

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. “NPDES permit” means “an operation permit, issued after the department has obtained approval of its National Pollutant Discharge Elimination System (NPDES) program from the administrator, that authorizes the discharge of any pollutant into a navigable water.” 567 Iowa Admin. Code 60.2.

8. “Point source” means “any discernable, 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(21).

9. “Pollutant” means “sewage, industrial waste, or other waste.” Iowa Code § 455B.171(22).

10. “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(39).

11. “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(41).

12. “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(42).

JURISDICTION

13. 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).

14. The Iowa Environmental Protection Commission (“EPC”) has authority to establish water quality standards, pretreatment standards, and effluent standards; adopt rules relating to the location, construction, operation, maintenance, 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.

15. 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).

16. The discharge of any pollutant from a point source into a navigable water is prohibited unless authorized by an NPDES permit. 567 Iowa Admin. Code 62.1(1).

17. No person shall operate any wastewater disposal system or part thereof without,

or contrary to any condition of, an operation permit issued by the IDNR. 567 Iowa Admin. Code 64.3(1).

18. Any NPDES permittee who wishes to continue to discharge after the expiration date of the permit shall file an application for reissuance of the permit at least one hundred and eighty (180) days prior to the expiration of the permit. 567 Iowa Admin. Code 64.8(1)“a”.

19. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency. Iowa Code § 17A.18(2).

20. A person who violates any provision of Iowa Code chapter 455B, Division III, Part 1 or any permit, rule, 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(2).

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 injunction or temporary injunction, necessary to enforce the penalty provisions of said statutes and any rules promulgated or any provision of any permit issued thereunder. Iowa Code § 455B.191(5).

PAST ENFORCEMENT ACTIONS

22. In 1986, the IDNR issued Administrative Order No. 86-WW-11 to the City for its repeated failure to properly implement its pretreatment program for wastewater at the wastewater treatment facility (“WWTF”), and assessed the City a \$1,000.00 administrative penalty.

23. In 1990, the IDNR issued Administrative Order No. 90-WW-12 to the City for its repeated failure to properly enforce its pretreatment program for wastewater at the WWTF, and

assessed the City a \$1,000.00 administrative penalty.

24. In 2005, the IDNR issued Administrative Order No. 2005-SW-11 to the City for its repeated failure to maintain proper litter control at one of the City's landfills, and assessed the City a \$7,000.00 administrative penalty.

25. In 2012, the IDNR issued four (4) Administrative Consent Orders to the City for violations of various environmental laws, and each Order assessed a separate \$10,000.00 administrative penalty, for a total of \$40,000.00 in administrative penalties:

- a. Administrative Consent Order No. 2012-AQ-11 addressed the City's failure to properly dispose of a building containing asbestos;
- b. Administrative Consent Order No. 2012-WW-07 addressed the City's failure to obtain the necessary wastewater construction permits from the IDNR;
- c. Administrative Consent Order No. 2012-WW-08 addressed the City's failure to properly develop, implement and enforce a storm water management program as required by federal and state law; and
- d. Administrative Consent Order No. 2012-WS-03 addressed the City's failure to obtain the necessary water supply construction permits from the IDNR.

FACTS

NPDES Permit

26. The City operates a WWTF located at 3100 South Lewis Boulevard, Sioux City, Iowa, near what is now the intersection of Highway 29 and U.S. Route 20. The WWTF receives domestic and industrial wastewater from the following communities: Sioux City, Iowa; Sergeant Bluff, Iowa; North Sioux City, South Dakota; Dakota Dunes, South Dakota; and South Sioux City, Nebraska.

27. The WWTF is designed so that it would discharge its final treated product ("effluent") into the Missouri River, a water of the state, by means of a pipe known as "Outfall No. 001." The Missouri River is a "Class A1" water, which is a primary contact recreational use

water in which recreational or other uses may result in prolonged and direct contact with water, including swimming, diving, waterskiing and water contact recreational canoeing. In 2012, the IDNR also classified the segment of the Missouri River near Outfall No. 001 as an “impaired water” because of pollution.

28. In light of the heavy recreational use of the Missouri River, proper disinfection is a critical part of the WWTF’s treatment process. Proper disinfection of a WWTF’s effluent helps to ensure a healthy aquatic and recreational environment in the receiving waterway. If insufficiently disinfected, a WWTF’s effluent may expose recreational users of the waterway to various pathogens, including bacteria, viruses, and protozoa.

29. In order to discharge its effluent, a WWTF must comply with the requirements of a NPDES permit. On April 1, 2015, the IDNR issued an NPDES Permit No. 9778001 to the City, a copy of which is attached, marked as Exhibit A and incorporated by reference.

30. The City’s prior NPDES Permit was issued by the IDNR on October 26, 2006. The NPDES Permit was set to expire on October 24, 2011. The City filed a timely application for renewal of the NPDES Permit on April 25, 2011, and the City’s NPDES Permit was then automatically extended until the new Permit was issued on April 1, 2015. The prior NPDES Permit contained many of the same requirements as the 2006 NPDES Permit, with the exception of an additional “Special Monitoring Requirement” (*see* Paragraph 34 of this Petition) in the 2015 Permit and slightly different effluent limitations for when the City was authorized to discharge.

31. The 2015 NPDES Permit established new effluent limitations for when the City was authorized to discharge into the Missouri River. The effluent limitations included, but were not limited to, the following: both a thirty (30) day average and daily maximum for concentration

(strength) for total residual chlorine (“TRC”) of 0.402 and 0.432 milligrams per Liter (“mg/L”), respectively; both a thirty (30) day average and daily maximum for mass (weight) for TRC of 56.840 and 63.381 pounds per day (“lbs/day”), respectively; both a thirty (30) day average and daily maximum for the concentration (strength) and mass(weight) of NH₃-N (ammonia nitrogen, hereinafter referred to as “ammonia”), with limits that fluctuate each month of the year; and a Geometric Mean for fecal coliform (“E.coli”) of 126 MPN/100 mL (most probable number of coliform per 100 mL).

32. The testing for E. coli allows the City to monitor its effluent for the presence of “fecal coliform.” E. coli is a species of fecal coliform bacteria that is specific to fecal material from humans and other warm-blooded animals; its presence tends to indicate fecal contamination of the water. Monitoring is typically for fecal coliform or E coli, as opposed to various individual pathogens of human disease, because there are many different pathogens; pathogens are more difficult to measure; the presence of one pathogen does not necessarily predict the presence of another pathogen; and a specific pathogen may not be present at the time of testing.

33. The effluent limitations for E. coli apply only during the disinfection season, which runs from March 15 through November 15 of each year, and the City is required to obtain at least five (5) samples during each three-month period (March-May, June-August, and September-November) of the disinfection season to establish the Geometric Mean. During this “disinfection season,” the Missouri River is warmer, and the level of the public’s recreational use of the Missouri River is higher.

34. The most recent NPDES Permit included a “Special Monitoring Requirement” for E. coli, which requires the City to operate its disinfection system to comply with the E. coli limit during the entire disinfection season whenever wastewater is being discharged from Outfall 001.

(Special Monitoring Requirements, E. coli, p. 10).

35. On August 6, 2020, the IDNR issued a new NPDES Permit No. 9778001 (“NPDES Permit”) to the City, a copy of which is attached, marked as Exhibit B and incorporated by reference. The current NPDES Permit contains many of the same requirements as the 2015 NPDES Permit, including additional “Special Monitoring Requirement” (*see* Paragraph 35 of this Petition) in the 2015 Permit, and more stringent effluent limitations for TRC and ammonia, which go into effect on 12/1/23 and 4/1/25, respectively.

36. While there are many different technologies by which a WWTF may disinfect its wastewater, the City’s WWTF utilizes a sodium hypochlorite solution (“chlorine”) disinfection system.

37. Because chlorine is toxic to fish and other aquatic life, and dangerous to recreational users, proper disinfection practices require the subsequent addition of sodium bisulfite into the wastewater stream to reduce the TRC in the WWTF’s effluent. Sodium bisulfate neutralizes chlorine after the chlorine destroys any pathogens.

38. The IDNR trusts municipalities to tell the truth and not to conceal problems at WWTFs. The IDNR largely relies on self-reported results to determine whether a municipality is operating its WWTF in compliance with its NPDES permit. The accuracy of this information is paramount, because the effectiveness and integrity of protecting Iowa’s waterways is dependent upon truthful and accurate self-reporting.

39. Accordingly, the City’s NPDES Permit included the following requirements:
- a. The City must report the results of all monitoring of the WWTF on a periodic basis in Monthly Operating Reports (“MORs”), also known as Discharge Monitoring Reports (“DMRs”). Whenever the WWTF exceeds its effluent limits, the City must report such violations to the IDNR in its MORs. (Monitoring and Reporting Requirements, section (d), p. 6);

- b. All samples and measurements taken “shall be representative of the volume and nature of the monitored water.” (Monitoring and Reporting Requirements, section (a), p. 6);
- c. The City must “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.” (Standard Conditions § 5, p. 16);
- d. “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.” (Standard Conditions § 8, p. 16); and
- e. The City must “report any noncompliance that may endanger human health or the environment” orally to the IDNR within 24 hours and in writing within five (5) days of the occurrence. (Standard Conditions § 14, p. 17).

Noncompliant Operation of the City’s Wastewater Treatment Facility

Hidden from the IDNR from 2012-April 2015

40. As described in more detail below, no later than about 2012, the City’s WWTF management and other City Officials discovered that the WWTF did not work properly and could not consistently disinfect the millions of gallons of wastewater that the WWTF was discharging into the Missouri River each day. Rather than alert the IDNR to this serious problem, the WWTF employed a fraudulent testing procedure that ensured that the WWTF would always pass its effluent tests for fecal coliform, E. coli and TRC.

41. At the same time the fraudulent testing procedure was utilized, the City was touting the effectiveness of the WWTF’s system to the IDNR in an attempt to convince the IDNR to re-rate the WWTF to increase its treatment capacity, which would allow the City to recruit more business and industry with high-strength wastewater. Cheating on required environmental tests gave the City an unfair advantage in this competition to attract business and industry among other municipalities.

42. In contrast to the WWTF's statements to the IDNR that its disinfection process was a success, and requests to the IDNR that the WWTF's rated capacity should be increased, significant problems with disinfection became apparent shortly after its disinfection process came online in 2011. The WWTF concealed this fundamental problem with the process from the IDNR because exposure of the WWTF's disinfection problems would halt the City's efforts to re-rate the capacity of WWTF absent significant capital investment.

43. No later than May 1, 2012, however, the WWTF notified the engineering firm that the City had hired to oversee construction at the WWTF about the City's disinfection problems, stating the chlorine dosing pumps maxed out and they are still not meeting E. coli kill levels for their effluent permit.

44. By September 2012, the engineering firm had determined that waste from heavy industrial users was inhibiting the WWTF's disinfection process. Although the engineering firm wrote a memorandum to the WWTF and a City official requesting that the City conduct additional testing and send it to the firm, the City never provided all of the data requested. Nor did the City contract with the engineering firm to construct a fix to the problem—either an entirely new disinfection system or a temporary, ammonia feed system. Those options would require significant expense and IDNR approval, which would expose that the City had not been truthful to the IDNR and jeopardize the WWTF's capacity re-rating in order to accept more load and flow from significant industrial users.

45. In March 2013, the engineering firm prepared a draft of the Master Plan ("2013 Draft Master Plan") contemplated under its \$1 million "Phase 3" contract with the City. The firm sent the 2013 Draft Master Plan directly to the WWTF Supervisor and another City official in an email. Section 5 of the Master Plan discussed the disinfection problems at the WWTF at length, and concluded the current process could not provide adequate disinfection of the WWTF's influent given

the apparently high nitrites present in its significant industrial users' effluent. The 2013 Draft Master Plan also included some potential recommendations for additional sampling and possible alternatives to the current disinfection process.

46. The City did not conduct the recommended additional sampling or follow the recommendations in the 2013 Draft Master Plan. Instead, the City instructed the engineering firm to not finalize the 2013 Draft Master Plan into a Final Master Plan, and eventually began using a different engineering firm for the City's "Phase 3" WWTF project.

DNR Discovery of Noncompliance April 2015

47. On April 21, 2015, the IDNR received an anonymous written complaint that the City's disinfection system at the WWTF was not being run properly. The IDNR later learned that the complaint came from the Pretreatment Manager of the WWTF.

48. The complaint stated that the City's WWTF staff was only properly disinfecting the final effluent discharge from the facility on days that an E. coli sample was collected. The complaint further detailed the WWTF staff's practice as follows:

Currently, in the morning on the day that an E. coli analysis is scheduled, the operations staff will turn up/turn on the sodium hypochlorite [(used to meet E. coli effluent limits)] dosing to a level that they are comfortable will pass the analysis. A hand held HACH colorimeter is used by the operator for in the field evaluation of TRC. Once the desired level of TRC is reached a sample is collected for E. coli, and the sodium hypochlorite dosing is turned down/turned off. The E. coli sample is then delivered to a Third Party lab for evaluation. The reportable sample for TRC is not delivered to the wastewater treatment plant laboratory until after the operations staff is comfortable that the sample will pass the reportable analysis for TRC, sometime in the afternoon.

49. The author of the complaint also provided two lab sample results, dated April 1 and April 15, 2015, of the City's wastewater discharge on days when E. coli was not being tested by the wastewater staff, and the results showed the City's wastewater discharge was high in E. coli.

50. The IDNR investigated the City based upon the complaint up through and including June 8, 2015, and determined that, for a number of years, the WWTF would: 1) adjust the chlorine disinfection rate higher on days when E. coli samples were taken; 2) the WWTF would then take a sample for E coli.; 3) the WWTF would then add sodium bisulfite into the wastewater stream to reduce the TRC; 4) the WWTF would then take a sample for TRC after the sodium bisulfate had reduced the TRC to below permit levels; and 5) the WWTF would significantly decrease the chlorine disinfection rate on days when samples were not being collected.

51. On June 8, 2015, the City's Assistant Manager and Director of Public Works called the IDNR and informed the agency that it had come to his attention that the City's WWTF staff had "a long standing practice of adjusting the chlorine disinfection feed rate up to approximately 90 gallons per hour on the days which bacteria samples are collected from the effluent. The practice has also been to decrease the feed rate, reportedly, to as low as 2 gallons per hour on days when samples are not being collected."

52. On June 9, 2015, the U.S. Environmental Protection Agency ("EPA") interviewed Jay Niday, the City's wastewater operator-in-charge at the WWTF, and Pat Schwarte, the City's shift operator at the WWTF, and the IDNR was present for those interviews.

53. Mr. Niday and Mr. Schwarte both admitted that the City only used a sufficient amount of chlorine on the days that E. coli samples were taken and submitted to the IDNR to satisfy the City's NPDES Permit reporting requirements. Both Mr. Niday and Mr. Schwarte admitted that this practice had been going on since at least 2012, and the schedule to turn up or down the chlorine and sodium bisulfite was written down in daily logs.

54. The IDNR reviewed some of the daily logs, which corroborated the admissions of

Mr. Niday and Mr. Schwarte concerning the City's longstanding practice of turning up or down the chlorine and sodium bisulfite on certain days depending upon whether the City was required to submit an E. coli sample to the IDNR.

55. At least four (4) additional City WWTF staff members were involved in turning up/down the chemicals and indicated they did so at the direction of Mr. Niday and Mr. Schwarte.

56. The operation manual for the disinfection system at the WWTF indicates that to properly disinfect and meet NPDES Permit limits for E. coli, approximately 16-17 gallons per hour of chlorine had to be used all day every day during the disinfection season.

57. In the week following the City's admission to the IDNR that the City's disinfection system had not been operated properly, the City notified the IDNR that it had conducted additional analysis of the proper chlorine feed rate for its disinfection system and determined that a feed rate of at least 20 gallons per hour of chlorine was necessary to ensure daily compliance for the entire disinfection system. The City further notified the IDNR that the City was going to begin monitoring E. coli samples from its wastewater discharge once per week for the remainder of the 2015 disinfection season.

58. On July 29, 2015, the IDNR issued a Notice of Violation ("NOV") to the City for the improper operation of the City's disinfection system in violation of its NPDES Permit.

59. On September 14, 2015, the IDNR issued Administrative Consent Order Nos. 2015-WW-21 and 2015-WW-22, permanently revoking Mr. Schwarte's and Mr. Niday's wastewater operator certifications, respectively.

60. On January 2, 2019, the United States Attorney for the Northern District of Iowa filed charges, alleging that Mr. Schwarte conspired to defraud the United States by tampering with, or rendering inaccurate a monitoring device and method required to be maintained under

the Clean Water Act (Count 1), and falsely tampering with, or rendering inaccurate a monitoring device and method required to be maintained under the Clean Water Act (Count 2). *See United States v. Patrick Schwarte*, Information Dkt # 2, No. 19-CR-4001 (N. D. Iowa) (January 2, 2019).

61. On January 23, 2019, Mr. Schwarte plead guilty to both Counts 1 and II. *See United States v. Patrick Schwarte*, Minute Entry Dkt # 7, No. 19-CR-4001 (N. D. Iowa) (January 23, 2019).

62. On November 9, 2020, Mr. Schwarte was sentenced to two years' probation and assed a \$5,000.00 penalty. *See United States v. Patrick Schwarte*, Judgment in a Criminal Case Dkt # 44, No. 19-CR-4001 (N. D. Iowa) (November 9, 2020).

63. On September 17, 2020, the United States Attorney for the Northern District of Iowa filed charges, alleging that Mr. Niday conspired to defraud the United States by tampering with, or rendering inaccurate a monitoring device and method required to be maintained under the Clean Water Act (Count 1), and falsely tampering with, or rendering inaccurate a monitoring device and method required to be maintained under the Clean Water Act (Count 2). *See United States v. Jay Niday*, Information Dkt # 2, No. 20-CR-4081 (N. D. Iowa) (September 17, 2020).

64. On October 6, 2020, Mr. Niday plead guilty to both Counts 1 and II. *See United States v. Jay Niday*, Minute Entry Dkt # 7, No. 20-CR-4081 (N. D. Iowa) (October 6, 2020).

65. On April 2, 2021, Mr. Niday was sentenced to three months of prison, two years' probation and assed a \$6,000.00 penalty. *See United States v. Jay Niday*, Judgment in a Criminal Case Dkt # 28, No. 19-CR-4001 (N. D. Iowa) (April 2, 2021).

66. The City received a substantial economic benefit by consistently reducing the feed rate for the chemicals necessary to adequately treat its wastewater discharges for a period of

years, while at the same time attracting additional industry, who discharged wastewater the City was required to treat, and delaying capital investment in wastewater treatment infrastructure.

Non-Compliance NPDES Effluent Limits

67. The City exceeded its 30-day average ammonia concentration limit in April 2018. The City exceeded its daily maximum ammonia concentration limit on several occasions, including April and May of 2018 and November and December of 2019. The City exceeded its daily maximum ammonia mass limit on several occasions, including April 2018 and November 2019. As a result of those violations, IDNR issued a compliance schedule as part of the current NPDES Permit, which requires the City meet more stringent ammonia effluent limits by April 1, 2025.

68. The City exceeded its daily maximum TRC concentration limit in May 2017, April 2018, and March, August and September 2019. The City also exceeded its daily maximum TRC mass limit May 2017, April 2018, and March, April, August and September 2019. As a result of those violations, IDNR issued a compliance schedule as part of the current NPDES Permit, which requires the City meet more stringent TRC effluent limits by December 1, 2023.

69. The City is still having difficulty meeting its current daily maximum TRC concentration and mass limits. The City exceeded its daily maximum TRC mass limit in March 2021, and also exceeded its daily maximum TRC concentration limit in March, May, and June 2021.

70. On August 9, 2021, the City notified the IDNR that the City had run out of sodium bisulfate and would not be able to adequately treat its wastewater to reduce the TRC to meet its effluent limit. On August 10, 2021, the City was able to obtain sufficient sodium bisulfate to bring the effluent back into compliance with the TRC limit.

VIOLATIONS

71. During the disinfection seasons from March 15, 2012 through June 8, 2015, the City discharged wastewater containing pollutants, including E. coli that had not been adequately disinfected as required by its NPDES Permit, into a water of the state in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and Iowa NPDES Permit No. 9778001.

72. From April 1, 2015 through June 8, 2015, the City failed to operate its disinfection system to comply with its E. coli limit during the entire disinfection season whenever wastewater is being discharged from Outfall 001 in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 9778001 (Special Monitoring Requirements, E. coli, p. 10).

73. During the disinfection seasons from March 15, 2012 through June 8, 2015, the City failed to submit samples to the IDNR of the levels of E. coli and TRC in the City's wastewater discharge that were "representative of the volume and nature of the monitored water" in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 9778001 (Monitoring and Reporting Requirements, section (a), p. 6).

74. During the disinfection seasons from March 15, 2012 through June 8, 2015, the City failed to adequately disinfect its wastewater discharge for E. coli, and therefore, failed to "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" in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 9778001 (Standard Conditions § 5, p. 16).

75. During the disinfection seasons from March 15, 2012 through June 8, 2015, the City failed to adequately disinfect its wastewater discharge for E. coli, and therefore, failed to

ensure “adequate laboratory controls and appropriate quality assurance procedures [were] provided to maintain compliance with the conditions of this permit” in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 9778001 (Standard Conditions § 8, p. 16).

76. During the disinfection seasons from March 15, 2012 through June 8, 2015, the City failed to report that it was not properly disinfecting its wastewater discharge for E. coli, which may endanger human health or the environment, to the IDNR in violation of 567 Iowa Admin. Code 64.3(1) and Iowa NPDES Permit No. 9778001 (Standard Conditions § 14, p. 17).

77. The City exceeded its 30-day average ammonia concentration limit in April 2018, its daily maximum ammonia concentration limit on in April and May of 2018 and November and December of 2019, and its daily maximum ammonia mass limit in April 2018 and November 2019, in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and Iowa NPDES Permit No. 9778001.

78. The City exceeded its daily maximum TRC concentration limit in May 2017, April 2018, March, August and September 2019, and March, May, June and August 2021, and its daily maximum TRC mass limit May 2017, April 2018, March, April, August and September 2019, March and August 2021, in violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and Iowa NPDES Permit No. 9778001.

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 Sioux City, pursuant to Iowa Code section 455B.191(2) for each day of violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and Iowa NPDES Permit No. 9778001, not to exceed Five Thousand Dollars (\$5,000.00) for each day of such violation;

- b. issue a permanent injunction, pursuant to Iowa Code section 455B.191(5), enjoining Defendant City of Sioux City from any violation of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 64.3(1), and Iowa NPDES Permit No. 9778001; and
- c. issue a permanent injunction requiring Defendant City of Sioux City to comply with the compliance schedule requirements set forth in Iowa NPDES Permit No. 9778001.

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

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa

/s/ Jacob J. Larson
JACOB J. LARSON
DAVID S. STEWARD
Assistant Attorney General
Office of Iowa Attorney General
Hoover State Office Building
1305 E. Walnut Street, 2nd Floor
Des Moines, Iowa 50319
Phone: (515) 281-5341
Fax: (515) 281-4209
E-mail: jacob.larson@ag.iowa.gov
david.steward@ag.iowa.gov
ATTORNEYS FOR PLAINTIFF