

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

THE UNITED STATES OF AMERICA)
)
 and)
)
 THE STATE OF IOWA,)
)
 Plaintiffs,)
)
 v.)
)
 THE CITY OF DUBUQUE, IOWA,)
)
 Defendant.)
 _____)

Civil Action No. C11-1011-EJM

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request and on behalf of the Administrator of the United States Environmental Protection Agency (EPA), and the State of Iowa, by authority of the Attorney General of Iowa and through the undersigned attorneys, file this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action for injunctive relief and civil penalties brought against the City of Dubuque, Iowa (City) pursuant to Sections 309(b) and (d) of the federal Clean Water Act, 33 U.S.C. §§ 1319(b) and (d), for the City’s numerous illegal discharges of pollutants, including sewage, from its sanitary sewer collection system into waters of the United States in violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311.

2. The State of Iowa has joined this action as a plaintiff, thereby satisfying the requirements of Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e).

JURISDICTION, VENUE, NOTICE, AND AUTHORITY

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, and the Clean Water Act, 33 U.S.C. § 1319(b).
4. This Court has supplemental jurisdiction over the state law claims asserted herein pursuant to 28 U.S.C. § 1367(a) because the state claims are so related to the federal claims as to form part of the same case or controversy.
5. Venue is proper in the Northern District of Iowa pursuant to 28 U.S.C. § 1391(b) and 33 U.S.C. § 1319(b), because it is the judicial district in which the City is located and in which the alleged violations occurred.
6. As a signatory to this Complaint, the State has actual notice of the commencement of this action in accordance with Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

THE PARTIES

7. The United States is acting on behalf of the United States Environmental Protection Agency. The Attorney General is authorized to appear and represent the United States in this action pursuant to Section 506 of the CWA, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

8. The State of Iowa institutes this action pursuant to Iowa Code §§ 455B.112 and 455B.191. The Iowa Attorney General is authorized to appear and represent the State in this action pursuant to Iowa Code § 455B.112.
9. The City is a political subdivision of the State of Iowa and a “municipality” and a “person” within the meaning of Sections 502(4) and (5) of the CWA, 33 U.S.C. §§ 1362(4) and (5).
10. The City owns and operates a waste water treatment facility (hereinafter, the WWTF or the treatment plant) that serves a population of 60,000 people and sixteen industrial users. The City also owns and operates a sewer collection system that receives domestic sewage, and industrial and commercial wastewater in the Dubuque area and feeds into the WWTF (hereinafter, the Collection System). Both the WWTF and the Collection System discharge effluent directly into the Mississippi River, Catfish Creek, and other waters.

STATUTORY BACKGROUND

11. The purpose of the Clean Water Act is to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a). The Act establishes a national goal to eliminate the discharge of pollutants into navigable waters. 33 U.S.C. § 1251(a)(1).
12. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and implementing regulations, prohibit the discharge of pollutants into navigable waters of the United States by any person, except as in compliance with other sections of the Act, including Section

402, 33 U.S.C. § 1342, which governs the issuance of National Pollutant Discharge Elimination System (NPDES) permits.

13. Iowa Code § 455B.186(1) and 567 Iowa Admin. Code 62.1(1) prohibit the discharge of pollutants to any water of the state, except when pursuant to a permit issued by the director of the Iowa Department of Natural Resources.
14. Section 402(a) of the CWA, 33 U.S.C. § 1342(a), provides that, in issuing NPDES permits, EPA or an authorized state shall prescribe such conditions as it determines are necessary to carry out the provisions of the CWA, including but not limited to the applicable requirements of Section 301 of the CWA, 33 U.S.C. § 1311.
15. Section 402(b) of the Clean Water Act, 33 U.S.C. § 1342(b), provides that the EPA Administrator may approve a state to administer the NPDES program within its jurisdiction. The State of Iowa has been authorized to administer Iowa's NPDES program since 1978 and its Pretreatment Program since 1981.
16. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes the Administrator of EPA to commence a civil action for appropriate relief, including a permanent or temporary injunction, when any person violates Section 301 of the CWA, 33 U.S.C. § 1311, or any condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342. The State may enforce water pollution control laws pursuant to Iowa Code §§ 455B.112 and 455B.191.
17. A person who violates the Clean Water Act by discharging without a permit, or failing to comply with conditions and limitations of an NPDES permit, is subject to a civil penalty not to exceed \$25,000 per day for each violation. 33 U.S.C. § 1319(d). Under

40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation, as amended, and pursuant to 28 U.S.C. § 2461, the civil penalty amount was raised to a maximum of \$27,500 per day for each violation occurring after January 30, 1997, and \$32,500 per day for each violation occurring after March 15, 2004 (See 69 Fed. Reg. 7121, Feb. 13, 2004).

18. Pursuant to Iowa Code §§ 455B.112 and 455B.191, the State is authorized to commence a civil action for appropriate relief to address violations of Iowa Code § 455B.186(1), 567 Iowa Admin. Code 62.1(1), 62.4(3), and 64.3(1) . Such relief may include a permanent or temporary injunction, as well as a civil penalty payable to the State of up to \$5,000 per day for each violation.

GENERAL ALLEGATIONS

19. At all relevant times, the City has discharged and continues to discharge “pollutants” within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and Iowa Code § 455B.171(18), from the WWTF and Collection System through various “point sources” within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and Iowa Code § 455B.171(17), into “navigable waters” within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7) and “water[s] of the state” as defined in Iowa Code § 455B.171(37). The “point sources” include, but are not limited to, Outfall 001, which discharges effluent from the treatment plant, and various Sanitary Sewer Overflow (SSO) outfalls that discharge untreated sewage from the Collection System. The “navigable

waters” and “waters of the state” include, but are not limited to, the Mississippi River and its tributary Catfish Creek.

20. The City’s treatment plant and Collection System are “treatment works” within the meaning of Section 212(2) of the Clean Water Act, 33 U.S.C. § 1292(2), and “publicly owned treatment works” as defined by federal regulations implementing the Clean Water Act at 40 C.F.R. § 403.3(q).
21. The WWTF and Collection System include pipes, force mains, gravity sewer lines, lift stations, pump stations, and their appurtenances. The City owns and operates three major pump stations and eight smaller lift stations. The Collection System consists of 165 miles of gravity sewer lines and less than three miles of force main lines.
22. At all relevant times, the State has been authorized by EPA, pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, to administer an NPDES permit program for regulating discharges of pollutants into navigable waters within its jurisdiction.
23. On July 14, 1998, the IDNR, under the authority of Section 402 of the CWA, 33 U.S.C. § 1342, issued NPDES Permit No. IA 0044458 (Permit) to the City. The Permit was set to expire on July 14, 2003, but the City submitted a timely application for renewal of the Permit. Pursuant to Iowa Code § 17A.18(2) the Permit continues in force until the effective date of a renewal permit, and remains effective as of the date of this filing. A copy of the Permit is attached to this Complaint as Appendix 1.
24. Subject to certain conditions and limitations, the Permit has authorized the City to discharge pollutants through one outfall (Outfall 001) into navigable waters including the Mississippi River and Catfish Creek. Nevertheless, the City has unlawfully discharged

several hundred million gallons of untreated wastewater containing raw sewage through unpermitted point sources. The unauthorized discharges include numerous overflows from the WWTF and the Collection System at SSOs.

25. Catfish Creek, a perennial water, is a tributary of the Mississippi river and a navigable water.

26. During all times relevant to this Complaint, the City's Permit has required compliance with standard conditions including, among other provisions, that:

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit.

Appendix 1 at 10.

27. Some or all of the violations alleged below have resulted, in whole or in part, from the City's failure to properly manage, operate, and maintain its WWTF and Collection System. Proper management, operation and maintenance would ensure that the City can transport water, sewage, and various pollutants through its WWTF without SSOs.

28. The City is required to implement a Pretreatment Program at its publicly owned treatment works. Among other requirements of the Pretreatment Program, the City must develop and enforce specific effluent limits for industrial users in cases where pollutants contributed to the publicly owned treatment works by such users result in recurring interference and/or pass through at the publicly owned treatment works. 40 C.F.R. § 403.5(c)(2); 567 Iowa Admin. Code 62.4(3). Effluent limitations, as defined in 33

U.S.C. § 1362(11), are restrictions on the quantity, rate, and concentration of chemical, physical, biological, and other constituents of discharged wastewater.

FIRST CLAIM FOR RELIEF
(Illegal Discharges of Untreated Sewage)

29. The allegations of the foregoing paragraphs are realleged and incorporated herein by reference.
30. On numerous occasions during the past five years and before, the City has discharged untreated wastewater containing raw sewage through point sources within its WWTF and Collection System, which are not identified in an NPDES permit as authorized outfalls, into waters of the United States. None of these discharges are permitted or otherwise authorized by the Clean Water Act, or other federal, state or local law or regulation. A list of the reported discharges for the period from March 2002 to June 2008 is attached as Appendix 2.
31. Each day of each illegal discharge of pollutants is a separate violation of Section 301 of the Clean Water Act, 33 U.S.C. § 1311, Iowa Code § 455B.186(1) and 567 Iowa Admin. Code 62.1(1).
32. Unless enjoined, the City will continue to discharge pollutants into waters of the United States.
33. Pursuant to 33 U.S.C. §§ 1319(b) and (d), as modified by 40 C.F.R. Part 19, the City is liable for civil penalties of up to \$27,500 per day per each violation occurring after January 31, 1997, and up to \$32,500 per day per each violation occurring after March 15, 2004.

34. Pursuant to Iowa Code §§ 455B.112, 455B.186(1) and 455B.191, and implementing regulations, the City is liable for injunctive relief and up to \$5,000 per day for each violation.

SECOND CLAIM FOR RELIEF
(Violations of NPDES Permit Conditions on Effluents)

35. The allegations of the foregoing paragraphs are incorporated herein by reference.
36. During all times relevant to this Complaint, the City's Permit has required compliance with the following limitations on discharges from the WWTF Outfall (identified within the Permit as Outfall 001):
- a. Chemically-inhibited biological oxygen demand (CBOD) shall not exceed a weekly average concentration of 40 milligrams per liter (mg/L), a monthly average concentration of 25 mg/L, a weekly average load of 5788 pounds per day, and a monthly average load of 3611 pounds per day;
 - b. Total suspended solids (TSS) shall not exceed a weekly average concentration of 45 mg/L, a monthly average concentration of 30 mg/L, a weekly average load of 6500 pounds per day, and a monthly average load of 4333 pounds per day;
 - c. Total residual chlorine shall not exceed a daily maximum concentration of 0.2 mg/L, a monthly average concentration of 0.1510 mg/L, a monthly average load of eighteen pounds per day, and a daily average load of twenty-four pounds per day; and

- d. Fecal coliform shall not exceed a daily maximum concentration of 200 colonies per 100 milliliters of effluent.

- 37. On various dates within the past five years and before, the City discharged from the WWTF Outfall in violation of the Permit's effluent limitations. A list of the reported discharges in violation of the effluent limitations for the period of August 2002 to June 2008 is attached as Appendix 3.
- 38. Each of the foregoing violations of the Permit's conditions was in violation of Section 301 of the CWA, 33 U.S.C. § 1311, Iowa Code § 455B.186(1), 567 Iowa Admin. Code 62.1(1) and 64.3(1), and each day of each discharge is a separate violation.
- 39. Unless enjoined by the Court, the City will continue to violate the aforementioned statutory and regulatory provisions.
- 40. Pursuant to 33 U.S.C. §§ 1319(b) and (d), as modified by 40 C.F.R. Part 19, the City is liable for civil penalties of up to \$27,500 per day per each violation occurring after January 31, 1997, and up to \$32,500 per day per each violation occurring after March 15, 2004.
- 41. Pursuant to Iowa Code §§ 455B.112, 455B.186(1) and 455B.191, and implementing regulations, the City is liable for injunctive relief and up to \$5,000 per day for each violation.

THIRD CLAIM FOR RELIEF
(Pretreatment Program Violations)

42. The allegations of the foregoing paragraphs are incorporated herein by reference.
43. During all times relevant to this Complaint, the City's Permit required the City to implement the Pretreatment Program approved September 29, 1983, and any amendments thereto. See Appendix 1 at 8-9.
44. On various dates within the past five years and before, the City has failed to require all users of its facility to comply with Sections 204(b), 307, and 308 of the CWA, and its implementing regulations. Among other violations, the City has:
 - a. failed to take enforcement action against an industrial user who violated nickel and copper limitations;
 - b. failed to abide by public participation requirements and publish notice that the industrial user was in significant noncompliance;
 - c. failed to issue permits with the correct limitations to two industrial users;
 - d. failed to issue permits timely; and
 - e. failed to properly conduct sampling to monitor industrial user compliance.
45. The City's failure to comply with Pretreatment Program requirements of the Permit is in violation of the Permit (Appendix 1 at 8-9), the General Pretreatment Regulations, 40 C.F.R. Part 403, and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and 567 Iowa Admin. Code 62.4(3) and 64.3(1).
46. The City violated and, unless enjoined by the Court, will continue to violate the aforementioned statutory and regulatory provisions.

47. Pursuant to 33 U.S.C. §§ 1319(b) and (d), as modified by 40 C.F.R. Part 19, the City is liable for civil penalties of up to \$27,500 per day per each violation occurring after January 31, 1997, and up to \$32,500 per day per each violation occurring after March 15, 2004.
48. Pursuant to Iowa Code §§ 455B.112, 455B.186(1) and 455B.191, and implementing regulations, the City is liable for injunctive relief and up to \$5,000 per day for each violation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Pursuant to 33 U.S.C. § 1319(d) and Iowa Code §§ 455B.112, 455B.186(1) and 455B.191, assess civil penalties against the City, as permitted by law, up to the date of judgment herein;
2. Pursuant to 33 U.S.C. § 1319(b), enjoin the City from any and all ongoing and future violations of the Clean Water Act by ordering compliance with the Act;
3. Order the City to take all steps necessary to come into permanent and consistent compliance with the prohibition on unpermitted discharges contained in Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a) and Iowa Code § 455B.186(1);
4. Order the City to take all steps necessary to redress or mitigate the impact of its violations;
5. Award Plaintiffs their costs of this action; and

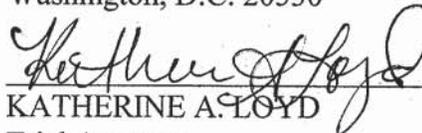
6. Award such other and further relief as the Court deems appropriate.

Date: 4/21/11

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA:

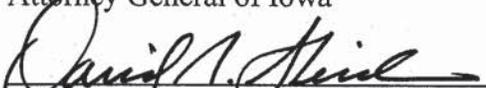
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U.S. Environmental Protection Agency, Region 7
901 North Fifth Street

National Pollutant Discharge Elimination System (NPDES) Permit

FILE NO. 6-31-26-0-01 HY

898

PERMITTEE

CITY OF DUBUQUE
CITY CLERK
CITY HALL
DUBUQUE, IA 52001

IDENTITY AND LOCATION OF FACILITY

DUBUQUE CITY OF STP
Section 6, T 88N, R 3E
DUBUQUE County, Iowa

IOWA NPDES PERMIT NUMBER: 3126001

RECEIVING STREAM

MISSISSIPPI RIVER

DATE OF ISSUANCE: 07-14-1998

ROUTE OF FLOW

DATE OF EXPIRATION: 07-14-2003



Return Receipt Requested

YOU ARE REQUIRED TO FILE
FOR RENEWAL OF THIS PERMIT BY: 01-15-2003

EPA NUMBER: IA0044458

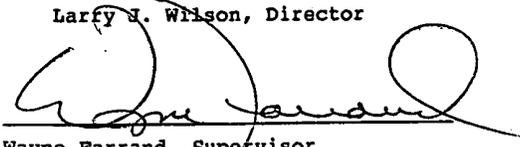
This permit is issued pursuant to the authority of section 402(b) of the Clean Water Act (33 U.S.C 1342(b)), Iowa Code section 455B.174, and rule 567--64.3, Iowa Administrative Code. You are authorized to operate the disposal system and to discharge the pollutants specified in this permit in accordance with the effluent limitations, monitoring requirements and other terms set forth in this permit.

You may appeal any conditions of this permit by filing a written notice of appeal and request for administrative hearing with the director of this department within 30 days of your receipt of this permit.

Any existing, unexpired Iowa operation permit or Iowa NPDES permit previously issued by the department for the facility identified above is revoked by the issuance of this Iowa NPDES operation permit.

FOR THE DEPARTMENT OF NATURAL RESOURCES

Larry J. Wilson, Director

By 
Wayne Farrand, Supervisor
Wastewater Section
ENVIRONMENTAL PROTECTION DIVISION

Facility Name: DUBUQUE CITY OF STP

Permit Number: 3126001

Outfall Number	Description
001	DISCHARGE FROM ACTIVATED SLUDGE WASTEWATER TREATMENT FACILITY.
002	CEDAR STREET LIFT STATION OVERFLOW.
003	TERMINAL STREET LIFT STATION OVERFLOW.
004	CATFISH CREEK LIFT STATION OVERFLOW.
005	KERPER STREET LIFT STATION OVERFLOW.
006	BRADLEY STREET LIFT STATION OVERFLOW.
007	PERRY STREET LIFT STATION OVERFLOW.

Facility Name: DUBUQUE CITY OF STP

Permit Number: 3126001

Monitoring and Reporting Requirements

- (a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.
- (b) Analytical and sampling methods as specified in 40 CFR Part 136 or other methods approved in writing by the department, shall be utilized.
- (c) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.
- (d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).
- (e) Results of all monitoring shall be recorded on forms provided by the department, and submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each month.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	CBOD5	7/WEEK	24 HR COMP	RAW WASTE
001	TOTAL SUSPENDED SOLIDS	7/WEEK	24 HR COMP	RAW WASTE
001	PH (MINIMUM - MAXIMUM)	7/WEEK	GRAB	RAW WASTE
001	TEMPERATURE	7/WEEK	GRAB	RAW WASTE
001	FLOW	7/WEEK	24 HR TOTAL	RAW WASTE OR FINAL EFFLUENT(FLOW)
001	CBOD5	7/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	TOTAL SUSPENDED SOLIDS	7/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	AMMONIA NITROGEN (N)	7/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	PH (MINIMUM - MAXIMUM)	7/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	SETTLABLE SOLIDS	7/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	TEMPERATURE	7/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	CHLORINE, TOTAL RESIDUAL	7/WEEK	GRAB	EFFLUENT AFTER DISINFECTION
001	COLIFORM, FECAL	1/3 MONTH	GRAB	EFFLUENT AFTER DISINFECTION
001	ACUTE TOXICITY, CERIODAPHNIA	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	ACUTE TOXICITY, PIMEPHALES	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	DISSOLVED OXYGEN (MINIMUM)	7/WEEK	GRAB	AERATION BASIN CONTENTS
001	SOLIDS, MIXED LIQUOR SUSPENDED	7/WEEK	GRAB	AERATION BASIN CONTENTS
001	TEMPERATURE	7/WEEK	GRAB	AERATION BASIN CONTENTS
001	30-MINUTE SETTLEABILITY	7/WEEK	GRAB	AERATION BASIN CONTENTS

Facility Name: Dubuque, City of STP
Permit Number: 3126001

Outfall Number: 001

Ceriodaphnia and Pimephales Toxicity Effluent Testing

1. For facilities that have not been required to conduct toxicity testing by a previous NPDES permit, the initial annual toxicity test shall be conducted within three (3) months of permit issuance. For facilities that have been required to conduct toxicity testing by a previous NPDES permit, the initial annual toxicity test shall be conducted within twelve months (12) of the last toxicity test.
2. The test organisms that are to be used for acute toxicity testing shall be *Ceriodaphnia dubia* and *Pimephales promelas*. The acute toxicity testing procedures used to demonstrate compliance with permit limits shall be those listed in 40 CFR Part 136 and adopted by reference in rule 567-63.1(1). The method for measuring acute toxicity is specified in USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio August 1993, EPA/600/4-90/027F.
3. The diluted effluent sample must contain a minimum of 17.4 % effluent and no more than 82.6 % of culture water.
4. One valid positive toxicity result will require quarterly testing for effluent toxicity.
5. Two successive valid positive toxicity results or three positive results out of five successive valid effluent toxicity tests will require a toxic reduction evaluation to be completed to eliminate the toxicity.
6. A non-toxic test result shall be indicated as a "1" on the monthly operation report. A toxic test result shall be indicated as a "2" on the monthly operation report. DNR Form 542-1381 shall also be submitted to the DNR field office along with the monthly operation report.

Ceriodaphnia and Pimephales Toxicity Effluent Limits

The 30 day average mass limit of "1" for the parameters Acute Toxicity, *Ceriodaphnia* and Acute Toxicity, *Pimephales* means no positive toxicity results.

Definition: "Positive toxicity result" means a statistical difference of mortality rate between the control and the diluted effluent sample. For more information see USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio August 1993, EPA/600/4-90/027F.

Revised: July 31, 1996 cwf

Facility Name: Dubuque, City of STP
Facility Number: 3126001

Pretreatment Compliance Schedule

The City shall evaluate the adequacy of the existing pretreatment program local limits to meet the requirements of 40 Code of Federal Regulations (CFR) Part 403.5(c)(1). This evaluation of local limits shall be based on the design flows used for the treatment plant improvements that were completed August 2, 1995.

A written technical evaluation of the need to revise local limits shall be submitted no later than March 1, 1999.

The written report shall be sent to:

Wastewater Permits Branch
Iowa Department of Resources
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

SLUDGE HANDLING AND DISPOSAL REQUIREMENTS

1. The permittee shall comply with all existing Federal and State laws and regulations that apply to the use and disposal of sewage sludge and with technical standards developed pursuant to Section 405(d) of the Clean Water Act when such standards are promulgated. If an applicable numerical limit or management practice for pollutants in sewage sludge is promulgated after issuance of this permit that is more stringent than a sludge pollutant limit or management practice specified in existing Federal or State laws or regulations, this permit shall be modified, or revoked and reissued, to conform to the regulations promulgated under Section 405(d) of the Clean Water Act. The permittee shall comply with the limitation no later than the compliance deadline specified in the applicable regulations.
2. The permittee shall provide written notice to the Department of Natural Resources prior to any planned changes in sludge disposal practices.
3. Land application of municipal sewage sludge shall be conducted in accordance with criteria established rule IAC 567--67.1 through 67.11(455B).

Facility Name: Dubuque, City of STP
Facility Number: 3126001

Pretreatment Compliance Schedule

The City shall evaluate the adequacy of the existing pretreatment program local limits to meet the requirements of 40 Code of Federal Regulations (CFR) Part 403.5(c)(1). This evaluation of local limits shall be based on the design flows used for the treatment plant improvements that were completed August 2, 1995.

A written technical evaluation of the need to revise local limits shall be submitted no later than March 1, 1999.

The written report shall be sent to:

Wastewater Permits Branch
Iowa Department of Resources
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

**MAJOR CONTRIBUTING INDUSTRIES
LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS**

1. You are required to notify the department, in writing, of any of the following:
 - (a) 180 days prior to the introduction of pollutants to your facility from a major contributing industry. A major contributing industry means an industrial user of a treatment works that:
 - (1) Has a flow of 50,000 gallons or more per average work day;
 - (2) Has a flow greater than five percent (5%) of the flow carried by the treatment works receiving the waste;
 - (3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) of the Clean Water Act and adopted by reference in Rule 62.5(455B); or
 - (4) Is found by the department in connection with the issuance of an NPDES permit to have a significant impact, either alone or in combination with other contributing industries, on the treatment works or on the quality of effluent from the treatment works.
 - (b) 60 days prior to a proposed expansion, production increase or process modification that may result in the discharge of a new pollutant or a discharge in excess of limitations stated in the existing treatment agreement.
 - (c) 10 days prior to any commitment by you to accept waste from any new major contributing industry.

Your written notification must include a new or revised treatment agreement in accordance with rule 64.3(5)(455B).

2. You shall require all users of your facility to comply with Sections 204(b), 307 and 308 of the Clean Water Act.

Section 204(b) requires that all users of the treatment works constructed with funds provided under Sections 201(g) or 601 of the Act to pay their proportionate share of the costs of operation, maintenance and replacement of the treatment works.

Section 307 of the Act requires users to comply with pretreatment standards promulgated by EPA for pollutants that would cause interference with the treatment process or would pass through the treatment works.

Section 308 of the Act requires users to allow access at reasonable times to state and EPA inspectors for the purpose of sampling the discharge and reviewing and copying records.

3. You shall continue to implement the pretreatment program approved September 29, 1983, and any amendments thereto.
4. An annual report in the form prescribed by the department is to be submitted by March 1st of each year describing the pretreatment program activities for the preceding calendar year.

STANDARD CONDITIONS**1. DEFINITIONS**

(a) 7 day average means the sum of the total daily discharges by mass, volume or concentration during a 7 consecutive day period, divided by the total number of days during the period that measurements were made. Four 7 consecutive day periods shall be used each month to calculate the 7-day average. The first 7-day period shall begin with the first day of the month.

(b) 30 day average means the sum of the total daily discharges by mass, volume or concentration during a calendar month, divided by the total number of days during the month that measurements were made.

(c) daily maximum means the total discharge by mass, volume or concentration during a twenty-four hour period.

2. DUTY TO COMPLY

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility.

{See 40 CFR 122.41(a) and 567-64.3(11) IAC}

3. DUTY TO REAPPLY

If you wish to continue to discharge after the expiration date of this permit you must file an application for reissuance at least 180 days prior to the expiration date of this permit.

{See 567-64.8(1) IAC}

4. NEED TO HALT OR REDUCE ACTIVITY

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

{See 567-64.7(5)(j) IAC}

5. DUTY TO MITIGATE

You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

{See 567-64.7(5)(i) IAC}

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privileges.

7. TRANSFER OF TITLE

If title to your facility, or any part of it, is transferred the new owner shall be subject to this permit.

{See 567-64.14 IAC}

You are required to notify the new owner of the requirements of this permit in writing prior to any transfer of title. The Director shall be notified in writing within 30 days of the transfer

8. PROPER OPERATION AND MAINTENANCE

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit.

{See 40 CFR 122.41(e) and 567 64.7(5)(f) IAC}

9. DUTY TO PROVIDE INFORMATION

You must furnish to the Director, within a reasonable time, any information the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

10. MAINTENANCE OF RECORDS

You are required to maintain records of your operation in accordance with 567-63.2 IAC.

11. PERMIT MODIFICATION, SUSPENSION OR REVOCATION

(a) This permit may be modified, suspended, or revoked and reissued for cause including but not limited to those specified in 567-64.3(11) IAC.

(b) This permit may be modified due to conditions or information on which this permit is based, including any new standard the department may adopt that would change the required effluent limits.

{See 567-64.3(11) IAC}

(c) If a toxic pollutant is present in your discharge and more stringent standards for toxic pollutants are established under Section 307(a) of the Clean Water Act, this permit will be modified in accordance with the new standards.

{See 567-64.7(5)(g) IAC}

The filing of a request for a permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

12. SEVERABILITY

The provisions of this permit are severable and if any provision or application of any provision to any circumstance is found to be invalid by this department or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.

STANDARD CONDITIONS**13. INSPECTION OF PREMISES, RECORDS, EQUIPMENT, METHODS AND DISCHARGES**

You are required to permit authorized personnel to:

- (a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit.
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.
- (c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit.
- (d) Sample or monitor, at reasonable times, for the purpose of assuring compliance or as otherwise authorized by the Clean Water Act.

14. TWENTY-FOUR HOUR REPORTING

You shall report any noncompliance that may endanger human health or the environment. Information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times, whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided within 5 days of the occurrence. The following instances of noncompliance must be reported within 24 hours of occurrence:

- (a) Any unanticipated bypass which exceeds any effluent limitation in the permit.
{See 40 CFR 122.44(g)}
- (b) Any upset which exceeds any effluent limitation in the permit.
{See 40 CFR 122.44(n)}
- (c) Any violation of a maximum daily discharge limit for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
{See 40 CFR 122.44(g)}

15. OTHER NONCOMPLIANCE

You shall report all instances of noncompliance not reported under Condition #14 at the time monitoring reports are submitted.

16. ADMINISTRATIVE RULES

Rules of this Department which govern the operation of your facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-64 and 120-122. Reference to the term "rule" in this permit means the designated provision of Part 567 of the Iowa Administrative Code.

17. NOTICE OF CHANGED CONDITIONS

You are required to report any changes in existing conditions or information on which this permit is based:

- (a) Facility expansions, production increases or process modifications which may result in new or increased discharges of pollutants must be reported to the Director in advance. If such discharges will exceed effluent limitations, your report must include an application for a new permit.
{See 567-64.7(5)(a) IAC}
- (b) If any modification of, addition to, or construction of a disposal system is to be made, you must first obtain a written permit from this Department.
{See 567-64.2 IAC}
- (c) If your facility is a publicly owned treatment works or otherwise may accept waste for treatment from industrial contributors see 567-64.3(5) IAC for further notice requirements.
- (d) You shall notify the Director as soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit.
{See 40 CFR 122.42(a)}

You must also notify the Director if you have begun or will begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application

18. OTHER INFORMATION

Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report, you must promptly submit such facts or information.

STANDARD CONDITIONS

19. UPSET PROVISION

(a) Definition - "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense in an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph "c" of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for demonstration of an upset.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that;

- (1) An upset occurred and that the permittee can identify the cause(s) of the upset.
- (2) The permitted facility was at the time being properly operated; and
- (3) The permittee submitted notice of the upset to the Department in accordance with 40 CFR 122.41(l)(6)(ii)(B).
- (4) The permittee complied with any remedial measures required by Item #5 of the Standard Conditions of this permit.

(d) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

20. FAILURE TO SUBMIT FEES

This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within thirty (30) days of the date of notification that such fees are due.

21. BYPASSES

(a) Definition - Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(b) Prohibition of bypass, Bypass is prohibited and the department may take enforcement action against a permittee for bypass unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance;
- (3) The permittee submitted notices as required by paragraph "d" of this section.

(c) The Director may approve an anticipated bypass after considering its adverse effects if the Director determines that it will meet the three conditions listed above.

(d) Reporting bypasses. Bypasses shall be reported in accordance with 567-63.6 IAC.

22. SIGNATORY REQUIREMENTS

Applications, reports or other information submitted to the Department in connection with this permit must be signed and certified as required by 567-64.3(8) IAC.

23. USE OF CERTIFIED LABORATORIES

Effective October 1, 1996, analyses of wastewater, groundwater or sewage sludge that are required to be submitted to the department as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements, and operational monitoring tests specified in 567-63.3(4) are excluded from this requirement.

Appendix 2

City of Dubuque Effluent Violations 2003-2008

Date	CBOD				TSS				Chlorine				Fecal Coliform D max
	Mass		Concentration		Mass		Concentration		Mass		Concentration		
	30d avg	7d avg	30d avg	7d avg	30d avg	7d avg	30d avg	7d avg	30d avg	D Max	30d avg	D max	
	3611 lb/d	5788 lb/d	25 mg/l	40 mg/l	4333 lbs/d	6500 lbs/d	30 mg/l	45 mg/l	18 lbs/d	24 lbs/d	0.151 mg/l	0.202 mg/l	
8/31/2002					9903		88						
Apr-03						44							
4/21/2003							77						
5/14/2003							47						
6/11/2003													240
7/7/2003									29		0.39		
9/14/2003			61				70						
11/7/2003					8220		55						
Mar-04						40							
3/7/2004					9741		97						
5/25/2004									46		0.48		
5/28/2004					9869		73						
10/13/2004													3000
Dec-04						36							
12/22/2004							93						
Feb-05							55.5						
2/7/2005			43.6		9925		133.7						
2/14/2005							51.9						
4/19/2005												0.21	
4/20/2005												0.25	
4/21/2005									25		0.39		
4/23/2005									26		0.42		
4/24/2005									28		0.45		
4/25/2005											0.25		
Sep-05						47.1							
9/28/2005			44.85		11790		152.6						2200
Oct-07						37							410
10/3/2005							75.3						
10/28/2005													
Nov-05			26.9				66.8						
11/7/2005			82.14		149950		242.14						
3/7/2006							49.57						
3/14/2006							59.57						
Apr-06						40.1							
4/7/2006							49.1						
4/10/2006									117.12		1.4		
4/17/2006									43.5		0.42		
4/18/2006													980
4/21/2006					9332.8		88.7						
4/26/2006													450
6/7/2006													240
6/8/2006													400
6/14/2006													450
6/21/2006													480
Jul-06						37.93							
7/5/2006													220
7/12/2006													590
7/21/2006							61.57						
7/26/2006													100000
7/28/2006							68.43						
10/31/2006									96.15		1.66		
6/21/2007							47.14						
Jul-07							55						
7/21/2007		6833	58.29		21918		181.86						
Aug-08									26.5				
May-08								19.93	200.29	0.155	1.45		
Jun-08					7327	30.3			212.80		1.38		
Eqv. Vios	0	7	30	35	0	63	330	140	120	8	30	13	13

City of Dubuque
Sanitary Sewer Overflows
March 2002-May 2007

Listed below is a table of all sanitary sewer overflows not identified in NPDES permit IA 0044458 beginning March 1, 2002. Duration of the overflow is measured by the time of notification to corrective action is completed. Estimated volume of the overflow is given only when complete information of overflow start time and end time can be obtained.

Date	Location	Cause	Duration	Estimated Volume
3/30/2002	Welu Dr/ Century Cir off road line	Plugged Line Roots/debris	17hrs	unknown quantity
6/4/2002	Key Way Dr W Locust Street	Rain Event	23.5 hrs 10 hrs	unknown quantity unknown quantity
6/7/2002	3127 Arbor Oaks Dr	Broken pipe storm damage	unknown	unknown quantity
6/11/2002	Catfish Sanitary Sewer off road line	Plugged line	unknown	unknown quantity
9/11/2002	Crescent Ridge off road line	Broken Pipe	15 hrs	unknown quantity
1/6/2003	N Grandview/W 32nd	Plugged line	unknown	unknown quantity
4/30/2003	Key Way Dr	Rain Event	5 hrs	unknown quantity
6/11/2003	Rising Street off road line	broken pipe roots	unknown	unknown quantity
11/3/2003	Key Way Dr	Rain Event	24 hrs	50,000 -70,000 gallons
11/23/2003	Key Way Dr	Rain Event	1.5 hrs	500 -1000 gallons
5/12/2004	3212 Pennsylvania	Plugged Line roots	4.5 hrs	unknown quantity
6/1/2004	Key Way Dr	rain Event	unknown	30,000-50,000 gallons
6/30/2004	2792 Camelot Dr off road line	Plugged Line debris	2hrs	unknown quantity
12/27/2004	Old Mill Rd off road line	Plugged line		unknown quantity

City of Dubuque
Sanitary Sewer Overflows
March 2002-May 2007

Date	Location	Cause	Duration	Estimated Volume
4/4/2005	2325 Coates Street off road line	Plugged Manhole vandalism - rock	3 hrs	unknown quantity
	742 Peru Road off road line	Plugged Manhole vandalism -rock	unknown	unknown quantity
8/18/2005	West Locust Street	Plugged line concrete riser	1 hr	50 - 100 gallons
1/9/2006	170 John F Kennedy Rd off road line	Manhole overflow grease	unknown	unknown quantity
1/13/2006	HWY 151/61-Mar Jo Hills off road line	Plugged Line roots	2 hrs	500- 700 gallons
1/14/2006	3657 Welu Dr off road line	Plugged line debris	3 hrs	1000 gallons
3/25/2006	524 Kaufmann off road line	Plugged line roots	3 hrs	500 gallons
6/3/2006	3338 Center Grove Dr off road line	Plugged line grease/debris	1 hr	unknown quantity
8/12/2006	2745 Knob Hill Dr off road line	Plugged line debris in line	2 hrs	unknown quantity
12/27/2006	1995 Admiral Dr off road line	Broken Pipe conduit through line	4 hrs	unknown quantity
1/7/2007	Collins and St Joseph St.	Plugged line debris in line	1 hr	100 gallons
2/11/2007	540 Kaufmann off road	plugged line roots	2.5	unknown quantity
3/30/2007	2613 Van Buren off road	plugged line roots	1 hr	5-10 gallons
4/3/2007	Key Way Dr	Rain Event	6.5 hrs	50,000 gallons
4/9/2007	Futuro Court	Plugged line roots	1.5 hrs	50 - 100 gallons
4/28/2007	HWY 151/61-Fox Dr off road	Plugged line roots	2 hrs	100-200 gallons
4/26/2007	Key Way Dr	Rain Event	45 min	1000-1500 gallons

City of Dubuque, Iowa
 Addendum to Referral: Additional SSO Discharges
 Reaching Waters of the United States

Date	Location	Cause	Duration	Volume
07/18/07	Key Way Drive	Heavy Rains	1am to 11am	30,000 gallons
07/18/07	Rosedale and W. Locust	Heavy Rains	6:30am to 3:30pm	15,000 gallons
08/22/07	Key Way Drive	Heavy Rains	2:30am to 3am	3000 gallons
08/22/07	Key Way Drive	Heavy Rains	5:30pm to 10pm	6000 gallons
10/18/07	Key Way Drive	Heavy Rains	5:30am to 5:40am	500 gallons
03/02/08	Key Way Drive	Heavy Rains	8pm to 12pm	
03/03/08	Key Way Drive	Heavy Rains	3am to 3:30am	6000gallons total
03/31/08	Key Way Drive	Heavy Rains	11:30am to 2pm	3000 gallons
04/05/08	2506 Knob Hill Dr.	roots		300 gallons
04/10/08	Key Way Drive	Heavy Rains	11:30 to 12pm	10000 gallons
04/10/08	Key Way Drive	Heavy Rains	12:25pm to?	
04/12/08	Davenport and Stoltz	bricks and grease	12pm	100 gallons
04/18/08	Key Way Drive	Heavy Rains	4:45pm to 10pm	8000 gallons
04/25/08	Key Way Drive	Heavy Rains		
04/30/08	Key Way Drive	Heavy Rains	12:30am to 10pm	15,000 gallons
04/30/08	Rosedale and W. Locust	Heavy Rains	9:30am to 5:00pm	6000 gallons
04/30/08	Booth St. and YMCA Dr.	Heavy Rains	11:45 to 2:00pm	200 gallons
05/25/08	Key Way Drive	Heavy Rains	10:15pm to 12pm	2000 gallons
05/30/08	Key Way Drive	Heavy Rains	4am to 4pm	10,000 gallons
06/08/08	Key Way Drive	Heavy Rains	10am to 12pm	
06/09/08	Key Way Drive	Heavy Rains	12pm to 9am	20,000 gallons total
06/12/08	Key Way Drive	Heavy Rains	10am to 1:30pm	
06/13/08	Key Way Drive	Heavy Rains	6:30am to 1:30pm	6000 gallons total