

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

<p>IN THE MATTER OF:</p> <p>CITY OF LA PORTE CITY</p> <p>Black Hawk County, Iowa NPDES Permit #0743001</p>	<p style="text-align:center">ADMINISTRATIVE CONSENT ORDER NO. 2022-WW- 15</p>
------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------

TO: City of La Porte City
202 Main Street
La Porte City, Iowa 50651

I. SUMMARY

This administrative consent order (Order) is entered into between the City of La Porte City (City), and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations related to the City's violations of wastewater law. The Order requires the City to comply with the construction schedule in this Order to promptly bring the Facility into compliance with the Current Permit and pay an administrative penalty of \$7,000. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Amber Sauser
Iowa Department of Natural Resources
DNR Field Office 1
1101 Commercial Court
Manchester, Iowa 52057
563-927-2640

Relating to legal requirements:

Noah Poppelreiter
Iowa Department of Natural Resources
Legal Services Bureau
502 E. 9th Street
Des Moines, IA 50319-0034
515-669-8752

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
CITY OF LA PORTE CITY**

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director of the DNR 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 adopted 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.

III. STATEMENT OF FACTS

1. The City owns and operates a wastewater treatment plant located at or about 300 yards northeast of the intersection of 8th street and Highway 218, La Porte City, Iowa (Facility).
2. The Facility discharges wastewater to Wolf Creek, a tributary of the Cedar River.
3. On February 1, 2017, the DNR issued National Pollutant Discharge Permit (NPDES) number 0743001 (Old Permit) to the City. The terms of the Old Permit are incorporated by reference into this Order.
4. In particular, and for ease of reference, Page 13 of the Old Permit details the “*E. coli* Compliance Schedule” (Schedule) required as a condition of the permit. The Schedule requires the City to do the following to meet the *E. coli* limit imposed by the Permit:
 - a. Complete a self-assessment matrix by April 1, 2017.
 - b. Submit a facility plan by August 1, 2017.
 - c. Submit a progress report by February 1, 2018.
 - d. Submit final plans and specifications by July 1, 2018.
 - e. Award a contract for the construction of improvements to the Facility by September 1, 2018.
 - f. Submit a second progress report by May 1, 2019.
 - g. Complete constructions of improvements to the facility by January 1, 2020.
 - h. Achieve compliance with the final *E. coli* limits by February 1, 2020.
5. On January 16, 2019, the DNR issued the City a construction permit allowing the installation of UV disinfection technology and other improvements to the Facility that would bring the City into compliance with the Old Permit’s *E. coli* limits.
6. To date, the construction allowed under this construction permit has not been started.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
CITY OF LA PORTE CITY**

7. On January 7, 2020, the DNR issued the City a Notice of Violation for the City's failure to comply with the Schedule.

8. Between February 1, 2020, and November 15, 2021, the City discharged wastewater in violation of the limits in the Old Permit.

9. On November 16, 2021, the DNR issued the City an updated NPDES permit (Current Permit). The terms of the Current Permit are adopted by reference into this Order.

10. As of the date this Order was signed, the City has failed to achieve compliance with the final *E. coli* limit in the Current Permit and discharged wastewater in violation of the *E. coli* limits in the Current Permit.

11. The City and the DNR agree this Order is necessary to detail a construction schedule to promptly bring the wastewater discharged by the Facility into compliance with the Current Permit.

IV. CONCLUSIONS OF LAW

The following Conclusions of Law are applicable to this matter:

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 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 Environmental Protection Commission. Additionally, 567 IAC 62.1(1) prohibits the discharge of wastewater into a navigable water unless authorized by an NPDES permit. The City discharged wastewater in violation of the effluent limits in both the Old Permit and the Current Permit. The facts show a violation of these provisions.

3. 567 IAC 64.3(1) prohibits the operation of any wastewater disposal system in violation of a permit issued to that system. The City failed to comply with the Schedule issued in the Old Permit, operated the Facility in violation of the Old Permit, and is operating the Facility in violation of the effluent limits in the Current Permit. The facts show a violation of this provision.

V. ORDER

Therefore, DNR orders and the City agrees to the following:

1. The City shall comply with the following construction schedule to ensure compliance with the terms of the Current Permit:

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
CITY OF LA PORTE CITY**

- a. By October 1, 2022, submit to the DNR for approval a flood plain permit application.
 - b. By December 31, 2022, submit to the DNR for approval full plans and specifications for upgrades at the Facility.
 - c. By May 1, 2023, open bidding on a contract to construct and install upgrades to the Facility.
 - d. By June 1, 2023, award a bid for the construction and installation of upgrades to the Facility.
 - e. By July 1, 2023, start the construction and installation of upgrades to the Facility.
 - f. By July 1, 2025, complete construction and installation of upgrades to the Facility.
 - g. By July 31, 2025, achieve compliance with the terms of the Current Permit or subsequent NPDES permits.
2. Within 30 days of the date the Director signs this Order, the City shall pay an administrative penalty of \$7,000.00.

VI. PENALTY

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter. Iowa Code 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 at 567 IAC chapter 10. DNR is assessing a penalty of \$7,000.00 for the violations described above. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR 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.” The City gained an avoided cost benefit by failing to comply with the Schedule and by failing to adequately treat the wastewater discharging from the Facility. Using a reasonable estimate for these costs, and in order to promptly settle this matter and ensure immediate compliance with the terms of this Order, \$7,000.00 is assessed for this factor.

Gravity – 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 that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The City’s failure to comply with the Schedule caused both programmatic and environmental harm.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
CITY OF LA PORTE CITY**

However, to ensure these harms are promptly eliminated through the issuance of this Order, no penalty is assessed for this factor.

Culpability – The City has a duty to maintain and operate the Facility in a manner that does not cause violations of NPDES permits issued to the City or wastewater law. The City is well aware of the requirements of its NDPEs permits, including but not limited to the Schedule. Despite, this, the City has failed to comply with the Schedule and is discharging wastewater in violation of the limits in the Current Permit. However, to ensure the environmental harm caused by the discharge of improperly treated wastewater is promptly eliminated through the issuance of this Order, no penalty is assessed for this factor.

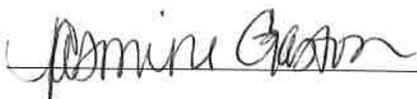
VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of the City of La Porte City. For that reason, the City waives its right to appeal this Order or any part thereof.

VIII. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order, and constitutes a permanent remedy of the conditions which caused the violations. 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.

KAYLA LYON, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES



CITY OF LA PORTE CITY

Dated this 23 day of
May, 2022

Field Office #1; EPA; I.B.2.b.; I.C.1