

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p>CASEY’S GENERAL STORES</p> <p>Public Water Supply Operation permit No. 5322201</p>	<p>ADMINISTRATIVE ORDER NO. 2023-WS-04</p>
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TO: Casey’s General Stores
c/o Director of Support Services
One SE Convenience Blvd.
Ankeny, Iowa 50021

CC: Casey’s General Stores
c/o Doug Beech, Sr. General Counsel
One SE Convenience Blvd.
Ankeny, Iowa 50021

I. SUMMARY

This administrative consent order (Order) is entered into between Casey’s General Stores¹ (Casey’s), being the lawful owner and operator of the public water supply at Casey’s General Store #3898, located at 23485 County Road E34, Anamosa, Iowa (Store), and the Iowa Department of Natural Resources (DNR). The parties hereby agree to the issuance of this Order concerning the public water supply system serving the customers of the Store. Casey’s neither agrees nor disagrees with the statements of fact and law contained in this Order and agrees to the terms of this Order for settlement purposes only.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Michele Smith
Iowa Department of Natural Resources
1101 Commercial Court

Manchester, Iowa 52057
Ph: 563-927-2640

Relating to legal requirements:
Noah Poppelreiter, Attorney II
Iowa Department of Natural Resources
Wallace State Office Bldg.
502 E. 9th Street
Des Moines, Iowa 50319
Ph: 515-669-8752

¹ The water supply operation permit application for permit #5322201 listed the owner and operator of the public water supply in question as “Casey’s General Stores.” This order applies solely to the entity which is the owner and operator of Casey’s General Store #3898, located at 23485 County Road E34, Anamosa, Iowa.

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Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 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 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Casey's owns and operates a transient noncommunity water supply system (System) at the Store.
2. The System consists of a well, a treatment plant, and a distribution system, and is identified by the DNR as Public Water Supply ID number 532220 and as Casey's General Store (Anamosa).
3. Casey's neither agrees nor disagrees with the remaining statements of fact, as Casey's agrees to the terms of this Order for settlement purposes only.
4. On or about June 30, 2020, Casey's applied for a renewal of the System's public water supply operation permit.
5. This application listed the estimated population served by the System as 15 nontransient workers and 1,200 transient customers.
6. The DNR issued Casey's a public water supply operation permit for the System on July 22, 2020 (Permit).
7. The Permit required Casey's to sample the water in the distribution system for coliform bacteria twice a month. Permit, page 2; see also, Order, Section IV, "Conclusions of Law." These samples are submitted to a certified laboratory for sampling.
8. Per applicable Iowa law, the laboratory used by the Store to test water samples for coliform bacteria must submit those results to the DNR.
9. The Permit required Casey's to maintain chlorine residual levels in the water in the distribution system at 0.3 mg/L of free chlorine or 1.5 mg/L of total chlorine.
10. Pursuant to the Permit and to the Iowa rules contained in the Section IV, "Conclusions of Law of this Order," Casey's was required to submit monthly operating reports (MOR) detailing the results of samples collected at the System and other required data.
11. On July 24, 2020, the DNR issued the Store a letter of noncompliance (LNC) for a failure to submit MORs for April, May, and June of 2020.

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12. On August 4, 2021, the DNR issued the Store a LNC for the failure to maintain chlorine residuals in the water in the distribution system at the required levels and for the failure to sign the MOR.
13. On October 20, 2021, the DNR issued the Store a notice of violation (NOV) for the failure to collect and/or report the results for coliform bacteria in the month of September 2021.
14. On December 15, 2021, the DNR issued the Store a NOV for the failure to submit a MOR for the month of November 2021.
15. On December 22, 2021, the DNR issued the Store a NOV for the failure to collect and/or report the results for coliform bacteria in the month of November 2021.
16. On January 18, 2022, the DNR issued the Store a NOV for the failure to submit a MOR for the month of December 2021.
17. On January 20, 2022, the DNR issued the Store a NOV for the failure to collect and/or report the results for coliform bacteria in the month of December 2021.
18. On February 17, 2022, the DNR issued the Store a NOV for the failure to notify the public of the violations that occurred in November 2021.
19. On February 27, 2022, the DNR issued the Store a NOV for the failure to collect and/or report the results for coliform bacteria in the month of January 2022.
20. On April 11, 2022, the DNR issued the Store a NOV for the failure to submit a MOR for the month of March 2022.
21. On July 14, 2022, the DNR issued the Store a NOV for the failure to submit a MOR for the month of June 2022.
22. On July 21, 2022, the DNR issued the Store a NOV for the failure to collect and/or report the results for coliform bacteria in the month of June 2022.
23. On August 11, 2022, the DNR issued the Store a NOV for the failure to submit a MOR for the month of July 2022.
24. On August 18, 2022, the DNR issued the Store a NOV for the failure to collect and/or report the results for coliform bacteria in the month of July 2022.
25. On October 11, 2022, the DNR issued the Store a NOV for the failure to submit a MOR for the month of September 2022.
26. Between January 2021 and October 2022, the DNR and support staff from Iowa Association of Municipal Utilities visited the store eight times to provide technical assistance.

IV. CONCLUSIONS OF LAW

The DNR determines the following Conclusions of Law are applicable to this Order. However, Casey's neither agrees nor disagrees with the statements of fact and law contained in these Conclusions, as Casey's agrees to the terms of this Order for settlement purposes only.

1. Iowa Code section 455B.172 makes this Department the agency of the state to conduct the public water supply program. Iowa Code section 455B.171 defines a public water supply system as a system for the provision of piped water for human consumption, if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. Iowa Code sections 455B.173(3), (5) and

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- (6) authorize the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of public water supply systems, to adopt drinking water standards to assure compliance with federal standards adopted pursuant to the federal Safe Drinking Water Act, and to adopt rules relating to monitoring, record keeping, and reporting requirements for any public water supply system. The Commission adopted such rules at 567 IAC chapters 40-43.
2. 567 IAC 41.2(1)“c” requires monthly monitoring for coliform bacteria in the distribution system. The above stated facts demonstrate noncompliance with this provision.
 3. 567 IAC 42.4(3)“a”(1) requires that “[m]onthly records of operation shall be completed by all public water supplies, on forms provided by the department or on similar forms[.]” The above stated facts demonstrate noncompliance with this provision of law.
 4. 567 IAC 42.1 requires that “[e]ach owner or operator of a public water system must give notice for all violations of public drinking water rules[.]” The above stated facts demonstrate noncompliance with this provision.
 5. 567 IAC 42.4(1)“c” requires that “public water supply system, within ten days of completion of each public notification required pursuant to 567—42.1(455B) for the initial public notice and any repeat notices, shall submit to the department a certification that it has fully complied with the public notification rules.” The above stated facts demonstrate noncompliance with this provision of law.
 6. 567 IAC 43.2(2) requires permittees to comply will all terms of the water supply system permits issued by the DNR. The above stated facts demonstrate noncompliance with this provision of law.

V. ORDER

Therefore, DNR orders and Casey’s agrees to do the following:

1. The Store shall submit all required MORs to the DNR with ten (10) days of the end of each month.
2. The Store shall conduct all required testing of the finished drinking water and shall provide to the DNR documentation of this testing.
3. Specifically, the Store shall conduct monthly coliform bacteria testing of the water in the distribution system and shall provide to the DNR documentation of this testing.

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4. Within 15 days of the director signing this Order, if not already completed, Casey's shall provide public notice of the violations detailed in Section IV, paragraphs 14 and 17, of this Order pursuant to the provisions of 567 IAC 42.1(5). If posted in the Store, the notice shall remain posted for a period of at least 30 days.
5. In addition to the certification requirements of 567 IAC 42.4(1)"c", Casey's shall submit to the DNR evidence of compliance with paragraph 4 of this section.
6. Pursuant to 567 IAC 43.1(5)(b) and within 30 days of the director signing this Order, Casey's shall employ or retain a certified drinking water operator to manage the System and shall provide the DNR the contact information of the operator.
7. Within 30 days of the date the Director signs this Order, Casey's shall pay an administrative penalty of \$6,000.

VI. PENALTY

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. For the following reasons, the DNR is assessing a penalty of \$6,000.00 for the violations described above. The DNR considered the following factors were considered in the assessment of this penalty:

a. Economic Benefit. 567 IAC 10.2(1) provides that when a violator realizes an economic benefit through the violation, "the department shall take enforcement action which includes penalties which at least offset the economic benefit. Reasonable estimates of economic benefit should be made where clear data are not available." Casey's saved an estimated \$40 per sample on coliform bacteria testing, for a total of \$480. Considering the costs of a certified operator and support staff for the period of time detailed in the state of facts, Casey's saved an estimated \$520 in the operation and administrative costs associated with submitting MORs and filing public notices. \$1,000 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. Casey's, and specifically the Store's, repeated and chronic failure to comply with the laws related to the operation of the System is a serious matter. Sampling and reporting are the methods by which the public is assured of the safety of their drinking water supplies. The repeated failure of the Store to provide MORs and coliform bacteria

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sample results to the estimated 1,215 per month users of the System causes significant programmatic harm. \$3,000 is assessed for this factor.

c. Culpability. Casey’s generally and the Store specifically are both aware of the requirements of operating the System, yet consistently failed to comply with those requirements. This awareness is all the more notable given the support given to the Store over the years. \$2,000 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 of this Order. However, this Order is entered into knowingly by and with the consent of the Casey’s. By signature to 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 section 455B.191.

KAYLA LYON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

DocuSigned by:

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CASEY’S GENERAL STORES

Dated this _____ day of _____, 2023