

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

IN THE MATTER OF:

ROBERT BRYANT  
Facility ID #66259

Cherokee County, Iowa

ADMINISTRATIVE CONSENT ORDER  
NO. 2019-AFO- 05  
2020

TO: Grand Meadow Feeders  
Dr. Robert Bryant  
553 620th Street  
Washta, Iowa 51061

**I. SUMMARY**

This administrative consent order (Order) is entered into between the Iowa Department of Natural Resources (DNR) and Dr. Robert Bryant, dba Grand Meadow Feeders, for the purpose of resolving the violations of animal feeding operation regulations resulting from the discharge of manure from Dr. Bryant's animal feeding operation in Cherokee County, Iowa. Dr. Bryant neither agrees nor disagrees with any fact or conclusion of law in this Order and enters into the Order solely for settlement purposes. This Order requires Dr. Bryant to take steps to prevent all future discharges, to pay an administrative penalty of \$2,000.00, and in the future comply with the laws and rules governing animal feeding operations and water quality standards for the waters of the state.

Questions regarding this Order should be directed to:

**Relating to technical requirements:**

Lois Benson, DNR Field Office 3  
DNR Field Office 3  
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

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**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 459 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. Dr. Bryant restates that he neither admits nor denies any fact contained herein and enters into this Order solely for settlement purposes.

2. Dr. Bryant owns and operates a confinement feeding operation located at 553 620<sup>th</sup> Street, Washta, Iowa (Facility). The Facility houses 2,560 head of finishing cattle, totaling 2,560 animal units. The Facility is a dry bedded operation. The Facility utilizes a dirt area approximately 2.37 miles east of the Facility on 620th Street directly south of the road (Stockpile) to store dry bedding and manure until application<sup>1</sup>.

3. On July 25, 2019, DNR environmental specialist Lois Benson received a complaint from Cherokee County stating that county road workers observed manure running from the Stockpile into the road ditch.

4. On August 1, 2019, Ms. Benson inspected the Stockpile. She observed a slow flow of manure runoff leaving the pile and ponding between the Stockpile and the road ditch on the south side of 620th Street. The ponded manure runoff then flowed out from the pond into the road ditch, flowed west, and entered a culvert under 620th Street. The culvert led to a field north of the road. Manure runoff was actively flowing northwest through the field where it entered another culvert. The second culvert flowed under Washta Road to the west and entered an unnamed creek in the pasture located at 6182 Washta Road, Washta, Iowa.

5. Ms. Benson took samples of the runoff for laboratory testing. The results of the laboratory testing are as follows:

<b>Location</b>	<b>E.coli (MPN/100 mL)</b>	<b>Ammonia as Nitrogen (mg/L)</b>	<b>Biochemical Oxygen Demand (mg/L)</b>
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<sup>1</sup> The Facility also uses other stockpile locations. These locations are not relevant to this Order.

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620th Street road ditch north of Stockpile	180,000	650	>4,300
Runoff in field at Washta Road	1,500	0.54	10

These results indicate manure left the Stockpile.

6. While Ms. Benson was taking samples, Dr. Bryant stopped at the Stockpile. Ms. Benson showed Dr. Bryant the culvert on 620th Street. Dr. Bryant stated he was previously unaware of that culvert. Dr. Bryant stated he would block the runoff from leaving the area around the Stockpile.

7. On August 2, 2019, Brent Bryant, Dr. Bryant's son, contacted Ms. Benson and stated that work was complete on blocking the runoff's flow. Brent also stated that sawdust had been laid down between the Stockpile and the 620th Street road ditch and that the Facility would not use this stockpile for the remainder of the year.

8. On September 12, 2019, the DNR issued Dr. Bryant a Notice of Violation for the violations discovered during the field office inspection on August 1.

#### IV. CONCLUSIONS OF LAW

1. Dr. Bryant restates that he neither agrees nor disagrees with any conclusion of law contained herein, neither agrees nor disagrees with any fact contained herein, and enters into this Order solely for settlement purposes.

2. 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 manure control requirements. The Commission has adopted such rules at 567 IAC 65.

3. 567 IAC 65.2(3) states that all manure for confinement feeding operations must be retained between application periods. Manure from the Stockpile flowed off the Stockpile as runoff, entering a road ditch and eventually an unnamed creek on a nearby property. These facts indicate a violation of this rule.

4. DNR has determined that there is no likelihood that the violations cited in this Order will recur if the Dr. Bryant implements the requirements set forth in Paragraphs 1-2, Section V of this Order.

#### V. ORDER

THEREFORE, the DNR orders and Dr. Bryant agrees to the following:

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1. Dr. Bryant shall operate all animal feeding operations, including all manure stockpiles, in compliance with all applicable DNR rules and regulations and shall cease all non-permitted discharges.
2. Dr. Bryant shall monitor the Stockpile during wet conditions to ensure the retention of all manure.
3. Dr. Bryant shall pay an administrative penalty in the amount of \$2,000.00 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. 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 this Order with an administrative penalty of \$2,000.00. Dr. Bryant restates that he neither admits or denies any of the facts contained herein and agrees to the penalty determination and enters into this Order solely for settlement purposes. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC 10.2(1) considers the costs saved or likely to be saved by the violator. 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.” Dr. Bryant gained a nominal economic benefit by failing to monitor the Stockpile and install controls to ensure no runoff left the Stockpile. \$200.00 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. 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. Failing to retain manure creates a harm to the environment, including neighboring properties. Failing to comply with regulations related to the retention of manure harms the animal feeding operation program. \$1,500.00 is assessed for this factor.

Culpability – Dr. Bryant has a duty to operate and maintain all animal feeding operations in compliance with applicable laws and regulations. Dr. Bryant failed to monitor and maintain the Stockpile. However, Dr. Bryant quickly and effectively took action to prevent future

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runoff from the Stockpile, going as far as to discontinue its use. Therefore, \$300.00 is assessed for culpability.

**VII. WAIVER OF APPEAL RIGHTS**

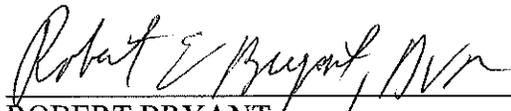
This Order is entered into knowingly and with the consent of Dr. Bryant. For that reason, Dr. Bryant waives the right to appeal this Order or any part thereof.

**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.

  
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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

Dated this 11<sup>th</sup> day of  
Feb, 2019 ~~2019~~ 2020

  
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ROBERT BRYANT

Dated this 31 day of  
January, 2019 ~~2019~~ 2020

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