

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

<p>IN THE MATTER OF:</p> <p>ZANE HANSON Facility #56799</p> <p>Dickinson County, Iowa</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 2024-AFO- 30</p>
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TO: Zane Hanson
PO Box 251
Jackson, Minnesota 56143

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Zane Hanson for the purpose of resolving violations resulting from a manure release from Mr. Hanson's animal feeding operation located in Dickinson County. This administrative consent order requires Mr. Hanson to: 1) operate his animal feeding operation in compliance with the applicable rules and regulations; 2) comply with the Plan of Action to prevent discharges to the tile intake in the future; and 3) pay a \$4,000.00 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:

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

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

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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. Zane Hanson owns and operates an animal feeding operation, known as Superior Feedlots, located at 3370 150th Street; Estherville, Iowa (Section 36, Superior Township, Dickinson County). The operation has 350 head of beef cattle in confinement and 450 head of beef cattle in an open feedlot. The feedlot has a solids settling structure adjacent to the southeast pen. A tile intake, which discharges to the Des Moines River, is located in the road ditch east of the facility. This facility is considered a medium Concentrated Animal Feeding Operation (medium CAFO).

2. On April 20, 2023, DNR Field Office 3 received a complaint about runoff from Mr. Hanson's feedlot. The complainant stated that runoff from the feedlot was flowing from the southeast pen, through the road ditch, and then entering the tile intake in the ditch.

3. Doyle McKeever, DNR Field Office 3 environmental specialist, responded to the complaint on the same day. He noted that runoff was flowing through the settling basin, through the horizontal slats in the picket fence, to the road ditch into a road culvert, and then discharging into the tile intake in the ditch. He observed manure solids in the ditch and water. A field test of the runoff entering the tile intake indicated high levels of ammonia. The laboratory results of the sample runoff entering the tile intake indicated the following concentrations: E.Coli - >24,000/100mL; Ammonia - 360 mg/L; and Biochemical Oxygen Demand - 4,200 mg/L. Mr. McKeever also collected a sample for an area upstream, east of the culvert before the runoff entered the ditch and the field test indicated an ammonia level of 0.3 ppm. The laboratory results of the upstream sample indicated the following concentrations: E.Coli - 31/100mL; Ammonia - <0.1 mg/L; and Biochemical Oxygen Demand - 2 mg/L.

4. Mr. McKeever contacted Mr. Hanson to discuss the discharge and steps to be taken to eliminate the discharge. Mr. McKeever noted that the spring melt caused the manure runoff through the feedlot area. Mr. McKeever instructed Mr. Hanson to stop the runoff from entering the tile intake.

5. On May 9, 2023, Mr. McKeever returned to the facility and noted that hay bales had been placed in the ditch to control the runoff. He did not observe a discharge to the tile intake in the ditch.

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6. On June 16, 2023, DNR issued a Notice of Violation letter to Mr. Hanson for the violation noted during the April investigation.

7. On October 2, 2024, Mr. Hanson submitted a Plan of Action detailing the improvements that have been and will be made at the facility. The Plan of Action is summarized below:

a) Mr. Hanson plugged the outlet of the solids settling basin as soon as the Notice of Violation letter was issued. The runoff has been contained in the basin.

b) The existing solids settling basin will be expanded with the screened outlet removed and the basin will be operated as a runoff holding basin to provide total containment. Construction is scheduled to be completed in 2026.

IV. CONCLUSIONS OF LAW

1. 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.

2. 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 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 a National Pollutant Discharge Elimination System (NPDES) permit. Mr. Hanson's operation is a medium CAFO and during the April 2023 investigation, DNR Field Office 3 noted open effluent and manure solids from the facility being discharged to a road ditch and tile intake that discharges to the Des Moines River without an NPDES permit. The above-mentioned facts indicate a violation of this provision.

V. ORDER

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

1. Operate and maintain the animal feeding operation in compliance with the applicable rules and regulations;
2. Comply with the Plan of Action noted in Paragraph 7, Section III. Statement of Facts and provide construction updates to DNR Field Office 3 on November 15, 2024, May 15, 2025, November 15, 2025, and May 15, 2026 or until the final construction is completed; and

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3. Pay an administrative penalty in the amount of \$4,000.00 in accordance with the following payment plan:

\$2,000.00 due November 15, 2024 and
\$2,000.00 due November 15 2025.

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 \$4,000.00. 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. Hanson has gained an economic benefit by delaying the cost associated with the construction of proper runoff manure controls at the facility. It is estimated the economic benefit is \$1,000.00 and that amount 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. DNR Field Office 3 documented a manure release from the facility that resulted in water quality violations. 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, \$1,000.00 is assessed for this factor.

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Culpability – Mr. Hanson 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, \$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 Zane Hanson. For that reason, Zane Hanson 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



ZANE HANSON

Dated this 25 day of
October, 2024