

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER

IN THE MATTER OF: DIGITAL PRINT ENTERPRISES LLC NPDES permit No. 5715112	ADMINISTRATIVE ORDER NO. 2022-WW- 06
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**TO: Digital Print Enterprises LLC
P.O. Box 510802
St. Louis, Missouri 63151**

**CC: Kilborn, Inc.
c/o Les Kephart
2911 First Avenue SE
Cedar Rapids, Iowa 52402**

I. SUMMARY

This administrative order (Order) requires Digital Print Enterprises LLC (Digital Print) to comply with the provisions of section V of this Order, subject to the rights of appeal stated in this order.

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

Relating to technical requirements:

Mark Lasnek
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515-204-9234
mark.lasnek@dnr.iowa.gov

Relating to legal requirements:

Noah Poppelreiter, Attorney
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515-669-8752

Payment of penalty to:

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

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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 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Digital Print, a company based out of Saint Louis, Missouri, owns a printable cloth and paper production facility located 2911 1st Avenue SE, Cedar Rapids, Iowa (Facility). The Facility discharges non-contact cooling water as wastewater as part of its production process.
2. The Facility is operated on behalf of Digital Print by Kilborn, Inc. (Kilborn).
3. On October 14, 2015, the DNR sent Digital Print a Notice of Violation (NOV) for a violation of the application for reissuance due date in Digital Print's National Pollution Discharge Elimination System (NPDES) permit in effect at that time.
4. On June 1, 2017, the DNR reissued Digital Print NPDES permit number 5715112 (Permit). The terms and conditions of the Permit are incorporated by reference into this Order.
5. Notably, the Permit requires Digital Print to reapply for a reissuance 180 days prior to the Permit's expiration date of May 31, 2022. Permit, page 6, paragraph 11.
6. On July 29, 2021, the DNR sent Kilborn a letter stating the application for reissuance was due by December 2, 2021.
7. The DNR did not receive an application from Digital Print or from Kilborn by December 2, 2021.
8. On or about January 7, 2022, DNR central office staff contacted Kilborn by telephone and informed them of the overdue application.
9. On February 4, 2022, the DNR issued Digital Print a NOV for the overdue permit. This letter was sent certified mail to Digital Print's Missouri office.
10. The DNR received proof of delivery of the February 4, 2022, NOV, on February 9, 2022.
11. On or about March 7, 2022, DNR central office staff contacted Kilborn by telephone. Kilborn staff stated they believed the application had been sent. They stated they would confirm and ensure the application was sent.

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12. As of the date of the issuance of this order, the DNR has not received an application from either Digital Print or from Kilborn.

IV. CONCLUSIONS OF LAW

The following conclusions of law are applicable to this matter.

1. Iowa Code section 455B.173(3) provides that the Environmental Protection Commission (Commission) shall adopt rules related to the location, construction, operation, and maintenance of waste disposal systems. The Commission has enacted rules on the operation of waste disposal systems in 567 IAC chapter 64.
2. 567 IAC 64.3(1) prohibits the discharge of wastewater in violation of the terms and conditions of an NPDES permit. The Permit required Digital Print to apply for reissuance of the Permit by December 2, 2021. Digital Print failed to comply with the terms of the Permit.
3. 567 IAC 64.8(1)"a" requires an NPDES permit holder to apply for reissuance of a permit within 180 days of the expiration date of the NPDES permit. Digital Print has failed to apply for the reissuance of the Permit within this timeline.

V. ORDER

THEREFORE, the DNR orders Digital Print to comply with **one** of the following options:

Option 1:

- 1a. Immediately upon receipt of this Order notify Mark Lasnek, DNR central office NPDES staff, by email or in writing of Digital Print's intent to continue to discharge wastewater from the Facility;
- 1b. Submit a renewal application for the Permit within 5 days upon receipt of this Order; and
- 1c. Pay an administrative penalty of \$1,000.00 within 30 days of the date the Director signs this Order.

Option 2:

- 2a. Immediately upon receipt of this Order notify Mark Lasnek, Department central office NPDES staff, by email or in writing of Digital Print's intent to not renew the Permit; and
- 2b. Cease all discharges of wastewater from the Facility by May 31, 2022.

VI. PENALTY

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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.” Digital Print gained nominal delayed economic benefits from delaying the application. Using reasonable estimates, \$50.00 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. The reapplication due date in NPDES permits ensures the DNR has adequate time to process and reissue NPDES permits before their expiration date, including providing the public the lawfully required time to provide public comment. Additionally, the due date ensures the DNR NPDES program can promptly and effectively handle all NPDES permits coming in for reissuance. Failing to submit applications for reissuance by the due date degrades this system and puts an increased burden on the DNR’s NPDES program. Therefore, \$450.00 is assessed for this factor.

c. **Culpability.** Digital Print has a duty to comply with the terms of the Permit. In addition, the DNR issued Digital Print NOV’s in 2015 and 2022 related to the due date of the Permit, as well as the less formal notification letters. Digital Print should be aware of the December 2, 2021, due date requirement yet failed to comply with the due date requirement. Therefore, \$500.00 is assessed for this factor.

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VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175(1)(a) and 567 IAC Chapter 7, a written Notice of Appeal may be filed with the Director, at the address provided above, within 60 days of the date of issuance of this Order. The Notice of Appeal must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code Chapter 17A and 561 IAC Chapter 7.

However, an appeal of this order cannot and will not constitute an appeal of the terms and conditions of the Permit, including but not limited to the expiration date. Regardless of any appeal of this Order, the Permit will expire on May 31, 2022, and, unless a timely renewal is submitted to the Department, discharges of wastewater past that date will constitute violations of applicable Iowa and federal law.

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 one of the options in Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.

Kayla Lyon, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

I.C.7.b.; FO1, Noah Poppelreiter, U.S. E.P.A