

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**ADMINISTRATIVE CONSENT ORDER**

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**IN THE MATTER OF:**

**AINSWORTH FOUR CORNERS, L.L.C.**

**NPDES Permit #6-9200201**

**ADMINISTRATIVE  
CONSENT ORDER  
2014-WW- 13**

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**TO: Ainsworth Four Corners, L.L.C.**  
3112 Highway 92  
Ainsworth, IA 52201

**Diane Anding**  
2510 Vine Avenue  
Ainsworth, IA 52201

**I. SUMMARY**

The Iowa Department of Natural Resources (Department) and Ainsworth Four Corners, L.L.C. (Ainsworth) hereby agree to the following Administrative Consent Order (Order). Ainsworth agrees to pay an administrative penalty of \$10,000 to the Department, cease wastewater discharges in violation of its National Pollutant Discharge Elimination System (NPDES) permit limits, and implement improvements to the wastewater treatment system. See Sections IV and V for more details.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Russell Royce  
Iowa Department of Natural Resources  
1023 West Madison Street  
Washington, Iowa 52353-1623  
Ph: 319/653-2135  
russell.royce@dnr.iowa.gov

**Relating to legal requirements:**

Aaron Brees, Attorney  
Iowa Department of Natural Resources  
509 East 9th Street  
Des Moines, Iowa 50319-0034  
Ph: 515/281-5965  
aaron.brees@dnr.iowa.gov

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 503219-0034

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## II. JURISDICTION

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

## III. STATEMENT OF FACTS

The Department and Ainsworth hereby agree to the following statement of facts:

1. Ainsworth owns and operates a large, 24-hour truck stop (the facility) at the intersection of Highway 218 and Highway 92 in Washington County, Iowa.
2. The facility generates wastewater in the form of sanitary waste from restrooms, showers, a restaurant, and a convenience store.
3. Ainsworth operates a wastewater treatment system consisting of a grease/oil trap and a sand filter. The system discharges to an open ditch subject to the provisions of NPDES permit #6-9200201.
4. A March 2, 2009 Department compliance inspection resulted in Ainsworth being issued a Notice of Violation (NOV) on March 30, 2009 for violation of NPDES permit limits. The facility's monthly operation reports showed several instances where effluent limits for carbonaceous biochemical oxygen demand (CBOD) and total suspended solids (TSS) were exceeded. In addition, the alarm associated with the system was tested and produced a failing result. The inspector noted that fats, oils, and grease (FOG) were still being removed regularly at this time.
5. On March 30, 2011, Ainsworth had a contractor examine the system, as the filter was not functioning properly. The contractor notified the Department's Field Office 6 (FO6) that the system was failing and the filter sand may need to be replaced.
6. On August 30, 2011, Ainsworth reported to the Department that part of the system's filter was plugged.
7. On September 29, 2011, the Department inspected the facility and noted wastewater coming to the surface and the presence of tall grass and weeds on the filter site. Ainsworth was informed that the Department had concerns that the system was not receiving proper maintenance.

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8. On April 2, 2012, the Department conducted a compliance inspection at which time Ainsworth was again made aware of the Department's concern that the wastewater system was not being properly maintained, resulting in sewage overflows. Ainsworth had previously hired an engineer to help address the situation, but the resulting repairs did not appear to have been effective. Ainsworth was required to submit a Plan of Action (POA) to the Department by May, 15, 2012.
9. On April 19, 2012, the engineer hired by Ainsworth to develop the POA to upgrade the system reported that half of the sand filter was plugged.
10. On May 14, 2012, Ainsworth's engineer submitted the POA to FO6.
11. On August 20, 2012, the Department issued a NOV to Ainsworth for an illegal wastewater bypass. The bypass occurred on May 8, 2012.
12. On September 4, 2013, the Department conducted a compliance inspection of the facility. This inspection resulted in an NOV being issued to Ainsworth on September 24, 2013. Violations noted during the inspection included NPDES permit limit violations, late monthly operating reports, and failure to maintain a treatment plant. Specifically, review of monthly operation reports showed CBOD levels in excess of Ainsworth's NPDES permit effluent limitations during every month from November 2012 through July 2013. Samples taken during the September inspection were also above permit limits. The Department inspection report noted that FOG removal had not occurred during the previous eight months, which coincided with the NPDES permit limit violations.
13. On October 30, 2013, in response to the September 24, 2013 NOV, Ainsworth's engineer, Hart-Frederick Consultants, P.C., submitted to the Department a revised schedule for construction of wastewater treatment improvements at the facility with a proposed completion date of December 2015.

#### IV. CONCLUSIONS OF LAW

The parties hereby agree that the following conclusions of law are applicable to this matter:

1. Iowa Code 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60-64.
2. 567 IAC 64.3(1) states that "no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the director." Each of Ainsworth's NPDES permit limit exceedances described above,

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beginning in 2009 and continuing through at least August 2013, is a violation of this provision.

3. Consistent with 567 IAC 64.7(7)“f,” Ainsworth’s NPDES permit requires the wastewater disposal system be maintained in good working order and operate as efficiently as possible. Ainsworth’s failure to dispose of FOG in late 2012 and 2013 was a failure to maintain the system, and significantly reduced its efficiency, resulting in repeated non-compliance with NPDES permit limits. This is a violation of 567 IAC 64.3(1) which prohibits operation of a wastewater disposal system in a manner contrary to a condition of a NPDES permit.

### **V. ORDER**

THEREFORE, the Department hereby orders and Ainsworth agrees to the following:

1. Ainsworth shall pay to the order of the Department an administrative penalty of \$10,000 within 30 days of receipt of this Order.
2. Ainsworth shall complete all improvements to the wastewater treatment facility as described in the October 30, 2013 letter to the Department from Ainsworth’s facility engineers, Hart-Frederick Consultants, P.C. The timeline for compliance with this provision shall be the schedule proposed in the letter, with a final completion date no later than December 31, 2015.
3. Ainsworth shall immediately comply with all conditions of its NPDES permit.

### **VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties in Iowa District Court of up to \$5,000 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 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC 10. Pursuant to this rule, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with a penalty.

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**ECONOMIC BENEFIT:** The Department estimates that Ainsworth has avoided \$10,000 in costs associated with maintaining its wastewater system, including the suspension of FOG removal.

**GRAVITY:** Since June 2012, Ainsworth has had at least 25 NPDES permit limit violations. These violations have led to discharges of inadequately treated sewage to the receiving stream. These are serious, chronic violations that have an actual impact on the environment. For this factor, a penalty of \$3,000 is assessed.

**CULPABILITY:** Ainsworth was repeatedly made aware of its violations by the Department, and was informed by the Department, and by contractors hired by Ainsworth, that repairs and upgrades were need to maintain and operate the wastewater treatment system in compliance with Iowa law. Ainsworth has failed to follow through with the POA submitted to the Department in May 2012, completion of which would have occurred by September 2013. For this factor, a penalty of \$3,000 is assessed.

The total penalty amount is \$16,000. As the Department may only assess administrative penalties up to \$10,000, the total assessed penalty is \$10,000.

## 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 Ainsworth. By signing this Order all rights to appeal this Order are waived.

## VIII. NONCOMPLIANCE

Compliance with Section 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.

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Dean Auding for Ainsworth Four Corners  
Dated this 4 day of November, 2014

Chuck Gipp  
CHUCK GIPP  
DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 12<sup>th</sup> day of November, 2014