

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

<p>IN THE MATTER OF:</p> <p><b>JAKE BOLHMANN, KEVIN E. ANDERSON REVOCABLE TRUST, AND JANET L. ANDERSON REVOCABLE TRUST</b> Cedar County</p> <p>AFO #58680</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 2024-AFO-26</p>
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TO: Jake Bolhmann  
1010 210th Street  
Tipton, Iowa 52772

Kevin E. Anderson Revocable Trust  
Janet L. Anderson Revocable Trust  
104 Summit Drive  
Tipton, Iowa 52772

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Jake Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust for the purpose of resolving the failure to timely submit the 2024 Manure Management Plan (MMP) update and annual compliance fee. This administrative consent order requires Mr. Bolhmann Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust to: 1) submit ownership documentation; 2) submit the 2024 MMP update and annual compliance fee; and 3) pay an administrative penalty in the amount of \$3,000.00. 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:**

Jeff Prier, Field Office 6  
Department of Natural Resources  
1023 W Madison Street  
Washington, Iowa 52353  
Phone: 319/653-2135

**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  
Department of Natural Resources  
6200 Park Avenue, Suite 200  
Des Moines, Iowa 50321

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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. The Cedar County Assessor indicates that Kevin E. Anderson Revocable Trust and Janet L. Anderson Revocable Trust own the property located at 1288 190th Street; Tipton, Iowa. The Iowa Treasurer's website indicates that Kevin E. Anderson Revocable Trust and Janet L. Anderson Revocable Trust paid the 2023 and 2024 property taxes associated with this property. However, Jake Bolhmann submitted an original Iowa Phosphorus Manure Management Plan for this facility in 2023 indicating he was the owner of the facility. The property houses a 1,500 head wean to finish and grow to finish (600 animal units) confinement feeding operation located at 1288 190th Street; Tipton, Iowa.

2. The annual MMP update deadline was established as May 1 of each calendar year and the annual compliance fee for the facility is \$90.00. The 2024 MMP update and annual compliance fee was due May 1, 2024, but was not submitted by this date.

3. In March and April 2024, emails were sent to Mr. Bolhmann reminding him of the MMP update deadline. On May 10, 2024, DNR issued Mr. Bolhmann a Notice of Violation letter for the failure to submit the 2024 MMP update and annual compliance fee by May 1, 2024. On May 21, 2024, DNR emailed Mr. Bolhmann to inquire about the MMP update and on May 28, 2024, DNR Field Office 6 left a telephone message for Mr. Bolhmann regarding the MMP update. To date the 2024 MMP update and annual compliance fee have not been submitted.

4. The facility has a past history of late submittals of the MMP updates. The facility failed to timely submit the MMP updates for 2022 and 2023. Notice of Violation letters were sent to Kevin Anderson for the later submittals.

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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. 567 IAC 65.110(3)"b" requires 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. The compliance fee for the facility is \$90.00. To date the 2024 MMP update and annual compliance fee have not been submitted. The above-mentioned facts indicate a violation of this provision.

**V. ORDER**

THEREFORE, the DNR orders and Mr. Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust agrees to do the following

1. Submit ownership documentation demonstrating the legal ownership of this facility within 30 days from the date the Director signs this administrative consent order;
2. Submit the 2024 MMP update and annual compliance fee to DNR Field Office 6 within 30 days from the date the Director signs this administrative consent order; and
3. Pay an administrative penalty in the amount of \$3,000.00 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

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administrative penalty of \$3,000.00. Jake Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust are 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 10.30(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 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” The failure to submit the MMP update and annual compliance fee saved time and money. It is estimated the economic benefit is 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 administratively at this time, as the most equitable and efficient means of resolving the matter. The MMP is a crucial aspect of the DNR’s animal feeding operation program. The MMP ensures that an animal feeding operation has adequate production land available so that the manure can be properly applied to cropland at an agronomic rate in order to prevent over application of manure. Therefore, \$1,400.00 is assessed for this factor.

Culpability – Mr. Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust 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. Mr. Bolhmann received two reminders prior to the deadline and Mr. Anderson has received two Notice of Violation letters for past late MMP submittals. Therefore, \$1,500.00 is assessed for this factor.

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

This administrative consent order is entered into knowingly and with the consent of Jake Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust. For that reason, Jake Bolhmann, Kevin E. Anderson Revocable Trust, and Janet L. Anderson Revocable Trust waive the right to appeal this administrative consent order or any part thereof.

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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.

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KAYLA LYON, DIRECTOR  
Iowa Department of Natural Resources

*Jake Bolhmann*  
JAKE BOLHMANN

Dated this 15 day of  
July, 2024

*Kevin E. Anderson*  
Kevin E. Anderson Revocable Trust

Dated this 15 day of  
July, 2024

*Janet L. Anderson*  
Janet L. Anderson Revocable Trust

Dated this 15 day of  
July, 2024

**RECEIVED**

JUL 25 2024