

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

IN THE MATTER OF:

**DOGHOUSE PORK LLC**  
Plymouth County, Iowa

AFO #63236 and #63237

ADMINISTRATIVE CONSENT  
ORDER  
NO. 2023-AFO-12

TO: Dennis Brady, Registered Agent  
Doghouse Pork LLC  
224 S Washington Street  
Remsen, Iowa 51050

Tyler Brady, Facility Contact  
Doghouse Pork LLC  
5644 C Avenue  
Marcus, Iowa 51035

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Doghouse Pork LLC (Doghouse Pork) for the purpose of resolving Doghouse Pork's repeated failures to timely submit Manure Management Plan (MMP) updates and fees for two animal feeding operations located in Plymouth County, Iowa. This administrative consent order requires Doghouse Pork to pay an administrative penalty in the amount of \$4,500.00. 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:**

Londa Witte, Field Office 3  
Iowa Department of Natural Resources  
Gateway North Mall-1900 North Grand  
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

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

**III. STATEMENT OF FACTS**

1. Doghouse Pork owns and operates two animal feeding operations in Plymouth County. Doghouse Pork South is located at 17256 Polk Avenue, Remsen, Iowa (Section 11, Marion Township, Plymouth County). The facility consists of two confinement buildings housing 2,000 head of swine (800 animal units). Doghouse Pork North is located at 41704 Highway 3, Remsen, Iowa (Section 11, Marion Township, Plymouth County). The facility consists of one confinement building housing 2,400 head of swine (960 animal units). Doghouse Pork purchased the two facilities in 2018. Original manure management plans were submitted and the annual MMP update deadline was established as October 1 for each facility.

2. Doghouse Pork failed to timely submit the annual MMP updates and fees for both facilities by October 1 for the following years: 2020 and 2021. Facilities are required to submit a complete Phosphorus Index MMP every four years. Doghouse Pork failed to timely submit the complete Phosphorus Index MMPs and fees for both facilities by October 1 for 2022.

3. DNR issued Notice of Violation letters in 2020, 2021, and 2022 for the untimely submittals of the complete Phosphorus Index MMPs, annual MMP updates and associated fees. On October 11, 2022, DNR Field Office 3 emailed Tyler Brady a response to a previous email stating the complete Phosphorus Index MMPs must be submitted by October 31, 2022 or a penalty would be assessed. On November 3, 2023, Doghouse Pork submitted MMPs for the facilities, but the MMPs were considered incomplete. On November 9, 2022, DNR Field Office 3 notified Mr. Brady of the deficiencies and he said the information would be submitted in two weeks. On January 20, 2023, DNR issued a Notice of Referral to Doghouse Pork informing the company the MMPs were incomplete for both facilities and the violations would be referred for further enforcement. The missing information was submitted on January 27, 2023.

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**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. The Commission has adopted such rules at 567 IAC Chapter 65.

2. Iowa Code section 459.312(13) and 567 IAC 65.16(3)"b" require an owner of a confinement feeding operation who is required to submit a MMP to submit a complete updated MMP and compliance fee on an annual basis to the DNR. The updated plan must reflect all amendments made during the period of time since the previous MMP submission. The compliance fee is fifteen cents per animal unit. 567 IAC 65.17(17)"d" states that the phosphorus index is valid if the soil phosphorus concentration data is less than four years old. The above-mentioned facts indicate multiple violations of this provision.

**V. ORDER**

THEREFORE, the DNR orders and Doghouse Pork agrees to do the following:

1. Doghouse Pork shall pay an administrative penalty in the amount of \$4,500.00 within 30 days from 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. 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

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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.” Doghouse Pork’s repeated delay in timely submitting the Phosphorus Index MMPs plus the MMP annual updates and fees allowed the facility to save time and money. It is estimated that Doghouse Pork South gained an economic benefit of at least \$100.00 and Doghouse Pork North gained an economic benefit of at least \$100.00; therefore, \$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. The MMP submittals are a crucial aspect of the DNR’s animal feeding operation program and the compliance fees are crucial to the budget of the animal feeding program. Doghouse Pork’s repeated delay in timely submitting the Phosphorus Index MMPs, MMP annual updates and fees threaten the integrity of the animal feeding operation regulations. Therefore, \$1,500.00 is assessed to Doghouse Pork South and \$1,500.00 is assessed to Doghouse North for a total of \$3,000.00 assessed for this factor.

Culpability – Doghouse Pork has a duty to remain knowledgeable of DNR’s requirements and to be alert to the probability that its conduct is subject to DNR’s rules. Doghouse Pork failed to timely submit the Phosphorus Index MMPs and fees for 2022. Doghouse Pork failed to timely submit the annual MMP updates and fees for 2020, and 2021. Doghouse Pork was aware of the regulations yet has repeatedly failed to comply with the requirements by the deadline. Therefore, \$650.00 is assessed to Doghouse South and \$650.00 is assessed to Doghouse North for a total of \$1,300.00 assessed for this factor.

## **VII. WAIVER OF APPEAL RIGHTS**

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

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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

John Weber - partner  
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DOGHOUSE PORK LLC  
John Weber

Dated this 3rd day of  
April, 2023.