

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: CITY OF REASNOR Wastewater Facility No. 6-50-71-0-01	ADMINISTRATIVE CONSENT ORDER NO. 2013-WW-02
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TO: City of Reasnor
c/o Honorable Mayor and Council
312 North Street, P. O. Box 65
Reasnor, IA 50232

I. SUMMARY

This administrative consent order (order) is entered into between the City of Reasnor (City) and the Iowa Department of Natural Resources (Department). The City hereby agrees to comply with the construction schedule contained in this order for wastewater treatment facility (WWTF) improvements, to properly operate and maintain the existing wastewater collection and treatment facilities, and to pay an administrative penalty of \$1,500.00. In the interest of avoiding litigation, the parties have agreed to the provisions of this order.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Tom Atkinson
Environmental Specialist Senior
IDNR Field Office No. 5
401 SW 7th Street, Suite 1
Des Moines, IA 50309-4611
Ph: (515) 725-0268

Relating to legal requirements:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: (515) 281-6267

II. JURISDICTION

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section

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455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The City owns and operates a WWTF located in Section 11, T78N, R19W, Jasper County, Iowa. The WWTF serves the City, which has a population of 194 persons. There are no contributing industries in the City. The WWTF consists of a two cell waste stabilization lagoon which is operated as a controlled discharge system pursuant to Iowa NPDES Permit No. 6-50-71-0-01. Wastewater flows from the collection system by gravity to a lift station located on the south end of town, where it is pumped to a splitter manhole located at the lagoon facility. Effluent is discharged to Reasnor Creek, which discharges to the South Skunk River, pursuant to Iowa NPDES Permit No. 6-50-71-0-01. The NPDES permit contains limitations on influent and effluent flow rates, effluent limits for CBOD₅ and TSS, monitoring requirements and other terms as set forth in the NPDES permit.

2. The Department issued an NPDES permit to this facility on October 5, 2000. The NPDES permit expired on October 4, 2005. The Department received an application from the City for a new NPDES permit on March 2, 2005. A new NPDES permit can not be issued by the Department for a facility that is not in consistent compliance. The City continues to operate under the terms and conditions of the expired NPDES permit until such time as the City comes into consistent compliance and a new NPDES permit is issued by the Department.

3. The City's two cell waste stabilization lagoon facility was constructed in 1967 and has a total surface area of 2.8 acres. The facility was designed to store waste for 180 days but due to the age of both the collection system and lagoon cells is unable to manage the flows and adequately treat the domestic waste to achieve consistent compliance with the terms and conditions of the City's NPDES Permit. As a result the WWTF has exceeded the design flows for the treatment plant, discharged more than the allowed number of times per year under the permit and has not consistently met NPDES permit effluent limits.

4. On February 18, 2008, Department Field Office No. 5 (FO 5) staff visited the City's WWTF to observe the operation of the facility. By a letter dated February 20, 2009, the FO 5 report of the visit was sent to the City. The environmental specialist senior noted in the letter that the east lagoon cell had about one foot or so of freeboard while the west cell had 2 to 2 ½ feet of freeboard. The FO 5 letter stated that the Department had concerns that the wastewater would exceed the lagoon's capacity before the scheduled spring discharge. The FO 5 letter stated that measures needed to be taken

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by the City to determine the CBOD5 and TSS concentrations in the lagoon cells and to chemically treat the lagoon cells if necessary to produce effluent that would comply with the NPDES permit effluent limits for discharge from the WWTF.

5. The February 20, 2008 FO 5 letter stated that from a review of the City's compliance history, the Department had determined that the City was unable to consistently treat its waste and limit its discharges to twice per year. The table attached to the letter indicated effluent limit violations for CBOD5 for May, June, and July 2007 and for TSS for July, August and October 2007. The letter required the City to hire an engineer by April 20, 2008 to evaluate the City's WWTF and to meet with the Department's engineering and field office staff. The FO 5 letter required that City's engineer prepare a preliminary engineering report that specified how the City intended to address infiltration/ inflow into the City's wastewater collection system and any upgrade to the WWTF. The due date for the preliminary engineering report was August 20, 2008.

6. The City hired an engineering firm to prepare the preliminary engineering report. On May 13, 2008 the engineering firm reported to FO 5 that it had completed an evaluation of the City's wastewater collection system and treatment plant and submitted the report to the City Council. The City Council was evaluating the options but had not adopted a final alternative. Due to this the City had not submitted the preliminary engineering report.

7. FO 5 conducted a compliance inspection of the City's WWTF on September 30, 2008. By a cover letter dated October 17, 2008, FO5 notified the City that the report for the inspection had been completed and enclosed the inspection report. The cover letter required the City to complete its evaluation of the City engineer's report and to select an alternative for an upgrade to the City's WWTF. The cover letter and the inspection report extended the date for submittal of the preliminary engineering report to the Department to December 31, 2008.

8. The inspection report for the September 30, 2008 inspection reviewed the City's compliance with its NPDES Permit. This WWTF was designed to treat 0.028 million gallons per day (MGD) per day with an average maximum of 0.0420 MGD. The report noted that the City had treated on the average 0.0572 MGD, with an average maximum of 0.103 MGD. This was over double the hydraulic loading capacity that the facility had been designed for originally. The inspection report stated that daily maximum effluent flows as established by the NPDES permit were exceeded during 15 days in January 2008, during 7 days in April 2007, during 31 days in May 2007, during 7 days in June 2007, during 11 days in September 2007, during 2 days in October 2007, during 7 days in November 2007, during 4 days in December 2007, and during 3 days in October 2006.

9. The inspection report for the September 30, 2008 inspection stated that waste stabilization lagoons, such as the City's system, are designed to hold wastes for 180 days

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prior to discharge. The NPDES permit authorizes discharges from the WWTF twice per year, in the spring and fall or at times when the flow in the receiving stream is not at its minimum. The 180 day holding period is necessary to adequately treat the waste to acceptable standards and to reduce the potential for interference with the aquatic ecosystem which can occur as a result of discharging during low stream flows. The report noted that the City had discharged from its WWTF during six months of 2008, nine months of 2007, and one month of 2006. This included a continuous discharge from the WWTF from April 23, 2007 through September 11, 2007. Discharges other than twice per year are in violation of permit requirements for this type of WWTF. The compliance summary of the report stated that the multiple discharges by the City are in violation of the NPDES permit issued to the City.

10. The inspection report for the September 30, 2008 inspection discussed CBOD5 and TSS violations in 2007 and 2008 and concluded that the City was unable to consistently meet effluent limits for CBOD5 and TSS. The report noted CBOD5 effluent limit violations for May, June and July 2007 and April and June 2008. Also noted were TSS effluent limit violations for August and October 2007. The compliance summary portion of the inspection report stated that the City was not able to consistently meet NPDES permit limitations as set out in the NPDES permit and Department rules. The report noted that this was in violation of the permit and subrule 567 IAC 64.7(5)"a" which provides that all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit.

11. Department FO 5 staff met with the City Council on November 10, 2008. The City expressed concerns over funding a project to upgrade its WWTF. FO 5 staff reminded the City that the preliminary engineering report was due December 31, 2008. The preliminary engineering report was submitted to the Department's engineering staff and received on February 24, 2009. By a letter dated March 12, 2009, the Department's project manager indicated that project review had been completed and that the Department was in agreement with the proposed improvements. The facility plan provided for the upgrade of the existing two cell lagoon facility to a three cell controlled discharge lagoon facility. The facility plan included an implementation schedule that provided for the submittal of plans and specifications by September 2009 and the start of construction by July 2012. Final facility plan approval was contingent upon receipt by the Department and its approval of the City's final design flows.

12. By a letter dated September 15, 2009, FO 5 reminded the City that plans and specifications for the upgrade to the City's WWTF were due by September 30, 2009. The Department did not receive plans and specifications for the upgrade to the City's WWTF in response to that letter. FO 5 was later informed by the contract engineer that the City had released the contract engineer from further work on the upgrade to the City's WWTF. The City's position at that time was that it did not have sufficient funds to upgrade its WWTF as indicated in the facility plan.

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13. The City hired a new engineering consultant. The City and its engineering consultant requested that prior to the addition of a third lagoon cell that the City be allowed to amend its facility plan to include sewer rehabilitation for the City prior to any construction of an additional lagoon cell. This order is being issued to enter into an agreement with the City concerning the upgrading of the City's wastewater treatment facilities, including the collection system and the lagoon system.

14. FO 5 conducted an inspection of the City's WWTF on March 23, 2012. The April 16, 2012 report for the inspection discussed hydraulic overloading of the City's WWTF. The inspection report stated that the City frequently exceeded its hydraulic design capacity for the review period of October 2008 through February 2012. The inspection report found that the facility reported discharges from the lagoon system during 18 of the 41 months of the review period, indicating hydraulic overloading and the need for frequent discharges. The inspection report attributed the hydraulic overloading of the City's WWTF to excessive amounts of infiltration and inflow (I/I) into the City's collection system. The report found that sampling of the effluent from the WWTF showed multiple violations of the City's current NPDES permit.

15. In order to attempt to correct the hydraulic overloading of the City's WWTF by I/I into the collection system, the City undertook a construction project for sanitary sewer system improvements. The April 16, 2012 inspection report stated that the City received a construction permit on February 17, 2011 for sanitary sewer improvements and lined clay sewers with cast in place pipe. Also in conjunction with the sewer lining project, the City planned to line 28 manholes. At the time of the inspection, this work had not been completed because the weather had not been warm enough to allow the liner to cure properly. The report indicated that the lining of the manholes should be completed by June 1, 2012.

16. The April 16, 2012 inspection report noted that the I/I project was nearing completion and that it was unknown whether the lagoon system is adequately sized to maintain 180 days of storage between discharges. The report additionally stated that further upgrades would be necessary if it was determined that the lagoon system was not capable of providing adequate storage.

17. The April 16, 2012 inspection report listed four requirements for the City concerning the City's WWTF. The City was required to comply with all conditions of its NPDES permit. The City was required to verify the pumping rate of each of the lift station pumps to determine the accuracy of the influent flow rates. The third requirement was for the City to repair or replace all of the control valves at the lagoon site. This was required due to the poor condition of the lagoon valves at the time of the inspection. The last requirement was for the City to repair the effluent weir structure and install a weir measuring the effluent flow rate.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of an operation permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. This facility's NPDES permit requires these facilities to be adequately operated and maintained. Standard Condition 8 of the permit provides that all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. This standard permit condition is based upon subrule 64.7(5)"f". This subrule states "the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit." Based on the condition of the City's WWTF and collection system during past inspections, the City has not complied with this permit and rule provision.

4. The City's has not complied with its NPDES permit effluent limits for TSS, CBOD5 and flow as stated in this order. The City additionally has not complied with the controlled discharge requirements included in its NPDES permit as noted above in this order. Such NPDES permit violations are in violation of Department subrule 64.3(1) since they demonstrate that the WWTF is being operated contrary to the terms of the City's NPDES permit.

V. ORDER

THEREFORE, the Department orders and the City agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. The City agrees to prepare and submit to the Department by December 31, 2014 an evaluation of the flows to the City's WWTF following I/I construction work by the City. The evaluation must determine if further upgrading to the City's WWTF is needed in order for the City to meet this facility's NPDES permit requirements and Department rule requirements and design standards for controlled discharge lagoon systems.

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2. If the evaluation submitted to the Department indicates that this facility can properly operate as a controlled discharge facility and the Department concurs with the evaluation, the City agrees to properly operate and maintain the existing WWTF to enable this WWTF to operate as a controlled discharge facility in accordance with this facility's NPDES permit.

3. If the evaluation submitted to the Department indicates that this facility cannot properly operate as a controlled discharge facility, the City agrees to complete improvements to the existing WWTF to enable this WWTF to operate as a controlled discharge facility in accordance with this facility's NPDES permit and Department design standards for such facilities. WWTF improvements are required to be completed in accordance with the following schedule.
 - A. Complete a Self-Assessment Matrix and submit a Work Record Request form to DNR's Wastewater Engineering Section by March 1, 2015. The forms and instructions are available on the DNR website at the following address: <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WastewaterConstruction.aspx>. Questions concerning the forms should be directed to either Terry Kirschenman at 515/281-8885 or Emy Liu at 515-281-8509.

 - B. Submit a Facility Plan to the Department's Wastewater Engineering Section by December 31, 2015. The Facility Plan shall be completed in accordance with Chapter 11.2 of the Iowa Wastewater Facilities Design Standards, as adopted on April 25, 1979.

 - C. Submit final complete plans and specifications meeting Department design standards and rules, a complete construction permit application and application fees to the Department's Wastewater Engineering Section by December 31, 2016.

 - D. Complete construction of the WWTF improvements by December 31, 2017.

4. The City agrees to adequately operate and maintain the existing WWTF in accordance with its existing or any future NPDES permit.

5. The City is required to comply with its existing or any future NPDES permit, including compliance with all reporting and monitoring requirements.

6. The City agrees to the payment of an administrative penalty in the amount of \$1,500.00. Payment is due to the Department within thirty days of receipt of this order signed by both parties.

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VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in Chapter 567 IAC chapter 10. Pursuant to these rules the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with stipulated penalties for violation of the compliance schedule in this order.

a. **Economic Benefit** There has been an economic benefit to the City in not upgrading previously to preclude effluent limit violations and other NPDES permit violations. There have been cost savings due to not performing adequate repairs and maintenance work timely. The City may now need to spend a significant amount to upgrade its WWTF if the collection system work does not reduce the hydraulic overloading sufficiently. The amount of \$500.00 is assessed for economic benefit.

b. **Gravity of the violations** One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above substantial civil and criminal sanctions are authorized by statute. Despite the high penalties authorized, the Department has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies.

This facility discharges into Reasnor Creek, which then discharges into the South Skunk River. Reasnor Creek is home to minnow populations and has fur trapping along its banks. The South Skunk is considered swimmable and fishable. Continued violations of the permit limits could acutely impact the aquatic and shoreline ecosystems as well as pose a chronic threat to both public health and the environment. Based on these considerations, the amount of \$500.00 is assessed for this factor.

c. **Culpability**. The City has been made aware of its responsibility to comply with Department rules and its permit through inspections, site visits and reports of the inspections and visits. The amount of \$500.00 is assessed for this factor.

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VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

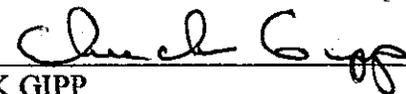
VIII. NONCOMPLIANCE

Compliance with Paragraph V. of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



REX SATTERLEE, MAYOR
CITY OF REASNOR

Dated this 15 day of
Jan., 2013



CHUCK GIPP
DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 5th day of
February, 2013

City of Reasnor- Wastewater Facility No. 6-50-71-0-01 (Copy to Central Office Wastewater Records File); Tom Atkinson- Field Office No. 5; Adam Schneiders- NPDES Permits; Diana Hansen- Legal Services Bureau; I.B.2.b.; I.B.2.c, I.B.2.d.

