

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

**IN THE MATTER OF:**

**CITY OF SLOAN**

Woodbury County, Iowa  
NPDES Permit #9780001

**ADMINISTRATIVE CONSENT ORDER**

**NO. ~~2022-WW~~ 2023-WW-02**

TO: City of Sloan  
City Hall, 428 Evans Street  
P.O. Box 1  
Sloan, Iowa 51055

**I. SUMMARY**

This administrative consent order (Order) is entered into between the City of Sloan (City), and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations related to the City's violations of wastewater law. The Order requires the City to submit a chloride removal schedule within 90 days of this Order to promptly bring the Facility into compliance with the Current Permit, submit quarterly updates to the DNR, and to pay an administrative penalty of \$1,000. 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:**

Tom Roos  
Iowa Department of Natural Resources  
DNR Field Office 3  
1900 N Grand Ave, Ste E-17  
Spencer, Iowa 51301  
712-262-4177

**Relating to legal requirements:**

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

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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. The City owns and operates a wastewater treatment plant located at or about two tenths of a mile south of the intersection of Old Highway 75 and Highway 141 in Woodbury County, Iowa (Facility).

2. The Facility discharges wastewater to Cleghorn Ditch, a water of the United States.

3. On February 1, 2017, the DNR issued National Pollutant Discharge Elimination System Permit (NPDES) number 9780001 (Permit) to the City. The terms of the Permit are incorporated by reference into this Order.

4. In particular, and for ease of reference, Page 13 of the Permit details the "Chloride Compliance Schedule" (Schedule) required as a condition of the Permit.

5. As of the date this Order was signed, the City has failed to achieve compliance with the final chloride limits in the Permit and discharged wastewater with chloride concentration levels in violation of the Permit.

6. The City's noncompliance with the Schedule is caused, in part, from the continued use of water softeners by City residents.

7. The City and the DNR agree this Order is necessary to detail a chloride removal schedule to promptly bring the wastewater discharged by the Facility into compliance with the Current Permit.

**IV. CONCLUSIONS OF LAW**

The following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 through 64.



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2. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Commission. Additionally, 567 IAC 62.1(1) prohibits the discharge of wastewater into a navigable water unless authorized by an NPDES permit. The City discharged wastewater in violation of the effluent limits in the Permit. The facts show a violation of these provisions.

3. 567 IAC 64.3(1) prohibits the operation of any wastewater disposal system in violation of a permit issued to that system. The City failed to comply with the Schedule issued in the Permit, operated the Facility in violation of the Permit, and is operating the Facility in violation of the effluent limits in the Permit. The facts show a violation of this provision.

**V. ORDER**

Therefore, DNR orders and the City agrees to the following:

1. Within 90 days of the date the Director signs this Order, the City shall submit to DNR Field Office 3 for approval a chloride removal schedule that will bring the Facility into compliance with the Permit. Upon approval of the chloride removal schedule, it shall be referenced as part of this order, including but not limited to being subject to the terms of Section VIII (Noncompliance).
2. Upon the approval of the chloride removal schedule, the City shall submit to DNR Field Office 3 updates to its progress on the chloride removal schedule, which shall be submitted by January 5, April 5, July 5, and October 5.
3. Within 30 days of the date the Director signs this Order, the City shall pay an administrative penalty of \$1,000.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter. Iowa Code section 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 \$1,000.00 for the violations described above. 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 corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further

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states, "reasonable estimates of economic benefit should be made where clear data are not available." The City gained an avoided cost benefit by failing to comply with the Schedule and by failing to adequately treat the wastewater discharging from the Facility. Using a reasonable estimate for these costs, and in order to promptly settle this matter and ensure immediate compliance with the terms of this Order, \$1,000.00 is assessed for this factor.

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. The City's failure to comply with the Schedule caused both programmatic and environmental harm. However, to ensure these harms are promptly eliminated through the issuance of this Order, no penalty is assessed for this factor.

Culpability – The City has a duty to maintain and operate the Facility in a manner that does not cause violations of NPDES permits issued to the City or wastewater law. The City is well aware of the requirements of its NPDES permits, including but not limited to the Schedule. Despite, this, the City has failed to comply with the Schedule and is discharging wastewater in violation of the limits in the Current Permit. However, to ensure the environmental harm caused by the discharge of improperly treated wastewater is promptly eliminated through the issuance of this Order, no penalty is assessed for this factor.

## **VII. WAIVER OF APPEAL RIGHTS**

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

## **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.

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KAYLA LYON, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

 

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Field Office #1; EPA; I.B.2.b.; I.C.1; Courtney Cswercko

Dated this 19<sup>th</sup> day of

January ~~2022~~ 2023