

US EPA ARCHIVE DOCUMENT

# Steele County XLC FPA Draft

Final Project Agreement



**“Steele County Companies and Communities  
pursuing eXcellence and Leadership”**

December 23, 1999

### Steele County XLC Signature Page

This Final Project Agreement (FPA) is entered into between the Steele County Community Sponsors, the City of Owatonna, the City of Blooming Prairie, the Minnesota Pollution Control Agency (MPCA), and the United States Environmental Protection Agency (EPA), herein referred to as the parties. This FPA sets forth commitments, goals and measurements for the success of this pilot project that are necessary to the successful implementation and evaluation of this project. This FPA provides additional information on the Steele County Community Project XLC pilot including: a description of the project; how the project meets the criteria for Project XLC; and the legal mechanisms intended to provide regulatory flexibility. Each signatory represents that he or she is fully authorized to enter into this FPA.

#### PROJECT SPONSORS

1. Truth Hardware, Owatonna, MN	7. Crown Cork & Seal, Owatonna, MN
2. Cybex, Owatonna, MN	8. Gandy Corporation, Owatonna, MN
3. Jostens, Inc., Southtown Facility, Owatonna, MN	9. Uber Tanning, Owatonna, MN
4. SPx Corp., Service Solutions Division, Owatonna, MN	10. Wenger Corporation, Owatonna, MN
5. SPx Corp., Power Team Division, Owatonna, MN	11. Mustang Manufacturing, Owatonna, MN
6. Viracon-Marcon, Owatonna, MN	12. Elf Atochem North America, Inc, Blooming Prairie, MN

#### GOVERNMENTAL PARTIES

Dean Nelson, City of Owatonna Owatonna Waste Water Treatment Facility	Mike Reitz, City of Blooming Prairie City Administrator
Karen A. Studders Commissioner Minnesota Pollution Control Agency	Francis X. Lyons, Regional Administrator U.S. Environmental Protection Agency Region V

## Table Of Contents

<b>Section</b>	<b>Description</b>	<b>Page</b>
	<b>Glossary of Terms</b>	<b>4</b>
<b>I</b>	<b>Executive Summary</b>	<b>6</b>
<b>II</b>	<b>Project Description</b>	<b>7</b>
<b>III</b>	<b>Project XLC Acceptance Criteria</b>	<b>12</b>
<b>IV</b>	<b>Implementation</b>	<b>13</b>
<b>V</b>	<b>Amendments and Re-issuance</b>	<b>14</b>
<b>VI</b>	<b>Duration</b>	<b>14</b>
<b>VII</b>	<b>Termination and Withdrawal</b>	<b>14</b>
<b>VIII</b>	<b>Dispute Resolution</b>	<b>15</b>
<b>IX</b>	<b>Right to Other Legal Remedies Retained</b>	<b>15</b>
<b>X</b>	<b>Transfer of Project Benefits and Responsibilities</b>	<b>16</b>
<b>XI</b>	<b>FPA Contacts</b>	<b>17</b>
	<b>ATTACHMENTS</b>	
<b>A</b>	<b>Background Effluent Data from Owatonna Sponsors</b>	<b>18</b>
<b>B</b>	<b>Sponsor Baseline Data</b>	<b>19</b>
<b>C</b>	<b>Procedure to Reduce or Eliminate Monitoring Requirements for Pollutants Not Present.</b>	<b>20</b>
<b>D</b>	<b>Sponsor Contact List</b>	<b>21</b>

## **Glossary of Terms Steele County Community Project XL Proposal**

Terms and descriptions of the terms contained in this glossary are solely to assist the public in understanding this FPA. Therefore, the terms contained in this glossary do not supersede, modify, or otherwise affect any term or definition in state or federal laws and regulations.

**Commentors** -- People or organizations with an interest in a XL project, but not the need to participate intensively in its development. The project development process should inform and be informed by commentors on a periodic basis. The views of informed commentors are a strong indicator of the broad potential for wider applicability of the innovation being tested in a project.

**Community Advisory Committee (CAC)** -- The body formed to assist the Sponsors in development of the Steele County Community XL Project proposal. The CAC is made up of direct participants: individuals representing a variety of stakeholders including local residents, employees, business, environmental groups, and government.

**Direct Participants** -- People or organizations representing a variety of stakeholders who work intensively with project Sponsors to build a project from the ground up. For example, the CAC is made up of direct participants.

**Environmental Management System (EMS)** -- A comprehensive, documented program implemented by a company to promote compliance with environmental laws and promote positive environmental performance.

**Environmental Protection Agency (EPA)** -- The federal government agency charged with implementing U. S. environmental laws; the sponsoring agency for XL projects.

**Final Project Agreement (FPA)** -- The negotiated agreement describing a Project XL pilot.

**General Public** -- The broad category of people and organizations who are not direct participants in the Project XL development process, but who have an interest in, and wish to be informed about, progress on the project.

**Minnesota Pollution Control Agency (MPCA)** -- The regulatory agency charged with implementing environmental laws in the State of Minnesota.

**Multi-media Agreement** -- In the context of Project XL, an agreement that encompasses air, water, waste and, potentially, other issues.

**NPDES** -- The National Pollutant Discharge Elimination System (NPDES) is the federal system for issuing wastewater discharge permits to point sources.

**Project XL** -- A Federal program to conduct pilot projects that promote eXcellence and Leadership through negotiated agreements with regulated parties.

**Regulatory Innovation** -- Efforts to seek more flexible or cost-effective means of attaining results beyond standard compliance.

**Regulatory Flexibility** -- The ability of a facility to make certain changes or undertake certain activities that may otherwise be subject to specific regulatory approval.

**Sponsors** -- Industry members in Steele County that agree to participate and implement Phase I of the Steele County Community Project XL pilot. "Owatonna Sponsors" refers to industry members located in Owatonna, Minnesota. "Blooming Prairie Sponsor" refers to Elf Atochem North America, Inc.(Elf Atochem), located in Blooming Prairie, Minnesota.

**Stakeholders** -- People and organizations with varying degrees of interest and involvement in an XL project. Stakeholders are categorized into Direct Participants, Commentors, and the General Public in XL projects.

**Stakeholder Involvement Plan** -- The process for informing and involving a variety of people and organizations in the development of a Project XL initiative.

**Superior Environmental Performance (SEP)** -- An important requirement for Project XL. Generally, using current actual loading to the environment, and assuming continued operation of any voluntary controls, a facility must demonstrate it will attain performance superior to what otherwise would have happened outside of Project XL.

## I. EXECUTIVE SUMMARY

The Steele County Community XL Project pilot will be conducted under EPA's Project Community XL program. The community wide project will consist of a two-phase approach to attain Environmental Excellence and Leadership. This FPA states the intentions of the parties to implement Phase I of the Steele County Community XL Project pilot.

Phase I will specifically address industrial regulated wastewater effluent reductions, and at the same time concentrate on significant water use reduction controls. Phase II will expand to a multi-media approach to environmental permitting. It will be based on overall community performance, rather than individual Sponsor performance, in the areas of air emissions, solid waste, hazardous waste, chemical storage, and community sustainability.

In Phase I, direct participants from the Steele County community have agreed jointly to the following four Superior Environmental Performance (SEP) approaches:

### A. Owatonna Sponsors:

- 1) reduce the discharge of four priority metals;
- 2) reduce water usage;
- 3) develop and implement a storm water and sewer water separation and education plan in an effort to minimize the impact of storm water on the Owatonna wastewater treatment facility; and
- 4) develop and participate in a training and assessment program to better understand potential benefits of an ISO 14000 Environmental Management System (EMS).

### B. Blooming Prairie Sponsor:

- 1) reduce the discharge of three priority effluents; and
- 2) reduce water usage.

Phase I of the project will also provide regulatory flexibility to the Sponsors in the following areas:

### A. Owatonna Sponsors:

- 1) an incentive-based monitoring approach can be implemented, such that as metal discharge goals are met, the frequency of monitoring may be reduced;
- 2) a mass-based compliance standard will replace the concentration-based standard currently in place;
- 3) the elimination of pollutant monitoring where a pollutant is not discharged; and
- 4) the development of an alternative Significant Non-Compliance (SNC) approach, under which qualifying violations may be posted on the MPCA website in lieu of being published in the local newspaper.

### B. Blooming Prairie Sponsor:

- 1) an incentive-based monitoring approach can be implemented, such that as effluent discharge goals are met, the frequency of monitoring may be reduced; and
- 2) the elimination of pollutant monitoring where a pollutant is not discharged.

For Phase I, current regulatory limits for participating facilities will remain in effect. The regulatory limits will be changed from concentration-based limits to mass-based limits. An exceedance of a mass-based limit could result in the use of traditional enforcement tools.

## II. PROJECT DESCRIPTION

### A. Purpose

EPA with the cooperation of State and local authorities, has initiated Project XL *eXcellence and Leadership* to work with interested companies or other potential project sponsors to develop innovative approaches to environmental protection. Under Project XL, participants in four categories, facilities, industry sectors, governmental agencies and communities are offered the flexibility to develop common sense, cost effective strategies to replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance.

Project XLC, *eXcellence and Leadership for Communities*, was developed to bestow special attention on communities and local governmental or regional organizations that are interested in creating an XL project. Project XLC encourages potential sponsors to come forward with new approaches to demonstrate community-designed and directed strategies for achieving greater environmental quality consistent with community economic goals. To participate in Project XLC, applicants must develop alternative pollution reduction strategies pursuant to nine criteria: superior environmental results; local stakeholder involvement, support, and capacity for community participation; economic opportunity; test of an innovative multi-media strategy; transferability; feasibility; community planning; identification of monitoring, reporting and evaluation methods; and equitable distribution of environmental risks. Under Project XLC, EPA provides an opportunity to test flexible and innovative strategies for advancing our nation's environmental goals more effectively and efficiently than current regulatory and policy tools or procedures.

This Final Project Agreement (FPA) states the intentions of the U.S. Environmental Protection Agency (EPA), the Minnesota Pollution Control Agency (MPCA), the Cities of Owatonna and Blooming Prairie, and the Steele County Community XL Project Sponsors to carry out a pilot project as part of EPA's Project XLC program to develop innovative approaches to environmental protection.

This FPA is intended to be a joint statement of the plans, intentions, and commitments of the parties with regard to the project approved for implementation. This FPA is not intended to create legal rights or obligations and is not an enforceable contract or a regulatory action such as a permit or a rule. This applies to both the substantive and procedural provisions of this FPA. Thus, for example, this FPA establishes procedures that the parties intend to follow with respect to termination under the FPA. However, while the parties fully intend to follow these procedures, they are not legally obligated to do so. The parties intend to implement the enforceable commitments, federal and state regulatory flexibility, monitoring, record keeping, and reporting provisions of this FPA through rulemaking and State and local permits. The terms and conditions of these legal mechanisms will be legally enforceable, though this FPA itself is not legally enforceable. This Agreement is not a "final agency action" by the EPA, because it does not create or modify legal rights or obligations and is not legally enforceable. The Agreement is not subject to review; in addition, no action or omission by any Party to this FPA could give rise to any claim against the Party for penalties, damages or other compensation based solely on the claim that the action was at variance with a provision or provisions of this FPA. All parties to this FPA will strive for a high level of cooperation, communication, and coordination to assure successful, effective, and efficient administration of the project.

The Steele County Community XL Project will consist of a two-phase approach to attain environmental excellence and leadership. Steele County is located about 60 miles south of Minneapolis, Minnesota. The largest town in the County is Owatonna and the population of the County is approximately 30,000. The facilities participating in this project are primarily metal finishers. This FPA will address Phase I only, which will include industrial regulated wastewater effluent reductions, and at the same time will concentrate on significant water use reduction controls. In Phase II, to be considered at a later date, the project Sponsors would propose to expand to a multi-media approach to environmental permitting. Phase II will be based on overall community performance, rather than individual member performance, in the areas of air emissions, solid waste, hazardous waste, chemical storage, and community sustainability.



In Phase I, a group of small-to-medium sized industrial facilities located in Steele County, Minnesota are proposing to reduce the discharge of four priority metals and Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and Total Kheldal Nitrogen (TKN) that flow to the local waste water treatment facilities and implement significant water use reduction controls. These project sponsors include 11 facilities located in the town of Owatonna and one facility (Elf Atochem) located in Blooming Prairie, Minnesota. (refer to Attachment D for a complete contact list of Project Sponsors).

The Owatonna Sponsors also plan to minimize storm water runoff at each participating facility and will work with the local wastewater treatment facility to develop educational materials for community distribution on the importance of minimizing storm infiltration into the sewer system. In addition the Sponsors plan to work towards the development of an ISO 14000 based Environmental Management System (EMS).

Current regulatory limits for Sponsor facilities will remain in effect. Concentration-based categorical standards will be changed to mass-based limits. Additional flexibility will be provided for the elimination of monitoring for pollutants not present, for the implementation of an alternative Significant Non-compliance (SNC) approach for publication of qualifying violations on the MPCA website in lieu of publication in the local newspaper, and an incentive-based monitoring approach such that as metal discharge goals are met, the frequency of monitoring may be reduced.

## B. Superior Environmental Performance Commitments

The following describes the 4 key areas of commitment to Superior Environmental Performance by direct participants.

### 1) Discharge Reduction Goals

#### a. Owatonna Sponsors: 20% Reduction Goal for Nickel, Chromium, Copper, and Zinc

Sponsors located in Owatonna commit to a 20% reduction goal in the amount of Nickel, Chromium, Copper, and Zinc (by mass) that flows to the Owatonna Waste Water Treatment Facility (OWWTF) in the first five years of the project. The reduction goal will be set based on a 20% reduction of each individual metal. When the first 20% reduction goal is met, a second 20% reduction goal will be set for the remaining project term.

In this project, the Owatonna Sponsors are focusing their discharge reduction efforts on the four metals slated for the 20% release reductions because they are the metals determined to be the priority effluents by the OWWTF (refer to Attachment A for background effluent data). In addition, the Owatonna Sponsors are regulated for these pollutants under categorical pretreatment standards. Specific reductions of other metals are not being pursued under this project due to a relatively low environmental impact at the OWWTF. Although other metals are not being pursued for a reduction, the OWWTF may exercise its discretion, to reduce monitoring frequencies to make them consistent with monitoring reductions of the four primary metals listed in the table below.

Based on Attachment B, the baseline discharge levels and the initial 20% reduction goals are:

<b>Metal</b>	<b>Baseline (lbs./day)</b>	<b>20% Reduction Goal (lbs./day)</b>	<b>Loading after 20% Reduction (lbs/day)</b>
Chromium	0.86	0.17	0.69
Copper	0.35	0.07	0.28
Nickel	1.47	0.29	1.18
Zinc	1.39	0.28	1.11

**b. Elf Atochem of Blooming Prairie, Minnesota: 20% Reduction Goal for BOD, TSS, and TKN**

Elf Atochem located in Blooming Prairie, commits to a 20% reduction goal in the amount of BOD, TSS, and TKN that flows to the Blooming Prairie Waste Water Treatment Facility (BPWWTF) in the first five years of the project. The reduction goal will be set based on a 20% reduction of BOD, TSS, and TKN. When the first 20% reduction goal is met, a second 20% reduction goal will be set for the remaining project term.

<b>Pollutant</b>	<b>Baseline</b>	<b>20% Reduction Goal</b>	<b>Loading after 20% Reduction</b>
BOD	40 lbs./day	8 lbs./day	32 lbs./day
TSS	177 lbs./day	35 lbs./day	142 lbs./day
TKN	20 mg/l	4 mg/l	16 mg/l

**2) Water Use Reduction Goal**

- a. The total water flow to the OWWTF from the Owatonna Sponsors is 477,000 gallons/day. Owatonna Sponsors commit to a goal of reducing by 10% the total amount of water flowing from the Sponsor facilities to the OWWTF.
- b. The total water flow of Elf Atochem to the BPWWTF is 16,900 gallons/day. Elf Atochem commits to a goal of reducing by 10% the process water flowing from the Sponsor to the BPWWTF.

**3) Storm Water Plan and Education**

In the first two years, the Owatonna Sponsors will develop a plan to minimize storm water infiltration into the sewer system at each participating facility. Sponsors will work with the OWWTF to develop educational materials for employees of their facilities and Owatonna City residents to minimize storm water infiltration into the sewer system.

**4) Environmental Management System (EMS) Training**

In the first year of the project, Owatonna Sponsors commit to arrange and participate in training for the development of an ISO 14000-based EMS. Within 18 months of the effective date of the project, Owatonna Sponsors commit to have an EMS and/or a pollution prevention assessment conducted at their facilities, and will then subsequently summarize and make available reports outlining the results of the assessment and any plans to incorporate assessor recommendations.

**C. Regulatory Flexibility**

The following describes the 5 key areas of regulatory flexibility for the Steele County Community XL Project pilot.

**1) Monitoring Frequency Reduction**

- a. The OWWTF will evaluate the recent performance of Owatonna Sponsors, and may reduce monitoring requirements to twice per year for facilities with satisfactory compliance records. After the first metal reduction goal of 20% is met, the OWWTF will be authorized to reduce, at its discretion, the monitoring frequency of Sponsors to once per year. After the second metal reduction goal is met the monitoring frequency may remain at once per year. In exercising this discretion, the OWWTF will consider the Owatonna Sponsors' previous three years of compliance

data, and will not reduce monitoring for pollutants where there is a reasonable potential of violating pretreatment standards. Flexibility required to change the monitoring frequency will be implemented through an EPA rulemaking action (subject to public notice and consideration of public comment), and any corresponding State and City action needed for the project to proceed (see Section IV for more detail).

b. The BPWWTF will evaluate the recent performance of Elf Atochem, and may reduce monitoring requirements to twice per month on the basis of a satisfactory compliance record. If after a period of one year, Elf Atochem has not made a good faith effort to meet the 20% goal, then the BPWWTF has the discretion to return Elf Atochem to monitoring once per week. After verification by Elf Atochem that the 20% reduction goal for BOD, TSS, and TKN has been met, the BPWWTF may reduce the monitoring frequency to once per month where there is no reasonable potential of violating pretreatment standards.

## **2) Mass Based Limits**

Mass based limits for the Owatonna Sponsors currently subject to concentration-based categorical standards will be implemented. Flexibility required to change from concentration to mass based limits will be implemented through an EPA rulemaking action (subject to public notice and consideration of public comment), and any corresponding State and City action needed for the project to proceed. To ensure the continued appropriateness of the specific mass limits, Owatonna Sponsors would be required to notify the OWWTF in the event production rates are expected to vary by more than 20 percent from the previous year's average, and would commit to continued operation of at least the same level of treatment as at the outset of the project. Upon notification, the OWWTF will reassess the appropriateness of the mass limit.

## **3) Elimination of Monitoring for Pollutants Not Discharged**

Monitoring shall be eliminated for pollutants not discharged by the Sponsors within the past two years. It is anticipated that the flexibility to eliminate monitoring for pollutants not discharged will be implemented through an EPA rulemaking action (subject to public notice and consideration of public comment), and any corresponding State and City action needed for the project to proceed. The procedure to eliminate monitoring for a pollutant not discharged is included in Attachment C.

## **4) Alternative Significant Non-Compliance (SNC) Approach, Owatonna Sponsors**

Under this pilot project, an alternative procedure for publishing SNC will be used. Qualifying violations under this alternative approach are available for an Owatonna Sponsor that is responsive, and where the violations did not cause a pass-through or interference violation of at the OWWTF. The terms "pass-through" and "interference" are terms defined in federal regulations. The parties intend for those definitions to apply here. Being "responsive," for purposes of this provision, means that an Owatonna Sponsor has taken action to correct a violation within 30 calendar days.

The intent of this alternative procedure is to provide prompt and appropriate assistance for identifying and correcting violations, and to reserve newspaper publication for cases where this format is needed for its potentially greater effect. For a significant non-compliance event qualifying under this provision, a description of the event and the corrective action taken will be published on the MPCA website as the violation is reported. All SNC violations, whether published in a newspaper or not, will be published as soon as practicable on the MPCA website. The website will also contain an explanation of how SNC is determined, and will have a contact number for further information about violations which are not SNC.

All non-compliance will be investigated by the peer review committee. The peer review committee will include two or three Owatonna Sponsors not connected to the non-compliance event being reviewed. Notice of the peer review committee meetings will be posted as soon as possible on the MPCA website. A description of the peer review committee and its functions and a contact person and telephone number will be posted on the website. The peer review committee will make recommendations and provide assistance to expedite the return to compliance. All SNC will be reported by the OWWTF to MPCA and EPA. Newspaper publication of SNC will be used at the discretion of the OWWTF, where the criteria discussed above are met, upon considering peer review committee recommendations. Peer review committee recommendations are not binding upon the OWWTF, and the city will continue to implement its Enforcement Response Plan. The Owatonna Sponsors will take steps to ensure that public outreach on the availability of information regarding this alternative approach to publication of significant non-compliance on the MPCA website is conducted. This outreach will include, but not be limited to periodic (at least annual) mailings to identified Steele County Community XL Project community stakeholders. This SNC procedure will be implemented through an EPA rulemaking action (subject to public notice and consideration of public comment), and any corresponding State and City action needed for the project to proceed.

#### **5) Storm Water Permits**

Sponsors with storm water permits plan to evaluate self-certification to the MPCA for nonexposure to storm water. If able to self-certify for nonexposure, a Sponsors' requirement to obtain a storm water permit will no longer be required. Qualifying Sponsors however agree to maintain their storm water pollution prevention plan to insure continued nonexposure to storm water.

#### **D. Verification**

##### **1) a. Owatonna Sponsors 20% Reduction Goal for Nickel, Chromium, Copper, and Zinc**

Monitoring Frequency – as required under II.C.1.a. above.

Reporting – report metal discharge and summarize metal discharge reduction projects annually.

Record keeping – keep monitoring records and records of metal discharge reduction projects.

##### **1) b. Blooming Prairie Sponsor 20% Reduction Goal for BOD, TSS, and TKN**

Monitoring Frequency – as required under II.C.1.b. above.

Reporting – report effluent discharge and summarize effluent discharge reduction projects annually.

Record keeping – keep monitoring records and records of effluent discharge reduction projects.

##### **2) Sponsors Water Use Reduction Goal**

Reporting – report water usage and summarize water usage reduction projects annually.

Record keeping – keep records as appropriate to verify water usage, and keep record of water usage reduction projects annually.

##### **3) Owatonna Sponsors Storm Water Plan and Education**

Report progress in annual report.

#### 4) Owatonna Sponsors Environmental Management System (EMS) Training

Report progress in annual report.

### III. PROJECT XL ACCEPTANCE CRITERIA

#### A. Environmental Results

Existing limits for industrial discharges from the Sponsor facilities will remain in place, as converted and be enforceable; therefore, there is no risk to the environment under this project. However, the discharge reduction goals for nickel, chromium, copper, and zinc will result in beneficial environmental results at the OWWTF. Additionally, discharge reduction goals by Elf Atochem for BOD, TSS, and TKN will result in better environmental results at the BPWWTF.

The Sponsors commit to reducing water usage.

Finally, a key problem identified by the OWWTF is the infiltration of storm water into the sewer system during storm events. Owatonna Sponsors have committed to work with the OWWTF to develop educational materials to help correct this problem. Education would start with the employees of the Owatonna Sponsor facilities. Owatonna Sponsors would also work with the OWWTF in educating the community at large concerning the storm water infiltration problem.

#### B. Economic Opportunity

Implementation of the Steele County Community XL Project will provide economic opportunity in conjunction with improved environmental quality. It is anticipated that the monitoring streamlining will result in cost savings for the Sponsors and reductions in water flow to the OWWTF and storm water infiltration into the sewer system will have community-wide economic benefits.

#### C. Stakeholder Involvement, Support, and Capacity for Community Participation

The Sponsors have developed diverse stakeholder contacts in the community and completed multiple targeted mailings in addition to coverage of the public meetings in the local newspaper. One local environmental group has indicated significant interest in and support of Phase I of the project (and in fact has published an article on the Steele County Community XL Project in their newsletter), and an interest in participating directly in Phase II of the project. Outreach continues to happen using local news and a website maintained by the MPCA located at the following address:

<http://www.pca.state.mn.us/programs/projectxl/steele.html>

In addition, it is anticipated that Phase II of the project will impact larger sections of the community and therefore may generate additional interest among community stakeholders.

Outreach to national stakeholders has been done and will continue as the project is implemented.

#### D. Innovative Approaches/Multi-Media Focus/Pollution Prevention

Phase I is a single media (water quality) effort. However, the innovation from this project tests the building of a proactive community-based approach. After successful implementation of Phase I, Phase II will expand the scope of the pilot to a multi-media and sustainable development approach.

The Steele County Community XL Project is innovative from management and regulatory perspectives. This project will incorporate several innovative approaches:

- An incentive-based monitoring approach will be implemented
- A mass-based compliance standard will replace the current concentration-based standard
- An alternative SNC approach will be utilized

The Steele County Community XL Project will promote pollution prevention through source reduction both through identifying opportunities for preventing pollution at its source and through setting goals to reduce the discharge of four priority metals.

#### **A. Transferability**

This project offers many opportunities for transferability to other programs or industries. The specific components that are transferable are as follows:

- Converting a concentration-based standard to a mass-based standard;
- Reducing monitoring frequency for pollutants with reduced discharges;
- Testing a peer group approach to correcting non-compliance;
- Testing a community-based regulatory approach; and
- Testing a proactive plan to reduce the impact of community storm water.

#### **F. Feasibility**

The regulatory flexibility requested, and the environmental benefits promised, are feasible. Project Sponsors have the financial capability to implement the project. MPCA and EPA have assigned staff to work on implementing and evaluating this project. An additional incentive to implement this pilot lies in the belief that over the life of this project, administrative costs and permit actions will be reduced while superior environmental performance is achieved.

#### **G. Monitoring, Reporting, and Evaluation**

Sponsors will follow the monitoring, record keeping and reporting requirements outlined in Section II.D., above, to insure public accountability of results.

#### **H. Equitable Distribution of Environmental Risks**

The environmental impacts resulting from this agreement will only be positive. Therefore, the project will not result in an impact shift on any community group.

#### **I. Community Planning**

The goals of this Community XL project are consistent with the 1997-2006 Steele County Comprehensive Water Plan. Consistent with the objectives, actions and priorities of the Steele County Plan the Sponsors, through the environmental objectives of this project (the metals reduction goals, water use reductions, and the storm water education and outreach), will be involved to assure that surface and ground water quality are improved and preserved. Through this FPA, the Steele County Community XL Project Sponsors have recognized the importance of their leadership in helping to realize these current and future planning goals. The mechanisms set up through this project, for example, peer review committee, will facilitate participation for environmental problem solving by business leaders within the community.

### **IV. IMPLEMENTATION**

Implementation of this agreement will rely on EPA to issue a federal site-specific rule. The purpose of the federal site-specific rule will be to grant flexibility to the MPCA and City of Owatonna to regulate Sponsors on a mass based standard, implement alternative significant non-compliance, and to reduce monitoring requirements. The parties believe that once the federal site-specific rulemaking is in place, the MPCA will issue an amended NPDES waste water treatment facility permit, and the City of Owatonna will need to issue amended industrial discharge permits to Owatonna Sponsors to fully implement the provisions of this project.

The BPWWTF will issue an amended industrial discharge permit to Elf Atochem in order to grant the flexibility needed for the Elf Atochem facility.

The parties to this FPA do not anticipate any need to provide flexibility from any additional Federal and/or State and/or local requirements. If the parties agree that additional flexibility is necessary and appropriate, the flexibility may be added to this Project and will be subject to public notice and comment, as appropriate.

## **V. AMENDMENTS AND REISSUANCE**

### **A. Amendments**

This FPA may be amended by mutual agreement of all parties at any time during the duration of the project.

### **B. Permit Re-issuance**

Upon a determination of the parties that the project is successful, the state and city permits amended to implement this agreement may be reissued for an additional 5 years in an expedited manner following project renewal.

If the parties agree that permit amendment or reissuance is necessary and appropriate, the amendment or reissuance will be subject to public notice and comment.

## **VI. DURATION**

This FPA will have a duration of 5 years from the effective date of this agreement. If the parties wish to renew the Steele County Community XL Project for an additional period of time, the parties may amend this FPA to extend its duration. Upon expiration of this Project, the Owatonna Sponsors will be expected to promptly return to compliance with the regulatory requirements that apply in the absence of the regulatory flexibility described in this agreement.

## **VII. TERMINATION AND WITHDRAWAL**

A. Termination. This FPA may be terminated by any party. Participation of Project Sponsors can also be terminated for serious non-compliance with regulatory limits.

The following procedure shall be used in the event of early termination:

1. Any party desiring to terminate prior to completion of the project term is expected to provide written notice of intent to terminate to the other parties at least sixty (60) days prior to termination.
2. If requested by any party during the sixty (60) day period noted above, the dispute resolution proceedings provided in Section VIII may be initiated to resolve any dispute relating to the intent to terminate. If, following any dispute resolution or informal discussion, the party still desires to

terminate, the terminating party will provide written notice of final termination to all other parties to the FPA.

3. If any agency terminates its participation in the FPA, the remaining agencies will consult with the Sponsors to determine whether the FPA should remain in effect in a modified form or terminated.

B. Withdrawal. A Project Sponsor may withdraw from this agreement.

The following procedure shall be used in the event of withdrawal:

1. Any Project Sponsor desiring to withdraw prior to completion of the project term is expected to provide written notice of intent to withdraw to the other parties at least sixty (60) days prior to withdrawal.
2. If any Project Sponsor withdraws its participation in the FPA, the remaining agencies and Project Sponsors will consult to determine whether the FPA should remain in effect in a modified form or terminated.

## **VIII. DISPUTE RESOLUTION**

Any dispute that arises with respect to the meaning, application, implementation, interpretation, amendment, termination, or modification of the FPA will in the first instance be the subject of informal discussions. To initiate informal discussions, any party that believes it has a dispute with any other party will simultaneously notify all of the parties in writing, of the matter(s) in dispute.

If the dispute cannot be resolved by the parties within thirty-five (35) days of receipt of such notice (or such longer time as agreed to by the parties in the dispute), then one or more of the parties may invoke non-binding mediation by setting forth the nature of the dispute with a proposal for its resolution in a letter to the EPA Region 5 Administrator, with a copy to all parties. The EPA Regional Administrator or the disputants may request an informal mediation meeting. The disputants may request an opinion from the Regional Administrator in lieu of or in addition to the mediation meeting. Any opinion expressed by the Regional Administrator will be non-binding. Any party may request a written opinion from the Regional Administrator.

Nothing in this Section alters the parties' expectations regarding the ability to terminate or withdraw from the FPA set forth in Section VII above.

This dispute resolution process does not apply to disagreements arising from enforcement actions.

## **IX. RIGHT TO OTHER LEGAL REMEDIES RETAINED**

Except as expressly provided in the legal implementation mechanisms described in Section II.C. nothing in the FPA shall be construed to affect or limit any legal rights the Sponsors, MPCA, EPA, or the Cities of Owatonna and Blooming Prairie may have to seek legal, equitable, civil, criminal, or administrative relief regarding the enforcement of present or future applicable federal, state, and local codes, rules, or regulations with respect to the facilities.

Although Sponsors do not intend to challenge agency actions implementing the project (including any rule amendments or adoptions, permit actions, or other action) that are consistent with this FPA, Sponsors nonetheless reserve any right they may have to appeal or otherwise challenge any agency actions



implementing the project. Nothing in this FPA is intended to limit the right of a Sponsor to administrative or judicial appeal or review of any modification or termination of those legal mechanisms in accordance with the applicable procedures for such review.

#### **X. TRANSFER OF PROJECT BENEFITS AND RESPONSIBILITIES**

This FPA allows for the transfer of Sponsor rights and obligations under the project to any future owner or operator upon request of a Sponsor and such owner/operator, provided that the following conditions are met:

- A. A Sponsor requesting a transfer will provide written notice of any such proposed transfer to the EPA, MPCA, and the city in which the Sponsor is located (Owatonna or Blooming Prairie) at least forty-five (45) days prior to the effective date of the transfer. The notice is expected to include identification of the proposed transferee, a description of the proposed transferee's financial and technical capability to assume the obligations associated with the project, and a statement of the transferee's intention to sign the FPA as an additional party.
- B. Within thirty (30) days of receipt of the written notice, the EPA, MPCA, and the city expect to determine whether the transferee has demonstrated adequate financial and technical capability to carry out the project and a willingness to sign the FPA. The implementation mechanisms are expected to allow the proposed transferee to assume the rights and obligations of the direct participant. After consideration of other relevant factors, including the transferee's record of compliance with Federal, State, and local environmental requirements, and so long as the demonstration has been made to the satisfaction of the EPA, the city, and MPCA, the transfer may be approved.
- C. Upon approval of transfer under this section, EPA, MPCA and the city will amend the rule, permit and other implementing mechanism(s) (subject to public notice and comment) to legally transfer the rights and obligations of Sponsor under this project to the proposed transferee. The rights and obligations of this project remain with the Sponsor prior to their final, legal transfer to the proposed transferee.

**XI. FPA CONTACTS**

<p><b>1. For Sponsors:</b></p> <p>Dennis Sershen  Truth Hardware  700 West Bridge St.  Owatonna, MN 55060  Ph: (507)444-4481 / fax: (507)444-5380  e-mail: <a href="mailto:dsershen@truth.com">dsershen@truth.com</a></p>	<p><b>4. For MPCA:</b></p> <p>Andrew Ronchak  Minnesota Pollution Control Agency  520 Lafayette Road  St. Paul, MN 55155-4194  Ph: (651)296-3107 fax: (651)297-8676  email: <a href="mailto:andrew.ronchak@pca.state.mn.us">andrew.ronchak@pca.state.mn.us</a></p>
<p><b>2. For Elf Atochem:</b></p> <p>Tri Nguyen  Elf AtoChem North America, Inc.  157 West Hwy. North  Blooming Prairie, MN 55917  Ph: (507)583-6641 / FAX: (507)583-2804  e-mail: <a href="mailto:TNguyen1@ato.com">TNguyen1@ato.com</a></p>	<p><b>5. For the City of Owatonna:</b></p> <p>Dean Nelson  Owatonna Wastewater Treatment Plant  540 West Hills Circle  Owatonna, MN 55060  Ph: (507)444-2452 / fax: (507)444-2453  e-mail: <a href="mailto:wwtf@mnic.net">wwtf@mnic.net</a></p>
<p><b>3. For EPA:</b></p> <p>Matthew Gluckman  EPA Region 5  77 West Jackson Boulevard  Chicago, IL 60604-3590  Ph: (312)886-6089 / fax: (312)886-0957  email: <a href="mailto:GLUCKMAN.MATTHEW@epamail.epa.gov">GLUCKMAN.MATTHEW@epamail.epa.gov</a></p>	<p><b>6. For the City of Blooming Prairie:</b></p> <p>Mike Rietz  Blooming Prairie Wastewater Treatment Plant  West Hwy. North  Blooming Prairie, MN 55917  Ph: (507)583-7573 / fax: (507) 583-4520  e-mail: <a href="mailto:wwtf@mnic.net">wwtf@mnic.net</a></p>

A contact list for Sponsors not included above is included as Attachment D.

**ATTACHMENT A**  
**Background Effluent Data from Owatonna Sponsors**

Effluent	City Ordinance (lbs/day)	Allocation (lbs/day)	1997 Max OWWTF In-Flow (lbs/day)	1997 Max Industrial Discharge (lbs/day)	Percentage of Total In-Flow from Industry
Cadmium (Cd)	0.09	0.093	0.02	0.0143	71%
*Copper (Cu)	0.48	1.0	9.257	0.555	6%
Cyanide (Cn)	1.25	3.03	0.5	0.012	2%
*Total Chrome (Cr T)	7.96	5.71	6.505	1.433	22%
Chrome +3 (Cr +3)		7.4			N/A
Chrome +6 (Cr +6)	0.28	0.275	0.295	0.137	46%
Lead (Pb)	7.95	5.75	0.266	0.0371	14%
Mercury (Hg)	0.0009	0.0001	0.016	0.01	66%
*Nickel (Ni)	7.3	6.4	3.253	1.4445	44%
Silver (Ag)	0.44	0.12		0	N/A
*Zinc (Zn)	3.85	3.87	15.636	1.755	11%

\*Effluent streams selected for 20% reduction based on OWWTF priorities.

**ATTACHMENT B  
SPONSOR BASELINE DATA**

BASELINE MONITORING REPORT  
FOR  
SIGNIFICANT INDUSTRIAL USERS  
  
OWATONNA MN

	Flow Gallons/Day	Chromium		Copper		Nickel		Zinc	
		mg/l	lbs/day	mg/l	lbs/day	mg/l	lbs/day	mg/l	lbs/day
Truth Hardware	95000	0.15	0.12	0.07	0.06	0.11	0.09	0.89	0.71
Service Solutions. SPx Corp	134000	0.52	0.58	0.04	0.04	1.20	1.34	0.09	0.10
Power Team Div. SPx Corp	27000	0.03	0.01	0.09	0.02	0.03	0.01	0.36	0.08
Jostens	14000	0.03	0.004	0.66	0.08	0.08	0.01	0.99	0.12
Uber Tanning	5000	1.87	0.08						
Gandy Co	30000	0.03	0.01	0.05	0.01	0.01	0.00	0.17	0.04
Technical Coatings	62000	0.06	0.03	0.04	0.02	0.03	0.02	0.46	0.24
Mustang Mftg	5000	0.02	0.001	0.11	0.00	0.01	0.00	0.33	0.01
Cybex	19000	0.02	0.003	0.13	0.02	0.02	0.00	0.22	0.03
Crown Cork & Seal	86000	0.04	0.03	0.13	0.09		0.00	0.09	0.06
TOTALS	477000		0.86		0.35		1.47		1.39

Numbers are based on quarterly monitoring reports. Adjustments may be needed to calculate net reductions based on production and/or employee hours at the time of the annual assessment.

## ATTACHMENT C

### Procedure to Reduce or Eliminate Monitoring Requirements for Pollutants Not Present.

**Existing requirements:** 40 CFR § 403.12(e) requires each Sponsor subject to categorical standards to sample and report to their Control Authority at least twice per year regarding all regulated pollutants. The Control Authority must sample each Sponsor facility for all regulated pollutants at least once per year.

**Proposed regulatory flexibility:** For purposes of this project, the Owatonna Waste Water Treatment Facility or the Blooming Prairie Waste Water Treatment Facility (POTWs) would be authorized to allow an Sponsors subject to categorical standards to reduce the required sampling to less than twice per year, or to not sample for a pollutant if it is not expected to be present in the waste stream at levels greater than background in its water supply, with no increase in the pollutant due to the regulated process<sup>1</sup>. For such pollutants, the POTWs would only be required to conduct sampling and analysis once during the term of each Sponsor's permit. The Sponsor would still be subject to the categorical standards for pollutants determined not to be present, and would need to resume sampling if the pollutant is present at levels greater than background.

**Information needed to make determination that a pollutant is not expected to be present:** For purposes of this project, determinations by the POTWs to either waive or reduce Sponsor sampling to less than twice per year would be based on both sampling and other technical data, such as raw material usage, industrial processes, and potential by-products. Existing data on pollutant concentrations of the local public water supply will be used to characterize background concentrations. Where a Sponsor uses an alternative water supply, representative influent sampling would need to be provided. At least three years of Sponsor effluent data would then be compared to the background data in making the determination that a given pollutant is not expected to be present. In addition, the POTWs would need to make its determination based on its knowledge of the raw materials used, and the facility's processes and potential by-products, but will not consider capability and efficiency of the user's pretreatment system. Where it believes it is necessary to make a determination, the POTWs may require a Sponsor to provide representative data on its untreated effluent.

**Implementation of the determination:** Once the POTW determines that one or more pollutants are not expected to be present at a Sponsor facility, it will modify the Sponsor's permit to reduce or eliminate the monitoring requirements for the pollutant(s). The Sponsor's permit would also require the user to submit, as part of regular semi-annual monitoring reports, certification that there has been no increase of the pollutant in waste water due to activities. The POTW would sample the Sponsor for all pollutants in the applicable categorical standard at least once during the term of the Sponsor's permit.

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<sup>1</sup> This flexibility would not apply to Industrial Users subject to the categorical standards for the Organic Chemicals Plastics and Synthetic Fibers point source category, 40 CFR. Part 414.

**ATTACHMENT D**  
**Sponsor Contact List**

Wenger Corp. Attn: Raymond Truelson 555 Park Drive Owatonna, MN 55060	Mark Nichols Viracon - Marcon 800 Park Drive Owatonna, MN 55060
Jeff Hollister Cybex 151 24 <sup>th</sup> Ave SW Owatonna, MN 55060	Tri Nguyen Elf Atochem North America, Inc 157 West Hwy. North Blooming Prairie, MN 55917
Cindy Radel Jostens, Southtown Facility 1900 Hartle Ave. Owatonna, MN 55060	Gaylord Moeckly Mustang Manufacturing PO Box 547 Owatonna, MN 55060
Dan Wolfe or Lanae Kilcoyne Crown Cork & Seal 2929 West Bridge St. Owatonna, MN 55060	Dennis Sershen Truth Hardware 700 West Bridge St. Owatonna, MN 55060
Dale Gandrud Gandy Company 528 Gandrud Road Owatonna, MN 55060	Darlene Privette SPx, Service Solutions Division 655 Eisenhower Drive Owatonna, MN 55060
Dave Ihrky SPx, Power Team 2121 West Bridge St. Owatonna, MN 55060	Lanny Uber Uber Tanning Box 85 Owatonna, MN 55060