IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

I & R Properties, Inc., Timberline Estates, LTD., L.C., Timberline Estate Reorganization, LTD. CO., d/b/a Echo Valley Mobile Home Park No. 2 and Timberline Estates, Inc.

Des Moines County, Iowa

NPDES No. 29-00-6-05

TO: Timberline Estates, LTD., L.C.,
Registered Agent
205 Washington St STE 300
Burlington, IA, 52601

Daniel Inks, I & R Properties, Inc.
President
3660 Center Rd Unit 301
Brunswick OH, 44212

I. SUMMARY

This administrative consent order (order) is entered into between I & R Properties, Inc., Timberline Estates, LTD., L.C., Timberline Estate Reorganization, LTD. CO., d/b/a Echo Valley Mobile Home Park No. 2 and Timberline Estates, Inc. (collectively referred to as I & R Properties) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order due to ongoing violations of its wastewater National Pollutant Discharge Elimination System (NPDES) permit. I & R Properties agree to comply with its NPDES permit, cease all illegal discharges and pay an administrative penalty of $7,000.00. In the interest of avoiding litigation, the parties have agreed to resolve the violations alleged herein through entry of this order.
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
I & R Properties, Inc. d/b/a Timberline Estates LTD LC, Timberline Estate Reorganization LTD
CO, and Echo Valley Mobile Home Park No. 2

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

Relating to technical requirements:
Brian Lee, Environmental Specialist
IDNR Field Office No. 6
1023 W. Madison
Washington, IA 52353
Phone: 319-653-2135

Relating to legal requirements:
Carrie Schoenebaum, Attorney
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Phone: 515-725-8244

Payment of penalty to:
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034

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 1C, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

I & R Properties neither admits nor denies the following statement of facts and enters into this agreement solely for the purposes of settlement:

1. I & R Properties is listed as the contact for NPDES permit No. 29-00-605 which was issued to Timberline Estates, Inc. Timberline Estates, Inc. is not a legal entity in the state of Iowa however; it is listed as the registered agent for I & R Properties by the Iowa Secretary of State. I & R Properties operates a wastewater treatment facility at the location known as Echo Valley Mobile Home Park No. 2 which is located at 14876 Washington Rd, Lot 117 West Burlington, Iowa.

2. On May 1, 2013, I & R Properties was issued the above reference permit. This permit contained a compliance schedule which included a timeline to upgrade its wastewater treatment facility so that final effluent limits for Escherichia coli (E. coli) and Ammonia Nitrogen could be met. These upgrades were not completed and on September 1, 2017 the effluent limits became final. On June 1, 2018, this permit was reissued. This permit established effluent limits for multiple pollutants which include E. coli, Ammonia Nitrogen and carbonaceous biochemical oxygen demand five day (CBDO5). Pursuant to the terms of this permit I & R Properties
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

I & R Properties, Inc. d/b/a Timberline Estates LTD LC, Timberline Estate Reorganization LTD CO, and Echo Valley Mobile Home Park No. 2 submits Monthly discharge monitoring reports (DMRs) to the Department. A review of those DMRs from June 2016 through June 2019 establishes the following effluent limit exceedances:

<table>
<thead>
<tr>
<th>PARAMETER AND DATE</th>
<th>REPORTED mg/l 30-DAY AVG</th>
<th>REPORTED lb/day 7-DAY OR MAX</th>
<th>REPORTED mg/l 30-DAY AVG</th>
<th>REPORTED lb/day 7-DAY OR MAX</th>
<th>PERMIT LIMITS mg/l 30-DAY OR MAX</th>
<th>PERMIT LIMITS lb/day 7-DAY OR MAX</th>
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<tbody>
<tr>
<td>Ammonia Nitrogen 10/17</td>
<td>4.9</td>
<td>4.9</td>
<td>2.7</td>
<td>2.7</td>
<td></td>
<td></td>
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<tr>
<td>Ammonia Nitrogen 1/18</td>
<td>5.6</td>
<td>5.2</td>
<td></td>
<td></td>
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<tr>
<td>Ammonia Nitrogen 6/18</td>
<td>2.1</td>
<td>1.3</td>
<td></td>
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<tr>
<td>Ammonia Nitrogen 7/18</td>
<td>3.0</td>
<td>1.1</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ammonia Nitrogen 8/18</td>
<td>3.2</td>
<td>3.2</td>
<td>0.13*</td>
<td>1.0</td>
<td>2.7</td>
<td>0.1</td>
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<tr>
<td>Ammonia Nitrogen 9/18</td>
<td>3.8</td>
<td>3.8</td>
<td>1.5</td>
<td>2.7</td>
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<tr>
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<tr>
<td>Ammonia Nitrogen 11/18</td>
<td>4.7</td>
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<td>2.7</td>
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</tr>
<tr>
<td>Ammonia Nitrogen 12/18</td>
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<td>3.9</td>
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<tr>
<td>Ammonia Nitrogen 2/19</td>
<td>7.4</td>
<td>5.8</td>
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<tr>
<td>CBOD5 3/17</td>
<td>40</td>
<td>25</td>
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<td></td>
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<tr>
<td>E. coli 10/18 (#)</td>
<td>5465</td>
<td>630</td>
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<tr>
<td>E. coli 4/19 (#)</td>
<td>993.7</td>
<td>630</td>
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</tbody>
</table>

3. On July 8, 2016, August 24, 2017 and April 2, 2019 a Notice of Violation was sent to I & R Properties for the above discussed violations. In all of these NOVs the violations were summarized, corrective action was recommended and a copy of the relevant law was provided. To date the facility is still non-compliant with the effluent limits contained in its NPDES permit.
IV. CONCLUSIONS OF LAW

I & R Properties neither admits nor denies the following conclusions of law and enters into this agreement solely for the purposes of settlement:

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. NPDES Permit No. 29-00-6-05 establishes effluent limitations for CBOD5, Ammonia Nitrogen and E-Coli. These limits have been exceeded. Therefore, the above stated facts demonstrate non-compliance with this provision of law.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60-64. Department 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.

3. NPDES Permit No. 29-00-6-05 standard condition number 6 requires that all reasonable steps should be taken to minimize or prevent any discharge in violation of this permit. The above stated facts demonstrate non-compliance with this provision of law.

4. NPDES Permit No. 29-00-6-05 standard condition number 9 requires all facilities shall be operated as efficiently as possible and maintained in good working order. The above stated facts demonstrate non-compliance with this provision of law.

V. ORDER

THEREFORE, the Department orders, and I & R Properties consents to do, the following:

1. Pay an administrative penalty of $7,000.00 within 30 days of the date the Director signs this order;
2. Comply with NPDES permit No. 29-00-6-05; and
3. Cease all illegal discharges to waters of the State.

VI. PENALTY
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
I & R Properties, Inc d/b/a Timberline Estates LTD LC, Timberline Estate Reorganization LTD CO, and Echo Valley Mobile Home Park No. 2
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 10.2(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.” I & R Properties saved time and money by failing to upgrade its wastewater treatment facility pursuant to the compliance schedule in its permit and by failure to properly operate its wastewater treatment facility so that effluent limits were met. It is reasonable to estimate that at least $3,000.00 was saved. Thus, $3,000.00 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 meet effluent limits established in an NPDES permit thwarts the integrity of the program. NPDES permits are the backbone of the water quality program and these violations are self-reported by the permittee. Effluent limits are established to protect water quality. Exceedances of those limits degrade 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 $3,000.00 is assessed for this factor.

   c. **Culpability.** I & R Properties owns and operates a mobile home park. This is a highly regulated activity thus, it has a duty to be aware of the laws which apply to its facility and has a duty comply with those laws. The violations which are the subject of this order have been ongoing since 2017 and have been self-reported. Further, the Department has notified I & R Properties on numerous times of the violations and the necessary corrective action. Nevertheless, the violations persist. Therefore, the amount of $1,000.00 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
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
I & R Properties, Inc. d/b/a Timberline Estates LTD I.C, Timberline Estate Reorganization LTD
CO, and Echo Valley Mobile Home Park No. 2
knowingly by and with the consent I & F Properties. By signature to this order, all rights to
appeal this order are waived by I & F Properties.

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.

[Signature]
President
On behalf of I & R Properties, Inc.

Dated this 1st day of
November, 2019

[Signature]
Kayla Lyon, Director
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 22nd day of
November, 2019