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

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)	
)	
SIVYER STEEL CORPORATION)	Docket No. CWA-07-2013-0006
)	
Respondent)	ADMINISTRATIVE ORDER FOR
)	COMPLIANCE ON CONSENT
Proceedings under Section 309(a)(3) of the)	
Clean Water Act, 33 U.S.C. §1319(a)(3))	
_____)	

I. Preliminary Statement

1. This Administrative Order for Compliance on Consent ("Order on Consent") is issued by the United States Environmental Protection Agency ("EPA") to the Sivyer Steel Corporation ("Respondent"), pursuant to the authority vested in the Administrator of the EPA by Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3), as amended. This authority has been redelegated by the Administrator to the Regional Administrator of the EPA, Region 7, and further delegated to the Director of Region 7's Water, Wetlands and Pesticides Division.

2. The EPA, together with Respondent, enter into this Section 309(a)(3) Order on Consent in order to carry out the goals of the CWA, 33 U.S.C. § 1251 *et seq.*, to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters."

3. It is the Parties' intent through entering into this Order on Consent to address discharges of pollutants by Respondent into the waters of the United States in violation of its National Pollutant Discharge Elimination System ("NPDES") permit. As set forth in this Order on Consent, the Parties have amicably reached agreement regarding the timeframes for Respondent to attain compliance with the CWA and its NPDES permit.

4. By entering into this Order on Consent, Respondent (1) consents to and agrees not to contest the EPA's authority or jurisdiction to issue and enforce this Section 309(a) Order on Consent, (2) agrees to undertake all actions required by the terms and conditions of this Order on Consent, and (3) consents to be bound by the requirements set forth herein. Respondent also waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this Order on Consent, including, but not limited to, any right of judicial review of this Order on Consent under the Administrative Procedure Act, 5 U.S.C. §§ 701-708.

II. 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. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), authorizes the EPA to issue administrative orders to require persons to take those actions necessary to comply with the requirements of the CWA. Section 308 of the CWA, 33 U.S.C. § 1318, authorizes the EPA to request and collect information in order to, among other matters, determine whether the owner of a point source is in compliance with the CWA.

12. 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.

13. 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.

III. EPA Findings

EPA's Findings of Fact and Law

14. Respondent is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
15. 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.
16. 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).
17. Stormwater contains "pollutants" as defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
18. 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).
19. Respondent discharged pollutants into the Mississippi River, a "navigable water" as defined by CWA Section 502, 33 U.S.C § 1362.
20. 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).
21. 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.
22. 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 13 above, which will expire on September 30, 2014. The permit governs stormwater discharges associated with industrial activity.
23. 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.
24. Sivyer Steel Corporation documented compliance with the violations cited during

the EPA inspection, with the exception of discharges in violation of water quality standards for the parameter copper, and the corresponding requirement to develop an adequate Stormwater Pollution Prevention Plan that certifies the evaluation of non-stormwater discharges.

EPA's Findings of Violation

Discharges in Violation of Water Quality Standards

25. The facts stated in Paragraphs 14 through 24 above are herein incorporated.

26. 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.

27. The EPA inspection referenced in Paragraph 23 above, documented that Respondent's sampled stormwater effluent in 2009 and 2011 violated the Iowa Acute Water Quality Standard for Copper of 26.9 ug/L. The 2009 sample documented a reported value of 340 ug/L and the 2011 sample documented a reported value of 1,910 ug/L.

28. Respondent's discharge of copper 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.

Failure to Develop an Adequate Stormwater Pollution Prevention Plan

29. The facts stated in Paragraphs 14 through 24 above are herein incorporated.

30. Section III.C.4.B.10 of Respondent's NPDES stormwater 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.

31. The EPA inspection referenced in Paragraph 23 above, revealed that the Respondent's SWPPP did not include a non-stormwater discharge certification, as required by Respondent's NPDES permit.

32. 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.

IV. Section 309(a) Order for Compliance on Consent

33. Based on the EPA's Findings set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the EPA hereby ORDERS, and the Respondent, upon admitting jurisdiction and neither admitting or denying the factual and legal conclusions contained in Section III, EPA Findings, above, AGREES to take, the actions described below:

34. In accordance with this Order on Consent, Respondent shall identify and implement necessary actions to correct the violations cited above, and to comply with the requirements of Respondent's NPDES industrial stormwater permit.

35. *Sampling.* Respondent shall complete the scope of work detailed in the Stormwater Sampling and Analysis Plan dated March 13, 2013 ("SSAP") attached hereto in Appendix A. In the event that the results from the SSAP show that the current source of the copper is outside the boundaries of the Facility or is unrelated to Respondent's industrial activity, Respondent may submit documentation supporting Respondent's conclusion and request that this Order on Consent be terminated pursuant to Paragraph 51.

36. *Compliance Plan.* If the results from the SSAP confirm that the current source of the copper exceedances in the Facility's stormwater discharge is associated with Respondent's industrial activity, Respondent shall submit to the EPA, by no later than December 15, 2013, a comprehensive written plan (the "Compliance Plan") for achieving compliance with the requirements of Respondent's NPDES industrial stormwater permit, including, but not limited to, the water quality standard for copper.

- a. The Compliance Plan shall describe in detail the specific actions to be taken or work to be completed, and why such actions or work are sufficient to comply with the requirements of Respondent's NPDES industrial stormwater permit.
- b. The Compliance Plan shall include a proposed schedule for completing the proposed actions/work. All such actions/work shall be completed as expeditiously as possible, with a final completion date of no later than January 15, 2014.
- c. No later than January 15, 2014, Respondent shall submit an updated SWPPP that includes a non-stormwater discharge certification, as required by Respondent's NPDES permit. 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.

37. *Compliance Plan Completion.* Within thirty (30) days of completion of the final scheduled corrective action, Respondent shall submit a written certification to the EPA that it has completed all actions required pursuant to this Order on Consent.

38. The EPA will promptly review submittals from Respondent. If, after review of

Respondent's submittals pursuant to this Order on Consent, the EPA determines that additional information is needed and/or additional corrective measures or deadlines are appropriate, the EPA may seek to modify this Order on Consent pursuant to the provisions of Paragraph 49 below, or terminate this Order on Consent and initiate a separate enforcement action, as appropriate.

39. All submissions by Respondent to the EPA pursuant to the requirements of this Order on Consent shall contain the following certification signed by an authorized official:

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

40. Each submittal to the EPA required by this Order on Consent shall be sent via certified mail or overnight delivery, unless otherwise agreed to in writing by the EPA, and addressed to:

Lantz Tipton
Environmental Scientist
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency - Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219.

VII. General Provisions

Reservation of Rights

41. Compliance with the terms of this Order on Consent shall not relieve Respondent of liability for, or preclude EPA from initiating, an enforcement action to recover penalties for any violations of the CWA, or to seek additional injunctive relief, as authorized by Section 309 of the CWA, 33 U.S.C. § 1319. Section 309(g)(6) of the CWA, 33 U.S.C. § 1319(g)(6), addresses the effect of this Order on Consent on subsequent actions by the EPA or the State and with respect to citizen suits.

42. Respondent shall comply with all other applicable laws, regulations, standards, and requirements contained in any applicable local, state and Federal pretreatment laws, regulations, standards, and requirements including any such laws, regulations, standards, or requirements that may become effective during the term of this Order on Consent.

43. This Order on Consent 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, nor does it otherwise affect the EPA's ability to enforce or implement the CWA.

44. Issuance of this Section 309(a) Order on Consent 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 set forth in the Findings.

45. Subject to the limitations of Paragraph 4, above, Respondent reserves the right to contest liability in any subsequent action filed by the EPA to seek penalties for violation of this Order on Consent, and reserves the right to contest liability in any subsequent action by the EPA for any violations alleged in the Findings, above.

46. Failure to comply with the terms of this Section 309(a)(3) Order may result in Respondent's liability for statutory civil penalties under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Should the EPA commence an action seeking penalties for violations of this Order, a United States District Court may impose civil penalties if the court determines that Respondent has violated the CWA and failed to comply with the terms of the Order.

Access and Requests for Information

47. Nothing in this Order on Consent shall limit the 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. This Order on Consent has no effect on Respondent's right to seek information under applicable federal, state or local law.

Severability

48. If any provision or authority of this Order on Consent, or the application of this Order on Consent to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order on Consent shall remain in full force and effect and shall not be affected by such a holding. Section numbers and headings are for the convenience of the reader and are not substantive provisions of this Order on Consent.

Modification

49. The EPA may, at its sole discretion, grant extensions of the compliance schedule/deadlines required by this Order on Consent by written notice to Respondent, without further formal amendment to the Order on Consent. The EPA's decision to grant an extension will not be unreasonably withheld. All other significant modifications to this Order on Consent may only be made by mutual agreement of the Parties, pursuant to a written amendment signed by each Party.

Effective Date

50. This Order on Consent shall be effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated there from unless otherwise provided in this Order on Consent.

Termination

51. This Order on Consent shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA. Respondent may petition the EPA to terminate this Order on Consent once the deficiencies identified by this Order on Consent are addressed. The EPA's decision to terminate this Order on Consent will not be unreasonably withheld.

Signatories

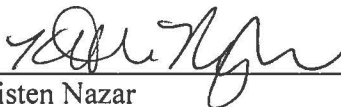
52. The undersigned for each Party has the authority to bind each respective Party to the terms and conditions of this Order on Consent. The Order on Consent may be signed in part and counterpart by each Party.

For the Complainant, United States Environmental Protection Agency, Region 7:

Issued this 11th day of July, 2013.



Karen A. Flournoy
Director
Water, Wetlands and Pesticides Division
U.S. Environmental Protection Agency – Region 7



Kristen Nazar
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency – Region 7

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 on Consent to the Regional Docket Clerk, United States Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas 66219.

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

Joy Page
Godfrey & Khan, S.C.
780 North Water Street
Milwaukee, Wisconsin 53202

and by first class mail to:

Mr. Ed Tormey
Bureau Chief, Legal Services
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319

Mr. Dennis Ostwinkle
Field Office #6
Iowa Department of Natural Resources
1023 West Madison Street
Washington, Iowa 52353-1623.

Date

Stormwater Sampling and Analysis Plan

Sivyer Steel Corporation
225 South 33rd Street
Bettendorf, Iowa

NPDES General Permit No. IA-1173-1462

March 13, 2013

1.0 INTRODUCTION

This document presents a stormwater sampling and analysis plan (SSAP) that has the primary objective of determining the source(s) of copper that has been detected in the stormwater discharge from the Sivyer Steel Corporation (Sivyer) facility located in Bettendorf, Iowa (the Facility) in connection with required monitoring conducted pursuant to NPDES General Permit No. IA-1173-1462 under which the Facility operates (the NPDES Permit). The SSAP describes Sivyer's plan to conduct site surveillance activities, sample collection, and sample analysis during defined significant events to evaluate the potential sources of copper in the Facility's stormwater discharge. With the identification of actual or potential sources of copper in the Facility's stormwater (both on- and off-site), Sivyer can evaluate potential methodologies to reduce the concentrations of copper in the Facility's stormwater discharge to ensure compliance with its General Stormwater Permit. Follow-up actions to address identified sources of copper in stormwater may include control options for sources of coppering stormwater discharge that are located and occurring on the Facility as well potential options to divert or reduce stormwater containing copper from entering the Facility from off-site properties or activities, including urban run-off.

As defined in this document "stormwater" shall mean all liquids, including any particles dissolved therein, in the form of base flow, stormwater runoff, snow melt runoff, and surface runoff and drainage, as well as all solids that enter the storm drainage system. "System," when used in the context of storm drainage, shall mean the combination of all manholes, catch basins, pipes, and other drainage devices and conveyances designed, constructed, and used for the purpose of carrying stormwater from Sivyer to the point of discharge to the Government Interceptor Drain with final discharge to the Mississippi River, and the drainage basin associated with these devices and conveyances.

1.1 PROJECT SITE DESCRIPTION

Sivyer operates a foundry at 225 South 33rd Street, Bettendorf Iowa on the north bank of the Mississippi River. The location of the site is shown on Figure 1. A schematic diagram illustrating the site storm drain system and proposed water quality sampling locations for this assessment is provided as Figure 2.



Figure 1 – Sivyer Steel Corporation, Bettendorf, Iowa

1.2 PROJECT BACKGROUND

In 2010, the Facility was inspected by USEPA Region VII to assess its compliance with the Facility's Stormwater Pollution Protection Plan (SWPPP) and NPDES Permit. As a result of the inspection and follow-up inquiries, the USEPA identified concentrations of certain contaminants in annual stormwater discharge samples collected in 2009 and 2011 that exceeded the Iowa Water Quality Standards (IWQS) (i.e., chromium, copper, lead, nickel, zinc, and cadmium). In response to these exceedences, Sivyer has made significant improvements to the Facility to improve the quality of its stormwater discharges. As a result of these improvements, samples collected in 2012 revealed significant reductions of all contaminant concentrations in the Facility's stormwater discharges from the 2009 and 2011 sampling results. The 2012 sampling results showed concentrations of applicable contaminants all below IWQS with the exception of copper that was detected in concentrations slightly above the IWQS. Accordingly, Sivyer has prepared this SSAP to identify the potential on- and off-site sources of copper in its stormwater discharge.

The site improvements made since 2009 include a number of changes to housekeeping and operations that have resulted in significant changes to the property, particularly in areas impacting stormwater run-off. Approximately 300,000 tons of foundry sand that has been stored on the site since at least the early 1960s has been removed and the site has been graded and set up to process the sand generated from the foundry in a systematic manner that will prevent the accumulation of foundry sand on the site in the future. In addition, a number of roadways and areas used for production activities have been paved or had concrete applied to reduce erosion and stabilize the surface.

2.0 Monitoring

Past stormwater sampling has been conducted only at the Facility's NPDES Outfall – Settling Basin D basin located behind the Facility, as required by the NPDES Permit. However, the stormwater discharged from the NPDES Outfall combines stormwater that originated at the Facility with stormwater that originated from off-site properties (e.g., local roads and adjacent properties) and migrated onto the Facility through conveyances or via sheet-flow. Accordingly, in order to identify potential off-site and on-site sources of

copper, the SSAP includes collecting samples from the NPDES Outfall and at least four additional locations. These additional sampling locations will be carefully chosen to evaluate copper concentrations in stormwater originating from the following: (i) off-property conveyances, (ii) sheet flow from off-site, (iii) urban runoff from 33rd Street and other nearby right of ways, and (iv) specific areas on the Facility property that are exposed to industrial activities being performed by Sivyer. See Table 1 and Figure 3 for the proposed sampling locations. Note these sampling locations may be modified or additional sampling locations may be added based on staff observations during storm events.

2.1 Preparation for Monitoring

In preparation for the sampling study, the following steps will be taken.

Steps 1 – Identify staff to participate in the SSAP.

Sivyer-has determined that one project manager along with two staff (at a minimum) will participate in the study. The project manager will oversee the SSAP and will utilize outside experts when necessary for consultation. The two staff will be assigned to collect samples during the rain events, with the project manger acting as a back-up to the staff for sample collection.

- A. The two staff will be trained for the sampling activities (see below), along with the Project Manager

- B. If one of the two staff or the project manager is not able to continue sampling during the study period, a new staff person or manager will be assigned to the project. The new staff will complete the specified training prior to participating in activities related to the SSAP.

Step 2 – Confirm the analytical laboratory that will be selected to perform the analysis.

- A. QCAnalytical Services, LLC is the current laboratory that is used by the facility. Confirmation of the lab's accreditation and other quality assurance

documentation will be evaluated by the project manager prior to the final confirmation.

Step 3 – Train selected staff on proper sample collection including:

- How to anticipate a measurable storm event
- Where to monitor
- How to collect and document the collection of stormwater samples including the assembling of “field blank” samples
- How to perform and document visual assessments
- How to handle and send the samples to the lab
- How to interpret the results
- How to keep accurate and complete records and report appropriate information to the permitting authority.

This will be accomplished by having all staff participating in the SSAP complete the following training:

A. Review video training on stormwater sample collection (see attached links)

- a. www.youtube.com/watch?v=oWKdonc9iDw
- b. www.youtube.com/watch?v=AmEJUNp44aU
- c. www.youtube.com/watch?v=dOPYtpZL-bq

1. Review the EPA Guide to Collecting Stormwater Samples (EPA 832-B-09-003)
B.

C. Participate in hands-on sample collection and processing training conducted by selected analytical laboratory staff assigned to sample collection

Step 4 – The Project Manager and Staff will define how significant rain events (for definition see below) will be identified for the SSAP including:

- A. Watching local weather forecasts
- B. Monitoring precipitation forecast monitoring websites including the National Oceanic and Atmospheric Administration (NOAA) website that offers a Quantitative Precipitation Forecast for 6-hour increments:

<http://www.wrh.noaa.gov/forecasts/graphical/sectors/sew.php#tabs>.

- C. Evaluating the use of other forecasting methods including private alerting services.

2.2 Determine Sources of Stormwater Entering and Exiting the Property

To help determine potential sampling locations, staff has identified five potential locations in addition to the Outfall where proposed sampling will take place. These have been defined in Table 1 and identified in Figure 3.

Once the SSAP is underway, the first time that a precipitation event occurs that qualifies as a Significant Stormwater Event (SSE) which is defined below, staff will conduct visual surveillance of the stormwater flow on and off of the property to confirm proposed sample locations as well as other potential sample locations (referred to herein as the "First SSE Site-Surveillance"). Documentation will include notes and photographs of proposed and potential sample locations.

Procedure:

1. Staff will walk the grounds and perimeter of the Facility during the SSE to identify where runoff discharges to and from the site. The locations where stormwater enters and exits the Facility, including pipes, ditches, swales, and other structures that transport stormwater will be identified. This will include walking outside the boundary of the Facility where possible (if permission has been received to enter private property) to identify outfalls that may not be apparent from within the site. Depending on the duration of the SSE, a second SSE may be necessary to survey the entire property.
2. Proposed sampling points will be evaluated along with potential undocumented or unknown sources. Specific attention will be given to locations where concentrated stormwater may be exiting or entering the property through a pipe, ditch or similar conveyance as well as dispersed runoff (i.e. sheet flow) that is flowing onsite or offsite through grassy areas or across a parking lot).

2.3 Determine Where the Samples will be Collected

1. During the First SSE Site Surveillance, locations on the Facility Site Map (Figure 3) that have already been identified in the SWPPP where stormwater is exiting or entering sites will be confirmed. Staff will also identify any additional locations where stormwater is observed to be exiting or entering the property is Staff will also observe drainage areas for specific stormwater basins.
2. The First SSE Site-Surveillance will include observations of the industrial materials and activities in each drainage area for each basin that is proposed for sampling including drainage areas that include off site discharges entering Sivyer's stormwater conveyance system and discharges (or the potential for discharges) of potable water sources to the storm water system from on-site sources. This information will assist Sivyer in identifying whether any changes or additions to sampling locations are warranted. This information will also be used along with analytical results to identify the source of copper that is causing the exceedances.
3. Based on the First SSE Site-Surveillance, the project manager will be responsible for selecting the final locations for sampling conducted under the SSAP.
4. Information from the First SSE Site-Surveillance will be added to the Sivyer SWPPP. Since the Facility is large and significant changes have been made in the elevation with the disposal of historical accumulations of foundry sand and the application of pavement, concrete and other Facility upgrades, a site survey of elevations and or new Site Plan may be necessary following completion of the initial SSE Site Surveillance. Generally, industrial stormwater permits require that samples are collected from stormwater discharges prior to the stormwater leaving the Facility, and at a location downstream from all of the industrial

materials and activities. At this time it is believed the current outfall complies with these requirements.

2.4 Determine Type of Storm Events that Qualify for Monitoring

In addition to identifying who will collect the samples and where the samples will be collected, it is also critical that an understanding of what type of discharge event will be considered as a Significant Stormwater Event (SSE) that will trigger sampling under the SSAP.

Under the EPA's 2008 Multi-Sector General Permit (MSGP), two preconditions must be met before a storm or snowmelt event is considered adequate to be monitored (see Part 6.1.3 of the 2008 MSGP). These conditions are that the storm / snowmelt event must create an actual discharge from the site ("measurable storm event and at least 72 hours must have elapsed since the previous measurable storm event.

The SSE will be defined for the SSAP as a precipitation event where 0.1 inch of rainfall is measured. Snow or run-off from snow melt will not be considered a SSE.

Each SSE will be separated by at least 72 hours from a previous SSE. That means that at least 72 hours must have elapsed since the previous measurable storm event.

In order to properly characterize rain events at Sivyer, a rain gauge will be purchased to document the dates on which rain occurred and the amount of rain that fell. During the duration of the SSAP, staff will document whether or not an actual discharge from the outfall occurred for each rain event measuring over 0.05 inches. It is hoped that the tracking of rainfall amounts and discharge information will help to better predict future SSE's and other storm events that will be measurable and result in a discharge.

2.5 Confirm Laboratory to Analyze the Samples

The stormwater samples will be analyzed for copper utilizing approved methodologies found at 40 CFR Part 136. The lab will provide a report to the project manager with chemical concentration data and data quality assurance information.

The project manager will confirm the lab's documentation showing they are certified to analyze environmental samples, and evidence they participate in DMRQA or other performance evaluation testing results.

The lab will supply:

- training on sample collection, documentation and data interpretation;
- sampling and courier services; and
- complete sampling kits which include bottles, packing materials, bottle labels, coolers and chain of custody forms; many laboratories provide free sampling kits

2.6 Collection of Stormwater Samples

There will be a maximum of five rounds of samples collected for each sampling location identified above, with each round of samples collected during separate SSEs. Staff will make an attempt to collect each sample within 30 minutes of the SSE. The order of sample collection will be developed once the sample locations are confirmed so flow can be captured. Sample collection times will be noted along with SSE duration and characteristics in sample log.

The lab will be notified when a SSE occurs so that they know to expect the samples. The lab is expected to have adequate staff available to conduct the analyses for copper within the applicable holding times.

The samples in the SSAP will be grab samples and will be collected directly into the sample container whenever possible. A grab sample is defined as a single sample "grabbed" by filling up a container, either by hand or attached to a pole.

Obtaining accurate data is vital to the SSAP and also to Sivyer's ability to assess how the current stormwater control measures are performing. The following protocol below will be utilized to obtain an accurate grab or manual sample.

- Sample collectors will wear disposable powder-free gloves for sampling;
- The inside of the lid or bottle will not be touched or contaminated.

- A pole or other appropriate sampling apparatus will be used if sample location is dangerous, a confined space or inaccessible.
- Samples will be collected from a turbulent section in the central part of the flow; avoiding touching the bottom or sides of the stormwater conveyance
- The sample bottles will be filled as directed by the laboratory. This will include filling nearly to the top (meniscus almost at the rim) by holding the opening into the flow of water. The bottles will not be rinsed or overfilled.

After the samples have been collected:

- The samples will be labeled properly, as instructed by lab personnel
- The samples will be placed in a sturdy cooler partially filled with ice. As a general rule, samples should be kept at approximately 39°F (4°C) until the cooler is delivered to the lab.
- A completed chain of custody form enclosed in a resealable plastic bag will be placed inside the cooler or attached to cooler as directed by the laboratory

After the samples are analyzed, the results will be provided to the project manager.

2.7 Recorded Information for Each Monitoring Event

For each individual sample collected, the following information will be recorded:

- The sample / outfall identifier.
- The duration between the storm event sampled and the end of the previous storm event that resulted in a discharge of stormwater from the site.
- The date and duration of the storm event sampled.
- Rainfall measurement or estimate (in inches).
- Estimate of the total volume of the discharge sampled from the outfall

2.8 Quality Assurance Considerations

Quality assurance (QA) helps maintain the accuracy and integrity / legal defensibility of monitoring results by documenting the stewardship of samples, by minimizing biases in sampling and lab procedures, and by helping to assess the accuracy and precision of the lab's analyses.

Samples will be processed as directed by the laboratory. The proper container and preservatives will be used for the samples. Samples that cannot be delivered to the lab on the same day will be preserved, often by cooling to 4°C (i.e., in an ice bath) and adding required chemical preservatives (will confirm if laboratory-supplied bottles include preservatives).

There is only one parameter that needs to be analyzed in each sample so there are no expected conflicts with holding times or preservatives.

Field blanks and other samples used to document the quality of the sample collection and laboratory analysis will be collected as required by the laboratory.

Due to time constraints on the sample collection (within 30 minutes of the onset of the SSE's) the project manager will work with the laboratory to get precompleted custody records and seals provided along with pre-labeled sample bottles for ease of use in the field.

The project manager will also work with the laboratory to incorporate other sample handling or shipping instructions that will be helpful to staff.

3.0 Monitoring Results

the results from visual observations and sample analysis to identify potential on- and off-site conditions that may be contributing to the copper concentrations previously identified in samples collected from the NPDES Outfall. This will include an evaluation of the exposed industrial materials and activities including material handling equipment, industrial machinery, raw materials, finished product, wastes, or products that are stored, used or created onsite. Off-site contributions will also be evaluated to determine their contribution to copper concentrations in stormwater discharges.

Once the SSAP is completed and Sivyer has identified actual or potential sources of copper in the Facility's stormwater-Sivyer will evaluate potential control options for identified source or sources of copper to determine strategies to reduce concentrations

in the Facility's stormwater discharge. Potential control options may include efforts to divert or reduce stormwater coming from off-site sources. Sivyer will also update their SWPPP, as necessary. Upon completion, Sivyer will document its findings and summarize any potential reasonable control options to reduce concentrations of copper in the Facility's stormwater discharge in a final report .

Table 1 Proposed Sample Locations

Stormwater Basin ID	Description
#2	<p>Located at north end of property. Collects sheet flow from employee parking lot and railroad tracks adjacent to northern property boundary.</p> <p>Basin #2 also directly receives discharge of stormwater conveyance from Donahoo Steel Treating parking lot that crosses railroad tracks.</p>
#9	<p>Located on the east side of the property down gradient of the eastern portion of the manufacturing operations in the main Sivyer Foundry Building</p>
#11	<p>Located in the vicinity of the southwest corner of the main Sivyer Foundry building. This collects stormwater from 33rd Street and sheet flow from upgradient streets that flows to 33rd Street basins as well as the manufacturing operations on the western portion of the main building.</p>
#12	<p>Located in the northwest corner of the property collecting runoff from the railroad tracks, a conveyance under the railroad tracks and runoff from Premier Stone Company storage yards located on the eastern property boundary.</p>
Outfall – Settling Basin D	<p>Outfall location where annual samples are collected.</p>

Table 2 Results of Various Copper Analyses

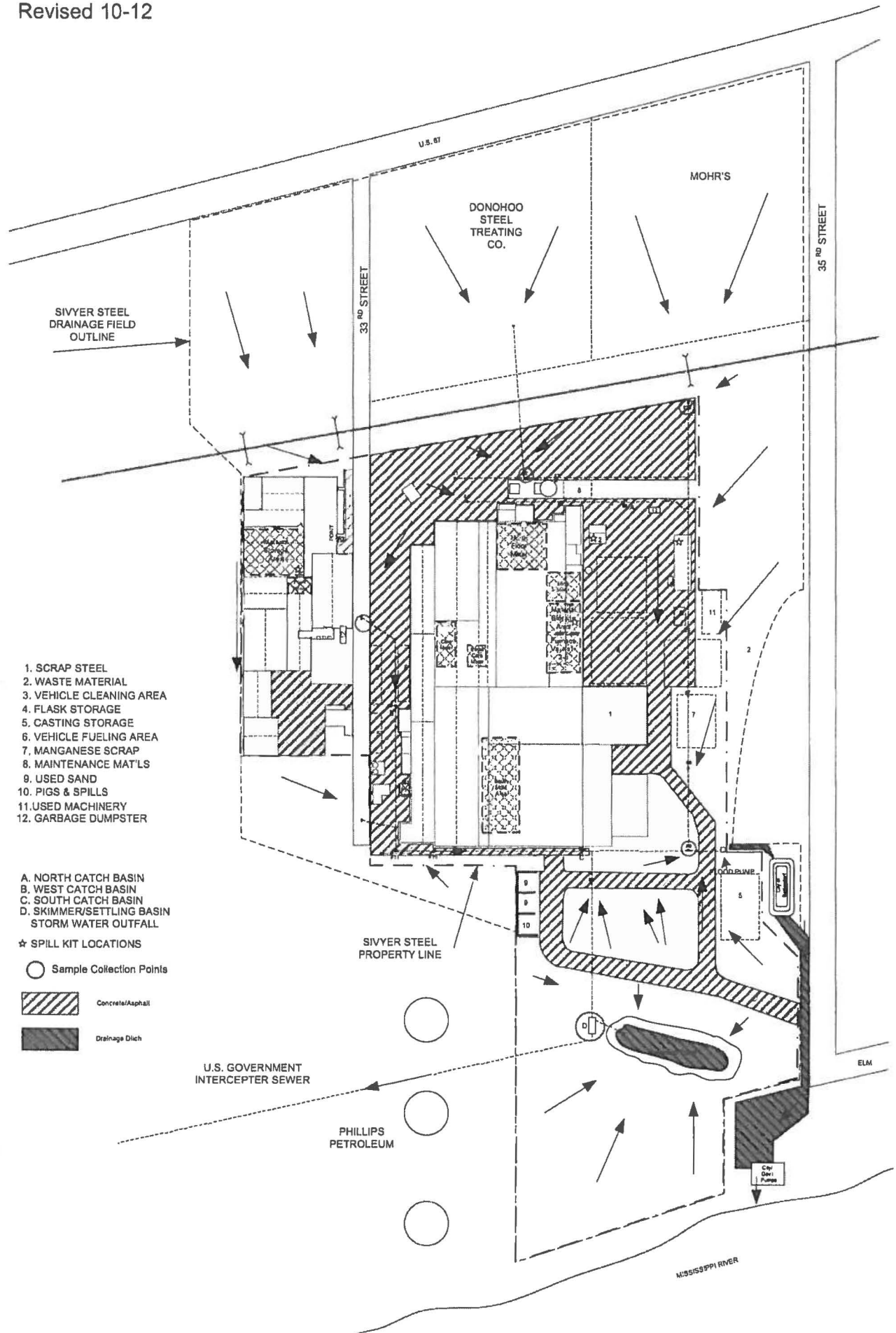
Sample Date	Results ug/l	Sample Description
8/26/2009	337	Annual Stormwater Sample Stormwater Grab 2.36 inch Stormwater Event – 2+ hours duration
8/8/2011	1,910	Annual Stormwater Sample Stormwater Grab 0.26 inch Stormwater Event – 2+ hours duration
7/13/2012	38	Annual Stormwater Sample Stormwater Grab 0.40 inch Stormwater Event – 2 hours duration
4/9/2012	76	Grab Sample - Potable Water in Plant
IWQS Limit and Levels of Copper in various references		
	26.9	Copper IWQS – Impaired B(WW1-3) Acute
	33	Residential Median – Urban Land Use ¹
	27	Commercial Median – Urban Land Use ¹
	29	Mixed Median – Urban Land Use ¹
	10-400	Range Urban Run Off – Separate Sewer ²
	50	Typical Urban Run Off – Separate Sewer ²

1. Nationwide Urban Run Off Program: US EPA 1983

2. Bastian, 1997, cited in Urban Run-Off EPA Stormwater Guide; 2006

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IN THE MATTER OF Sivy Steel Corporation, Respondent
Docket No. CWA-07-2013-0006

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