the remainder of the duration of the permit.

32. The MS4 audit and submitted documentation, referenced in paragraph 18 above, revealed that Respondent failed to develop a comprehensive watershed assessment program.

33. Section II(D) of the MS4 permit requires, in part, that Respondent implement controls to reduce pollutants in discharges from MS4s associated with the municipal application of pesticides and fertilizers. Section II(D) of the MS4 permit also requires that Respondent operate a public environmental information and education program to inform the public about proper use of pesticides and fertilizers and proper disposal of these substances and their containers.

34. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to formalize their pesticides and fertilizer application control and public information and education programs to the extent practical to demonstrate compliance with Section II (D).

35. Section II(E)(2) of the MS4 permit requires, in part, that Respondent develop a program to identify and eliminate illicit discharges to the MS4, including annual dry weather flow inspections of all known outfalls, sampling and analyses of dry weather flows, procedures to identify the sources of the dry weather flows and procedures for disconnecting illicit connections.

36. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to conduct any annual dry weather flow inspections of all known outfalls in 2005 and not all outfalls were inspected in 2006.

37. Section II(G)(2) of the MS4 permit requires that Respondent implement a public education program to inform the public regarding the proper management and disposal of used oil and toxic materials.

38. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to implement a public education program to inform the public regarding the proper management and disposal of used oil and toxic materials.

39. Section II(G)(3) of the MS4 permit requires that Respondent implement a public education program to inform the public regarding the proper use and disposal of pesticides and fertilizers in order to minimize contamination of storm water.

40. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to implement a public education program regarding the

proper use and disposal of pesticides and fertilizers in order to minimize contamination of storm water.

41. Section II(H) of the MS4 permit requires, in part, that Respondent prohibit the connection directly between sanitary sewers and the MS4 for the purpose of normal, day-to-day transfer of flows into the storm sewer. Section II(H) of the MS4 permit also requires, in part, that Respondent shall institute controls to limit the infiltration of seepage from sanitary sewers to the MS4.

42. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to prohibit the connection directly between sanitary sewers and the MS4 for the purpose of normal, day-to-day transfer of flows into the storm sewer. The MS4 audit and submitted documentation, referenced in paragraph 18, also revealed that Respondent failed to institute controls to limit the infiltration of seepage from sanitary sewers to the MS4.

43. Section II(I) of the MS4 permit requires, in part, that Respondent monitor and control pollutants in storm water discharges from all municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the Respondent determines are contributing a substantial pollutant loading to the MS4 (hereafter referred to as "facility" or "facilities").

44. Section II(I)(1) of the MS4 permit requires that the facilities noted in Section II(I) be inspected in accordance with the approved SWMP. The 1995 SWMP document asserts that Respondent would continue to inspect Industrial Pretreatment Program permittees annually, and that including storm water review during on-site inspections would be appropriate and would commence during CY 1995.

45. The MS4 audit and submitted materials, referenced in paragraph 18, revealed that Respondent failed to conduct storm water review during on-site inspections of Industrial Pretreatment Program permittees.

46. Section II(I)(2) of the MS4 permit requires that Respondent ensure each facility certifies annually, on or before December 31 of each calendar year, that the facility complies with all applicable storm water management plans and with the facility's storm water permit.

47. The MS4 audit and submitted documentation, referenced in paragraph 18, revealed that Respondent failed to ensure each facility certified annually, on or before December 31 of 2004 and 2005 that the facility complies with all applicable storm water management plans with the facility's storm water permit.

48. Section II(I)(3) of the MS4 permit requires that analysis be conducted for the following parameters: any pollutants limited in an existing NPDES permit for the

facility, oil and grease, chemical oxygen demand, pH, biochemical oxygen demand (five (5) day), total suspended solids, total phosphorous, total Kjeldahl nitrogen and nitrate plus nitrite nitrogen. Section II(I)(3) further requires that a minimum of one grab sample be taken during the first one hour of discharge of a storm event resulting in 0.10 inches or more of rainfall, and that the storm event shall have occurred at least 72 hours since the previous storm event.

49. Section II(I)(4) requires that Respondent obtain information concerning the discharge or potential discharge of pollutants as required under 40 C.F.R. 122.21(g)(7)(iii) and (iv).

50. Section II(I)(5) requires that Respondent ensure each facility provides sampling results. Section II(I)(5) also requires that Respondent include inspection information and sampling results in the annual report.

51. The MS4 audit and supplied documentation, referenced in paragraph 18, revealed that Respondent failed to obtain annual sampling results from each facility.

52. Section II(M)(1) requires that Respondent conduct a review of the current SWMP program annually and include: (a) a review of the status of the program implementation and compliance/non-compliance with the provisions of this permit; (b) an assessment of the effectiveness of controls established by the SWMP; (c) proposed modifications to the SWMP and a schedule for implementation; and (d) a review of monitoring data and any trends in estimated cumulative annual pollutant loadings for the principle pollutants of concern.

53. The MS4 audit and submitted documentation, as referenced in paragraph 18, reveal that Respondent has failed to annually conduct a review of the SWMP program.

54. Respondent's violations of the requirements of the MS4 permit, as described in paragraphs 29 through 53 above, are violations of Section 301(a) of the CWA, 33 U.S.C. § 1301(a), and a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.

Order For Compliance

55. Based on the Findings of Fact and Findings of Violation set forth above, and pursuant to the authority of Sections 308(a) and 309(a) of the CWA, 33 U.S.C. §§ 1318(a) and 1319(a), Respondent is hereby ORDERED to take the actions described below.

56. Respondent shall comply with the requirements of Attachment A to this Order, "Sanitary Sewer Collection System Improvements/SSO Elimination".

57. Respondent shall take whatever corrective action is necessary to correct the MS4 deficiencies and eliminate and prevent recurrence of the MS4 violations cited

above, and to come into compliance with all of the applicable requirements of the MS4 permit, not limited to, but including the actions listed in Attachment B to this Order, "MS4 Improvements".

58. In the event that Respondent believes complete correction of the MS4 violations herein is not possible within sixty (60) days of the Effective Date of this Order, Respondent shall, within those 60 days, submit a comprehensive written plan (hereafter the "MS4 Plan") for the elimination of the cited MS4 violations. Such MS4 Plan shall describe in detail the specific corrective actions to be taken and why such actions are sufficient to correct the violations. The MS4 Plan shall include a detailed schedule for the elimination of the MS4 violations within the shortest possible time, as well as measures to prevent these or similar violations from recurring.

Submissions

59. All documents required to be submitted to EPA pursuant to Paragraph 56 and Attachment A of this Order shall be submitted by mail to Kimberly Harbour or her successor, at:

Kimberly Harbour
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, KS 66101

E-mail: Harbour.Kimberly@epa.gov

60. All documents required to be submitted to EPA pursuant to Paragraphs 57 and 58 and Attachment B of this Order shall be submitted by mail to Cynthia Sans or her successor, at:

Cynthia Sans
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, KS 66101

61. All documents required to be submitted to IDNR by this Order shall be submitted by mail to each of the following persons or his/her successor:

Wayne Farrand
Section Supervisor
Iowa DNR Wastewater Engineering Section
502 E. 9th Street
Des Moines, IA 50319-0034,
515-281-8877

E-mail: Wayne.Farrand@dnr.iowa.gov

Sue Miller
Environmental Specialist
Iowa DNR Field Office 1
909 West Main St., Suite 4
Manchester, IA 52057

E-mail: Susan.Miller@dnr.iowa.gov

General Provisions

Effect of Compliance with the Terms of this Order for Compliance

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

63. This Order 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. The EPA retains the right to seek any and all remedies available under Sections 309(b), (c), (d), or (g) of the CWA, 33 U.S.C. § 1319(b), (c), (d) or (g), 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, or other appropriate relief under the CWA for any violation whatsoever.

Access and Requests for Information

64. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect Respondent's facility, 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.

Severability

65. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judiciary 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.

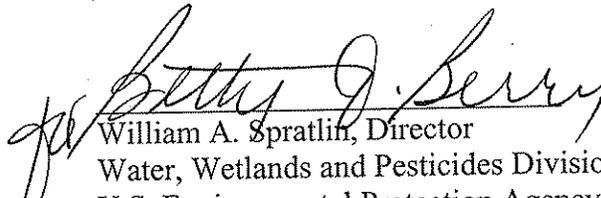
Effective Date

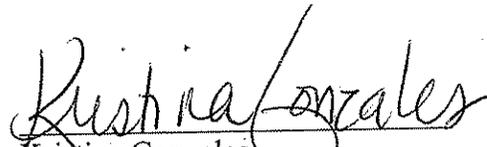
66. The terms of this Order shall be effective and enforceable against Respondent on the Effective Date, which is the date this Order is signed by EPA.

Termination

67. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA. Such notice shall not be given until all of the requirements of this Order have been met.

Issued this 30th day of January, 2008.


William A. Spratlin, Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101


Kristina Gonzales
Office of Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 North Fifth Street
Kansas City, Kansas 66101

CERTIFICATE OF SERVICE

I certify that on the date noted below I hand delivered the original and one true copy of this Findings of Violation and Administrative Order for Compliance to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

I further certify that on the date noted below I sent a copy of the foregoing Order for Compliance by first class certified mail, return receipt requested, to:

Honorable Kay Halloran
Mayor, City of Cedar Rapids
825 17th Street SE
Cedar Rapids, Iowa 52403

David J. Elgin P.E., L.S.
Public Works Director /City Engineer
1201 6th Street SW
Public Works Building
Cedar Rapids, Iowa 52404

Dennis Ostwinkle
Coordinator, Wastewater Enforcement
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, Iowa ~~52523~~ 52353-1623
P&M

1/31/08
Date

E. Catherine Hatchett
Signature

Attachment A
Sanitary Sewer Collection System Improvements/SSO Elimination

1. DEFINITIONS

a. Unless otherwise defined herein, terms used in this Attachment shall have the meanings given to those terms in the Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq., and the regulations promulgated under the CWA, and the Order. To the extent the following terms differ from the definitions found in the CWA, these terms shall be used solely for the purpose of implementing the Sanitary Sewer Collection System Improvements/SSO Elimination program, described in this Attachment.

b. The following terms used in this Attachment are defined as follows:

i. "Building/Private Property Backup" and "Backup" shall mean any release of wastewater from the Respondent's Sanitary Sewer Collection System to buildings or private property. The Respondent would not be responsible for any backup that was caused by: (1) blockages, flow conditions, or malfunctions of a private service connection or other piping/conveyance system that is not owned or operationally controlled by the Respondent; or (2) overland, surface flooding not emanating from the Respondent's Sanitary Sewer Collection System.

ii. "Sanitary Sewer Collection System" shall mean the sewage collection and transmission system (including all pipes, force mains, gravity sewer lines, pumping stations, manholes, and appurtenances thereto) owned or operated by the Respondent and designed to convey wastewater to the Respondent's wastewater treatment plant.

iii. "Infiltration" shall mean water other than wastewater that enters a Sanitary Sewer Collection System (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes.

iv. "Inflow" shall mean water other than wastewater that enters a Sanitary Sewer Collection System (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm water, surface runoff, street wash waters, or drainage.

v. "Sanitary Sewer Overflow" and "SSO" shall mean an overflow, spill, diversion, or release of wastewater from the Respondent's Sanitary Sewer Collection System. This term shall include discharges to waters of the State or United States from the Respondent's Sanitary Sewer Collection System, as well as any release of wastewater from the Respondent's Sanitary Sewer Collection System to public or private property

that does not reach waters of the United States or the State, including Building/Private Property Backups and storm drains.

2. COMPLIANCE REQUIREMENTS

a. Immediately upon receipt of this Order, Respondent shall comply with all reporting requirements of the POTW permit, including but not limited to, Standard Condition 14, "Twenty Four Hour Reporting". In addition to providing required notices to IDNR under Standard Condition 14, Respondent shall simultaneously submit to EPA a copy of all five-day written submissions prepared after the Effective Date.

b. Immediately upon receipt of this Order, Respondent shall begin including in each Discharge Monitoring Report ("DMR") submittal to IDNR, with a simultaneous copy to EPA, a list of all SSO events during the DMR reporting period. The list shall include at least the following information:

- i. beginning and ending dates and times for each SSO event;
- ii. measured or estimated volume discharged;
- iii. specific location (e.g., address and/or GIS data) and source of the discharge (e.g., in-manhole pump, portable pump, lift station, line break, manhole overflow, etc);
- iv. cause of the discharge;
- v. precipitation in previous 24 hour period; and
- vi. fate of discharge, including but not limited to waterway or storm sewer.

c. Within thirty (30) days after the Effective Date, Respondent shall submit to EPA and IDNR information regarding SSO events for the period from May 1, 2003 to the present, including but not limited to:

- i. citizen/public compliant records regarding SSO events and Backup events (other than those determined to be caused solely by private property owners);
- ii. Respondent's logs, files and/or records of SSO events;
- iii. work orders or requests related to Sanitary Sewer Collection System overflows;
- iv. operation and/or pumping records for in-manhole pumps; and
- v. all records related to placement and operation of, and discharges from, portable pumps in the Sanitary Sewer Collection System.

Respondent may within fifteen (15) days after the Effective Date, contact EPA to request additional time to produce the required information under this subparagraph or to seek further clarification regarding the nature and scope of the information requested. The information may be provided in a paper (hard copy) or electronic format. Prior to submitting the information in electronic format, please contact EPA regarding the compatible format(s) for electronic data.

d. Within thirty (30) days after the Effective Date, Respondent shall submit to EPA and IDNR the Respondent's current draft or final Capacity, Management, Operation and Maintenance (CMOM) Plan for the Sanitary Sewer Collection System and a copy of all reports, memoranda or other documentation from January 1, 2003 to the present regarding progress toward or impediments to achieving short and long-term goals of the CMOM program.

e. Within thirty (30) days after the Effective Date, Respondent shall submit to EPA and IDNR any existing report or reports from 1990 to date regarding measures considered or taken to address Inflow and/or Infiltration in the Sanitary Sewer Collection System, the actual or projected cost of such measures, the actual or projected results of implementing such measures, and a description and analysis of any alternative measures considered.

f. By February 1, 2008, Respondent shall select an engineering consultant to prepare a Sanitary Sewer Collection System Improvements Plan ("Plan"), as described in subparagraph g. below, that will identify measures sufficient to result in adequate capacity in its waste collection and treatment system, such that SSOs will be eliminated under current and future conditions.

g. The Plan shall address all pumping stations, all major gravity lines, all force mains and siphons, all in-manhole and portable pumps, all SSO points and areas with Building and/or Private Property Backups, and any other portions of the Sanitary Sewer Collection System that must be assessed so as to allow a technically sound evaluation of the causes of all SSOs. The Plan shall include a schedule for design, construction, and placement in service of all proposed measures no later than August 1, 2009.

h. Respondent shall submit a proposed Plan to EPA and IDNR for review no later than August 1, 2008. Upon receipt of written comments and concurrence by EPA, and upon written approval by IDNR, regarding the proposed Plan and the engineering recommendations contained therein, the Respondent shall complete design of the improvements, which shall include plans, specifications and a construction permit application. The Respondent remains responsible for following all state laws, rules and regulations, and for obtaining all necessary wastewater treatment system construction and operating permit approvals.

i. Respondent shall submit the final Plan to EPA and IDNR for approval no later than December 1, 2008. Respondent shall also submit by no later than March 1, 2009, final plans and specifications and a construction permit application to IDNR as required by state law. Upon written approval by EPA, in consultation with IDNR, the Plan shall become an enforceable part of this Order and the Respondent shall implement the Plan in accordance with the approved schedule contained therein.

j. The Respondent shall provide a summary report to EPA and the State by no later than May 1, 2009 and September 1, 2009 regarding progress in meeting all schedule

deadlines in the approved Plan, including the August 1, 2009 compliance date identified in subparagraph g, above.

k. Respondent shall submit a statement no later than June 1, 2010 certifying that all improvements identified in the Plan have been implemented and shall report on the effectiveness, based on adequate monitoring data, as to whether the improvements are successful in eliminating SSO events.

l. If Respondent believes that, despite Respondent's best efforts, any interim or final date for compliance identified in this Order will not be met, Respondent shall, as soon as possible, notify EPA in writing indicating the nature of the delay, the efforts Respondent has and will take to avoid or minimize the delay, and the anticipated date to complete the interim or final compliance requirement. A copy of such notice shall also be provided to IDNR. Upon review of Respondent's information and, as appropriate, after consultation with IDNR, EPA will determine whether to extend the date for compliance under the Order. Any extension of a compliance date or other modification of this Order must be granted in writing by EPA to be effective.

Attachment B
MS4 Improvements

- a. Within sixty (60) days after the Effective Date, Respondent shall identify and implement a method of disseminating educational materials to the target landowners (those responsible for maintaining privately-owned storm water retention facilities), if feasible. Respondent shall include a copy of these educational materials and a description of the dissemination methods and target audience in the next MS4 annual report.
- b. Respondent shall outline in its next MS4 annual report, all programs and activities which address the requirement in Section II(B)(3) of the MS4 permit.
- c. Within sixty (60) days after the Effective Date, Respondent shall formalize its pesticide and fertilizer application control and public information and education programs in order to demonstrate that Section II(D) of the MS4 permit is satisfied. Current programs, as well as any additional efforts planned by Respondent to satisfy this requirement, shall be catalogued in the next MS4 annual report.
- d. Within sixty (60) days after the Effective Date, Respondent shall conduct annual dry weather inspections of all known outfalls. If Respondent believes that annual inspections of all known outfalls is impractical or unduly resource-intensive, Respondent should contact IDNR to discuss IDNR's expectations with respect to the universe of outfalls and the frequency of inspections.
- e. Within sixty (60) days after the Effective Date, Respondent shall undertake a formal inventory/assessment of its public education efforts in the storm water area which explicitly addresses the MS4 permit requirements. Respondent shall develop a plan with specific actions and schedules to address any identified deficiencies. Respondent shall include the assessment and education plan in the next MS4 annual report. Respondent shall include an annual update and review of the program's adequacy and effectiveness in subsequent annual reports.
- f. Respondent shall include industrial inspection information and storm water sampling results in the MS4 annual report. If it is determined that a Section 313 industry has not conducted storm water sampling, Respondent shall collect and analyze storm water samples of its industrial storm water effluent, as required under the conditions of the MS4 permit.
- g. Within sixty (60) days after the Effective Date, Respondent shall complete a thorough update of its SWMP and all program components including updating the description of all activities, milestones and measurable goals related to each program component.