

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

IN THE MATTER OF:

LATTA WELL & PUMP CORP.

ADMINISTRATIVE CONSENT ORDER

NO. 2023-WW- 13

TO: Latta Well & Pump Corp.
1051 Taylor Avenue
Wilton, Iowa 52778

Cc: Steven Kundel
Attorney of Record for Latta Well & Pump Corp.
300 2nd Street, Suite 300
Muscatine, Iowa 52761

I. SUMMARY

This administrative consent order ("Order") is entered into Latta Well & Pump Corp. (Latta) and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations resulting from the improper discharge of drilling mud into Spencer Creek. The Order requires Latta to comply with all applicable laws during future well drillings and pay an administrative penalty of \$4,850.00. 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:

Brian Lee
Field Office 6
Iowa Department of Natural Resources
1023 W Madison Street
Washington, IA 52353
Ph. 319-653-2135

Relating to legal requirements:

Noah Poppelreiter
Legal Services Bureau
Iowa Department of Natural Resources
502 E. 9th 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 9th 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 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 pursuant to 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. Latta is a business in the state of Iowa which, through certified well drillers under its employ, drills private wells in this State.
2. On or about September 28, 2022, Latta was subcontracted through a general contractor to drill a well near or at 1881 Wells Ferry Road, Pleasant Valley, Iowa (Well Site).
3. On September 28, 2022, DNR Field office 6 received a complaint of water quality violations in Spencer Creek (Creek) near the Well Site.
4. That same day, at approximately 4:30 p.m., DNR Field Office 6 environmental specialist Brian Lee investigated the Well Site. Mr. Lee made contact with the general contractor at the Well Site. The general contractor showed Mr. Lee the exact location where the well was drilled. Mr. Lee noted grey drilling mud in and around the well drilling location. The drilling mud flowed from the Well Site downhill, eventually discharging to the Creek. Mr. Lee noted drilling mud on the bed of the Creek for at least 100 feet downstream of the point of discharge.
5. Specifically, Mr. Lee noted and documented the formation of a sludge deposit in the Creek made of the discharged drilling mud.
6. Mr. Lee did not note any well construction discharge control devices, known as best management practices, at the Well Site.
7. Mr. Lee took pictures of his findings at the Well Site.
8. On September 29, 2022, Mr. Lee confirmed with the general contractor that Latta was subcontracted to drill the well.
9. Additionally, Mr. Lee confirmed with the Scott County, Iowa, that a private well construct permit had been issued to Latta to construct a private well at the Well Site.

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10. The DNR has no record of any documentation submitted by Latta or any other party regarding the constructed well or the discharge. Specifically, Latta did not request a permit to discharge pollutants.

11. On October 5, 2022, the DNR issued Latta a Notice of Violation regarding the discharge.

IV. CONCLUSIONS OF LAW

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

1. Iowa Code section 455B.186 and 657 IAC 62.1(1) prohibit the discharge of pollutants into water of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. The facts as detailed above demonstrate violations of these provisions.

2. 567 IAC 61.3(2) establishes narrative water quality standards. These standards provide that all waters shall be free from substances attributable to point source discharges that will settle to form sludge deposits. During Field Office 6's investigation, a sludge deposit formed from Latta's well drilling was noted on the bed of the pond. These facts indicate a violation of this provision.

V. ORDER

Therefore, DNR orders and Latta agrees to the following:

1. Latta and all employees under its control shall comply with applicable Iowa law during all future well drilling projects, including but not limited to preventing discharges of well drilling mud unless properly permitted.

2. Within 30 days of the date the Director signs this Order, Latta shall pay an administrative penalty of \$4,850.00.

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.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 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 \$4,850.00 for the

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violations described above. DNR considered the following factors 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.” Latta avoided costs by allowing the drilling mud to discharge to the Creek. Such costs include the creation and/or installation costs associated with best management practices. An estimated economic benefit of \$1,350.00 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 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. Latta caused a violation of Iowa’s water quality standards that directly impacted the Creek. This impacted included the creation of a sludge deposit formed from the driller’s mud. \$2,000.00 is assessed for this factor.

c. Culpability. Latta has a duty to conduct its business in accordance with applicable laws and rules. Latta took failed to fulfill this obligation when it allowed the discharge of drilling mud. \$1,500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

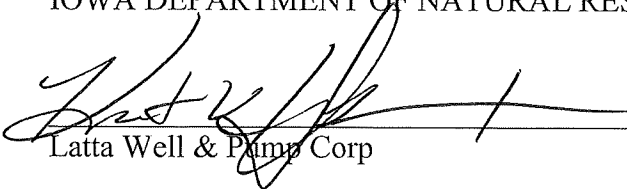
Iowa Code 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Latta. By signing this Order, Latta waives all rights to appeal this Order.

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


Latta Well & Pump Corp

Dated this 30 day of
June, 2023

Field Office #6; Noah Poppelreiter; EPA; I.C.6.a

