

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

IN THE MATTER OF:

**ROORDA DAIRY, LLC**

**O'Brien County, Iowa  
AFO #64981**

ADMINISTRATIVE CONSENT ORDER  
NO. 2022-AFO-22

**TO:** Lance Roorda, Facility Contact  
Roorda Dairy, LLC  
1212 9<sup>th</sup> Ave SE  
Sioux Center, Iowa 51250

Amanda J. Bahena, Registered Agent  
Roorda Dairy, LLC  
815 N Main Ave, Ste 2 – Box 330  
Sioux Center, Iowa 51250

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Roorda Dairy, LLC (Roorda Dairy) for the purpose of resolving a violation of the animal feeding operation construction permit regulations. This administrative consent order requires Roorda Dairy to comply with the animal feeding operation construction permit regulations in the future and to pay a \$5,000.00 administrative penalty. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Doyle McKeever, Field Office 3  
Iowa Department of Natural Resources  
1900 N Grand, Gateway North, Suite E17  
Spencer, Iowa 51301  
Phone: 712/262-4177

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034  
Phone: 515/210-3408

**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 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

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to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1; 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. Roorda Dairy owns and operates an animal feeding operation located in the southwest quarter of section 2, Caldonia Township, O'Brien County. The facility is a 4,200 head confinement dairy operation. The dairy cows are housed in a confinement free stall barn and milked in a confined parlor.

2. On October 1, 2021, John Herbst with Sioux Dairy Equipment, Roorda Dairy's consultant, contacted Paul Petitti, DNR animal feeding operation construction permit engineer, and stated that Roorda Dairy had started construction on a mechanical sand separation system and an anaerobic digester. On the same day, a construction permit application for the equipment was submitted.

3. On October 8, 2021, Doyle McKeever, DNR Field Office 3 environmental specialist, conducted an inspection at the Roorda Dairy facility to determine if construction had started. Mr. McKeever observed that construction had begun on the sand separation system, which is part of the anaerobic digester. There was extensive dirt work and digging completed, with some of the concrete already poured. Mr. McKeever contacted Lance Roorda with Roorda Dairy and informed him a Notice of Violation would be issued for the violation.

4. On November 2, 2021, DNR issued the construction permit for the sand separation system and anaerobic digester to Roorda Dairy.

5. On November 10, 2021, DNR issued a Notice of Violation letter to Roorda Dairy for the construction permit violation observed during DNR Field Office 3's October visit to the facility. The letter informed Roorda Dairy the matter was being referred for further enforcement.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 459.103 provides that the Environmental Protection Commission (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 65.7(1)"b"(2) requires that a confinement feeding operation shall obtain a construction permit prior to constructing, installing or modifying a confinement building or a formed manure storage structure at a confinement feeding operation. During the Field Office 3 investigation in October 2021, DNR Field Office

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3 noted that construction activities had begun at the Roorda Dairy facility without a construction permit. The above-mentioned facts indicate a violation of this provision.

**V. ORDER**

THEREFORE, the DNR orders and Roorda Dairy agrees to do the following:

1. Roorda Dairy shall comply with the construction permit regulations in the future; and
2. Roorda Dairy shall pay an administrative penalty in the amount of \$5,000.00 within 30 days of the date the Director signs this administrative consent 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 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 administrative consent order with an administrative penalty of \$5,000.00. 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.” Roorda Dairy gained an economic benefit by beginning construction on its schedule rather than waiting for proper approval. It is estimated that Roorda Dairy gained an economic benefit of at least \$1,000.00 and that amount 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

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administratively at this time, as the most equitable and efficient means of resolving the matter. Starting the construction project before the construction permit was issued barred the DNR from reviewing the design and location the construction project. This review ensures that the interests of the citizens of Iowa in clean water are protected. Failure to obtain a construction permit prior to construction threatens the integrity of the animal feeding operation regulations. Therefore, \$2,000.00 is assessed for this factor.

Culpability – Roorda Dairy has a duty to know the regulations and to be aware that its actions are subject to the regulations. Therefore, \$2,000.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Roorda Dairy. For that reason, Roorda Dairy waives the right to appeal this administrative consent order or any part thereof.

**VIII. NONCOMPLIANCE**

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this administrative consent 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.

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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

  
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Roorda Dairy, LLC

Dated this 14 day of  
July, 2022.

Kelli Book, DNR Field Office 3, VIII.A.2