[Filed 3-24-09 in Clinton Co. District Court.]

IN THE IOWA DISTRICT COURT IN AND FOR CLINTON COUNTY

STATE OF IOWA, ex rel., IOWA DEPARTMENT OF NATURAL RESOURCES (99AG23542),	)	LAW NO. _____
Plaintiff,	)	
vs.	)	**PETITION AT LAW**
CITY OF CLINTON, IOWA,	)	
Defendant.	)	

COMES NOW Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources and for its claim against Defendant City of Clinton, Iowa, states as follows:

Introduction

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant City of Clinton arising from the city's violation of effluent limitations for wastewater discharges into the Mississippi River and failure to comply with requirements to reduce and eliminate combined sewer overflows.

Parties

2. The State of Iowa is a sovereign state of the United States of America.

3. The Iowa Department of Natural Resources (hereafter "IDNR") is a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.

4. Defendant City of Clinton (hereafter "city") is a duly organized city under the laws of the State of Iowa. The city is a "person" as defined in Iowa Code section 455B.171(16).

Definitions

5. "Disposal system" means "a system for disposing of sewage, industrial waste, or other wastes" and includes "sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage sludge." Iowa Code § 455B.171(5).

6. "Effluent standard" means "any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, radiological, and other constituents which are discharged from point sources into any water of the state including an effluent limitation, a water quality related effluent limitation, a standard of performance for a new source, a toxic effluent standard, or other limitation." Iowa Code § 455B.171(6).

7. "Industrial waste" means "any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade, or business or from the development of any natural resource." Iowa Code § 455B.171(9).

8. "Person" means "any agency of the state or federal government or institution thereof, any municipality, governmental subdivision, interstate body, public or private corporation, individual, partnership, or other entity and includes any officer or governing or managing body of any municipality, governmental subdivision, interstate body, or public or private corporation." Iowa Code § 455B.171(16).

9. "Point source" means "any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit . . . from which pollutants are or may be discharged." Iowa Code § 455B.171(17).

10. "Pollutant" means "sewage, industrial waste, or other waste." Iowa Code § 455B.171(18).

11. "Sewage" means "the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such groundwater infiltration and surface water as may be present." Iowa Code § 455B.171(29).

12. "Sewer system" means "pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices, and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state." Iowa Code § 455B.171(32).

13. "Treatment works" means "any plant, disposal field, lagoon, holding or flow-regulating basin, pumping station, or other works installed for the purpose of treating, stabilizing, or disposing of sewage, industrial waste, or other wastes." Iowa Code § 455B.171(35).

14. "Water of the state" means "any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof." Iowa Code § 455B.171(37).

15. "Water pollution" means "the contamination or alteration of the physical, chemical, biological, or radiological integrity of any water of the state by a source resulting in whole or in part from the activities of humans, which is harmful, detrimental, or injurious to public health, safety, or welfare, to domestic, commercial, industrial, agricultural, or recreational use or to livestock, wild animals, birds, fish, or other aquatic life." Iowa Code § 455B.171(38).

Jurisdiction

16. The IDNR is the agency of the state responsible for the prevention, abatement, or control of water pollution. Iowa Code § 455B.172(1). The IDNR maintains jurisdiction over and regulates the direct discharge of pollutants to a water of the state. Iowa Code § 455B.172(5).

17. The Iowa Environmental Protection Commission (hereafter "EPC") has authority to establish water quality standards, pretreatment standards, and effluent standards; and adopt rules relating to the location, construction, operation, and maintenance of disposal systems; permits for the operation, installation, construction, addition to, or modification of disposal systems, or for the discharge of any pollutant; and inspection, monitoring, record keeping, and reporting requirements for owners and operators of disposal systems. Iowa Code §§ 455A.6(6)(a) and 455B.173(2), (3) and (6). The EPC's rules implementing these provisions are contained in 567 Iowa Admin. Code 60-69.

18. The dumping, depositing, or discharging of pollutants into any water of the state is prohibited, except adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the IDNR. Iowa Code § 455B.186(1).

19. Operation of any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the IDNR, is prohibited. 567 Iowa Admin. Code 64.3(1).

20. A person who violates any provision of Iowa Code chapter 455B, Division III, Part 1 or any permit, rule, standard, or order issued thereunder shall be subject to a civil penalty not to exceed five thousand dollars ($5,000.00) for each day of such violation. Iowa Code § 455B.191(1).

21. The Attorney General is authorized, at the request of the IDNR director with approval of the EPC, to initiate any legal proceedings, including an action for an injunction or temporary injunction, necessary to enforce the penalty provisions of Iowa Code chapter 455B, Division III, Part 1, or to obtain compliance with the provisions of said statutes or any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(4).

Background on Combined Sewer Overflows (CSOs)

22. A "combined sewer system" (CSS) is a wastewater collection system which conveys sanitary wastewater (domestic, commercial and industrial wastewater) and storm water through a single-pipe system to a publicly-owned treatment works (POTW). 59 Fed.Reg. 18688, 18689 (April 19, 1994).

23. A "combined sewer overflow" (CSO) refers to the discharge from a combined sewer system (CSS) at a point prior to a POTW. *Id.*

24. CSOs may consist of a mixture of domestic sewage, industrial and commercial wastewater, and storm water runoff, and may contain high levels of suspended solids, pathogenic microorganisms, toxic pollutants, floatables, nutrients, oxygen-demanding organic compounds, oil and grease, and other pollutants. *Id.* CSOs may cause exceedance of water quality standards and may pose risks to human health, threaten aquatic life and its habitat, and impair the use and enjoyment of waterways. *Id.*

25. CSOs are "point sources" subject to National Pollutant Discharge Elimination System (NPDES) permits including both technology-based and water quality-based requirements. *Id.*

26. The United States Environmental Protection Agency (EPA) has adopted a

"Combined Sewer Overflow (CSO) Control Policy" which requires that CSOs and their pollution impacts be addressed through implementation of Nine Minimum Controls, and submittal and implementation of Long Term Control Plans (LTCP). 59 Fed.Reg. 18688-18698 (April 19, 1994).

27. The EPA CSO Control Policy requires that NPDES permit holders which have CSOs to implement the following Nine Minimum Controls:

(1) Proper operation, and regular maintenance programs for the sewer system and the CSOs.

(2) Maximum use of the collection system for storage.

(3) Review and modification of pretreatment requirements to assure CSO impacts are minimized.

(4) Maximization of flow to the POTW for treatment.

(5) Prohibition of CSOs during dry weather conditions.

(6) Control of solid and floatable materials in CSOs.

(7) Pollution prevention.

(8) Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts.

(9) Monitoring to effectively characterize CSO impacts and the efficacy of CSO controls.

Id. at 18691.

28. The EPA CSO Control Policy also requires the development and implementation of a LTCP to address the CSOs by eliminating and reducing their impact on receiving waterways. *Id.* at 18691-18694.

Facts

City of Clinton's POTW

29. The city owns and operates a wastewater treatment works located in Section 23, Township 81 North, Range 6 East, in Clinton County, Iowa. The treatment works includes a mechanically cleaned bar screen, two grit chambers, three primary clarifiers, three aeration basins, and four final clarifiers. In addition, the city owns and operates a sewer system for the collection of sewage, industrial wastes and other wastes.

30. The city discharges its wastewater, including partially treated sewage and industrial wastes, from the city's wastewater treatment works into Beaver Slough of the Mississippi River.

31. Sewage and industrial waste discharged from the city's wastewater treatment works each constitute a "pollutant" as defined in Iowa Code section 455B.171(18).

32. The Mississippi River is a "water of the state" as defined in Iowa Code section 455B.171(37).

1992 NPDES Permit

33. On April 7, 1992, the IDNR issued to the city NPDES Permit No. 2326001. The permit established inter alia interim and final effluent limitations for five-day carbonaceous biological oxygen demand ($CBOD_5$), total suspended solids (TSS), ammonia-nitrogen (N), pH, chlorine, fecal coliform, and a number of metals including chromium, copper, cyanide, lead, mercury and zinc. Compliance with the final ammonia-nitrogen (N) limits was required by April 1, 1995.

34. The 1992 NPDES permit also included requirements to address overflows of wastewater from combined storm and sanitary sewers. The permit identified ten outfall locations

where combined storm and sanitary sewers discharged overflow wastewater:

22nd Place combined sewer overflow

18th Place combined sewer overflow

South 5th Street combined sewer overflow

South 4th Street combined sewer overflow

First Avenue pumping station combined sewer overflow

13th Avenue North combined sewer overflow

15th Avenue North combined sewer overflow

18th Avenue North combined sewer overflow

Main Avenue combined sewer overflow.

25th Avenue North pumping station combined sewer overflow.

The permit required the city to develop and submit to the IDNR an operational plan by September 24, 1993. The purpose of the operational plan was to reduce the loading of pollutants entering the Mississippi River from the city's collection system and treatment plant. Implementation of the plan was required within one year of the IDNR's approval of the plan.

35. The 1992 NPDES permit would have expired on April 7, 1997, except that on October 7, 1996, the city filed a timely renewal application. Pursuant to Iowa Code section 17A.18(2) and 567 Iowa Admin. Code 64.8(1)"a," the city's NPDES permit remained in effect until the application was finally determined by the IDNR.

Administrative Order No. 2001-WW-27 and Amendments

36. On July 17, 2001, the IDNR issued Administrative Order No. 2001-WW-27 to the city, a copy of which is attached, marked Exhibit A, and incorporated by reference. The order

was in response to frequent and significant violations of the city's effluent limitations for ammonia-nitrogen (N), total suspended solids (TSS), five-day carbonaceous biological oxygen demand ($CBOD_5$), and copper. The order required the city to inter alia comply with its NPDES permit, particularly its effluent limits and implementation of the local pretreatment program for industrial contributors to its wastewater; develop and submit a comprehensive monitoring and sampling plan; submit within six (6) months a report detailing compliance with the NPDES permit; and operate its facilities and control systems as efficiently as possible so as to achieve optimum effluent quality. The order also assessed a $1,000 administrative penalty.

37. The city initially appealed Administrative Order No. 2001-WW-27, but subsequently withdrew the appeal, paid the $1,000 penalty, and on February 8, 2002, submitted a report showing compliance with NPDES permit requirements.

38. After submitting its February 8, 2002 report, the city had significant ammonia-nitrogen (N) effluent limitation violations during 2002.

39. On April 14, 2003, the IDNR issued an amended order, Administrative Order No. 2001-WW-27-A1, a copy of which is attached, marked Exhibit B, and incorporated by reference. The order required the city to submit a plan of action for complying with ammonia-nitrogen (N) effluent limitations by March 15, 2004; complete construction of wastewater treatment plant improvements by March 15, 2007, achieve compliance with final effluent limitations by April 15, 2007; and comply with the revised interim effluent limitations and monitoring requirements attached to the order. The order renewed the interim and final limits for five-day carbonaceous biological oxygen demand ($CBOD_5$), total suspended solids (TSS), pH, fecal coliform (adding an

identical interim limit); eliminated the interim limits and raised most of the final limits for ammonia-nitrogen (N); and raised the interim and final limits for copper and chlorine.

40. On April 7, 2004, the IDNR issued another amended order, Administrative Order No. 2001-WW-27-A2, a copy of which is attached, marked Exhibit C, and incorporated by reference. The amendment was issued at the request of the city, extending the deadline for submittal of the plan of action from March 15, 2004, to May 6, 2004. All other provisions of the order remained unchanged. The plan of action was not submitted until June 29, 2004. On December 20, 2004, the city submitted a revised plan of action for final completion in September 2008, rather than March 2007, as required by the order.

2003 NPDES Permit

41. On June 12, 2003, the IDNR issued a renewal with modifications of the city's NPDES Permit No. 2326001, a copy of which is attached, marked Exhibit D, and incorporated by reference. This permit, which continues to be in effect, renewed the interim and final limits in the same manner as in the April 14, 2003, amended order, Administrative Order No. 2001-WW-27-A1, renewing the interim and final limits for five-day carbonaceous biological oxygen demand ($CBOD_5$), total suspended solids (TSS), pH, fecal coliform (adding an identical interim limit); eliminating the interim limits and raising most of the final limits for ammonia-nitrogen (N); and raising the interim and final limits for copper and chlorine. Compliance with final effluent limitations was required by April 15, 2007.

42. The 2003 NPDES permit identified thirteen (13) outfall locations where combined storm and sanitary sewers discharged overflow wastewater:

22nd Place combined sewer overflow (Outfall 002)

18th Place combined sewer overflow (Outfall 003)

South 5th Street combined sewer overflow (Outfall 004)

South 4th Street combined sewer overflow (Outfall 005)

First Avenue pumping station combined sewer overflow (Outfall 006)

13th Avenue North combined sewer overflow (Outfall 007)

15th Avenue North combined sewer overflow (Outfall 008)

18th Avenue North combined sewer overflow (Outfall 009)

20th Avenue North lift station combine sewer overflow (Outfall 010)

Main Avenue combined sewer overflow (Outfall 011)

25th Avenue North pumping station combined sewer overflow (Outfall 012)

3rd Avenue South lift station combined sewer overflow (Outfall 013)

9th Avenue North combined sewer overflow (Outfall 014).

43. The 2003 NPDES permit required the city to develop and submit to the IDNR no later than six months from the date of issuance of the permit a combined sewer system (CSS) operational plan which provides for implementation of the Nine Minimum Controls for combined sewer overflows (CSOs) detailed in the EPA CSO Control Policy, published in the April 19, 1994 Federal Register. The Nine Minimum Controls for CSOs are as follows:

(1) Proper operation, and regular inspection and maintenance programs for the sewer system and the CSOs to reduce the magnitude, frequency, and duration of CSOs.

(2) Maximum use of the collection system for storage to reduce the magnitude, frequency, and duration of CSOs.

(3) Review and modification of pretreatment requirements to assure CSO impacts are minimized from nondomestic dischargers.

(4) Maximization of flow to the POTW for treatment during wet weather conditions to reduce the magnitude, frequency, and duration of CSOs.

(5) Prohibition of CSOs during dry weather conditions.

(6) Control of solid and floatable materials in CSOs.

(7) Pollution prevention program to reduce the impact of CSOs on receiving waters.

(8) Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts.

(9) Monitoring CSO outfalls to effectively characterize CSO impacts and the efficacy of CSO controls.

44. Under the 2003 NPDES permit, the city's CSS Operational Plan to implement the Nine Minimum Controls was due on December 12, 2003. The city requested and the IDNR purportedly granted an extension of this deadline until April 12, 2004. The city failed to submit the CSS operational plan until January 28, 2005.

45. The 2003 NPDES permit required the city to implement the actions identified in its CSS operational plan necessary to meet the Nine Minimum Controls for CSOs as soon as possible but no later than twenty-four (24) months from the issuance of the permit. The implementation deadline was June 12, 2005. The city requested and the IDNR purportedly granted an extension of this deadline until October 12, 2005. The city failed to timely implement all Nine Minimum Controls.

46. The 2003 NPDES permit required the city to submit a report documenting its actions taken to implement the Nine Minimum Controls for CSOs no later than twenty-four (24) months from the issuance of the permit. The report deadline was June 12, 2005. The city requested and

the IDNR purportedly granted an extension of this deadline until October 12, 2005. The city has failed to comply.

47. The 2003 NPDES permit required the city to submit within thirty-six (36) months a Long-Term Control Plan including the following elements:

a. CSS characterization which is based on:

(1) Rainfall records review

(2) CSS records review

(3) CSO and water quality monitoring

(4) Identification of sensitive areas and

(5) CSS analysis and its impact on the receiving water body

b. Development and evaluation of CSO control alternatives based on:

(1) Development of CSO control alternatives

(2) Evaluation of CSO control alternatives

(3) Cost/performance considerations

(4) Public participation

c. Selection and implementation of LTCP based on:

(1) Implementation schedule

(2) Operational plan

(3) Post-construction compliance monitoring plan.

48. The 2003 NPDES permit would have expired on June 11, 2008, except that on December 18, 2007, the city filed a timely renewal application. Pursuant to Iowa Code section

17A.18(2) and 567 Iowa Admin. Code 64.8(1)"a," the city's NPDES permit remains in effect until the application is finally determined by the IDNR.

2005 US EPA CSO and SSO Inspection

49. On May 25 and 26, 2005, the United States Environmental Protection Agency (EPA) performed a "Combined Sewer Overflow (CSO) Inspection and a Sanitary Sewer Overflow (SSO) Inspection" at the city's wastewater treatment plant. The EPA determined that the city was not fully implementing several of the Nine Minimum Controls for CSOs:

> NMC I, Operation and Maintenance - no emergency response plan to address extreme conditions.
>
> NMC V, Dry Weather Overflows - outfalls are not inspected on a frequent basis and the city has no mechanism for determining if dry weather overflows have occurred.
>
> NMC VI, Solids and Floatables - no controls for solids and floatables.
>
> NMC VIII, Public Notification - no public notification plan that addressess CSOs, emergency discharges, and education of nearby residents.
>
> NMC IX, Monitoring - no water quality monitoring has been performed relating to CSOs.

Emergency Response Plan

50. In its June 17, 2005, response to the EPA, the city agreed that it did not have an emergency response plan as required by NMC I. The city stated that it would develop an emergency response plan within six (6) months, i.e., by December 17, 2005. The emergency response plan was not adopted by the city until November 11, 2008.

Dry Weather Overflows

51. In its June 17, 2005, response to the EPA, the city did not deny that its combined sewer outfalls were not inspected on a frequent basis and that the city had no mechanism for determining if dry weather overflows have occurred as required by NMC V. But the city at

some point subsequently began to conduct regular inspections of its CSOs and maintain records of the inspections.

Control of Solids and Floatables

52. In its June 17, 2005, response to the EPA, the city agreed that it had not installed any devices to control solids and floatables from the CSOs are required by NMC VI. The city stated to the EPA that it would develop a solids and floatables control plan within forty-five (45) days, i.e., by August 1, 2005. The city did not submit a solids and floatables control plan to the IDNR until on or about April 29, 2008. The city stated to IDNR that booms or nets to control solids and floatables would not be installed at CSO Outfalls 009 and 014 until the spring of 2009; and that controls would not be installed at CSO Outfall 010 until sometime in 2010. The city stated to IDNR that operational adjustments to outfalls 006, 010, 012, and 013 would meet the intent of NMC VI: solids and floatables control. The operational adjustments include closure of gravity discharges requiring all overflows to be routed through the pump stations resulting in accumulation of floatables in the wet wells and in pump screens. The city stated that no solids and floatables controls would be installed at the remaining CSO Outfalls 002, 003, 004, 005, 007, and 008 because the outfalls would be closed sometime in July 2008.

Public Notification Plan

53. In its June 17, 2005 response to the EPA, the city agreed that it had not adopted and implemented a public notification policy regarding CSOs as required by NMC VIII. The city stated that a policy adopted on or about June 17, 2005, would be immediately implemented.

CSO Monitoring

54. In its June 17, 2005, response to the EPA, the city agreed that it had not installed any

devices to monitor flow from CSOs as required by NMC IX. The city did not submit a monitoring plan to the IDNR until on or about April 29, 2008. The city stated to IDNR that flow monitoring and sampling equipment was not installed at CSO Outfalls 006, 010, 012, and 014 until early 2008 (only flow monitoring, no sampling, equipment was installed at Outfall 014). The city stated that no flow monitoring and sampling equipment would be installed at the remaining CSO Outfalls 002, 003, 004, 005, 007, 008 because the outfalls would be closed sometime in July 2008.

Long Term Control Plan

55. Under the 2003 NPDES permit, the city's Long Term Control Plan to address CSOs was due on June 12, 2006. The city requested and the IDNR purportedly granted an extension of this deadline until October 12, 2006. The city has failed to submit a LTCP to the IDNR.

56. The city submitted to the IDNR in October, 2006, a document entitled "Preliminary Combined Sewer Overflow Long Term Control Plan." But the document does not constitute a LTCP; it does not select a plan nor provide an implementation schedule. In the document, the city discussed seven (7) possible alternatives to dealing with CSOs but did not choose any single alternative for implementation. Instead, the city requested an additional six (6) years for flow monitoring and sampling, updating hydraulic and water quality models, and developing models for the downtown and south of downtown areas before making a final LTCP.

Failure to Comply with NDPES Permit Effluent Limitations

57. The city has repeatedly discharged wastewater into the Mississippi River at levels exceeding monthly average, seven-day average, and/or daily maximum effluent limitations for five-day carbonaceous biological oxygen demand ($CBOD_5$), total suspended solids (TSS),

ammonia-nitrogen (NH3-N), pH, and/or copper during the time period including but not limited to September, October and December of 2003; January, February, March, April, May, June, July, August, October, November and December of 2004; May and October 2005; May, June, July, August, October, November, and December of 2007; and January, March, April, May, June, July, August, September, October, November, and December of 2008; and January 2009.

Violations

Effluent Violations

58. The city has discharged wastewater into a water of the state at levels exceeding monthly average, seven-day average, and/or daily maximum effluent limitations for five-day carbonaceous biological oxygen demand ($CBOD_5$), total suspended solids (TSS), ammonia-nitrogen (NH3-N), pH and/or copper during the period including but not limited to September, October and December of 2003; January, February, March, April, May, June, July, August, October, November and December of 2004; May and October of 2005, May, June, July, August, October, November, and December of 2007; and January, March, April, May, June, July, August, September, October, November, and December of 2008; and January of 2009, in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), Iowa NPDES Permit No. 2326001, and Administrative Order No. 2001-WW-27, amended.

CSO Violations

59. The city failed to submit by the extended deadline of April 12, 2004, a combined sewer system (CSS) operational plan for meeting the Nine Minimum Controls for combined sewer overflows (CSOs) in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001. The operational plan was not submitted to the IDNR until January 28, 2005.

60. The city failed to fully implement its CSS operational plan for complying with the Nine Minimum Controls for CSOs by October 12, 2005, in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001.

61. The city failed to submit a report to the IDNR documenting actions it has taken to comply with the Nine Minimum Controls for CSOs by October 12, 2005, in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001.

62. The city failed to adopt an emergency response plan for CSOs as required by NMC I by October 12, 2005, in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001. The emergency response plan was not adopted until November 11, 2008.

63. The city failed to install solids and floatables controls for CSOs as required by NMC VI by October 12, 2005, in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001. As of April 29, 2008, no solids and floatables controls had been installed at the city's thirteen (13) combined sewer outfalls identified in the permit.

64. The city failed to monitor CSOs to effectively characterize CSO impacts and the efficacy of CSO controls as required by NMC IX by October 12, 2005, in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001. As of April 29, 2008, the city had not yet begun collection of flow and sampling data from the thirteen (13) CSOs identified in the permit.

65. The city has failed to submit to the IDNR by October 12, 2006, a LTCP for reducing and eliminating CSOs in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 2326001.

Prayer for Relief

WHEREFORE Plaintiff State of Iowa, ex rel., Iowa Department of Natural Resources requests that the Court:

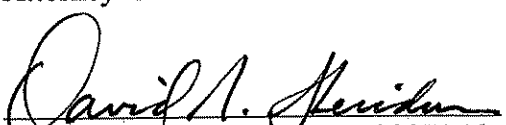
a. assess a civil penalty against Defendant City of Clinton pursuant to Iowa Code section 455B.191(1) for each day of violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), NPDES Permit No. 2326001, and Administrative Order No. 2001-WW-27, as amended, not to exceed five thousand dollars ($5,000.00) for each day of such violation; and

b. issue a permanent injunction enjoining Defendant City of Clinton from any violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), NPDES Permit No. 2326001, and Administrative Order No. 2001-WW-27, as amended.

Plaintiff further requests that the Court tax the costs of this action to the defendant and provide such other relief as the Court may deem just and proper.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



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~~Jack Kiessen~~ Wayne Farrano

RECORD COPY

File Name 6-23-26-0-01 CR SEP 2001

Senders Initials WP

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF:	ADMINISTRATIVE ORDER NO. 2001-WW-27
CITY OF CLINTON Wastewater Facility No. 6-23-26-0-01	

TO: City of Clinton
c/o Honorable Mayor and Council
City Hall
Clinton, IA 52732

bypass PPNS 9/4/01

I. SUMMARY

This Order requires you to:

- comply with all effluent limitations contained in your NPDES permit;
- enforce pretreatment standards and develop a comprehensive monitoring and sampling plan for National By-Products, within 30 days;
- within six months submit a report detailing compliance with the NPDES permit; if consistent compliance has not been achieved, the report shall include the name of the licensed engineer retained to complete a Plan of Action [POA] and a POA shall be submitted within 4 months thereafter; and
- pay a penalty* of $1,000.00, subject to your appeal rights stated in this Order.

Any questions regarding this order should be directed to:

Relating to technical requirements:
Jim Sievers
IDNR Field Office #6
1004 West Madison
Washington, IA 52353
Ph: 712/243-5251

Relating to appeal rights:
Diana Hansen
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

Appeal, if any, addressed to:
Director, Iowa Dept. of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

Payment of penalty to:
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

* See "Supplemental Environmental Projects" attachment.

EXHIBIT A

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 chapter 567--10(455B), Iowa Administrative Code (I.A.C.), which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. The City of Clinton owns and operates a wastewater treatment facility located in Clinton County, Iowa. This facility consists of a collection system, and a mechanical sewage treatment system, consisting of a mechanically cleaned bar screen, two grit chambers, three primary clarifiers, three aeration basins, and four final clarifiers. Sludge is treated in two DAF thickeners and four anaerobic digesters, and is applied to land after it is stabilized. Treated wastewater is discharged to the Mississippi River, pursuant to Iowa NPDES Permit No. 6-23-26-0-01.

2. The current NPDES permit was issued on April 7, 1992, and contains limitations for the discharge of pollutants, including carbonaceous biochemical oxygen demand [$CBOD_5$], total suspended solids [TSS], and pH. The permit also contains limits for ammonia nitrogen [N], chromium, copper, cyanide, total residual chlorine [TRC], and zinc. The average flow limitation is 9 million gallons per day. The permit also requires the City to regulate industrial contributions to the system, through a local "pretreatment" permit and monitoring program.

3. During the past year there have been frequent and significant violations of the effluent limitations, including N, TSS, $CBOD_5$, and copper. The City indicates that the treatment problems have been caused by the dumping of excess loadings by one or more industries, and has stepped up its monitoring program to attempt to gain control of that situation.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state unless authorized by a permit from this Department. The discharges noted above violate this provision.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems, discharge of pollutants into waters of the state, and monitoring and reporting requirements. The Commission has done so at 567--60-69, Iowa Administrative Code (IAC). Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless

authorized by a permit from this Department. Subrule 64.3(1) prohibits the operation of a waste disposal system contrary to the terms of a permit. The above facts disclose violations of these statutes, rules and permit.

V. ORDER

THEREFORE, you are ordered to comply with the following provisions in order to cease, abate, and redress the above-cited violations:

1. Comply with all conditions of your NPDES permit, particularly effluent limits and implementation of the local pretreatment program.

2. Develop a comprehensive monitoring and sampling plan to identify the source(s) of the excess loadings to the system, and submit the plan to Field Office 6 within 30 days.

3. Within six months submit a report detailing compliance with the NPDES permit. If consistent compliance has not been achieved, the report shall include the name of the licensed engineer retained to complete a Plan of Action [POA] for returning the plant to compliance. The City's POA shall be submitted within 4 months thereafter.

4. All existing facilities and control systems shall be operated as efficiently as possible and maintained in good working order so as to achieve the optimum effluent quality possible.

5. A penalty* of $1,000.00 is assessed effective 30 days from your receipt of this Order, and shall be paid to the Department within 60 days of receipt of this order, unless you appeal this Order as provided in Part VII of 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. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to $10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in Chapter 567--10 of the Iowa Administrative Code (IAC). 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 with a penalty. The administrative penalty assessed by this order is determined as follows:

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* **See "Supplemental Environmental Projects" attachment.**

a. Economic Benefit. The violations could have been avoided or minimized through more diligent operation or monitoring of industry. The City has expended and will be expending additional amounts for the monitoring of industry, but may have saved costs through delayed compliance. It is difficult to determine precise cost savings, and no amount is assessed for this factor at this time. The Department reserves the right to reconsider this assessment in the event this matter is not promptly resolved.

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 and criminal sanctions 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. Based on these considerations, $750.00 is assessed for this factor.

c. Culpability. The violations were unexpected and not intentional or seriously negligent. The City appears to be taking action to resolve the problems. Therefore, $250.00 is assessed for this factor.

VII. APPEAL RIGHTS

Pursuant to Iowa Code sections 455B.175(1), and 561--7.5(1), Iowa Administrative Code (I.A.C.), as adopted by reference by chapter 567--7, I.A.C., a written Notice of Appeal to the Environmental Protection Commission may be filed within 30 days of receipt of this Order. The Notice of Appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and chapter 561--7, Iowa Administrative Code.

VIII. NONCOMPLIANCE

Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code section 455B.191.

JEFFREY L. VONK, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 17 day of July, 2001

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

Supplemental environmental projects [SEP] are defined as environmentally beneficial projects which a person agrees to undertake in full or partial settlement of a civil or administrative penalty, which the person is not otherwise legally required to perform.

At this time, the department allows as a SEP, payment in lieu of the administrative penalty to the local County Conservation Board. Pursuant to agreement between the department and the board, this money will be used to support specific, local, outdoor projects that will have a beneficial impact on the natural resources and environment.

If you wish to pursue the SEP option, notify the person designated on the first page of this Order within 30 days, and pay $1,000.00 within 60 days to:

Clinton County Conservation Board
ATTN: Albert L. Griffiths
P.O. Box 68
Grand Mound, IA 52751-0068

If you wish to pursue the SEP option but dispute the amount of the proposed penalty, you must follow the appeal procedures identified in the Order.

Wayne Farrand

RECORD COPY

File Name WW 6-23-26-0-01

Senders Initials CWF

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF:	ADMINISTRATIVE ORDER NO. 2001-WW-27-A1
CITY OF CLINTON Wastewater Facility No. 6-23-26-0-01	

TO: City of Clinton
c/o Honorable Mayor and Council
City Hall
611 South Third Street, P.O. Box 2958
Clinton, IA 52733-2958

I. SUMMARY

This Administrative Order amends Paragraphs I., III. and V. of the original order. This amended order requires you to comply with the implementation schedule in this order and to comply with interim effluent limits and monitoring requirements. Paragraphs II. Jurisdiction; IV. Conclusions of Law; VI. Penalty; VII. Appeal Rights; and VIII. Noncompliance of the original order remain the same and are incorporated by reference into this order.

Any questions regarding this order should be directed to:

Relating to technical requirements:
Jim Sievers
IDNR Field Office No. 6
1004 West Madison
Washington, IA 52353
Ph: 319/653-2135

Relating to appeal rights:
Diana Hansen
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515/281-6267

EXHIBIT B

III. STATEMENT OF FACTS

Paragraph III. of the original order is amended by the addition of Paragraph III. 4.

4. The City submitted a report on February 8, 2002 detailing the City's compliance with effluent limitations in 2001. Based on this report no further action was required of the City by Field Office 6. Since submittal of the report, the City has experienced significant ammonia nitrogen violations in 2002. There were five thirty day average violations for this parameter in 2002 and numerous one day maximum violations.

V. ORDER

Paragraph V.3. of the original order is amended by the addition of Paragraph V.3.a.

3.a. The City is required to submit revised design ADW, AWW, and MWW flows by May 31, 2003 to the Department's Wastewater Permits Staff. The revised design flows are required to be based on Section 14.4.5 of Chapter 14 of the Wastewater Facilities Design Standards adopted by reference by Department Chapter 64 rules. Once revised design flows are received by the Department, a wasteload allocation will be performed that will calculate the revised water quality limits based on the revised ADW and AWW flows. The Department will then inform the City of the revised permit limits.

The City is required to submit a plan of action to Field Office 6 by March 15, 2004. The plan of action is required to have an implementation schedule for returning the wastewater treatment plant to compliance with ammonia nitrogen effluent limitations.

The City is required to complete construction of wastewater treatment plant improvements by March 15, 2007 and to achieve compliance with final effluent limits by April 15, 2007. The City is required to comply with interim effluent limits and monitoring requirements found in the attachments to this order. The attachments are incorporated by reference into this administrative order.

VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by Chapter 567 IAC 7, a written Notice of Appeal to the Environmental Protection Commission may be filed within thirty (30) days of receipt of this Order. The Notice of Appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code section 455B.191.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
CITY OF CLINTON

VIII. NONCOMPLIANCE

Failure to comply with this order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

JEFFREY R. VONK, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 14 day of April, 2003.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Effluent Limitations

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Interim Limits Start: 00-00-0000 Interim Limits End: 04-14-2007

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

			EFFLUENT LIMITATIONS							
			Concentration				Mass			
Wastewater Parameter	Season	Type	7 Day Average	30 Day Average	Daily Maximum	Units	7 Day Average	30 Day Average	Daily Maximum	Units
CBOD5	YEARLY	INTER	40.0000	25.0000		MG/L	3336.00	2085.00		LBS/DAY
CBOD5	YEARLY	FINAL	40.0000	25.0000		MG/L	3336.00	2085.00		LBS/DAY
CBOD5			85 PERCENT REMOVAL REQUIRED							
TOTAL SUSPENDED SOLIDS	YEARLY	INTER	45.0000	30.0000		MG/L	3753.00	2502.00		LBS/DAY
TOTAL SUSPENDED SOLIDS	YEARLY	FINAL	45.0000	30.0000		MG/L	3753.00	2502.00		LBS/DAY
TOTAL SUSPENDED SOLIDS			85 PERCENT REMOVAL REQUIRED							
AMMONIA NITROGEN (N)	JAN	FINAL		19.8000	20.0000	MG/L		1535.00	1535.00	LBS/DAY
AMMONIA NITROGEN (N)	FEB	FINAL		16.9000	20.0000	MG/L		1076.00	1505.00	LBS/DAY
AMMONIA NITROGEN (N)	MAR	FINAL		7.2000	18.9000	MG/L		459.00	1469.00	LBS/DAY
AMMONIA NITROGEN (N)	APR	FINAL		4.6000	18.9000	MG/L		297.00	1497.00	LBS/DAY
AMMONIA NITROGEN (N)	MAY	FINAL		4.6000	18.3000	MG/L		297.00	1451.00	LBS/DAY
AMMONIA NITROGEN (N)	JUN	FINAL		4.6000	17.5000	MG/L		297.00	1384.00	LBS/DAY
AMMONIA NITROGEN (N)	JUL	FINAL		4.7000	21.0000	MG/L		299.00	1673.00	LBS/DAY
AMMONIA NITROGEN (N)	AUG	FINAL		3.7000	19.2000	MG/L		238.00	1528.00	LBS/DAY
AMMONIA NITROGEN (N)	SEP	FINAL		5.9000	20.0000	MG/L		375.00	1595.00	LBS/DAY
AMMONIA NITROGEN (N)	OCT	FINAL		5.9000	19.4000	MG/L		375.00	1524.00	LBS/DAY
AMMONIA NITROGEN (N)	NOV	FINAL		4.6000	17.8000	MG/L		297.00	1406.00	LBS/DAY
AMMONIA NITROGEN (N)	DEC	FINAL		5.9000	19.6000	MG/L		375.00	1547.00	LBS/DAY
PH (MINIMUM - MAXIMUM)	YEARLY	INTER	6.0000		9.0000	STD UNITS				
PH (MINIMUM - MAXIMUM)	YEARLY	FINAL	6.0000		9.0000	STD UNITS				
COPPER,TOTAL (AS CU)	YEARLY	INTER		.0840	.0840	MG/L		6.40	6.40	LBS/DAY
COPPER,TOTAL (AS CU)	YEARLY	FINAL		.0840	.0840	MG/L		6.40	6.40	LBS/DAY

NOTE: If seasonal limits apply, summer is from April 1 through October 31, and winter is from November 1 through March 31.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Effluent Limitations

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Interim Limits Start: 00-00-0000 Interim Limits End: 04-14-2007

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

			EFFLUENT LIMITATIONS							
			Concentration				Mass			
Wastewater Parameter	Season	Type	7 Day Average	30 Day Average	Daily Maximum	Units	7 Day Average	30 Day Average	Daily Maximum	Units
CHLORINE,TOTAL RESIDUAL	SUMMER	INTER		.2900	.3500	MG/L		23.00	29.00	LBS/DAY
CHLORINE,TOTAL RESIDUAL	SUMMER	FINAL		.2900	.3500	MG/L		23.00	29.00	LBS/DAY
COLIFORM,FECAL	SUMMER	INTER			200.0000	#/100 ML				
COLIFORM,FECAL	SUMMER	FINAL			200.0000	#/100 ML				
ACUTE TOXICITY, CERIODAPHNIA	YEARLY	INTER						1.00		NON TOXIC
ACUTE TOXICITY, CERIODAPHNIA	YEARLY	FINAL						1.00		NON TOXIC
ACUTE TOXICITY, PIMEPHALES	YEARLY	INTER						1.00		NON TOXIC
ACUTE TOXICITY, PIMEPHALES	YEARLY	FINAL						1.00		NON TOXIC

NOTE: If seasonal limits apply, summer is from April 1 through October 31, and winter is from November 1 through March 31.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Non-Standard Effluent Limitations

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Wastewater Parameter	Non-Standard Limits
COLIFORM,FECAL	"200.0000 #/100 ML" MEANS 200 ORGANISMS PER 100 ML.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Monitoring and Reporting Requirements

(a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.

(b) Analytical and sampling methods as specified in 40 CFR Part 136 or other methods approved in writing by the department, shall be utilized.

(c) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.

(d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).

(e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each month.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	FLOW	7/WEEK	24 HR TOTAL	RAW WASTE
001	CBOD5	5/WEEK	24 HR COMP	RAW WASTE
001	TOTAL SUSPENDED SOLIDS	5/WEEK	24 HR COMP	RAW WASTE
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	RAW WASTE
001	NITROGEN,TOTAL KJELDAHL (AS N)	1/WEEK	24 HR COMP	RAW WASTE
001	TEMPERATURE	5/WEEK	GRAB	RAW WASTE
001	CBOD5	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	TOTAL SUSPENDED SOLIDS	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	AMMONIA NITROGEN (N)	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	CHROMIUM,HEXAVALENT (AS CR)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	COPPER,TOTAL (AS CU)	1/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	CYANIDE,TOTAL (AS CN)	1/MONTH	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	LEAD,TOTAL (AS PB)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	MERCURY,TOTAL (AS HG)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	NITROGEN,TOTAL KJELDAHL (AS N)	1/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	SETTLEABLE SOLIDS	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	TEMPERATURE	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	ZINC,TOTAL (AS ZN)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	CHLORINE,TOTAL RESIDUAL	5/WEEK	GRAB	EFFLUENT AFTER DISINFECTION
001	COLIFORM,FECAL	1/3 MONTH	GRAB	EFFLUENT AFTER DISINFECTION

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Monitoring and Reporting Requirements

(a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.

(b) Analytical and sampling methods as specified in 40 CFR Part 136 or other methods approved in writing by the department, shall be utilized.

(c) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.

(d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).

(e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each month.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	ACUTE TOXICITY, CERIODAPHNIA	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	ACUTE TOXICITY, PIMEPHALES	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	DIGESTER CONTENTS
001	ALKALINITY,TOTAL (AS CACO3)	2/WEEK	GRAB	DIGESTER CONTENTS
001	TEMPERATURE	5/WEEK	GRAB	DIGESTER CONTENTS
001	VOLATILE ACIDS	2/WEEK	GRAB	DIGESTER CONTENTS
001	DISSOLVED OXYGEN (MINIMUM)	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	SOLIDS,MIXED LIQUOR SUSPENDED	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	TEMPERATURE	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	30-MINUTE SETTLEABILITY	5/WEEK	GRAB	AERATION BASIN CONTENTS

~~Chuck Corell~~ / Wayne Farrand

RECORD COPY

File Name WW 6-23-26-0-01

Senders Initials WP

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE ORDER

IN THE MATTER OF:	ADMINISTRATIVE ORDER NO. 2001-WW-27-A2
CITY OF CLINTON Wastewater Facility No. 6-23-26-0-01	

TO City of Clinton
c/o Honorable Mayor and Council
City Hall
611 South Third Street, P.O. Box 2958
Clinton, IA 52733-2958

By a letter dated March 15, 2004, the City of Clinton requested that Field Office 6 grant an extension of the schedule in Administrative Order No. 2001-WW-27-A1. The City requested that the date for submittal of a plan of action be changed from March 15, 2004 to May 6, 2004. By a letter dated March 29, 2004, Field Office 6 accepted this request. This Administrative Order amends the schedule found in Administrative Order No. 2001-WW-27-A1, Paragraph V.3.a, and changes the due date for submittal of the plan of action to May 6, 2004. The remainder of Administrative Order No. 2001-WW-27-A1 remains the same.

JEFFREY R. VONK, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 7 day of April, 2004.

EXHIBIT C

IOWA DEPARTMENT OF NATURAL RESOURCES

National Pollutant Discharge Elimination System (NPDES) Permit

Filing Name: 23-26-0-01 pe

Filing Number:

Scanner's Initials:

PERMITTEE

CITY OF CLINTON
CITY CLERK, CITY HALL
P.O. BOX 2958
CLINTON, IA 52732

IDENTITY AND LOCATION OF FACILITY

CLINTON CITY OF STP
Section 23, T 81N, R 6E
CLINTON County, Iowa

IOWA NPDES PERMIT NUMBER: 2326001

DATE OF ISSUANCE: 06-12-2003

DATE OF EXPIRATION: 06-11-2008

RECEIVING STREAM

MISSISSIPPI RIVER

ROUTE OF FLOW

CERTIFIED
NO 7251 1868
Return Receipt Requested

YOU ARE REQUIRED TO FILE
FOR RENEWAL OF THIS PERMIT BY: 12-14-2007

EPA NUMBER: IA0035947

This permit is issued pursuant to the authority of section 402(b) of the Clean Water Act (33 U.S.C 1342(b)), Iowa Code section 455B.174, and rule 567—64.3, Iowa Administrative Code. You are authorized to operate the disposal system and to discharge the pollutants specified in this permit in accordance with the effluent limitations, monitoring requirements and other terms set forth in this permit.

You may appeal any conditions of this permit by filing a written notice of appeal and request for administrative hearing with the director of this department within 30 days of your receipt of this permit.

Any existing, unexpired Iowa operation permit or Iowa NPDES permit previously issued by the department for the facility identified above is revoked by the issuance of this permit. This provision does not apply to any authorization to discharge under the terms and conditions of a general permit issued by the department or to any permit issued exclusively for the discharge of storm water.

FOR THE DEPARTMENT OF NATURAL RESOURCES

By Wayne Farrand

Wayne Farrand, Supervisor
Wastewater Section
ENVIRONMENTAL SERVICES DIVISION

EXHIBIT D

Facility Name: CLINTON CITY OF STP

Permit Number: Z326001

Outfall Number	Description
001	DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.
002	22ND PLACE COMBINED SEWER OVERFLOW.
003	18TH PLACE COMBINED SEWER OVERFLOW.
004	SOUTH 5TH STREET COMBINED SEWER OVERFLOW.
005	SOUTH 4TH STREET COMBINED SEWER OVERFLOW.
006	FIRST AVENUE PUMPING STATION COMBINED SEWER OVERFLOW.
007	13TH AVENUE NORTH COMBINED SEWER OVERFLOW.
008	15TH AVENUE NORTH COMBINED SEWER OVERFLOW.
009	18TH AVENUE NORTH COMBINED SEWER OVERFLOW.
010	20TH AVENUE NORTH LIFT STATION COMBINED SEWER OVERFLOW.
011	MAIN AVENUE COMBINED SEWER OVERFLOW.
012	25TH AVENUE NORTH PUMPING STATION COMBINED SEWER OVERFLOW.
013	3RD AVENUE SOUTH LIFT STATION COMBINED SEWER OVERFLOW.
014	9TH AVENUE NORTH COMBINED SEWER OVERFLOW.

Facility Name: CLINTON CITY OF STP

Effluent Limitations

Permit Number: 2326001

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Interim Limits Start: 06-12-2003 Interim Limits End: 04-14-2007

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

			EFFLUENT LIMITATIONS							
			Concentration				Mass			
Wastewater Parameter	Season	Type	7 Day Average	30 Day Average	Daily Maximum	Units	7 Day Average	30 Day Average	Daily Maximum	Units
CBOD5	YEARLY	INTER	40.0000	25.0000		MG/L	3336.00	2085.00		LBS/DAY
CBOD5	YEARLY	FINAL	40.0000	25.0000		MG/L	3336.00	2085.00		LBS/DAY
CBOD5			85 PERCENT REMOVAL REQUIRED							
TOTAL SUSPENDED SOLIDS	YEARLY	INTER	45.0000	30.0000		MG/L	3753.00	2502.00		LBS/DAY
TOTAL SUSPENDED SOLIDS	YEARLY	FINAL	45.0000	30.0000		MG/L	3753.00	2502.00		LBS/DAY
TOTAL SUSPENDED SOLIDS			85 PERCENT REMOVAL REQUIRED							
AMMONIA NITROGEN (N)	JAN	FINAL		19.8000	20.0000	MG/L		1535.00	1535.00	LBS/DAY
AMMONIA NITROGEN (N)	FEB	FINAL		16.9000	20.0000	MG/L		1076.00	1505.00	LBS/DAY
AMMONIA NITROGEN (N)	MAR	FINAL		7.2000	18.9000	MG/L		459.00	1469.00	LBS/DAY
AMMONIA NITROGEN (N)	APR	FINAL		4.6000	18.9000	MG/L		297.00	1497.00	LBS/DAY
AMMONIA NITROGEN (N)	MAY	FINAL		4.6000	18.3000	MG/L		297.00	1451.00	LBS/DAY
AMMONIA NITROGEN (N)	JUN	FINAL		4.6000	17.5000	MG/L		297.00	1384.00	LBS/DAY
AMMONIA NITROGEN (N)	JUL	FINAL		4.7000	21.0000	MG/L		299.00	1673.00	LBS/DAY
AMMONIA NITROGEN (N)	AUG	FINAL		3.7000	19.2000	MG/L		238.00	1528.00	LBS/DAY
AMMONIA NITROGEN (N)	SEP	FINAL		5.9000	20.0000	MG/L		375.00	1595.00	LBS/DAY
AMMONIA NITROGEN (N)	OCT	FINAL		5.9000	19.4000	MG/L		375.00	1524.00	LBS/DAY
AMMONIA NITROGEN (N)	NOV	FINAL		4.6000	17.8000	MG/L		297.00	1406.00	LBS/DAY
AMMONIA NITROGEN (N)	DEC	FINAL		5.9000	19.6000	MG/L		375.00	1547.00	LBS/DAY
PH (MINIMUM - MAXIMUM)	YEARLY	INTER	6.0000		9.0000	STD UNITS				
PH (MINIMUM - MAXIMUM)	YEARLY	FINAL	6.0000		9.0000	STD UNITS				
COPPER,TOTAL (AS CU)	YEARLY	INTER		.0840	.0840	MG/L		6.40	6.40	LBS/DAY
COPPER,TOTAL (AS CU)	YEARLY	FINAL		.0840	.0840	MG/L		6.40	6.40	LBS/DAY

NOTE: If seasonal limits apply, summer is from April 1 through October 31, and winter is from November 1 through March 31.

Facility Name: CLINTON CITY OF STP

Effluent Limitations

Permit Number: 2326001

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Interim Limits Start: 06-12-2003 Interim Limits End: 04-14-2007

You are prohibited from discharging pollutants except in compliance with the following effluent limitations:

			EFFLUENT LIMITATIONS							
			Concentration				Mass			
Wastewater Parameter	Season	Type	7 Day Average	30 Day Average	Daily Maximum	Units	7 Day Average	30 Day Average	Daily Maximum	Units
CHLORINE,TOTAL RESIDUAL	SUMMER	INTER		.2900	.3500	MG/L		23.00	29.00	LBS/DAY
CHLORINE,TOTAL RESIDUAL	SUMMER	FINAL		.2900	.3500	MG/L		23.00	29.00	LBS/DAY
COLIFORM,FECAL	SUMMER	INTER			200.0000	#/100 ML				
COLIFORM,FECAL	SUMMER	FINAL			200.0000	#/100 ML				
ACUTE TOXICITY, CERIODAPHNIA	YEARLY	INTER						1.00		NON TOXIC
ACUTE TOXICITY, CERIODAPHNIA	YEARLY	FINAL						1.00		NON TOXIC
ACUTE TOXICITY, PIMEPHALES	YEARLY	INTER						1.00		NON TOXIC
ACUTE TOXICITY, PIMEPHALES	YEARLY	FINAL						1.00		NON TOXIC

NOTE: If seasonal limits apply, summer is from April 1 through October 31, and winter is from November 1 through March 31.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Non-Standard Effluent Limitations

OUTFALL NO.: 001 DISCHARGE FROM AN ACTIVATED SLUDGE WASTEWATER TREATMENT PLANT.

Wastewater Parameter	Non-Standard Limits
COLIFORM,FECAL	"200.0000 #/100 ML" MEANS 200 ORGANISMS PER 100 ML.

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Monitoring and Reporting Requirements

(a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.

(b) Analytical and sampling methods as specified in 40 CFR Part 136 or other methods approved in writing by the department, shall be utilized.

(c) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.

(d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).

(e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each month.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	FLOW	7/WEEK	24 HR TOTAL	RAW WASTE
001	CBOD5	5/WEEK	24 HR COMP	RAW WASTE
001	TOTAL SUSPENDED SOLIDS	5/WEEK	24 HR COMP	RAW WASTE
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	RAW WASTE
001	NITROGEN,TOTAL KJELDAHL (AS N)	1/WEEK	24 HR COMP	RAW WASTE
001	TEMPERATURE	5/WEEK	GRAB	RAW WASTE
001	CBOD5	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	TOTAL SUSPENDED SOLIDS	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	AMMONIA NITROGEN (N)	5/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	CHROMIUM,HEXAVALENT (AS CR)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	COPPER,TOTAL (AS CU)	1/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	CYANIDE,TOTAL (AS CN)	1/MONTH	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	LEAD,TOTAL (AS PB)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	MERCURY,TOTAL (AS HG)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	NITROGEN,TOTAL KJELDAHL (AS N)	1/WEEK	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	SETTLEABLE SOLIDS	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	TEMPERATURE	5/WEEK	GRAB	EFFLUENT PRIOR TO DISINFECTION
001	ZINC,TOTAL (AS ZN)	1/MONTH	24 HR COMP	EFFLUENT PRIOR TO DISINFECTION
001	CHLORINE,TOTAL RESIDUAL	5/WEEK	GRAB	EFFLUENT AFTER DISINFECTION
001	COLIFORM,FECAL	1/3 MONTH	GRAB	EFFLUENT AFTER DISINFECTION

Facility Name: CLINTON CITY OF STP

Permit Number: 2326001

Monitoring and Reporting Requirements

(a) Samples and measurements taken shall be representative of the volume and nature of the monitored wastewater.

(b) Analytical and sampling methods as specified in 40 CFR Part 136 or other methods approved in writing by the department, shall be utilized.

(c) Chapter 63 of the rules provides you with further explanation of your monitoring requirements.

(d) You are required to report all data including calculated results needed to determine compliance with the limitations contained in this permit. This includes daily maximums and minimums, 30-day averages and 7-day averages for all parameters that have concentration (mg/l) and mass (lbs/day) limits. Also, flow data shall be reported in million gallons per day (MGD).

(e) Results of all monitoring shall be recorded on forms provided by, or approved by, the department, and submitted to the department by the fifteenth day following the close of the reporting period. Your reporting period is on a monthly basis, ending on the last day of each month.

Outfall Number	Wastewater Parameter	Sample Frequency	Sample Type	Monitoring Location
001	ACUTE TOXICITY, CERIODAPHNIA	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	ACUTE TOXICITY, PIMEPHALES	1/12 MONTHS	24 HR COMP	EFFLUENT AFTER DISINFECTION
001	PH (MINIMUM - MAXIMUM)	5/WEEK	GRAB	DIGESTER CONTENTS
001	ALKALINITY,TOTAL (AS CACO3)	2/WEEK	GRAB	DIGESTER CONTENTS
001	TEMPERATURE	5/WEEK	GRAB	DIGESTER CONTENTS
001	VOLATILE ACIDS	2/WEEK	GRAB	DIGESTER CONTENTS
001	DISSOLVED OXYGEN (MINIMUM)	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	SOLIDS,MIXED LIQUOR SUSPENDED	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	TEMPERATURE	5/WEEK	GRAB	AERATION BASIN CONTENTS
001	30-MINUTE SETTLEABILITY	5/WEEK	GRAB	AERATION BASIN CONTENTS

DESIGN CAPACITY - STANDARD CONDITIONS

Facility Name: Clinton, City of **NPDES Permit Number:** 23-26-0-01

Outfall Number: 001 – Discharge from an Activated Sludge Wastewater Treatment Plant.

Design Capacity: The design capacity for the treatment works is specified in Construction Permit No. 93-62-S, issued December 30, 1992 and Schedule G of the Construction Permit Application, prepared August 18, 1992. The treatment plant is designed to treat an average dry weather (ADW) flow of 7.5 million gallons per day (MGD), an average wet weather (AWW) flow of 10.0 MGD, and a maximum wet weather (MWW) flow of 16.0 MGD. The design 5-day biochemical oxygen demand (BOD_5) load is 15,000 lbs./day. The design total Kjeldahl nitrogen (TKN) load is 1,668.

Iowa Administrative Code 567-62.1(7): Wastes in such volumes or quantities as to exceed the design capacity of the treatment works or reduce the effluent quality below that specified in the operation permit of the treatment works are considered to be a waste which interferes with the operation or performance of a publicly owned treatment works or a privately owned domestic sewage treatment works and are prohibited.

Facility Name: Clinton, City of
Permit Number: 23-26-0-01

Outfall Number: 001

Ceriodaphnia and Pimephales Toxicity Effluent Testing

1. For facilities that have not been required to conduct toxicity testing by a previous NPDES permit, the initial annual toxicity test shall be conducted within three (3) months of permit issuance. For facilities that have been required to conduct toxicity testing by a previous NPDES permit, the initial annual toxicity test shall be conducted within twelve months (12) of the last toxicity test.

2. The test organisms that are to be used for acute toxicity testing shall be *Ceriodaphnia dubia* and *Pimephales promelas*. The acute toxicity testing procedures used to demonstrate compliance with permit limits shall be those listed in 40 CFR Part 136 and adopted by reference in rule 567--63.1(1). The method for measuring acute toxicity is specified in USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio August 1993, EPA/600/4-90/027F.

3. The diluted effluent sample must contain a minimum of **70.3%** effluent and no more than **29.7%** of culture water.

4. One valid positive toxicity result will require quarterly testing for effluent toxicity.

5. Two successive valid positive toxicity results or three positive results out of five successive valid effluent toxicity tests will require a toxic reduction evaluation to be completed to eliminate the toxicity.

6. A non-toxic test result shall be indicated as a "1" on the monthly operation report. A toxic test result shall be indicated as a "2" on the monthly operation report. DNR Form 542-1381 shall also be submitted to the DNR field office along with the monthly operation report.

Ceriodaphnia and Pimephales Toxicity Effluent Limits

The 30 day average mass limit of "1" for the parameters Acute Toxicity, Ceriodaphnia and Acute Toxicity, Pimephales means no positive toxicity results.

Definition: "Positive toxicity result" means a statistical difference of mortality rate between the control and the diluted effluent sample. For more information see USEPA. 1993. Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms. Fourth Edition. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Cincinnati, Ohio August 1993, EPA/600/4-90/027F.

Revised: July 31, 1996 cwf

SPECIAL CONDITIONS - COMBINED SEWER OVERFLOWS

Facility Name: Clinton, City of **NPDES Permit Number:** 23-26-0-01

The collection system for the City of Clinton consists of combined storm and sanitary sewers (CSS) with combined sewer overflows (CSO) at the following outfalls:

Outfall 002 – 22nd Place Combined Sewer Overflow which discharges to Beaver Channel of the Mississippi River.

Outfall 003 – 18th Place Combined Sewer Overflow which discharges to Beaver Channel of the Mississippi River.

Outfall 004 – South 5th Street Combined Sewer Overflow which discharges to Beaver Channel of the Mississippi River.

Outfall 005 – South 4th Street Combined Sewer Overflow which discharges to Beaver Channel to the Mississippi River

Outfall 006 – First Avenue Pumping Station Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 007 – 13th Avenue North Combined Sewer Overflow which discharges to Joyces Slough branch of the Mississippi River.

Outfall 008 – 15th Avenue North Combined Sewer Overflow which discharges to Joyces Slough branch of the Mississippi River.

Outfall 009 – 18th Avenue North Sewer Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 010 – 20th Avenue North Lift Station Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 011 – Main Avenue Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 012 – 25th Avenue North Pumping Station Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 013 – 3rd Avenue South Lift Station Combined Sewer Overflow which discharges to the Mississippi River.

Outfall 014 – 9th Avenue North Combined Sewer Overflow which discharges to Joyces Slough branch of the Mississippi River.

This permit incorporates these discharge points as permitted CSO outfalls and authorizes wet weather discharges from these outfalls with the following special conditions:

1. The City of Clinton shall develop and submit no later than six months from the issuance date of this permit a combined sewer system operational plan which provides for all actions necessary for implementation of the Nine Minimum Controls detailed within the CSO Control Policy published as Final Policy in the April 19, 1994 Federal Register. The Nine Minimum Controls are:

SPECIAL CONDITIONS - COMBINED SEWER OVERFLOWS

1. Proper operation, and regular inspection and maintenance programs for the sewer system and the CSOs to reduce the magnitude, frequency, and duration of CSOs.
2. Maximum use of the collection system for storage to reduce the magnitude, frequency, and duration of CSOs.
3. Review and modification of pretreatment requirements to assure CSO impacts are minimized from nondomestic dischargers.
4. Maximization of flow to the POTW for treatment during wet weather conditions to reduce the magnitude, frequency, and duration of CSOs.
5. Prohibition of CSOs during dry weather conditions.
6. Control of solid and floatable materials in CSOs.
7. Pollution prevention program to reduce the impact of CSOs on receiving waters.
8. Public notification to ensure that the public receives adequate notification of CSO occurrences and CSO impacts.
9. Monitoring CSO outfalls to effectively characterize CSO impacts and the efficacy of CSO controls.

For technical guidance in developing the CSS operational plan refer to the *Combined Sewer Overflows–Guidance for Nine Minimum Controls* (EPA 832-B-95-003, May 1995).

2. The City of Clinton shall implement those actions identified in the CSS operational plan necessary to comply with the Nine Minimum Controls as soon as possible but no later than twenty-four (24) months from the issuance date of this permit.

3. The City of Clinton shall submit a report documenting those actions taken, as identified in the CSS operational plan, for implementing the Nine Minimum Controls as soon as possible but no later than twenty-four (24) months from the issuance date of this permit.

4. The City of Clinton shall submit a Long-Term Control Plan (LTCP) that will include the following elements:

   a) CSS characterization which is based on:
      1) Rainfall records review;
      2) CSS records review;
      3) CSO and water quality monitoring;
      4) Identification of sensitive areas; and
      5) CSS analysis and its impacts on the receiving water body.

   b) Development and evaluation of CSO control alternatives based on:
      1) Development of CSO control alternatives;
      2) Evaluation of CSO control alternatives;
      3) Cost/performance considerations; and
      4) Public participation.

SPECIAL CONDITIONS - COMBINED SEWER OVERFLOWS

c) Selection and implementation of LTCP based on:
   1) Implementation schedule;
   2) Operational plan; and
   3) Post-construction compliance monitoring plan.

For technical guidance in developing the LTCP refer to the *Combined Sewer Overflows–Guidance for Long-Term Control Plan* (EPA 832-B-95-002, September 1994).

5. The City of Clinton shall submit the LTCP within thirty-six (36) months from the issuance date of this permit.

6. The City of Clinton shall not discharge any pollutant at a level that causes or contributes to an in-stream excursion above the numeric or narrative criteria developed and adopted as part of the State of Iowa's water quality standards in accordance with 567-61.3(455B).

7. This permit may be modified or revoked and reissued, as provided pursuant to 40 CFR 122.62 and 124.5, for the following reasons:

   a. To include new or revised conditions developed to comply with State or Federal law or regulation that addresses CSOs that is adopted or promulgated subsequent to the effective date of this permit.

   b. To include new or revised conditions if new information, not available at the time of permit issuance, indicates that CSO controls imposed under the permit have failed to ensure the attainment of the State water quality standards.

   c. To include new or revised conditions based on new information generated from the long-term control plan.

   In addition, this permit may be modified or revoked and reissued for any reason specified in 40 CFR 122.62.

Compliance Schedule

You shall comply with the compliance schedule contained in Administrative Order Number 2001-WW-27-A1 issued April 14, 2003 and any amendments thereto in order to achieve compliance with the final effluent limits listed on pages 3 and 4 of this permit. The interim limits also listed on pages 3 and 4 of the permit and in the administrative order apply until April 14, 2007.

SLUDGE HANDLING AND DISPOSAL REQUIREMENTS

1. The permittee shall comply with all existing Federal and State laws and regulations that apply to the use and disposal of sewage sludge and with technical standards developed pursuant to Section 405(d) of the Clean Water Act when such standards are promulgated. If an applicable numerical limit or management practice for pollutants in sewage sludge is promulgated after issuance of this permit that is more stringent than a sludge pollutant limit or management practice specified in existing Federal or State laws or regulations, this permit shall be modified, or revoked and reissued, to conform to the regulations promulgated under Section 405(d) of the Clean Water Act. The permittee shall comply with the limitation no later than the compliance deadline specified in the applicable regulations.

2. The permittee shall provide written notice to the Department of Natural Resources prior to any planned changes in sludge disposal practices.

3. Land application of municipal sewage sludge shall be conducted in accordance with criteria established rule IAC 567--67.1 through 67.11(455B).

MAJOR CONTRIBUTING INDUSTRIES
LIMITATIONS, MONITORING AND REPORTING REQUIREMENTS

1. You are required to notify the department, in writing, of any of the following:

   (a) 180 days prior to the introduction of pollutants to your facility from a major contributing industry. A major contributing industry means an industrial user of a treatment works that:

      (1) Has a flow of 50,000 gallons or more per average workday;

      (2) Has a flow greater than five percent (5%) of the flow carried by the treatment works receiving the waste;

      (3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) of the Clean Water Act and adopted by reference in Rule 62.5(455B); or

      (4) Is found by the department in connection with the issuance of an NPDES permit to have a significant impact, either alone or in combination with other contributing industries, on the treatment works or on the quality of effluent from the treatment works.

   (b) 60 days prior to a proposed expansion, production increase or process modification that may result in the discharge of a new pollutant or a discharge in excess of limitations stated in the existing treatment agreement.

   (c) 10 days prior to any commitment by you to accept waste from any new major contributing industry.

   Your written notification must include a new or revised treatment agreement in accordance with rule 64.3(5)(455B).

2. You shall require all users of your facility to comply with Sections 204(b), 307 and 308 of the Clean Water Act.

   Section 204(b) requires that all users of the treatment works constructed with funds provided under Sections 201(g) or 601 of the Act to pay their proportionate share of the costs of operation, maintenance and replacement of the treatment works.

   Section 307 of the Act requires users to comply with pretreatment standards promulgated by EPA for pollutants that would cause interference with the treatment process or would pass through the treatment works.

   Section 308 of the Act requires users to allow access at reasonable times to state and EPA inspectors for the purpose of sampling the discharge and reviewing and copying records.

3. You shall continue to implement the pretreatment program approved March 14, 1984 and any amendments thereto.

4. An annual report in the form prescribed by the Department is to be submitted by March 1st of each year describing the pretreatment program activities for the preceding calendar year.

5. The City shall evaluate the adequacy of its local limits to meet the general prohibitions against interference and pass through listed in 40 CFR 403.5(a) and the specific prohibitions listed in 40 CFR 403.5(b). At a minimum this evaluation shall consist of the following:

(a) Identify each pollutant with the potential to cause process inhibition, pass through the treatment plant in concentrations that will violate NPDES permit limits of water quality standards, endanger POTW worker health and safety or degrade sludge quality.

(b) For each treatment plant, determine the maximum allowable headworks loading for each pollutant identified in item #5.a. that will prevent interference or a pass through.

(c) After accounting for the contribution of each pollutant from uncontrolled (i.e.: domestic/commercial) sources to each treatment plant, allocate the remaining treatment plant capacity to significant industrial users identified in the City's pretreatment program.

(d) Complete the evaluation and submit to the Department, by **December 1, 2003** a report containing the following information:

1) A list of pollutants identified in item #5.a. For each pollutant state the reason(s) for its inclusion (e.g. potential to cause interference, potential to cause pass through, etc.).

2) The report shall contain all calculations used to determine the maximum allowable headworks loadings and shall identify the source(s) of all data used (e.g. literature value, site specific measurement, etc.).

3) The contribution of each pollutant identified in item #5d. 1). to each treatment plant from uncontrolled sources and an explanation of how each contribution was determined.

4) The allocation of the maximum allowable headworks loading for each pollutant to each treatment plant, and an explanation of how the allowable loadings will be allocated to significant industrial users regulated by the City's pretreatment program.

STANDARD CONDITIONS

1. DEFINITIONS

(a) 7 day average means the sum of the total daily discharges by mass, volume or concentration during a 7 consecutive day period, divided by the total number of days during the period that measurements were made. Four 7 consecutive day periods shall be used each month to calculate the 7-day average. The first 7-day period shall begin with the first day of the month.

(b) 30 day average means the sum of the total daily discharges by mass, volume or concentration during a calendar month, divided by the total number of days during the month that measurements were made.

(c) daily maximum means the total discharge by mass, volume or concentration during a twenty-four hour period.

2. DUTY TO COMPLY

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility.
{See 40 CFR 122.41(a) and 567-64.3(11) IAC}

3. DUTY TO REAPPLY

If you wish to continue to discharge after the expiration date of this permit you must file an application for reissuance at least 180 days prior to the expiration date of this permit.
{See 567-64.8(1) IAC}

4. NEED TO HALT OR REDUCE ACTIVITY

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
{See 567-64.7(5)(j) IAC}

5. DUTY TO MITIGATE

You shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
{See 567-64.7(5)(i) IAC}

6. PROPERTY RIGHTS

This permit does not convey any property rights of any sort or any exclusive privileges.

7. TRANSFER OF TITLE

If title to your facility, or any part of it, is transferred the new owner shall be subject to this permit.
{See 567-64.14 IAC}

You are required to notify the new owner of the requirements of this permit in writing prior to any transfer of title. The Director shall be notified in writing within 30 days of the transfer

8. PROPER OPERATION AND MAINTENANCE

All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit.
{See 40 CFR 122.41(e) and 567 64.7(5)(f) IAC}

9. DUTY TO PROVIDE INFORMATION

You must furnish to the Director, within a reasonable time, any information the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

10. MAINTENANCE OF RECORDS

You are required to maintain records of your operation in accordance with 567-63.2 IAC.

11. PERMIT MODIFICATION, SUSPENSION OR REVOCATION

(a) This permit may be modified, suspended, or revoked and reissued for cause including but not limited to those specified in 567-64.3(11) IAC.

(b) This permit may be modified due to conditions or information on which this permit is based, including any new standard the department may adopt that would change the required effluent limits.
{See 567-64.3(11)[a] IAC}

(c) If a toxic pollutant is present in your discharge and more stringent standards for toxic pollutants are established under Section 307(a) of the Clean Water Act, this permit will be modified in accordance with the new standards.
{See 567-64.7(5)(g) IAC}

The filing of a request for a permit modification, revocation or suspension, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

12. SEVERABILITY

The provisions of this permit are severable and if any provision or application of any provision to any circumstance is found to be invalid by this department or a court of law, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected by such finding.

13. INSPECTION OF PREMISES, RECORDS, EQUIPMENT, METHODS AND DISCHARGES

You are required to permit authorized personnel to:

(a) Enter upon the premises where a regulated facility or activity is located or conducted or where records are kept under conditions of this permit.

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit.

(c) Inspect, at reasonable times, any facilities, equipment, practices or operations regulated or required under this permit.

(d) Sample or monitor, at reasonable times, for the purpose of assuring compliance or as otherwise authorized by the Clean Water Act.

14. TWENTY-FOUR HOUR REPORTING

You shall report any noncompliance that may endanger human health or the environment. Information shall be provided orally within 24 hours from the time you become aware of the circumstances. A written submission that includes a description of noncompliance and its cause; the period of noncompliance including exact dates and times, whether the noncompliance has been corrected or the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent a reoccurrence of the noncompliance must be provided within 5 days of the occurrence. The following instances of noncompliance must be reported within 24 hours of occurrence:

(a) Any unanticipated bypass which exceeds any effluent limitation in the permit.
{See 40 CFR 122.44(g)}

(b) Any upset which exceeds any effluent limitation in the permit.
{See 40 CFR 122.44(n)}

(c) Any violation of a maximum daily discharge limit for any of the pollutants listed by the Director in the permit to be reported within 24 hours.
{See 40 CFR 122.44(g)}

15. OTHER NONCOMPLIANCE

You shall report all instances of noncompliance not reported under Condition #14 at the time monitoring reports are submitted.

16. ADMINISTRATIVE RULES

Rules of this Department which govern the operation of your facility in connection with this permit are published in Part 567 of the Iowa Administrative Code (IAC) in Chapters 60-64 and 120-122. Reference to the term "rule" in this permit means the designated provision of Part 567 of the Iowa Administrative Code.

17. NOTICE OF CHANGED CONDITIONS

You are required to report any changes in existing conditions or information on which this permit is based:

(a) Facility expansions, production increases or process modifications which may result in new or increased discharges of pollutants must be reported to the Director in advance. If such discharges will exceed effluent limitations, your report must include an application for a new permit.
{See 567-64.7(5)(a) IAC}

(b) If any modification of, addition to, or construction of a disposal system is to be made, you must first obtain a written permit from this Department.
{See 567-64.2 IAC}

(c) If your facility is a publicly owned treatment works or otherwise may accept waste for treatment from industrial contributors see 567-64.3(5) IAC for further notice requirements.

(d) You shall notify the Director as soon as you know or have reason to believe that any activity has occurred or will occur which would result in the discharge of any toxic pollutant which is not limited in this permit.
{See 40 CFR 122.42(a)}

You must also notify the Director if you have begun or will begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application

18. OTHER INFORMATION

Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report, you must promptly submit such facts or information.

19. UPSET PROVISION

(a) Definition - "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense in an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph *"c"* of this condition are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for demonstration of an upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that;

(1) An upset occurred and that the permittee can identify the cause(s) of the upset.

(2) The permitted facility was at the time being properly operated; and

(3) The permittee submitted notice of the upset to the Department in accordance with 40 CFR 122.41(l)(6)(ii)(B).

(4) The permittee complied with any remedial measures required by Item #5 of the Standard Conditions of this permit.

(d) Burden of Proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

20. FAILURE TO SUBMIT FEES

This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within thirty (30) days of the date of notification that such fees are due.

21. BYPASSES

(a) Definition - Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

(b) Prohibition of bypass. Bypass is prohibited and the department may take enforcement action against a permittee for bypass unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance;

(3) The permittee submitted notices as required by paragraph *"d"* of this section.

(c) The Director may approve an anticipated bypass after considering its adverse effects if the Director determines that it will meet the three conditions listed above.

(d) Reporting bypasses. Bypasses shall be reported in accordance with 567-63.6 IAC.

22. SIGNATORY REQUIREMENTS

Applications, reports or other information submitted to the Department in connection with this permit must be signed and certified as required by 567-64.3(8) IAC.

23. USE OF CERTIFIED LABORATORIES

Effective October 1, 1996, analyses of wastewater, groundwater or sewage sludge that are required to be submitted to the department as a result of this permit must be performed by a laboratory certified by the State of Iowa. Routine, on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine and other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements, and operational monitoring tests specified in 567-63.3(4) are excluded from this requirement.