

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

IN THE MATTER OF:

TRES M, L.L.C.

Floyd County, Iowa

ADMINISTRATIVE CONSENT ORDER
NO. 2020-AFO- 15

TO: Tres M, L.L.C.
c/o Tim McCandless, Registered Agent
2731 300th Street
Greene, Iowa 50636

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Tres M, L.L.C. (Tres M), for the purpose of resolving the violations of animal feeding operation regulations and water quality regulations resulting from the land application discharge of manure during Tres M's application of manure in Dubuque County, Iowa. This administrative consent order (Order) requires Tres M to implement a standard operating procedure that will ensure future land application of manure does not result in a release of manure and in the future to comply with the laws and rules governing animal feeding operations and water quality standards for the waters of the state.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Carl Berg, DNR Field Office 2
Iowa Department of Natural Resources
909 W. Main St., Ste. 4
Manchester, Iowa 52057
Phone: 563-927-2640

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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IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: TRES M, L.L.C.

II. JURISDICTION

This administrative consent 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, 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. Tres M is a commercial manure service in the business of manure application.
2. Tres M was contracted to land apply manure produced by the Iowa Select Farms McCandless I Finisher in Floyd County, Iowa.
3. At approximately 3:30 p.m. on November 6, 2019, Toy Groenveld, a manure applicator with Tres M, called DNR Field Office 2 to report approximately 4,000 gallons of manure released to a dry creek bed (Tributary) that, when flowing, runs to Schuyler Creek. Mr. Groenveld stated that Tres M constructed a dike to prevent the flow of the manure and was in the process of excavation to clean up the manure.
4. On the evening of November 6, DNR Field Office 2 environmental specialist Carl Berg responded to the site of the release. Due to the fact that the Tributary was dry, Mr. Berg did not observe a water quality impact.
5. On November 20, 2019, the DNR issued a Notice of Violation letter to Tres M detailing the violations and the associated regulations.

IV. CONCLUSIONS OF LAW

1. 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 chapter 65.
2. 567 IAC 65.2(3) states that the minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application. During DNR Field Office 2's investigation it was determined manure was released to the Tributary prior to its prior land application. The above-mentioned facts indicate a violation of this provision.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: TRES M, L.L.C.

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

V. ORDER

THEREFORE, the DNR orders and Tres M agrees to the following:

1. Tres M shall operate in compliance with all applicable DNR rules and regulations; and
2. Tres M shall develop a Standard Operating Procedure (Procedure) approved by the DNR that includes steps that Tres M will take to monitor its land application of manure. Tres M shall present the Procedure to Field Office 2 for approval within 60 days of the signature of this order. Tres M shall implement the Procedure immediately upon Field Office 2's approval.

VI. PENALTY

While the facts of this Order indicate that there was a release of manure from land application to the Tributary, there was no impact on the water quality of the Tributary beyond the immediate point of release. Tres M took immediate action to stop the release and excavated the site of the release to prevent future water quality violations in the Tributary.

Due to the immediate and quick action of Tres M and the lack of water quality violations, the DNR has determined that an administrative penalty is not appropriate. The purpose of this Order is to implement the permanent remedy noted in Paragraphs 1-2, Section V of this Order.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Tres M. For that reason, Tres M 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 administrative consent 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

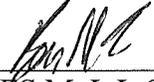
IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: TRES M, L.L.C.

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

Dated this 28th day of
May, 2020



TRES M, L.L.C.

Dated this 13 day of
May, 2020

Noah Poppelreiter, DNR Field Office 2, EPA, VIII.D.1.a