

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

IN THE MATTER OF: Waspy’s Truck Wash, LLC Audubon County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2024-WW-03
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TO: Brian Handlos
2083 Hwy 71
Audubon, IA 50025

Amy Littler, Registered Agent
508 Market St
Audubon, IA 50025

I. SUMMARY

This administrative consent order (Order) is entered into between Waspy’s Truck Wash, LLC, and the Iowa Department of Natural Resources (Department) for the purpose of addressing discharges of wastewater to a publicly owned treatment works in volumes or quantities in excess of its treatment agreement.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Kristi Burg, Environmental Specialist Senior
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, IA 50022
Phone: 712-340-3076

Relating to legal requirements:

Carrie Schoenebaum, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Ave. Ste 200
Des Moines, Iowa 50321
Phone: 515-444-8165

II. JURISDICTION

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ISSUED TO: Waspy's Truck Wash, LLC

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.

III. STATEMENT OF FACTS

Waspy's Truck Wash, LLC neither admits nor denies the following statement of facts and enters into this agreement solely for the purposes of settlement:

1. Waspy's Truck Wash, LLC (Waspy's) operates a truck wash at the location of Section 28, Leroy Township (T80N, R35N), which is locally known as 2083 Highway 71, Audubon, Iowa, in Audubon County, Iowa. Waspy's is a significant industrial user (SIU) and discharges interior livestock trailer wash wastewater to the City of Audubon's wastewater treatment facility (WWTF) pursuant to a Treatment Agreement (TA). This TA became effective in April 7, 2016. Pursuant to this TA, Waspy's has limits for the following pollutants: biological oxygen demand five day (BOD5), total suspended solids (TSS), total kjeldahl nitrogen (TKN), Ammonia Nitrogen and Oil and Grease (O&G).
2. Between September 1, 2019 and March 11, 2024, Waspy's violated the limits in its TA 529 times. These violations were documented in the Discharge Monitoring Reports (DMRs) maintained by the City of Audubon. All of these violations are listed in the below table:

TA Limit Violations 1/1/2019 - 3/11/2024

AUDUBON EPA #:IA0035203	AVERAGE - LBS/DAY		DAILY MAX - LBS/DAY		AVERAGE - MG/L		DAILY MAX - MG/L		AVERAGE - MGD		DAILY MAX - MGD		DAILY MAX - STD UNITS		DAILY MIN - STD UNITS		Param Month Total
	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
WASPY'S TRUCK STOP LLC																	
Outfall: 001																	
1/2019	BOD5	10.0	25.7	21.0	68.6												2
	FLOW								0.01	0.01	0.01	0.02					2
	TKN	1.9	4.0	3.8	4.4												2
	O&G					25	114	50	149								2
2/2019	BOD5	10.0	27.2	21.0	32.8												2
	FLOW								0.01	0.01	0.01	0.02					2
	TKN	1.9	2.5														1
	O&G					25	105	50	244								2
3/2019	BOD5	10.0	34.4	21.0	46.6												2
	FLOW								0.01	0.01	0.01	0.02					2
	TKN	1.9	3.1	3.8	5.3												2
	O&G					25	113	50	156								2
4/2019	BOD5	10.0	30.9	21.0	54.5												2
	FLOW								0.01	0.01	0.01	0.02					2
	TKN	1.9	2.3														1
	O&G					25	46	50	73								2
5/2019	BOD5	10.0	14.0	21.0	22.5												2
	FLOW								0.01	0.01	0.01	0.01					2
	O&G					25	51	50	120								2
9/2020	NH3-N	1.2	8.5	2.3	13.1												2
	BOD5	10.0	22.0	21.0	31.5												2
	FLOW								0.01	0.01	0.01	0.03					2
	TKN	1.9	17.6	3.8	34.5												2
	O&G					25	45	50	53								2
	TSS	10.0	13.1	21.0	21.5												2
10/2020	NH3-N	1.2	6.0	2.3	8.4												2
	BOD5	10.0	28.6	21.0	38.1												2
	FLOW								0.01	0.01	0.01	0.03					2
	TKN	1.9	19.5	3.8	31.0												2
	O&G					25	56	50	101								2
	TSS			21.0	21.6												1
11/2020	NH3-N	1.2	12.1	2.3	17.0												2
	BOD5	10.0	37.6	21.0	62.6												2
	FLOW								0.01	0.02	0.01	0.04					2
	TKN	1.9	28.1	3.8	45.8												2
	O&G					25	73	50	183								2
	TSS	10.0	16.4	21.0	31.3												2
12/2020	NH3-N	1.2	15.2	2.3	20.1												2
	BOD5	10.0	95.0	21.0	131.6												2
	FLOW								0.01	0.02	0.01	0.04					2
	TKN	1.9	32.3	3.8	51.8												2
	O&G					25	117	50	407								2
	TSS	10.0	124	21.0	218												2
1/2021	NH3-N	1.2	26.7	2.3	28.3												2
	BOD5	10.0	83.0	21.0	144.6												2
	FLOW								0.01	0.03	0.01	0.06					2
	TKN	1.9	47.4	3.8	51.3												2
	O&G					25	142	50	236								2
	PH												9.0	9.7			1
2/2021	TSS	10.0	64.1	21.0	132.0												2
	NH3-N	1.2	2.4	2.3	2.4												2

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	FLOW									0.01	0.03	0.01	0.05						2
	TKN	1.9	41.3	3.8	50.8														2
	O&G					25	403	50	756										2
	TSS	10.0	514	21.0	737														2
11/2021	NH3-N	1.2	53.4	2.3	58.4														2
	BOD5	10.0	367	21.0	425														2
	FLOW									0.01	0.02	0.01	0.04						2
	TKN	1.9	104	3.8	109														2
	O&G					25	201	50	364										2
	TSS	10.0	1370	21.0	2349														2
12/2021	NH3-N	1.2	18.6	2.3	39.1														2
	BOD5	10.0	252	21.0	315														2
	FLOW									0.01	0.02	0.01	0.04						2
	TKN	1.9	39.4	3.8	56.3														2
	O&G					25	151	50	345										2
	TSS	10.0	614	21.0	858														2
1/2022	NH3-N	1.2	25.7	2.3	47.3														2
	BOD5	10.0	356	21.0	566														2
	FLOW									0.01	0.02	0.01	0.05						2
	TKN	1.9	44.1	3.8	55.8														2
	O&G					25	258	50	352										2
	PH													9.0	10.4				1
	TSS	10.0	1163	21.0	2683														2
2/2022	NH3-N	1.2	17.8	2.3	32.0														2
	BOD5	10.0	216	21.0	261														2
	FLOW									0.01	0.02	0.01	0.04						2
	TKN	1.9	52.7	3.8	97.8														2
	O&G					25	143	50	294										2
	TSS	10.0	641	21.0	1529														2
3/2022	NH3-N	1.2	8.0	2.3	12.8														2
	BOD5	10.0	157	21.0	184														2
	FLOW									0.01	0.01	0.01	0.03						2
	TKN	1.9	20.7	3.8	25.9														2
	O&G					25	142	50	257										2
	TSS	10.0	269	21.0	387														2
4/2022	NH3-N	1.2	7.4	2.3	17.2														2
	BOD5	10.0	200	21.0	281														2
	FLOW									0.01	0.01	0.01	0.03						2
	TKN	1.9	29.8	3.8	45.0														2
	O&G					25	302	50	848										2
	TSS	10.0	890	21.0	1310														2
5/2022	NH3-N	1.2	14.0	2.3	23.1														2
	BOD5	10.0	285	21.0	391														2
	FLOW									0.01	0.01	0.01	0.03						2
	TKN	1.9	35.3	3.8	45.7														2
	O&G					25	274	50	446										2
	TSS	10.0	874	21.0	1412														2
6/2022	NH3-N	1.2	12.0	2.3	18.3														2
	BOD5	10.0	335	21.0	384														2
	FLOW									0.01	0.02	0.01	0.03						2

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	TKN	1.9	33.5	3.8	40.0														2	
	O&G					25	181	50	248											2
	TSS	10.0	395	21.0	628															2
7/2022	NH3-N	1.2	8.5	2.3	13.2															2
	BOD5	10.0	222	21.0	315															2
	FLOW									0.01	0.01	0.01	0.03							2
	TKN	1.9	18.8	3.8	30.7															2
	O&G					25	210	50	378											2
	TSS	10.0	402	21.0	545															2
8/2022	NH3-N	1.2	8.7	2.3	11.6															2
	BOD5	10.0	189	21.0	223															2
	FLOW									0.01	0.01	0.01	0.02							2
	TKN	1.9	26.0	3.8	32.0															2
	O&G					25	146	50	205											2
	TSS	10.0	643	21.0	1150															2
9/2022	NH3-N	1.2	14.7	2.3	20.2															2
	BOD5	10.0	204	21.0	254															2
	FLOW									0.01	0.01	0.01	0.02							2
	TKN	1.9	33.9	3.8	43.9															2
	O&G					25	138	50	224											2
	TSS	10.0	691	21.0	921															2
10/2022	NH3-N	1.2	16.5	2.3	35.8															2
	BOD5	10.0	305	21.0	491															2
	FLOW									0.01	0.02	0.01	0.03							2
	TKN	1.9	22.2	3.8	26.3															2
	O&G					25	152	50	211											2
	TSS	10.0	597	21.0	998															2
11/2022	NH3-N	1.2	10.2	2.3	19.1															2
	BOD5	10.0	178	21.0	283															2
	FLOW									0.01	0.02	0.01	0.03							2
	TKN	1.9	28.7	3.8	47.6															2
	O&G					25	144	50	201											2
	TSS	10.0	635	21.0	964															2
12/2022	NH3-N	1.2	20.7	2.3	35.2															2
	BOD5	10.0	409	21.0	520															2
	FLOW									0.01	0.02	0.01	0.04							2
	TKN	1.9	55.8	3.8	85.0															2
	O&G					25	172	50	263											2
	TSS	10.0	1133	21.0	1376															2
1/2023	NH3-N	1.2	19.7	2.3	26.4															2
	BOD5	10.0	373	21.0	657															2
	FLOW									0.01	0.02	0.01	0.04							2
	TKN	1.9	39.3	3.8	60.2															2
	O&G					25	154	50	283											2
	TSS	10.0	1136	21.0	1711															2
2/2023	NH3-N	1.2	14.5	2.3	22.0															2
	BOD5	10.0	314	21.0	505															2
	FLOW									0.01	0.02	0.01	0.04							2
	TKN	1.9	36.3	3.8	59.0															2
	O&G					25	182	50	242											2

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12/2023	NH3-N	1.2	8.4	2.3	14.7															2	
	BOD5	10.0	115	21.0	211															2	
	FLOW									0.01	0.01	0.01	0.02							2	
	TKN	1.9	15.2	3.8	30.5															2	
	O&G					25	68	50	115											2	
	TSS	10.0	109	21.0	208															2	
1/2024	NH3-N	1.2	8.9	2.3	22.6															2	
	BOD5	10.0	157	21.0	371															2	
	FLOW									0.01	0.01	0.01	0.04							2	
	O&G					25	47													1	
	TSS	10.0	89.8	21.0	135.8															2	
																				Total:	529

3. On February 1, 2023, March 13, 2023, May 2, 2023 and February 6, 2024, the Department sent NOV’s for the above cited violations. Included in each NOV was a summary of the relevant law, the violations and recommended corrective actions.

IV. CONCLUSIONS OF LAW

Waspy’s neither admits nor denies the following conclusions of law and enters into this agreement solely for the purposes of settlement:

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

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.
2. 567 IAC 62.1(6) prohibits “the discharge of wastewater into a publicly owned treatment works or a semipublic sewage disposal system in volumes or quantities in excess of those to which a significant industrial user is committed in the treatment agreement described in 567—subrule 64.3(5)[.]” The above stated facts demonstrate noncompliance with this provision of law.
3. 567 IAC 62.1(7) prohibits the discharge of “[w]astes in such volumes or quantities as to exceed the design capacity of the treatment works, cause interference or pass through, or reduce the effluent quality below that specified in the operation permit of the treatment works[.]” The above stated facts demonstrate noncompliance with this provision of law.

V. ORDER

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By the execution of this Order, the Department orders and the Waspy's agree to do the following:

1. Comply with the TA effective April 7, 2016 or a new TA if one is accepted by the Department;
2. No later than 30 days after the Director signs this order submit a Plan of Action to the Department detailing how Waspy's will comply with the limits in its TA;
3. Waspy's shall pay a penalty in the amount of \$8,000.00 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 by Waspy's by continuing to operate the in noncompliance with its TA. Waspy's was able to accept a significant amount of additional business because of its noncompliance. Therefore, \$3,000.00 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 comply with a TA can degrade 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 a TA thwarts the integrity of the NPDES permit and water quality program. Therefore, the amount of \$3,000.00 is assessed for this factor.

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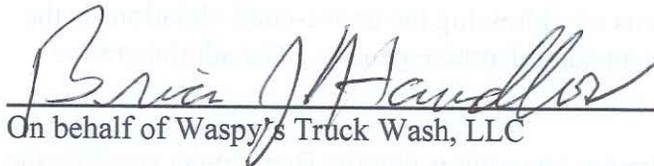
c. Culpability. Waspy's operates a truck wash. This is a highly regulated activity and therefore Waspy's has an obligation to be aware of the applicable regulations and comply with those regulations. The Department communicated the need to comply with Waspy's TA permit on multiple occasions. Nevertheless, the TA 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 Order is entered into knowingly by and with the consent of the Waspy's. 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 Waspy's Truck Wash, LLC

Dated this 15th day of
May, 2024

Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources

Field Office #4; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C.1