

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: Regency of Iowa, Inc. Johnson County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2009-WW-09
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TO: Regency of Iowa, Inc
c/o George Cradow President
40 N 4th St
Carbondale, CO 81623

I. SUMMARY

This administrative consent order (order) is entered into between Regency of Iowa, Inc. (Regency) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order. Regency agrees to comply with its National Pollution Discharge Elimination System (NPDES) permit, to perform and report the monitoring required in its permit, to comply with effluent limits, timely submit its Monthly Operation Reports (MORs) and pay a penalty of \$4,000.00. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions or response regarding this order should be directed to:

Relating to technical requirements:
Russell Royce, Environmental Specialist
IDNR Field Office 6
1023 West Madison St.
Washington, IA 52358-1623
Ph: 319/653-2135

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 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.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.**

III. STATEMENT OF FACTS

The Department and Regency agree to the following statement of facts:

1. Regency owns and operates a waste water treatment facility (WWTF) pursuant to NPDES permit No. 5225601 which was issued on November 25, 2003. This WWTF serves Regency Mobile Home Park (Regency MHP) and is located at S 34 T79N, R6W, in Johnson County, Iowa, which is locally known as 4455 Oak Crest Hill Road SE Iowa City. The WWTF consists of a collection system that conveys raw sewage to the treatment plant and three lift stations.

Past Enforcement History

2. On October 11, 1996, Regency was issued Administrative Order No. 96-WW-36. This administrative order required Regency to comply with its permitted effluent limitations by November 1, 1997 and to upgrade its WWTF by October 1, 1997. This administrative order was complied with.

Current Enforcement

3. On April 27, 2000, a Notice of Violation (NOV) was sent to Regency for failure to submit a complete MOR for the month of February 2000. This NOV informed Regency that its NPDES permit requires MORs to be submitted to the Department by the 15th day of the month following the reporting time period.

4. On June 7, 2005, the Department received a complaint stating that Regency's lift station was not working properly and that near the lift station, there was a strong sewage odor.

5. On June 10, 2005, Jim Sievers, a Senior Environmental Specialist with the Department, conducted a complaint investigation. Mr. Sievers observed that the sewage level in the lift station near lot 540 and the wet well was much higher than normal. Regency explained that there had been a problem with plugged sewer lines a few days earlier and that a sewer company had worked on the lines. Mr. Sievers recommended that the sewer company return that day to make sure the lift station was working properly.

6. On June 13, 2005, the Department received another complaint alleging sewage on the ground near lot 540 and under the home at that location. Mr. Sievers went to Regency to investigate, the complaint was confirmed. Sewage was also discovered on the ground east of the lift station. Regency informed Mr. Sievers that the sewer company had been called and would be there shortly to remedy the problem. Mr. Sievers told Regency to spread lime on the ground where the sewage had pooled. Subsequently, Mr.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.**

Sievers spoke with the sewer company which stated that on June 13, 2005, they worked on the system and corrected the problems.

7. On June 17, 2005, the Department sent to Regency a NOV documenting the above violations. This NOV informed Regency of the relevant statutory provisions which were violated and required Regency to do the following:

1. Conduct weekly inspections of the lift station, at a minimum clean the solid basket weekly and keep a log of such activity;
2. Test all of the alarms on the lift station monthly;
3. Keep all of the doors at the lift station and wet well locked at all times;
4. Report to the Department all raw wastewater discharges to the ground; and
5. Immediately investigate any report by a resident of a raw sewage discharge.

8. On June 23, 2005, Regency sent the Department a letter outlining how it would comply with the above requirements.

9. On December 15, 2005, a NOV was sent to Regency for failure to submit its MORs for the months of July 2005 through November 2005. This NOV informed Regency that its NPDES permit required submission of MORs to the Department by the 15th day of the month following the reporting period.

10. On October 5, 2007, while on site investigating an unrelated complaint which was not confirmed, Mr. Royce reviewed Regency's MORs and discovered several violations of the effluent limits contained in its NPDES permit.

11. On December 15, 2006, a NOV was sent to Regency for the following violations:
1. Exceedence of effluent limits for Carbonaceous Biological Oxygen Demand, Fecal Coliform, Ammonia and Total Suspended Solids;
 2. Failure to properly measure and report Fecal Coliform and Total Residual Chlorine;
 3. Improper storage of auto batteries and auto tires and bags of water softener salt.

12. On December 28, 2006, the Department received a complaint alleging sewage back up in the Regency wastewater collection system which caused a foul smell in the complainant's home. The complainant stated that he removed the manhole cover located behind his house and observed back up in the system. He also indicated that this happens a lot. The Department asked the complainant to call Regency's management and ask them to resolve the problem. On January 3, 2007, Regency called the Department and stated that it had cleaned up the sewer blockage which caused the sewage backup.

13. On September 25, 2007, the Department received a complaint alleging that wastewater was leaking from a manhole between trailers.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.**

14. On September 26, 2007, Mr. Royce investigated the complaint and discovered a well driller allowed drilling mud to enter an open sanitary sewer line at a vacant lot. This plugged the sewer and caused a bypass to occur. This bypass was not reported to the Department by Regency. However, Regency took immediate action which resolved the bypass.

15. On January 9, 2008, Regency was sent a NOV regarding failure to timely submit *Sam* its MORs for the months of September 2007 through November 2007.

16. On June 3, 2008, the Department received a complaint alleging that a bypass at Regency had occurred.

17. On June 9, 2008, Terry Jones, a Senior Environmental Specialist with the Department, spoke with Michelle Fulton, the manager of Regency MHP. During the course of this conversation Ms. Fulton stated that due to a blockage a bypass did occur. This bypass lasted approximately one week because Regency was unable to get a contractor onsite to remove the blockage.

18. On June 27, 2008, the Department received a complaint alleging that some sewer lines located on vacant trailer lots were not properly capped.

19. On July 2, 2008, Mr. Sievers investigated and confirmed the complaint. Further, Mr. Sievers met with the manager of Regency MHP, who stated that she was aware of the problem.

20. On July 10, 2008, Regency reported to the Department the failure of its lift station which resulted in a bypass. This bypass continued for 14 days.

21. On July 24, 2008, a NOV was sent to Regency for failure to maintain the *Sam* treatment plant in proper working order.

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 to waters of the state without or contrary to a permit from this Department. The above stated facts show noncompliance with this provision.

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)

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.**

prohibits the operation of a waste disposal system without or contrary to the terms of a permit. The above stated facts show noncompliance with this provision.

3. 567 IAC 63.7 requires that "Records of operation shall be submitted to the department within 15 days following the close of the reporting period specified in 63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the operation permit." 567 IAC 63.8 requires that records of operation be submitted on monthly intervals. 567 IAC 63.9 requires that "records of operation shall include the results of all monitoring specified in or authorized by this chapter and incorporated in the operation permit." The above stated facts show noncompliance with this provision.

4. 567 IAC 64.7 (5) "f" states "[t]hat 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." The above stated facts show noncompliance with this provision.

5. Regency's NPDES permit requires proper operation and maintenance of the WWTF in section 8 of the standard conditions. "All facilities and control systems shall be operated as efficiently as possible and maintained in good working order." The above stated facts show noncompliance with this provision.

6. 567 IAC 63.6(2) requires that

[i]n the event that bypassing of sewage or waste occurs as a result of mechanical failure or acts beyond the control of the owner (other than rain or other precipitation), said owner shall notify the department by telephone of the bypassing within 12 hours of the time of the discovery of the bypassing. Notification shall include the reasons for the bypass and expected duration. The owner shall comply with the instructions of the department calculated to minimize the effect of the bypassing on the receiving water of the state.

The above stated facts show noncompliance with this provision.

V. ORDER

THEREFORE, the Department hereby orders and Regency agrees to do the following:

1. Within 30 days of the Director signing this order notify the Department in writing of the engineer retained by Regency to develop a WWTF maintenance plan;

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.**

2. Within 60 days of the Director signing this order develop and submit to the Department for its approval a WWTF maintenance plan which shall include the following:
 - i. description of maintenance required to maintain equipment in good working order; and
 - ii. expected life span of the equipment.
3. Regency shall pay a penalty of \$4,000.00 within 30 days of the Director of the Department signing this order.

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 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 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 a penalty.
2. **Economic Benefit:** Regency saved time and money by not complying with its NPDES permit and by failing to properly repair, replace or upgrade the components of its WWTF. Therefore, \$1,000.00 is assessed for this factor.
3. **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. An unauthorized discharge of raw sewage poses a threat to the environment. Moreover, failure to submit MORs hampers the ability of the Department to monitor the effectiveness of the WWTF and determine compliance with Regency's NPDES permit. Therefore, \$1,000.00 is assessed for this factor.
4. **Culpability:** Regency has repeatedly engaged in multiple violations of its NPDES permit despite notification by the Department of such violations and a prior administrative order. Therefore, \$2,000.00 is assessed for this factor.

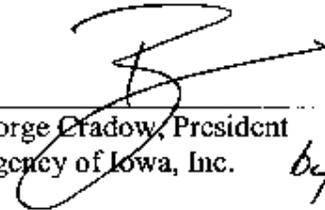
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Regency of Iowa, Inc.

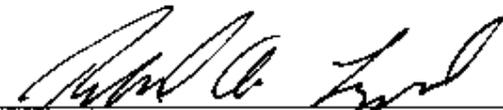
VII. WAIVER OF APPEAL RIGHTS

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 Commission. This order is entered into knowingly by and with the consent of Regency. By signature to this order, all rights to appeal this order are waived.

VIII. NONCOMPLIANCE

Compliance with sections V.1.-V.3. 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.

for 
George Oradow, President
Regency of Iowa, Inc. *by Peter Bakos, V.P.
Regency of Iowa, Inc.* Dated this 1st day of
April, 2009


Richard A. Leopold DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES Dated this 21 day of
April, 2009

Regency Inc., Field Office 6, Carrie Schoenebaum, Russell Royce, J.C.1. .