

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF: TABLE MOUND PARK CORP., TABLE MOUND # 1 MOBILE HOME PARK Wastewater Facility No. 6-31-00-6-00	ADMINISTRATIVE ORDER NO. 2009-WW- 31
--	---

TO Richard B. Young, President
Table Mound Park Corp.
1854 Poumele Way
Oceanside, CA 92054

James G. Schilling, Registered Agent
1635 Associates Drive, Suite 102
Dubuque, IA 52002

I. SUMMARY

This administrative order (order) requires Table Mound Park Corp., Table Mound # 1 Mobile Home Park (Table Mound), to comply with the schedule contained in this administrative order and to pay an administrative penalty of \$7,500.00.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Susan Miller
Environmental Specialist
IDNR Field Office No. 1
909 West Main St., Suite 4
Manchester, IA 52057
Ph: 563/927-2640

Relating to legal rights:

Diana Hansen
Attorney at Law
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

II. JURISDICTION

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

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

III. STATEMENT OF FACTS

1. The Table Mound # 1 Mobile Home Park is owned and operated by Table Mound Park Corp. (Table Mound). Richard B. Young, 1854 Poumele Way, Oceanside, California 92054, is the president of Table Mound Park Corp. The wastewater treatment facility (WWTF) for this mobile home park is located in Section 1, T 88N, R02E, Dubuque County, Iowa. The WWTF consists of two parallel activated sludge package plants. The first smaller plant was installed in 1959 according to a 2002 field office inspection report. The second plant, which is larger, was installed on the north side of the smaller plant, likely in the 1970's. Wastewater in the system flows by gravity to the WWTF. There are no lift stations. The clay tile collection system is more than 40 years old. Since the WWTF does not have a flow meter, there is no way to determine if inflow and infiltration (I & I) is a problem.

2. The WWTF is operated pursuant to Iowa NPDES Permit No. 6-31-00-6-00 (NPDES Permit), issued on November 25, 2002. The NPDES permit expired on November 24, 2007. This facility submitted an application for renewal that was received by the Department on May 21, 2007. Treated wastewater is discharged to a dry run that discharges to Granger Creek pursuant to this NPDES permit. The NPDES permit contains effluent limitations for the discharge of pollutants, including but not limited to carbonaceous biochemical oxygen demand (CBOD5), total suspended solids (TSS), ammonia nitrogen and pH.

3. The Department issued a notice of violation letter to Table Mound on December 26, 2002. The inspection report and cover letter for inspections of this WWTF on November 25, 2002 and December 4, 2002 required this facility to comply with 24 hour composite sample requirements as established by the facility's NPDES permit. In a letter dated March 7, 2003, the manager for this mobile home park informed the field office that a composite sampler had been purchased and would be installed.

The inspection report for the 2002 inspections also discussed the condition of the facility. The report stated that previous inspections noted that the equipment at the facility was aged and had the potential for poor operation or failure. The report stated that prior reports recommended a major facility upgrade or connection to the City of Dubuque wastewater treatment facility. In 1993 an aeration basin developed a leak, which resulted in untreated waste being discharged to a stream.

4. During the inspection on December 13, 2006 the manager showed the Field Office No. 1 inspector the composite sampler, which had never been connected to take samples. Failure to take composite samples is a violation of the NPDES permit and Department rules. The facility had been taking grab samples for CBOD5, TSS and ammonia nitrogen rather than the required composite samples. On January 5, 2007 the manager informed the field office that the composite sampler had been installed.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

5. The inspection report for the December 13, 2006 inspection discussed the effluent quality of the WWTF's effluent for the period from January 1, 2003 through November 30, 2006. The report noted that it was not possible to determine the compliance status of the facility with permit effluent limits since the facility had collected grab samples rather than the required 24 hour composite samples. The sample results for CBOD5 and TSS grab samples indicated that the facility met the CBOD5 and TSS permit limits for concentration, except for February 2004. The report noted that there were 12 ammonia nitrogen concentration violations during the review period. The table attached to the report showed ammonia nitrogen average and maximum mass violations for August 2006.

6. The January 8, 2007 cover letter to the inspection report for the December 13, 2006 inspection addressed the physical condition of the WWTF. The letter stated that the inspection found that "the existing wastewater plant has reached the end of its useful life. By April 1, 2007, the owner must submit a plan of action to this office that outlines the options available to repair, replace or eliminate the existing wastewater treatment plant; identifies the chosen option; includes a schedule for completing the chosen option; and outlines the methods that will be used to finance the chosen option."

The inspection report for the December 13, 2006 inspection noted that the plant was over 40 years old. "DNR inspection reports dating back to the early 1980's have reported that the plant is deteriorating. The Table Mound # 1 Mobile Home Park wastewater treatment plant has reached the end of its useful life. The plant is in need of major repairs, at a minimum. The facility is within reach of a sewer from the City of Dubuque and should investigate the possibility of connecting the mobile home park and the subdivision to the City."

The inspection report for the December 13, 2006 inspection noted that the polishing pond is deficient in that it does not appear to hold water and is not likely to meet the Department's design standards for the allowable seepage rate. The report required that the facility cease usage of the holding pond immediately. The facility was deficient in not having a flow measurement device. The report required the installation of a flow meter immediately.

The inspection report outlined the options for Table Mound's wastewater treatment in the future. "The owner must either upgrade the existing wastewater treatment facility or connect to another wastewater treatment facility. The owner must submit a plan of action to this office by April 1, 2007 that outlines the options available and the chosen option; includes a schedule for completing the chosen option; and outlines the methods that will be used to finance the chosen option." The inspection report required Table Mound to cease the use of the polishing pond for sludge storage immediately. The report also required that a flow meter be installed on the influent sewer line to the WWTF.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

7. By a letter dated March 28, 2007 the field office was informed by James Schilling, the attorney and registered agent for Table Mound that Table Mound anticipated connecting to the City of Dubuque's collection system and WWTF in the event that the area is annexed by the City of Dubuque through involuntary annexation. The letter stated that this might occur within the next 18 months. The letter also indicated that Table Mound might pursue voluntary annexation of the park property and that the details of this would be worked out in the next six months. The mobile home park would then connect to the City of Dubuque's collection system at the closest existing city sewer line, which is located south of Table Mound's WWTF.

8. In communications from the current attorney for this facility, the Department has been informed that this facility has elected to pursue annexation to the City of Dubuque and connection to the City of Dubuque's sewer system, once annexation is accomplished. To date annexation has not been achieved.

IV. CONCLUSIONS OF LAW

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(3) 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 64.6 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. This facility's NPDES permit requires these 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 currently provides "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 facility owner failed to properly maintain and repair the WWTF for Table Mound as stated in inspection reports for this facility.

V. ORDER

THEREFORE, you are ordered to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

1. Submit an application to the City of Dubuque for annexation by December 31, 2009.
2. Complete the annexation process by March 31, 2010.
3. Complete connection to the City of Dubuque's collection system by September 1, 2010 following annexation to the City.
4. Submit quarterly progress reports to Sue Miller, IDNR Field Office No. 1, 909 West Main Street- Suite 4, Manchester, Iowa 52057, beginning January 15, 2010 for the quarter ending December 31, 2009. A quarterly progress report is to be submitted to Field Office No. 1, Manchester, Iowa by the 15th day of each calendar quarter for the preceding quarter. The final report is due by the first day of the month following completion of the connection to the City's wastewater collection system.
5. Properly operate and maintain the existing WWTF until connection to the City's WWTF is completed. Table Mound agrees to sample the existing WWTF as required by its NPDES permit and to submit monthly operating reports with the required information and test results in a timely manner until connection to the City's WWTF is completed.
6. Pay an administrative penalty in the amount of \$7,500.00. Payment is due within 60 days of receipt of the 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 these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with an administrative penalty in the amount of \$7,500.00. The administrative penalty is calculated as follows.
 - a. Economic Benefit. The owner of this facility saved a considerable amount of money due to failure to upgrade and maintain an aging wastewater treatment plant. The report for the December 13, 2006 inspection stated that the facility was using a holding pond that appeared to not hold water and not meet design standards for seepage. The facility was also deficient in not having a flow measurement device to measure the flow entering the facility. There were cost savings in not having an adequate holding pond and in not purchasing a flow measurement device. There were additional cost savings in not upgrading the overall facility as noted by the environmental specialist conducting the

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

inspection who found that major repairs were needed, at a minimum. The amount of \$4,000 is assessed for this factor.

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. Maintaining compliance with pollution control standards and the effluent limits and conditions in NPDES permits is a program priority in the water quality area for federal and state pollution control agencies. The wastewater treatment plant is in imminent danger of failure due to its aged condition. For these reasons, \$2,000.00 is assessed for this factor, in view of multiple violations.

c. Culpability. This facility failed to comply with the proper operation and maintenance condition of its NPDES permit. Through the issuance and receipt of the permit and inspection reports and letters noting permit requirements and the condition of the wastewater treatment facility, the facility owner was on notice concerning the permit terms and conditions that were required to be met and the condition of the wastewater treatment facility. The amount of \$500.00 is assessed for this factor, due to multiple violations.

d. Aggravating Factors. The facility failed to comply with the NPDES requirement to collect composite samples even after receiving a notice of violation. The composite sampler was installed after the second notice of violation was issued. The facility owner had been told many years ago that the plant was in need of replacement but took no action to upgrade the facility or to connect to an alternate treatment source such as the City of Dubuque. The wastewater treatment facility experienced a serious leak in 1993. The facility owner chose to try to patch the problem rather than make more adequate repairs or complete an upgrade to the system. The amount of \$1,000.00 is assessed for aggravating factors.

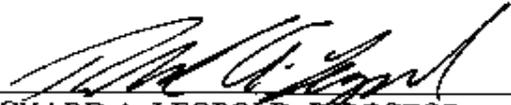
VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175(1), and 561 IAC 7.4(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.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
TABLE MOUND PARK CORP., TABLE MOUND #1 MOBILE HOME PARK**

VIII. NONCOMPLIANCE

Compliance with Sections V.1 through V.6 constitutes full satisfaction of all requirements pertaining to the specific violations described in this order. Failure to comply with this administrative order may result in referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 2 day of
Nov., 2009.

Table Mound Park Corp.- Wastewater Facility No. 6-31-00-6-00 (Copy to Central Office Wastewater Records File) , Susan Miller- Field Office No. 1, Diana L. Hansen- Legal Services, US EPA Region VII, I.B.2.a, I.B.2.d, I.B.2.e