

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

**PRECISION CUSTOM PUMPING,
LLC**

Dubuque County Iowa
CMS #2366CMS

ADMINISTRATIVE ORDER
NO. 2025-AFO-16

TO: Precision Custom Pumping, LLC
Nathan Simon, Registered Agent
614 Crownline Drive
Epworth, Iowa 52045

I. SUMMARY

This administrative order (Order) requires Precision Custom Pumping, LLC (Precision Custom Pumping) to comply with the provision in Section V of this Order, subject to appeal rights stated in this Order.

Questions regarding this Order should be directed to:

Relating to technical requirements:

Brian Jergenson, Field Office 1
Iowa Department of Natural Resources
1101 Commercial Ct, Ste 10
Manchester, Iowa 52057
Phone: 563/927-2640

Relating to legal requirements:

Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste 200
Des Moines, Iowa 50321
Phone: 515/210-3408

Appeal or Payment of penalty to:

Director of the Iowa DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste 200
Des Moines, Iowa 50321

II. JURISDICTION

This Order is issued pursuant to the provisions of 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; Iowa Code chapter 459 and the rules adopted or permits issued pursuant thereto;

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: PRECISION CUSTOM PUMPING, LLC

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. Precision Custom Pumping is a certified manure service and was hired to pump liquid manure from a confinement feeding operation located in Dubuque County.

2. On October 29, 2024, Precision Custom Pumping was pumping manure from the facility through a dragline system to an application field approximately three and a half miles from the facility. A portion of the dragline hose ruptured in a pasture adjacent to the creek located at 25219 Old Highway Road, Farley, Iowa. Manure entered a portion of Hogan's Branch. It was estimated that between 5,000 and 15,000 gallons of liquid manure had been released to the pasture, with an unknown amount of manure entering Hogan's Branch.

3. Nathan Simon with Precision Custom Pumping discovered the breach and immediately notified DNR Field Office 1 of the breach. After notifying the field office of the breach, Precision Custom Pumping mobilized construction equipment to the site and began recovering the released manure. Precision Custom Pumping installed two earthen dams in Hogan's Branch to minimize the impact on the water.

4. Brian Jergenson, DNR Field Office 1 environmental specialist senior, travelled to the impacted area. Mr. Jergenson observed manure being mechanically scraped with a skid loader and being hauled away. Mr. Jergenson noted that the water in the creek between the two dams was turbid, with a manure odor, and field tested above 3 ppm of ammonia nitrogen. Mr. Jergenson observed live fish downstream of the second dam and the water field tested indicated very little indication of ammonia nitrogen. Mr. Jergenson collected laboratory samples of the impacted area. The laboratory sample of the creek upstream of the first dam indicated an ammonia concentration of 30 mg/L and the laboratory sample of the creek between the two dams indicated an ammonia concentration of 70 mg/L.

5. Mr. Jergenson reviewed the records associated with the manure pumping activities. Precision Custom Pumping did not have a copy of the instructions for manure application from the animal feeding operation owner.

6. By the end of the day on October 29, the manure had been removed and the dams were also removed. The water was flowing freely in Hogan's Branch.

7. On October 30, 2024, Mr. Jergenson returned to the site and confirmed that the dams had been removed and the water was flowing freely. There were no visual signs of manure or residual impact to the creek.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: PRECISION CUSTOM PUMPING, LLC

8. On November 22, 2024, DNR issued a Notice of Violation letter to Precision Custom Pumping for the violations discovered during the field office inspection. The letter informed Precision Custom Pumping that the violations were being referred for further enforcement.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 and 62.

2. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibit the discharge of pollutants into a water of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. During the October 2024 investigation, DNR Field Office 1 noted that a manure release from Precision Custom Pumping's manure application entered Hogan's Branch. The above-mentioned facts indicate a violation of these provisions.

3. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that will produce objectionable color, odor or other aesthetically objectionable conditions; settle to form sludge deposits; interfere with livestock watering; or are toxic to animal or plant life. During the October 2024 investigation, DNR Field Office 1 noted that a manure release from Precision Custom Pumping's manure application entered Hogan's Branch causing turbid water, a manure odor, and elevated pollutant levels. The above-mentioned facts indicate violations of the general water quality criteria.

4. Iowa Code section 459.103 provides that the Environmental Protection Commission (Commission) shall adopt rules related to the construction or operation of animal feeding operations, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC chapter 65.

5. 567 IAC 65.100(1) states that the minimum level of control for a confinement feeding operation shall be the retention of all wastes between periods of application. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to a water of the state. During the October 2024 investigation, DNR Field Office 1 noted that a manure release from Precision Custom Pumping's manure application entered Hogan's Branch. The above-mentioned facts indicate a violation of this provision.

6. 567 IAC 65.112(8)"a" (1) requires that a certified commercial manure service must have a copy of the instructions for manure application from the owner of the animal feeding operation. During the October 2024 investigation, DNR Field Office 1 noted that Precision Custom Pumping did not have a copy of the manure

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: PRECISION CUSTOM PUMPING, LLC

application instructions from the owner of the animal feeding operation. The above-mentioned facts indicate a violation of this provision.

7. DNR has determined that there is no likelihood that the violations identified in this Order will recur if Precision Custom Pumping complies with the provisions listed in Paragraph 1, Section V Order of this Order.

V. ORDER

THEREFORE, the DNR orders Precision Custom Pumping to do the following:

1. Develop and submit a Standard Operating Procedure for manure application, including but not limited to inspection of equipment and response procedure there is an equipment failure. The plan shall be submitted to DNR Field Office 1 within 30 days of the date the Director signs this Order and implemented immediately upon approval by DNR Field Office 1; and
2. Pay an administrative penalty in the amount of \$2,000.00 within 60 days of the date the Director signs 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 each of the water quality 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 DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with an administrative penalty of \$2,000.00. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(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.” The manure release occurred as a result of an accidental equipment failure and Precision Custom Pumping took

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: PRECISION CUSTOM PUMPING, LLC

immediate actions to minimize any impact on Hogan's Branch. Based on the above facts, the no economic benefit is being assessed for this factor.

Gravity – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The manure release from the equipment failure during manure handling resulted in the degradation of water quality. The manure containment requirements are integral parts of the animal feeding operation programs and violations of the regulations threaten the integrity of the animal feeding operation regulations. Based on the information above, \$2,000.00 is assessed for this factor.

Culpability – Precision Custom Pumping has a duty to know the regulations and to be aware that its actions are subject to the regulations. Precision Custom Pumping took immediate actions to minimize the impact on Hogan's Branch and completed remediation of the impacted area of Hogan's Branch immediately. Based on the information above, no culpability is being assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175(1)(a) and 567 IAC Chapter 7, a written Notice of Appeal may be filed with the Director, at the address provided above, within 60 days of the date of issuance of this Order. The Notice of Appeal 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 561 IAC Chapter 7.

VIII. NONCOMPLIANCE

Compliance with Section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources