

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: Amy Knapp dba Knapp Mobile Home Court No. 4 Public Water Supply Operation permit No. 3100602	ADMINISTRATIVE CONSENT ORDER NO. 2021-WS- 02 2022
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TO:
Amy Knapp dba Knapp Mobile Home Court No. 4
12486 Barony Dr,
Dubuque, IA 52001

I. SUMMARY

This administrative consent order (Order) is entered into between Amy Knapp dba Knapp Mobile Home Court No. 4 (Knapp Mobile Home) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this Order concerning the public water supply system previously serving Knapp Mobile Home.

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

Relating to technical requirements:

John Warren
Iowa Department of Natural Resources
Wallace State Office Bldg.
502 E. 9th Street Des Moines, IA 50319
Ph: 515/725-0283

Relating to legal requirements:

Noah Poppelreiter, Attorney at Law
Iowa Department of Natural Resources
Wallace State Office Bldg.
502 E. 9th Street
Des Moines, Iowa 50319
Ph: 515/444-8165

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
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 1, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10 (455B), which authorize the director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Knapp Mobile Home neither agrees nor disagrees with this statement of facts and enters into this Order for settlement purposes only.
2. Pursuant to Public Water Supply Operation permit No. 3100602 (permit), Knapp Mobile Home provided drinking water to its residents via a drinking water well located at latitude 42.555726, longitude -90.684636. Knapp Mobile Home serves 19 mobile homes. Water for this supply is derived from one shallow well, Well #2. This well was constructed in 1980 to a depth of 70 feet and is equipped with a pitless adapter and submersible pump capable of providing water at a rate of 25 GPM. Water from this well is hypochlorinated for disinfection purposes. An 87-gallon pressure tank provides pressure and storage for the distribution system. Well #1 was physically disconnected from the distribution system and is no longer considered an emergency water source. The permit required monthly testing for coliform bacteria and quarterly testing for Nitrate. Lead and copper, sodium, total trihalomethanes, and haloacetic acids are monitored triennially while combined radium, gross alpha, inorganic chemicals, synthetic organic chemical, and volatile organic chemicals are monitored at a frequency of once every six years or greater. Pursuant to this permit Monthly Operation Reports (MORs) were required to be submitted within 10 days after the end of each month.
3. On December 13, 2016, a sanitary survey was conducted at Knapp Mobile Home park. During this inspection it was determined that Well #1 was an abandoned well and must be plugged or capped in accordance with Iowa law.
4. On December 23, 2016, a copy of the sanitary survey was sent to Knapp Mobile Home. This survey outlined the corrective action that needed to be taken to properly abandon Well #1. This corrective action was to be taken by February 28, 2017. To date the well has not been properly abandoned.
5. On January 5, 2018, a Notice of Violation (NOV) was issued for failure to properly abandon Well #1. This NOV summarized the violation, the law, and the recommended corrective action. This NOV also informed Knapp Mobile Home that because the well had not been properly abandoned a public notice of the violation was required by February 9, 2018. This public notice was not done.

6. On March 21, 2018, a NOV was issued for failure to public notice the above violation by February 9, 2018. The NOV summarized the relevant law and the necessary corrective action.
7. On March 28, 2018, a new permit was issued to Knapp Mobile Home. This permit included a compliance schedule to properly address the abandoned well.
8. On June 29, 2018, a NOV was issued for failure to meet the compliance schedule, to properly abandon the well, contained in the permit. This NOV summarized the relevant law and the necessary corrective action.
9. On August 21, 2018, a NOV was issued for failure to produce a yearly consumer confidence report, which is required by Iowa law. This NOV summarized the relevant law and the necessary corrective action.
10. On September 18, 2018, a NOV was issued for failure to public notice the violation of the compliance schedule contained in the permit. This NOV summarized the relevant law and the necessary corrective action.
11. On May 8, 2019, a sanitary survey was conducted by the Department. During this investigation the Department documented that the well cap for Well #1 was removed and plastic sheeting was stuffed into the casing in its place. While on site Department staff met with the operator of the water supply. The operator stated that the well had been without a cap since at least the fall of 2018. Further, the Department observed that the water supply was using a fixed output Stenner chlorine feed pump. This is not the type of chemical feed pump that had been approved by the Department and was in place during the last sanitary survey. It was also documented during this inspection that a sampling plan was needed for groundwater and lead and copper.
12. On May 22, 2019, a NOV was sent for the above discussed violations. It also summarized the relevant law and the recommended corrective actions. Included with this NOV was a copy of the sanitary survey.
13. On August 2, 2019, a NOV was issued for failure to produce a yearly consumer confidence report which is required by Iowa law. This NOV summarized the relevant law and the necessary corrective action.
14. On December 20, 2019, a NOV was sent for failure to collect and/or report the monthly coliform bacteria sample as required by the permit. This NOV summarized the relevant law and the necessary corrective action.
15. On December 27, 2019, a NOV was sent for failure to submit the November monthly operation report (MOR). This NOV summarized the relevant law and the necessary corrective action.

16. On January 17, 2020, a NOV was sent for failure to submit the Maximum Residual Disinfectant Level (MRDL) in the December 2019 MOR. This NOV summarized the relevant law and the necessary corrective action.

17. On February 10, 2020 a NOV was issued in for failure to obtain the services of a certified operator.

18. In 2020, Knapp Mobile Home has failed to submit the MORs by the deadline established in its permit during the months of January 2020 through August 2020 (8 months). A Monitoring Violation (MV) was issued in January 2020 through September 2020 for failure to collect and/or report Coliform Bacteria in December 2019 through August 2020. A Monitoring Violation (MV) was issued in February 2020 for failure to collect and/or report sodium in the fourth quarter of 2019. A Monitoring Violation (MV) was issued in April 2020 and July 2020 for failure to collect and/or report Nitrate in the first and second quarter of 2020. Additionally, Public Notice Violations (PNV) were issued for failure to submit a copy of the public notification and/or delivery certification for the November 2019, December 2019, January 2020, February 2020, March 2020, and April 2020 monitoring violations.

19. On September 10, 2020 a NOV was issued for failure to produce a yearly consumer confidence report which is required by the permit and Iowa law. This NOV summarized the relevant law and the necessary corrective action.

20. On or about October 13, 2020, the Department contacted Ms. Knapp with an offer to resolve these matters. No response was received by the Department.

21. For purposes of resolving this matter promptly and consensually, the parties agree that between September 10, 2020, and July 9, 2021, the Department issued twenty NOVs for various violations of Iowa water supply law, including but not limited to failure to submit MORs, failure to monitor for various contaminants, and PNVs. The parties further agree that these NOVs were issued due to violations of water supply law as detailed in each respective NOV.

22. During negotiations of this Order, Knapp Mobile Home finalized and published all public notices required by law for the violations noted above and in section IV, below. The DNR agrees these notifications comply with applicable law.

23. During negotiations of this Order, Knapp Mobile Home submitted to the DNR statements and other evidence demonstrating the drinking water system servicing Knapp Mobile Home Park was no longer a public water supply. The DNR agrees that drinking water system is no longer a public water supply.

IV. CONCLUSIONS OF LAW

The DNR finds that the following conclusions of law are applicable to this matter. Knapp Mobile Home neither agrees nor disagrees with these conclusions of law and enters into this Order for settlement purposes only.

1. Iowa Code section 455B.172 makes this Department the agency of the state to conduct the public water supply program. Iowa Code section 455B.171 defines a public water supply system as a system for the provision of piped water for human consumption, if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. Iowa Code sections 455B.173 (3), (5) and (6) authorize the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of public water supply systems, to adopt drinking water standards to assure compliance with federal standards adopted pursuant to the federal Safe Drinking Water Act, and to adopt rules relating to monitoring, record keeping, and reporting requirements for any public water supply system. The Commission adopted such rules at 567 IAC chapters 40-43.

2. 567 IAC 41.2(1)“c” requires monthly monitoring for coliform bacteria in the distribution system. The above stated facts demonstrate noncompliance with this provision.

3. 567 IAC 41.7(4)“a”(4) states that “[u]nless the department directs the groundwater system to implement a specific corrective action, the groundwater system must consult with the department regarding the appropriate corrective action within 30 days of receiving written notice from the department of a significant deficiency.” The above stated facts demonstrate noncompliance with this provision of law.

3. 567 IAC 42.1 requires that “[e]ach owner or operator of a public water system must give notice for all violations of public drinking water rules [.]” The above stated facts demonstrate noncompliance with this provision.

4. 567 IAC 42.4(3)“a”(1) requires that “[m]onthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms [.]” The above stated facts demonstrate noncompliance with this provision of law.

5. 567 IAC 42.4(1)“c” requires that “public water supply system, within ten days of completion of each public notification required pursuant to 567—42.1(455B) for the initial public notice and any repeat notices, shall submit to the department a certification that it has fully complied with the public notification rules.” The above stated facts demonstrate noncompliance with this provision of law.

6. 567 IAC 43.2(5)“b” states “[w]here one or more maximum contaminant levels, treatment techniques, designated health advisories, or action levels cannot be met immediately, a compliance schedule for achieving compliance with standards may be made a condition of the permit.” The above stated facts demonstrate noncompliance with this provision of law.

7. 567 IAC 42.3(2) and (4) require a consumer confidence report. The above stated facts demonstrate noncompliance with these provisions of law.

8. 567 IAC 41.3(1)“c”(5) requires routine monitoring for nitrate. The above stated facts demonstrate noncompliance with this provision of law.

9. 567 IAC 81.2(3) and (5) require the retention of a certified operator for the treatment and distribution system. The above stated facts demonstrate noncompliance with these provisions of law.

V. ORDER

THEREFORE, the Department orders and Knapp Mobile Home agrees to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. a. Within 180 days of the date the Director signs this Order, Knapp Mobile Home shall properly abandon Well #1, or
b. Within 150 days of the date the Director signs this Order, Knapp Mobile Home Park shall contact DNR Field Office 1 regarding the rehabilitation of Well #1 that shall occur within 180 days; and
2. Knapp Mobile Home shall pay an administrative penalty in the amount of \$4,000.00 within 60 days of the date the Director signs this Order; and
3. Because the drinking water system servicing Knapp Mobile Home is no longer a public water supply, the Department hereby revokes Public Water Supply Operation permit No. 3100602.

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 \$10,000.00, 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 and deterring this party and others from violating public water supply permit requirements, 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.” Knapp Mobile Home saved a significant amount of time and money by not conducting the proper sampling for coliform bacteria. It is estimated that each bacteria sample costs approximately \$15.00 to conduct; this includes labor, cost of analysis, and shipping fees. Further it is estimated that by not providing public notice of the violations, approximately \$10.00 per notice was saved. In addition, money was saved by staff not taking the time necessary to conduct the monitoring. For that reason, it is reasonable to estimate that \$2,000.00 was saved. Therefore, \$2,000.00 is assessed for this factor.

b. **Gravity of the Violation.** Knapp Mobile Home has continuously failed to comply with the terms of its public water supply permit. Most significantly, it has failed to conduct the monitoring required by its permit. This thwarts the integrity of the program because such monitoring ensures that a public water supply is operated in a manner that protects public health. Without conducting the required monitoring there is no way to know if the water is safe for consumption. Knapp Mobile Home also failed to provide a required public notice for its failure to monitor. Public notice is intended to inform the public of noncompliance so that they may avoid consumption of the water. Failure to conduct public notice endangers public health. In addition, Knapp Mobile Home has failed to properly abandon Well #1. Abandoned wells provide a direct pathway for contamination to reach and enter the aquifer, which can endanger public health. Multiple rules were violated and the violations are ongoing for multiple days. To settle this matter and bring the prompt closure of Well #1, \$1,000.00 is assessed for this factor.

c. **Culpability.** The violations involved in this Order were violations of conditions of multiple rules and permit conditions. An owner of a public water supply has a duty to be aware of the terms of its permit and the laws that govern its operation. Moreover, Department staff has communicated with Knapp Mobile Home numerous times regarding the monitoring requirements contained in the permit, the need to properly abandon Well #1 and what needs to be done to bring the water supply into compliance. Nevertheless, the violations have persisted. Multiple rules were violated and the violations are ongoing for multiple days. To settle this matter and bring the prompt closure of Well #1, \$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 knowingly by and with the consent of the Knapp Mobile Home. By signature to this Order, all rights to appeal this Order are waived by all parties.

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 provision “V. Order” of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.



Amy Knapp, d/b/a Knapp Mobile Home Court No. 4

Dated this _____ day of
Declined to date _____, 2021

Kayla Lyon, Director
IOWA DEPARTMENT OF NATURAL RESOURCES

II.B.2.a.1.2.g.; Noah Poppelreiter; Field Office 1 and John Warren, EPA