

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

**IN THE MATTER OF:**

**CITY OF PRINCETON**  
Wastewater Facility No. 8-27-3-0-01

**ADMINISTRATIVE  
CONSENT ORDER  
NO. 2007-WW- 21**

**TO: City of Princeton**  
**c/o Honorable Mayor**  
**PO Box 307**  
**Princeton, IA 52768**

**I. SUMMARY**

This administrative consent order (order) is entered into between the City of Princeton (City) and the Iowa Department of Natural Resources (Department). The City hereby agrees to comply with the effluent limitation of its National Pollution Discharge Elimination System (NPDES) permit and to comply with the schedule contained in this order for sewer system and/or wastewater treatment facility (WWTF) improvements, to comply with the Department approved facility plan and to pay stipulated penalties in the event that the schedule contained in this order is not met. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Josh Sobaski,  
Environmental Specialist  
IDNR Field Office #3  
1900 N Grand  
Spencer IA, 51301  
Ph: 712/262-4177

**Relating to legal requirements:**

Carrie Schoenebaum,  
Attorney at Law  
Iowa Department of Natural Resources  
Henry A. Wallace Building  
Des Moines, Iowa 50319-0034  
Ph: 515/281-0824

**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

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

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

**III. STATEMENT OF FACTS**

The parties agree to the following statement of facts:

1. The City owns and operates a WWTF located at Section 35, T 80 N, R 5E in Scott County, Iowa. This City operates a collection system, two lift stations and a two cell controlled discharge lagoon. The effluent from this facility discharges into the Mississippi River.

2. The City operates its WWTF pursuant to an Iowa NPDES Permit No. 8-27-3-0-01 issued by the Department.

3. On February 26, 1998, James Sievers, an Environmental Specialist Senior of the Department, conducted an on site WWTF inspection. In the investigation report which was mailed to the City on March 4, 1998, Mr. Sievers documented that in 1997 the City exceeded the 30 day average flow limit during the months of April and May. Because of this, Mr. Sievers recommended that the City investigate cost-effective ways to reduce infiltration and/or inflow into the collection system. Mr. Sievers also noted that the Department may require that the lagoon be upgraded if influent flows consistently exceed design flows. In the investigation report Mr. Sievers recommended that the City identify and eliminate the significant sources of inflow/infiltration in the collection system.

4. On September 18, 2000, Jerry Bartachek, an Environmental Specialist of the Department, conducted a WWTF inspection. This inspection revealed the following effluent violations:

**November 1999**

Biochemical Oxygen Demand 5 Concentration:

30 day average—62 MG/L (permit limit 25 MG/L)

7 day average—117 MG/L (permit limit 40.0 MG/L)

**December 1999**

Biochemical Oxygen Demand 5 Concentration:

30 day average—78 MG/L (permit limit 25 MG/L)

7 day average—102 MG/L (permit limit 40.0 MG/L)

These violations were documented by the City in its Monthly Operation Reports (MORs). Following this inspection, an inspection report was sent to the City which concluded that the City should develop and implement a program to reduce infiltration/inflow to the sanitary sewer system. This recommendation was based on the fact that the average reported influent flow since January 2002 was .085 million gallons per day. This exceeded the rated design capacity flow of 0.62 million gallons per day. In

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

fact, out of 31 months the influent flow was greater than the WWTF's design capacity for 16 months. This inspection report required the facility to meet all effluent limitations specified in its NPDES permit.

5. On October 2, 2000, the Department sent the City an NOV for the violations documented during the September 18, 2000, WWTF inspection. This NOV required the City to inform the Department by November 1, 2000, of the last date that the flow measurement device was calibrated and what the City is doing to correct infiltration and inflow problems.

6. On October 11, 2000, the City's WWTF Operator, Robert Black, sent the Department a letter in response to the inspection report. In the letter, Mr. Black stated that during July 1999 he checked the flow on the lift station pumps and that calculations indicated that the flow was 11879 gallons per hour. However, he used 12000 gallons per hour for the calculations. Mr. Black stated that he believed if the proper flow per hour had been used in the calculations the 16 month average would have been below 0.080 mgd. Thus, from then on, he would use the 11879 gallons per hour for calculations.

Mr. Black also stated that 78% of the City's sewers are on a 51% grade which does not allow much time for observation during storm events. However, he would try to check the main sewers during storm events. Lastly, Mr. Black stated that with regard to the effluent violations, he did not know how to repair the valve unless the lagoons were drained.

7. On July 6, 2001, Mr. Black sent a letter to the Department stating that a small leak had been detected on the northeast corner of the north lagoon cell. In response to the leak, the lagoon was lowered for repairs and it appeared that the flood may have weakened a section of the berm.

8. On August 27, 2002, the City's WWTF was inspected by Russel Royce, an Environmental Specialist of the Department. This inspection documented that the City's north effluent valve was leaking. On September 12, 2002, the inspection report was mailed to the facility. This report required that the City fix the leaking north effluent valve by November 1, 2002, it also recommended that the City continue to identify and eliminate the sources of infiltration and inflow.

9. On November 1, 2002, Mr. Black sent the Department a letter stating that the City had replaced the north effluent valve.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

10. On July 11, 2005, the City's WWTF was inspected by Josh Sobaski, an Environmental Specialist of the Department. The inspection revealed the following effluent violations:

**April 2004**

Biochemical Oxygen Demand 5 Concentration:

30 day average—29 MG/L (permit limit 25 MG/L)

7 day average—117 MG/L (permit limit 40.0 MG/L)

The inspection revealed the following infiltration/inflow violations:

**May 2004**

Infiltration/Inflow

30 day average—.092 MG/L (permit limit .0800 MG/L)

7 day max—.244MG/L (permit limit .1410 MG/L)

**June 2004**

Infiltration/Inflow

30 day average—.296 MG/L (permit limit .0800 MG/L)

7 day max—.552 MG/L (permit limit .1410 MG/L)

**July 2004**

Infiltration/Inflow

7 day max—.60 MG/L (permit limit .40 MG/L)

**August 2004**

Infiltration/Inflow

30 day average—.095 MG/L (permit limit .0800 MG/L)

7 day max—.156 MG/L. (permit limit .1410 MG/L)

**November 2004**

Infiltration/Inflow

7 day max—.174 MG/L (permit limit .1410 MG/L)

The inspection revealed the following discharges:

1. In 2003 discharges occurred on 50 days. These discharges were documented to have occurred during the months of April, August and November;
2. In 2004 discharges occurred on 41 days. These discharges were documented to have occurred during the months of July, November and December; and
3. In 2005 discharges occurred on 42 days. These discharges were documented to have occurred during the months of February and March.

11. On July 15, 2005, an NOV was sent to the City for violation of 567 IAC 64.3(1). Attached to the NOV was the July 11, 2005, inspection report. This NOV required that the City obtain services of a professional engineer licensed in the State of Iowa. The engineer would be required to evaluate the lagoon in accordance with the requirements listed in the compliance schedule of the City's permit. By October 1, 2005, the City was required to submit to the Department the name of the engineer hired.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

12. On September 16, 2005, Suzanne Sper, the City Clerk/Treasurer, sent the Department a letter stating that it had hired Shive Hattery, Inc. to perform the required engineering evaluation.
13. On November 1, 2005, the Department sent the City an application for an NPDES permit renewal. This letter stated that the Department must receive a completed application by January 1, 2006.
14. On February 22, 2006, the Department sent the City a letter requesting that it submit a progress report to the Department by March 15, 2006.
15. On March 3, 2006, Steve Bowman of the City's Public Works Department sent the Department a letter stating that he had reviewed the last two years of information regarding the City's lagoon and sewer system. He found many instances where consistency of the discharge schedule varied from six days of discharge to forty-two days of discharges, but that there was no evidence that the levels were dropped to a two foot level as discussed with the Department. Further, Mr. Bowman stated that he felt the City could meet or exceed the 180 day storage period without any problems.
16. On March 9, 2006, the Department sent, by certified mail, a second notice of application for an NPDES permit renewal. This notice reminded the City that it was informed on November 1, 2005, that if it wanted to renew its NPDES permit it must submit a complete permit renewal application. This letter gave the City until April 1, 2006, to submit a complete application.
17. On March 14, 2006, Daniel C. Solchenberger, of Shive Hattery, sent the Department a letter. This letter stated that there were some miscommunications between the City and the WWTF operator regarding the drawdown levels of the lagoon and frequency of drawdowns. Since the time of the meeting the City has developed a plan for the lagoon that will bring it into compliance with the 180-day discharge requirement. The plan is as follows:
1. The City will take sludge depth measurements in the lagoons by May 1, 2006;
  2. The City will determine if sludge dredging is required and work to have the dredging complete by fall 2006;
  3. The City will install staff gages at the facility following the sludge dredging or during the fall drawdown of the facility; and
  4. The City will review the contract with its existing wastewater laboratory and determine a course of action by fall 2006.
18. On September 8, 2006, the Department sent the Mayor of the City and the City Council a letter which stated that approval was given to the affidavit of agreement between the City and James F. Merchie. Mr. Merchie holds operator certificate number

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

3991 and therefore, meets the qualifications necessary to accept direct responsibility for the operations of the City's water distribution and wastewater lagoon.

19. On October 17, 2006, the Department issued a construction permit to the City for construction of 3,731 linear feet of 8-inch sanitary sewer, manholes and all related appurtenances necessary to complete the project in accordance with approved plans and specifications.

20. On March 27, 2007, the City's WWTF was inspected by Mr. Sobasiki. The inspection revealed the following effluent violations:

**May 2006**

Biochemical Oxygen Demand 5 Concentration:

30 day average—25.7 MG/L (permit limit 25 MG/L)

**June 2006**

Biochemical Oxygen Demand 5 Concentration:

30 day average -31 MG/L (permit limit 25 MG/L)

**October 2006**

Biochemical Oxygen Demand 5 Concentration:

30 day average—27.1 MG/L (permit limit 25 MG/L)

The inspection revealed the following infiltration/inflow violations:

**March 2006**

Infiltration/Inflow

30 day average -.084 MG/L (permit limit .0800 MG/L)

7 day max- .276MG/L (permit limit .1410 MG/L)

**April 2006**

Infiltration/Inflow

30 day average—.090 MG/L (permit limit .0800 MG/L)

During the inspection, Mr. Sobaski reviewed the City's MORs for the months of March 2006 through February 2007. This review revealed the following instances of incomplete reporting:

1. During the month of August 2006, the City failed to record all the cell depths once per week;
2. During the month of October 2006, the City failed to record the flow from the lagoon on a daily basis as required during the entire discharge event; and
3. The February 2007, MOR was submitted late.

During the inspection, Mr. Sobaski also documented that the freeboard on both cells was less than two feet. Mr. Merchie provided a written statement that a discharge will occur after pre-draw down results are received. Review of the MORs for the months of March 2006 through February 2007, revealed that the recent lagoon depths observed during the

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

inspection suggested that the lagoon had approximately 150 days of storage rather than the 180 days required by the City's NPDES permit.

The inspection report required that the City do the following:

1. Maintain the treatment plant in good working order;
2. Meet all effluent limitations specified in its NPDES permit;
3. Comply with all monitoring and reporting requirements specified in its NPDES permit;
4. Submit MORs by the 15<sup>th</sup> of the month following the close of the reporting period;
5. Remove all trees on or near the toes of the outer berms;
6. Repair the leaking effluent valve in the outlet control pit, by May 15, 2007;
7. Remove all trees on or near the toes of the outer berms; and
8. Continue identifying and eliminating the sources of infiltration and inflow.

21. On April 9, 2007, an NOV was sent to the City for the violations discovered during the March 27, 2007, inspection. This NOV required that by May 15, 2007, the City submit a letter to the Department which states the following: (1) the date that a facility plan (to upgrade the WWTF) will be submitted to the Department, (2) proposed dates for submitting plans and specifications to the Department, (3) proposed dates as to when construction will begin (4) and when construction will be completed.

22. In response to the April 9, 2007, NOV, MSA Professional, Services Inc., submitted a letter on behalf of the City. This letter stated that the City had contracted with MSA Professional, Services, Inc. to prepare a facility plan that will address the inadequacies at the WWTF. The proposed facility plan was included with the letter.

23. On April 24, 2007, the Department sent the City a letter informing it that it had received the above discussed written correspondence from MSA Professional, Services and that the compliance schedule included in that letter had been reviewed and approved by the Department. However, the Department recommended that if the City intends to apply for a Community Development Block Grant (CDBG), an application should be submitted in 2007, instead of 2008. Further, the City was informed that the compliance schedule may be incorporated into an administrative consent order. This letter also advised the City that it needed to repair the leaking effluent valve by May 15, 2007.

24. On May 10, 2007, the City sent the Department a letter stating that the leaking effluent valve was repaired on May 9, 2007.

25. On May 11, 2007, Mr. Sobaski performed a follow up visit at the City's WWTF. During this visit, Mr. Sobaski did not observe any effluent leaks from the discharge valves. However, Mr. Sobaski noted that lagoon depths were low and little to no pressure

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

was being exerted onto the effluent valves. Further, he observed tree growth on the inner and outer berms. The City was directed to remove the trees.

26. On May 15, 2007, the Department sent the City a letter documenting that it received a written correspondence from Mr. Merchic, on behalf of the City, stating that the leaking effluent valve had been fixed. This letter again informed the City that the tree growth on the inner and outer berms is still occurring and that the trees need to be removed.

27. On July 26, 2007, the Department sent the City a letter notifying it that its facility plan had been approved by the Department.

#### **IV. CONCLUSIONS OF LAW**

The parties 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. The above stated facts show noncompliance with this provision.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection 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 a 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. The above stated facts show that the City's NPDES permit and these provisions were violated.

3. This facility's NPDES permit prohibits the City from continuously discharging wastewater. The treatment plant must be operated using a storage/drawdown mode of operating. Wastewater must be stored for approximately 180 days after which time the water level is to be lowered to make room for the next storage period. Lagoon drawdown should occur in the spring and fall and at times when the flow in the receiving stream is not at its minimum. This standard permit condition is based upon subrule 64.7(5)"a". This subrule states "[t]hat all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; ... that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit ...." The City's failure to comply with the effluent limitations included in its NPDES permit noted above violates these provisions. In addition, the City discharged more frequently than its NPDES permit authorized.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

**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. No later than November 2007, the City shall submit to the Iowa Department of Economic Development a Community Development Block Grant (CDBG) application;
2. No later than March 1, 2008, the City shall submit plans and specifications with an application for a construction permit to the Department;
3. No later than June 1, 2009, the City shall begin construction of a sewer system and/or WWTF improvements;
4. The City shall fully implement the facility plan and comply with the schedule contained therein. The final deadline for completion of construction shall not be later than June 1, 2010; and
5. The City agrees to the payment of a stipulated penalty in the amount of \$100.00 per day for violation of the deadlines contained in V. 1-4, above.

**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. In addition, Iowa Code section 455B.109 authorizes the Environmental Protection 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 the assessment of stipulated penalties for violations of the schedule in this order or in the Department approved facility plan.

The penalties stipulated to by the parties in this order are for future violations, if they occur. The stipulated penalties are designed to reflect the potential economic benefit to the City for failure to make the expenditures needed to stay on schedule. Such penalties are related to the probable severity of the violations in that not meeting the schedule in this order or in the Department approved facility plan is a fairly serious matter in view of past deficiencies. The penalties would also be related to future culpability in that the City

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
Issued To: City of Princeton**

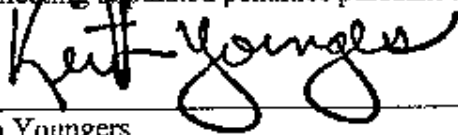
has been put on notice by this order that stipulated penalties will result if the schedule contained in this order or the Department approved facility plan is not met.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection 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.

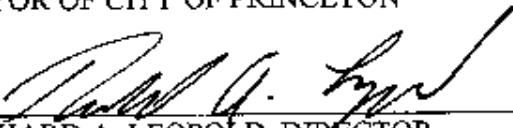
**VIII. NONCOMPLIANCE**

Compliance with 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.



Keith Youngers  
MAYOR OF CITY OF PRINCETON

Dated this 25 day of  
October, 2007.



RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 14 day of  
November, 2007.

City of Princeton- Wastewater Facility No. 8-27-3-0-01, Field Office 6, Carrie Schoenebaum; Josh Sobaski, I.B.2.c.

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