

**IOWA DEPARTMENT OF NATURAL RESOURCES**

**ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:  MO. VALLEY GRAIN, INC.	ADMINISTRATIVE CONSENT ORDER  NO. 2023-AQ-24
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To: Mo. Valley Grain, Inc.  
Larry Buss  
President and Registered Agency  
122 South 1<sup>st</sup> Street  
Missouri Valley, Iowa 51555

Mo. Valley Grain, Inc.  
Larry Buss  
President and Registered Agent  
2561 Nodaway Lane  
Logan, Iowa 51546

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Mo. Valley Grain, Inc., (Mo. Valley Grain) for the purpose of resolving air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Julie Duke  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034  
Phone: 515-669-8474

**Relating to legal requirements:**

Anne Preziosi, Attorney for the DNR  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034  
Phone: 515-238-3429

**Payment of penalty to:**

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

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

**II. JURISDICTION**

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; 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**

Mo.Valley Grain does not admit the allegations in  
the Statement of Facts.

1. Mo. Valley Grain, Inc. (Mo. Valley Grain) produces pelletized limestone for agricultural purposes from raw crushed and broken limestone. There are three buildings located at the facility: the Raw Material Receiving Building, the Process Building, and the Storage and Transfer Building. There is also an enclosure used to loadout the pelletized limestone product. The facility is located at 122 South 1<sup>st</sup> Street, Missouri Valley, Harrison County, Iowa. The facility is synthetic minor for the Title V Operating Permit program (TV) and synthetic minor for Prevention of Significant Deterioration (PSD).

2. Mo. Valley Grain had the following equipment and control equipment installed on the Hammermill/Dryer (EP-1 - Construction Permit No. 10-A-125) prior to obtaining construction permits for the physical changes to the equipment and control equipment, as required by 567 Iowa Administrative Code (IAC) 22.1(1). The following equipment and control equipment were installed unpermitted.

- Drum Dryer installed in 2015,
- Baghouse installed in 2015, and
- Cyclone installed in 2021.

3. Mo. Valley Grain has failed to conduct ongoing maintenance and repairs to equipment and control equipment, as required by 567 IAC 24.2(1)(a). 567 IAC 24.2(1)(a) requires that the owner or operator of any equipment or control equipment maintain and operate the equipment or control equipment at all times in a manner consistent with good practice for minimizing emissions. Correspondence from Mo. Valley Grain on January 12, 2022, and January 19, 2022, outlines a history of failure to conduct ongoing maintenance and repairs to equipment and control equipment to the point that the permitted equipment and control equipment catastrophically failed. Buildings and containment areas no longer provide required control measures due to holes and deterioration.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

4. Mo Valley Grain has failed to submit excess emissions reports, as required by 567 IAC 24.1, while operating permitted and unpermitted equipment without the required control equipment, since summer of 2021.

- Mo. Valley Grain has been operating permitted equipment (EP-1, Construction Permit 10-A-125) without the permit-required control equipment since summer 2021.
- Mo Valley Grain was operating the following unpermitted equipment uncontrolled prior to permit issuance in April 2022: Dryer (EP-2 - Construction Permit No. 22-A-174), Material Loadout (EP-3 – Construction Permit No. 22-A-175), Hammermill (EP-5 – Construction Permit No. 22-A-177), and Pelletizing Disc, Screener and Drying Conveyors (EP-7 – Construction Permit No. 22-A-179). Operating in an uncontrolled manner resulted in a fugitive dust complaint received by DNR Field Office 4 on November 8, 2021.
- Mo. Valley Grain failed to submit excess emission reports as a result of operating equipment without control equipment in operation, as required by 567 IAC 24.1.

5. Mo Valley Grain failed to comply with Condition 5 of Construction Permit No. 22-A-174 (Dryer, EP-2), Construction Permit No. 22-A-175 (Material Loadout, EP-3), Construction Permit No. 22-A-177 (Hammermill, EP-5) and Construction Permit No. 22-A-179 (Pelletizing Disc, Screener and Drying Conveyors (EP-7). Condition 5A of these permits requires Mo. Valley Grain to construct and operate control equipment within 90 days of permit issuance.

- Mo. Valley Grain had until July 18, 2022, to install and operate the control equipment.
- Mo. Valley Grain notified DNR on August 24, 2022, that the control equipment for EP-2, EP-3, and EP-7 had not been installed and was not operational, as required.

6. On November 8, 2021, EPA forwarded a citizen complaint to DNR regarding visible emissions crossing the property line at the Mo. Valley Grain facility. On November 17, 2021, DNR Field Office 4 staff visited the facility, but did not see any visible emissions. However, during this site visit, DNR Field Office 4 did determine that Mo. Valley Grain was not operating in compliance with Construction Permit No. 10-A-125, issued by DNR on May 18, 2010, for a Baghouse (EP-1) to be installed to cover all the emission units at the facility. DNR Field Office 4 also determined at this time that the facility was not operating in compliance with the provisions of 567 IAC Chapter 22 by failing to timely obtain construction permits. On December 7, 2021, DNR issued a Letter of Non-

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

Compliance (LNC) for failure to comply with recordkeeping and reporting requirements.

7. On January 5, 2022, representatives from DNR and Mo. Valley Grain met to discuss Mo. Valley Grain's compliance with air quality construction permits issued by DNR. On January 12, 2022, Mo. Valley Grain provided the following statement regarding the facility:

*From 2010 to 2015, equipment in the factory stayed the same. In 2015 a decision was made to upgrade our dryer drum and in purchasing that, we purchased equipment from an asphalt plant in Laramie, WY. A very large baghouse was part of that equipment purchase. As we discovered a terrible problem separating dust from the steam and the existing baghouse was not allowing enough airflow, we decided to utterly overwhelm the existing system with cloth i.e., the larger baghouse purchased from the asphalt company. This baghouse worked perfectly until we noticed the roof was deteriorating/rotting and we were having a terrible problem keeping the baghouse empty at the bottom. All these problems started in 2019. We replaced all the filters, cleaned out the system, patched the roof and kept the baghouse running until the summer of 2021. At that time, we immediately contacted Donaldson Corporation and asked them for their recommendation for dust filtration for our drying system. Due to covid restrictions, it took an enormous amount of time from placing the order, which was paid in full, to the time we finally received all parts. During this time is when we had our complaint.*

On January 19, 2022, Mo. Valley Grain provided a letter to DNR outlining recent repairs made to holes in the buildings, the installation of a cyclone (EP-1), and the purchase of two baghouses. On February 1, 2022, DNR received email correspondence outlining Mo. Valley Grain's equipment configuration and permitting plan. This information was submitted to DNR by the Iowa Air Emissions Assistance Program (IAEAP), who was acting as a consultant to and on behalf of Mo. Valley Grain.

8. A February 11, 2022, follow-up letter was sent to Mo. Valley Grain from DNR Field Office 4, regarding a February 8, 2022, site visit to document the updates and modifications that were taking place at the facility.

9. As requested by DNR in the January 5, 2022, meeting, Mo. Valley Grain submitted construction permit applications on February 11, 2022, which were incomplete. Revised construction permit applications were submitted on March 31, 2022. The DNR construction permitting project was assigned Project Number 22-063.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

10. A February 17, 2022, Notice of Violation letter (NOV) was issued for the following: (a) failure to obtain required permits for new or existing stationary sources, in violation of 567 IAC 22.1(1); (b) failure to maintain equipment and control equipment, in violation of 567 IAC 24.2; (c) excess emissions, in violation of 567 IAC 24.1(4); and (d) failure to report excess emissions, in violation of 567 IAC 24.1(2) and (3). A compliance plan was required to be submitted within 15 days of receipt of the NOV, which was received by Mo. Valley Grain on February 28, 2022. The compliance plan was not timely submitted, so DNR requested in writing in an email that a compliance plan be submitted by April 18, 2022.

11. Mo. Valley Grain submitted a compliance plan to DNR on April 6, 2022. The compliance plan stated that control equipment for three emission points would be installed in the spring and summer of 2022.

12. Draft permits were sent to the facility for review on April 6, 2022. The permits applied for in Project Number 22-036 were issued on April 18, 2022. The following permits were issued: Dryer (EP-2 - Construction Permit No. 22-A-174), Material Loadout (EP-3 – Construction Permit No. 22-A-175), Storage and Transfer Building Exhaust (EP-4 – Construction Permit No. 22-A-176), Process Building Exhaust (EP-5 – Construction Permit No. 22-A-177), Receiving (EP-6 – Construction Permit No. 22-A-178, and Pelletizing Disc, Screener and Drying Conveyors (EP-7 – Construction Permit No. 22-A-179). Consistent with Mo. Valley Grain's compliance plan, Construction Permit Nos. 22-A-174, 22-A-175, 22-A-177, and 22-A-179 required Mo. Valley Grain to install and operate the new control equipment within 90 days of receiving the permits, which was no later than July 18, 2022.

13. On August 24, 2022, the facility sent an email to DNR requesting an extension of 90 days to install the control equipment. On August 26, 2022, DNR sent an email to the facility denying the extension and requesting that an updated compliance plan be submitted by no later than September 9, 2022. The compliance plan was required to include the following: (1) the date the baghouses were ordered, (2) the date the baghouses were received, and (3) a schedule of installation for the baghouses.

14. On September 8, 2022, the facility provided an updated compliance plan and requested an additional 60 days to complete installation of control equipment on Material Loadout (EP-3 – Construction Permit No. 22-A-175). The facility did not provide the date that the control equipment was ordered or delivered.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

15. A September 26, 2022, a Letter of Inquiry (LOI) was sent to the facility, requesting the compliance status of the control equipment not addressed in the September 8, 2022, compliance plan. A response was due by October 10, 2022.

16. On October 10, 2022, the facility provided information to DNR that the following equipment and control equipment had been installed and made operational:

- Dryer, EP-2 - Cyclone and Baghouse
- Material Loadout Exhaust, EP-3 – Oiling System
- Hammermill/Process Building Exhaust, EP-5 – Baghouse
- Pelletizing/Screeners, EP-7 – Baghouse

Two pictures were submitted by Mo. Valley Grain to demonstrate that the control equipment was installed and operational. However, contrary to the assertion made by the facility that the control equipment was installed and operational, these two pictures demonstrated some control equipment was in place but not completely installed and that the control equipment was not controlling emissions as required.

Also, the facility requested additional time to install a Cartridge Filter as control equipment on EP-3. The facility did not provide a response to the following questions regarding the Loadout Building (EP3 - Construction Permit 22-A-175), enclosing emission units EU-3 loadout, EU-14 Loadout Conveyor, and EU-15 Loadout Hopper.

- Is the loadout roofed and permanently enclosed on 2 sides?
- Are dust tarps installed on the drive through sides?
- What are the dates the Cartridge Filters were ordered and delivered?

17. An October 19, 2022, a NOV was issued for failing to install and operate control equipment by July 18, 2022, as required by Section 5, *Operating Requirements with Associated Monitoring and Recordkeeping*, of Construction Permit Nos. 22-A-174, 22-A-175, 22-A-177, and 22-A-179. However, startup notifications were received by DNR on May 19, 2023, for Construction Permit Nos. 22-A-174, 22-A-177, and 22-A-179. In particular, Mo. Valley Grain had installed and was operating the baghouse required by Construction Permit No. 22-A-179 for EP-7.

18. On May 12, a Statement of Compliance was received from Mo. Valley Grain, stating that Mo. Valley Grain had a plan to resolve issues with the Loadout (EP-3, Construction Permit No. 22-A-175).

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

19. A permit application for EP-3 was submitted on May 22, 2023, (Project No. 23-159), and Permit No. 22-A-175-S1 was issued on July 17, 2023. Permit No. 22-A-175-S1 requires that the truck loadout be roofed and permanently enclosed on one side. In addition, the permit requires that the loadout spout and dust collector tube shall be covered with a canvas hood to collect dust during loadout, and the hood must extend within 18 inches below the loadout spout. The permit states that Mo. Valley Grain has 45 days from permit issuance, until August 31, 2023, to complete installation of the required modifications. On August 29, 2023, Mo. Valley Grain informed DNR in writing that the canvas hood to collect dust control during loadout has been installed and its use began on August 29, 2023.

20. In October 2023, Mo. Valley Grain discussed with DNR that Mo. Valley Grain has not been complying with the provisions of Construction Permit No. 22-A-176 (Storage and Transfer Building – EP-4) in that the oiling system has not been in use, as required by the permit.

21. Mo. Valley Grain has a history of air quality violations. A March 28, 2013, LNC was issued to the facility. Also, a May 6, 2010, NOV cited failure to conduct stack tests required by construction permits. Further, Mo. Valley Grain failed to obtain construction permits timely prior to installation and operation in the past, and Project No. 07-100, resulted in the issuance of as-built Construction Permit Nos. 09-A-034 through 09-A-037.

#### **IV. CONCLUSIONS OF LAW**

Mo.Valley Grain does not admit the allegations in  
the Conclusions of Law.

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. Iowa Code section 455B.134(3) provides that the director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. 567 Iowa Administrative Code 22.1(1) states unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment,

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

control equipment without first obtaining an air quality construction permit. As stated above, Mo. Valley Grain installed and modified equipment without first obtaining the required construction permits.

4. 567 Iowa Administrative Code 22.3(3) states that an air quality construction permit may be issued subject to conditions which shall be specified in writing, and may include, but are not limited to, emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. As stated above, Mo. Valley Grain failed to comply with the provisions of issued construction permits.

5. 567 IAC 24.2(1)(a) requires that the owner or operator of any equipment or control equipment shall maintain and operate the equipment or control equipment at all times in a manner consistent with good practice for minimizing emissions. As stated above, Mo. Valley Grain has failed to conduct ongoing maintenance and repairs to equipment and control equipment, as required by 567 IAC 24.2(1)(a).

6. As stated above, Mo. Valley Grain failed to submit excess emissions reports, as required by 567 IAC 24.1, while operating permitted and unpermitted equipment without the required control equipment.

**V. ORDER**

THEREFORE, DNR orders and Mo. Valley Grain agrees to the following:

1. In the future, Mo. Valley Grain shall obtain air quality construction permits timely, in accordance with the provisions of 567 Iowa Administrative Code 22.1(1), which states no person shall construct, install, reconstruct or alter any equipment, control equipment without first obtaining a construction permit;

2. By no later than December 1, 2023, Mo. Valley Grain shall provide, for DNR review, and shall comply with, an operation and maintenance plan that meets the requirements of 567 IAC 24.2 for all equipment and control equipment at the facility, and specifically for the control equipment listed below:

EP No.	Equipment	Control Equipment	Construction Permit No.
EP-2	Rotary Dryer	Baghouse and Cyclone	22-A-174



IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

EP-3	Loadout System	Cartridge Filter and Oiling System	22-A-175-S1
EP-5	Hammermill	Baghouse	22-A-177
EP-7	Pelletizing Disc, Screener and Drying Conveyors	Baghouse	22-A-179

3. By no later than December 1, 2023, Mo. Valley Grain shall submit to DNR an air quality construction permit application for EP-4, reflecting the current operating conditions for this emission point; and

4. Within 60 days of the date this order is signed by the director, Mo. Valley Grain shall pay a penalty of \$5,500.00.

## VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the director to assess administrative penalties, a penalty of \$5,500.00 is assessed by this administrative consent order. The penalty must be paid within 90 days of the date this order is signed by the director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, 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 a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

“where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, DNR 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.”

Mo. Valley Grain has gained an economic benefit through avoidance and delays by failing to obtain air quality construction permits, operating emission sources without the required air pollution control equipment, and failing to conduct maintenance and repairs on equipment and control equipment. The facility would have saved at least \$3,000.00 by not complying with the DNR rules and construction permit conditions, including installation and operation of control equipment, monitoring, recordkeeping, and maintenance requirements.

For these reasons, \$3,000.00 is assessed for economic benefit.

Gravity of the Violation – 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, DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter.

Mo. Valley Grain installed multiple pieces of equipment without obtaining the required construction permits. The facility is synthetic minor for the Title V Operating Permit program (TV) and synthetic minor for Prevention of Significant Deterioration (PSD). By installing and operating equipment without the needed environmental engineering review Mo. Valley Grain threatened the integrity of the DNR air quality program.

Mo. Valley Grain failed to conduct ongoing maintenance and conduct repairs on existing equipment and buildings. Mo. Valley Grain informed DNR that the buildings contained holes after years of adding and subtracting equipment and from damage caused by end loaders and dump trucks. As stated above, Mo. Valley Grain has demonstrated a history of failure to conduct maintenance and repairs.

Mo. Valley Grain failed to comply with the compliance plan submitted by the facility on April 6, 2022, that included a plan to install control equipment in the summer of 2022. Mo. Valley Grain failed to comply with Iowa DNR Construction Permits 22-A-174, 22-A-175, 22-A-177, and 22-A-176, which required that control equipment to be installed within 90 days of permit issuance. Failure to comply with compliance plans and DNR construction permits has resulted in excess emissions and threatens the integrity of the regulatory program and can

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
MO. VALLEY GRAIN, INC.

put public health and the environment at risk. DNR continues to spend additional time and resources to attempt to bring the facility into compliance.

For these reasons, \$1,000.00 is assessed for gravity.

Culpability – Mo. Valley Grain has a responsibility to remain knowledgeable of and comply with applicable air quality requirements. Mo. Valley Grain was provided the permits that included the requirement to install and operate the control equipment within 90 days. The facility did not inform DNR of the failure to install the control equipment until DNR reached out to the facility repeatedly following permit issuance. Mo. Valley Grain did not fulfill its known responsibility.

For these reasons, \$1,500.00 is assessed for culpability.

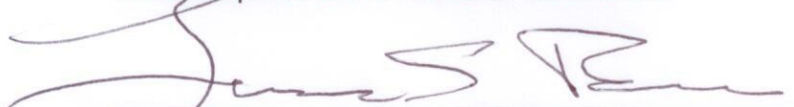
**VII. WAIVER OF APPEAL RIGHTS**

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

**VIII. NONCOMPLIANCE**

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Kayla Lyon, Director  
Iowa Department of Natural Resources

  
for Mo. Valley Grain President

Dated this 18 day of  
October, 2023.

DNR Air Quality Bureau; Field Office 4; Anne Preziosi