

Midwest Environmental ADVOCATES

pro bono publico

FOR IMMEDIATE RELEASE

November 24, 2009

Contact: Jamie Saul, Midwest Environmental Advocates
(608) 251-5047 x1 / jsaul@midwestadvocates.org
Becky Katers, Clean Water Action Council
(920) 468-4243 / rkate@new.rr.com

Clean Water Group Resolves Clean Water Act Lawsuit Against Utica Energy, LLC

GREEN BAY, WI -- Clean Water Action Council of Northeastern Wisconsin (CWAC), through its attorneys Midwest Environmental Advocates (MEA), filed a settlement agreement today in the U.S. District Court for the Eastern District of Wisconsin resolving a federal Clean Water Act lawsuit against the ethanol plant owned and operated by Utica Energy, LLC, near Oshkosh, Wisconsin. The settlement resolves CWAC's claims that Utica has repeatedly and egregiously violated the Clean Water Act by discharging zinc, sediment, and other pollutants into Sawyer Creek in excess of limits in their DNR-issued wastewater discharge permit.

"This settlement agreement will provide real water quality benefits to Sawyer Creek," said Rebecca Katers, CWAC Executive Director. CWAC will continue to monitor the Creek's water quality as the stream restoration projects move forward.

Sawyer Creek flows through Oshkosh and provides recreational opportunities to nearby residents and habitat to scores of bird and wildlife species. The \$110,000 settlement agreement requires Utica to pay \$50,000 to the City of Oshkosh and Winnebago County for stream restoration and runoff prevention projects in Sawyer Creek in addition to civil penalties to the United States and attorneys fees and costs of litigation. Though filed with the Court today, the settlement agreement will not become final until after a 45-day review period by the U.S. Environmental Protection Agency and approval by the Court.

Today's announcement comes on the heels of a separate settlement reached in October between Utica and the State of Wisconsin in which Utica agreed to pay \$280,000 in forfeitures and costs to the State and to invest \$200,000 to connect to the Oshkosh wastewater treatment plant and cease discharging to Sawyer Creek by March of 2011.

"We are pleased that Utica has agreed to come into compliance with water pollution laws," said Jamie Saul, Staff Attorney with Midwest Environmental Advocates. "Polluters who wish to use our rivers and creeks as a dumping ground face legal consequences under the Clean Water Act, and under that Act citizens have a powerful tool to stop water pollution."

Many of Wisconsin's ethanol plants, including Utica, have regularly failed to comply with the requirements of state and federal anti-pollution laws such as the Clean Air and Clean Water Acts. Far from being the cure to our addiction to fossil fuels, corn ethanol production in Wisconsin has resulted in the widespread exacerbation of air and water pollution. Several of Wisconsin's ethanol plants have been the subject of similar enforcement actions by public interest groups or the State or are under investigation for environmental violations.

###

Fast Facts

- The Clean Water Act (CWA) prohibits the discharge of pollutants to waters of the United States except in accordance with a permit issued by the U.S. Environmental Protection Agency or a state that operates an EPA-approved permit program, such as Wisconsin's Pollution Elimination Discharge System (WPDES) program. The CWA "citizen suit" provision authorizes citizens to commence a civil action against any person who is alleged to be in violation of a term or condition contained in a WPDES permit. In a citizen suit, plaintiffs are entitled to seek injunctive relief to bring violators into compliance with the CWA and the imposition of civil penalties as authorized by the Act.
- Utica Energy in Oshkosh, Winnebago County, Wisconsin, was constructed in 2002, and discharges wastewater consisting primarily of noncontact cooling water, boiler blowdown, and potable water treatment waste through a single outfall to a tributary of Sawyer Creek, a tributary of the Fox River, in the Lake Butte des Morts Watershed in the Upper Fox River Basin.
- Clean Water Action Council of Northeastern Wisconsin, Inc. (CWAC) is a non-profit citizen organization, founded in 1985, working to protect public health and the environment in Northeastern Wisconsin. CWAC works to increase public awareness of the many threats to water quality, and to build support for improved management. CWAC may be reached through Rebecca Katers, Executive Director, at (920) 468-4243 or rkat@new.rr.com.
- Midwest Environmental Advocates, Inc. (MEA) is the first and only non-profit environmental law center in Wisconsin. MEA provides legal and technical support to grassroots groups that are working for clean air, clean water, and environmental justice in the Western Great Lakes region. More information is available at www.midwestadvocates.org.