IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: COUNTRY AIRE MOBILE HOME PARK NPDES Permit #0800600	ADMINISTRATIVE CONSENT ORDER NO. 2016-WW-06

TO: Erickson Trucking, Inc.
971 222nd Drive
Ogden, IA 50212

I. SUMMARY

This administrative consent order (Order) is entered into between Erickson Trucking, Inc. (Erickson Trucking) and the Iowa Department of Natural Resources (DNR) for the purpose of establishing a schedule of requirements for the orderly closure of a wastewater treatment lagoon. Pursuant to this Order, Erickson Trucking shall comply with the schedule contained herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Janet Gastineau
Field Office 5
Iowa Department of Natural Resources
7900 Hickman Road
Windsor Heights, IA 50324
Ph. 515-725-0334

Relating to legal requirements:
John Crotty
Legal Services Bureau
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319-0034
Ph. 515-725-8249

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 adopted 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

1. Country Aire Mobile Home Park (Country Aire), located at 965 222nd Street in Ogden, Iowa, operates a two cell lagoon wastewater treatment system under National

Pollutant Discharge Elimination System (NPDES) permit #0800600. The permit was issued on June 22, 2009 and amended on March 12, 2014.

2. On April 9, 2015, Environmental Specialist Senior Janet Gastineau, of DNR Field Office 5, conducted an inspection of Country Aire's lagoon system. During this inspection, Ms. Gastineau noted the following deficiencies:

-Flooded influent structure;
-Monthly operation reports (MORs) not submitted regularly or on time;
-Inadequate freeboard;
-Center dike saturated;
-Cell depth not reported on MORs;
-Inadequate sampling;
-Inadequate control of vegetation; and
-Drip from former outfall eroding dike.

Because of these observed deficiencies, Ms. Gastineau issued a Notice of Violation to Country Aire on May 22, 2015 for violations of 567 IAC 64.3(1) (operation contrary to any condition of an operation permit). Ms. Gastineau conducted another inspection of the lagoon system on June 30, 2015. During this inspection, Ms. Gastineau noted the following deficiencies:

-Flooded influent structure;
-Inadequate freeboard;
-Cell depth not reported on MORs;
-Inadequate sampling;
-Inadequate control of vegetation;
-Inadequate signage; and
-Uncapped sewer connections at vacant lots admitting clear water to lagoon.

Because of these observed deficiencies, Ms. Gastineau issued a second Notice of Violation to Country Aire on July 7, 2015 for violations of 567 IAC 64.3(1) (operation contrary to any condition of an operation permit).

3. On March 2, 2016, DNR was notified of the transfer of ownership of Country Aire. Ownership was transferred from Country Air Mobile Home Park, LLC to Erickson Trucking. According to 567 IAC 64.14(1), Erickson Trucking is subject to all terms and conditions of the NPDES permit.

4. Erickson Trucking has informed DNR that it intends to close Country Aire and cease operation of the lagoon system. Erickson Trucking intends to seek termination of NPDES permit #0800600.

IV. CONCLUSIONS OF LAW

DNR and Erickson Trucking agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Environmental Protection Commission (Commission).

2. Iowa Code section 455B.173(3) authorizes and requires the Commission to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC chapters 60 through 69. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit.

3. Failure to comply with the terms of an NPDES permit is a violation of Iowa Code section 455B.186 and 567 IAC 64.3(1).

V. ORDER

Therefore, DNR orders and Erickson Trucking agrees to do the following:

1. Erickson Trucking shall comply with all requirements of NPDES permit #0800600, including sampling, reporting, and record keeping requirements.

2. Until the NPDES permit is terminated, all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. Erickson Trucking shall retain a certified wastewater operator to operate the lagoon system.

3. Notification of planned changes to the lagoon system shall be submitted to DNR Field Office 5 30 days prior to any changes taking place.

4. By June 1, 2016, Erickson Trucking shall plug individual connections to the collection system, isolate the lagoon from the collection system, discharge all wastewater from within the lagoon according to the conditions of the NPDES permit, and permanently plug or otherwise eliminate the lagoon's outfall.

5. By September 1, 2016, or such time as is necessary for sludge within the lagoon to stabilize by weather drying, Erickson Trucking shall fill the lagoon with clean earthen fill material or inert fill materials such as clean concrete or rubble with rebar cut flush. Construction or demolition material shall not be used as fill material. The lagoon shall be filled so as to restore its natural grade and shall be seeded for erosion control. If one or more acres will be disturbed, Erickson Trucking shall obtain a storm water discharge permit. Odor or vector controls shall be applied, if needed, while the sludge is drying. Scrap metals from the closure shall be taken to a salvage yard.

6. By July 1, 2016, Erickson Trucking shall request in writing termination of the NPDES permit and shall include information supporting the request. Erickson Trucking shall provide DNR any information necessary to decide whether termination of the permit is justified.

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 at 567 IAC chapter 10. DNR has determined that a penalty is not appropriate at this time. Erickson Trucking has realized no economic benefit as a result of the prior violations and has agreed to cease operation of the lagoon system. DNR similarly finds no gravity or culpability basis for a penalty at this time.

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 of Erickson Trucking. By signing this Order, all rights to appeal this Order are waived.

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 CONSENT ORDER
ERICKSON TRUCKING, INC.

Chuck Gipp

CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 10th day of March, 2016

Erickson Trucking, Inc.

Dated this 11 day of March, 2016

NPDES #0800600; Field Office #5; John Crotty; WES; EPA; I.B.2.d