

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

<p>IN THE MATTER OF:</p> <p>RANDY AND KYLE GROOTERS dba ROCK RIVER FEEDYARDS, INCORPORATED</p> <p>Facility #56382</p> <p>Lyon County, Iowa</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 2023-AFO-24</p>
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TO: Randy and Kyle Grooters
1611 Fir Avenue
Rock Rapids, Iowa 51246

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Randy and Kyle Grooters dba Rock River Feedyards, Incorporated for the purpose of resolving violations resulting from a manure release from the Grooters' animal feeding operation located in Lyon County. This administrative consent order requires the Grooters to: 1) develop and implement a Standard Operating Procedure to ensure that the manure storage systems are operating correctly and 2) 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:

Michelle Sabatini-Rosacker, Field Office 3
Iowa Department of Natural Resources
1900 N. Grand – Gateway North, Suite E17
Spencer, Iowa 51301-2200
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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: RANDY AND KYLE GROOTERS dba ROCK RIVER FEEDYARDS,
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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 violations of Iowa Code chapter 455B, Division III, Part 1; and Iowa Code chapter 459A 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. Randy and Kyle Grooters dba Rock River Feedyards, Incorporated¹ own and operate an open feedlot operation with the capacity of 9,000 head of finishing cattle. Manure is stored in an earthen settled open feedlot effluent basin (SOFEB). This facility is considered a large concentrated animal feeding operation (CAFO) and operates under a National Pollution Discharge Elimination System (NPDES) permit. The facility is located at 121140 Fir Avenue; Rock Rapids, Iowa (Section 10, Cleveland Township, Lyon County).

2. On April 27, 2023, Michelle Sabatini-Rosacker and Doyle McKeever, DNR Field Office 3 environmental specialists, observed manure in a creek south of 160th Street, west of Fir Avenue. They determined that the manure was coming from the Rock River Feedyards. The field office personnel spoke with Kyle Grooters regarding the manure and he stated that a snow drift blocked the flow of the manure runoff to the solids settling area, which pumps effluent to the SOFEB. The snow drift caused the manure runoff to leave containment and discharge to the creek. The facility had not notified the DNR of the discharge, but manure solids remained in the creek bed. It appeared that the discharge had occurred over an extended period of time.

3. The field office personnel conducted an inspection of the impacted area and the findings are shown below:

¹ The Lyon County Assessor lists Rock River Feedyards, Incorporated as the owner of the facility; however, Rock River Feedyards, Incorporated was administratively dissolved by the Iowa Secretary of State on September 28, 2022.

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE CONSENT ORDER
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Location	Visual Observations	Field Test Ammonia (ppm)	Laboratory Sample Ammonia (mg/L)	Laboratory Sample E.Coli MPN/100ml	Laboratory Sample BOD (mg/L)
Upstream of Discharge	Water was clear, colorless, and odorless.	<0.2	<0.10	<10	<2
Downstream of Discharge	Water was clear and odorless	3	3.0	590	8

4. On June 21, 2023, DNR issued Randy and Kyle Grooters a Notice of Violation letter for the violations discovered during the April inspection. The letter stated the violations would be referred for further enforcement.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 and 62.

2. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that will produce objectionable color, odor or other aesthetically objectionable conditions; settle to form sludge deposits; interfere with livestock watering; or are toxic to animal or plant life. During the April 2023 investigation, DNR Field Office 3 noted the discharge of open effluent from the Rock River caused discolored water, a manure odor, and elevated pollutant levels in the creek. The above-mentioned facts indicate violations of the general water quality criteria.

3. Iowa Code section 459A.104 provides that the 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.

4. 567 IAC 65.101(1) required that all settleable solids from open feedlot effluent shall be removed prior to discharge into a water of the state. During the April 2023 investigation, DNR Field Office 3 observed manure solids in the creek from the manure discharge from the Rock Rive Feedyards. The above-mentioned facts indicate a violation of this provision.

5. 567 IAC 65.101(3) states an open feedlot operation which has an animal unit capacity of 1,000 animal units or more, or an open feedlot operation

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: RANDY AND KYLE GROOTERS dba ROCK RIVER FEEDYARDS,
INCORPORATED

which is a large CAFO, or a medium CAFO, or a designated CAFO, shall not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent from an open feedlot operation structure or production area into any waters of the United States, unless the discharge is pursuant to an NPDES permit. During the April 2023 investigation, DNR Field Office 3 noted open effluent from the Rock River Feedyards was being discharged to the creek, contrary to the facility's NPDES permit. The above-mentioned facts indicate a violation of this provision.

6. 567 IAC 65.101(9)(a) requires a person storing, handling, transporting, or land-applying manure, process wastewater, open feedlot effluent, settled open feedlot effluent, scraped solids, or settleable solids from an open feedlot operation who becomes aware of a release shall notify the department of the occurrence of release as soon as possible but not later than six hours after the onset or discovery of the release by contacting the department's spill line. Rock River Feedyards failed to notify the DNR of the release of the open feedlot effluent to the creek. The above-mentioned facts indicate a violation of this provision.

V. ORDER

THEREFORE, the DNR orders and Randy and Kyle Grooters agree to do the following:

1. Randy and Kyle Grooters shall develop a Standard Operating Procedure to ensure that the manure storage structures and containment are operating correctly and not causing manure releases. The Standard Operating Procedure shall be submitted to DNR Field Office 3 within 30 days of the date the Director signs this administrative consent order and shall be implemented immediately upon approval by the field office and
2. Randy and Kyle Grooters shall pay a \$5,000.00 administrative penalty 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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
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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. Randy and Kyle Grooters shall be jointly and severally liable for the payment of the penalty. 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.” Randy and Kyle Grooters gained an economic benefit by not clearing the snow from the area to prevent the discharge and by not cleaning the manure solids from the creek after the release had occurred. The economic benefit is estimated to be at least \$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. DNR Field Office 3 documented a manure release, contrary to the facility’s NPDES permit that resulted in water quality violations. Additionally, the facility failed to notify the DNR of the release, which prevented the DNR from fully assessing the discharge and preventing continued contamination to the creek. These violations threaten the integrity of the regulatory programs because compliance with animal feeding operation requirements is required of all persons in this state. Therefore, \$2,500.00 is assessed for this factor.

Culpability – Randy and Kyle Grooters 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. The facility has a NPDES permit and has had multiple DNR inspections. Facility representatives were aware of the release, yet failed to stop the release or to notify the DNR. Therefore, \$2,000.00 is being assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

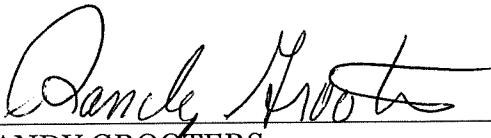
This administrative consent order is entered into knowingly and with the consent of Randy and Kyle Grooters. For that reason, Randy and Kyle Grooters waive the right to appeal this administrative consent order or any part thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
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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.

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources



RANDY GROOTERS

Dated this 28 day of
Nov., 2023



KYLE GROOTERS

Dated this 28 day of
Nov., 2023