

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

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<p><b>IN THE MATTER OF:</b></p> <p><b>City of Audubon</b></p> <p><b>Audubon County, Iowa</b></p>	<p><b>ADMINISTRATIVE CONSENT ORDER</b></p> <p><b>NO. 2024-WW-09</b></p>
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TO: Andrew Grabill, Honorable Mayor Pro Tem  
315 Broadway St.,  
Audubon, IA 50025

**I. SUMMARY**

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

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  
502 E. 9<sup>th</sup> 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**

1. The City operates a wastewater treatment facility (WWTF) at the location of T 80 N, R 35 W, Section 28 in Audubon County, Iowa. The City operates this WWTF pursuant to NPDES permit No. 0505001. Included in this permit is a treatment agreement (TA) with Waspy's Truck Wash, LLC (Waspy's) (Waspy's is a significant industrial user (SIU)). This TA became effective in April 7, 2016, and establishes limits regarding pollutants that Waspy's can legally discharge to the City. 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). And, pursuant to this NPDES permit, the City has effluent limits for multiple pollutants, including ammonia (NH-3), chloride, and total suspended solids (TSS).

2. Between September 1, 2019 and March 11, 2024, Waspy's violated limits in the TA 529 times. These violations were documented in the Discharge Monitoring Reports (DMRs) maintained by the City.

3. Between September 1, 2019, and March 11, 2024, the City violated effluent limits in its NPDES permit 48 times. These violations were documented in the DMRs maintained by the City. All of these violations are listed in the below table:

<b>Effluent Limit Violations 1/1/2019 - 3/11/2024</b>												
<b>AUDUBON CITY OF STP - 0505001</b>												
AUDUBON EPA #:IA0035203		AVERAGE - LBS/DAY		DAILY MAX - LBS/DAY		7DAY - MG/L		AVERAGE - MG/L		DAILY MAX - MG/L		Param Month Total
		Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	Limit	DMR	
<b>Outfall: 001</b>												
12/2020	NH3-N									16.2	22.6	1
1/2021	NH3-N							8.4	9.1	15.5	16.2	2
3/2021	NH3-N							7.4	8.8	14.9	16.5	2
4/2021	NH3-N							3.2	11.1	14.6	17.4	2
5/2021	NH3-N	22.3	36.7					2.8	17.5	14.6	21.8	3
6/2021	NH3-N	15.6	31.1					1.9	18.2	11.7	24.3	3
7/2021	NH3-N	14.8	34.4					1.8	18.7	9.0	22.7	3
8/2021	NH3-N	13.5	38.3					1.7	20.2	9.2	36.1	3
9/2021	NH3-N	17.5	18.5					2.2	7.4	10.7	20.6	3
10/2021	NH3-N							4.4	7.8			1
11/2021	NH3-N							5.4	8.8			1
2/2022	NH3-N							9.5	14.1	14.5	19.9	2
3/2022	NH3-N							7.4	13.6	14.9	24.1	2
	TSS					45.0	60.3					1
4/2022	NH3-N							3.2	7.5			1
5/2022	NH3-N	22.3	23.5					2.8	5.9			2
6/2022	NH3-N							1.9	1.9			1

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7/2022	NH3-N							1.8	2.8			1
8/2022	NH3-N							1.7	7.0	9.2	16.6	2
9/2022	NH3-N							2.2	11.6	10.7	21.7	2
10/2022	NH3-N							4.4	9.7	15.9	18.4	2
11/2022	NH3-N							5.4	6.5			1
3/2023	NH3-N									14.9	16.9	1
6/2023	NH3-N							1.9	4.5			1
7/2023	NH3-N							1.8	6.9	9.0	19.0	2
8/2023	NH3-N							1.7	7.8	9.2	22.4	2
1/2024	CHLORIDE							389.0	392.4			1

4. On December 22, 2021, November 22, 2022, February 2, 2023, August 10, 2023, November 7, 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

The Department and City 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 City agrees to do the following:

1. Comply the terms of NPDES permit No. 0505001, which includes the TA with Waspy's;
2. Submit a Plan of Action to the Department that details how the City will comply with its NPDES permit; and

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3. The City 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 continuing to operate the WWTF in noncompliance with its NPDES permit and through delaying the necessary upgrades to the WWTF. 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 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 Department communicated the need to comply with the City’s NPDES permit on multiple occasions. Nevertheless, the permit was not complied with and illegal discharges have occurred. Therefore, the amount of \$2,000.00 is assessed for this factor.

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**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.

Andrew Grabill  
On behalf of the City of Audubon

Dated this 24 day of  
June, 2024

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Kayla Lyon, DIRECTOR  
Iowa Department of Natural Resources

NPDES #0505001; Field Office #4; Carrie Schoenebaum; EPA; Water Quality Bureau; I.B.2.c.C.1