

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

IN THE MATTER OF: Bates Construction, Inc. Dickinson, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2016-WW- 15
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**TO: Mervin Bates, President
Bates Construction, Inc.
3514 Hwy 71 South
Spirit Lake IA, 51360**

I. SUMMARY

This administrative consent order (order) is entered into between Bates Construction, Inc. (Bates) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order due to the illegal discharge of pollutants to a water of the state. Bates agrees to pay an administrative penalty of \$3,000.00. 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:

Tom Roos, Senior Environmental Specialist
IDNR Field Office No. 3
1900 Grand Ave
Spencer, IA 51301
Phone: 712-262-2901

Relating to legal requirements:

Carrie Schoenebaum, Attorney
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
Phone: 515-725-8244

Payment of penalty to:

Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034

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Department. The above stated facts demonstrate non-compliance with this provision of law.

2. 567 IAC 61.3(2) "b", "c" and "e" state that "[s]uch waters shall be free from floating debris, oil, grease, scum and other floating materials attributable to wastewater discharges or agricultural practices in amounts sufficient to create a nuisance." The above stated facts demonstrate non-compliance with this provision of law.

V. ORDER

THEREFORE, the Department orders and Bates consents to do the following:

1. Cease all illegal discharges to waters of the state;
2. Pay an administrative penalty of \$3,000.00 within 30 days of the date the Director of the Department 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 the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (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.** Bates failed to install and maintain adequate storm water runoff control measures throughout the construction site. This resulted in a significant cost savings in materials and labor expenses. For that reasons, the amount of \$1,000.00 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