UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
Des Moines Water Works	)	Docket Nos.
d/b/a Maffitt Water Treatment Facility	)	CAA-07-2007-0041
and Louise P. Moon Water Treatment Facility	)	EPCRA-07-2007-0041
2201 George Flagg Parkway	)	CERCLA-07-2007-0041
Des Moines, Iowa 50321	)	
	)	
Respondent	)	

CONSENT AGREEMENT AND FINAL ORDER

The United States Environmental Protection Agency, Region VII (EPA) and the Des Moines Water Works (Respondent), have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b), 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9609, Section 325 of the Emergency Planning and Community Right to Know Act (EPCRA), 42 U.S.C. § 11045, and Section 113(d) of the CAA (CAA), 42 U.S.C.

§ 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, where the first date of alleged violation occurred more than 12 months prior to the initiation of the administrative action, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated Section 103 of CERCLA, 42 U.S.C. § 9603, and the regulations promulgated pursuant to Section 102 of CERCLA, 42 U.S.C. § 9602, and codified at 40 C.F.R. Part 302; Section 304 of EPCRA, 42 U.S.C. § 11004, and the regulations promulgated pursuant to Section 328 of EPCRA, 42 U.S.C. § 11048, and codified at 40 C.F.R. Part 355; and the provisions governing Chemical Accident Prevention, and specifically the requirement to implement a Risk Management Plan as required by 40 C.F.R. Part 68 and Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and that Respondent is therefore in violation of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). Furthermore, this Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the Act, 42 U.S.C. § 7413(d)(2)(A), of EPA's intent to issue an order assessing penalties for this violation.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, and the Regional Administrator, EPA, Region VII, is the Director, Air, RCRA and Toxics Division, EPA, Region VII.

4. The Respondent is Des Moines Water Works d/b/a Maffitt Water Treatment Facility and Louise P. Moon Water Treatment Facility, located at 2201 George Flagg Parkway, Des Moines, Iowa 50321. Respondent stores chlorine at its facility.

Statutory and Regulatory Requirements

5. Section 103(a) of CERCLA and the regulation set forth in 40 C.F.R. § 302.6 require any person in charge of a vessel or an onshore or offshore facility, as soon as he has knowledge of any release (other than a federally permitted release) of a hazardous substance from such vessel or facility in quantities equal to or greater than the reportable quantity established pursuant to Section 102 of CERCLA, to immediately notify the National Response Center of such release.

6. Section 304(a) of EPCRA and the regulations set forth in 40 C.F.R. § 355.40 require the owner or operator of a facility at which a hazardous chemical is produced, used, or stored and at which there is a release of a reportable quantity of any EPCRA extremely hazardous substance or CERCLA hazardous substance to immediately notify the State Emergency Response Commission of any State likely to be affected by the release and the emergency coordinator for the Local Emergency Planning Committee for any area likely to be affected by the release.

7. Section 112(r)(7) of the CAA and the regulation set forth in 40 C.F.R. Part 68 Subparts A through H, Chemical Accident Prevention Program require owners and operators of stationary source to develop and implement a risk management plan that includes a hazard assessment, a prevention program and an emergency response program. The risk management plan (RMP) must be submitted to EPA. The RMP must be submitted by an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process no later than June 21, 1999; or the date on which a regulated substance is first present above the threshold quantity in a process.

8. Section 109(b)(1) of CERCLA authorizes a civil penalty of not more than $25,000 per day for each day during which a violation continues for any violation of the requirements of

Section 103(a) of CERCLA. Section 109(b)(1) of CERCLA, as amended by the Debt Collection Improvement Act of 1996, authorizes the United States to commence an action to assess civil penalties of not more than $27,500 per day for each violation that occurs after January 30, 1997, through March 15, 2004; and $32,500 per day for each violation that occurs after March 15, 2004.

9. Section 325(b)(2) of EPCRA authorizes a civil penalty for violations of the requirements of Section 304 of EPCRA of not more than $25,000 per day for each day during which the violation continues. Section 325(b)(2) of EPCRA, as amended by the Debt Collection Improvement Act of 1996, authorizes the United States to commence an action to assess civil penalties of not more than $27,500 per day for each violation that occurs after January 30, 1997, through March 15, 2004; and $32,500 per day for each violation that occurs after March 15, 2004.

10. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of the CAA referenced therein, including Section 112(r)(7). Section 113(d) of the CAA, 42 U.S.C. § 7413(d), as amended by the Debt Collection Improvement Act of 1996, authorizes the United States to assess civil administrative penalties of not more than $27,500 per day for each violation that occurs after January 30, 1997, through March 15, 2004; and $32,500 per day for each violation that occurs after March 15, 2004.

Definitions

11. The regulations at 40 C.F.R. § 68.3 define "stationary source" in part, as any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur.

12. The regulations at 40 C.F.R. § 68.3 define "threshold quantity" as the quantity specified for regulated substances pursuant to Section 112(r)(5) of the CAA, as amended, listed in 40 C.F.R. § 68.130, Table 1, and determined to be present at a stationary source as specified in 40 C.F.R. § 68.115.

13. The regulations at 40 C.F.R. § 68.3 define "regulated substance" as any substance listed pursuant to Section 112(r)(3) of the CAA, as amended, in 40 C.F.R. § 68.130.

14. The regulations at 40 C.F.R. § 68.3 define "process" as any activity involving a regulated substance including any use, storage, manufacturing, handling or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

Alleged Violations

15. The EPA alleges that Respondent has violated CERCLA Section 103, EPCRA Section 304, and Section 112(r) of the CAA and federal regulations, promulgated pursuant to the CAA, as follows:

16. Respondent is, and was at all times referred to herein, a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9602(21); Section 329(7) of EPCRA, 42 U.S.C. § 11049(7); and Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

17. At all times relevant hereto, Respondent owned and operated and was in charge of the Maffitt Water Treatment Plant, located at 12221 SW Maffitt Lake Road, Des Moines, Iowa 50061, and the Louise P. Moon Water Treatment Facility, located at 2860 X Avenue, Clive, Iowa 50311.

COUNT I
CERCLA Section 103 and EPCRA Section 304

18. Respondent's Louise P. Moon Water Treatment Facility located at 2860 X Avenue, Clive, Iowa 50311, is a facility as defined by Section 101(9) of CERCLA and Section 329(4) of EPCRA.

19. Chlorine is a hazardous substance as defined by Section 101(14) of CERCLA, with a reportable quantity of ten (10) pounds, as designated by 40 C.F.R. § 302.4. Chlorine is an extremely hazardous substance, as defined by Section 329(3) of EPCRA, 42 U.S.C. § 11049(3), and as designated pursuant to 302(a) of EPCRA, 42 U.S.C. § 11022(a), and listed in 40 C.F.R. Part 355, Appendix A.

20. At all times relevant hereto, hazardous chemicals as defined by Section 329(5) of EPCRA, 42 U.S.C. § 11049(5), were produced, used, or stored by Respondent's facility.

21. On February 27, 2006, there was a release of chlorine from Respondent's facility in excess of the reportable quantity designated by 40 C.F.R. § 302.4. Respondent discovered the release on or about February 27, 2006, at approximately 9:00 a.m.

22. Respondent did not immediately notify the National Response Center of the release as soon as it had knowledge of the release.

23. Respondent's failure to notify the National Response Center of the release as soon as it had knowledge of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603, and of the requirements of 40 C.F.R. § 302.6.

24. Respondent did not immediately notify the State Emergency Response Commission of the release.

25. Respondent's failure to immediately notify the State Emergency Response Commission of the release is a violation of Section 304(b) of EPCRA, 42 U.S.C. § 11004(b), and of the requirements of 40 C.F.R. § 355.4(b).

COUNT II
CAA Section 112(r)

26. Respondent's Maffitt Water Treatment Facility located at 12221 SW Maffitt Lake Road, Des Moines, Iowa 50061, is a "stationary source" pursuant to 40 C.F.R. § 68.3.

27. Chlorine is a regulated substance pursuant to 40 C.F.R. § 68.3. The threshold quantity for chlorine, as listed in 40 C.F.R. § 68.130, Table 1, is 2,500 pounds.

28. On June 6, 2006, EPA conducted an inspection of Respondent's facility to determine compliance with Section 112(r) of the CAA and 40 C.F.R. Part 68.

29. Records collected during the inspection showed that Respondent has exceeded the threshold quantity for chlorine. Respondent filed an RMP on May 31, 2000.

30. Respondent is subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, Subpart G, because it is an owner and operator of a stationary source that had more than a threshold quantity of a regulated substance in a process.

31. Respondent was required under Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and 40 C.F.R. Part 68, to develop and implement a risk management program that includes a hazard assessment, a prevention program, and an emergency response program.

32. Records collected during the inspection showed that Respondent failed to implement a risk management program that included all the requirements of a management system and a prevention program. Specifically, Respondent failed to implement a prevention program by failing to: 1) review and update the offsite consequences analyses at least once every five years as required by 40 C.F.R. § 68.36; 2) certify that they have evaluated compliance with the provisions of 40 C.F.R. Part 68, Subpart C at least every three years as required by 40 C.F.R. § 68.58; and 3) revise and update the risk management plan within five years of the initial submission as required by 40 C.F.R. § 68.190.

33. Respondent's failure to comply with 40 C.F.R. Part 68, as set forth above are all violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r).

CONSENT AGREEMENT

34. Respondent and EPA agree to the terms of this Consent Agreement and Final Order and Respondent agrees to comply with the terms of the Final Order portion of this Consent Agreement and Final Order.

35. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above, and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent

proceeding to enforce the terms of the Final Order portion of this Consent Agreement and Final Order.

36. Respondent neither admits nor denies the factual allegations set forth above.

37. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal the Final Order portion of this Consent Agreement and Final Order.

38. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees incurred as a result of this action.

39. This Consent Agreement and Final Order addresses all civil and administrative claims for the EPCRA, CERCLA, and CAA violations identified above, existing through the effective date of this Consent Agreement and Final Order. Complainant reserves the right to take enforcement action with respect to any other violations of the EPCRA, CERCLA, and CAA or other applicable law.

40. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facilities are in compliance with all requirements of Section 103 of CERCLA, 42 U.S.C. § 9603; Section 304 of EPCRA, 42 U.S.C. § 11004; and Section 112(r) of the CAA, 42 U.S.C. § 7412(r), and all regulations promulgated thereunder.

41. The effect of settlement described in paragraph 39 is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 40, above, of this Consent Agreement and Final Order.

42. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the Consent Agreement and Final Order and to legally bind Respondent to it.

43. Pursuant to Section 109 of CERCLA, Section 325 of EPCRA, and Section 113 of the CAA; nature of the violations, Respondent's agreement to perform a Supplemental Environmental Projects (SEP); and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of Nine Thousand Two Hundred Fifty Dollars ($9,250.00) to be paid within thirty (30) days of the effective date of the Final Order.

44. The penalty specified in paragraph 43, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

45. Respondent consents to the issuance of this Consent Agreement and consents for the purposes of settlement to the payment of the civil penalty cited in paragraph 43, above, and to the performance of the SEP.

46. In settlement of this matter, Respondent agrees to complete the following SEP, which the parties agree is intended to secure significant environmental and/or public health protection benefits.

47. Respondent shall complete the SEP as follows: (i) Convert the use of chlorine gas to sodium hypochlorite at the Louise P. Moon Storage Facility, Polk County/Ankeny Storage Facility, and SE Polk/Bondurant Booster Station; (ii) incorporate a sodium hypochlorite system at the Maffitt Water Treatment Facility; and (iii) purchase a distribution vehicle to distribute sodium hypochlorite to remote sites. The SEP is more specifically described in the scope of work (hereinafter, the "Scope of Work"), attached hereto as Appendix A and incorporated herein by reference. All the work

required to complete the SEP shall be performed in compliance with all Federal, State, and local laws and regulations.

48. The total expenditure for the SEP shall be not less than Eighty-Two Thousand Nine Hundred Seventy-Six Dollars ($82,976.00) and the SEP shall be completed no later than March 30, 2008. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

49. Respondent certified that it is not required to perform or develop the SEP by any Federal, State, or local law or regulations; nor is Respondent required to perform or develop the SEP by agreement, grant, or as injunctive relief in this or any other case or to comply with State or local requirements. Respondent further certifies that Respondent has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

50. Within sixty (60) days of completion of the SEP, Respondent shall submit a SEP Completion Report to EPA. The SEP Completion Report shall contain the following: (i) a detailed description of the SEP as implemented; ii) a description of any operating problems encountered and the solutions thereto; (iii) itemized costs, documented by copies of purchase orders, receipts, or canceled checks; (iv) certification that the SEP has been fully implemented pursuant to the provisions of this Consent Agreement and Final Order. The SEP Completion Report shall be submitted to the following:

Robert Bryant (ARTD/CRIB)
United States Environmental Protection Agency - Region VII
901 N. Fifth Street
Kansas City, Kansas 66101.

51. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

52. After receipt of the SEP Completion Report described in paragraph 50, above, EPA will notify Respondent, in writing, regarding: (i) any deficiencies in the SEP report itself along with a grant of an additional thirty (30) days for Respondent to correct any deficiencies; or (ii) indicate that EPA concludes that the project has been completed satisfactorily; or (iii) determine that the project has not been completed satisfactorily and seek stipulated penalties in accordance with paragraph 54 herein. If EPA elects to exercise option (i) above, i.e., if the SEP report is determined to be deficient, but EPA has not yet made a final determination about the adequacy of SEP completion itself, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency given pursuant to this paragraph within ten (10) days from the receipt of such notification. The EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement on changes necessary to the SEP report. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision on adequacy of the completion of the SEP to

Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any failure to comply with the terms of this Consent Agreement and Final Order. In the event the SEP is not completed as contemplated herein, as determined by EPA, stipulated penalties shall be due and payable by Respondent in accordance with paragraph 54 herein.

53. Respondent agrees that failure to submit the SEP Completion Report required by paragraph 50, above, shall be deemed a violation of this Consent Agreement and Final Order and Respondent shall become liable for stipulated penalties pursuant to paragraph 54, below.

54. Stipulated Penalties:

a. In the event that Respondent fails to comply with any of the terms or provision of this Consent Agreement and Final Order relating to the performance of the SEP described in paragraph 47, above, and/or to the extent that actual expenditures for the SEP do not equal or exceed the cost of the SEP described in paragraph 48, above, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

(i) Except as provided in subparagraph (ii), for a SEP which has not been completed satisfactorily pursuant to this Consent Agreement and Final Order, Respondent shall pay a stipulated penalty to the United States in the amount of $27,750.

(ii) If the SEP is not completed in accordance with paragraph 48, but the Complainant determines that the Respondent: a) made good faith and timely efforts to complete the project; and b) certifies, with supporting documentation, that at least 90 percent of the amount of money which was required to be spent was expended on the SEP, Respondent shall not be liable for any stipulated penalty.

(iii) If the SEP is completed in accordance with paragraph 48, but the Respondent spent less than 90 percent of the amount of money required to be spent for the project, Respondent shall pay a stipulated penalty to the United States in the amount of $27,750.

(iv) If the SEP is completed in accordance with paragraph 48, and the Respondent spent at least 90 percent of the amount of money required to be spent for the project, Respondent shall not be liable for any stipulated penalty.

(v) For failure to submit the SEP Completion Report required by paragraph 50, above, Respondent shall pay a stipulated penalty in the amount of $100 for each day after the due date of the Completion Report stated in paragraph 50, above, until the report is submitted.

b. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of EPA.

c. Stipulated penalties for paragraph (v), above, shall begin to accrue on the day after performance is due, and shall continue through the final day of the completion of the activity.

d. Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of paragraph 56, below. Interest and late charges shall be paid as stated in paragraph 56 herein.

55. Respondent understands that the failure to pay any portion of the mitigated civil penalty as stated in paragraph 43, or any portion of a stipulated penalty as stated in paragraph 54, in accordance with the provisions of this order may result in commencement of a civil action in Federal District Court to recover the total penalty, together with interest at the applicable statutory rate.

56. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and charge to cover the costs of processing and handling delinquent claims. Interest will therefore begin to accrue on a civil or stipulated penalty if it is

not paid by the last date required. Interest will be assessed at the rate of the United States tax and loan rate in accordance with 4 C.F.R. § 102.13(c). A charge will be assessed to cover the debt collection, including processing and handling costs and attorney's fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Any such non-payment penalty charge on the debt will be accrue from the date the penalty becomes due and is not paid, 40 C.F.R. §§ 102.13(d) and (e).

57. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the United States Environmental Protection Agency."

58. This Consent Agreement and Final Order shall not relieve Respondent of its obligation to comply with all applicable Federal, State, and local laws, nor shall it be construed to be a ruling on, or determination of any issue related to any Federal, State, or local permit, nor shall it be construed to constitute EPA approval of the equipment or technology installed by Respondent in connection with the SEP undertaken pursuant to this Consent Agreement and Final Order.

59. The Final Order portion of this Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors, and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

FINAL ORDER

Pursuant to the provisions of CERCLA, 42 U.S.C. § 9601; EPCRA, 42 U.S.C. § 11001; and CAA, 42 U.S.C. § 7401, and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Nine Thousand Two Hundred Fifty Dollars ($9,250.00), within thirty (30) days of entry of this Final Order. Payment shall be by three cashier's or certified checks in the amount of Four Thousand Six Hundred Twenty-Five Dollars ($4,625.00), Two Thousand Three Hundred Twelve Dollars and Fifty Cents ($2,312.50), and Two Thousand Three Hundred Twelve Dollars and Fifty Cents ($2,312.50).

2. The first two checks should be made payable to the "United States Treasury." The check for $4,625.00 shall reference docket number CAA-07-2007-0041 and the check for $2,312.50 shall reference docket number EPCRA-07-2007-0041. The third check for $2,312.50 should be made payable to "EPA Hazardous Substance Superfund" and shall reference docket number CERCLA-07-2007-0041. All checks shall be remitted to:

EPA - Region VII
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251

3. A copy of each check shall be sent to:

Regional Hearing Clerk
United States Environmental Protection Agency - Region VII
901 N. Fifth Street
Kansas City, Kansas 66101; and

Robert W. Richards
Assistant Regional Counsel
United States Environmental Protection Agency - Region VII
901 N. Fifth Street
Kansas City, Kansas 66101.

4. The original, executed Consent Agreement and Final Order shall be returned to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

5. Respondent shall complete the Supplemental Environmental Project in accordance with the provisions set forth in the Consent Agreement and shall be liable for any stipulated penalty for failure to complete such project, as specified in the Consent Agreement.

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

By _____
Robert W. Richards
Assistant Regional Counsel

Date 7/11/07

By _____
Becky Weber
Director
Air, RCRA and Toxics Division

Date 7/11/07

RESPONDENT:
DES MOINES WATER WORKS
DES MOINES, IOWA

By L. D. Mimmell

Title CEO & General Manager

Date 7/2/07

By Karina Borromeo
Karina Borromeo
Regional Judicial Officer

Date July 17, 2007

APPENDIX A

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

SCOPE OF WORK

In settlement of its obligations under this Consent Agreement and Final Order, Des Moines Water Works will complete the supplemental environmental projects (SEP) listed below. A SEP is an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action, but one which the respondent is not otherwise legally required to perform, and that primarily benefits the public heath or the environment. The EPA has approved the following SEPs, in addition to the administrative penalty set forth in paragraph 43 of this Consent Agreement and Final Order, for the settlement of this matter. The following projects relate directly to the reduction in the use of chlorine gas and thereby lessen the danger to the surrounding environment and human population.

Project #1. Louise P. Moon Storage Facility: This project consists of converting the use of chlorine gas to sodium hypochlorite.

Project #2. Maffitt Water Treatment Facility: This project will reduce the exposure of chlorine gas to staff and contractors during the time when preventative maintenance is being conducted. It is anticipated that in 2007 Des Moines Water Works will perform preventative maintenance including a complete inspection of the chlorine gas equipment. Incorporating a sodium hypochlorite system will allow it to maintain the production of water at the same time preventative maintenance is being performed on the chlorine system. Des Moines Water Works intends to convert this facility to sodium hypochlorite by 2010, however, additional planning may be needed to determine if the product will be generated or merely stored at the location. Regardless of which decision is made, the equipment used in this project will be used at the time the conversion is conducted.

Project #3. Polk County/Ankeny Storage Facility: This project consists of converting the use of chlorine gas to sodium hypochlorite.

Project #4. SE Polk/Bondurant Booster Station: This project consists of converting the use of chlorine gas to sodium hypochlorite.

Project #5. Transport Tank and Truck Chassis: This project consists of purchasing a distribution vehicle to distribute sodium hypochlorite to remote sites.

All projects noted above are to be completed no later than March 30, 2008, unless proper notice to EPA is provided.

IN THE MATTER OF Des Moines Water Works d/b/a Maffitt Water Treatment Facility and Louise P. Moon Water Treatment Facility, Respondent
Docket Nos. CAA-07-2007-0041; EPCRA-07-2007-0041 and CERCLA-07-2007-0041

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to:

Robert W. Richards
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Mr. Martin Lamberti
Director of General Services
Des Moines Water Works
2201 George Flagg Parkway
Des Moines, Iowa 50321

7/17/07
Dated

Kathy Robinson
Hearing Clerk, Region 7