

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

IN THE MATTER OF: MD PRODUCTS AND SOLUTIONS INC. Cerro Gordo County	ADMINISTRATIVE CONSENT ORDER NO. 2021-WW- 16
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TO: MD Products and Solutions Inc.
1501 5th Street
Perry, Iowa 50220

I. SUMMARY

This administrative consent order (Order) is entered into between MD Products and Solutions Inc. (MD Products), and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations related to the improper discharge of wastewater. The Order requires MD Products to cease all illegal discharges and pay an administrative penalty of \$3,000.00. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Kayla Beck
Field Office 2
Iowa Department of Natural Resources
2300 15th St. SW
Mason City, Iowa 50401

Ph. 641-424-4073

Relating to legal requirements:

Noah Poppelreiter
Legal Services Bureau
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319-0034

Ph. 515-669-8752

Payment of penalty to:

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

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II. JURISDICTION

This Order is issued pursuant to Iowa Code section 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 adopted or permits issued pursuant thereto 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. MD Products manufactures header trailers and fenders for tractors and motor graders at the property located at 2421 15th St SW, Mason City, Iowa (Facility).
2. On January 14, 2015, the DNR issued a Notice of General Permit Coverage under DNR General Permit No. 1, which authorized MD Products to discharge storm water associated with industrial activity.
3. On February 16, 2021, the DNR received an anonymous complaint stating that MD Products was discharging pollutants to a storm sewer intake connected to the storm sewer system of the City of Mason City (City).
4. On February 17, 2021, DNR environmental specialist Kayla Beck visited the Facility to conduct a follow-up investigation.
5. Ms. Beck discussed the complaint with Mike Taylor, the production manager at the Facility. Mr. Taylor stated that MD Products had been discharging wastewater to an intake of the City's sanitary sewer system after discussing the discharge with Heather Brown, the City's pretreatment program coordinator. Mr. Taylor provided emails to Ms. Beck showing MD Products' discussions with the City on the matter. Mr. Taylor stated that the wastewater was a byproduct of degreasing and washing small agricultural trailers. The wastewater contained grease, soap, various metals, and other pollutants.
6. Mr. Taylor showed Ms. Beck the intake receiving the wastewater discharge. Due to snow and ice pack, Ms. Beck could not confirm whether the intake was a storm sewer or a sanitary sewer system intake at that time.
7. Ms. Beck called and emailed Ms. Brown to request the City's input as to whether the intake was for a storm sewer or a sanitary sewer system.
8. On February 18, 2021, Ms. Brown conducted a follow-up investigation at the Facility. Ms. Brown emailed Ms. Beck the results of the investigation, notably that the intake at the Facility receiving the wastewater discharge was a storm sewer intake for the City's storm sewer system that discharges to Willow Creek.

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9. The DNR sent a Notice of Violation to MD Products on February 3, 2021, noting the illegal discharge of wastewater.

10. On or about June 1, 2021, MD Products sold the Facility and no longer has control of the related property. For this reason, this Order does not include requirements to update the Facility's storm water pollution prevention plan (SWPPP).

IV. CONCLUSIONS OF LAW

1. Iowa Code 455B.186 and 567 IAC 62.1 prohibit 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. MD Products discharged untreated wastewater to the City's storm sewer and to Willow Creek. The facts of this case indicate a violation of these provisions.

2. All entities filing a Notice of Intent to be covered under General Permit No. 1, as adopted by 567 IAC 64.4(2)"a"(1) must submit to the DNR a SWPPP, including a site assessment that details the location of storm water control measures such as storm sewer intakes.

V. ORDER

Therefore, DNR orders and MD Products agrees to do the following:

1. MD Products shall cease all illegal discharges to the City's storm sewer system and to waters of the state.

2. Within 30 days of the date the Director signs this Order, MD Products shall pay an administrative penalty of \$3,000.00.

VI. PENALTY

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. The DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order. Because the DNR determines this matter is best handled administratively, the DNR must follow the limits of Iowa Code section 455B.109 and 567 IAC chapter 10. Pursuant to those limits, a penalty of \$3,000.00 is assessed. The administrative penalty is determined as follows:

Economic Benefit: 567 IAC chapter 10 requires that the DNR 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

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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.” MD Products avoided costs of properly disposing of the discharged wastewater. However, because the City approved the discharge of the wastewater to a sanitary sewer intake at no additional cost, the avoided cost is limited. In order to resolve this matter via consent order, \$100.00 is assessed for this factor.

Gravity of the Violation: MD Products discharged wastewater to the City’s storm sewer system for a period of over seven months. An extended discharge of this nature via a storm sewer intake causes programmatic harm, particularly given that MD Products applied for coverage under General Permit No. 1. The discharge of pollutants of any type has the potential to cause serious negative environmental impacts. An administrative penalty of \$2,800.00 is assessed for this factor.

Culpability: MD Products has a duty to operate the Facility in a manner that does not violate Iowa and federal wastewater law. It failed to do so when it discharged wastewater to the City’s storm sewer for an extended period of time. MD Products has applied for and the DNR has issued a notice of intent to discharge storm water associated with industrial activity covered under Iowa’s NPDES General Permit No. 1. As such, MD Products should be aware of the storm sewer intakes at the Facility and should be able to distinguish a storm sewer intake from a sanitary sewer intake. However, to settle this matter via consent order, an administrative penalty of \$100.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of MD Products. For that reason, MD Products waives their right to appeal this Order or any part thereof.

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VIII. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order, and constitutes a permanent remedy of the conditions which caused the violations. 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.

KAYLA LYON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

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MD PRODUCTS AND SOLUTIONS, INC.

Dated this 23rd day of
June, 2021

Field Office #2; EPA; I.C.1