

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: Vision Atlantic, Inc. NPDES Permit No. 45162-44735 Cass County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2025-WW-19
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TO: Christina Bateman, President and Registered
Agent
621 Poplar Street
Atlantic, IA 50022

Christina Bateman
PO Box 344
Atlantic, IA 50022

I. SUMMARY

This administrative consent order (order) is entered into between Vision Atlantic, Inc. (Vision Atlantic) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order due to violations of Vision Atlantic's storm water National Pollutant Discharge Elimination System (NPDES) permit for the construction activities at Camblin Hills Residential Housing Development (site). Vision Atlantic agrees to pay an administrative penalty of \$8,000.00. In the interest of avoiding litigation, the parties have agreed to resolve the violations alleged herein through entry of this order.

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

Relating to technical requirements:

Brent Martens, Environmental Specialist
IDNR Field Office No. 4
1401 Sunnyside Lane
Atlantic, IA 50022
Phone: 712-243-1934

Relating to legal requirements:

Carrie Schoenebaum, Attorney
Iowa Department of Natural Resources
6200 Park Ave. Ste 200
Des Moines, Iowa 50321
Phone: 515-444-8165

Payment of penalty to:

Iowa Department of Natural Resources
6200 Park Ave. Ste 200

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Vision Atlantic, Inc.

Des Moines, Iowa 50321

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 I and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On November 1, 2024, Vision Atlantic was issued a notice of coverage under NPDES General Permit No. 2 for storm water discharge associated with construction activity at the location of the Camblin Hills Residential Housing Development construction site in Atlantic, Iowa. This site is 25.0 acres and located at Section 9, Township 76N, Range 36W.

2. On April 18, 2025, the Department received a complaint alleging discolored water in the East Nishnabotna River at the Marne Road bridge. Following the receipt of this complaint Department staff went to the site to investigate.

a) The Department began its investigation at the location of the Marne Road bridge (Location 1) at this location the Department observed tan sediment laden water on the east side of the river.

b) From Location 1 the Department proceeded upstream to the location of the Buck Creek Road bridge (Location 2) at this location the river was not discolored.

c) Next, the Department proceeded downstream of Location 2, to the Schildberg Recreation area, and observed the confluence of the East Nishnabotna River and Bull Creek (Location 3). At this location, the Department observed discolored sediment laden water flowing from Bull Creek into the East Nishnabotna River.

d) From Location 3 the Department followed Bull Creek upstream to the intersection of 1st Street and Locust Street (Location 4). At Location 4, the Department observed discolored water flowing from a culvert in which water from Bull Creek flows under the City of Atlantic.

e) Next the Department proceeded to the location of 10th Street and Oak Street (Location 5) which is approximately 4,000 feet north of Camblin Hills Development. At this location, a portion of Bull Creek is above ground. Here, the Department observed discolored water flowing into an underground section of Bull Creek.

f) Next, the Department proceeded upstream to a detention basin on the north side of the Camblin Hills Development (Location 6). At this location, the Department observed evidence of a high-water mark on the detention basin berm, straw wattles in need of repair and the stormwater intake. The Department did not observe additional sediment controls upgradient from the lowest point. Upon inspection of the intake, a hole was observed level with the ground and discolored stormwater was observed flowing through it and into the drain. The Department walked around the perimeter of the detention basin and did not observe additional stormwater controls.

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g) From here, the Department went back to Location 3 and took water samples downstream of the confluence (Location 7) and upstream (Location 8).

h) Next the Department observed Bull Creek near the Camblin Hills site again. The Department determined that the detention basin on the site connects to Bull Creek through the City of Atlantic's storm sewer system. The Department observed discolored water entering Bull Creek from the detention basin outfall (Location 9).

Following the onsite inspection, the Department spoke to Jason Carley of Carley Construction, who is the contractor for the Camblin Hills Development. The Department discussed what it had observed. Later in the day, Mr. Carley submitted photos to the Department showing that it had blocked the hole in the stormwater detention basin with a board and installed additional silt fencing around the basin.

At locations identified as 4,5,6, 7 and 8 water samples were taken and sent to the University of Iowa State Hygienic Laboratory for analysis. All sample results are presented in the below table.

Laboratory Samples from April 18, 2025

Sample Location	Total Suspended Solids (TSS) mg/L
Location 4	1860
Location 5	190
Location 6	22700
Location 7	3700
Location 8	26

3. On April 24, 2025, the Department spoke to Christina Bateman, President of Vision Atlantic, and Dave Sturm, of Snyder Construction. Mr. Sturm informed the Department that Carley Construction had installed additional silt fencing upslope of the detention basin to better control runoff on site.

4. On April 25, 2025, the Department returned to the site to investigate. The Department observed that additional stormwater controls had been installed. However, the Department observed sediment laden storm water flowing into the detention basin. The Department also observed that the board which had been placed at the base of the detention basin was no longer in place. The Department replaced this board to plug the hole and slow the flow of the sediment laden stormwater. Next the Department went back to Location 9 and Location 5; at both locations sediment laden water was observed.

Due to uncertainty of the drainage path from the detention basin, the Department decided to dye test the flow path with USA Blue Book Water Tracing dye, which was red in color. Following this, the Department observed the red water flowing from the outfall located along Bull Creek (Location 10).

5. On May 2, 2025, the Department returned to the site to investigate. Once on site the Department observed sediment laden storm water discharging from the outfall at Location 10 and sediment laden stormwater flowing from a culvert near Olive Street. Further, the Department

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observed sediment laden storm water flowing along the western side of the site, overtopping a silt fence, and flowing into the storm sewer intake. Discolored stormwater was observed flowing into the stormwater intake located on Olive Street. No sediment controls were present on the storm sewer intakes on Olive Street.

6. On May 6, 2025, a Notice of Violation (NOV) was sent to Vision Atlantic for the above discussed violations. Included with this NOV was a copy of the inspection report and a summary of the relevant law.

7. On May 7, 2025, the Department went back to the site to conduct a routine NPDES permit compliance inspection. During this inspection the Department observed and documented the following:

- a. The SWPPP did not document all off-site drainage points;
- b. The SWPPP was not signed by all required parties;
- c. Potential pollutants were not listed in the SWPPP;
- d. Top soil was being stock piled on site; however, it was not included in the SWPPP;
- e. Sediment and erosion controls needed either repair or replacement;
- f. Sediment and erosion controls were not placed in all areas that they were required throughout the site; and
- g. Inspections dated April 25, 2025, stated that all erosion and sediment controls were in place and no maintenance was needed.

8. On May 16, 2025, the Department sent a Notice of Violation (NOV) for the above discussed violations. Included with this NOV was a summary of the law, a copy of the investigation report, and recommended corrective actions.

IV. CONCLUSIONS OF LAW

The parties hereby agree to the following conclusions of law:

1. Iowa Code section 455B.186 prohibits the discharge of pollutants into a water of the state, except for adequately treated pollutants discharged pursuant to a permit issued by the Department. The above stated facts demonstrate non-compliance with this provision of law.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to water quality standards, the operation of wastewater disposal systems, the discharge of pollutants into waters of the state, and the issuance of permits to wastewater disposal systems. The Commission has done so at 567 IAC 60 through 69.

3. Iowa Code sections 455B.103A and 455B.197 authorize the issuance of permits for storm water discharges. The Commission has adopted regulations pertaining to the issuance of NPDES permits for storm water discharge at 567 IAC 60. Pursuant to rule 60.2, "Storm water discharge

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associated with industrial activity" means the "discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant." Number 10 under this definition includes "construction activity," which includes clearing, grading, and excavation activities. Excluded are operations that result in the disturbance of less than one acre of total land area that are not part of a larger common plan of development or sale.

4. 567 IAC Chapter 61 contains water quality standards. Surface water quality criteria is found in subrule 61.3. Specifically, subparagraphs 61.3(2)"c" and "e" state:

c. Such waters shall be free from materials attributable to wastewater discharges or agricultural practices producing objectional color, odor or other aesthetically objectional conditions. [and]

e. Such waters shall be free from substances, attributable to wastewater discharges or agricultural practices, in quantities which would produce undesirable or nuisance aquatic life.

The above stated facts demonstrate noncompliance with these provisions of law.

5. 567 IAC 60.3(1) provides that no person shall operate any wastewater disposal system or part thereof without, or contrary to any condition of, an operation permit issued by the Director. The above stated facts demonstrate noncompliance with this provision.

6. NPDES permit No. 45162-44735 Standard Condition No. IV B and C require the SWPPP be properly signed and that it be kept up to date. The above stated facts demonstrate noncompliance with this provision of law.

7. NPDES permit No. 45162-44735 Standard Condition No. IV D (3) requires that sediment and erosion controls and other protective measures identified in the site plan be maintained in in good and effective operating condition.

8. NPDES permit No. 45162-44735 Standard Condition No. IV D (4) requires qualified personnel inspect the disturbed areas of the construction site. The above stated facts demonstrate noncompliance with this provision of law.

V. ORDER

THEREFORE, the Department orders, and the Vision Atlantic consents to do, the following:

1. Cease all illegal discharges to waters of the state;
2. Comply with all conditions of its NPDES permit; and
3. Pay an administrative penalty of \$8,000.00 within 30 days of the date the Director signs this order.

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VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with an administrative penalty. The administrative penalty is determined as follows:

a. **Economic Benefit.** 567 IAC chapter 10 requires that the Department consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” An economic benefit was obtained through avoiding the cost installing and maintaining adequate storm water erosion and sediment control measures throughout the construction site. This avoided several thousand dollars in materials and labor expenses. Thus, it is reasonable to estimate that \$3,000.00 was saved. Therefore, \$3,000.00 is assessed for this factor.

b. **Gravity of the Violation.** One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. As indicated above, substantial civil penalties are authorized by statute. Failure to properly manage storm water runoff from construction sites degrades surface water quality and deposits excess sediment in water channels. Sedimentation of Iowa’s waterways is a serious problem, and regulatory agencies have recognized that uncontrolled runoff is a significant contributor to these problems. Degraded water quality harms aquatic life, prevents the attainment of state water quality goals, and causes a decline in the quality of life generally. The erosion and sediment controls contained in the Vision Atlantic’s NPDES permits protect Iowa’s waterways from sedimentation. Such noncompliance thwarts the integrity of the NPDES permit and water quality programs. Therefore, the amount of \$3,000.00 is assessed for this factor.

c. **Culpability.** Vision Atlantic is engaged in the business of development and construction. This is a highly regulated activity and therefore Vision Atlantic has an obligation to be aware of the applicable regulations and comply with those regulations. Therefore, the amount of \$2000.00 is assessed for this factor.

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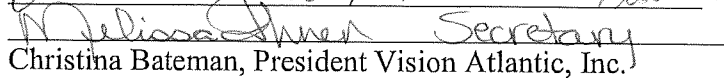
VII. WAIVER OF APPEAL RIGHTS

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

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 injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with Section V. of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order.

 Christina Bateman, President Vision Atlantic, Inc.

 Christina Bateman, President Vision Atlantic, Inc.

Dated this 8th day of

September, 2025

Kayla Lyon, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Vision Atlantic, Inc. (Copy of Order to Central Office Records File), FO 4, Carrie Schoenebaum- Legal Services
Bureau, U.S. E.P.A, I.C.7.b.