

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

IN THE MATTER OF:

**CITY OF NORTH LIBERTY
NPDES Permit #65252001**

**ADMINISTRATIVE CONSENT
ORDER
NO. 2007-WW-03**

**TO: Dave Ramsey
Superintendent
North Liberty Sewage Treatment Plant
1390 Front Street
North Liberty, IA 52317**

I. SUMMARY

This administrative consent order (Order) is entered into between the City of North Liberty (North Liberty) and the Iowa Department of Natural Resources (Department) for the purpose of achieving and maintaining compliance with applicable effluent and water quality standards for the operation of a wastewater disposal system. Pursuant to this Order, North Liberty shall:

1. Complete planned facility upgrades pursuant to the schedule contained herein;
2. Operate and maintain the wastewater treatment plant in a manner designed to prevent the exceedence of authorized discharge limits as established in NPDES Permit #65252001; and
3. Pay an administrative penalty in the amount of \$6,000 to resolve past permit violations. In addition, this Order establishes stipulated penalties for the failure to complete necessary upgrades in a timely manner.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Russell Royce
IDNR Field Office #6
1023 W. Madison
Washington, IA 52353
Ph: 641-424-4073

Relating to this Order:
Jon C. Tack
Legal Services Bureau
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph. 515-281-8889

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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 1, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and chapter 567 Iowa Administrative Code (IAC) 10 which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. North Liberty operates a wastewater treatment facility pursuant to NPDES Permit # 65252001. The most recent permit was issued on November 12, 2002. Administrative Order No. 98-WW-07 was issued on March 30, 1998 and stated "In recent years, due to deterioration of existing treatment facilities and increasing waste loadings, the effluent quality has deteriorated. Consistent violations of discharge limitations has been occurring." Violations cited in the 1998 administrative order included CBOD₅ and Total Suspended Solids (TSS). Facility improvements were ordered and completed.

2. On March 1, 2001, the Department met with North Liberty officials in regard to untreated wastewater bypasses that had occurred at the facility in February. Options were discussed to prevent further bypasses.

3. On April 10, 2001, the Department conducted an inspection of the North Liberty wastewater facility. The inspection report addressed bypasses of untreated wastewater that occurred on February 9, 2001 and February 14, 2001. The overflows were caused by a programming error in the facility system. It was also noted at this time that the facility's alarm system was not operational.

4. On May 7, 2001, a bypass of untreated wastewater occurred at the North Liberty wastewater facility.

5. On May 21, 2001, a Notice of Violation was issued by the Department to North Liberty. The Notice of Violation was based upon the three documented bypasses and required the submittal of a plan of action to correct and prevent these effluent violations.

6. A plan of action was submitted by North Liberty on July 20, 2001.

7. On August 8, 2001, the Department met with North Liberty wastewater plant Superintendent Matt O'Meara. The meeting was in response to a report of a suspected wastewater line leak reported to the Department by Mr. O'Meara. Turbid conditions in the discharge control structure had been noted and were suspected to be caused by a leak into the control structure. Repairs were proposed.

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8. On July 5, 2002, North Liberty reported a Fecal Coliform exceedence in its effluent sampling. North Liberty asserted possible testing error.

9. On September 5, 2002, the Department met with North Liberty to discuss repeated exceedences of the plant's Fecal Coliform effluent limits. North Liberty utilizes an ultraviolet (UV) light disinfection system. Some of the bulbs were burnt out at this time. North Liberty agreed to replace the bulbs and do further testing to attempt to determine the source of the increased Fecal Coliform levels.

10. On April 1, 2003, North Liberty notified the Department that the UV system was not yet in operation for the year. The disinfection season started on that date.

11. On April 10, 2003, the Department conducted an inspection of the North Liberty wastewater facility. The inspection report notes three documented exceedences of the Fecal Coliform effluent limits for the facility. The reports for June, August, and September of 2002, disclosed violations. A Notice of Violation was issued on August 11, 2003 due to these exceedences.

12. On August 28, 2003, North Liberty contacted the Department to discuss the Fecal Coliform limit exceedence violations. In this discussion, it was noted that an analytical sample had disclosed a level of 1,500 counts per 100 mls. The permit limit is 200 counts per 100 mls. Department personnel visited the facility on this date. It was noted that 7 of the 24 UV lamps were non-operational. North Liberty agreed to perform needed maintenance on the system. The Department also suggested further testing.

13. On July 12, 2004, the Department conducted an inspection of the North Liberty wastewater facility. Based upon the monthly operating reports (MORs), the following effluent violations were noted:

TSS:	03/2003, 11/2003, 02/2004.
CBOD ₅ :	09/2003.
NH ₃ -N:	09/2003.
Fecal Coliform:	8/2003, 04/2004.

Effluent samples were taken and tested. The analytical results revealed a violation of the Fecal Coliform permit limit. North Liberty asserted that the effluent violation was the result of problems with the UV system and indicated that it expected the system to be repaired by July. A Notice of Violation was issued to North Liberty on August 11, 2004 due to the violations documented during the inspection.

14. In December of 2005, the Department conducted a review of the MORs submitted by North Liberty between November 2004 and September 2005. The review revealed that North Liberty had violated the NPDES permit limit for TSS on 22 occasions

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during this period. A Notice of Violation was issued on December 13, 2005. The Notice established a deadline of March 1, 2006 for North Liberty to provide a response detailing efforts to achieve and maintain compliance with permit limits.

15. On March 28, 2006, the Department conducted an inspection of the North Liberty wastewater facility. North Liberty's MORs for October 2005 through January 2006 were reviewed as a part of this inspection. The reports revealed TSS violations in November and December of 2005. Effluent sampling was conducted as a part of this inspection and revealed a violation of TSS permit limits. It was also noted that Fecal Coliform testing had not been completed in accordance with the required permit schedule. A Notice of Violation was issued on April 26, 2006.

16. On May 8, 2006, Dave Ramsey began employment as the new Superintendent for the North Liberty wastewater facility. Mr. Ramsey requested that the Department accompany him on a facility inspection. The purpose of this visit was to document operation problems identified by Mr. Ramsey and begin the process of correcting these deficiencies.

17. In May of 2006, the Department reviewed the North Liberty MORs for February, March and April, 2006. This review revealed a violation of the facility's Fecal Coliform permit limits in April.

18. In May and June of 2006, North Liberty incurred two additional Fecal Coliform violations.

19. Since May 8, 2006, North Liberty has undertaken significant maintenance and improvement projects for the facility. Furthermore, North Liberty is in the planning stages for construction of wastewater facility improvements. Final design approval and the issuance of a construction permit are pending.

20. The Department and North Liberty agree that the proposed construction, along with recent operational and maintenance improvements, should prevent future violations. The Department and North Liberty further agree that the issuance of this Order is appropriate to resolve past violations.

IV. CONCLUSIONS OF LAW

The Department and North Liberty agree that the following Conclusions of Law are applicable to this matter:

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.

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2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.6 specifies the conditions that are to be included in a permit, including applicable effluent limitations as established in chapters 61 and 62 of the rules.

3. NPDES Permit #65252001 requires the wastewater treatment facility to be adequately operated and maintained. Standard Condition #8 of the permit requires 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 and systems of control to achieve compliance with the terms and conditions of the permit." Based upon North Liberty's past operation of its wastewater treatment facility, North Liberty violated both 567 IAC 64.7(5)"F" and the terms of its NPDES permit.

4. NPDES Permit #65252001 establishes effluent limitations for TSS, CBOD₅, NH₃-N, and Fecal Coliform. The permit further requires effluent sampling to ensure compliance with applicable effluent limits. The monitoring reports submitted by North Liberty establish violations of the effluent limitations established by the permit.

V. ORDER

The Department orders and North Liberty hereby agrees to the following:

1. By May 1, 2007, North Liberty shall begin construction of necessary wastewater facility upgrades;
2. By November 1, 2008, North Liberty shall complete construction of necessary wastewater upgrades as described in a construction permit to be issued by the Department;
3. North Liberty shall operate and maintain the wastewater treatment plant in a manner designed to prevent the exceedence of authorized discharge limits as established in NPDES Permit #65252001;
4. North Liberty shall pay an administrative penalty in the amount of \$6,000 at the time of execution of this Order to resolve past permit violations; and

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5. North Liberty further agrees to the payment of a stipulated penalty in the amount of \$500 per month, or part thereof, for failure to comply with the compliance deadline contained in provision V.1, above. North Liberty further agrees to the payment of a stipulated penalty in the amount of \$3,000 per month, or part thereof, for failure to comply with the compliance deadline contained in provision V.2, above.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at Chapter 567 IAC 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with penalties.

a. Economic Benefit. North Liberty has achieved significant cost savings by failing to maintain or upgrade its wastewater treatment system to comply with effluent limitations. The execution of this Order constitutes a good faith attempt to achieve compliance and resolve past violations, therefore the Department is assessing only a portion of the economic benefit penalty at this time. The economic benefit portion of the penalty shall be \$1,000. The stipulated penalties contained herein give consideration to the economic benefit achieved by North Liberty.

b. Gravity of the Violation. 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 penalties 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. In this case, there have been ongoing violations related to multiple parameters. Such continuing or repeated degradation of water quality warrants the imposition of substantial penalties. In light of these factors and the mitigating efforts of North Liberty since May of 2006, \$3,000 is assessed for this factor. The stipulated penalties contained herein also give consideration to the gravity of the violation.

c. Culpability. North Liberty has significant past culpability for failing to maintain the wastewater facility in proper operational condition. The situation described in this Order is remarkably similar to the circumstances giving rise to the 1998 administrative

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order. Despite the substantial community growth experienced by North Liberty, many of the violations could have been prevented or minimized by proper operation and maintenance. Considering these factors and the mitigating efforts undertaken by North Liberty since May of 2006, a penalty of \$2,000 is assessed for this factor. The stipulated penalties contained herein give consideration to culpability of North Liberty.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.5(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 North Liberty. By signature to this Order, all rights to appeal this Order are waived.

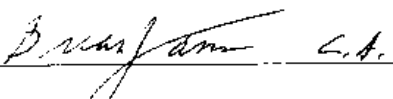
VIII. NONCOMPLIANCE

Compliance with sections V.1- V.4 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. The Department reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this Order.



DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 16 day of
March, 2007



CITY OF NORTH LIBERTY

Dated this 9th day of
February, 2007

NPDES #65252001; Field Office #6; Jon Tack; EPA; Suresh Kumar; I.B.2.d