

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

IN THE MATTER OF:

CITY OF MEDIAPOLIS

Des Moines County, Iowa
NPDES Permit #2948001

**ADMINISTRATIVE CONSENT ORDER
NO. 2023-WW-31**

TO: Honorable Mayor
City of Mediapolis
P.O. Box 97
Mediapolis, Iowa 52637

I. SUMMARY

This administrative consent order (Order) is entered into between the City of Mediapolis (City), and the Iowa Department of Natural Resources (DNR) for the purpose of resolving the City's violations its National Pollutant Discharge Elimination System (NPDES) permit. The Order requires the City to comply with the construction schedule submitted by the City, to submit updates to the DNR, and to pay an administrative penalty of \$5,000.00. 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:

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

Relating to legal requirements:

Carrie Schoenebaum
Iowa Department of Natural Resources
Legal Services Bureau
502 E. 9th Street
Des Moines, IA 50319-0034
515-444-8165

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 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 facility (WWTF) at the location of Section 25 Township 72N Range 3 West, which is locally known as 510 Main Street, Mediapolis, Iowa. On March 1, 2019, the City was issued NPDES permit No. 2948001. Pursuant to this permit the City discharges wastewater to Hawkeye Creek which ultimately discharges to the Mississippi River. This NPDES permit includes effluent limits for the following pollutants: ammonia-nitrogen (NH3-N), *E. coli*, dissolved oxygen (DO), five-day carbonaceous biochemical oxygen (CBOD5) and potential hydrogen (PH). Ammonia-nitrogen and *E. coli* limits were included in a compliance schedule in this permit and these limits were effective November 1, 2020.

2. Between December 1, 2020 and December 1, 2023, the City violated 89 effluent limits contained in its NPDES permit. All of these effluent limit violations are in the below table:

Effluent Limit Violations 12/1/2020 - 12/1/2023

MEDIAPOLIS CITY OF STP - 2948001

| MEDIAPOLIS EPA #:IA0025917 | | 7DAY - LBS/DAY | | AVERAGE - LBS/DAY | | DAILY MAXIMUM - LBS/DAY | | AVERAGE - MG/L | | DAILY MAXIMUM - MG/L | | DAILY MINIMUM - MG/L | | DAILY MAXIMUM - STD UNITS | | Para- meter Monthly Total |
|-------------------------------|--------|-------------------|-------|----------------------|-------|-------------------------------|-------|-------------------|-------|----------------------------|-------|----------------------------|------|---------------------------------|-----|------------------------------------|
| | | Limit | DMR | Limit | DMR | Limit | DMR | Limit | DMR | Limit | DMR | Limit | DMR | Limit | DMR | |
| Outfall: 002 | | | | | | | | | | | | | | | | |
| 12/2020 | NH3-N | | | 7 | 10.48 | 11 | 21.19 | 2.5 | 5.12 | 3.9 | 8.56 | | | | | 4 |
| 1/2021 | NH3-N | | | 9.7 | 16.65 | | | 3.4 | 11.61 | | | | | | | 2 |
| 2/2021 | NH3-N | | | 11.2 | 33.79 | 23.8 | 49.31 | 4 | 14.80 | 8.4 | 15.60 | | | | | 4 |
| 3/2021 | NH3-N | | | 9.7 | 41.41 | 11 | 92.47 | 3.4 | 7.19 | 3.9 | 14.00 | | | | | 4 |
| 4/2021 | NH3-N | | | 4.3 | 13.68 | 13.4 | 28.07 | 1.5 | 3.66 | | | | | | | 3 |
| 5/2021 | NH3-N | | | 3.2 | 26.08 | 9.1 | 40.77 | 1.7 | 5.54 | 3.2 | 6.57 | | | | | 4 |
| 6/2021 | NH3-N | | | 3.7 | 19.51 | 9.1 | 43.23 | 1.3 | 6.33 | 3.2 | 7.58 | | | | | 4 |
| | CBOD5 | 113 | 122.5 | | | | | | | | | | | | | 1 |
| | DO | | | | | | | | | | | 5 | 0.20 | | | 1 |
| 7/2021 | E-COLI | | | | | | | 630 | 3,202 | | | | | | | 1 |
| | NH3-N | | | 2.8 | 21.42 | 9.1 | 36.56 | 1 | 6.46 | 3.2 | 8.62 | | | | | 4 |
| 8/2021 | DO | | | | | | | | | | | 5 | 3.00 | | | 1 |
| | NH3-N | | | | | | | 1 | 2.32 | 2.7 | 2.84 | | | | | 2 |
| 9/2021 | DO | | | | | | | | | | | 5 | 1.60 | | | 1 |
| | NH3-N | | | | | | | 1.1 | 1.90 | | | | | | | 1 |
| 9/2021 | DO | | | | | | | | | | | 5 | 3.40 | | | 1 |

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3. 567 IAC 64.3(1) prohibits the operation of any wastewater disposal system in violation of a permit issued to that system. The above stated facts show noncompliance with this provision.

V. ORDER

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

1. The City shall continue to implement the plan of action submitted by the City on April 10, 2023. Specifically, the City shall implement the following construction schedule:
 - a. By September 1, 2024, submit plans and specifications and a construction permit application to the DNR; and
 - b. By December 1, 2025, complete construction of the upgrades to the waste water treatment facility.
2. The City shall submit to DNR Field Office 6 updates to its progress regarding this construction schedule, which shall be submitted by January 5 and July 5 of each year until upgrades to the waste water treatment facility are completed.
3. Within 30 days of the date the Director signs this Order, the City shall pay an administrative penalty of \$5,000.00

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. 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 \$5,000.00 for the violations described above. The administrative penalty is determined as follows:

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.

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 the type of violation. As

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indicated above, substantial civil penalties are authorized by statute. Failure to 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 \$2,000.00 is assessed for this factor.

Culpability -The City operates a WWTF. This is a highly regulated activity and therefore it 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 \$2,000.00 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.

KAYLA LYON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES



CITY OF MEDIAPOLIS

Dated this 18 day of
December, 2023

Field Office #6; EPA; I.B.2.b.; I.C.1; Courtney Cswercko