

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

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| <b>IN THE MATTER OF:</b><br><br><b>SUNSET AT THE OASIS L.L.C.</b> | <b>ADMINISTRATIVE CONSENT ORDER<br/>NO. 2022-WW- 07</b> |
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To: Sunset at the Oasis L.L.C.  
c/o Zachary Terry, Owner/Registered Agent  
24583 Cypress Avenue  
Onawa, Iowa 51040

**I. SUMMARY**

This administrative consent order (Order) is entered into between Sunset at the Oasis L.L.C. (Sunset) and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations related to construction permitting of wastewater treatment facilities. The Order requires Sunset to in the future comply with all laws related to the construction of wastewater treatment and water supply systems, cease operation of the Facility until Sunset obtains a construction permit from the DNR, and pay an administrative penalty of \$7,000.00. 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:**

Dan Olson  
DNR Field Office 4  
1401 Sunnyside Lane  
Atlantic, Iowa 50022  
712-243-1934

**Relating to legal requirements:**

Noah Poppelreiter  
Iowa Department of Natural Resources  
502 E. 9<sup>th</sup> 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 9<sup>th</sup> Street  
Des Moines, IA 50319-0034

**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

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Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Sunset owns and operates a campground located at or about NE ¼, SE ¼, Section 3, Lincoln Township (T83N, R46W), Monona County, Iowa (Campground).

2. On or about April 14, 2021, the DNR received a review of a wastewater treatment construction permit application from Sunset asking to install an on-site style wastewater treatment system (Facility) at the Campground.

3. On or about August 27, 2021, the DNR determined the Facility could not be constructed at the proposed location, as the Facility did not meet the required separation distances from Blue Lake, a public lake less than 400 feet from the proposed location of the Facility. The DNR notified Sunset of this determination.

4. During or about the summer and fall of 2021, Sunset began construction on and substantially completed construction of the Facility.

5. On October 5, 2021, DNR Field Office 4 staff investigated the Campground and confirmed that Sunset had installed the Facility without a permit, including a lift station, six on-site style treatment tanks, distribution lines, distribution boxes, and two absorption fields.

6. On October 15, 2021, the DNR issued Sunset a Notice of Violation for the violations of Iowa law related to wastewater construction permitting.

**IV. CONCLUSIONS OF LAW**

DNR and Sunset agree the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.183(1)(a) prohibits the construction of a wastewater treatment system with a construction permit. Sunset constructed the Facility without a permit. The facts of this case show a violation of this section.

2. 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 wastewater treatment systems. The Commission has done so in 567 Chapter 64.

3. 567 IAC 64.2(3) requires wastewater treatment systems to have a separation distance of 400 feet from public lakes. Sunset built the Facility within 400 feet of Blue Lake. The facts of this case show a violation of this section.



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**V. ORDER**

Therefore, DNR orders and Sunset agrees to do the following:

1. Sunset shall in the future comply with all laws related to the construction of wastewater and drinking water systems at the Campground.
2. Sunset shall cease operation of the Facility until a construction permit has been issued by the DNR for the Facility.
3. Within 30 days of the date the Director signs this Order, Sunset shall pay an administrative penalty of \$7,000.

**VI. PENALTY**

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day per violation for the violations involved in this matter. Iowa Code 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. DNR is assessing a penalty of \$7,000.00 for the violations described above. The following factors were considered in the assessment of this penalty:

a. 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 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.” Sunset gained a delayed benefit by constructing the Facility without a permit. Using reasonable estimates, \$1,000.00 is assessed for this factor.

b. Gravity. 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 that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Construction permits are a cornerstone of the wastewater treatment regulations in Iowa. They ensure wastewater treatment systems are located in locations and constructed in a manner that ensure the protection of human health and the environment. By building the Facility without a construction permit, Sunset caused programmatic harm. Therefore, \$3,000.00 is assessed for this factor.

c. Culpability. Sunset has a duty to know and comply with all laws related to the construction and operation of any wastewater treatment system under its control.

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Sunset constructed the Facility without a construction permit. Therefore, \$3,000.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Sunset. By signing this Order, all rights to appeal this Order are waived.

**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 455B.191.

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KAYLA LYON, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

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For SUNSET AT THE OASIS L.L.C.

Noah Poppelreiter, Field Office #4; EPA; I.A.1.

Dated this 28<sup>th</sup> day of  
March, 2022