IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF:	ADMINISTRATIVE ORDER NO. 2009-WS-03
RANDY LOGSDON DBA BLUFFTON STORE **Public Water Supply Facility No. 9630773**	

TO: **Randy Logsdon, Owner**
Bluffton Store
2619 West Ravine Road
Decorah, Iowa 52101

I. SUMMARY

This administrative order (Order) is issued to Randy Logsdon, dba Bluffton Store (Randy Logsdon) for violations of Iowa's water supply requirements. This Order requires Randy Logsdon to:

- Pay the annual water supply operation fee and late penalty for FY 2008 of $125.00;
- Perform all improvements required by the Department to eliminate well construction deficiencies;
- Sample this public water supply at least five times per month for coliform bacteria, submit the results to a laboratory certified for coliform bacteria analysis, timely report the test results to the Department, and maintain a record of such analyses for five years;
- Perform all monitoring and reporting requirements required by the water supply operation permit;
- Monitor chlorine residuals on a daily basis, maintain an effective chlorine residual concentration, record the daily amount of chlorine used and report the results on a monthly basis on a monthly operation report form;

- Provide public notice of bacteria MCL and monitoring violations; and
- Pay an administrative penalty of $8,500.00.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Cecilia Naughton Environmental Specialist
Iowa Department of Natural Resources
401 SW 7th Suite M
Des Moines, Iowa 50309-4611
Ph: 515/725-0289

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

Direct payment of penalty to:
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

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 (455B), which authorize the Director to assess penalties.

III. STATEMENT OF FACTS

1. Bluffton Store aka Randy's Bluffton Store is a transient non-community water supply located at 2619 West Ravine Road, near the city of Decorah in Winneshiek County, Iowa. Randy Logsdon is the owner of this business. This public water supply facility serves a campground, restaurant, and private residence, with a population of 60. The well is in a limestone block pit with a dirt floor, east of the owner's residence. The pressure tanks for the system are in the basement of the home. The top of the well casing is about 4 feet below grade. The well was constructed in 1982 to a depth of 265 feet. The well has construction deficiencies that allow the intrusion of surface water, due to being a pit well with a dirt floor and being susceptible to flooding. The water is required to be treated with chlorination due to an acute bacteria Maximum Contaminant Level violation in 1993, and is also softened. The septic tank and dump station for the campground are about 170 feet from the well. The septic tank for the restaurant is about 125 feet from the well. The septic tank for the house is about 50 feet from the well. A gas storage tank is about 90 feet from the well. None of these distances meet the required separation distances for a shallow well.

2. On January 7, 2005 a water supply operation permit was issued to Randy Logsdon for Bluffton Store with an effective date of January 7, 2005 and an expiration date of March 31, 2008. This renewed permit required one coliform bacteria sample to be collected each calendar quarter. Department rules also require that when a routine bacteria sample is analyzed as containing bacteria, additional recheck and routine samples shall be taken. These samples must be analyzed at a certified laboratory.

3. On January 31, 2007, a revised public water supply operation permit was issued for this public water supply system. The revised permit included monitoring and reporting requirements and an expiration date of March 31, 2008. The revised permit required this facility to be monitored for coliform bacteria five times per month. The permit renewal application for this facility was due December 31, 2007 and the delinquent application was due February 29, 2008. No permit renewal application was received by the Department in response to two letters sent concerning permit renewal. The permit expired on March 31, 2008 and a third renewal application was sent by FAX on January 23, 2009. The permit was eventually renewed on January 26, 2009, with an expiration date of March 31, 2011. The facility was not covered by an operation permit from December 31, 2007 through January 26, 2009.

4. On January 24, 2003, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in the fourth quarter of 2002. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department did not receive proof that public notice for this violation was given.

5. On May 8, 2003, a mid-cycle sanitary survey of this public water supply facility was completed by the Cerro Gordo County Health Department. The survey noted that the bacteria sampling was not being done.

6. On August 1, 2003, the Department sent a notice of violation letter to Randy Logsdon for a reporting violation for failure to submit Monthly Operation Reports (MORs) for the months of January 2003, February 2003, March 2003, April 2003, May 2003, and June 2003. The letter advised that all future operation reports must be signed and submitted to the Department within ten days of the end of each month.

7. On January 9, 2004, the Department sent a letter to Randy Logsdon advising of a positive total coliform bacteria sample. Five routine samples were to be collected in February 2004. On March 16, 2004, the Department sent a letter to Randy Logsdon advising of a monitoring violation for failure to take five samples for coliform bacteria in February 2004 following a positive routine sample.

8. On September 1, 2004, a full sanitary survey for this public water supply facility was completed by the Cerro Gordo County Health Department. The report noted monitoring

violations, no records being kept at the facility, lower chlorine residuals at the restaurant than the house, the backwash drain line connected directly into the main sewer line, and inadequate separation distance between the well and the septic system. The survey required this facility to maintain Department standards for chlorine residuals, to measure and record the residuals used daily, and to make sure that the ends of the lines maintain proper chlorine residuals by testing at different locations each time. The survey required this facility to repair the backwash drain line by installing an indirect connection so that it was not directly connected to the main sewer line. This facility was required by the survey to ensure that an adequate separation distance of 200 feet from the well is maintained in the event that either the well or the septic system is replaced.

9. On December 28, 2004, the Department sent a notice of violation letter to Randy Logsdon for a reporting violation for failure to submit MORs. No MORs had been submitted. The letter advised that all future operation reports must be signed and submitted to the Department within ten days of the end of each month.

10. On July 11, 2005, the Department's Field Office No. 1 sent a notice of violation letter to Randy Logsdon for a reporting violation for failure to submit MORs. No MORs had been submitted. The letter advised that all future operation reports must be signed and submitted to the Department within ten days of the end of each month.

11. On August 4, 2005, a mid-cycle sanitary survey of this public water supply facility was completed. The survey noted that MORs were not being completed and submitted to the field office, which facility owner Randy Logsdon said he would not complete. The survey also noted that chlorine residuals were not being measured and the amount of chemical used was not being recorded.

12. On June 23, 2006, the Department sent a notice of violation letter to Randy Logsdon for a reporting violation for failure to submit MORs. No MORs had been submitted. The letter advised that all future operation reports must be signed and submitted to the Department within ten days of the end of each month.

13. On October 13, 2006, a mid-cycle sanitary survey of this public water supply facility was completed by the Cerro Gordo County Health Department. The survey noted that MORs were not being completed and submitted, that the chlorine residuals were not being measured, and that the amount of chemical used was not being recorded.

14. On January 31, 2007, the Department issued a revised public water supply operation permit requiring Randy Logsdon to submit five coliform bacteria samples per month due to managerial, sanitary, and operational defects.

15. On May 29, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in April 2007. Five coliform bacteria samples were required. Four samples were taken. The

letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

16. On June 26, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in May 2007. Five coliform bacteria samples were required. One sample was taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

17. On August 1, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in June 2007. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

18. On August 31, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in July 2007. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

19. On September 15, 2007, a full sanitary survey was completed for this public water supply facility by the Cerro Gordo County Health Department. The report noted monitoring violations, no records being kept at the facility, no testing for or recording of chlorine residuals, and no recording of the amount of chlorine used at the facility. There was only one test tube for the chlorine residual test (two are needed) and the chlorine power had expired ten years ago. A 1000 gallon fuel tank was located 90 feet from the well, which does not meet the required separation distance for a shallow well. The septic tank for the restaurant was 125 feet from the well while the septic tank for the campground and the dump station are 170 feet from the well. These do not meet the required separation distance of 200 feet.

The sanitary survey report required that this facility extend the well casing to at least 18 inches above final ground elevation and install a casing vent with a 24 mesh corrosion-resistant screen. The facility was required by the report to eliminate cross connections at the sample tap in the basement by installing a hose bib vacuum breaker or

remove the hose after each use. The report required the facility to meet separation distances if the septic tank or drainfield are replaced. The facility was required to revise its written bacteria sampling plan and to send a copy to the Cerro Gordo County Health Department by October 20, 2007. The report required this facility to maintain Department standards for chlorine residuals and to measure and record the chlorine residuals and amount of chlorine used daily by October 20, 2007. The facility was required to obtain new DPD free powder and a replacement test tube for the chlorine test kit by October 20, 2007.

20. On September 28, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in August 2007. Five coliform bacteria samples were required. Two samples were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

21. On November 9, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in September 2007. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

22. On November 28, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in October 2007. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

23. On December 21, 2007, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in November 2007. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

24. On January 25, 2008, the Department's Field Office No. 1 sent a notice of violation letter to Randy Logsdon for a reporting violation for failure to submit MORs. No MORs had been submitted since June 2007. The letter advised that all future

operation reports must be signed and submitted to the Department within ten days of the end of each month.

25. On February 5, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in December 2007. Five coliform bacteria samples were required. Two samples were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

26. On March 4, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in January 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

27. On March 28, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in February 2008. Five coliform bacteria samples were required. Two samples were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

28. On April 8, 2008, the Department sent a letter to Randy Logsdon reminding him of the five coliform bacteria samples per month requirement, as required by the revised permit issued to the facility on January 31, 2007. On April 8, 2008, the Department sent a second letter to Randy Logsdon warning him of public notifications that were past due. Randy Logsdon missed public notification due dates for eight coliform bacteria monitoring violations and was required to complete public notification by a replacement due date of May 12, 2008. The letter advised the facility owner that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for these violations was given.

29. On April 24, 2008, the Department's Field Office No. 1 sent a notice of violation letter to Randy Logsdon for failing to submit MORs. The letter advised the facility owner that future operation reports must be signed and submitted to the Department within ten days of the end of each month.

30. On April 25, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in March

2008. Five coliform bacteria samples were required. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

31. On May 29, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in April 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

32. On June 30, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in May 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

33. On August 7, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in June 2008. Five coliform bacteria samples were required. One sample was taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

34. On August 20, 2008, a mid-cycle sanitary survey of this public water supply facility was completed by the Cerro Gordo County Health Department. The survey noted that MORs were not being completed and submitted to the Department's Field Office No. 1. At inspection, the free chlorine residual was 0.2 and total chlorine residual was 0.4. The well was flooded for three days during June 2008, as was the house basement, where the chlorination equipment is stored. The equipment was floating in the water. The restaurant and campground were closed for almost two weeks. Cook's Well Service replaced the pressure switch, but no other equipment was replaced other than the hot water heater and furnace. The well was not shock chlorinated. The facility was advised to turn up the chlorination feed rate and to maintain higher disinfection levels. The DPD powders needed to be replaced, as the free expired November 1998 and the total expired August 2008. The facility was told to replace the chlorine residual test powders, test residuals daily, and complete the MOR forms.

35. On August 21, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in July 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

36. On September 15, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in August 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

37. On October 20, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in September 2008. Five coliform bacteria samples were required. One sample was taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

38. On November 17, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in October 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

39. On December 22, 2008, the Department sent a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in November 2008. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

40. On January 6, 2009, the Department sent a notice of violation letter to Randy Logsdon for a public notification violation. This public water supply facility was required to complete public notification for thirteen coliform bacteria monitoring violations. The facility owner still had not notified the public of eight prior coliform

bacteria monitoring violations. The public notification was due by May 12, 2008, as required by the April 8, 2008 letter.

41. On January 15, 2009, the Department issued a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in December 2008. Five coliform bacteria samples were required. One sample was taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

42. On January 28, 2009, the Department's Field Office No. 1 sent a notice of violation letter to Randy Logsdon for failing to submit MORs. The letter advised the facility owner that future operation reports must be signed and submitted to the Department within ten days of the end of each month.

43. On February 17, 2009, the Department issued a notice of violation letter to Randy Logsdon for a monitoring violation for failure to sample for coliform bacteria in January 2009. Five coliform bacteria samples were required. None were taken. The letter and public notice instructions sent with the letter additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted to the Department. The Department has not received proof that public notice for this violation was given.

44. Additional notices of violation for coliform bacteria monitoring violations were mailed to Randy Logsdon on May 19, 2009, June 16, 2009 and July 20, 2009 for failure to sample for coliform bacteria, as required by the water supply operation permit, in April 2009, May 2009, and June 2009. The letters and public notice instructions sent with the letters additionally advised the facility owner that public notification was required to be given and that proof of public notice was required to be submitted for each monitoring violation. The Department has not received proof that public notice for these violations was provided by this facility.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.172 makes this Department the agency of the state to conduct the public water supply program. Iowa Code section 455B.171 defines a public water supply system as a system for the provision of piped water for human consumption, if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. Iowa Code sections 455B.173(3), (5), and (6) authorize the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of public water supply systems and to adopt drinking water standards to assure compliance with federal standards adopted pursuant to the federal Safe Drinking Water Act. The Commission has the authority to adopt rules relating to monitoring, record

keeping, and reporting requirements for any public water supply. The Commission has adopted such rules at 567 IAC chapters 40-43.

2. Rule 567 IAC 40.2 (455B) further defines public water supply by defining "community water system" as a public water supply which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents, consistent with federal regulations. A "noncommunity water system" is any other public water supply. This facility is a transient noncommunity water system.

3. Subrule 567 IAC 41.2(1) requires a noncommunity water system to be sampled at least once per calendar quarter for total coliform bacteria. More frequent sampling may be required and was required by the revised water supply operation permit issued for this facility. When positive results are obtained in a routine sample, additional follow-up sampling is required. Subrule 83.1(3) requires the samples to be analyzed at a certified laboratory. Subrule 42.4(1) requires that the analytical results be reported to the Department within ten days after the test. Subrule 42.5(1) requires a public water supply system to retain records of bacteria analyses of its water supply for a period of five years. There have been over twenty monitoring violations since 2007 for failure to sample for coliform bacteria.

4. Subrule 567 IAC 42.1(4) requires the owner or operator of a public water supply system which fails to perform monitoring required by rule to notify persons served by the system within three months. Public notice is also required for acute and non-acute total coliform bacteria MCL violations under 567 IAC 42.1(2) and (3). Noncommunity systems may provide public notice by continuous posting in conspicuous places within the area served by the system. The notice is required to provide a clear and readily understandable explanation of the violation, the steps the system is taking to correct the violation, and include the telephone number of the owner, operator, or designee of the system as a source of additional information. Subrule 567 IAC 42.4(1), paragraph "c", provides that the public water supply shall submit a representative copy of the public notice to the Department within ten days of completion of the notice. No public notice has been submitted for any violation.

5. Subrule 567 IAC 43.2(1) requires that a fee for the operation of a public water supply shall be paid annually. The fee is $25 per year for all transient noncommunity water systems. When the owner of a public water supply fails to make timely application or to remit payment of fees by September 1, the Department will notify the system by a single notice of violation. In addition, a late fee of $100 will be assessed for failure to remit the operation fee by September 1. This facility has not paid either fee for FY 2008, for a total amount owed of $125.00.

6. Subrule 567 IAC 42.4(3) requires that monthly records of operation shall be completed by all public water supplies, on forms provided by the Department or on similar forms. The reports shall be competed as described in 42.4(3)"a"(2) and

maintained at the facility for inspection by the Department for a period of years. MORs must be signed and submitted to the Department within 10 days of the end of each month. Only four MORs have been submitted by this facility in five years.

7. Subrule 567 IAC 43.2(7) requires that operation permits must be renewed prior to expiration in order to remain valid. The renewal date shall be specified in the permit or in any renewal. Application for renewal must be received by the Director, or postmarked, 60 days prior to the renewal date, on forms provided by the Department. The application for this facility was due December 31, 2007 and the delinquent application was due February 29, 2008. The permit expired in March 31, 2008 and a third renewal application was sent by FAX on January 23, 2009. The permit was eventually renewed on January 26, 2009 and will expire on March 31, 2011. The facility was not covered by an operation permit from December 31, 2007 through January 26, 2009.

V. ORDER

THEREFORE, the Department orders Randy Logsdon to comply with the following provisions in order to abate and redress violations of Department rules and the facility's public water supply operation permit:

1. Pay the water supply annual fee and late penalty for FY 2008 of $125.00.

2. Make improvements to the well to correct the construction deficiencies that allow the intrusion of surface water. Apply for a construction permit from the Department. A construction permit from the Department's Water Supply Engineering Section must be obtained prior to modifying the well. The construction permit application and subsequent improvements must include extension of the wellhead out of the pit, to 18 inches above the 100 year flood level, and elimination of the pit.

3. Conduct all monitoring and reporting required by the water supply operation permit issued for this facility.

4. Sample this public water supply at least five times per month for coliform bacteria, submit the results to a laboratory certified for coliform bacteria analysis, timely report the results to the Department, and maintain the record of such analyses for five years.

5. Perform required follow-up sampling for coliform bacteria when a positive result is obtained from a routine sample.

6. Monitor chlorine residuals on a daily basis, maintain an effective chlorine residual concentration, record the amount of chlorine used on a daily basis and report the results on a monthly basis to the Department's Field Office in Manchester on a MOR form.

7. Continue sampling the drinking water in full compliance with the requirements of 567 IAC sections 41.2(1)"a", "b", and "c", and 41.2(2), to include routine and repeat sampling for coliform bacteria.

8. Provide public notice, in compliance with 567 IAC 42.1, until the system has established and maintained an adequate chlorine residual and samples collected from the water supply are known to meet the required bacterial limits.

9. Pay an administrative penalty of $8,500.00. The administrative penalty shall be paid to the Department within 60 days of receipt of 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.

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 10. Pursuant to this chapter, 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 administrative penalty assessed by this Order is determined as follows:

a. Economic Benefit. There have been cost savings to the facility by not conducting all required tests for total coliform bacteria and failure to pay the annual fee and late fee in FY 2008. There have been cost savings to the facility by not providing all required public notices. There have been cost savings to the facility by not conducting all required chlorine residual testing. There have been cost savings to the facility by not conducting all necessary disinfection after the flooding event of 2008. The amount of $1,500.00 is assessed for this factor based on the required samples that were not collected, not taking and recording chlorine residuals, not having a functional test kit on the premises, failure to complete and submit MORs, not providing public notices for violations, and not performing cleanup after the 2008 flood.

b. 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. Failure to correct bacterial sampling and chlorine residual monitoring deficiencies at this facility is a threat to public health and safety. It is imperative that a facility such as this one serving a public campground and restaurant should have corrected monitoring violations. Wells in pits and affected by flooding are at

high risk of contamination by organisms capable of causing illness and even death. Failure to decontaminate, or even sample, a flooded well is a serious public health threat. Having adequate bacterial water quality and conducting adequate self-monitoring and reporting are central to the administration of the State's safe drinking water program. Such deficiencies threaten the integrity of this program. Because of the importance of the drinking water program, $3,500.00 is assessed for this factor in view of multiple violations.

c. Culpability. There has been adequate time to comply with operation permit and sanitary survey requirements. Multiple visits by the Cerro Gordo County Health Department and written communications by the Department have failed to result in compliance. To date, no actions have been taken to come into compliance. The operation permits and Department letters contained information concerning the total coliform bacteria routine monitoring requirements as well as requirements for repeat samples, additional samples and public notices. There has been adequate time to comply with the operation permit, sanitary survey requirements, and Department letters. Therefore, the amount of $3,500.00 is assessed for this factor, in view of multiple violations.

VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175, and subrule 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, a written notice of appeal to the Commission may be filed within 30 days of receipt of this Order. The notice of appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

VIII. NONCOMPLIANCE

Compliance with Section V. 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.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
RANDY LOGSDON DBA BLUFFTON STORE

_____ Dated this 14 day of
RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES August, 2009

Randy Logsdon dba Bluffton Store – Public Water Supply Facility No. 9630773, Cecilia Naughton – Water Supply Operations Section, Joe Sanfilippo – Field Office No. 1, Diana Hansen – Legal Services, II.B.2.a.(1), II.B.2.a.(2), II.B.2.d., and II.B.2.f.