

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

IN THE MATTER OF: City of Winfield, Iowa NPDES Permit #4493001 Henry County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2023-WW-17
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TO: Honorable Mayor, Willie Bender
City of Winfield
City Hall
115 N. Locust, P.O. Box 73
Winfield, IA
52659

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Winfield (City) and the Iowa Department of Natural Resources (Department) for the purpose of addressing discharges of wastewater in violation of its National Pollution Discharge Elimination System (NPDES) permit from its wastewater treatment facility (WWTF).

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Brian Lee, Environmental Specialist
DNR Field Office #6
1023 West Madison
Washington, IA 52353
Phone: 319-653-2135

Relating to legal requirements:

Carrie Schoenebaum, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-444-8165

II. JURISDICTION

This Order is issued pursuant to the provisions of 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 (wastewater) and the rules adopted or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

The Department and the City agree to the following statement of facts:

1. The City operates a WWTF located at Section 16, T73N, R05W in Henry County, Iowa. This WWTF is operated pursuant to NPDES permit No. 4493001. On May 1, 2017 this permit was reissued and included a compliance schedule for ammonia Nitrogen and *E. coli* effluent limits. Pursuant to this permit, the City discharges wastewater to an unnamed tributary of the east fork of Crooked Creek. One of the requirements in the compliance schedule was to meet final ammonia nitrogen and *E. coli* limits by July 1, 2021. To date these limits have not been met. This NPDES permit also contains effluent limits for numerous parameters, including ammonia nitrogen (NH₃-N) and Dissolved Oxygen (DO).
4. On April 27, 2017, the Department conducted an NPDES permit compliance inspection of the City's Waste Water Treatment Facility (WWTF). Following this inspection, on May 24, 2017, the Department sent the City a Letter of Non-Compliance (LNC) for failure to meet NPDES effluent limits. Included with this LNC was a summary of the relevant law and recommended corrective actions. The table below contains all NPDES effluent limit violations from May 2017 through the date of this Order.
5. To date, numerous deadlines set forth in the NPDES permit compliance schedule have not been met. A Notice of Violation (NOV) was sent on the following dates for failure to meet the deadlines in the compliance schedule: October 11, 2018; April 3, 2019; February 18, 2020; November 17, 2020; January 27, 2022; April 25, 2022; and January 25, 2023. The April 25, 2022, NOV also cited the failure to properly maintain the WWTF. Included with these NOVs was a summary of the relevant law and recommended corrective actions.
6. On June 19, 2020, a NOV was issued to the City for failure to meet NPDES permit limits and failure properly maintain the WWTF.
7. On March 10, 2022, the City informed the Department that it hired a new engineering firm to complete the upgrades necessary to comply with its NPDES permit. The City hired HR Green.
8. On May 13, 2022 and on March 1, 2023, the City, via HR Green, submitted an updated compliance strategy to the Department.

Effluent Limit Violations 5/1/2017 - 8/8/2023

WINFIELD CITY OF STP - 4493001

WINFIELD
EPA #IA0033367

7DAY - LBS/DAY		AVERAGE - LBS/DAY		DAILY MAX - LBS/DAY		AVERAGE - MG/L		DAILY MAX - MG/L		DAILY MIN - MG/L		DAILY MAX - STD UNITS		Para- meter Monthly Total
Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
110	120.1													1
										5	3.52			1
										5	3.26			1
										5	2.10			1
										5	4.67			1
										5	2.26			1
										5	2.66			1
										5	3.80			1
												9	9.04	1
										5	1.28			1
										5	0.34			1
										5	0.53			1
										5	0.97			1
										5	3.93			1
										5	4.91			1
										5	2.93			1
				38	39.07									1
										5	3.12			1
										5	2.55			1
										5	1.71			1
										5	2.41			1
										5	2.16			1
		23	24.59	38	87.90									2
										5	4.42			1
										5	4.01			1
										5	2.13			1
										5	2.35			1
										5	1.64			1
										5	2.96			1
										5	3.04			1
										5	3.27			1
										5	3.42			1
		3	7.59	8.8	16.65	1.1	3.33	3.2	6.20					4
										5	3.06			1
						1	3.23	2.7	6.20					2
										5	2.41			1
						1.5	3.00	2.7	4.50					2
						630	5,546							1
										5	2.50			1
				7.3	9.25	2.7	4.88	2.7	5.20					3
										5	2.22			1
						2.7	8.58	2.7	11.80					2

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12/2021	NH3-N					3.9	12.15	3.9	12.80								2
1/2022	NH3-N					5.2	15.43										1
2/2022	NH3-N					5.8	20.38	8.4	21.10								2
3/2022	NH3-N			10.7	15.51	3.9	12.03	3.9	16.70								3
4/2022	NH3-N					2.1	2.71										1
5/2022	NH3-N	5	5.72	8.8	11.32	1.8	3.08	3.2	4.00								4
	E.COLI					630	4,306										1
	DO									5	3.23						1
6/2022	NH3-N	3.7	4.81	8.8	10.09	1.3	3.13	3.2	6.30								4
	DO									5	3.20						1
7/2022	NH3-N					1.1	1.70										1
	DO									5	2.44						1
8/2022	NH3-N					1	2.30	2.7	3.40								2
	E.COLI					630	7,493										1
	DO									5	2.15						1
9/2022	NH3-N					1.5	1.61										1
	DO									5	2.12						1
10/2022	DO									5	2.56						1
	E.COLI					630	3,746										1
	PH											9	9.04				1
11/2022	NH3-N	7.3	17.43	7.3	31.71	2.7	17.80	2.7	32.50								4
12/2022	NH3-N	33.7	29.10	10.7	34.39	3.9	26.53	3.9	31.00								5
	PH											9	9.01				1
1/2023	NH3-N	14.2	26.46			5.2	14.88										2
2/2023	NH3-N	16	25.12	23.1	44.52	5.8	9.25	8.4	12.00								4
3/2023	NH3-N	33.7	25.41	48.7	40.33	3.9	7.95	3.9	12.00								6
4/2023	NH3-N	5.8	16.31	13	21.95	2.1	7.28	4.7	9.40								4
	DO									5	4.50						1
5/2023	NH3-N	5	17.79	8.8	37.79	1.8	6.12	3.2	7.90								4
	E.COLI					630	3,263										4
	DO									5	3.04						1
6/2023	NH3-N	3.7	17.17	8.8	19.55	1.3	10.90	3.2	12.60								4
	DO									5	3.00						1

Total Violations: 120

IV. CONCLUSIONS OF LAW

The Department and the City agree that the following conclusions of law are applicable in this case:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. The above stated facts demonstrate noncompliance with this provision of law.

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2. Iowa Code section 455B.173(3) authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to waste disposal systems. The Commission has done so at 567 IAC 60 through 69. 567 IAC 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. 567 IAC 64.6 specifies the conditions that are to be included in a permit, including applicable effluent limitations as established in Chapters 61 and 62. The above-stated facts demonstrate noncompliance with these provisions.

V. ORDER

By the execution of this Order, the Department orders and the City agrees to do the following:

1. The City shall provide progress reports to the Department once every six months beginning February 1, 2024;
2. The City shall complete construction of the necessary upgrades to the WWTF no later than September 1, 2025; and
3. The City shall pay a penalty in the amount of \$4,500.00 within 30 days of the date the Director signs this Order.

VI. PENALTY

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 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 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.” An economic benefit was obtained delaying necessary upgrades to the WWTF. Therefore, \$1,000.00 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. Failure to

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comply with an NPDES permit degrades water quality. Degradation of Iowa's waterways is a serious problem. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. Further, noncompliance with an NPDES permit thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$3,000.00 is assessed for this factor.

c. Culpability. The City operates a WWTF. This is a highly regulated activity and therefore the City has an obligation to be aware of the applicable regulations and comply with those regulations. The City was issued an NPDES permit and on multiple occasions the Department communicated the need to comply with that permit. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of \$500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

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

III. NONCOMPLIANCE

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



On behalf of the City of Winfield

Dated this 31st day of
August, 2023

Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources

NPDES #4493001; Field Office #6; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C.1