

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

<b>IN THE MATTER OF:</b>  <b>Gelita USA Inc.</b>  <b>NPDES Permit #9700101</b> <b>Woodbury County, Iowa</b>	<b>ADMINISTRATIVE CONSENT ORDER</b>  <b>NO. 2021-WW- 14</b>
--	---

TO: Robert Mayberry, President  
Gelita USA Inc.  
2445 Port Neal Rd  
Sergeant Bluff, IA  
51054

Lewis Gaiani  
Gelita USA Inc.  
2445 Port Neal Rd  
Sergeant Bluff, IA  
51054

Corporate Services, Registered Agent  
505 5<sup>th</sup> Ave Suite 729  
Des Moines, IA  
50309

**I. SUMMARY**

This administrative consent order (Order) is entered into between Gelita USA Inc. (Gelita) and the Iowa Department of Natural Resources (Department) for the purpose of establishing a schedule for necessary upgrades to the wastewater treatment facility (WWTF) and to eliminate the discharge of wastewater in violation of its National Pollution Discharge Elimination System (NPDES) permit.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Tom Roos, Environmental Specialist Sr.  
DNR Field Office #3  
1900 N. Grand  
Gateway North, Suite E17  
Spencer, IA 51301-2200  
Phone: 712-262-4177

**Relating to legal requirements:**

Carrie Schoenebaum, Attorney for the DNR  
Iowa Department of Natural Resources  
502 E. 9<sup>th</sup> Street  
Des Moines, Iowa 50319  
Phone: 515-444-8165

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Gelita USA Inc.

**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**

Gelita neither admits nor denies the following statement of facts:

1. Gelita operates a WWTF located at Section 18, T87N, R47W in Woodbury County, Iowa. This WWTF is operated pursuant to NPDES permit No.9700101, which was issued on February 1, 2018, and amended on December 11, 2019, and again on March 1, 2021. Pursuant to this permit, Gelita discharges wastewater to the Missouri River. This NPDES permit contains effluent limits for numerous parameters, which include but are not limited to the following: Biochemical Oxygen Demand five day (BOD5) and ammonia nitrogen (NH-3), total suspended solids (TSS) and Iron (FE).

Notices of Violation:

2. On August 21, 2018, May 23, 2019, August 15, 2019, November 8, 2019, May 8, 2019, August 28, 2020, October 12, 2020 and January 29, 2021, a Notice of Violation (NOV) was sent to Gelita for the effluent violations listed in the chart below. These violations were self-reported by Gelita in their Monthly Operation Reports (MORs), which are required to be submitted to the Department by the NPDES permit. These NOV's contained a summary of the law, a copy of the inspection reports if applicable, and the recommended corrective actions.

IOWA DEPARTMENT OF NATURAL RESOURCES  
 ADMINISTRATIVE CONSENT ORDER  
 ISSUED TO: Gelita USA Inc.

SERGEANT BLUFF EPA #:IA0004413		AVERAGE -		DAILY MAXIMUM -		AVERAGE - MG/L		DAILY MAXIMUM -		DAILY MINIMUM -		Parameter Monthly Total
		Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
Outfall: 003												
2/2018	BOD5							409	451			1
	FE (IRON)							10.63	11.2			1
3/2018	BOD5	7938	9716.02448	13122	17304.4742	248	579.166667	409	947			4
	PH									6	3.9	1
7/2018	NH3-N			5158	5992.32336			159.6	163			2
9/2018	NH3-N			5826.2	7640.59926			180.5	203			2
10/2018	NH3-N			5826.2	6365.12136							1
11/2018	NH3-N			4786.7	5338.434			148.1	155			2
12/2018	BOD5	7938	8647.54845			248	261.25					2
1/2019	BOD5			13122	15198.2572	248	267.526316	409	461			3
2/2019	BOD5	7938	8549.30116	13122	18250.2135	248	468.625	409	905			4
3/2019	NH3-N							219.7	228			1
	BOD5	7938	11267.4322	13122	17520.305	248	640.235294	409	844			4
4/2019	BOD5	7938	10282.3757	13122	15607.7429	248	417.823529	409	525			4
5/2019	NH3-N			4805.1	5090.1939							1
	BOD5	7938	12885.6718	13122	16086.6757	248	371.894737	409	463			4
	FE (IRON)			389.5	518.686284			10.63	14.9			2
6/2019	NH3-N							148.6	175			1
7/2019	NH3-N							159.6	201			1
8/2019	NH3-N			4271.8	6151.8759			132	192			2
9/2019	NH3-N			5826.2	6356.4978			180.5	199			2
10/2019	NH3-N			5826.2	6953.49168							1
11/2019	NH3-N			4786.7	5726.7861			148.1	161			2
12/2019	NH3-N			5865.5	7082.5365			181.5	201			2
	BOD5	7938	10109.1156	13122	13395.9582	248	314.764706					3
1/2020	BOD5	7938	12937.3319	13122	15097.5684	248	389.736842	409	467			4
2/2020	BOD5	7938	9922.47799	13122	14653.4384	248	389	409	501			4
3/2020	BOD5	7938	10152.5003	13122	14040.9571	248	406.882353	409	556			4
4/2020	NH3-N							149.9	151			1
	BOD5			13122	13676.7544	248	388.511111	409	559			3
5/2020	NH3-N							148.6	149			1
7/2020	NH3-N	5158	5492.23238	5158	7118.39016			159.6	189			3
	TSS			13618	16953.2184							1
8/2020	NH3-N			4271.8	6001.047			132	135			2
	FE (IRON)	389.5	431.18634	389.5	431.18634							2
9/2020	NH3-N			5826.2	7055.00616							1
10/2020	NH3-N	5826.2	6355.17359	5826.2	8156.78688							2
	TSS	7265	8179.65794									1
11/2020	NH3-N	4786.7	6307.79012	4786.7	6980.37984							2
	FE (IRON)	389.5	405.951168	389.5	405.951168							2
	TSS	7265	10835.9092									1
12/2020	NH3-N	5865.5	6233.75969	5865.5	7801.20264							2
	BOD5	7938	10603.7412	13122	14471.5847							2
2/2021	BOD5	7938	9989.73957			248	309.875					2
3/2021	BOD5	7938	8530.67974			248	282.277778					2
4/2021	BOD5	7938	7973.58627									1

Total: 96

Background:

3. On September 22, 2020, Gelita submitted a plan of action to address the above-referenced effluent violations to the Department.

4. On September 25, 2020, Gelita submitted a wastewater construction permit application to the Department for (Phase I) construction of filtration of solids, microsolids, and fats oils and grease removal at each of its subplants prior to centralized treatment of the wastewater in its aerated treatment lagoon system. The purpose is to improve the quality of the influent stream to the lagoon system, by reducing organic and inert loadings. These

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Gelita USA Inc.

reductions will allow the existing dissolved air flotation units to operate more efficiently and will also improve performance of their secondary treatment process. The Phase I improvements are expected to reduce overall effluent concentrations and improve wastewater quality.

On this date Gelita also submitted a plan of action to the Department that set forth a description of the proposed schedule to complete all necessary upgrades to the WWTF. This plan of action identified construction of secondary treatment options that are necessary as Phase II.

5. On October 9, 2020, Gelita submitted to the Department a copy of the daily protocols implemented to avoid effluent violations. Gelita stated that it intended to maintain these protocols until construction of the upgrades to the WWTF were complete.

6. On October 13, 2020, the Department sent Gelita a notice of referral to the Legal Service's bureau for enforcement.

7. On December 11, 2020, the Department conducted a WWTF inspection of Gelita. During this inspection the following actions were recommended: 1) Action should be taken to ensure that no effluent violations occur; 2) Additional rip-rap is necessary along the lagoon's inner berms to prevent wind and/or wave erosion; and 3) the nutrient reduction schedule in the permit should be followed.

Following this inspection, the effluent data submitted by Gelita was reviewed by the Department and the Department noted that the average influent BOD5 loading for the WWTF exceeds the design capacity of 15,600 pounds per day.

8. On January 10, 2021, Gelita submitted the WWTF Phase I Facility Plan to the Department.

9. On January 13, 2021, the WWTF inspection report from the December 11, 2020 inspection was sent to Gelita.

10. On January 14, 2021, the Department issued an approval letter for the WWTF Phase I Facility Plan.

11. On February 10, 2021 a construction permit was issued for WWTF Phase I.

12. On March 1, 2021, an amended NPDES permit was issued which added an annual average mass limit for total phosphorus and Nutrient Reduction Strategy Construction Schedule for total nitrogen at outfall 003.

#### **IV. CONCLUSIONS OF LAW**

Gelita neither admits nor denies the following conclusions of law:

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Gelita USA Inc.

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. The above stated facts demonstrate noncompliance with this provision of law.
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. 567 IAC 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. 567 IAC 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 Gelita agrees to do the following:

1. No later than October 29, 2021, complete construction of Phase I in accordance with the construction permit approved on February 10, 2021;
2. No later than May 28, 2022, submit a construction permit application to the Department for all remaining upgrades to the WWTF identified in the plan of action submitted to the Department on September 25, 2020;
3. Complete construction of the WWTF improvements by April 29, 2024; and
4. Pay a penalty in the amount of \$8,000.00 30 days after the Director of the Department signs 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.
2. Iowa Code section 455B.109 authorizes the 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. 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

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Gelita USA Inc.

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.” An economic benefit was obtained by Gelita by delaying the cost of upgrading its WWTF. For these reasons, it is reasonable to estimate that \$6,000.00 was saved. Therefore, \$6,000.00 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 comply with an NPDES permit degrades water quality. Degradation of Iowa’s waterways is a serious problem. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Further, noncompliance with and NPDES permit thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$1,000.00 is assessed for this factor.

c. Culpability. Gelita operates a WWTF. This is a highly regulated activity and therefore Gelita has an obligation to be aware of the applicable regulations and comply with those regulations. Gelita was issued an NPDES permit and on multiple occasions the Department communicated the need to comply with that permit. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of \$1,000.00 is assessed for this factor.

## **VII. WAIVER OF APPEAL RIGHTS**

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

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: Gelita USA Inc.

**III. 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.



\_\_\_\_\_  
On behalf of Gelita USA Inc.

Dated this 3rd day of  
June, 2021

\_\_\_\_\_  
Kayla Lyon, DIRECTOR  
Iowa Department of Natural Resources

Dated this \_\_\_\_\_ day of  
\_\_\_\_\_, 2021

NPDES #**9700101**; Field Office #3; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.C.