IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: **GAVILON GRAIN, LLC** Dubuque, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2021-WW-25

TO: Gavilon Grain, LLC
Mitch Montag
Site Manager
635 E. Commercial St.
Dubuque, IA 52001

I. PRELIMINARY STATEMENT

1. This Administrative Consent Order (Order) is entered into between the Iowa Department of Natural Resources (DNR) and Gavilon Grain, LLC (Gavilon) for the purpose of resolving water quality violations and a fish kill resulting from a nitrogen fertilizer discharge from a Gavilon tank in Dubuque.

2. Questions regarding this Order should be directed to:

Relating to technical requirements:
Tom McCarthy, Field Office #1
Iowa Department of Natural Resources
909 W. Main Street
Manchester, Iowa 52057
Phone: 563-920-0923

Relating to legal requirements:
Rachel Zander, Attorney for the DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-305-0324

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

3. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

4. Gavilon consents to the assessment of the administrative penalty specified in this Order and to the terms of this Order.

II. JURISDICTION AND WAIVER OF RIGHT TO A HEARING

1. 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 section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties; and Iowa Code section 481A.151 authorizes the assessment and recovery of damages to natural resources.

2. Gavilon admits solely the jurisdictional allegations in this Order.

3. Gavilon neither admits nor denies the factual allegations, conclusions of law, or penalty calculations contained in this Order. The execution of this agreement is for settlement purposes only and does not constitute an admission by Gavilon that a violation occurred.

4. Gavilon waives its right to request a hearing as provided in 455B.109(4), any right to contest the allegations in this Order and its right to appeal this Order.

III. STATEMENT OF FACTUAL ALLEGATIONS

1. Gavilon operates an agricultural supply, grain storage, and transportation company, including a liquid fertilizer storage facility located at or around 1200 Kerper Boulevard in Dubuque, Iowa (the Gavilon Facility).

2. On June 18, 2020, at or about 6:33 a.m. DNR Field Office #1 received a phone call from Dubuque County Dispatch to report a release of 32% liquid nitrogen fertilizer from the Gavilon Facility. Shortly after, Jeff Altfillisch and Brian Wanzenried of Gavilon, and Rick Steines, Dubuque Fire Chief, called DNR Field Office #1 to inform DNR of the release from a 2.0 million gallon above ground tank containing UAN 32% 32-0-0, liquid nitrogen fertilizer.

3. An operator was transferring fertilizer between above ground storage tanks when the receiving tank was overfilled. Mr. Wanzenried estimated that approximately one million gallons was released. Some fertilizer was contained in secondary containment, other fertilizer spilled to the ground, and some flowed into the storm sewer drains which flow directly into Bee Branch Pond (BBP). When gates are open, BBP can flow into the Upper Mississippi River (UMR), or from the UMR into BBP, depending on the respective elevations. When the gates are not open, water does not flow between the two.

4. Between 7:45 a.m. and 9:10 a.m., the City of Dubuque (City) closed the gates between the BBP and UMR to help contain the spill. These gates are controlled by the City. Mr. Wanzenried reported the release to the National Response Center, Incident Report #1279849, and the Dubuque Fire Department reported that the leak was contained to the Gavilon Facility site.

5. At 1 p.m., DNR representative Mr. McCarthy visited the Gavilon Facility and met with Gavilon officials, Terracon, Dubuque Fire Department, and City staff to discuss the incident and

response. Del Uhlik and Casey Hannan of Gavilon gave Mr. McCarthy a tour of the Gavilon Facility. Mr. McCarthy noted that all storm drains were covered with plastic and sand to prevent drainage, sump pumps were deployed to collect fertilizer, and a sand berm was constructed to contain fertilizer. Field tests for NH3-N showed the presence of NH3N throughout the spill area, as well as an area that had already dried. When Mr. McCarthy asked about an overfill alarm for the tanks, Mr. Uhlik stated that the tanks were not fitted with an overfill alarm, but an alarm was installed prior to the execution of this Order.

6. At 1:15 p.m., due to Bee Branch Creek (BBC) inflow into BBP during the period the gates between BBP and UMR were closed, City officials decided to open the gates into UMR for stormwater management. City officials consulted Mr. McCarthy prior to opening the gates, and he approved as low NH3N levels were detected in BBP.

7. Between approximately 2:15 p.m. and 4:05 p.m., Mr. McCarthy visited various locations at and surrounding the Gavilon Facility to make observations, perform field tests, and collect samples for analysis by the State Hygienic Lab. DNR did not provide split samples and Gavilon did not participate in sampling.

Location	**Time**	**DNR Observations**	**NH3N field test**	**NH3N (mg/L)**	**Nitrate + Nitrite as N (mg/L)**	**Phosph-orus as P (mg/L)**	**Total Kjeldahl Nitrogen as N (mg/L)**
1. Overlook into BBP	2:14 p.m.	Live fish, one older dead freshwater drum.	Present	0.81	2.2	0.21	4.4
2. 50 feet west of storm sewer inlet into BBP	2:51 p.m.	Algae bloom; live fish present.	> 3 mg/L	7.7	7.2	<0.10	22
3. BBP near gate structure to UMR	3:02 p.m.	Live fish, clearer water.	Present	3.2	4.6	<0.10	10.3
4. UMR 50 feet downstream of gate structure to BBP	3:17 p.m.	Turbid water; no algae bloom.	Present	1.6	3.7	<0.11	5.8
5. Sycamore St. bridge over BBP	2:25 p.m.	Live fish.	Not detected	Sample not collected.			
5. Sycamore St. bridge over BBP	3:43 p.m.	No live or dead fish.	Not detected	0.14	1.6	<0.10	1.8

6. Downstream of Rhomberg Ave. in BBC	4:05 p.m.	Cooler, clearer water; no algae bloom.	Not detected	<0.05	3.2	<0.10	0.35

8. On June 19, 2020, Terracon informed Mr. McCarthy that impacted soils were removed from the tank area and replaced with gravel on top of a plastic liner. Terracon installed sump pumps to collect water that filtered through to gravel, and placed the collected water into an empty bulk fertilizer storage tank for later disposal. After checking inventory records and tank levels, Mike Henry of Gavilon reported that approximately 432,000 gallons of fertilizer was released beyond secondary containment from the Gavilon Facility.

9. On June 22, 2020, a storm impacted Dubuque, Iowa earlier in the day. The City lowered the elevation of the BBP by approximately 2.5 feet to facilitate BBC work in the area. Gavilon was later informed of this action by the City. Between 3 p.m. and 4:45 p.m., Mr. McCarthy visited various locations at and surrounding the Gavilon Facility to make observations, perform field tests, and collect samples for analysis by the State Hygienic Lab. DNR did not provide split samples and Gavilon did not participate in sampling.

Location	**Time**	**DNR Observations**	**NH3N field test**	**NH3N (mg/L)**	**Nitrate + Nitrite as N (mg/L)**	**Phosph-orus as P (mg/L)**	**Total Kjeldahl Nitrogen as N (mg/L)**
2. 50 feet west of storm sewer inlet into BBP	3:00 p.m.	Algae bloom; many dead fish	>3 mg/L	12	7.8	<0.40	25
7. Gavilon front parking lot by storm water drain	3:30 p.m.	Stormwater flowing from Gavilon site into Kerper Blvd. stormwater drain	>3 mg/L	62	61	3.6	220
4. UMR 50 feet downstream of gate structure to BBP	3:55 p.m.	Turbid water, no algae bloom	>3 mg/L	10	7.2	<0.21	19
5. Sycamore St. bridge over BBP	4:35 p.m.	No dead or live fish; turbid water	Not tested.	Sample not collected.			
1. Overlook into BBP	4:45 p.m.	No dead fish.	Present	2	2.6	0.26	5.8

Mr. McCarthy also observed the southwest and northeast corners of BBP at approximately 4:25 p.m. and 4:30 p.m. and noted no dead or live fish at either location.

10. Based on the observations at Location 2, Mr. McCarthy notified DNR Fisheries. DNR Fisheries decided that official fish kill counts would be conducted. DNR Fisheries coordinated visits to BBP and the surrounding area that afternoon and evening.

11. After observing conditions at Location 7, Mr. McCarthy met with Mr. Uhlik to discuss the site run off and informed him of the dead fish in BBP. He stated Gavilon just noticed the dead fish as well. He stated that no dead fish were noted over the weekend. Mr. McCarthy and Mr. Uhlik discussed the NH3-N in the stormwater flowing off site into the storm drain. He stated that the containment berm by Kerper Boulevard would be rebuilt to contain all stormwater. They toured the site and Mr. Uhlik showed Mr. McCarthy areas where impacted soils were removed. Mr. McCarthy noted the sump pumps in operation and noted that berms around the load out area were still in place. Storm drains east of the load out structure were covered. Mr. McCarthy noted the sand berm in front of the Gavilon Facility parking lot had been removed. After Mr. McCarthy's visit, Mr. Henry called to state that Gavilon would be storing stormwater from the front parking lot by pumping it into a 2,000,000-gallon tank.

12. On June 23, 2020, DNR Fisheries Bureau coordinated the first phase of the fish kill assessment of the impacted areas of BBP, conducted by DNR personnel. The fish kill investigation was led by Scott Gritters, Kevin Hanson, Andrew Keil, Lucas Dever, and Denver Link.

13. On June 24, 2020, Mr. Gritters returned to the site after recent rains and observed dead fish floating in BBP and on the bank near the outlet to UMR and dead mussels along the shoreline and floating in the basin. Mr. Gritters also observed dead fish and mussels being consumed by scavengers and floating through the outlet into the UMR.

14. On June 23 and 24, 2020, Mr. McCarthy discussed fish kill and water quality issues with both Mr. Uhlik and Terracon. Mr. McCarthy advised Terracon that DNR would agree to Gavilon's proposed remedial strategy of air sparging and water recirculation in BBP, pending input from the City. Mr. McCarthy identified that a DNR Water Use Permit would allow Gavilon to pump fresh UMR water into BBP. Further conversations about water use registration permitting took place on June 25, 2020.

15. On June 25, 2020, DNR personnel conducted a second fish kill count. Between 1:40 p.m. and 3:30 p.m., Mr. McCarthy visited various locations at and surrounding the Gavilon Facility to make observations, perform field tests, and collect samples for analysis by the State Hygienic Lab. DNR did not provide split samples and Gavilon did not participate in sampling.

Location	Time	NH3N field test	NH3N (mg/L)	Nitrate + Nitrite as N (mg/L)	Phosph-orus as P (mg/L)	Total Kjeldahl Nitrogen as N (mg/L)
1. Overlook into BBP	1:40 p.m.	Present	4.5	3	0.2	8.2
5. Sycamore St. bridge over BBP	2:01 p.m.	Present	3.4	Not tested.	0.09	7.1
6. Downstream of Rhomberg Ave. in BBC	2:24 p.m.	Not detected	<0.05	Not tested.	0.08	0.74
2. 50 feet west of storm sewer inlet into BBP	2:45 p.m.	>3 mg/L	7.0	Not tested.	1.1	16
4. UMR 50 feet downstream of gate structure to BBP	3:06 p.m.	Not detected	0.26	Not tested.	<0.81	2.8

Location	Time	DNR Observations	pH	Dissolved Oxygen (mg/L)
1. Overlook into BBP	1:40 p.m.	No dead fish; clear water with an algae bloom and submerged aquatic vegetation.	8.1	8.0
5. Sycamore St. bridge over BBP	2:01 p.m.	No live or dead fish.	8.3	8.0
6. Downstream of Rhomberg Ave. in BBC	2:24 p.m.	Cooler, clearer water, no algae bloom.	7.4	8.0
2. 50 feet west of storm sewer inlet into BBP	2:45 p.m.	Algae bloom and dead fish. Pelicans and other birds actively eating dead fish.	7.6	8.5
4. UMR 50 feet downstream of gate structure to BBP	3:06 p.m.	Turbid water but no algae bloom.	8.0	8.0

At Location 2, Mr. McCarthy observed three air sparging units in operation and the water recirculation system working in the southeast corner of BBP. At Location 7, Mr. McCarthy observed the Gavilon front parking lot by the storm water drain. There, Gavilon staff were washing, sweeping, and collecting liquids from the concrete parking lot and driveway. Mr. McCarthy spoke with Justin Carver and Randy Sanders of Gavilon. They stated that collected liquids were being pumped into the 2,000,000-gallon tank. They and Mr. McCarthy discussed the sump pumps in different locations. Mr. McCarthy noted that the berm sealing off the west side of Gavilon from Kerper Boulevard had been rebuilt.

16. One June 26, 2020, Terracon raised concerns about the low water level in BBP with Mr. McCarthy. Mr. McCarthy in turn requested that the City hold more water in BBP, but the City declined to do so due to construction in the BBC. Terracon also noted a few dead fish and mussels in the southeast corner of BBP. Further discussions and emails took place on the proposed water withdrawal from the UMR into the BBP through the storm water system under the Gavilon Facility.

17. On June 29, 2020, Mr. McCarthy visited various locations at and surrounding the Gavilon Facility to make observations, perform field tests, and collect samples for analysis by the State Hygienic Lab. DNR did not provide split samples and Gavilon did not participate in sampling. At Location 2, which is 50 feet west of storm sewer inlet to BBP, Mr. McCarthy discussed dead fish counts with Gavilon staff. They stated that a few dead fish were noted on Friday, June 26, but none were noted over the weekend. Gavilon staff stated that no rain fell on the location over the weekend.

Location	**Time**	**NH3N field test**	**NH3 N (mg/L)**	**Nitrate + Nitrite as N (mg/L)**	**Phosph-orus as P (mg/L)**	**Total Kjeldahl Nitrogen as N (mg/L)**
1. Overlook into BBP	10:52 a.m.	Present	1.9	Not tested.	0.26	5.8
5. Sycamore St. bridge over BBP	11:02 a.m.	Present	1.8	Not tested.	0.07	3.7
6. Downstream of Rhomberg Ave. in BBC	11:55 a.m.	Not detected	<0.05	Not tested.	0.07	0.24
2. 50 feet west of storm sewer inlet into BBP	1:20 p.m.	>3 mg/L	3.9	Not tested.	0.52	8.7
4. UMR 50 feet downstream of gate structure to BBP	1:45 p.m.	Not detected	0.26	Not tested.	0.16	1.1

Location	**Time**	**DNR Observations**	**pH**	**Dissolved Oxygen (mg/L)**
1. Overlook into BBP	10:52 a.m.	No dead fish; clear water with an algae bloom and submerged aquatic vegetation.	8.3	7.0
5. Sycamore St. bridge over BBP	11:02 a.m.	No live or dead fish.	8.1	7.0
6. Downstream of Rhomberg Ave. in BBC	11:55 a.m.	Cooler, clearer water but no algae bloom.	8.0	9.0
2. 50 feet west of storm sewer inlet into BBP	1:20 p.m.	Dead fish.	8.0	8.0

4. UMR 50 feet downstream of gate structure to BBP	1:45 p.m.	Turbid water but no algae bloom; live fish and crayfish.	8.1	8.0

Regarding Location 2, Mr. McCarthy noted 3 air sparging units in operation and the water recirculation system was also working in BBP. He visited with Mr. Uhlik on the ongoing cleanup. Regarding Location 4, Mr. McCarthy spoke with City employee Paul Davis, who stated that heavy rains fell on western Dubuque. Mr. Davis predicted that the rains would raise the water level in BBP.

18. On June 30, 2020, DNR issued Gavilon a Minor Nonrecurring Use of Water Permit, No. 31-20-072 to allow withdrawal of UMR water into BBP. Mr. McCarthy received an email update from Terracon with recent field test results for nitrate and ammonia in the BBP and the Gavilon Facility catch basin, showing continued presence of nitrate and ammonia.

19. On July 7, 2020, Mr. Gritters observed dead mussels floating in BBP, and in Mr. Gritter's opinion may be dying of delayed mortality and stress, as well as one dead fish. During the June 18 to July 7 investigation, the Fisheries Bureau concluded that a fish and mussel kill occurred. DNR asserts that only a percentage of dead fish and mussels were tabulated; dead fish and mussels exited the basin through the outlet to UMR and were consumed by scavengers. DNR personnel performed the fish and mussel kill count in accordance with the methods outlined in American Fisheries Society, Special Publication 30.

20. Gavilon personnel retained a third-party emergency response contractor to pressure wash and scrub the concrete impacted by the release. Gavilon's contractor utilized a Zamboni-style scrubber to wash the concrete and a vacuum truck to collect the wash water. The collected fluids were stored in the 2,000,000 gallon storage tank for later disposal.

21. The fish kill assessment states that at least 606 fish were killed, valued at $14,091.70 by DNR. Investigative costs associated with the fish kill totaled $4,191.49. The fish kill assessment also states at least 181 mussels were killed. In lieu of the investigation costs and comprehensive mussel kill valuation, DNR and Gavilon have agreed to a mussel value equivalent to a mussel population restoration project for BBP. The BBP mussel restoration project cost for giant floater and plain pocketbook mussels are $244,704.92. The combined fish value and investigation costs and mussel restoration costs total $262,988.11.

22. On July 8, 2020, Mr. Henry of Gavilon called Mr. McCarthy. After pumping 2,800,000 gallons from UMR into BBP, tests showed that nitrate and ammonia levels fell to likely background levels, and no dead fish or mussels were observed. Gavilon also planned to clean concrete at the Gavilon Facility to remove residual nitrogen.

23. On July 13 and 20, 2020, Mr. Henry contacted Mr. McCarthy to provide updates. More water was pumped from UMR to BBP prior to July 13, and ammonia and nitrate levels continued to stabilize. No dead fish or mussels were observed. In further communications July 23, 2020, Mr. McCarthy approved of a plan proposed by Mr. Henry for Gavilon and Terracon to shift to

monitoring BBP only after significant rain events. On July 21, 2020, Gavilon mobilized two frac tanks for rainwater collection so that the 2,000,000-gallon tank could be returned to fertilizer storage. The rainwater collected in the 2,000,000-gallon tank was hauled to the City of Dubuque's wastewater treatment plant for disposal. Mr. McCarthy approved of Gavilon's proposal to demobilize the air compressors and water pump on July 31, 2020. Terracon submitted the 30-day spill report to DNR on July 31, 2020 after an extension by DNR.

24. On September 2, 2020, Terracon submitted a response to DNR's August 5, 2020 Notice of Violation. The response detailed automation improvements that Gavilon later implemented at the location as well as provided a response to the DNR questions. DNR accepted the response.

25. On October 5, 2020, Terracon submitted a Subsurface Investigation and Monitoring Work Plan at the request of DNR. The work plan outlined subsurface assessment activities consisting of soil and groundwater sampling and analysis.

26. On October 22, 2020, Mr. McCarthy approved the scope of the proposed subsurface assessment. Terracon mobilized a drill crew to the site to conduct subsurface assessment on December 12, 2020.

27. On February 10, 2021, Terracon submitted a Subsurface Investigation report to DNR for review. Terracon performed a risk survey for actual and potential exposure pathways for the soil and groundwater impacts at the Gavilon Facility.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibit the discharge of pollutants into the water of the state without an applicable permit. During the Field Office #1 investigation in June and July 2020, DNR determined that UAN 32% 32-0-0, liquid fertilizer from Gavilon was not adequately managed to prevent a release. Gavilon discharged fertilizer to BBP via a storm sewer connecting the Gavilon Facility to BBP. Gavilon does not hold an NPDES permit for discharges from the Gavilon Facility to a surface water. DNR alleges that the above-mentioned factual allegations constitute a violation of these provisions.

2. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that are toxic to animal or plant life. DNR concluded that a documented fish and mussel kill occurred as a result of the release from the Gavilon Facility. DNR alleges that the above-mentioned factual allegations constitute a violation of the general water quality criteria.

3. Iowa Code section 481A.151 provides that a person who is liable for polluting a water of the state in violation of the state law shall also be liable to pay restitution to the DNR for injury caused to a wild animal by the pollution as well as for the administrative costs for investigating the incident. The Natural Resource Commission has adopted 571 IAC 113. 571 IAC 113 provides that a person who is liable for polluting a water of this state in violation of state law shall also be

liable to pay restitution to the DNR for injury caused to a wild animal by the pollution. DNR concluded that a fish and mussel kill resulted from the liquid nitrogen fertilizer discharge from the Gavilon Facility.

4. DNR has determined that there is a minimal likelihood that the alleged violations identified in this Order will recur if Gavilon complies with the provisions listed in Paragraphs 1 through 4, Section V of this Order.

V. ORDER

THEREFORE, the DNR orders and Gavilon agrees to do the following:

1. Gavilon and/or its employees shall comply with all laws and regulations applicable to discharging pollutants into a water of the State.

2. Gavilon shall pay fish restitution and investigative costs in an amount of $18,283.19 within 30 days of the date the Director signs this Order.

3. Gavilon shall pay mussel restitution to restore the BBC giant floater and plain pocketbook mussel populations in the amount of $244,704.92. Such payment shall be made to DNR within 30 days of the date the Director signs this Order.

4. Gavilon shall pay an administrative penalty in the amount of $7,000 (further detailed in Section VI below) within 30 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 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 DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order.

3. 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 $7,000 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." DNR has determined that Gavilon gained an economic benefit by not staffing the tank in a manner to avoid release; $3,000 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. DNR concluded that the fertilizer release caused an impact to BBP, causing harm to aquatic life (at least 787 fish and 181 mussels killed). Fish kills/acute water quality degradation are listed as a top priority in DNR's Enforcement Management System guidance. Additionally, federal regulations require the State of Iowa to adopt a statewide antidegradation policy that ensures existing water quality is maintained and protected. Failure to penalize parties for violating the rules cited in this Order would threaten the integrity of regulatory programs because compliance with water pollutant discharge prohibitions is required of all persons in this state. Therefore, $3,000 is assessed for this factor.

Culpability – Gavilon's storage of 4,000,000 gallons of high strength nitrogen fertilizer adjacent to BBP and UMR without overfill and leak detection was not contrary to existing state or federal requirements, but installing overfill and leak detection would be prudent prevention measures if conducting unstaffed tank filling activities. Accordingly, $1,000 is assessed for this factor.

Aggravating Factors – None.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly and with the consent of Gavilon. For that reason, Gavilon 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.

(signatures on following page)

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: GAVILON GRAIN, LLC

Kayla Lyon Digitally signed by Kayla Lyon
Date: 2021.10.25 11:00:55 -05'00'

KAYLA LYON, DIRECTOR

Dated this _____ day of _____, 2021

MATT GIBSON, VICE PRESIDENT
GAVILON GRAIN, LLC

Dated this 22 day of Oct, 2021

Rachel Zander, DNR Field Office 1, EPA