

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

ADMINISTRATIVE ORDER

ROLLING KNOLLS GOLF COURSE

&

CARRIE FANGMAN

NO. 2024-WS-02

To: Rolling Knolls Golf Course
2424 2nd Ave SE
Dyersville, IA 52040

Carrie Fangman
2424 2nd Ave SE
Dyersville, IA 52040

Re: Violations of Water Supply Law

I. SUMMARY

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Carrie Fangman, owner of Rolling Knolls Golf Course and to Rolling Knolls Golf Course (“Rolling Knolls”) to resolve violations of Iowa water supply law.

As detailed below, Rolling Knolls and Ms. Fangman are ordered to (1) submit complete and accurate monthly operating reports in a timely fashion as required by law, (2) submit all public notices discussed below that have not been submitted as of the effective date of this order, and submit proof of the same to the DNR, (3) pay all future Annual Public Water Supply Fees in a timely manner as required by law, (4) within 60 days of the effective date of this order, provide proof to the DNR that a proper chlorine test kit has been obtained, and that a well vent has been installed, (5) submit all future reports of DNR-approved start-up procedures in a timely fashion as required by law, and (6) pay a civil penalty of \$7,375 within 60 days of the effective date of this order. Any questions regarding this Order should be directed to:

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Relating to technical requirements:

Amber Sauser, Env. Specialist
Iowa Department of Natural Resources
Field Office No. 1
1101 Commercial Ct, Suite 10
Manchester, Iowa 52057
Phone: (563) 927-2640

Relating to legal requirements:

Bradley Adams, Attorney
Iowa Department of Natural Resources
6200 Park Ave., Ste. 200
Des Moines, Iowa, 50321
Phone: (515) 664-8894

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This order is issued pursuant to 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, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10 (455B), which authorize the Director to assess penalties.

III. STATEMENT OF FACTS

1. Rolling Knolls Golf Course is a seasonal transient public water supply that operates from April to October operating under Public Water Supply Identification no. 3130886. Water for this system is provided by one shallow well. The water is treated with a sediment filter, cation exchange for softening, anion exchange for nitrate removal, and hypochlorination for disinfection. This system was required to install nitrate removal due to nitrate maximum contaminate level (MCL) exceedances.
2. In 2006, Carrie Fangman, owner of Rolling Knolls, was issued a public water supply (PWS) operation permit requiring the installation of continuous chlorination. This was the first permit requiring monthly operating reports to be submitted to DNR Field Office 1 (FO1). Nitrate removal had been installed previously.
3. On February 25, 2016, an operation permit was issued to Ms. Fangman that included seasonal requirements, such as confirming that the appropriate start-up procedures were followed.
4. No Monthly Operating Reports (MORs) were submitted between August 7, 2018 and June 14, 2022.
5. On July 20, 2018, a Notice of Violation (NOV) was issued to Rolling Knolls for failure to submit the May and June 2018 MORs.

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6. On October 29, 2018, an NOV was issued to Rolling Knolls for failure to submit August and September 2018 MORs.
7. On July 15, 2019, an NOV was issued to Rolling Knolls for failure to submit April, May and June 2019 MORs.
8. On October 14, 2019, an NOV was issued to Rolling Knolls for failure to submit July, August and September 2019 MORs.
9. On December 19, 2019, an NOV was issued to Rolling Knolls for failure to provide public notice for the October 29, 2018 MOR notice of violation.
10. On August 20, 2020, an NOV was issued to Rolling Knolls for failure to provide public notice for the July 15, 2019 MOR notice of violation.
11. On November 17, 2020, an NOV was issued to Rolling Knolls for failure to provide public notice for the October 14, 2019 MOR notice of violation.
12. On January 22, 2021, an NOV was issued to Rolling Knolls for failure to submit the April, May, June, July, August, September and October 2020 MORs.
13. On May 4, 2021, an NOV was issued to Rolling Knolls for failure to submit the April 2021 MOR.
14. On May 18, 2020, a Treatment Technique NOV was issued to Rolling Knolls for failure to conduct start-up procedures.
15. On June 14, 2021, an NOV was issued to Rolling Knolls for failure to submit the May 2021 MOR.
16. On July 13, 2021, an NOV was issued to Rolling Knolls for failure to submit the June 2021 MOR.
17. On August 9, 2021, an NOV was issued to Rolling Knolls for treatment technique violations. Specifically, the NOV was issued for failure to complete the 2021 startup procedures.
18. On August 16, 2021, an NOV was issued to Rolling Knolls for failure to submit the July 2021 MOR.
19. On September 1, 2021, a second notice was sent to Rolling Knolls requesting the Annual Public Water Supply Fee for FY 2022.
20. On September 16, 2021, an NOV was issued to Rolling Knolls for failure to submit the August 2021 MOR.

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21. On October 20, 2021, an NOV was issued to Rolling Knolls for failure to provide public notice for the August 9, 2021 treatment technique NOV issued for failure to complete the startup procedures.
22. On November 14, 2021, an NOV was issued to Rolling Knolls for failure to submit the October 2021 MOR.
23. On February 17, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the January 22, 2021 MOR notice of violation.
24. On May 12, 2022, an NOV was issued to Rolling Knolls for failure to submit the April 2022 MOR.
25. On June 13, 2022, an NOV was issued to Rolling Knolls for failure to submit the May 2022 MOR. Public notice was required by June 2023 for this violation.
26. On June 14, 2022, Andrea Errthum, FO1, performed a sanitary survey. On the day of the inspection, Ms. Fangman provided copies of 16 MORs, dating back to April of 2020 through May of 2022, that FO1 never received. It was unclear where the data from the MORs came from or why they hadn't been submitted.
27. On June 20, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the May 24, 2021 MOR notice of violation.
28. On June 21, 2022, a report from the June 14 sanitary survey was sent to Ms. Fangman. The report required a written response by July 25, 2022. The report addressed minor deficiencies, including failure to have an appropriate chlorine test kit and well vent. The inspector sent a reminder email on August 23, 2022. A response was submitted via email on August 26, 2023. Ms. Fangman had not yet obtained a test kit. She provided a picture of an ordered test kit that did not meet standards and was provided a link to an acceptable test kit. On October 5, 2022 another email was sent asking about the status of the test kit. No response was received prior to closing for the season nor upon opening in 2023.
29. On July 14, 2022, an NOV was issued to Rolling Knolls for failure to submit June 2022 MOR.
30. On July 21, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the June 14, 2021 MOR notice of violation.
31. On August 11, 2022, an NOV was issued to Rolling Knolls for failure to submit the July 2022 MOR.
32. On August 17, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the July 13, 2021 MOR notice of violation.

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33. On August 18, 2022, a treatment technique NOV was issued to Rolling Knolls for failure to complete the startup procedures.
34. On August 26, 2022, the June and July 2022 MORs were submitted.
35. On September 1, 2022, a second notice was sent to Rolling Knolls requesting payment of the Annual Public Water Supply Fee for FY 2023.
36. On September 19, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the August 16, 2021 MOR notice of violation.
37. On September 20, 2022, an NOV was issued to Rolling Knolls for failure to submit the August 2022 MOR.
38. On October 11, 2022, an NOV was issued to Rolling Knolls for failure to submit the September 2022 MOR.
39. On October 20, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for both the September 16, 2021 MOR and August 18, 2022 treatment technique failure to complete the startup procedures.
40. On November 17, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the October 14, 2021 MOR notice of violation.
41. On December 21, 2022, an NOV was issued to Rolling Knolls for failure to provide public notice for the November 14, 2021 MOR notice of violation.
42. On May 22, 2023, an NOV was issued to Rolling Knolls for failure to submit the April 2023 MOR.
43. On June 15, 2023, FO1 staff contacted Rolling Knolls and left a message with staff requesting to have Ms. Fangman call FO1 and submit the May 2023 MOR.
44. On June 22, 2023, an NOV was issued to Rolling Knolls for failure to submit the May 2023 MOR.
45. On July 13, 2023 FO1 staff emailed Rolling Knolls a reminder to submit their MOR for April, May and June 2023.
46. On July 18, 2023, an NOV was issued to Rolling Knolls for failure to submit the June 2023 MOR.
47. On July 26, 2023, FO1 staff called Rolling Knolls and left a message with staff requesting that Ms. Fangman contact FO1, and for Rolling Knolls to submit the April, May, June, and July MORs.

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48. On July 20, 2023, an NOV was issued to Rolling Knolls for failure to provide public notice for the June 13, 2022 MOR notice of violation.
49. On August 17, 2023, an NOV was issued to Rolling Knolls for failure to provide public notice for the July 14, 2022 MOR notice of violation.
50. On August 30, 2023, an NOV was issued to Rolling Knolls for failure to submit the July 2023 MOR.
51. On September 6, 2023, a second notice was issued to Rolling Knolls requesting that it pay the Annual Public Water Supply Fee for FY 2024. Rolling Knolls has not paid the \$25.00 annual fee for the following years: FY 2022 (due September 1, 2021), FY 2023 (September 1, 2022), and FY 2024 (September 1, 2023). In addition, a \$100.00 late fee is now due for each of the missed annual fees.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.172 designates the DNR as the state agency to conduct the PWS program. Iowa Code sections 455B.173(3), (5), and (6) authorize the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of PWS systems, including the authority to adopt rules relating to monitoring, record keeping, and reporting requirements for any PWS. The Commission has adopted such rules at 567 IAC chapters 40-43.
2. 567 IAC 43.2(2) requires permittees to comply with all terms of the water supply system permits issued by the DNR.
3. 567 IAC 43.2(5)(a) provides that operation permits may contain such conditions as are deemed necessary by the director to ensure compliance with all applicable rules of the DNR, to ensure that the PWS system is properly maintained, to ensure that potential hazards to the water consumer are eliminated promptly, and to ensure that the requirements of the Safe Drinking Water Act are met.
4. 567 IAC 42.4(3)(b) provides that any drinking water system chemical that is added to raw, partially treated, or finished water must be suitable for the intended use in a potable water system.
5. 567 IAC 42.1(1) requires that “[e]ach owner or operator of a public water system must give notice for all violations of public drinking water rules.”
6. 567 IAC 42.4(1)(c) requires that a “public water supply system, within ten days of completion of each public notification required pursuant to 567-42.1 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.”

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7. 567 IAC 43.2(1) requires payment of a nonrefundable fee for the operation of a PWS system by September 1 of each year.
8. 567 IAC 41.2(1)(n)(1)(5) requires that a seasonal system must certify, prior to serving water to the public, that it has complied with the DNR-approved start-up procedure.
9. 567 IAC 41.2(1)(p)(2)(3) states that a seasonal system is in violation of the MCL for *E. coli* when it fails to complete a DNR-approved start-up procedure prior to serving water to the public, including collection of a finished water sample that tests total coliform-negative.

The above stated facts establish violations of these regulatory provisions.

V. ORDER

THEREFORE, the DNR issues the following orders to Rolling Knolls and Ms. Fangman:

1. Rolling Knolls and Ms. Fangman shall submit complete and accurate monthly operating reports in a timely fashion as required by law.
2. Rolling Knolls and Ms. Fangman shall report all public notices discussed above that have not been submitted as of the effective date of this order, and submit proof of the same to the DNR.
3. Rolling Knolls and Ms. Fangman shall pay all future Annual Public Water Supply Fees in a timely manner as required by law, and shall pay any outstanding Annual Public Water Supply fees within 60 days of the effective date of this order.
4. Within 60 days of the effective date of this Order, Rolling Knolls and Ms. Fangman shall provide proof to the DNR that a proper chlorine test kit has been obtained, and that a well vent has been installed.
5. Rolling Knolls and Ms. Fangman shall submit all future reports of DNR-approved start-up procedures in a timely fashion as required by law.
6. Within 60 days of the effective date of this Order, Rolling Knolls and Ms. Fangman are jointly and severally required to pay a civil penalty of \$7,375.

VI. CIVIL PENALTY

1. 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

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2. Iowa Code section 455B.191(2) provides for civil penalties of up to \$5,000.00 per day for violations of laws found in Iowa Code section 455B, Subchapter III, Part 1, or any administrative rule pursuant thereto.
3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. The administrative penalty assessed by this Order is determined as follows:
 - a. Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or that were likely to be saved by noncompliance. 567 IAC 10.30(1) states that “where a violator realizes an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties to offset the economic benefit.” 567 IAC 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

The economic benefit for failure to submit the monthly operating reports can't be fully evaluated, as it is unclear if this system is actually performing tests and not reporting them, or if Rolling Knolls is failing to both perform and report the completed chlorine and nitrate test results to this office. During the most recent sanitary survey the chlorine test reagent was expired. It is unclear if this is because samples are not being collected or a large quantity was purchased at one time. Monthly operating reports are sporadically submitted in bulk, most often during sanitary surveys which are scheduled in advance by field office staff.

Rolling Knolls has not paid the FY2022, FY2023 or FY2024 annual public water supply fee of \$25 or associated late fee of \$100. These fees are due by September 1 each year.

As such, \$375 is assessed for the unpaid fees.

- b. Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Having safe water quality and conducting required self-monitoring are central to the administration of the State's safe drinking water program. Self-monitoring and reporting are important barriers to serving safe water as the water supply program relies on this to confirm the effectiveness of treatment.

Nitrate is an acute risk to human health. Total coliform is an indicator of possible contamination. The nitrate removal system was installed to address a nitrate MCL exceedance, and the failure to adequately monitor daily nitrate levels places

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customers at risk. In addition, this system also provides continuous chlorination treatment. Failure to adequately monitor chlorine residual also places customers at unnecessary risk.

The DNR relies on the submittal of complete monthly operating reports to verify adequate treatment. As a transient noncommunity public water supply with nitrate removal and chlorination, Rolling Knolls is not required to obtain the services of a certified operator. Failure to report results of this monitoring to the DNR prevents staff from verifying adequate treatment.

Failure to provide timely public notice of the violations again puts customers at risk by not providing information to allow them to make an informed decision. Seasonal systems are required to complete and verify completion of DNR-approved start-up procedures. Failure to conduct and/or verify completion of these is considered a treatment technique violation and again places customers at unnecessary risk.

Such deficiencies threaten the integrity of this program and public health. In view of the ongoing violations for reporting, failure to provide public notice, failure to pay annual fees, and failure to certify start-up procedures, \$3,500 is appropriate for this factor.

As such, \$3,500 is assessed for this factor.

- c. Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence of the violator, and whether the violator has taken remedial measures to address the harm caused by the violations.

Ms. Fangman has owned and operated this system since the installation of the continuous chlorination and the requirement to submit monthly operating reports was first outlined in a permit in 2006. As described in the Statement of Facts listed above, despite numerous communications from the Field Office and Central Office staff, including phone calls, written communication, and electronic communication, no improvements have been made.

The owner is well aware of the requirements and has exhibited recalcitrant behavior towards them. Although this system has been submitting bacteria and nitrate samples for laboratory analysis, they do not send in the required monthly operation reports for nitrate and chlorine levels. This information is a key factor in understanding the effectiveness of the day to day operations of the treatment installed to address an MCL exceedance. The operator of this system also shows disregard for public health by not providing the required public notice or conducting start-up procedures, and negatively impact the drinking water program by failing to pay the annual fee.

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As such, \$3,500 is assessed for this factor.

VII. APPEAL RIGHTS

This Order is subject to appeal pursuant to Iowa Code § 455B.110 and the contested case rules promulgated pursuant to that section. An appeal must be received by the DNR within 60 days of the date this Order issued, at which time a contested case hearing will be scheduled before an Administrative Law Judge. Failure to appeal will result in this Order being considered final agency action.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order may result in the imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief and/or civil penalties.

Kayla Lyon, Director
Iowa Department of Natural Resources