

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

<p>IN THE MATTER OF:</p> <p>STRIEF FARMS, INC.</p> <p>Facility #67836 Dubuque County Iowa</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 2024-AFO-33</p>
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TO: Matthew Strief, Registered Agent
Strief Farms, Inc.
26306 Farm Lane
Farley, Iowa 52046

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Strief Farms, Inc. (Strief Farms) for the purpose of resolving water quality violations resulting from a manure release from the Strief Farms facility. This administrative consent order requires Strief Farms to: 1) provide documentation that all manure discharges through tile lines have permanently ceased; 2) develop a Plan of Action detailing how all manure from the facility will be maintained in the storage structures between land application in the future; and 3) pay a \$7,500.00 administrative penalty.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Brian Jergenson, DNR Field Office 1
Iowa Department of Natural Resources
1101 Commercial Court, Suite 10
Manchester, Iowa 52057
Phone: 563-608-6749

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

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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; 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

Strief Farms neither admits nor denies the Statement of Facts and enters into this administrative consent order for settlement purposes only.

1. Strief Farms owns and operates an animal feeding operation with 675 dairy cattle in confinement and open feedlots. The facility is classified as a medium animal feeding operation. The facility is located at 26306 Farm Lane; Farley, Iowa (Section 31, Taylor Township, Dubuque County).

2. On December 6, 2023, DNR Field Office 1 received a call regarding manure and milk entering a tributary of John's Creek through a tile south of the Strief Farms facility. The caller stated the discharge had been ongoing. A similar complaint was received in August 2022.

3. On December 14, 2023, Brian Jergenson, DNR Field Office 1 environmental specialist senior, and Jessica Ragsdale, DNR Field Office 1 environmental specialist, traveled to the reported location of the tile discharge. It was down-slope from the Strief Farms facility. They noted a manure odor in the tributary near the tile discharge. Manure solids were in the water and the water discharging from the tile was foaming with a strong manure odor.

4. The field office personnel travelled about ten feet downstream from the discharge. The water had a strong manure odor, was turbid, and contained suspended and frozen manure solids. The field test indicated an elevated level of ammonia nitrogen and the laboratory sample from this location indicated an ammonia nitrogen concentration of 40 mg/L. The field office personnel continued another 500 feet downstream and noted the water had a manure odor and was turbid. The field tested indicated an elevated level of ammonia nitrogen and the laboratory sample from this location indicated an ammonia nitrogen concentration of 300 mg/L.

5. The field office personnel continued to the Strief Farms facility. They did not observe any alternate source of contamination on the way to the facility. They met with Matt Strief and explained what was discovered during the investigation. Mr. Strief stated he was unaware of any manure release at the facility.

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Mr. Jergenson mentioned the August 2022 complaint investigation when he observed evidence that manure had entered a tile intake. Mr. Strief stated that tile intake was plugged and he installed a new tile intake to collect and transport clean water from the facility. This tile intake was to the same tile that discharges to the tributary of Jones Creek. The field office personnel and Mr. Strief went to the new tile intake and noted manure from the concrete adjacent to the confinement loafing barn entrance entering the tile intake. The field office personnel also observed clumps of manure solids and contaminated water adjacent to another tile intake located across the gravel drive at the facility. Mr. Strief stated that the facility's employees pushed snow out of the manure-laden lot and piled the snow adjacent to the tile intake. The field office personnel informed Mr. Strief that the discharge of manure to the tributary was prohibited and all sources of the release must be controlled and stopped.

6. On January 10, 2024, DNR issued a Notice of Violation letter to Strief Farms for the violations observed during the December 2023 investigation. The letter informed Strief Farms that the violations may be referred for further enforcement.

7. In August 2022, DNR Field Office 1 responded to a complaint regarding manure in Johns Creek. During the investigation, it was determined that the manure was likely coming from Strief Farms through a tile intake, to the tributary and then to Johns Creek. However, at the time of the investigation there was no active discharge occurring. Strief Farms was issued a Letter of Noncompliance for the situation. In March 2023, DNR Field Office 1 personnel conducted an inspection at the facility and confirmed that the tile intake had been plugged. In the inspection report, Strief Farms was reminded that the areas around any drains or tile intakes must be maintained to avoid any discharge from the facility.

IV. CONCLUSIONS OF LAW

Strief Farms neither admits nor denies the Conclusions of Law and enters into this administrative consent order for settlement purposes only.

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. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibit the discharge of pollutants into a water of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. During the December 2023 investigation, DNR Field Office 1 noted that manure from Strief Farms entered a

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tributary of Johns Creek. The above-mentioned facts indicate a violation of these provisions.

3. 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 December 2023 investigation, DNR Field Office 1 noted that a manure release from Strief Farms entered the tributary causing discolored water, a manure odor, manure solids in the water, and elevated pollutant levels. The above-mentioned facts indicate violations of the general water quality criteria.

4. 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.

5. 567 IAC 65.2(3) states that the minimum level of control for a confinement feeding operation shall be the retention of all wastes between periods of application. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to a water of the state. During the December 2023 investigation, DNR Field Office 1 noted that manure from Strief Farms entered a tributary of Johns Creek. The above-mentioned facts indicate a violation of this provision.

6. DNR has determined that there is no likelihood that the violations identified in this administrative consent order will recur if Strief Farms complies with the provisions listed in Paragraphs 1 - 2, Section V Order of this administrative consent order.

V. ORDER

THEREFORE, the DNR orders and Strief Farms agrees to do the following:

1. Provide documentation to DNR Field Office 1 within 30 days of the date the Director signs this administrative consent order that all discharges of manure from the facility through tiles lines have permanently ceased;
2. Develop a Plan of Action detailing how all manure from the facility will be maintained in the storage structures between land application in the future. The Plan of Action must be submitted to DNR Field Office 1 within 30 days of the date the Director signs this administrative consent order and must be implemented immediately upon approval of the Plan of Action by DNR Field Office 1; and

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3. Pay an administrative penalty in the amount of \$7,500.00 in accordance with the following payment plan. If any of the payments are not received in accordance with the payment plan the remaining penalty shall be due immediately.

\$2,500 due December 15, 2024;
\$2,500 due December 15, 2025; and
\$2,500 due December 15, 2026.

VI. PENALTY

Strief Farms neither admits or denies the provisions and statements in the Penalty section and enters into this administrative consent order for settlement purposes only.

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. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air 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 \$7,500.00. 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.” Strief Farms gained an economic benefit from avoiding the costs associated with the proper manure application of the manure that was discharged to the tributary. This includes transportation and application fees which are estimated to be at least \$200.00. Strief Farms also gained an economic benefit of failing to construct a proper structure to ensure that all manure was contained. This includes delayed engineering fees, construction costs and maintenance costs, which are estimated to be at least \$2,000.00. Based on the above-mentioned facts, Strief Farms gained an economic benefit of at least \$2,200.00 and that amount is being assessed for this factor.

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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 release of manure from Strief Farms resulted in the degradation of water quality, including elevated pollutants, discolored water, and manure solids in the water. The manure containment requirements are integral parts of the animal feeding operation programs and violations of the regulations threaten the integrity of the animal feeding operation regulations. Based on the information above, \$3,000.00 is assessed for this factor.

Culpability – Strief Farms has a duty to know the regulations and to be aware that its actions are subject to the regulations. Mr. Strief was instructed of the requirement to keep manure from the tributary. He plugged a tile intake that went to the tributary in 2022 and at some point after the March 2023 inspection, to provide the needed runoff drainage, a new tile intake was installed in what was intended to be a location that would not discharge manure but that still drained to the tributary. Mr. Strief was instructed on multiple times that the manure from the facility must not be allowed to enter the tributary. Based on these facts, \$2,300.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Strief Farms. For that reason, Strief Farms 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

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Dated this 26 day of
November, 2024.