IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

JANSMA CATTLE CO., INC.
Facility ID # 61304
Lyon County, Iowa

ADMINISTRATIVE CONSENT ORDER
NO. 2019-AFO-29

To: Jansma Cattle Co., Inc.
Norma Jansma, Registered Agent
701 South 9th Avenue
Rock Rapids, IA 51246

I. SUMMARY

This administrative consent order (Order) is entered into between the Iowa Department of Natural Resources (DNR) and Jansma Cattle Co., Inc. (Jansma Cattle), for the purpose of resolving violations of animal feeding operation regulations and water quality laws and regulations resulting from discharges from an open feedlot animal feeding operation owned by Jansma Cattle. This Order requires Jansma Cattle to pay an administrative penalty of $5,000.00, to implement a plan of action to prevent all further discharges from the North Feedlot, and in the future comply with the laws and rules governing animal feeding operations and water quality.

Questions regarding this Order should be directed to:

Relating to technical requirements:
Jennifer Christian
DNR Field Office 3
Iowa Department of Natural Resources
1900 N Grand Ave, Ste E-17
Spencer, Iowa 51301
712-262-4177

Relating to legal requirements:
Noah Poppelreiter, Attorney for the DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-725-8248

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
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 and of Iowa Code chapter 459; Iowa Code chapter 459A and the rules adopted 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. Jansma Cattle owns an open feedlot animal feeding operation located at 2942 and 2961 160th Street, Rock Rapids, Iowa. This operation consists of a north portion and a south portion and has a total capacity of 4,000 finishing cattle. The facts of this Order pertain only the north portion, located at 2942 160th Street (North Feedlot). To contain effluent until land application, the North Feedlot utilizes a two part system. First, manure solids are settled in three interconnected basins. The basins form a “T” shape, with basins on the south, east and west areas of the shape. Next, effluent from these basins is intended to drain to a settled open feedlot effluent basin (SOFEB) located to the north of the solids settling basins.

2. Approximately 600 north of the solids settling basins is an unnamed tributary of Rock River (Tributary).

3. On May 16, 2017, DNR Field Office 3 environmental specialist Jennifer Christian conducted an investigation of the North Feedlot to ensure its compliance with the NPDES permit issued to Jansma Cattle at that time. During the investigation, Ms. Christian noted that the solids settling basins were not draining effluent to the SOFEB and that manure was not fully contained in the basins. Ms. Christian informed Jansma Cattle that it must submit to the DNR a plan of action to resolve the drainage and containment problems.

4. On October 11, 2017, DGR Engineering submitted a plan of action on behalf of Jansma Cattle. The plan including updating and repairing the solids settling basins at the North Feedlot.

5. On August 23, 2018, DGR Engineering told Ms. Christian that most of the work at the North Feedlot was complete, but that work remained on the east solids settling basin.

6. On March 1, 2019, the DNR issued Jansma Cattle NPDES permit # 6061304 (Permit). The terms of the Permit are incorporated into this Order by reference. Notably,

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1 For brevity in this Order, the terms “manure,” “open feedlot effluent,” and “settled open feedlot effluent” as defined in 567 IAC 65.101 shall all be referred to as “effluent” unless otherwise clarified or specified. “Effluent” when used in this Order may contain more than one or a mix of these pollutants.
Section I of the terms of the Permit allow a discharge to a water of the United States only in the event of chronic precipitation event and/or a 25 year, 24 hour precipitation event, and then only if the North Feedlot is constructed, operated and maintained to retain all effluent and runoff during a 25 year, 24 hour precipitation event. Additionally, Section I required Jansma Cattle to empty the SOFEB to ten percent of its capacity every April/May and October/November.

7. On April 12, 2019, DNR Field Office 3 received a spill report from Extended Ag Services on behalf of Jansma Cattle. Extended Ag Services informed DNR Field Office 3 that effluent was releasing from the east solids settling basin and had the potential to discharge to the Tributary. Ms. Christian and DNR Field Office 3 environmental specialist Doyle McKeever responded to the North Feedlot to investigate the report.

8. When DNR staff arrived at the North Feedlot they made contact with Andrea Jansma, co-owner of Jansma Cattle. Ms. Jansma stated she was not certain of the current status of the discharge and allowed DNR staff to investigate the solid settling basins and the SOFEB. The DNR staff and Ms. Jansma proceeded to the SOFEB to investigate the discharge.

9. DNR staff observed the SOFEB was completely full and that effluent was backing up into the solids settling basins. Effluent from the east solids settling basin was releasing from the uncompleted southeast side of the basin, then travelling northeast through a vegetated area and discharging to the Tributary.

10. At the site of the discharge, DNR staff observed the water of the Tributary was dark brown in color and smelled of manure. Directly upstream from the discharge site, the water of the Tributary was clear and had no discernible smell. Several dozen feet downstream from the site, the Tributary’s water remained brown and still smelled of manure.

11. DNR staff took samples at several locations along Tributary for laboratory testing. The results of the testing are as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>E.coli (MPN/100 mL)</th>
<th>Ammonia as Nitrogen (mg/L)</th>
<th>Biochemical Oxygen Demand (mg/L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upstream</td>
<td>10</td>
<td>0.11</td>
<td>&lt;2</td>
</tr>
<tr>
<td>Discharge Site</td>
<td>2,400,000</td>
<td>220</td>
<td>910</td>
</tr>
<tr>
<td>Downstream</td>
<td>370,000</td>
<td>22</td>
<td>200</td>
</tr>
</tbody>
</table>

These results indicate effluent entered the Tributary.
12. Subsequent discussions with Ms. Jansma revealed that Jansma Cattle had emptied the SOFEB during the fall of 2018, but had reduced the effluent level to only twenty-five percent of the capacity.

13. On June 25, 2019, the DNR issued Jansma Cattle a Notice of Violation for the violations observed by DNR staff on April 12, 2019.

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 prohibit the discharge of pollutants into a water of the state, except adequately treated pollutants discharged pursuant to a permit from the DNR. Effluent from the North Feedlot discharged to the Tributary. This discharge was caused by Jansma Cattle’s failure to complete construction on the east solids settling basin and due to its failure to empty the SOFEB to ten percent of the maximum capacity. While Jansma Cattle was issued a NPDES permit by the DNR, Jansma Cattle was not allowed to discharge of the Permit because it did not construct, operate, and maintain the North Feedlot in a manner that would allow the retention of all effluent and runoff in the event of a 25 year, 24 hour rain event. These facts indicate the Jansma Cattle is in violation of these sections.

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. At the Tributary, DNR staff observed brown water that smelled of manure. Laboratory testing of the Tributary’s water showed elevated levels of multiple pollutants. These conditions were caused by the discharge of effluent from the North Feedlot to the Tributary. These facts indicate Jansma Cattle is in violation of this section.

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

5. 567 IAC 65.101(3) prohibits an open feedlot from discharging manure, open feedlot effluent, or settled open feedlot effluent into any waters of the United States unless the discharge is pursuant to a NPDES Permit. Effluent from the North Feedlot discharged to the Tributary. This discharge was caused by Jansma Cattle’s failure to complete construction on the east solids settling basin and due to its failure to empty the SOFEB to ten percent of the maximum capacity. While Jansma Cattle was issued a NPDES permit by the DNR, Jansma Cattle was not allowed to discharge of the Permit because it did not construct,
operate, and maintain the North Feedlot in a manner that would allow the retention of all effluent and runoff in the event of a 25 year, 24 hour rain event. These facts indicate the Jansma Cattle is in violation of this section.

6. DNR has determined that there is no likelihood that the violations cited in this Order will recur if Jansma Cattle implements the requirements set forth in Paragraphs 1-3, Section V of this Order.

V. ORDER

THEREFORE, the DNR orders and Jansma Cattle agrees to the following:

1. Jansma Cattle shall operate all open feedlot animal feeding operations in compliance with all laws and regulations related to animal feeding operations and water quality.

2. Jansma Cattle shall immediately cease all discharges of any pollutant to waters of the state and/or waters of the United States. Within 30 days of the date the Director signs this Order, Jansma Cattle shall develop a plan of action to prevent all future discharges from the North Feedlot and shall submit the plan to DNR Field Office 3 for approval. Within 60 days of the date the Director signs this order, Jansma Cattle shall implement the plan of action.

3. Jansma Cattle shall pay an administrative penalty in the amount of $5,000.00 within 30 days from the date the Director signs this Order.

VI. PENALTY

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. The DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order. Because the DNR determines this matter is best handled administratively, the DNR must follow the limits of Iowa Code section 455B.109 and 567 IAC chapter 10. Pursuant to those limits, a penalty of $5,000.00 is assessed. 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 10.2(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 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not
available.” Jansma Cattle avoided costs of preventing effluent from leaving the solids settling area, such as constructing diversions or containment. Additionally, Jansma Cattle avoided and delayed costs associated with removing adequate amount of effluent from the SOFEB to be in compliance with the Permit. Using reasonable estimates for these costs, $1,000.00 is 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. Jansma Cattle violated multiple Iowa laws and regulations. The environment was harmed from those violations as evidenced by the presence of effluent in the Tributary. By committing the violations, Jansma Cattle also harmed the integrity of the animal feeding operation program. $2,000.00 is assessed for this factor.

Culpability – Jansma Cattle has a duty to operate and maintain the North Feedlot in a manner that prevents violations of open feedlot laws and regulations. Jansma Cattle failed to construct, operate, maintain and monitor the North Feedlot in a manner that would prevent discharges. This is particularly problematic given the close proximity of the Tributary to the North Feedlot and due to Jansma Cattle’s failure to complete construction on the east solids settling basin. $2,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This Order is entered into knowingly and with the consent of Jansma Cattle. For that reason, Jansma Cattle waives its right to appeal this Order or any part thereof.

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 or Iowa Code section 459.603.

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources

For JANSMA CATTLE CO., INC.

Dated this 10th day of October, 2019

Noah Poppelreiter, DNR Field Office 3, EPA, VIII.D.1.b

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