

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: CITY OF BLAIRSBURG Wastewater Facility No. 06-40-03-0-01	ADMINISTRATIVE CONSENT ORDER NO. 2009-WW-07
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TO: City of Blairsburg
c/o Honorable Mayor and Council
310 Main Street, P.O. Box 100
Blairsburg, IA 50034-0100

I. SUMMARY

This administrative consent order (order) is entered into between the City of Blairsburg (City) and the Iowa Department of Natural Resources (Department). The City hereby agrees to comply with the schedule contained in this order for wastewater treatment facility improvements. 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:
Jeremy Klatt, Environmental Specialist
IDNR Field Office #2
2300 15th Street S.W.
Mason City, IA 50401
Ph: 641/424-4073

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

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III. STATEMENT OF FACTS

The parties agree to the following statement of facts.

1. The City owns and operates a wastewater treatment facility located at the NE ¼ of the NW ¼, Section 3, T88N, R24W, in Hamilton County, Iowa. This facility consists of a two cell waste stabilization pond with a combined area of 4.84 acres. Pursuant to the NPDES permit issued for this wastewater treatment facility (WWTF), it is required to be operated as a controlled discharge system. A lift station with two pumps sends wastewater to the lagoons.

Effluent is discharged to county drain tile no. 4, and then ultimately to the South Skunk River, pursuant to Iowa NPDES Permit No. 06-40-03-0-01. The NPDES permit was issued on April 9, 2001 and expired on April 8, 2006. The facility has submitted a permit renewal application. The NPDES permit contains limitations on influent and effluent flow rates, effluent limits, monitoring requirements and other terms as set forth in the permit.

2. On March 23, 2001, the Department's Field Office No. 2 (FO 2) was notified that wastewater had topped the berm of the north lagoon cell. The City began an emergency discharge under the ice cover with the emergency effluent discharge equaling the influent flow. The discharge continued through April 3, 2001.

3. On February 19, 2002 the City notified FO 2 that it had only one week of storage remaining. The field office authorized a discharge of effluent equivalent to the influent flow. FO 2 conducted an inspection on February 27, 2002. The inspection report noted that review of the past five years of drawdown data suggested that the collection system was hydraulically overloaded and that the facility had conducted emergency drawdowns in the spring for the past two years. The inspection report noted that the lagoons were nearly overflowing and under ice cover on both occasions. The report required a written response from the City concerning required actions. The City responded back that the City Council had met concerning the report and that the operator relayed the problem concerning infiltration/ inflow (I/I) to the City Council. The Council discussed possible actions but did not decide on a definite plan of action. The City conducted smoke testing later that year of the sewer system.

4. On March 24, 2003, the City's operator submitted to FO 2 a lagoon pre-drawdown results report. The pre-drawdown sample was 32 mg/L for CBOD5, which was above the 30 day average concentration permit limit for CBOD5 but below the 7 day average concentration permit limit for CBOD5. The operator indicated that he would draw down at the same rate as the influent flow rate to prevent overtopping of the lagoon berms until the discharge results were better quality.

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5. On May 15, 2003 FO 2 inspected the City's facility. The inspection report noted that influent flow violations were still occurring and that the facility was not operating with 180 days of storage as required for a controlled discharge facility. The report also noted that the City had recently smoke tested the sewers and found two potentially serious failures. The City was required to comply with influent flow rates, to repair animal burrows on the lagoon berms, and to repair inner berm erosion in the south lagoon cell. The May 29, 2003 inspection report cover letter required a written response to required actions. The City's June 16, 2003 response stated that the City was discussing ideas to discourage citizens from routing basement sump pump water to the City sewer system by either increasing rates or penalties for violators. The operator was to continue investigating storm sewer discharge into the City's sewer system to reduce I/I.

6. On July 14, 2003, the City's operator contacted FO 2 concerning heavy rains increasing the wastewater level in the lagoon. The FO gave permission to drawdown prior to receiving pre-drawdown sample results.

7. On March 12, 2004 the City requested permission to drawdown to avoid overflowing the lagoon cells. The FO authorized the discharge.

8. On June 14, 2004 FO 2 conducted an inspection of the City's facility. The inspection report noted that the City had conducted drawdowns during 22 of the past 42 months. The report also informed the City that unless the City was able to demonstrate significantly reduced influent flows and an ability to operate with 180 days of storage, the Department will require that the facility submit a plan of action to reduce or eliminate the excessive flows and/or apply for a continuous discharge permit. The inspection report cover letter required a written response to the required actions. The City responded that it would conduct smoke testing in October concerning a suspected cross-connection.

9. The City conducted an emergency drawdown on August 3, 2005. The drawdown was due to high lagoon levels.

10. On February 22, 2006 FO 2 conducted an inspection. The inspection report noted that the Department would continue to evaluate influent flows and drawdown frequency. The City was required to continue an aggressive program to search for and eliminate I/I sources. The report stated that the City would be required to submit a plan of action to reduce influent flows or increase the storage capacity of the lagoon system if substantial reductions in I/I were not observed. The March 6, 2006 cover letter to the inspection required a written response to the inspection report.

The City responded in writing on May 24, 2006. The letter provided as follows. "Since work on this (I&I) is not planned at some exact date this spring or summer, but will be done when I am available and when ground conditions are favorable for more smoke testing and/or digging, it is difficult to give you a solid reply on this issue." The letter also stated that "[sometime] this spring or summer, more testing will be done to further

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pinpoint and hopefully remedy the problem of I & I.” In July 2006 the City reported a sewer overflow following a five inch rain.

11. On January 24, 2007 wastewater was observed flowing out of the north lagoon cell into the road ditch. The facility began an emergency discharge under ice cover. On January 30, 2007 FO 2 conducted an inspection. The inspection report reviewed the monthly operation reports (MOR) for the period of December 2005 through December 2006. The review indicated that the facility conducted drawdowns in March and September 2006. The 30 day average daily inflow rate exceeded the design capacity of the lagoon system in seven of 23 months. The maximum influent flow permit limit was exceeded during five months. The facility was discharging at the time of the inspection. The report noted that the facility had not substantially complied with its permit due to the frequency of discharges from 2001 through 2006. Due to this the facility must be placed under administrative order before an NPDES permit can be reissued.

The inspection report required the City to submit a plan of action within six months or by August 15, 2007. The plan of action was required to be developed to reduce I/I flows or to increase the capacity of the lagoon system in accordance with subrule 567 IAC 64.7(6). A plan of action was submitted by the City in 2007 that identified what the City intended to do to correct I/I problems.

12. During 2008 the City televised the sewer mains to identify sources of I/I. The City has identified several faulty service connections through this process and repaired or replaced them. Additional I/I work was planned through the end of 2008. This order is issued to establish a firm compliance schedule for further construction in the event that the completion of I/I work does not result in this facility being able to properly operate as a controlled discharge facility.

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. 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 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.

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3. This facility's NPDES permit requires 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."

4. The City's failure to operate this facility as a controlled discharge facility and failure to eliminate I/I in order to operate as a controlled discharge facility is in violation of Standard Condition No. 8 of the permit and subrule 64.7(5)"f".

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. By September 30, 2009, the City is required to prepare and submit to FO 2 a flow study that evaluates the flows to the City's WWTF following I/I work by the City. FO 2 will review the flow study to 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.

2. In the event that FO 2 determines that the City's WWTF can not be properly operated as a controlled discharge facility following the I/I work, FO 2 will notify the City that additional work needs to be done to return the City to compliance. Following notification by FO 2, the City is required to comply with the following implementation schedule in order to return to compliance.

A. By November 30, 2009 the City is required to retain a professional engineer certified by the State of Iowa to assist the City in the design and construction of necessary facility upgrades and repairs, including the further elimination of I/I in the sewer system and/or an upgrade to the lagoon system.

B. By December 31, 2009 the City's engineer is required to contact the Department's wastewater construction permits staff to schedule a project initiation meeting. A Department engineer will be assigned as the project manager. The City's engineer is required to attend a preplanning meeting with the Department project manager by March 31, 2010 and to submit a facility plan to the Department project manager by July 31, 2010.

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C. The City is required to submit 60 percent preliminary plans and specifications by April 30, 2011.

D. The City is required to submit complete final Plans and Specifications meeting Department design standards and a construction permit application by June 30, 2011.

E. The City is required to begin construction by October 31, 2011.

F. The City is required to complete construction by October 31, 2012.

G. The City is required to close out the project, to operate as a controlled discharge facility with spring and fall discharges, and to comply with final effluent limits by December 31, 2012.

3. The City agrees to the payment of a stipulated penalty in the amount of \$200.00 per day that the construction deadlines in V.2.D. (submittal of final plans and specifications with all required wastewater construction permit application forms and fees), V.2.E. (beginning of construction) and V.2.F. (final construction deadline) are not met. Payment is due to the Department within sixty days of the particular deadline that is not met by the City.

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.

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 compliance schedule in this order is a fairly serious matter in view of past deficiencies. The penalties would also be related to future culpability in that the City has been put on notice by this order that stipulated penalties will result if the compliance schedule is not met.

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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.

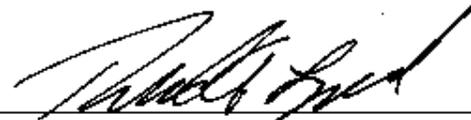
VIII. NONCOMPLIANCE

Compliance with Sections V.1. and V.2.A.- G. 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.



TROY HASSEBROCK
MAYOR OF BLAIRSBURG

Dated this 30th day of
March, 2009.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 24 day of
March, 2009.

City of Blairsburg- Wastewater Facility No. 6-40-03-0-01 (Central Office Records File),
Field Office 2- Jeremy Klatt, Legal Services- Diana Hansen; I.B.2.d