IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
City Nora Springs	
NPDES Permit #3423001 Floyd County, Iowa	NO. 2016-WW- 07

TO: Honorable Mayor
45 N Hawkeye
PO Box 336
Nora Springs, IA 50458-0336

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Nora Springs (City) and the Iowa Department of Natural Resources (Department) for violations related to the operation of its wastewater treatment facility (WWTF). This Order requires the payment of a penalty and establishes a schedule for necessary upgrades to the City's WWTF. The City neither admits nor denies the Statement of Facts or Conclusions of Law contained in this Order and enters into this Order for settlement purposes only.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Jeremy Klatt, Environmental Specialist

DNR Field Office #2
2300 15th St SW
P.O. Box 1443
Mason City, Iowa 50401
Phone: 641-424-4073

Relating to legal requirements:
Carrie Schoenebaum, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street

Des Moines, Iowa 50319
Phone: 515-725-8244

II. JURISDICTION

This Order is issued pursuant to the provisions of 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 (wastewater) and the rules adopted or permits issued pursuant to that part, 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. The City operates a WWTF located at Section 17, T96N, R18W, Floyd County, Iowa. This WWTF is operated pursuant to National Pollutant Discharge Elimination System (NPDES) permit No. 3423001, which was issued on October 1, 2010. This permit expired on April 3, 2015. A timely permit renewal was received by the Department and the permit was administratively extended.

2. The City's WWTF serves approximately 1400 people. The WWTF includes aerated grit removal, mechanical screening, primary clarifier, first stage trickling filter, intermediate clarifier, second stage trickling filter, final clarifier, gas chlorine disinfection, dechlorination with sulfur dioxide, storm flow retention basin and an aerated sludge holding tank.

Present Violations

3. Between October 2010, and February 2016, the City violated the following effluent limits contained in its NPDES permit:

Number of months permit limit violations were reported by the City of Nora Spring between October 2010 and February 2016

	30-day average or geomean Concentration	7-day average Concentration	Maximum Concentration	30-day average Mass	7-day average Maximum Mass	Maximum Mass
$CBOD_5$[1]	13	12	-	5	8	-
TSS[2]	7	5	-	2	3	-
NH_3-N[3]	10	-	16	9	-	13
E. coli[4]	2	-	-	-	-	-
TRC[5]	1	-	4	0	-	7
Total N[6]	-	-	-	6	-	8

[1] Carbonaceous Biochemical Oxygen Demand five day
[2] Total Suspended Solids
[3] Ammonia
[4] Escherichia Coli
[5] Total Residual Chlorine
[6] Total Nitrogen
- No limit applicable

4. On July 31, 2013, the Department sent the City a Notice of Violation (NOV) for effluent violations that occurred during the period of January 2013 through June 2013. These violations were self-reported by the City via its Monthly Operation Reports (MORs). The City's NPDES permit requires submission of these reports to the Department on the 15th day of each month.

5. On February 19, 2014, the Department conducted a WWTF inspection. During this inspection the Department documented numerous NPDES permit effluent violations.

6. On March 27, 2014, the Department sent the City a NOV for the violations documented during the above discussed inspection. Included with this NOV was a copy of the relevant inspection report. This NOV informed the City that continued noncompliance may result in an enforcement action which would include the assessment of a penalty.

7. On April 8, 2014, the City responded to the above discussed inspection report. The City acknowledged that its WWTF was out of date and that it was not designed to meet the requirements of its current NPDES permit. The City stated that it was exploring various funding options so that it could move forward with WWTF improvements.

8. On August 28, 2014, the Department sent the City a NOV for effluent violations that occurred during the period of January 2014, though June 2014.

9. On April 29, 2015, the Department conducted a WWTF inspection. During this inspection numerous effluent violations were documented. This inspection report also noted that in 2012, the City informed the Department that the facility could meet the ammonia limits contained in its NPDES permit without additional treatment. However, since that time there have been numerous ammonia effluent violations.

10. On May 18, 2015, the Department sent the City a NOV for the above discussed violations. A copy of the relevant inspection report was sent with this NOV. The NOV stated that the matter was being referred to the Department's Legal Services Bureau for enforcement.

11. On September 15, 2015, the City reported in its MORs that it violated the 30 day average concentration for the effluent NH-3 during the month of August. The City stated that this violation occurred because its final clarifier was down and the gear and drive needed to be replaced.

12. On December 14, 2015, the City reported in its MORs that it violated the daily maximum mass limit for the effluent NH3-N during the month of November.

13. On January 15, 2016, the City reported in its MORs that it violated the average mass limit and 7 day mass limit for the effluent TSS during the month of December.

14. On March 2, 2016, the City reported in its MORs that it violated the 30 day average concentration and 7 day concentration limit for the effluent $CBOD_5$ and maximum concentration limit for the effluent NH3-N during the month of February.

Past Violations

15. On November 10, 2010, the Department conducted a WWTF inspection. During this inspection, the Department observed a sewage fungus, which is indicative of inadequately treated wastewater, located below the WWTF's discharge pipe in the Shell Rock River.

16. On November 23, 2010, the Department sent the City a NOV for violations documented during the WWTF inspection. Included with this NOV was a copy of the relevant inspection report.

17. On August 16, 2012, a NOV was sent to the City for effluent violations that occurred during the period of January 2012 through June 2012. These violations were self-reported by the City via MORs.

18. On August 28, 2012, the City responded to the above discussed NOV. The City explained problems it had with its WWTF and described repairs which were made.

19. On November 16, 2012, the City submitted results of its ammonia monitoring study as required by its NPDES permit. This study demonstrated that the City could meet the ammonia limits contained in its NPDEs permit.

IV. CONCLUSIONS OF LAW

The Department and the City agree that the following conclusions of law are applicable in this case:

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.

2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission (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 60 through 69. 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 as established in chapters 61 and 62 of the rules. The above stated facts demonstrate noncompliance with these provisions.

V. ORDER

By the execution of this Order, the Department orders and the City agrees to do the following:

1. Submit a facility plan for WWTF improvements to the Department for its approval by March 1, 2017;

2. Submit final plans and specifications for WWTF improvements to the Department for its approval by June 1, 2018; and

3. Complete construction of the WWTF improvements by October 1, 2020; and

4. Pay a penalty of $5,500.00 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 the assessment of penalties.

2. **Economic Benefit:** 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(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 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." The City saved a considerable amount of money through delaying the cost of upgrading its WWTF. For that reason, $2,000.00 is assessed for this factor.

3. **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 that type of violation. As indicated above, substantial civil penalties are authorized by statute. The City violated the terms of its NPDES permit subsequent to notification from the Department. Effluent limits are the core of an NPDES permit and the backbone of the Iowa's wastewater regulatory program. The limits contained in the permit have been established to ensure that

environmental degradation does not occur. The City violated its NPDES permit continuously for years. For that reason, $2,500.00 is assessed for this factor.

4. **Culpability:** The City self-reported numerous NPDES permit limit violations during the last five years and the Department has notified the City on multiple occasions of the violations. Despite the City's knowledge of the violations they persisted. Therefore, $1,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of the City. For that reason, it waives its right to appeal this Order or any part thereof.

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.

CHUCK GIPP, DIRECTOR
Iowa Department of Natural Resources

Dated this 24th day of April, 2016

City of Nora Springs

Dated this 12th day of April, 2016

NPDES **#8474001**; Field Office #2; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.C.1