

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

IN THE MATTER OF:  <b>RAUL FLORES-CASTILLO and VIRGINIA FLORES</b>  Facility #60106 Monroe County, Iowa	ADMINISTRATIVE CONSENT ORDER  NO. 2024-AFO-07
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TO: Raul Flores-Castillo and Virginia Flores  
2461 655<sup>th</sup> Avenue  
Albia, Iowa 52531

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Raul Flores-Castillo and Virginia Flores for the purpose of resolving an animal feeding operation violation resulting from the failure to remove the manure from Mr. Flores-Castillo and Ms. Flores' discontinued animal feeding operation located in Monroe County. This administrative consent order requires, Mr. Flores-Castillo and Ms. Flores to: 1) remove and land apply all liquid manure and manure solids from the earthen lagoon and below building pits; 2) submit regular status reports; and 3) pay a stipulated administrative penalty if the removal is not completed by December 31, 2024.

Questions regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Bill Gibbons, DNR Field Office 5  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034  
Phone: 515/725-0268

**Relating to appeal rights:**

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

**Payment of penalty, if any, 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. Based on information from the Monroe County Assessor, Howard A. and Karen A. Roth Revocable Trust owns an animal feeding operation with the capacity for 700 head (208 animal units) of swine. The facility includes two confinement buildings with shallow below building pits that empty to an earthen lagoon. The facility located at 2416 655th Avenue; Albia, Iowa (Section 15, Monroe Township, Monroe County). Based on information from the Monroe County Assessor, on March 3, 2018, Raul Flores-Castillo and Virginia Flores became contract buyers of the property. The Monroe County Treasurer lists all three parties as the responsible parties for the payment of property taxes.

2. On November 2, 2018, DNR Field Office 5 conducted an inspection at the facility and was informed the facility was no longer populated. On November 5, 2018, DNR sent a letter to Raul Flores-Castillo and Virginia Flora informing them of the requirement to remove the manure within six months of the facility being discontinued.

3. On November 1, 2019, DNR Field Office 5 conducted an inspection at the facility and noted that the facility was still not populated. On November 12, 2019, DNR issued a Notice of Violation letter to Raul Flores-Castillo and Virginia Flora for failing to remove all manure from the facility after it was depopulated. Ms. Flores informed the field office that she and Raul Flores-Castillo were looking for someone to land apply the manure, but she also stated they were still looking for a partnership to bring more animals to the facility. She stated the facility was not closed.

4. On November 12, 2020, DNR Field Office 5 conducted an inspection at the facility and noted that the facility was still not populated. On November 30, 2020, DNR issued a Notice of Violation letter to Raul Flores-Castillo and Virginia Flora for failing to remove all manure from the facility after it was depopulated. The letter required that all manure be removed by December 31, 2020. Mr. Flores-Castillo and Ms. Flores stated they would not be able to remove the manure by the deadline because they did not have the money to do so. They stated they would need until late spring 2021.

5. On October 29, 2021 and October 13, 2022, DNR Field Office 5 conducted inspections at the facility and during both inspections the facility was not populated.

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6. On June 20, 2023, DNR issued a Notice of Violation letter to Raul Flores-Castillo and Virginia Flora for failing to remove all manure from the facility after it was depopulated. The letter informed them 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 65.2(8) states as soon as practical but not later than six months after the use of an animal feeding operation is discontinued, all manure shall be removed from the discontinued animal feeding operations and its manure control facility and be land-applied. As noted by DNR Field Office 5, the facility has been depopulated since at least November 2018 and the manure remains at the facility. The above-mentioned information indicates a violation of this provision.

**V. ORDER**

THEREFORE, the DNR orders and Raul Flores-Castillo and Virginia Flores agrees to do the following:

1. Remove and land apply all liquid manure and manure solids from the earthen lagoon and below building pits and properly close the animal feeding operation by December 31, 2024;
2. Submit a status update on the removal of the manure to DNR Field Office 5 on April 15, 2024; July 15, 2024, October 15, 2024, or until the manure has been removed and properly land applied; and
3. If the removal of all liquid manure and manure solids is not completed by December 31, 2024, Raul Flores-Castillo and Virginia Flores shall pay a stipulated penalty in the amount of \$1,000.00 per month for each month the requirements in Paragraph 1 are not completed up to \$5,000.00.

**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.

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2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (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 these rules, 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 stipulated penalties for violations of the compliance schedule of this administrative order. Raul Flores-Castillo and Virginia Flores are jointly and severally liable for the payment of the stipulated penalties.

The stipulated penalties in this administrative consent order are for future violations, if they occur. The stipulated penalties are designed to reflect the potential economic benefit to the parties for failing to remove all manure from the facility. Such penalties are related to the probable severity of the violation in that not meeting the compliance schedule in this administrative consent order is a fairly serious matter in view of past deficiencies. The penalties would also be related to future culpability in that the parties have been put on notice by this administrative consent order that stipulated penalties will result if the compliance schedule is not met. The administrative penalty is determined as follows

Economic Benefit – Raul Flores-Castillo and Virginia Flores have gained an economic benefit by failing to remove the manure from the discontinued animal feeding operation. The parties have avoided the costs of properly removing and land applying all manure from the discontinued animal feeding operation including transportation and application fees. Therefore, \$1,000.00 is being 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 manure storage structures at the facility have remained full for several years and the potential of a discharge from one of the structures could result in environmental harm including water quality violations. Failing to properly remove all manure after a facility is discontinued threatens the integrity of the regulatory programs because compliance with the animal feeding operation regulations is required of all persons in this state. Therefore, \$1,000.00 is being assessed for this factor.

Culpability – Raul Flores-Castillo and Virginia Flores 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 regulations. Raul Flores-Castillo and Virginia Flores have been previously notified on multiple occasions that the manure must be

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removed from the discontinued animal feeding operation. Therefore, \$3,000.00 is assessed for this factor.

**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Raul Flores-Castillo and Virginia Flores. For that reason, Raul Flores-Castillo and Virginia Flores waive the right to appeal this administrative consent order or any part thereof.

**VIII. NONCOMPLIANCE**

Compliance with paragraph 1 of 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. The DNR reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this administrative consent order.

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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

*Raul Flores Castillo*  
RAUL FLORES-CASTILLO

Dated this 21 day of  
January, 2024.

*Virginia L Flores*  
VIRGINIA FLORES

Dated this 21 day of  
January, 2024.