

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

<p>IN THE MATTER OF:</p> <p>Terrace Hill Sanitary Sewer District</p> <p>Franklin County, Iowa</p> <p>NPDES Permit No. 3500900</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2024-WW-04</p>
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TO: Toni Dean, President
1631 Club View Dr.
Hampton, IA 50441

I. SUMMARY

This administrative consent order (Order) is entered into between the Terrace Hill Sanitary Sewer District (Terrace Hill) and the Iowa Department of Natural Resources (Department) for the purpose of addressing violations of the Terrace Hill’s National Pollutant Discharge Elimination System Permit (NPDES).

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Sheila Bly, Environmental Specialist Senior
Iowa Department of Natural Resources
2300 15th Street SW
Mason City, Iowa 50501
Phone: 641-525-0251

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

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

1. Terrace Hill operates a wastewater treatment facility (WWTF) at the location of Section 15, Township 92N, Range 20W in Franklin County, Iowa. Terrace Hill operates this WWTF pursuant to NPDES permit No. 3500900. Included in this permit is a compliance schedule for the effluent limits of ammonia nitrogen and *E. coli*. Pursuant to this schedule, these limits were final on February 1, 2021. This compliance schedule also contained the following schedule:

Ammonia Nitrogen and *E. coli* Compliance Schedule

The facility shall make necessary improvements to meet ammonia nitrogen and *E. coli* limits according to the following schedule:

- Complete a Self-Assessment Matrix and submit a Work Record Request form to DNR's Wastewater Engineering Section by January 1, 2017. The forms and instructions are available on the DNR website at <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WastewaterConstruction.aspx>. Questions on the forms should be directed to either Terry Kirschenman at 515/725-8422 or Emy Liu at 515/725-8421.
- Submit progress report by October 1, 2017.
- Submit a Facility Plan by January 1, 2018. The Facility Plan shall be in accordance with Chapter 11.2 of the Iowa Wastewater Facilities Design Standards adopted April 25, 1979.
- Submit progress report by October 1, 2018.
- Submit final plans and specifications by April 1, 2019.
- Award contract for construction of wastewater treatment improvements by September 1, 2019.
- Submit progress report by June 1, 2020.
- Complete construction of wastewater treatment improvements by January 1, 2021.
- Achieve compliance with all final ammonia nitrogen and *E. coli* limits by February 1, 2021.

To date, the terms of the compliance schedule have not been met.

2. Between February 1, 2021, and March 11, 2024, Terrace Hill violated effluent limits in its NPDES permit 23 times. These violations were documented in the DMRs maintained by Terrace Hill. All of these violations are listed in the below table:

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Effluent Limit Violations 2/1/2021 - 3/19/2024

TERRACE HILL SANITARY DISTRICT STP - 3500900

HAMPTON EPA #:IA0062472		AVERAGE - LBS/DAY		DAILY MAXIMUM - LBS/DAY		AVERAGE - MG/L		DAILY MAXIMUM - MG/L		Parameter Monthly Total
		Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
Outfall: 001										
4/2021	NH3-N					5.9	14.0	5.9	14.0	2
	E.COLI					126.0	8,694			1
5/2021	NH3-N					4.4	11.3	4.4	15.0	2
	E.COLI					126.0	217			1
11/2021	NH3-N					3.9	20.0	3.9	21.0	2
	E.COLI					126.0	50,535			1
5/2022	NH3-N	4.9	11.2	4.9	18.8	4.4	18.5	4.4	22.0	4
	E.COLI					126.0		1,344		1
11/2022	NH3-N					3.9	15.5	3.9	18.0	2
	E.COLI					126.0		29,571		1
5/2023	NH3-N					4.4	5.6	4.4	7.3	2
	E.COLI					126.0		23,624		1
11/2023	NH3-N					3.9	26.0	3.9	27.0	2
	E.COLI					126.0		83,277		1

Total: 23

3. On January 6, 2020 a Letter of Non-Compliance was sent to Terrace Hill for failure to meet deadlines contained in its NPDES permit compliance schedule. Included with this letter was a report from the Department which summarized the recommendations to come into compliance.
4. On August 24, 2020, a Notice of Violation (NOV) was sent to Terrace Hill for failure to submit the monthly operation report, and failure to meet milestones in the compliance schedule contained in the NPDES permit.
5. On October 10, 2020, McClure Engineering contacted the Department on behalf of Terrace Hill and stated that they working to remedy the NPDES permit violations.
6. On October 20, 2020, Terrace Hill submitted the missing monthly operation report.
7. On February 16, 2021, a NOV was sent to Terrace Hill for failure to meet the milestones in the compliance schedule contained in the NPDES permit.
8. On March 23, 2021, McClure Engineering contacted the Department in response to the NOV and indicated that Terrace Hill should be able to complete the necessary projects and achieve compliance by February of 2022.

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9. On January 24, 2022, the Department reached out to McClure Engineering requesting a status update on the project. McClure Engineering responded that a construction permit application would soon be submitted and that completion of construction was anticipated by the end of 2022.
10. On August 22, 2022, a NOV was sent for failure to meet milestones in the compliance schedule in the NPDES permit and violations of effluent limits contained in the NPDES permit.
11. On October 6, 2022, McClure Engineering responded to the NOV and stated that the costs for the lift station, construction and operation, were higher than expected. Therefore, Terrace Hill is considering a pilot project for additional treatment instead.
12. On November 3, 2022, a meeting was held with the Department and McClure Engineering to discuss the pilot project. At the meeting all parties agreed that McClure would conduct further investigation to determine the timeframe for installation of additional treatment and that if Terrace Hill decides to proceed with the pilot project a request would be submitted to the Department's wastewater construction engineering section.
13. On February 13, 2023, a NOV was sent for NPDES permit effluent limit violations. Included with this NOV was a summary of the violations, the law and the recommended corrective actions.
14. On March 2, 2023, Terrace Hill responded to the NOV via e-mail and stated that Terrace Hill was investigating a more economically feasible solution to achieve compliance.
15. On June 8, 2023, the Department conducted a routine wastewater compliance inspection of Terrace Hill. During this inspection the Department documented numerous effluent limit violations. Notably the effluent limit for *E. coli* had not been met since it became effective.
16. On June 13 and 19, 2023, the Department met with McClure Engineering and Terrace Hill. During these meetings the parties discussed evaluating other potential treatment upgrades instead of the lift station project.
17. On June 29, 2023, an NOV was sent to Terrace Hill for effluent limit violations and record keeping violations. Included with this NOV was a copy of the June 8, 2023, inspection report, a summary of the law and recommended corrective actions.
18. On September 19, 2023, a compliance meeting was held with the Department and Terrace Hill. During this meeting the Department was told that the Terrace Hill homeowners association voted to pursue a lagoon expansion rather than the lift station option.
19. On September 29, 2023, the Department received an updated projected schedule which stated that the anticipated completion date was October 2027.

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20. On February 20, 2024, a NOV was sent for the effluent limit violations referenced in the table above. Included with this NOV was a summary of the law and recommended corrective actions.

IV. CONCLUSIONS OF LAW

The Department and Terrace Hill 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. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Commission. Additionally, 567 IAC 62.1(1) prohibits the discharge of wastewater into a navigable water unless authorized by an NPDES permit. The above stated facts demonstrate noncompliance with these provisions of law.
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 demonstrate noncompliance with this provision of law.

V. ORDER

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

1. Terrace Hill shall submit a facility plan to the Department by September 1, 2024;
2. Terrace Hill shall submit a construction permit application to the Department no later than August 15, 2025;
3. Terrace Hill shall substantially complete the wastewater treatment facility upgrades no later than October 15, 2027;
4. Terrace Hill shall complete all wastewater treatment facility upgrades by May 1, 2028; and
5. Terrace Hill shall pay a penalty in the amount of \$2,500.00 within 30 days of the date the Director signs this Order.

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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 continuing to operate the WWTF in noncompliance with its NPDES permit and through delaying the necessary upgrades to the WWTF. Therefore, \$500.00 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 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 \$1,000.00 is assessed for this factor.

c. Culpability. The Terrace Hill 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 Department communicated the need to comply with the its NPDES permit on multiple occasions. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

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

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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 Terrace Hill Sanitary Sewer District

Dated this 9 day of
MAY, 2024

Kayla Lyon, DIRECTOR
Iowa Department of Natural Resources

NPDES #3500900; Field Office #2; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C.1