

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

<p>IN THE MATTER OF:</p> <p>DAN STAUDT MIKE STAUDT</p> <p>Floyd County, Iowa</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 2022-AFO- 37</p>
--	--

TO: Dan Staudt
2565 Jersey Avenue
Marble Rock, Iowa 50653

Mike Staudt
1629 Lancer Avenue
Floyd, Iowa 50435

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR), Dan Staudt, and Mike Staudt for the purpose of resolving animal feeding operation violations related to land application of manure. This administrative consent order requires Dan Staudt and Mike Staudt to: 1) ensure land application of manure is done by a certified manure applicator; and 2) pay an administrative penalty in the amount of \$6,000.00.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Jeremy Klatt, Field Office 2
Iowa Department of Natural Resources
2300 15th Street SW
Mason City, Iowa 50401
Phone: 641/424-4073

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 to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 or Iowa Code Chapter 459 and the rules adopted or permits issued pursuant thereto; and Iowa Code section 455B.109 and 567 Iowa

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: DAN STAUDT AND MIKE STAUDT

Administrative Code (IAC) Chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Dan Staudt and Mike Staudt own and operate two animal feeding operations located at 2080 Hwy 18; Rudd, Iowa and 1647 Kirkwood Avenue; Floyd, Iowa. The Rudd facility is a 2,400 head swine confinement operation constructed in 2006, and the Floyd facility is a 2,400 head swine confinement operation constructed in 2016. They also own and operate two other confinement facilities that were not inspected during the timeframe noted in this administrative consent order.

2. On June 17, 2022, Jeremy Klatt, DNR Field Office 2 environmental specialist senior, conducted routine inspections at the Rudd and Floyd facilities. During the inspections, Mr. Klatt reviewed the manure application records. The records indicated that both Dan Staudt and Mike Staudt applied manure from the facilities during the previous five years. While both gentlemen were currently certified confinement site manure applicators; the records indicated that neither gentlemen were certified between 2009 and 2021. Mr. Klatt notes several deficiencies in the facilities' Manure Management Plans (MMPs). Among some of the noted observations, the application records for the Floyd facility indicated that the manure was applied to a field not listed in the facility's MMP. During the inspection, Dan Staudt indicated that starter fertilizer was routinely applied with the planter and they generally applied up to 50 pounds of commercial nitrogen. However, the Staudts did not have records of the commercial nitrogen application and did not account for the commercial nitrogen in the facilities' MMPs.

3. On July 13, 2022, DNR issued Dan Staudt a Notice of Violation letter for the violations discovered by Mr. Klatt during his June 2022 inspections. The letter informed Mr. Staudt the violations were 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 65.3(6) states that a confinement feeding operation required to submit an MMP to the DNR must use a certified commercial manure service for land application of manure and an operation that applies its own manure must comply with certification requirements in 567 IAC 65.19. 567 IAC 65.19(1) states

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: DAN STAUDT AND MIKE STAUDT

that a confinement site manure applicator shall not apply dry or liquid manure to land unless the person is certified. During the DNR Field Office 2 inspection in June 2022, the records indicated that both Dan Staudt and Mike Staudt applied manure from the facilities during the previous five years. While both gentlemen were currently certified confinement site manure applicators, the records indicated that neither gentlemen were certified between 2009 and 2021. The above-mentioned facts indicate violations of these provisions.

3. 567 IAC 65.17(16) requires that soil samples be obtained from each field in the MMP, and the soil samples shall be four years old or less. During the DNR Field Office 2 inspection in June 2022, the application records for the Floyd facility indicated that the manure was applied to a field not listed in the facility's MMP. The above-mentioned facts indicate a violation of this provision.

V. ORDER

THEREFORE, the DNR orders and Dan Staudt and Mike Staudt agree to do the following:

1. Dan Staudt and Mike Staudt shall ensure that land application of manure at their facilities is conducted by a certified manure applicator or that they are certified as confinement site applicators prior to land application of manure; and
2. Dan Staudt and Mike Staudt shall pay an administrative penalty in the amount of \$6,000.00 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 \$6,000.00. Mike Staudt and Dan Staudt are jointly and severally liable for the payment of the penalty. The administrative penalty is determined as follows:

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: DAN STAUDT AND MIKE STAUDT

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.” Dan and Mike Staudt gained an economic benefit of applying manure for several years without being properly certified. They avoided the costs associated with training and certification. Confinement site applicators are certified for a period of three years with a \$100.00 fee for the certification. Confinement site applicators are required to attend training and pay a \$25.00 education fee. Dan and Mike Staudt were uncertified for 12 years; therefore, they avoided the certification and education fees of \$750.00 each. Based on the above facts, the economic benefit Dan and Mike Staudt received was at least \$1,500.00 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 administratively at this time, as the most equitable and efficient means of resolving the matter. Manure applicators are required to obtain training and certifications to ensure they are properly trained. Applying manure without the proper training and certification increases the risk a manure related discharge during application. Manure applicator certification is an integral part of the animal feeding operation program and violations of that regulations threaten the integrity of the water quality program. Therefore, \$2,250.00 is assessed for this factor.

Culpability – Dan and Mike Staudt have a duty to remain knowledgeable of DNR’s requirements and to be alert to the probability that their conduct is subject to DNR’s rules. Dan and Mike Staudt own and operate at least four animal feeding operation and had been previously certified to apply manure in the past. They were aware of the requirements. Therefore, \$2,250.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Dan and Mike Staudt. For that reason, Dan and Mike Staudt waive 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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: DAN STAUDT AND MIKE STAUDT

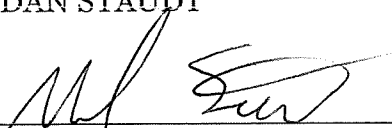
order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources



DAN STAUDT

Dated this 17 day of
Nov, 2022.



MIKE STAUDT

Dated this 17 day of
November, 2022.