

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

IN THE MATTER OF: CITY OF ALGONA Wastewater Facility NPDES Permit No. 55-02-0-01	ADMINISTRATIVE CONSENT ORDER NO. 2008-WW-2.7
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TO: City of Algona
c/o Cole O'Donnell, City Administrator
112 W. Call St.
Algona, IA 50511

I. SUMMARY

This administrative consent order (order) is entered into between the Department of Natural Resources (Department) and the City of Algona, Iowa (City). The order is entered into for the purpose of resolving violations of Department rules and NPDES permit conditions related to effluent limitations and failure to maintain treatment units. The order assesses an administrative penalty and requires the City to undertake certain remedial measures to prevent violations in the future. In the interest of avoiding litigation, the parties have agreed to the provisions set forth below.

Any questions regarding this order should be directed to:

Relating to technical requirements:
Al Tompkins, Environmental Specialist
Department Field Office #2
2300 15 St. SW
Mason City, IA 50401
Ph: 641-424-4073

Relating to legal requirements:
David L. Wornson, Attorney at Law
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/242-5817

Payment of penalty to:
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50310-0034

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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 1, and the rules promulgated or permits issued pursuant thereto, and Iowa code section 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 Wastewater Facility, located in section 10, T 95N, R29W in Kossuth County, Iowa.

2. The City was issued a NPDES permit, No. 5502001, which authorizes the discharge of treated effluent from the wastewater treatment plant with prescribed effluent limitations and operation and maintenance conditions. The permit expired on August 19, 2006 and the City has filed a timely application for renewal. The Department issued a permit amendment dated February 25, 2002 which contained revised and finalized limits for the Snap-On-Tools Corporation and George A. Hormel and Company. Until renewed, the existing permit is in effect.

3. The Department conducted a compliance sampling inspection on October 24, 2006 and reviewed monitoring reports from October, 2005 through September, 2006. The inspector determined that there were several permit limits that were exceeded.

- a. The silver mass average limits were exceeded during 1 month and the maximum silver mass limits were exceeded during 2 months.
- b. The 7 day average maximum CBOD concentration and mass limits were exceeded during 1 month.
- c. The average and maximum copper concentration limits were exceeded during 2 months.
- d. The average and maximum copper mass limits were exceeded during 1 and 2 months respectively.
- e. The average and maximum ammonia concentration limits were exceeded during 1 and 3 months respectively.
- f. The maximum ammonia mass limit was exceeded during 1 month.
- g. The total suspended solids (TSS) 7 day average maximum concentration and mass limits were exceeded during 2 months.

4. The inspection noted that an October 2005 monthly report stated that ammonia violations were due to the south primary clarifier being out of service to replace a skim arm. The inspection reported excessive scum and sludge accumulation in the clarifiers and that the south biotower had been out of service for about 3 weeks. The inspection report required the City to take certain remedial actions to clean, repair and bring into service treatment units. The City responded with a letter dated December 14, 2006 acknowledging the violations and that it was completing the

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required and recommended remedial actions. The letter stated that repairs were scheduled on the second stage biofilter unit during the following week.

5. On April 12, 2007, the Department conducted a follow up compliance inspection of the facility. The inspector reviewed monthly operation reports for the period October 2006 through March 2007. The inspection resulted in the following findings:

- a. The average and maximum ammonia concentration limits were exceeded during all 6 months of the operation reports reviewed.
- b. The average ammonia mass limits were exceeded during 3 months and the average maximum ammonia mass limits were exceeded during 5 months.
- c. The average and 7 day average maximum CBOD concentration limits were exceeded during 1 month.
- d. The average copper concentration limits were exceeded during 2 months and the maximum concentration limits exceeded during 1 month.

6. During the inspection the facility operator reported that the roughing filter was out of service most of February 2007 in order to make repairs to the stabilizer cables for the distributor. The delay in making repairs was due to the contractor's illness and the need to fabricate parts. The second stage biofilter which was earlier scheduled to be repaired in December 2006 remained out of service and had been out of service for at least 6 months. The operator reported that repairs were delayed due to the need for more extensive repairs than expected. The repairs were to begin and were expected to be completed on May 2, 2007.

7. The Department issued a notice of violation dated April 24, 2007 based on the failure to comply with ammonia permit limits and other permit and rule violations noted in the inspection report as well as make timely repairs as required by the NPDES permit conditions. The letter required a response within 20 days detailing the required corrective actions.

8. The City responded by letter dated May 14, 2007. The response contested the Department's finding that the average copper concentration limits were exceeded. It noted that repairs to the second stage biofilter unit had been completed on May 4, 2007 and the unit placed in service on May 7, 2007. The letter explained that the delays in getting the repairs completed were due to contractor delays in getting parts and scheduling repairs.

9. The Department conducted a follow up inspection on July 13, 2007. The inspector reviewed monthly operation reports for the period March 2007 to June 2007. The inspector found that average and maximum ammonia concentration and mass limits had been exceeded during April and May but that limits had been met in June, subsequent to renewed operation of the biofilter unit in May.

10. The facility operator noted on monthly operating reports in July and October 2007 that high ammonia levels were present due to the roughing filter distributor not rotating and that the City was waiting for a contractor to submit bids and schedule repairs. In the meantime, the operator reported the distributor was being rotated by hand.

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11. The Department inspector conducted compliance sampling at the facility on November 27, 2007. Monthly operation reports were reviewed for the period July through November 2007. The average and maximum ammonia concentration limits were exceeded during 2 and 4 months respectively. The average and maximum ammonia mass limits were exceeded during 1 and 2 months respectively. The University of Iowa Hygienic Laboratory (UHL) conducted 24 hour composite and grab sampling of the influent and effluent. The test results showed that the effluent ammonia nitrogen concentration of 8.8 mg/l exceeded the average (1.8 m/l) and the maximum (3.2 m/l) limits.

12. The November 27, 2007 inspection also noted evidence of excess scum and biological growth around the outfall and primary clarifier which indicated failure to adequately maintain this equipment. The roughing filter distributor was not rotating and the operator reported he contacted the contractor weekly about initiating repairs. The operator reported that it could take 12 weeks to manufacture and obtain parts which were scheduled for delivery the first week of January, 2008. The distributor for the north second stage filter was not rotating due to a broken support cable which was reported to be scheduled for repair on November 28, 2007.

13. The Department issued a notice of violation and a report of the inspection dated December 17, 2007.

14. The City completed repairs of the roughing filter distributor in February 2008.

15. The City has entered into a "Professional Services Agreement" with an engineering firm, WHKS & Co. to perform a comprehensive review of the waste water system and prepare a "facility plan" and a "maintenance and prevention plan " (MPP) for review and approval by the Department.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.175(1) provides in part that if there is substantial evidence that any person has violated or is violating any provision of this division or chapter 459, subchapter III, or of any rule established or permit issued pursuant thereto, the director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease.

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 and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60- 69. Subrule 64.3(1) prohibits the operation of any waste disposal system contrary without or contrary to any condition of a permit. Subrule 64.1(4) states that any waste disposal system operation permit shall be issued as an NPDES permit under an EPA approved NPDES program. Rule 64.7 specifies the conditions that are to be included in a wastewater and

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NPDES permit, including applicable effluent limitations as provided in chapters 567 IAC 61 and 62.

3. The City operates this facility pursuant to its NPDES permit, No. 5502001 and is responsible for compliance with the terms of the permit. The permit establishes effluent limitations. As stated in Division V above, the City has violated the effluent limitations established by the permit over an extended period of time.

4. The City's NPDES permit requires its 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 and systems of control to achieve compliance with the terms and conditions of the permit." The City has failed to adequately maintain its wastewater disposal and treatment system which has contributed to continuing violations of its effluent limits as stated in Division III above.

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. Submit a maintenance and prevention plan to the Department field office in Mason City, Iowa by October 1, 2008. The plan should include policy and procedures for routine maintenance of the treatment units, documentation of maintenance and repairs to treatment units, prompt reporting of effluent violations to the Department and corrective action to remedy permit violations, investigation and corrective action to address the presence of copper in the influent and contingency plans in the event of treatment unit breakdowns. Upon Department approval of the plan, the City agrees to implement it.

2. The City agrees to pay an administrative penalty of \$4,000.00 made payable to the "Iowa Department of Natural Resources" with reference to this consent order. The administrative penalty shall be paid to the Department within 60 days of the date the order is fully executed.

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 567 IAC chapter

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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 an administrative penalty. The City and Department have agreed to a penalty assessment of \$4,000.

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 Environmental Protection Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, the City waives all rights to appeal this order.

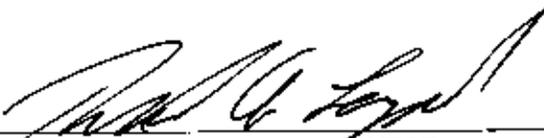
VIII. NONCOMPLIANCE

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



JEFF GILMORE
MAYOR, CITY OF ALGONA

Dated this 3rd day of
SEP., 2008



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 8 day of
Sept., 2008

City of Algona, NPDES Permit No. 55-02-0-01, Field Office No. 2, David Wornson, 1B.2.c & d.
Paul Doster, Fenchel, Doster & Buck, P.L.C., 107 N. Harlan St., PO Box 618, Algona, Iowa 50511