IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: CITY OF RODMAN, IOWA	ADMINISTRATIVE CONSENT ORDER NO. 2016-WW-16

TO: Honorable Jean Hyslop, Mayor
City of Rodman
302 3rd Street
Rodman, Iowa 50597

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Rodman (Rodman) and the Iowa Department of Natural Resources (DNR) for the purpose of establishing a binding schedule to establish a strategy to cease unlawful sewage discharges to waters of the state of Iowa. Pursuant to this Order, Rodman shall comply with the schedule contained herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Tom Roos, Env. Specialist Senior
Iowa Department of Natural Resources
Field Office #3
1900 North Grand Avenue
Spencer, Iowa 51301
(712) 262-4177

Relating to this Order:
David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Bureau
502 E. 9th Street
Des Moines, Iowa 50319-0034
515-725-8239

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.175(1) which authorizes the Director of the DNR 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 promulgated or permits issued pursuant thereto.

III. STATEMENT OF FACTS

DNR and Rodman agree on the following statement of relevant facts:

1. On August 12, 1980, the Iowa Department of Environmental Quality provided a letter to Rodman which outlined the discharge restrictions of septic systems in the community.

2. On July 8, 2008, an anonymous compliant was received by DNR Field Office (FO) 3 alleging prohibited discharges from septic systems within Rodman.

3. On July 10, 2008, DNR FO3 forwarded the complaint to Joe Neary, Palo Alto County Sanitarian, for follow-up. Mr. Neary met with the Mayor and citizens of Rodman to discuss the issues. It was decided that planning for the installation of new individual septic systems would take place during the winter of 2008 with installation to follow during the summers of 2009 and 2010.

4. On May 27, 2010, DNR FO3 conducted an investigation to determine the locations of wastewater discharges from Rodman. Several locations were sampled and photographs taken to document the discharges.

5. On June 10, 2010, the DNR issued a Notice of Violation (NOV) to Rodman for violating Iowa Code § 455B.186 (wastewater discharge without a permit) and 567 IAC 69.1(3)"b" (unlawful discharge from an on-site wastewater treatment system).

6. Between August 2012 and June 2014, Rodman worked with Iowa Lakes Regional Water and DGR Engineering to evaluate the needs of the City. In June of 2014, Rodman indicated it could no longer afford the services of those organizations.

7. On December 1, 2014, Rodman submitted a Disadvantaged Unsewered Community Analysis (DUCA) to the DNR.

8. On July 14, 2015, DNR designated Rodman as a Disadvantaged Unsewered Community.

IV. CONCLUSIONS OF LAW

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

1. Iowa Code § 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 § 455B.173(3) authorizes and requires the Commission to promulgate rules relating to the operation of disposal systems, the discharge of

pollutants into waters of the state, and the issuance of permits to disposal systems. The Commission has done so at 567 IAC chapters 60 through 69. Subrule 64.3(1) prohibits the operation of a wastewater disposal system without or contrary to the terms of a permit. Subrule 62.1(1) prohibits the discharge of any pollutant from a point source to a navigable water unless authorized by an National Pollutant Discharge Elimination System (NPDES) permit.

3. Iowa Code § 455B.199B authorizes the DNR to provide for a variance of regulations when it determines those regulations will affect a disadvantaged community.

4. If compliance with applicable federal regulations or requirements in 567 IAC chapters 60 through 64 would result in substantial and widespread economic and social impact (SWESI) to the ratepayers of an unsewered community, the Director is authorized by 567 IAC 64.7(6) to designate the community as a Disadvantaged Unsewered Community and to negotiate a compliance agreement which will result in an improvement of water quality and reasonable progress toward complying with the applicable requirements, but which will not result in SWESI.

5. The compliance agreement must require the unsewered community to submit an alternatives report and an alternatives implementation compliance plan (AICP). The required contents of an alternatives report and an AICP are enumerated at 567 IAC 64.7(6)"g"(1) and (2).

V. ORDER

DNR and Rodman hereby agree and Rodman is hereby ordered to establish a strategy to cease unlawful sewage discharges to waters of the state, according to the following schedule and requirements:

1. By July 14, 2017, Rodman shall submit an alternatives report to DNR. The alternatives report shall detail the alternative pollution control measures that Rodman will investigate. Alternative pollution control measures may include, but are not limited to, upgrades of existing infrastructure, construction of a new facility, relocation of the discharge points, regionalization, or outfall consolidation. The alternatives report shall also contain an examination of all other appropriate measures that may achieve compliance with water quality standards without creating SWESI. Other appropriate measures may include, but are not limited to, mixing zone studies, consideration of seasonal limitations or site-specific data, alteration of current facility operations, intermittent discharges, source reduction, effluent recycling or reuse, or renegotiation of treatment agreements. The alternatives report shall also include a plan for pursuing funding options, including grants and low interest loans. The alternatives report shall describe which measures will be evaluated for feasibility and affordability after the report is

submitted.

2. By January 14, 2020, Rodman shall submit an AICP to DNR. The AICP shall include the results of the investigation detailed in the alternatives report, a description of any feasible and affordable alternatives that will be implemented, a schedule of the time necessary to implement the alternatives, and an updated DUCA.

VI. PENALTY

1. Iowa Code § 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Additionally, Iowa Code § 455B.191 provides for civil penalties of up to $5,000.00 per day for the violations involved in this matter.

3. DNR has determined that a penalty is not appropriate at this time. Rodman has been designated as a Disadvantaged Unsewered Community. Since being notified of the violations, Rodman has cooperated with DNR in an expeditious manner. DNR finds no gravity or culpability basis for a penalty at this time.

4. DNR is authorized to issue an administrative order with penalties or to seek referral to the Iowa Attorney General for civil judicial enforcement if Rodman fails to comply with the terms of this Order.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly by and with the consent of Rodman. By signing this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE WITH 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.

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CITY OF RODMAN

Chuck Gipp
CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 23rd day of September, 2016

Jean T. Hyslop
JEAN HYSLOP, MAYOR
CITY OF RODMAN

Dated this 4 day of November, 2016

CC: Field Office #3; David Scott; EPA; I.C.3