

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY-REGION 7

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11202 RENNER BOULEVARD
LENEXA, KANSAS 66219

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
SIVYER STEEL CORPORATION)	Docket No. CWA-07-2012-0057
)	
Respondent)	CONSENT AGREEMENT/ FINAL ORDER
)	
Proceedings under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g))	
_____)	

The United States Environmental Protection Agency (EPA), Region 7 (Complainant) and Sivyer Steel Corporation (Respondent) have agreed to a settlement of this action before the 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) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This is an administrative action for the assessment of civil penalties instituted pursuant to Section 309(g) of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22.

2. This Consent Agreement and Final Order (CAFO) serves as notice that EPA has reason to believe that Respondent has violated Sections 301 and 402 of the CWA, 33 U.S.C. § 1311 and § 1342, and regulations promulgated thereunder.

Parties

3. The authority to take action under Section 309(g) of the CWA, 33 U.S.C. § 1319(g), is vested in the Administrator of EPA. The Administrator has delegated this authority to the Regional Administrator, EPA, Region 7, who in turn has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA, Region 7 (Complainant).

4. Respondent is Sivyer Steel Corporation, a business incorporated under the laws of Wisconsin and authorized to conduct business in the state of Iowa.

Statutory and Regulatory Framework

5. 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, provides that pollutants may be discharged only in accordance with the terms of a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to that Section.

6. 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.

7. 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 stormwater. Section 402(p) of the CWA, requires, in part, that a discharge of stormwater associated with an industrial activity must conform with the requirements of an NPDES permit issued pursuant to Sections 301 and 402 of the CWA.

8. Pursuant to Section 402(p) of the CWA, EPA promulgated regulations setting forth the NPDES permit requirements for stormwater discharges at 40 C.F.R. § 122.26.

9. 40 C.F.R. § 122.26(a)(1)(ii) and 122.26(c) requires dischargers of stormwater associated with industrial activity to apply for an individual permit or to seek coverage under a promulgated stormwater general permit.

10. 40 C.F.R. § 122.26(b)(14)(ii) defines “stormwater discharge associated with industrial activity,” in part, as facilities classified as Standard Industrial Classification 3325 (Steel Foundries).

11. 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. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

12. IDNR implemented a General Permit for the discharge of stormwater under the NPDES, on October 1, 2007. The permit governs stormwater discharges associated with industrial activity for industrial activities.

Factual Background

13. Respondent is a “person” as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

14. At all times relevant to this action, Respondent was the owner and/or operator of a facility known as Sivyer Steel Corporation, located at 225 South 33rd Street, Bettendorf, Iowa 52722 (the Facility), operating under SIC code 3325.

15. Stormwater, snow melt, surface drainage and runoff water leaves Respondent's facility and flows into the Mississippi River. The runoff and drainage from Respondent's facility is "stormwater" as defined by 40 C.F.R. § 122.26(b)(13).

16. Stormwater contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

17. The Site has "stormwater discharges associated with industrial activity" as defined by 40 C.F.R. § 122.26(b)(14)(x), and is a "point source" as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

18. Respondent discharged pollutants into the Mississippi River, a "navigable water" as defined by CWA Section 502, 33 U.S.C § 1362.

19. Stormwater runoff from Respondent's industrial activity results in the addition of pollutants from a point source to navigable waters, and thus is the "discharge of a pollutant" as defined by CWA Section 502(12), 33 U.S.C. § 1362(12).

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

21. Respondent first applied for and was issued NPDES permit coverage on October 1, 1992. IDNR issued the Respondent's current NPDES Permit Authorization No. 1173-1462 under the general permit described in Paragraph 12 above, which will expire on September 30, 2014. The permit governs stormwater discharges associated with industrial activity.

22. On November 15-17, 2011, EPA performed an inspection of the Site under the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a). The purpose of the inspection was to evaluate the management of stormwater at the Site in accordance with the CWA.

Findings of Violation

Count 1

Discharges in Violation of Water Quality Standards

23. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

24. Part B.2.E of Respondent's NPDES stormwater permit identifies types of "stormwater discharge associated with industrial activity" not authorized by this permit, including: stormwater discharge associated with industrial activity that the Department has shown to be or may reasonably be expected to be contributing to a violation of a water quality standard.

25. The EPA inspection referenced in Paragraph 22 above, documented that Respondent's sampled stormwater effluent in 2009 and 2011 violated Iowa Water Quality Standards. Specifically:

<u>Sampling Date</u>	<u>Parameter</u>	<u>Iowa WQS- Acute</u>	<u>Reported Value</u>
2009	Chromium	16 ug/L	220 ug/L
2011	Chromium	16 ug/L	1,390 ug/L
2009	Copper	26.9 ug/L	340 ug/L
2011	Copper	26.9 ug/L	1910 ug/L
2011	Lead	197 ug/L	1,380 ug/L
2011	Nickel	843 ug/L	1,480 ug/L
2009	Zinc	215 ug/L	440 ug/L
2011	Zinc	215 ug/L	4,590 ug/L
2011	Cadmium	4.32 ug/L	20 ug/L

26. Respondent's discharge of chromium, copper, lead, nickel, zinc and cadmium in violation of water quality standards is a violation of the terms and conditions of the Respondent's NPDES permit, and as such is a violation of Sections 301(a) and 402 of the CWA, 42 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count 2

Failure to Conduct Required Sampling

27. Part V, Monitoring and Reporting Requirements, Section B.2, Primary Metal Industries, of Respondent's NPDES permit, states that facilities classified as SIC 33 (Primary Metal Industry) are subject to the following monitoring requirements for stormwater discharges associated with industrial activity that are discharged from the facility: oil and grease (mg/l); five day biochemical oxygen demand (BOD5) (mg/l); chemical oxygen demand (COD) (mg/l); total suspended solids (TSS) (mg/l); total Kjeldahl nitrogen (TKN) (mg/l); nitrate plus nitrite nitrogen (mg/l); total phosphorus (mg/l); pH; total lead (Pb) (mg/l); total cadmium (Cd) (mg/l); total copper (Cu) (mg/l); total arsenic (As) (mg/l); total chromium (Cr) (mg/l). Sampling shall be conducted at least annually (once per year).

28. The EPA inspection referenced in Paragraph 22 above, and a subsequent review of materials collected during the inspection, documented that Respondent failed to sample for all parameters listed above in 2010, in violation of the requirements of Respondent's NPDES permit.

29. Respondent's failure to conduct required sampling is a violation of the terms and conditions of the Respondent's NPDES permit, and as such is a violation of Sections 301(a) and 402 of the CWA, 42 U.S.C. § 1311(a) and § 1342, and implementing regulations.

Count 3

Failure to Implement Stormwater Management Controls

30. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

31. Section 4B, Stormwater Pollution Prevention Plans, Stormwater Management Controls, of Respondent's NPDES Permit, states that each facility covered by this permit shall develop a description of stormwater management controls appropriate to 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. The description of stormwater management controls shall address the following minimum components, including a schedule for implementing such controls: ... B(3) Preventative Maintenance: the plan shall describe a preventive maintenance program that involves inspection and maintenance of stormwater management devices (e.g. cleaning oil/water separators, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters. B(4) Good housekeeping requires the maintenance of a clean, orderly facility. B(6) Stormwater Management. The plan shall contain a narrative consideration of the appropriateness of traditional stormwater management practices (practices other than those which control the source of pollutants). Based on an assessment of the potential of various sources at the plant to contribute pollutants to stormwater discharges associated with industrial activity the plan shall provide that measures determined to be reasonable and appropriate shall be implemented and maintained.

32. The EPA inspection referenced in Paragraph 22 above, documented that Respondent failed to implement stormwater management controls as listed in Respondent's SWPPP. Specifically, spill kits were not located in the machine shop or oil storage building. The spill kit in the facility garage was empty and did not contain materials to allow the spill kit to properly function.

33. The EPA inspection referenced in Paragraph 22 above, documented that Respondent failed to implement stormwater management controls as listed in Respondent's SWPPP. Specifically, the stormwater settling basin was uncovered and stormwater inlets were unprotected.

34. The EPA inspection referenced in Paragraph 22 above, documented that Respondent failed to implement stormwater management controls as listed in Respondent's SWPPP. Specifically, the roof of the northwest shop area was in disrepair with holes and allowed stormwater to enter the building where dozens of drums of oil and dozens of totes containing liquid mold resins are stored. Vehicular tracking through the building creates the potential for tracking of puddle materials out of the building. Spill containment was not provided to prevent

the spread of any spilled liquids or contaminated stormwater within the building.

35. Respondent's failure to implement stormwater management controls is a violation of Respondent's permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Count 4

Failure to Develop an Adequate Stormwater Pollution Prevention Plan

36. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

37. Section III.C.4.B.3 of Respondent's NPDES permit states that Respondent's SWPPP shall describe a preventive maintenance program that involves inspection and maintenance of stormwater management devices (e.g. cleaning oil/water separators, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

38. Section III.C.4.B.10 of Respondent's NPDES permit states that Respondent's SWPPP shall include a certification that the discharge has been tested or evaluated for the presence of non-stormwater discharges. The certification shall include a description of the results of any test for the presence of non-stormwater discharges, the method used, the date of any testing, and the on-site drainage points that were directly observed during the test.

39. The EPA inspection referenced in Paragraph 22 above, revealed that Respondent's SWPPP did not include an adequate preventative maintenance program for Respondent's settling basin. Specifically, Respondent's SWPPP did not provide criteria for inspecting and cleaning of the settling basin and keeping records of when solids are removed from the basin.

40. The EPA inspection referenced in Paragraph 22 above, revealed that the Respondent's SWPPP did not include a non-stormwater discharge certification, as required by Respondent's NPDES permit.

41. Respondent's failure to develop an adequate Stormwater Pollution Prevention Plan is a violation of Respondent's permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Count 5

Failure to Update Stormwater Pollution Prevention Plan ("SWPPP")

42. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

43. Section C.3, Stormwater Pollution Prevention Plans, of Respondent's NPDES Permit, states that the permittee shall amend the plan whenever there is a change in design,

construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to waters of the U.S. or if the stormwater pollution prevention plan proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with industrial activity.

44. The EPA inspection referenced in Paragraph 22 above, documented that Respondent's SWPPP did not reflect recent process changes at the facility, specifically, core oil loading and storage procedures.

45. Respondent's failure to update its SWPPP is a violation of Respondent's permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Count 6

Failure to Conduct Site Inspections

46. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

47. Section 4.C of Respondent's NPDES Permit, Visual Inspection, states that qualified personnel shall inspect designated equipment and plant areas at appropriate intervals specified in the plan, but in no case less than once a year.

48. The EPA inspection referenced in Paragraph 22 above, revealed that Respondent did not conduct visual inspections during 2009 and 2010, as required by Respondent's NPDES permit.

49. Respondent's failure conduct Site inspections is a failure of the Respondent to implement the SWPPP and is a violation of Respondent's NPDES permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Count 7

Failure to Follow Proper Sampling Procedure

50. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

51. Part I.A.5 of the Standard Conditions of Respondent's NPDES permit requires monitoring to be conducted according to test procedures specified in Iowa Administrative Code 567-Chapter 63, which incorporates by reference 40 C.F.R. Part 136. I.A.C. 567, Chapter 63.2, Records of monitoring activities and results, states that the permittee shall maintain records of all information resulting from any monitoring activities required in its operation permit. Any records of monitoring activities and results shall include for all samples: (a) the date, exact place

and time of sampling; (b) the dates analyses were performed; (c) who performed the analyses; (d) the analytical techniques or methods used; and (e) the results of such analyses.

52. Part V.B.2 of Respondent's NPDES permit outlines monitoring requirements for primary metal industries. The parameters to be measured include: the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff; and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

53. The EPA inspection referenced in Paragraph 22 above, revealed Respondent failed to conduct measurements for pH within the 15 minute hold time, as required by Respondent's NPDES permit, incorporating by reference I.A.C. 567, Chapter 63 and 40 C.F.R. Part 136.

54. The EPA inspection referenced in Paragraph 22 above, revealed that Respondent's monitoring records did not include the magnitude and duration of storm events, the time elapsed since the previous significant storm event, and an estimate of the volume of stormwater discharged, in violation of Respondent's NPDES permit.

55. Respondent's failure to follow proper sampling procedure is a violation of Respondent's permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

Count 8

Failure to Conduct Employee Training

56. The facts stated in Paragraphs 13 through 22 above are herein incorporated.

57. Part 3 of the Requirements section of Respondent's NPDES Permit requires Respondent to conduct employee training to inform personnel at all levels of responsibility of the components and goals of the stormwater pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training. Respondent's SWPPP stated that annual training should be conducted.

58. The EPA inspection referenced in Paragraph 22 above, documented that Respondent failed to conduct annual employee training for 2009 and 2010.

59. Respondent's failure to conduct employee training is a violation of Respondent's permit, and as such, is a violation of Sections 301(a) and 402(p) of the CWA, 33 U.S.C. §§ 1311(a) and 1342(p), and implementing regulations.

60. Based on the foregoing Findings of Violation, and pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), EPA, Region 7 hereby proposes to issue a Final Order assessing an administrative penalty against the Respondent for the violations cited above.

CONSENT AGREEMENT

61. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.

62. Respondent admits the jurisdictional allegations of this CAFO 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 CAFO.

63. Respondent neither admits nor denies the factual allegations and legal conclusions asserted by EPA in the Factual Background and Findings of Violation sections set forth above.

64. 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 CAFO.

65. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and agree to bear their own costs and attorney's fees incurred as a result of this action.

66. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.

67. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

68. This CAFO addresses all civil and administrative claims for the CWA violations identified above. Complainant reserves the right to take any enforcement action with respect to any other violations of the CWA or any other applicable law.

69. Respondent certifies by the signing of this CAFO that Respondent's facility is in compliance with the requirements of the Administrative Order for Compliance on Consent, CWA-07-2013-0006.

70. The effect of settlement described in Paragraph 68 above is conditional upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraph 69 above, of this CAFO.

71. In settlement of this matter, Respondent agrees to complete the following Supplemental Environmental Project ("SEP"), which the parties agree is intended to secure significant environmental and/or public health benefits. Respondent shall reduce the exposure of pollutants to storm water and reduce the volume of stormwater discharged from the facility, through the removal of a seven-acre sand pile and construction of a large stormwater retention

basin, at a cost of no less than Three Hundred and Nineteen Thousand Four Hundred and Forty Dollars (\$319,440), in accordance with the Respondent's SEP Work Plan (attached hereto as Attachment A and incorporated by reference).

72. The total expenditure for the SEP was \$319,440 and the SEP was completed prior to the effective date of the CAFO. All work required to complete the SEP was performed in compliance with all federal, state, and local laws and regulations.

73. Within thirty (30) days of the effective date of the CAFO, 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; and
- (ii) Itemized costs, documented by copies of purchase orders, receipts, or canceled checks.
- (iii) All reports shall be directed to the following:

Lantz Tipton
Water Enforcement Division
U.S. Environmental Protection Agency
Region 7
11202 Renner Boulevard
Lenexa, Kansas 66219

74. In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the 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.

75. Respondent agrees to the payment of stipulated penalties as follows: In the event the Respondent fails to comply with any of the terms or provisions of this Consent Agreement relating to the performance of the SEP as set forth in paragraphs 71 and 72 of this CAFO and/or to the extent that the actual expenditures of the SEP does not equal or exceed the cost of the SEP described in paragraphs 71 and 72 of this CAFO, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- a. Except as provided in subparagraph (b) and (c) of this paragraph, if the SEP is not completed satisfactorily and timely pursuant to the agreement set forth in paragraphs 71 and 72 of this CAFO, Respondent shall be liable for and shall pay a stipulated penalty to the United States in the amount of Thirty-Three

Thousand Five Hundred and Eighteen Dollars (\$33,518), minus any documented expenditures determined by EPA to be acceptable for the SEP, for a total equal to 120% of the mitigated SEP amount.

- b. If Respondent fails to timely and completely submit the SEP Completion Report required by paragraph 73, Respondent shall be liable and shall pay a stipulated penalty in the amount of Two Hundred and Fifty Dollars (\$250).
- c. If the SEP is not completed in accordance with paragraphs 71 and 72 of this CAFO, but EPA 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.

76. Stipulated penalties shall begin to accrue on the day after performance is due, and shall continue to accrue through the final day of the completion of the activity.

77. 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 1 of the Final Order portion of this CAFO.

78. Respondent certifies that it is not required to perform or develop the SEP by any federal, state, or local law or regulation; 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.

79. Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

80. 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."

81. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on

debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Respondent understands that its failure to timely pay any portion of the civil penalty described in paragraph 1 of the Final Order below or any portion of a stipulated penalty as stated in paragraph 75 above may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full.

82. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth in the Final Order.

83. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of the CAFO and to legally bind Respondent to it.

FINAL ORDER

Payment Procedures

Pursuant to the authority of Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and according to terms of this CAFO, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a civil penalty of Nine Thousand Dollars (\$9,000) to be paid in full no later than 30 days after the effective date of this CAFO.

2. Pursuant to 40 C.F.R. § 13.18, failure to make any payment according to the above schedule will automatically accelerate the debt which will become due and owing in full, immediately. Interest on any late payment will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on any overdue amount from the due date through the date of payment. Failure to pay the civil penalty when due may result in the commencement of a civil action in Federal District Court to collect said penalty, together with costs and interest.

3. Payment of the penalty shall be by cashier or certified check made payable to the "United States Treasury" and remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

This payment shall reference docket number CWA-07-2012-0057.

Copies of the check shall be mailed to:

Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency – Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

and to

Kathy Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

4. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

Parties Bound

5. This Final Order portion of this CAFO 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 CAFO.

General Provisions

6. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and to seek penalties against Respondent or to seek any other remedy allowed by law.

7. Complainant reserves the right to take enforcement action against Respondent for any future violations of the CWA and its implementing regulations and to enforce the terms and conditions of this CAFO.


8. This Order shall be entered and become effective only after the conclusion of the period of public notice and comment required pursuant to Section 309(g)(4) of the CWA, 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

9. Respondent and Complainant shall bear their respective costs and attorney's fees.

10. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

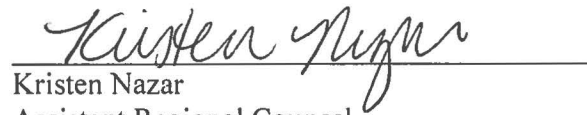
COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

7/14/13
Date



Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division

7/11/13
Date



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel

RESPONDENT:
SIVYER STEEL CORPORATION

5-23-2013

Date



Name (Print)

KEITH D. KRAMER

Title

PRESIDENT

IT IS SO ORDERED. This Final Order shall become effective immediately.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer

7-18-13
Date

Offer of Compromise and Settlement
Subject to Rule 408, Federal Rules of Evidence

Sivyer Steel Corporation ("Sivyer")

225 South 33rd Street, Bettendorf Iowa (the "Facility")

Proposal for a Supplemental Environmental Project ("SEP"):
Natural Area/Stormwater Retention Project

In response to U.S. Environmental Protection Agency's ("EPA") invitation for pre-filing negotiations and draft Consent Agreement and Final Order (Docket No. CWA-07-2012-0057), Sivyer is proposing the Facility's Natural Area/Stormwater Retention Project (the "Project"), described further below, for SEP consideration.

Sivyer commenced work on the Project on May 23, 2012 after it received a "Notice of Potential NPDES Permit Violations" from EPA on November 15, 2011. One of the primary objectives of the Project was to reduce and improve the water quality of the Facility's Stormwater Discharges. The Project consisted of constructing a stormwater retention pond, planting 97 trees of various types and sizes, and installing boulders and paving roadways around the plant to direct the flow of stormwater and minimize erosion (see photos attached hereto).

The Project has resulted in significant environmental benefits. Sivyer has observed that the Project has noticeably reduced the volume of the Facility's stormwater discharge. The Project also provides benefits to the environment by contributing to flooding prevention, and reducing erosion. This Project provided "green space" and an attractive view to and from the Mississippi River by employees and the surrounding community who utilize the walking and biking path that runs along the Mississippi River.

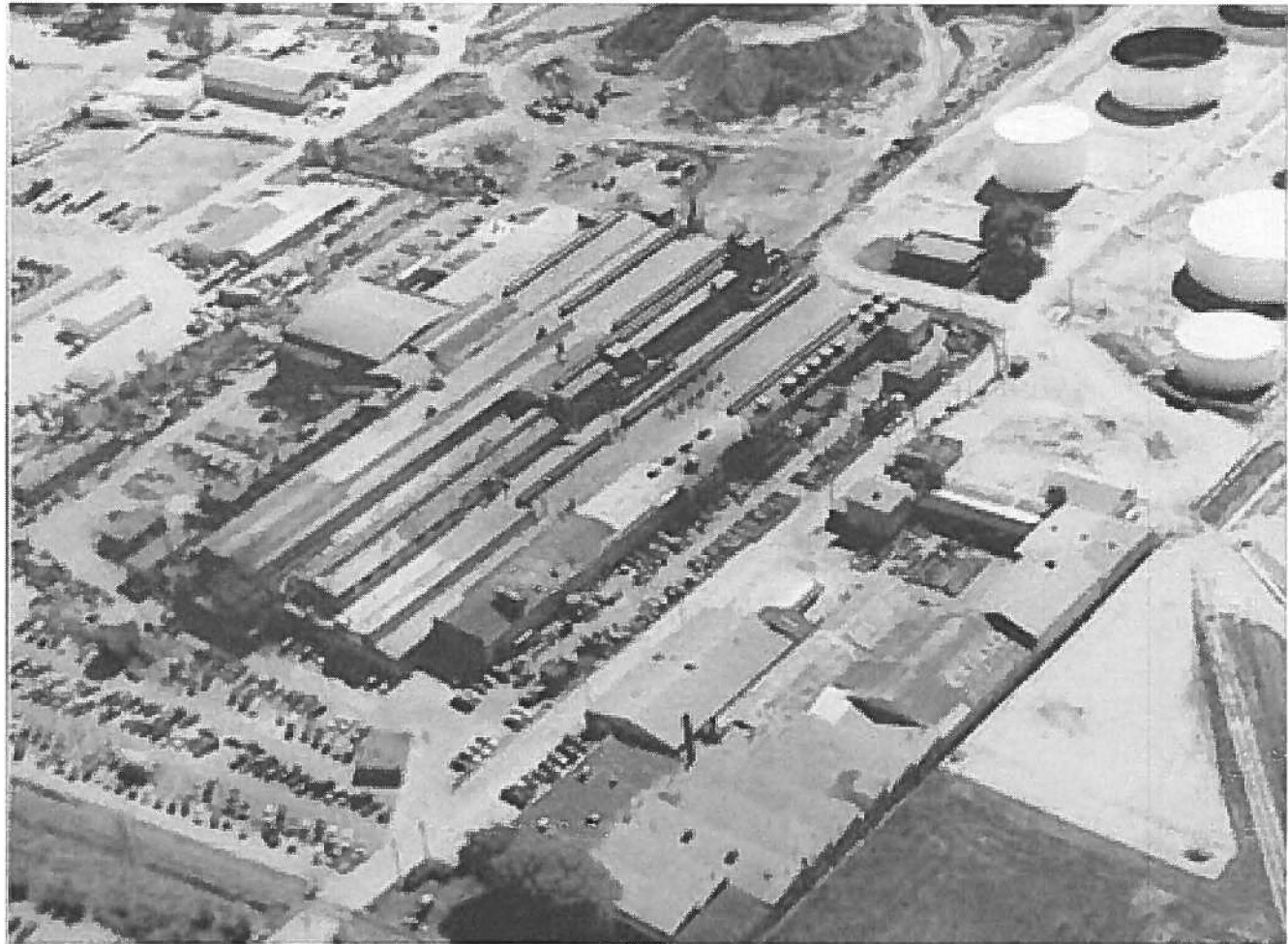
Moreover, Sivyer was not required to complete this Project under its NPDES Industrial Stormwater Permit, under its stormwater pollution prevention plan, or under any applicable law or government order.

The project was completed on August 10, 2012. The costs related to this Project are as follows:

ITEM	TOTAL COST
Paving east side and southside of the Facility (excluding fees, repairs)	\$242,440.00
Excavating and grading land and retention pond (excluding coordination of contractors and owner)	\$54,000.000
Planting 97 Trees (6'-18' in height) including shade, ornamental, evergreen, ornamental grass, mulch	\$19,600.00
Installation of outcropping boulders (approximately. 16)	\$3,400.00
TOTAL	\$319,440.00

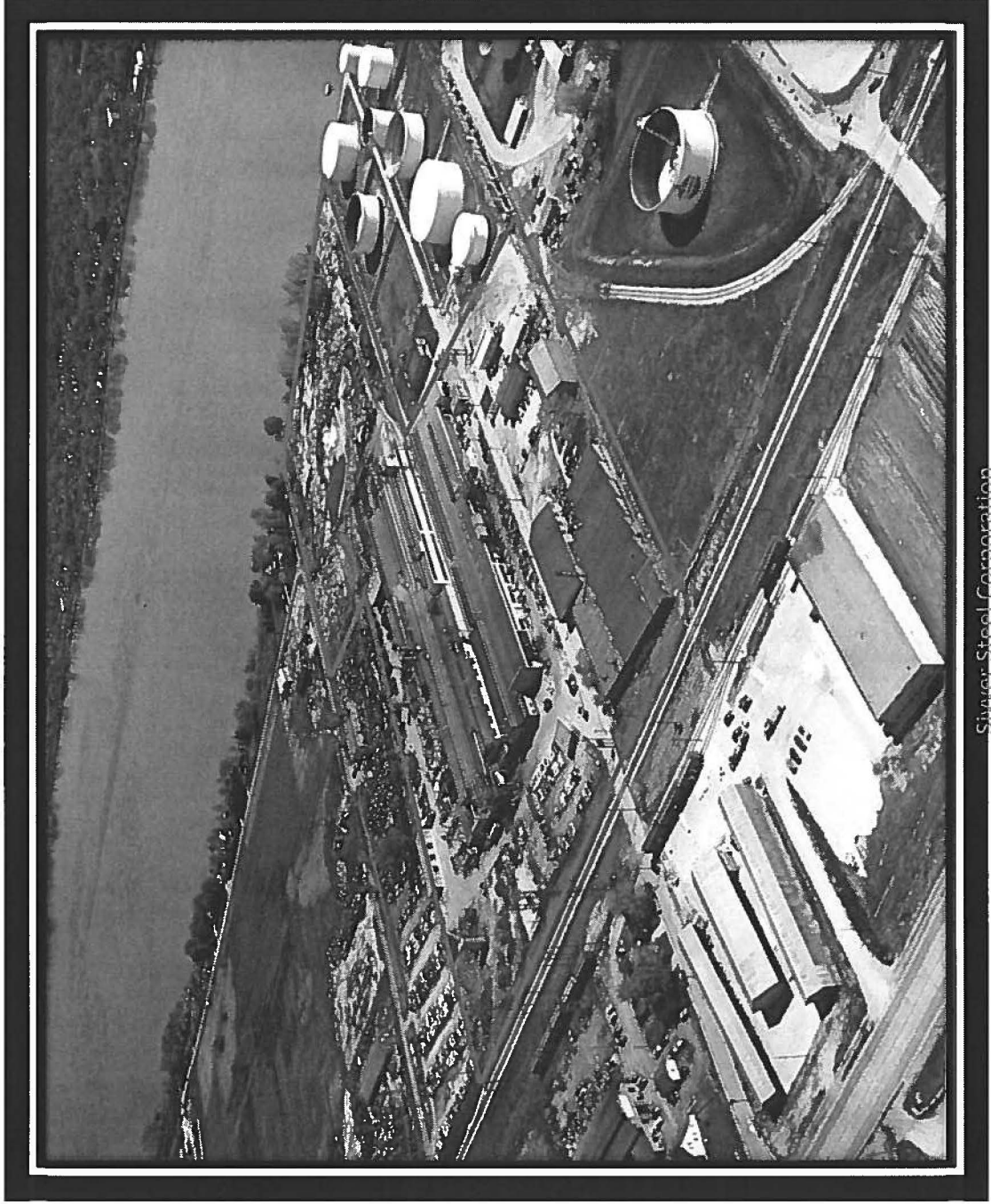
Stormwater Retention Project - BEFORE

1. Note: The sand pile in the back of the plant
2. Note: The road around the plant was dirt, gravel and mud



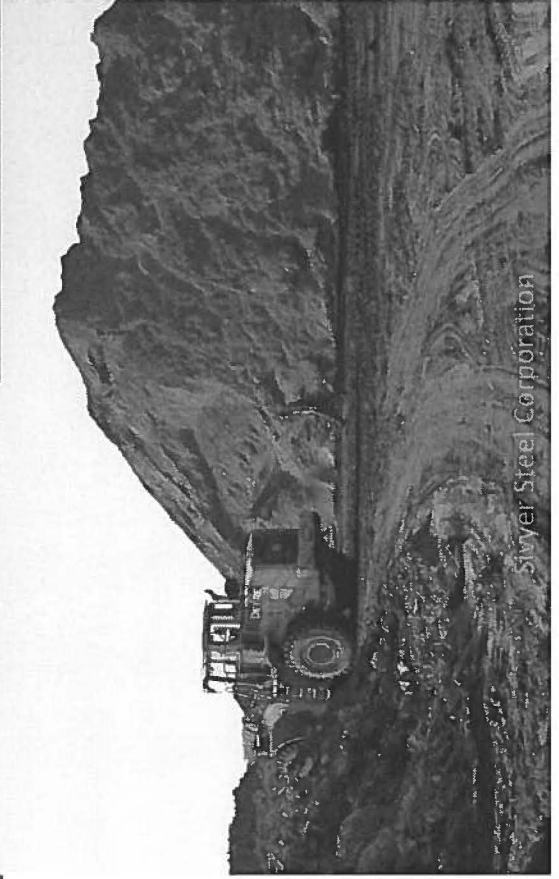
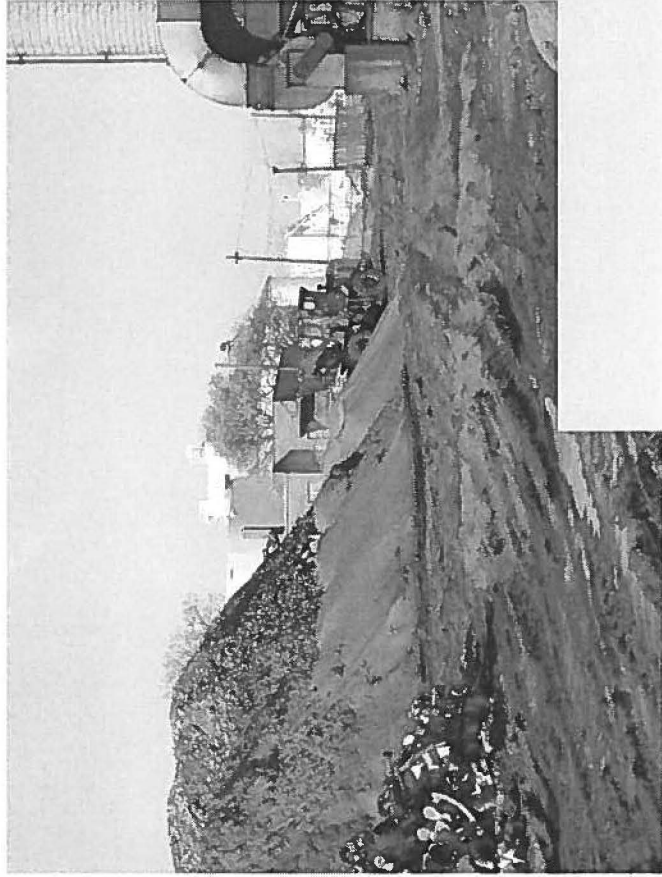
Stormwater Retention Project - AFTER

Sivyer Steel Corporation - CURRENT



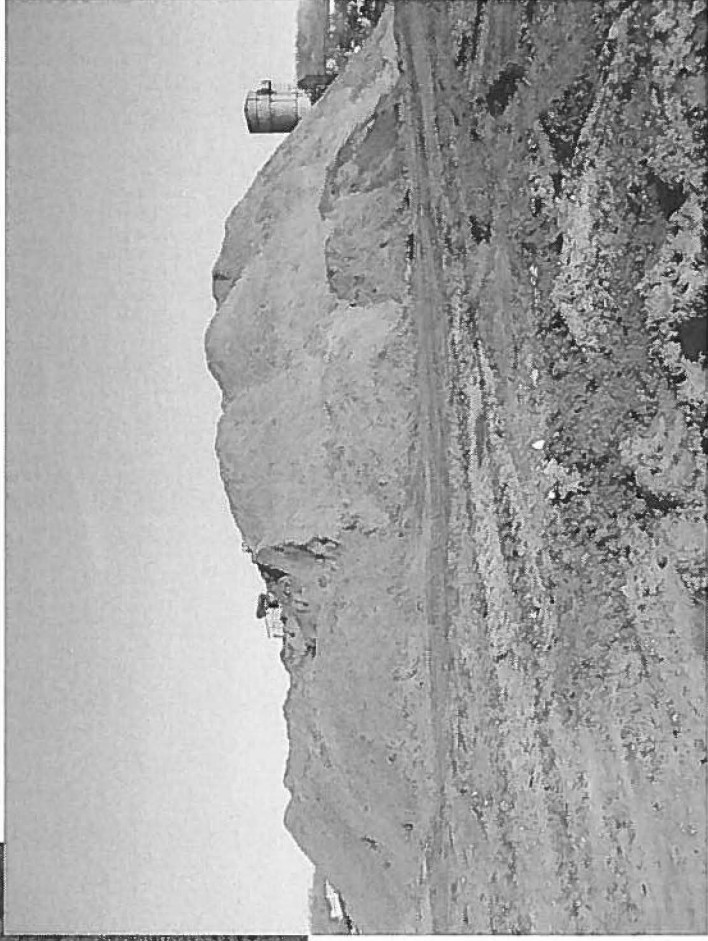
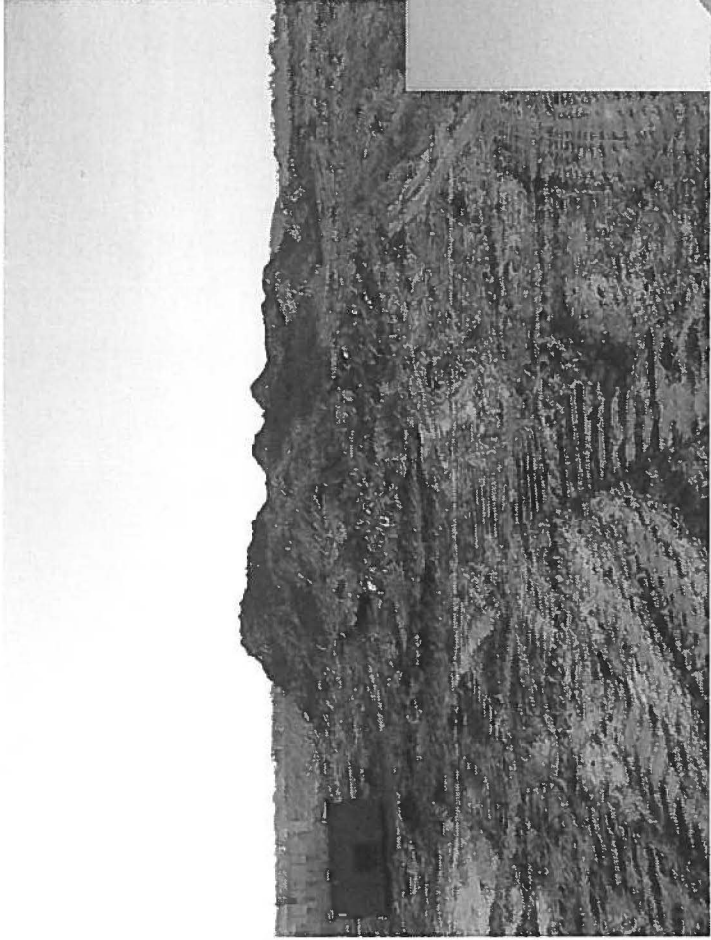
Sivyer Steel Corporation

Stormwater Retention Project - BEFORE

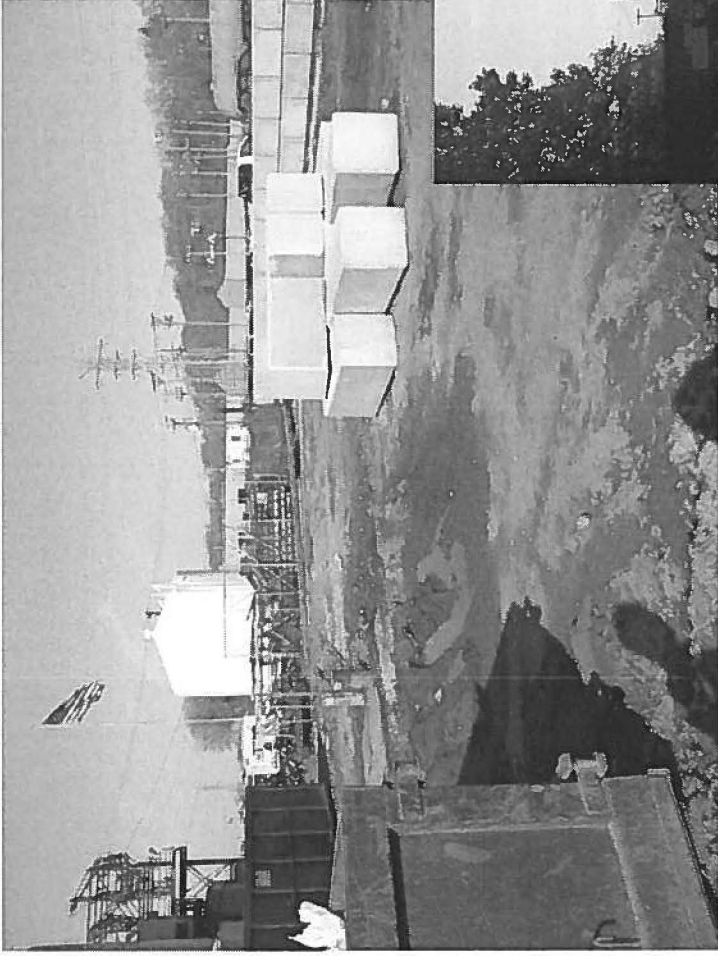


Silver Steel Corporation

Stormwater Retention Project - BEFORE



Stormwater Retention Project - BEFORE

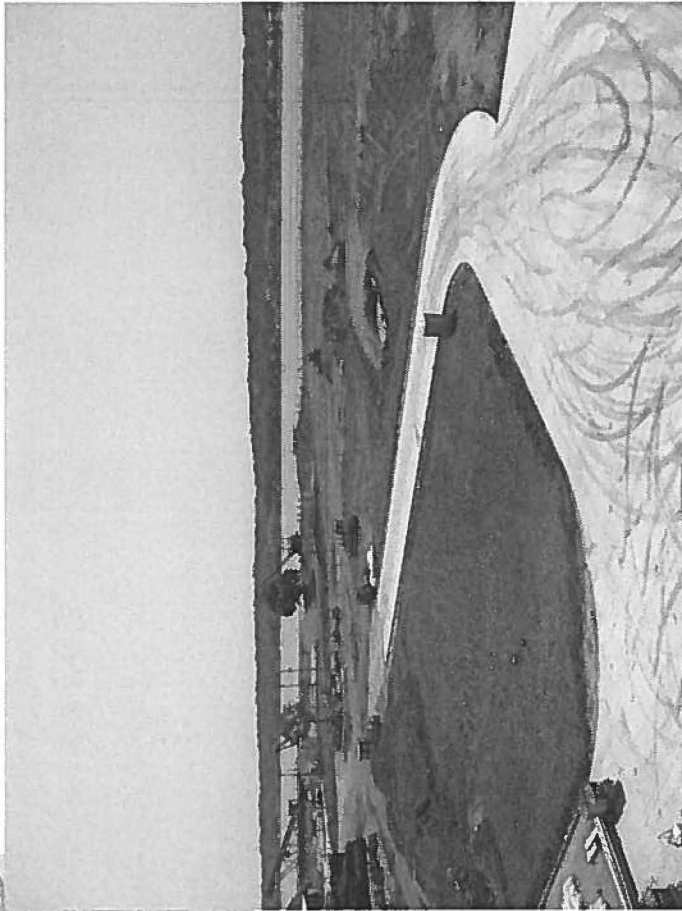
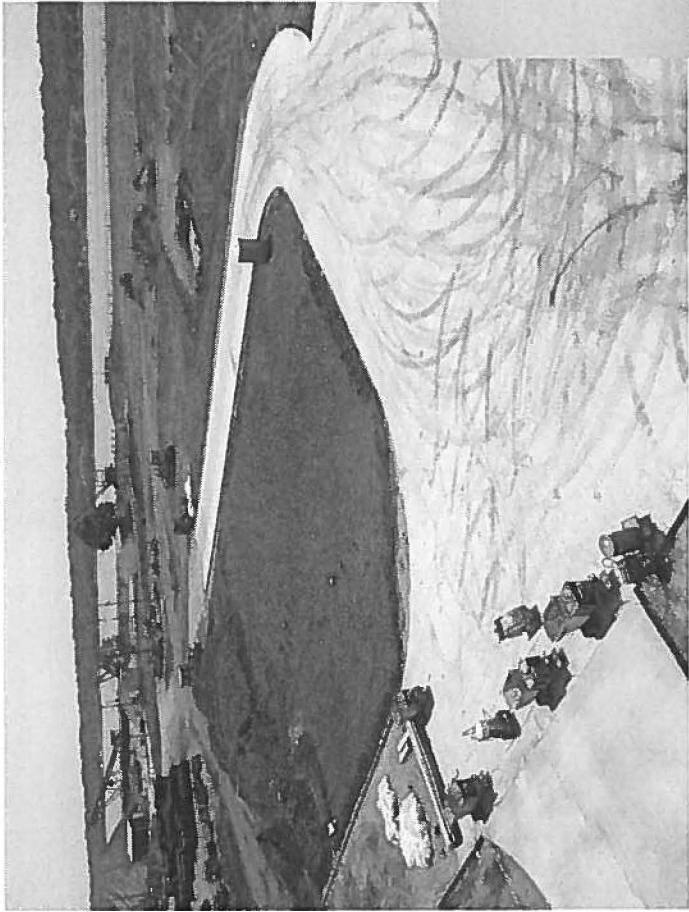


Sivyer Steel Corporation

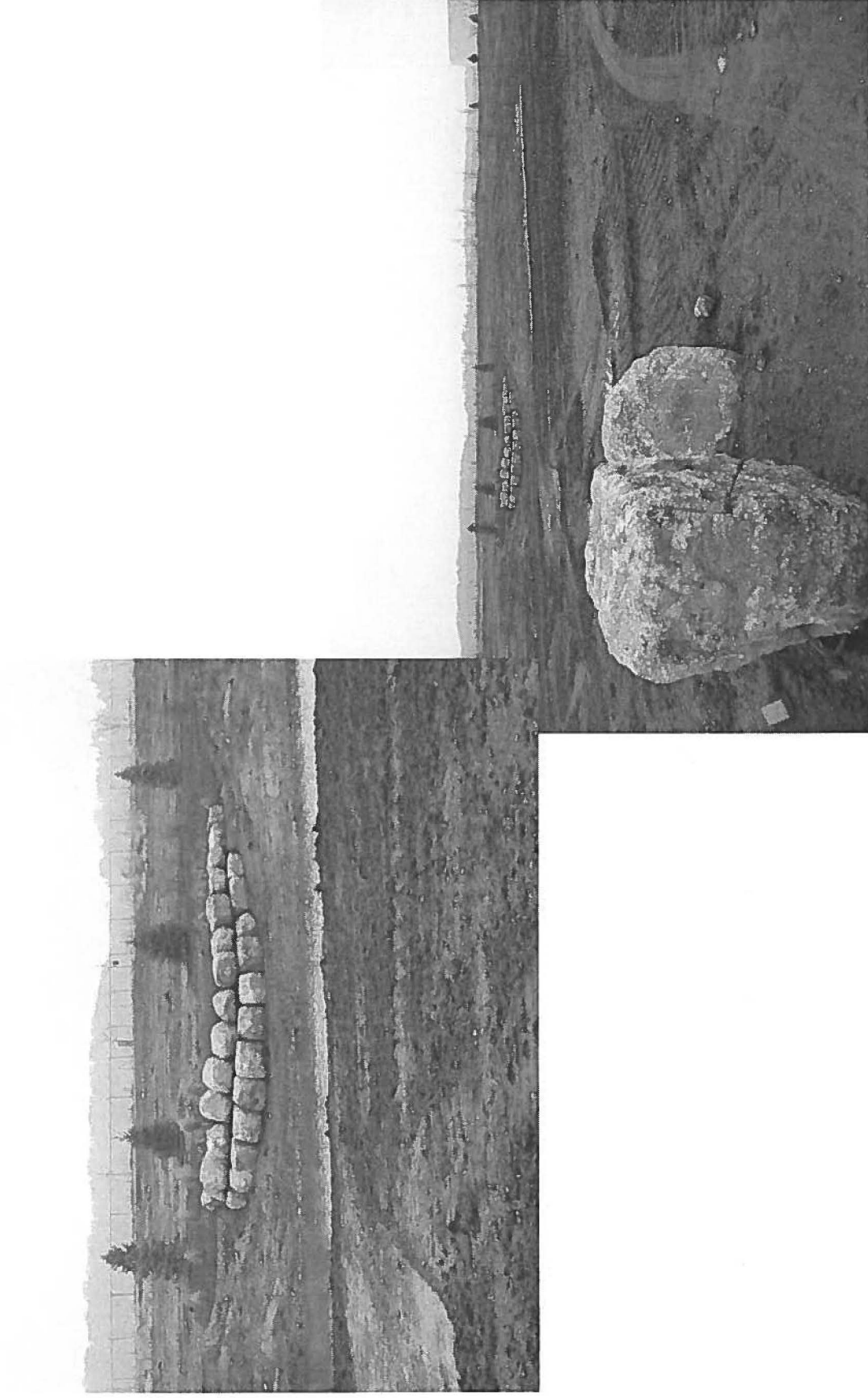
Stormwater Retention Project - AFTER



Stormwater Retention Project - AFTER



Stormwater Retention Project - AFTER



Sivyer Steel Corporation

Stormwater Retention Project - AFTER

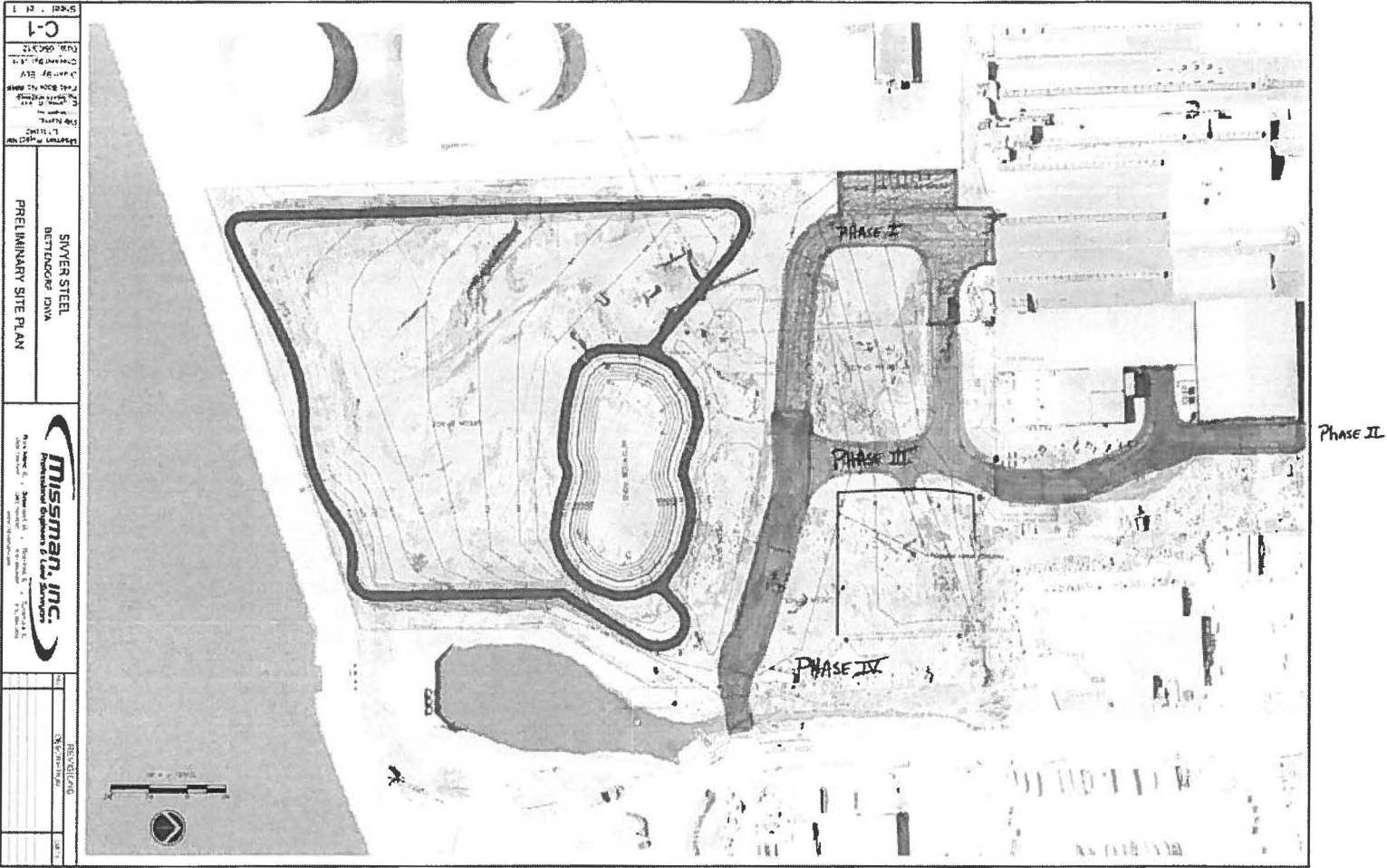


Stormwater Retention Project - AFTER



Sivyer Steel Corporation

Stormwater Retention Project - AFTER



The purple, pink, blue and green highlighted areas are the paving that was completed. The only exception is the dark gray area around the back of the lot and the retention Pond which was not completed.

Stormwater Retention Project - AFTER



Sivyer Steel Corporation

Stormwater Retention Project - AFTER



Sivyer Steel Corporation

9208648_2



IN THE MATTER OF Sivyer Steel Corporation, Respondent
Docket No. CWA-07-2012-0057

CERTIFICATE OF SERVICE

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

Copy by email to Attorney for Complainant:

nazar.kristen@epa.gov

Copy by First Class Mail to Respondent:

Joy Page
Godfrey & Kahn SC
780 North Water Street
Milwaukee, Wisconsin 53202-3590

Dated: 7/18/13



Kathy Robinson
Kathy Robinson
Hearing Clerk, Region 7