

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

**Robert and Mary Ihrig
Scott County, Iowa**

**ADMINISTRATIVE
CONSENT ORDER
NO. 2025-WW-11**

TO: Robert and Mary Ihrig
126 E Grove Rd
Long Grove, IA 52756

I. SUMMARY

This administrative consent order (order) is entered into between Robert and Mary Ihrig and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order due to an illegal discharge to a water of the state. Mr. and Mrs. Ihrig agree to pay an administrative penalty of \$1,500.00. In the interest of avoiding litigation, the parties have agreed to resolve the violations alleged herein through entry of this order.

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

Relating to technical requirements:

Jeremiah Kaufmann
IDNR Field Office No. 6
1023 W. Madison St.,
Washington, IA 52353
Phone: 319-653-2135

Relating to legal requirements:

Carrie Schoenebaum, Attorney
Iowa Department of Natural Resources
6200 Park Ave. Ste 200
Des Moines, Iowa 50321
Phone: 515-444-8165

Payment of penalty to:

Iowa Department of Natural Resources
6200 Park Ave. Ste 200
Des Moines, Iowa 50321

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

Mr. and Mrs. Ihrig

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 I 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.

III. STATEMENT OF FACTS

Mr. and Mrs. Ihrig neither admit nor deny the following statement of facts and enter into this agreement solely for the purposes of settlement:

1. On October 28, 2024, the Department received a complaint alleging the discharge of sediment to a waterway at the location of 16690 267th St, Long Grove, Iowa. The deed holders to this property Mr. and Mrs. Ihrig.
2. On November 6, 2024, the Department went to the site to investigate. Once on site the Department observed and documented the following:
 - a. The site was approximately 12 acres and construction of a home and pond were on going. This construction extends onto a neighboring parcel owned by Mr. Ihrig's business, Ihrig Wroks LLC, and is approximately 34 acres;
 - b. Sediment laden stormwater was observed flowing eastward off the construction site into an unnamed tributary, which discharges to McDonald Creek and ultimately the Mississippi River; and;
 - c. Yellowish sediment was observed discharging from the east side of the property into an unnamed tributary that discharges to McDonald Creek.

Upon completion of the investigation the Department met with Mr. Ihrig and discussed its observations. The Department recommended that Mr. Ihrig cease the discharge of sediment laden stormwater and obtain a Storm Water National Pollutant Discharge Elimination (NPDES) permit.

3. On November 12, 2024, the Department sent a Notice of Violation (NOV) for the above discussed violations. Included with this NOV was a summary of the law and recommended corrective actions.
4. On December 3, 2024, Mr. Ihrig was issued a notice of coverage under NPDES General Permit No. 2 for storm water discharge associated with the above discussed construction site.

IV. CONCLUSIONS OF LAW

Mr. and Mrs. Ihrig neither admit nor deny the following conclusions of law and enter into this agreement solely for the purposes of settlement:

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

Mr. and Mrs. Ihrig

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into a water of the state, except for adequately treated pollutants discharged pursuant to a permit issued by the Department. The above stated facts demonstrate non-compliance with this provision of law.

2. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 through 64.

3. Iowa Code sections 455B.103(A) and 455B.197 authorize the issuance of permits for storm water discharges. The Commission has adopted federal regulations pertaining to the issuance of NPDES permits for storm water discharge at 567 IAC 60.2 and in 567 IAC chapter 64. Pursuant to rule 60.2, "Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant." Number 10 under this definition includes "construction activity," which includes clearing, grading, and excavation activities. Excluded are operations that result in the disturbance of less than one acre of total land area that are not part of a larger common plan of development or sale.

4. 567 IAC 61.3(2)"c" and "e" state:

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectional color, odor or other aesthetically objectional conditions. [and]

e. Such waters shall be free from substances, attributable to wastewater discharges or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

The above stated facts demonstrate noncompliance with these provisions of law.

5. Subrule 567 IAC 64.3(1) provides that no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the Director. The above stated facts demonstrate noncompliance with this provision.

V. ORDER

THEREFORE, the Department orders, and Mr. and Mrs. Ihrig consent to do the following:

1. Cease all illegal discharges to waters of the state; and
2. Pay an administrative penalty of \$1,500.00 within 30 days of the date the Director signs this order.

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

Mr. and Mrs. Ihrig
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 which 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 administrative order with an administrative penalty. The administrative penalty is determined as follows:
 - a. **Economic Benefit.** 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.30(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." An economic benefit was obtained through avoiding the cost installing and maintaining adequate storm water erosion and sediment control measures throughout the construction site. This avoided several thousand dollars in materials and labor expenses. Thus, it is reasonable to estimate that \$1,500.00 was saved. Therefore, \$500.00 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. Failure to properly manage storm water runoff from construction sites degrades surface water quality and deposits excess sediment in water channels. Sedimentation of Iowa's waterways is a serious problem, and regulatory agencies have recognized that uncontrolled runoff is a significant contributor to these problems. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Therefore, the amount of \$500.00 is assessed for this factor.
 - c. **Culpability.** Mr. and Mrs. Ihrig are engaged construction. This is a highly regulated activity and therefore they have an obligation to be aware of the applicable regulations and comply with those regulations. Therefore, the amount of \$500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.4(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 the Mr. and Mrs. Ihrig. By signature to this order, all rights to appeal this order are waived by Mr. and Mrs. Ihrig.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER Mr. and
Mrs. Ihrig

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

Mary Ihrig Dated this 20th day of Mary
Ihrig Mary Ihrig, 2025

Robert Ihrig Dated this 20th day of
Robert Ihrig Robert Ihrig, 2025

Kayla Lyon, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Mr. and Mrs. Ihrig (Copy of Order to Central Office Records File), FO 6, Carrie Schoenebaum- Legal Services
Bureau, U.S. E.P.A, I.C.7.b.

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