

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

IN THE MATTER OF: CITY OF NEW LIBERTY NPDES #8264001 Public Water Supply ID #8264059	ADMINISTRATIVE CONSENT ORDER 2016-WW- 13 2016-WS- 07
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TO: City of New Liberty
Attn: Mayor Raymond Pratt
P.O. Box 39
New Liberty, IA 52765

I. SUMMARY

The Iowa Department of Natural Resources (“DNR”) and the City of New Liberty (“New Liberty”) hereby agree to the issuance of this administrative consent order (“Order”) to resolve violations of wastewater and drinking water regulations. Pursuant to this Order, New Liberty shall pay an administrative penalty of \$6,800.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Jim Kacer
Field Office 6
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, IA 52353
Ph. 319-653-2135

Relating to legal requirements:

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

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034

II. JURISDICTION

This Order is issued pursuant to Iowa Code 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of

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Iowa Code Chapter 455B, Division III, Part 1 and the rules adopted or permits issued pursuant thereto; and Iowa Code 455B.109 and 567 Iowa Administrative Code (“IAC”) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

Wastewater violations

1. On November 1, 2014, Mike Shotwell resigned as affidavit operator of New Liberty’s wastewater treatment plant.
2. On March 24, 2015, DNR approved Leon Moeller as affidavit operator of New Liberty’s wastewater treatment plant. Mr. Moeller was never actually hired by New Liberty, however, and never operated the wastewater treatment plant.
3. New Liberty submitted Monthly Operation Reports electronically to DNR from January 2015 through January 2016 which identified Mr. Moeller as the certified wastewater treatment operator. Mr. Moeller’s name also appeared on the signed certification section of these reports. Paper copies of the reports maintained at the facility were unsigned.
4. New Liberty operated its wastewater treatment plant without a certified operator from November 1, 2014 through March 10, 2016.

Water Supply violations

5. New Liberty operated its water distribution system without a certified operator from approximately July of 2013 through March 10, 2016.

IV. CONCLUSIONS OF LAW

1. Iowa Code 455B.223 provides that it is unlawful for any municipal corporation to operate a wastewater treatment plant or water distribution system unless the competency of the operator has been certified by the Director of the DNR. The facts above demonstrate a violation of this provision.
2. 567 IAC 81.16(2) provides that the owner of a wastewater treatment plant or water distribution system shall notify DNR at least 30 days before the termination of an operator-by-affidavit agreement. The facts above demonstrate a violation of this provision.
3. Standard Condition 12 of New Liberty’s National Pollutant Discharge Elimination System permit requires that Monthly Operation Reports submitted to DNR must be signed and certified. 567 IAC 64.3(8) provides that the individual who signs the reports for a municipality must be a principal executive officer or ranking elected official,

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or that individual's duly authorized representative. 567 IAC 63.11 provides that signed paper copies of reports submitted to DNR must be maintained on-site at the facility. The facts above demonstrate violations of these provisions.

V. ORDER

Therefore, DNR orders and New Liberty agrees to the following:

1. New Liberty shall maintain at all times a certified operator for operation of the wastewater treatment plant and water distribution system.
2. New Liberty shall notify DNR at least 30 days before the termination of an operator-by-affidavit agreement, or as soon as New Liberty knows of such a termination.
3. New Liberty shall pay an administrative penalty of \$6,800 within 30 days of the date the Director of the DNR signs this Order.

VI. PENALTY

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter.
2. Iowa Code 455B.109 authorizes the Environmental Protection Commission ("Commission") to establish by rule a schedule of civil penalties up to \$10,000 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 is assessing a penalty of \$6,800 for the violations described above. The following factors were considered in the assessment of this penalty:
 - a. Economic benefit. New Liberty avoided the cost of employing a certified wastewater treatment plant operator for 16 months and avoided the cost of employing a certified water distribution system operator for 32 months. New Liberty would have paid at least \$100 per month per facility for an affidavit operator. \$4,800 is therefore assessed for this factor.
 - b. Gravity of the violation. Requirements to maintain certified operators protect public health and the environment. DNR staff documented multiple operational violations that occurred while New Liberty was operating its facilities without a certified operator. \$1,000 is assessed for this factor.
 - c. Culpability. For over a year, New Liberty inaccurately provided Leon Moeller's name, certificate number, and certification statement on Monthly Operating Reports submitted to DNR. Accurate self-monitoring and reporting is a cornerstone of Iowa's environmental regulatory programs. Inaccurate submission of required records threatens the integrity of these programs. \$1,000 is assessed for this factor.

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VII. WAIVER OF APPEAL RIGHTS

Iowa Code 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 New Liberty. By signing this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

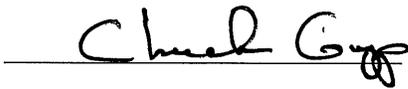
Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General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



City of New Liberty

Dated this 13 day of

June, 2016



Chuck Gipp
Director
Iowa Department of Natural Resources

Dated this 28th day of

June, 2016