

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

IN THE MATTER OF:

**Jarrold Ruckle d/b/a Four Seasons
Improvements-Construction
Polk County, Iowa**

**ADMINISTRATIVE
CONSENT ORDER
NO. 2022-WW-03**

TO: Jarrod Ruckle
1425 NW Hugg Dr
Polk City, IA
50266

I. SUMMARY

This administrative consent order (order) is entered into between Jarrod Ruckle d/b/a Four Seasons Improvements-Construction and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order due to violations of Mr. Ruckle's storm water National Pollutant Discharge Elimination System (NPDES) permit. Mr. Ruckle agrees to pay an administrative penalty of \$7,500.00. In the interest of avoiding litigation, the parties have agreed to resolve the violations alleged herein through entry of this order.

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

Relating to technical requirements:

Anthony Bigger, Environmental Specialist
IDNR Field Office No. 5
502 East 9th Street
Des Moines, Iowa, IA 50319-0034
515-725-0268

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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Jarrod Ruckle d/b/a Four Seasons Improvements-Construction

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 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On June 10, 2021 Mr. Ruckle was issued a notice of coverage under NPDES General Permit No. 2 for storm water discharge associated with construction activity at the location of the construction project titled Four Seasons Improvements-Construction. This project is located at the SE Section 26, Township 81N Range 25W (site). This location is locally known as NW of NW 72nd St and NW Hugg Dr. Polk city, IA. The owner was listed in the permit as Mr. Ruckle. Storm water from this site flows into a tributary to Wolf Creek, which flows into Big Creek lake.
2. On August 16, 2021, the Department received a complaint alleging sediment was leaving the above referenced site and that the Storm Water Pollution Prevention Plan (SWPPP) was not being implemented.
3. On August 17, 2021, the Department went to the site and conducted an NPDES permit inspection. Once on site the Department observed the following: (1) some perimeter controls were properly installed and functioning well; (2) perimeter controls were not present in the area along NW 72nd Street; (3) The entrance did not have rock to prevent tracking onto the roadway; (4) a main vertical storm drain on the northeast corner of the site needed more controls around it to prevent sediment from leaving the site; (5) stockpiles of soil were present and stabilized.
4. On August 25, 2021, the Department sent a letter of noncompliance to Mr. Ruckle for failure to install/maintain sediment controls. Attached to the letter was a copy of the investigation report from the August 17, 2021, inspection which recommended that the SWPPP be updated with all changes throughout the life of the project and that best management practices be installed and maintained throughout the site.
5. On September 2, 2021, the Department received a complaint alleging sediment from the site was discharging into a tributary to Wolf Creek and turning the creek a sandy milky color.
6. On September 7, 2021, the Department went to the site to investigate. Once on site the following was observed: (1) sediment was observed discharging to a tributary of Wolf Creek; (2) the sediment was observed in the tributary of Wolf Creek; the water was brown in color and contained large sediment deposits; (2) additional sediment controls were needed throughout the site to slow down the movement of water on the site and retain sediment; (3) many water intakes on the site had no sediment controls in place; and (4) a ditch along 72nd Street had no sediment controls in it.

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

Jarrod Ruckle d/b/a Four Seasons Improvements-Construction

7. On September 7, 2021, the Department sent a Notice of Violation (NOV) to Mr. Ruckle for the above discussed violations. This NOV contained a summary of the relevant law, the details of the investigation, pictures documenting the violations, and recommended corrective actions.

IV. CONCLUSIONS OF LAW

The parties hereby agree to the following conclusions of law:

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. The above stated facts demonstrate non-compliance with this provision.
2. Iowa Code sections 455B.103(A) and 455B.197 authorize the issuance of permits for storm water discharges. The Environmental Protection Commission (Commission) has adopted federal regulations pertaining to the issuance of NPDES permits for storm water discharge at 567 IAC 60.2 and in 567 IAC chapter 64. Pursuant to rule 60.2, " 'Storm water discharge associated with industrial activity' means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant." Number 10 under this definition includes "construction activity," including clearing, grading, and excavation activities. Excluded are operations that result in the disturbance of less than one acre of total land area that are not part of a larger common plan of development or sale.
3. 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.
4. NPDES General Permit No. 2 Part III C 1 requires "effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum such controls must be designed, installed and maintained to:
 - A. Control storm water volume and velocity to minimize soil erosion in order to minimize pollutant discharges [.]” The above stated facts show noncompliance with this provision of law.
5. NPDES General Permit No. 2 Part IV requires that "A storm water pollution prevention plan shall be developed for each construction site covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. . . . In addition, the plan shall describe and ensure the implementation of practices [.]” The above stated facts show noncompliance with this provision of law.

V. ORDER

THEREFORE, the Department orders, and Mr. Ruckles consents to do, the following:

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Jarrod Ruckle d/b/a Four Seasons Improvements-Construction

1. Cease all illegal discharges to waters of the State;
2. Comply with all conditions of any applicable NPDES permit, which includes the SWPPP;
3. Immediately update the SWPPP to reflect the current site conditions; and
4. Pay an administrative penalty of \$7,500.00 within 30 days of the date the Director 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 \$10,000.00 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.” An economic benefit was obtained through avoiding the cost of installing and maintaining adequate storm water runoff control measures throughout the construction site. This avoided several thousand dollars in materials and labor expenses. Thus, it is reasonable to estimate that \$3,000.00 was saved. Therefore, \$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 properly manage storm water runoff from construction sites degrades surface water quality and deposits excess sediment in water channels. Sedimentation of Iowa’s waterways is a serious problem, and regulatory agencies have recognized that uncontrolled runoff is a significant contributor to these problems. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. The erosion and sediment controls contained in Mr. Ruckle’s permit protect Iowa’s waterways from sedimentation. Such noncompliance thwarts the integrity of the NPDES permit and water quality programs. Therefore, the amount of \$2,000.00 is assessed for this factor.

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

Jarrod Ruckle d/b/a Four Seasons Improvements-Construction

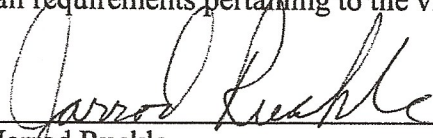
c. **Culpability.** Mr. Ruckle is engaged in the business of construction. This is a highly regulated activity and therefore he has an obligation to be aware of the applicable regulations and comply with those regulations. Moreover, on multiple occasions the Department communicated to Mr. Ruckle the need to implement proper storm water controls. Nevertheless, adequate controls were not installed and a discharge occurred. Therefore, the amount of \$2,500.00 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 Mr. Ruckle. By signature to this order, all rights to appeal this order are waived by Mr. Ruckle.

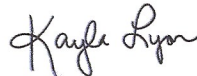
VIII. NONCOMPLIANCE

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.



Jarrod Ruckle

Dated this 8 day of
March, 2022



Digitally signed by Kayla Lyon
Date: 2022.03.10 10:46:54
-06'00'
Kayla Lyon, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES