

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII

901 NORTH FIFTH STREET 09 MAR 25 PM 12:57  
KANSAS CITY, KS 66101

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF )  
)  
)  
THE CITY OF FORT MADISON, )  
IOWA )  
)  
Respondent )  
)  
)  
Proceedings under Section 309(a)(3) )  
of the Clean Water Act, )  
33 U.S.C. § 1319(a) )  
\_\_\_\_\_ )

Docket No. CWA-07-2009-0053

FINDINGS OF VIOLATION and ORDER  
FOR COMPLIANCE ON CONSENT

**Background and Findings of Violation**

**Jurisdiction**

1. The FINDINGS OF VIOLATION are made and the ORDER FOR COMPLIANCE ON CONSENT (Order) is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 309(a)(3) of the Clean Water Act ("CWA"), 33 U.S.C. §1319(a)(3).

2. The EPA is alleging that the Respondent, City of Fort Madison, Iowa ("City" or "Respondent"), discharged pollutants into the waters of the United States in violation of Section 301 of the CWA, 33 U.S.C. § 1311, and a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

**Parties**

3. The Complainant, by delegation from the Administrator of the EPA to the Regional Administrator, EPA, Region VII, and by further delegation from the Regional Administrator, EPA, Region VII, is the Director of Region VII's Water, Wetlands and Pesticides Division, EPA, Region VII.

4. Respondent owns and/or operates a Publicly Owned Treatment Works ("POTW") in the State of Iowa that treats domestic, commercial, and industrial wastewater. As defined by 40 C.F.R. § 403.3(q), a POTW includes, but is not limited to, devices and systems for storage and treatment of municipal sewage and sewers, pipes and other conveyances of wastewater.

### **Statutory and Regulatory Framework**

5. Section 301(a) of the CWA, 33 U.S.C. §1311(a), prohibits the discharge of any pollutants by any person except when in compliance with, inter alia, any permit issued under the authority of 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. To implement the NPDES program under Section 402 of the CWA, the EPA promulgated regulations, including those codified at 40 C.F.R. Part 122. The NPDES regulations at 40 C.F.R. § 122.1(b)(1), state that the NPDES program requires a permit for discharge of "pollutants" from any "point source" into the "waters of the United States", as those terms are defined in Section 502 of the CWA, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

7. 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(b) of the CWA, 33 U.S.C. § 1342(b), and EPA's implementing regulations. The EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.

### **Complainant's Findings of Fact**

8. The City is a "person" as defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

9. The POTW owned and/or operated by the City includes a wastewater treatment facility ("WWTF") and eight combined sewer overflow ("CSO") outfalls from which it discharges pollutants, as defined by Section 502(12) of the CWA, 33 U.S.C. §1362(12), from "point sources", as defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

10. The City discharges pollutants from these point sources into the Mississippi River, which is a navigable water, or Water of the United States, as defined by Section 502(7) of the CWA, 33 U.S.C. §1362(7).

11. The City's discharges of pollutants from its POTW require a permit issued pursuant to Section 402 of the CWA, 33 U.S.C. §1342.

12. IDNR issued NPDES Permit No. IA-0027219 ("Permit") to the City, effective October 23, 2001. The Permit expiration date was set for October 22, 2006, but the City timely filed for a new permit, which administratively extended the expiration of the Permit until such time as the Permit is reissued.

13. The Permit authorizes wet weather discharges to the Mississippi River from the City's permitted CSO outfalls, provided the City complies with special conditions, including: discharges shall not cause or contribute to an in-stream excursion of the numeric or narrative criteria developed and adopted as part of the State's water quality standards; development and submittal of a Combined Sewer System ("CSS") Operation Plan for implementation of the Nine

Minimum Controls (“NMCs”) within 6 months of permit issuance; implementation of actions identified in the CSS Operation Plan necessary to comply with the NMCs as soon as possible, but not later than 24 months of permit issuance; and submittal of a Long-Term Control Plan (“LTCP”) within 36 months of permit issuance.

14. The Permit requires the LTCP to include a characterization of the CSS, development and evaluation of CSO control alternatives, and the selection and implementation of a LTCP based on an implementation schedule, operational plan, and post-construction compliance monitoring plan.

15. On May 23, 2005, a representative of EPA conducted an inspection of the City’s POTW (hereafter “EPA Inspection”) under the authority of Section 308 of the CWA, 33 U.S.C. § 1308, to determine the City’s compliance with the CSO requirements in the City’s Permit.

16. The EPA Inspection revealed that the City:

a. failed to submit its CSS Operational Plan by the required date; and

b. failed to fully implement the Nine Minimum Controls outlined in the CSS Operational Plan as required by the Permit, including failure to complete the public notification activities and failure to implement measures to determine whether or not dry-weather overflows had been eliminated by the required date.

17. The City indicates it submitted its CSS Operation Plan to IDNR in July 2002. The City also indicates it began implementation of the Nine Minimum Controls by July 1, 2005.

18. Additionally, the City failed to submit its LTCP by the required date; and then submitted a preliminary LTCP in April 2006 that recommended no further action to address the City’s CSOs.

19. The City submitted a final LTCP on August 11, 2006, that recommended control alternatives that appear adequate to address the City’s CSOs. The alternative selected by the City is Alternative Two, the addition of disinfection systems to the eight (8) CSO locations present in Fort Madison.

20. EPA finds that the failure of the City to comply with the CSO requirements of its permit, as described in Paragraphs 16 and 18 above, is in violation of the Permit, and as such, is a violation of Section 301(a) and a permit issued pursuant to 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342, and implementing regulations under the CWA.

**Agreement of the Parties Concerning Compliance Activities**

21. The City and Complainant agree to pay their own costs and attorneys’ fees incurred as a result of this action.

22. Without either admitting or denying the findings of fact stated herein or any conclusions of law that could be drawn from such facts, the City consents to the issuance of this Order, hereinafter recited, and consents to perform the compliance activities as set forth in this Order.

23. Each signatory to this Order certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to obligate the party represented to perform the compliance activities set forth herein.

24. The City does not, and stipulates it will not in the future, contest the jurisdictional allegations set forth above.

25. Nothing contained in this Order shall alter or otherwise affect EPA's ability to initiate an administrative or judicial enforcement action to recover penalties for any violations of the CWA including the violations set forth above, or to seek additional injunctive relief, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319.

### **Order for Compliance on Consent**

Based on the Findings of Fact and the Findings of Violation set forth above, and pursuant to Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), the City hereby consents and is ORDERED to take the actions described below.

#### *Thirteenth Street CSO Elimination Study*

26. By June 30, 2011, the City shall submit to EPA, with a copy to IDNR, a report evaluating the costs and advantages and disadvantages of eliminating the 13<sup>th</sup> Street CSO outfall. The report shall discuss technologies and alternatives, if appropriate, as well as timeframes consistent with other provisions of this Order for completion of such work.

#### *CSO Treatment System Monitoring*

27. When conducting monitoring pursuant to this Order, the City shall adequately monitor and collect samples, in accordance with the agreed upon plan under Paragraph 28, to characterize the representative quality of the CSO discharges. The City shall utilize automated samplers which collect samples throughout the duration of the overflow combined with grab samples, as appropriate, for the test parameter to characterize the CSO discharge quality from different phases of the overflow event (i.e. ensure that not all samples are collected during the first flush or near the end of the overflow events), as follows:

- a. During the CSO Treatment System Pilot Project identified in Paragraph 29 through 33, the City shall strive to monitor each CSO event of the Pilot Project, barring unanticipated technical difficulties, and collect samples to generate data for verifying the effectiveness of the pilot system; and

b. During the one-year Compliance Verification Phase for expansion of the treatment system to each CSO outfall, as described in Paragraph 36, the City shall monitor CSO events and collect samples in accordance with the agreed upon plan under Paragraph 28 and the City's then effective NPDES permit provisions.

28. Within 45 days of the Effective Date of this Order, the City shall submit to EPA, with a copy to IDNR, a CSO Treatment System Monitoring Plan describing monitoring of the treatment system(s) necessary to meet the requirements of this Order. This CSO Treatment System Monitoring Plan shall include sampling procedures, analytical methods, sampling equipment, quality assurance/quality control procedures (including holding times), and the laboratory or laboratories expected to be used for sample analysis, as well as the location of sites from which samples are to be collected for analysis during the one-year Compliance Verification Phase.

#### *CSO Treatment System Pilot Project*

29. By January 29, 2010, the City shall install a pilot treatment system at either the 5th Street or 6<sup>th</sup> Street CSO outfall, as described in "Alternative Two" of the City's August 2006 Final LTCP. This pilot treatment system shall include disinfection of effluent discharged from the selected CSO, and if chlorine disinfection is used, dechlorination. The City shall begin operation of the pilot treatment system as soon as practicable after installation, and continue through the recreational season from March 15 to November 15. Pilot system operation shall continue during the non-recreational season to extent weather/temperatures permit reasonable operation of the system.

30. Upon operation of the pilot treatment system described in Paragraph 29 above, the City shall monitor discharges from the selected CSO outfall for flow, total residual chlorine, carbonaceous biochemical oxygen demand (CBOD), total suspended solids (TSS), and Escherichia coli (E-coli) in accordance with the requirements for the CSO Treatment System Monitoring Plan in Paragraph 28, above.

31. By January 29, 2011, the City shall complete the pilot project phase of monitoring pursuant the CSO Treatment System Monitoring Plan under Paragraph 27.a above, or shall submit a request to extend this date due to insufficient rain events. The date to complete the pilot project phase of CSO monitoring may be extended if the rain events resulting in the overflows fail to meet any of the following criteria: a) at least 12 rain events of sufficient size to cause overflows; b) at least three rain events with 0.5 inches in variation in the last three months prior to submission of the monitoring data; and, c) at least one rain event in the last three months prior to submission of the monitoring data that exceeds 1.2 inches. In the event the City requests an extension of the date to complete the initial phase of CSO monitoring pursuant to this paragraph, such a request shall include rainfall data demonstrating the rain events fail to meet the criteria described in this paragraph. The timeline to complete the monitoring may be extended until such time that sufficient rain events occur which meet the criteria specified in this paragraph.

32. No more than sixty days after completing the pilot project phase of monitoring under Paragraph 31, the City shall submit to EPA, with a copy to IDNR, a Pilot Treatment System Evaluation Report. This Pilot Treatment System Evaluation Report shall include a summary of all monitoring data for the pollutant parameters listed in Paragraph 30 and an analysis of the effectiveness of the pilot treatment system to consistently meet all applicable effluent limitations as set forth in the City's then effective NPDES Permit. For each event in which the monitoring data collected pursuant to the Treatment System Monitoring Plan demonstrates that the discharges from the pilot treatment system exceed one or more effluent limitations as specified in the City's NPDES Permit, the Pilot Treatment System Evaluation Report shall provide an evaluation as to the suspected cause of the effluent limitation exceedances, the measures taken by the City to bring discharges into compliance with the effluent limitations, and any results of such measures.

33. EPA, in consultation with IDNR and the City, will review the Pilot Treatment System Evaluation Report to determine if the City has demonstrated that the pilot treatment system can be operated to consistently meet the effluent limitations of the City's NPDES permit over a range of storm events to the extent that this type of treatment system can be installed and operated at the other City CSO outfalls. In reviewing the Pilot Treatment System Evaluation Report, EPA will consider the ability of the pilot treatment system to consistently meet the effluent limitations, with more consideration given to results at the end of the monitoring period than at the beginning of the monitoring period.

*Implementation of CSO Elimination Plan  
if CSO Treatment System Pilot Project Does Not Meet Goals*

34. In the event that EPA determines pursuant to Paragraph 33 above that the City has not demonstrated that the pilot treatment system can be operated to consistently meet the effluent limitations of the City's NPDES permit over a range of storm events, the City shall within six months of receipt of EPA's determination, submit to EPA, with a copy to IDNR, a list of, and schedule for, CSO mitigation projects that will result in mitigation of CSOs consistent with the 1994 National Combined Sewer Overflow Policy (CSO Policy). The City shall implement the CSO mitigation projects such that mitigation of CSOs in accordance with the CSO Policy will be completed as expeditiously as practicable, but in no case later than March 30, 2027. If the City's proposal for mitigating CSOs under this paragraph consists of CSO elimination, the City shall submit, pursuant to this paragraph, a list of, and schedule for, CSO elimination projects. If the City's proposal for mitigating CSOs under this paragraph does not consist of elimination of all CSOs, the City shall also submit a revised LTCP with its list and schedule of proposed projects.

*Expansion of CSO Treatment System if Pilot Project Meets Goals*

35. In the event EPA determines pursuant to Paragraph 33 above that the City has demonstrated that the pilot treatment system can be operated to consistently meet the effluent limitations of the City's NPDES permit over a range of storm events, the City shall complete construction of treatment systems similar to the pilot treatment system for all CSO outfalls

within the City's sewer system within 30 months of receipt of EPA's determination. The treatment systems for all outfalls shall reach full operation within six (6) months of construction completion. The disinfection portion of the CSO Treatment System is required only for seasonal disinfection (recreational season). If the CSO Treatment System is constructed at CSO Outfall 12 (13<sup>th</sup> Street CSO) the system shall operate year round to the extent necessary to meet all effluent limitations other than e-coli (which is recreational season only) as may be particular to that CSO outfall.

36. Upon operation of each treatment system described in Paragraph 35 above, the City shall monitor discharges from each CSO location for flow, total residual chlorine, ammonia (13<sup>th</sup> Street CSO only), CBOD, TSS, and E-coli. Utilizing the procedures set forth in the CSO Treatment System Monitoring Plan, the City shall conduct the Compliance Verification Phase monitoring specified in this paragraph at each treatment system installed pursuant to Paragraph 35 for a minimum of one year from the date of operation.

37. The City shall submit a CSO Treatment System Evaluation Report for the first 12-month period of operation, i.e., the Compliance Verification Phase. The report shall be due six (6) months from completion of the monitoring period. This CSO Treatment System Evaluation Report shall include an analysis of the effectiveness of each of the CSO treatment systems installed pursuant to Paragraph 35 above to consistently meet all effluent limitations applicable to that CSO as specified in the City's NPDES Permit.

38. EPA, in consultation with IDNR, will review the City's Treatment System Evaluation Report submitted pursuant to Paragraph 37 above, and determine: whether one or more of the CSO treatment systems cannot consistently be operated to meet all applicable effluent limitations as specified in the NPDES permit, and if so, whether the City should be granted additional time to demonstrate compliance for such CSO treatment system(s) with the applicable effluent limits in the City's NPDES permit. EPA will notify the City in writing of its determination.

a. If EPA, after consultation with IDNR, notifies the City that based on review of the City's Treatment System Evaluation Report (or revised Report, as applicable) it has determined that one or more of the treatment systems consistently fails to meet the applicable effluent limits specified in the City's NPDES permit, and additional time is not warranted to demonstrate compliance, the City shall, within six months of receipt of EPA's determination, submit a list of projects necessary to complete the mitigation of the CSOs in accordance with the 1994 National CSO Policy for which the treatment system(s) fail to meet the effluent limits. The City shall have four years to mitigate the first CSO and three years to mitigate additional CSOs, but in no event shall the date for all CSOs to be mitigated be later than March 30, 2027.

b. If EPA, after consultation with IDNR, notifies the City that it has determined that one or more of the treatment systems consistently fails to meet the effluent limits specified in the City's NPDES permit, and additional time is warranted to demonstrate compliance, the City shall, within the additional time granted by EPA's determination,

take all necessary measures to ensure discharges from all treatment systems consistently meet the applicable effluent limits for the CSO outfalls specified in the City's NPDES permit and submit a revised CSO Treatment System Evaluation Report to EPA and IDNR for review and determination pursuant to this paragraph.

#### *Implementation of Alternative CSO Mitigation*

39. In lieu of installing one or more of the treatment systems described in Paragraph 35 above, the City may eliminate the corresponding CSO(s), or may propose in a revised LTCP to otherwise mitigate such CSO(s). By June 30, 2012, the City shall submit to EPA, with a copy to IDNR, a list of those CSOs to be eliminated or otherwise mitigated pursuant to this paragraph. If the City proposes to mitigate rather than eliminate any such CSO, the City shall also by June 30, 2012, submit to IDNR and EPA, for review and approval, a proposed, revised LTCP. Elimination or mitigation of each CSO, as appropriate, shall be accomplished as expeditiously as practical. If the City eliminates or mitigates one or two CSOs, the City shall complete such work by no later than September 30, 2015. The deadline will be extended by up to an additional three years per each additional CSO to be eliminated or mitigated above two, but in no case shall the date to complete all such work extend later than March 30, 2027.

#### *Schedule Amendments*

40. The Parties acknowledge and agree that the activities set forth above are based upon all conditions known and information available as of the date of issuance of this Order. If an event occurs during implementation of this Order which the City could not reasonably anticipate, that significantly increases the complexity or expense of the project so that it will be technically impracticable to meet the completion date despite use of best efforts by the City, then the City may request and EPA shall in good faith consider granting an extension of time to complete one or more of the required actions under this Order.

41. In addition to the provisions of Paragraph 40, above, the City may request EPA to grant an extension of time to complete the provisions of this Order due to the occurrence of a *Force Majeure* event. For the purpose of this Order, a *Force Majeure* event is any event beyond the control of the City, its contractors and consultants, or any entity controlled by the City that delays the performance of any obligation under this Order despite the City's best efforts to fulfill the obligation. "Best efforts" includes anticipating any potential *Force Majeure* event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent possible. Unanticipated or increased costs or expenses associated with implementation of this Order and changed financial circumstances shall not, in any event, be considered *Force Majeure* events. In addition, failure to apply for a required permit or approval or to provide in a timely manner all information required to obtain a permit or approval that is necessary to meet the requirements of this Order or failure of the City to approve contracts, shall not, in any event, be considered *Force Majeure* events.

42. Any request by the City for an extension of time pursuant to Paragraph 40 or 41 above shall be in writing and shall set forth in detail the new information that is the basis for the extension, and the reasons that the City believes it is technically impracticable, despite the use of best efforts, to meet the original completion date. In any request for extension, the City shall also propose and justify an alternative completion date. Any extension of time that is agreed to by the parties shall be in writing pursuant to Paragraph 54 herein.

#### *Annual Progress Reports*

43. By June 30 of each year following issuance of this Order and until its Termination, and in addition to any specific reports or submittals required elsewhere in this Order, the City shall submit annual progress reports to EPA, with a copy to IDNR. The reports shall describe the work performed pursuant to this Order during the previous twelve month period and include a projection of the work to be performed during the next twelve month period.

#### **Submissions and Notices**

44. All documents or notices required to be submitted to the EPA by this Order, shall be submitted by mail to:

Anthony Petruska  
Water, Wetlands and Pesticides Division  
U.S. Environmental Protection Agency – Region VII  
901 North Fifth Street  
Kansas City, Kansas 66101  
Telephone: (913) 551-7637  
Fax: (913) 551-9637  
E-Mail: [petruska.anthony@epa.gov](mailto:petruska.anthony@epa.gov)

45. All documents or notices required to be submitted to the IDNR by this Order, shall be submitted by mail to:

Dennis Ostwinkle  
Iowa Department of Natural Resources  
1023 North Madison  
Washington, Iowa 52353-1623  
Telephone: 319-653-2135  
Fax: 319-653-2856  
E-Mail: [dennis.ostwinkle@dnr.iowa.gov](mailto:dennis.ostwinkle@dnr.iowa.gov)

46. All documents or notices required to be submitted to the City by this Order, shall be submitted by mail to:

City Clerk  
City of Fort Madison  
811 Avenue E.  
Fort Madison, Iowa 52627  
Telephone: (319) 372-7700  
Fax: (319) 372-8861  
E-Mail: smead@fortmadison-ia.com

47. EPA, IDNR, or the City may change the name and/or contact information identified for itself in Paragraphs 44 through 46 above upon written notice to all other notice recipients.

48. *Certification.* Each submittal required of the City by this Order shall include a written statement by the City signed by a principal executive officer or a ranking elected official, or by a duly authorized representative of that person, as defined at 40 C.F.R. § 122.22, that contains the following certification:

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.

### **General Provisions**

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

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

50. This Order does not constitute a waiver or a modification of any requirements of the CWA, 33 U.S.C. §1215 *et. seq.*, all of which remains in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309 of the CWA, 33 U.S.C. §1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by the EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for any violation whatsoever.

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

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

### **Severability**

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

### **Titles and Headings**

53. The titles, headings and subheadings within this Order are for informational purposes only for the convenience of the reader. As such, any inconsistencies between the title, headings and subheadings and the text of the Order shall be resolved in favor of the text.

### **Modification**

54. There shall be no material modification of this Order without written approval by the City and EPA. The City may request and EPA will consider a modification of this Order if subsequent to its issuance there is a significant change in the CWA or its implementing regulations and further implementation of the activities required by this Order would be contrary to such change or for other good cause. The parties may agree, in writing, to modify the schedule for completion of one or more of the required actions under this Order in accordance with Paragraph 40 or 41 above, or as otherwise determined appropriate by the parties.

### **Effective Date**

55. This Order shall be effective upon receipt by the City of a fully executed copy thereof.

### **Termination**

56. This Order shall remain in effect until completion by the City of the requirements of this Order, and more specifically, until EPA determines the City has successfully met the following conditions:

- a. submission of report regarding 13<sup>th</sup> Street CSO (Paragraph 26 herein);
- b. completion of the CSO Treatment System Pilot Project (Paragraphs 29-31 herein);

c. implementation of the CSO Treatment System Monitoring Plan (Paragraphs 27-28, 30-31 and 36 herein)

d. submission of the Pilot Treatment System Evaluation Report (Paragraph 32 herein); and

e. for each CSO outfall, implementation of the CSO Elimination Plan (Paragraph 34 herein) or implementation of the CSO Treatment System requirements of this Order (Paragraphs 35-38 herein), including submission of the CSO Treatment System Evaluation Report and implementation of remedies necessary to ensure that each CSO for which its Treatment System has not proven to consistently meet applicable water quality standards is successfully mitigated per the terms of this Order, or implementation of alternative CSO mitigation (Paragraph 39 herein);

f. submission of Annual Progress Reports (Paragraph 43);

at which time an authorized representative of the U. S. Environmental Protection Agency will issue a written notice of termination. Proceedings to terminate this Order may be initiated by EPA on its own accord or upon petition by the City to EPA. EPA will not unreasonably withhold its determination to terminate this Order.

**FOR COMPLAINANT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY:**

Issued this 25<sup>th</sup> day of March, 2009.

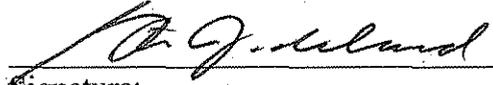


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William A. Spratlin  
Director  
Water, Wetlands and Pesticides Division



\_\_\_\_\_  
Patricia Gillispie Miller  
Senior Counsel

**FOR RESPONDENT, CITY OF FORT MADISON, IOWA:**

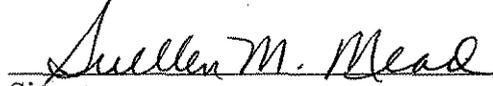
  
Signature:

March 19, 2009  
Date:

Steven J. Ireland  
Name:

Title: Mayor

**Attest:**

  
Signature:

March 19, 2009  
Date:

Suellen M. Mead  
Name:

Title: City Clerk

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 Order for Compliance on Consent to the Regional Hearing Clerk, United States Environmental Protection Agency, 901 North Fifth Street, Kansas City, Kansas 66101.

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

The Honorable Steve Ireland  
Mayor, City of Fort Madison  
811 Avenue E  
Fort Madison, Iowa 52627

Dennis Ostwinkle  
Iowa Department of Natural Resources  
1023 W. Madison  
Washington, Iowa 52353-1623

Jane B. McAllister  
Ahlers & Cooney P.C.  
100 Court Avenue, Suite 600  
Des Moines, Iowa 50309-2231

Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Cheryl Zaragze*  
3/25/09