

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: CITY OF KNOXVILLE Wastewater Facility No. 6-63-42-0-01	ADMINISTRATIVE CONSENT ORDER NO. 2013-WW-
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TO: City of Knoxville
c/o Honorable Mayor and Council
City Hall, 305 S. 3rd
Knoxville, IA 50138

I. SUMMARY

This administrative consent order (order) is entered into between the City of Knoxville (City) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order for the purpose of resolving bypassing by the City's wastewater treatment facility (WWTF). The City hereby agrees to comply with the schedule contained in this order and to properly operate and maintain the existing WWTF. In the interest of avoiding litigation, the parties have agreed to the following order.

Any questions or response regarding this order should be directed to:

Relating to Technical Requirements:

Tom Atkinson, Environmental Specialist
IDNR Field Office No. 5
401 S.W. 7th, Suite I
Des Moines, Iowa 50309
Ph: 515/725-0371

Relating to Legal Matters

Diana L. Hansen, Attorney at Law
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

II. JURISDICTION

The parties hereby agree that 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 I, and the rules promulgated 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.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CITY OF KNOXVILLE**

III. STATEMENT OF FACTS

1. The City owns and operates a WWTF located in Section 5, Township 75N, Range 19W, in Marion County, Iowa. This WWTF consists of a two-stage trickling filter/bio-tower treatment plant with anaerobic digestion and sludge de-watering. Treatment units include the following: screening with grit removal, three primary clarifiers, two trickling filters with domes, two intermediate clarifiers, a rotary screen for final humus and trickling filter recycle, one plant pump station, two biotowers, two final clarifiers, a chlorine contact basin that is not in use, two anaerobic digesters, and one belt filter press. Flow is measured at four locations, including flow to the plant, flow to the storm water basin, bio-tower recycle flow and effluent flow. A six million-gallon (MG) storm water basin is provided for flows in excess of 4.5 MG.

There are two lift stations in the collection system. One serves the northwest corner of Knoxville, with two centrifugal pumps. The second was installed to serve a subdivision that was not built, but remains in place with four suction pumps. This lift station is maintained by the City.

2. The City operates its WWTF pursuant to Iowa NPDES Permit No. 6-63-42-0-01, issued by the Department. Treated wastewater is discharged pursuant to this facility's permit. The permit contains effluent limitations for the discharge of pollutants, including but not limited to carbonaceous biochemical oxygen demand (CBOD5), total suspended solids (TSS), and pH.

3. The City reported bypassing to Department Field Office No. 5 (FO 5) for bypassing that occurred from the WWTF equalization basin in June 2009, March 2010, April 2010, May 2010, June 2010, July 2010, August 2010, April 2011, and June 2011. Bypass pumping from the collection system or bypassing from manholes occurred in June 2009, April 2010, May 2010, June 2010, July 2010, August 2010, and June 2011.

4. On August 18, 2009, FO 5 issued an inspection report concerning the City's WWTF. The report identified infiltration and inflow (I/I) as a continued problem and indicated that FO 5 expected bypasses to be eliminated by January 1, 2012. On June 6, 2010, FO 5 issued an inspection report that identified I/I as a continued problem and noted the expectation that bypassing would be eliminated by January 1, 2012. The report found that all bypasses had not been verbally reported to FO 5 within 12 hours as required by Department rule 567 IAC 63.6(455B).

5. The Department's Wastewater Engineering Section (WES) received a facility plan on February 22, 2010 from the City for construction of WWTF upgrades. The facility plan included a 50 MG equalization basin. A project initiation meeting was held on March 22, 2010 to discuss the equalization basin project. Following review of the facility plan, WES determined that the facility plan was incomplete on July 30, 2010. On June 11, 2010, WES received a revised facility plan for the equalization basin project. On August 9, 2011, WES sent preliminary facility plan review comments to the City. The

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CITY OF KNOXVILLE**

review comments indicated that the Department did not agree with the proposed design loadings and that the June 9, 2011 facility plan could not be approved. On July 10, 2012, WES received the appendices to complete the facility plan. On July 25, 2012, WES sent facility plan review comments to the City. On October 9, 2012, the City's consulting engineer submitted a proposed construction schedule to FO 5 to be included in an administrative order. On October 10, 2012, WES received the City's response to the July 25, 2012 comment letter concerning the facility plan. On November 8, 2012, WES sent the City a letter with further facility plan review comments and questions in response to prior comments from the City.

6. The Department and the City agree to the implementation schedule included in this order in Section V. The implementation schedule is based on the schedule that FO 5 negotiated with the City and that the City indicated would be appropriate for the project on May 15, 2013. A map is attached to this order as Appendix No. 1. The map indicates the boundaries of Areas 3 and 4 of the City. This map is referenced in Section V. Order and is incorporated by reference into this order.

7. This order rescinds Administrative Order No. 2006-WW-05.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Rule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations in chapters 61 and 62 of the rules.

3. This facility's NPDES permit requires these facilities to be adequately operated and maintained. Standard Condition 8 of the permit provides that all facilities and control systems shall be operated as efficiently as possible and maintained in good working order. This standard permit condition is based upon subrule 64.7(5)"f". This subrule states "the permittee at all times shall maintain in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit." The number of SSO discharge points in the City's collection system and the number of past discharges from the SSO discharge points are indicative of operational and maintenance deficiencies in the City's collection system that needed to be corrected.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CITY OF KNOXVILLE**

V. ORDER

THEREFORE, the Department hereby orders and the City consents to the following:

The City agrees to comply with the following construction schedule:

1. Begin implementation of the System Wide I/I Removal Program by August 30, 2013.
 - a. This should include the I/I Removal Policy prohibiting clear water connections and provide measures to require corrections of deficiencies identified during residential inspections.
 - b. Residential inspections need to be conducted at a pace sufficient to allow the sewer service rehabilitation and clear water connection removal in Areas 3 and 4 of the City, as indicated in Appendix No. 1, to be completed by December 31, 2018.
 - c. Rehabilitate an average of twenty percent (20 %) of the sanitary sewer main sewer service connections in Areas 3 and 4 of the City, as indicated in Appendix No. 1, each year from 2013 to 2018.
 - d. Footing drains and sump pumps in Areas 3 and 4 of the City, as indicated in Appendix No. 1, are required to be disconnected from the sanitary sewers by December 31, 2018.
2. Complete sanitary sewer lining projects in Area 4 of the City, as indicated in Appendix No. 1, by December 31, 2016.
3. Complete sanitary sewer lining projects in Area 3, as indicated in Appendix No. 1, by December 31, 2018.
4. Install the equipment necessary for disinfection of the final effluent by December 31, 2018.
5. By December 31, 2019, submit a preliminary engineering report for any remaining projects determined to be necessary to eliminate bypassing.
6. By December 31, 2022, eliminate bypassing.
7. This order rescinds Administrative Order No. 2006-WW-05.

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.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CITY OF KNOXVILLE**

2. 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 in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order without an administrative penalty.

The cost of the of collection system work and the WWTP upgrades are substantial. The City has been cooperative in identifying the needed work and making progress on the selected projects. Given the cost of the projects and the cooperation of the City, the Department has elected to not assess an administrative penalty. The Order is needed to provide an enforceable schedule for the improvements selected by the City.

A. Economic Benefit. The plan set forth in this order, and the activities to date, have been undertaken with consideration of the cost impacts on the City. Delaying the upgrade or replacement of the existing sanitary sewer system collection system allows for the distribution of costs over time to reduce the fiscal impact of the improvements. The execution of this order constitutes a good faith attempt by both parties to achieve compliance and resolve past violations. Due to this, the Department is not assessing any penalty for economic benefit in this order.

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. Despite the high penalties authorized, the Department has decided to handle the violations administratively at this time as the most equitable and efficient means of resolving the matter. Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies.

The City's sewer collection system has not been able to maintain compliance with applicable requirements and has bypassed untreated wastewater to the receiving stream during significant wet weather events. Bypassing of untreated or partially treated sewage from a separate sanitary sewer system often poses significant environmental pollution and health problems. Bypasses can pollute receiving surface waters with adverse impacts to aquatic life and drinking water quality. Basement backups create a significant health risk, reduce property values, and cause damage to building. In view of the current cooperative efforts of the City, no amount will be assessed for this factor.

C. Culpability. The City has been aware of the inadequacies of the existing sanitary sewer collection system for a considerable period of time but has not completed the improvements required to correct the problem to date. FO 5 documented I/I problems in routine inspection reports. The City's direct responsible charge operators reported various studies and projects to improve the problem, including smoke testing, cleaning, televising, relief sewers and manhole improvements. Nonetheless, these efforts failed to fully address the complete collection system and eliminate problems. The City's

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CITY OF KNOXVILLE**

culpability is mitigated by the steps the City has been taking over the past several years to address the problem and in response to a deadline given to the City for correction of deficiencies. No amount will be assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175, and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

VIII. NONCOMPLIANCE

Compliance with Section “V. Order” 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.

_____ Dated this ____ day of
DONALD ZOUTTE, MAYOR
MAYOR OF KNOXVILLE _____, 2013

_____ Dated this ____ day of
CHUCK GIPP
DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES _____, 2013

City of Knoxville- NPDES Permit No. 6-63-42-0-01 (Copy to Central Office Records File), Tom Atkinson- Field Office No. 5, Emy Liu- Department Project Engineer, Adam Schnieders- NPDES Permits, Diana L. Hansen- Legal Services Bureau, U.S. E.P.A. Region VII, I.B.2.b. and I.B.2.c.