IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:	
Warren Water District Wastewater Facility No. 91-10-0-01	ADMINISTRATIVE CONSENT ORDER NO. 2010-WW-06

TO: Peggy Crabbs, Director
Warren Water District
1204 East 2nd Avenue
Indianola, Iowa 50125

I. SUMMARY

This administrative consent order (order) is entered into between Warren Water District and the Iowa Department of Natural Resources (Department). Warren Water District agrees to comply with the effluent limits contained in its National Pollution Discharge Elimination System (NPDES) permit and to pay a penalty of $7,000.00. 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:
Kate Bason, Environmental Specialist
IDNR Field Office #5
401 SW 7th Street, Suite 1
Des Moines, IA 50309-4611
515/725-0333

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

Payment of penalty to:
Iowa Department of Natural Resources
Henry A. Wallace Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

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

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

III. STATEMENT OF FACTS

Warren Water District neither admits nor denies the following statement of facts and enters into this agreement for settlement purposes only:

1 Warren Water District discharges wastewater pursuant to NPDES Permit No. 6-91-10-00-1 issued to Warren Water District on July 15, 2008 Warren Water District's facility treats wastewater for the City of Bevington, Iowa and consists of a recirculating fabric filter treatment system The permit contains effluent limitations for the discharge of the following pollutants: carbonaceous biochemical oxygen demand ($CBOD_5$), total suspended solids (TSS), potential hydrogen (pH), E. Coli, and Ammonia Nitrogen (N) This facility has had significant violations of all of these limits, except pH.

2. In 2009 Warren Water District reported violations in its monthly operation reports (MORs) of the effluent limit for $CBOD_5$ during the months of January, February, March, April, May, June, July, August, September and October.[1] It reported violations of Ammonia Nitrogen during the months of January, February, March, May, June, and July; violations of E. Coli were reported during the months of May, June, July, August, September, October and November; and TSS limits were violated during the month of October.

3 The Department conducted NPDES permit compliance inspections on the following dates: February 19, 2009, April 23, 2009, May 6, 2009, and May 11, 2009. During each inspection the Department documented violations of effluent limits. An inspection report was mailed to the facility following each inspection and these reports document the violations.

4. In April 2009, Warren Water District reported to the Department that it had found diesel fuel, gasoline and motor oil (total extractable hydrocarbons) in the tanks at its pretreatment site. On April 23, 2009, a grab sample of the final effluent was collected and sent to the University of Iowa Hygienic Laboratory (UHL) for analysis. The results indicate that hexane extractable material was present at a rate of 9.4 mg/L. The facility is not authorized to discharge this pollutant.

5 On March 5, 2009, May 18, 2009, June 2, 2009, July 8, 2009, and October 9, 2009, the Department sent the Warren Water District Notices of Violations for the above discussed violations.

6. In May 2009, Warren Water District installed a UV disinfection system without first obtaining a construction permit from the Department.

[1] For the specific numeric violations of all effluent limits please see the attached Effluent Limits Violation chart

7 On March 17, 2010, during a NPDES permit compliance inspection the Department collected a grab sample of Warren Water's final effluent and sent it to the University of Iowa Hygienic Laboratory for analysis. The results indicate that hexane extractable material was present at a rate of 7 5 mg/L The facility is not authorized to discharge this pollutant. Sample results also indicated that Warren Water exceeded its permit limit of E Coli. On April 16, 2010, The Department sent Warren Water District a NOV documenting these violations.

CONCLUSIONS OF LAW

Warren Water District neither admits nor denies the following conclusions of law and enters into this agreement for settlement purposes only:

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. The above stated facts demonstrate non-compliance 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. 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. The effluent limits contained in Warren Water District's permit were violated The above stated facts demonstrate non-compliance with these provisions

3. 567 IAC section 64 2(1) states that "[n]o person shall construct, install or modify any wastewater disposal system or part thereof or extension or addition thereto without, or contrary to any condition of, a construction permit." Warren Water District installed a UV disinfection system in May of 2009, without first obtaining a construction permit. Therefore, the above stated facts show noncompliance with this provision.

4 Warren Water District's NPDES permit requires that it properly operate and maintain its facility. 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 treatment and control which have been installed or are used by the permittee to achieve compliance with the terms and conditions of the permit." The significant effluent limit violations demonstrate that these provisions were violated

V. ORDER

THEREFORE, the Department orders and Warren Water District agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1 Within 30 days of the Director of the Department signing this order Warren Water District shall retain an engineer and provide a written plan to the Department for approval to address the aforementioned violations.

2 Upon discovery of toxic pollutants in the system that interfere with treatment including but not limited to petroleum, hydrocarbons, glycols or excessive oil and grease, Warren Water shall notify Field Office 5, of the Department, and provide a written description of the corrective actions taken and or planned. Further, if the toxic material upsets the system Warren Water shall pump the portion of the tanks impacted by the toxic materials. Such corrective action must be initiated the same day that the upset is discovered.

3. Warren Water District shall provide a sludge plan in accordance with 567 IAC chapter 67 to the Department;

4. Warren Water District shall comply with its NPDES permit.

5 Warren Water District shall pay a penalty in the amount of $7,000.00 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 penalties.

2. **Economic Benefit:** Warren Water District saved considerable time and expense by failing to take the necessary steps to bring the facility into compliance with its NPDES permit. Specifically, Warren Water District avoided significant costs when it failed to pump and haul the wastewater to another approved wastewater facility when toxic material killed the microbes that are necessary for proper wastewater treatment. Hauling to an approved facility would have likely cost approximately $186.00 per 1,000 gallons in addition, the cost of transportation should also be considered. The Department

estimates that 10,000 gallons, or one-third of the system capacity, should have been hauled off site at least three times at an estimated cost of $5,580.00 Warren Water District also avoided costs in the past when it failed to adequately clean the system. Specifically, it did not have in its possession the equipment necessary for cleaning its system. Such equipment would have cost approximately $1,000 00 The above analysis clearly shows that Warren Water District received a large economic benefit from failing to maintain the system in compliance with the law. However, at this time the Department has decided to handle this matter administratively, therefore, $1,000 00 is assessed for this factor.

3. **Gravity of the Violation:** Warren Water District continuously failed to comply with the effluent limits contained in its NPDES permit. Effluent limits are the core of an NPDES permit and the backbone of the regulatory program. The limits have been established to ensure that environmental degradation will not occur. The failure by Warren Water District to comply with its limits has resulted in a substantial release of pollutants to a water of the state. In addition, 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 in this case. The Department has determined that the most effective and efficient means of addressing the above cited violations is with administrative penalties, which are lower than those that could be obtained through court action. Therefore, $3,000.00 is assessed for this factor.

4. **Culpability:** Warren Water District reported continuous violations of the effluent limits contained in its NPDES permit since it began operation. The majority of the violations were self-reported and Warren Water District had knowledge of how to alleviate the violations. Nevertheless significant violations persisted. Thus, it is apparent that Warren Water District did not apply the appropriate standard of care required by the law. Because of this, $3,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175 and 561 IAC chapter 7, 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 Warren Water District. By signature to this order, all rights to appeal this order are waived.

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.

Peggy Crabbs

Peggy Crabbs, Director, Warren Water District

Dated this 3rd day of May, 2010

Richard A. Leopold

Richard A. Leopold, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 5 day of May, 2010

Warren Water District- Wastewater Facility No. **91-10-0-01**, Field Office 5, Carrie Schoenebaum; Kate Bason, I.B.2.c.