

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

IN THE MATTER OF:

CITY OF GARWIN

**Wastewater Facility
NPDES Permit No. 8637001**

**ADMINISTRATIVE
CONSENT ORDER
NO. 2009-WW-14**

**TO: City of Garwin
c/o Stephanie DeSchamp, Mayor
City Hall, PO Box 148,
Garwin, IA 50632**

I. SUMMARY

This administrative consent order (order) is entered into between the Iowa Department of Natural Resources (Department) and the City of Garwin, Iowa (City). The order is entered into for the purpose of resolving violations of the City's NPDES permit and to remedy a history of sanitary sewer overflows. The order establishes an enforceable schedule to upgrade the disposal system. 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:

Suresh Kumar, Project Manager
Iowa Department of Natural Resources
Wallace State Office Bldg
Des Moines, IA 50319-0034
Ph: 515-281-4527

Relating to legal requirements:

David L. Wornson, Attorney at Law
Iowa Department of Natural Resources
Wallace State Office Bldg
Des Moines, Iowa 50319-0034
Ph: 515/242-5817

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.

38003 and 11:00 06/12/09

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

III. STATEMENT OF FACTS

1. The City owns and operates a wastewater disposal system located in Garwin, Iowa.
2. The City operates the wastewater disposal system under the terms and conditions of NPDES permit No. 86-37-0-01 which authorizes the discharge of treated effluent from the wastewater treatment plant with prescribed effluent limitations and operation and maintenance conditions.
3. The Department field office conducted a facility inspection of the City's wastewater treatment facility on August 8, 2007. The inspection determined that the disposal system had allowed sanitary sewer overflows (SSOs) in February and April of 2007. An inspection report dated August 31, 2007 required that the city retain a qualified engineer and submit a plan to address and remedy the SSOs by October 1, 2007.
4. The Department field office issued a letter to the City dated January 21, 2008 noting that the plan of action due October 1, 2007 was overdue. The notice required the City to submit a plan of action by July 21, 2008. Mr. John Nilles of Nilles Associates notified the Department field office by telephone on February 4, 2008 that this firm had been retained by the City to prepare a preliminary engineering report.
5. On July 22, 2008, Mr. Nilles requested a time extension for submittal of the preliminary engineering report to September 15, 2008.
6. Nilles Associates submitted an engineering report to the Department on September 16, 2008. The report proposed improvements to the collection system and treatment plant costing in the range of \$4.25 million with a completion date of 2021.
7. In a phone call on October 17, 2008, the Department field office supervisor, Jim Stricker, advised Mr. Nilles that the proposed schedule for improvements was not acceptable. Mr. Nilles notified Mr. Stricker the City was considering alternative engineering firms to develop a plan.
8. The Department field office supervisor, Jim Stricker, met with the City's Mayor, Clerk and Council on October 29, 2008 to discuss the proposed plan of action. The City informed the Department that they had retained a consulting firm, Bartlett & West.
9. The project engineer, Mr. Perry Gjersvik, informed the Department that the City was applying for a Community Development Block Grant (CDBG) and expected to receive it in March 2009.
10. On December 18, 2008, City representatives, the Bartlett & West project engineer and Department field office and construction permitting staff met. The general plan of action was to approach improvements to the disposal system in two phases. Phase One would consist of an "infiltration and inflow" study of the disposal system and submittal of a facility plan in March

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

2009. The expectation was that some repairs and upgrades to the collection system could begin during the summer of 2009 and upgrades to the system lift station by the end of 2009. Phase two of the project which could involve substantial upgrades to the collection and lagoon system would be planned for 2010 and a project schedule determined in accordance with the Department's construction permitting administrative rules and guidance.

11. The Department has approved the City's application for federal stimulus funding and funding under the Department's "state revolving loan" (SRF) program.

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.186(1) prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. This section provides as follows:

A pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the director. A pollutant whether treated or untreated shall not be discharged into any state owned natural or artificial lake.

3. 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 if an NPDES permit is required for that disposal system. Rule 64.7 specifies the conditions that are to be included in an NPDES permit, including proper maintenance of the treatment facility (64.7(5)) and compliance with applicable effluent limitations as provided in chapters 567 IAC 61 and 62.

4. The City operates this facility pursuant to its NPDES permit, No. 8637001 and is responsible for compliance with the terms of the permit. The City has violated its NPDES permit and Iowa Code section 455B.186 by discharging untreated wastewater to water of the state under conditions not authorized by a permit.

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

5. 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 sufficient to avoid SSOs.

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:

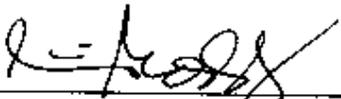
1. The following paragraphs establish basic milestones that the City agrees to satisfy. There may be interim steps that must be satisfied in accordance with the Department permitting process in order to meet this schedule. See <http://www.iowadnr.gov/water/wastewater/index.html>. The City agrees to substantially comply with those interim steps as necessary to meet the following milestones.
2. Complete sewer televising by the end of April and begin the environmental review process. By May 22, 2009 submit a facility plan for the planned upgrade to the sewer system to the Department's construction permitting staff in compliance with Department rules and guidance.
3. By June 26, 2009, submit preliminary plans and specification to the Department construction permitting section for upgrades to the sewer system sufficient to eliminate SSOs and basement backups.
4. By July 24, 2009 submit final plans and specifications for the sewer system upgrade to the Department construction permit section.
5. By July 31, 2009, complete the environmental review and submit a report to the Department.
6. By September 1, 2009, the Department will issue a construction permit for the sewer system upgrade assuming the City has submitted all necessary documentation for issuance in accordance with Department regulations.
7. By October 5, 2009, award a contract to implement the approved improvements to the sewer system.
8. By October 19, 2009, begin construction on the sewer system improvements and complete construction by March 30, 2010.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
CITY OF GARWIN

constitutes full satisfaction of all requirements pertaining to the violations described in this order.


STEPHANIE DESCHAMP
MAYOR, CITY OF GARWIN

Dated this 1 day of
June, 2009


Deputy ~~RICHARD A. LEOPOLD, DIRECTOR~~
IOWA DEPARTMENT OF NATURAL RESOURCES
Patricia L Boddy

Dated this 17 day of
June, 2009

City of Garwin, NPDES Permit No. 8637001, Field Office No. 5, Suresh Kumar, DNR, David Wornson,
I.B.2. d. & I.C.1.