

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

IN THE MATTER OF:

**GREGORY DE GROOT dba DE
GROOT PORK**
Sioux County, Iowa

AFO #59444

ADMINISTRATIVE CONSENT
ORDER
NO. 2024-AFO-23

TO: Gregory De Groot
4011 400th Street
Hospers, Iowa 51238

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Gregory De Groot dba De Groot Pork for the purpose of resolving Mr. De Groot's failure to timely submit the 2023 Manure Management Plan (MMP) update and fee for his animal feeding operation located in Kossuth County, Iowa. This administrative consent order requires Mr. De Groot to pay an administrative penalty in the amount of \$2,000.00. 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
DNR Field Office 3
1900 North Grand Ave, Suite E17
Spencer, Iowa 51301
Phone: 6712/262-4177

Relating to legal requirements:

Kelli Book, Attorney
Department of Natural Resources
6200 Park Avenue, Suite 200
Des Moines, Iowa 50321
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

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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. Mr. De Groot owns and operates an animal feeding operation located at 3948 420th Street; Alton, Iowa (Section 14, Holland Township, Sioux County). The facility has a capacity of 1,420 animal units.

2. The annual MMP update deadline for the facility was established as August 1 of each calendar year. The annual compliance fee for the facility is \$213.00. Mr. De Groot failed to submit the 2023 MMP update and fee by August 1, 2023. In November 2023, DNR Field Office 3 contacted Mr. De Groot and he stated he thought he had sent the update and fee in. The field office informed Mr. De Groot the MMP update and fee must be submitted by November 27, 2023. On December 15, 2023, a Notice of Referral was sent to Mr. De Groot and informed him the matter would be referred for further enforcement.

3. On January 24, 2024, Mr. De Groot submitted the MMP update and compliance fee for 2023. However, the submittal was incomplete. An incorrect fee amount was submitted and the MMP update failed to include the county verification. On January 30, 2024, DNR sent Mr. De Groot a letter for the incomplete submittal of the 2023 MMP. The incorrect fee was returned and the letter provided the information that needed to be submitted. The fee and other information was submitted on March 19, 2024.

4. Mr. De Groot has knowledge of the MMP program and has received Notice of Violation letters in the past. Mr. De Groot failed to timely submit MMP updates and fees in 2019, 2020, and 2021.

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.

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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. Mr. De Groot has failed to submit the 2023 MMP update and fee by the due date. The above-mentioned facts indicate a violation of this provision.

V. ORDER

THEREFORE, the DNR orders and Mr. De Groot agrees to do the following:

1. Mr. De Groot shall pay an administrative penalty in the amount of \$2,000.00 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 \$2,000.00. 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 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.” Mr. De Groot’s delay in timely submitting the 2023 MMP annual update and fee allowed him to save time and money. It is estimated Mr. De Groot gained an economic benefit of at least \$100.00 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

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administratively at this time, as the most equitable and efficient means of resolving the matter. The MMP submittal is a crucial aspect of the DNR's animal feeding operation program and the compliance fee is crucial to the budget of the animal feeding program. Mr. De Groot's delay in timely submitting the MMP annual update and fee threatens the integrity of the animal feeding operation regulations. Therefore, \$900.00 is assessed for this factor.

Culpability – Mr. De Groot has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that his conduct is subject to DNR's rules. Therefore, \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Mr. De Groot. For that reason, Mr. De Groot 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 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



GREGORY DE GROOT

Dated this 18 day of
May, 2024.