

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

<p>IN THE MATTER OF:</p> <p>SCOT LADENTHIN Cherokee County, Iowa</p> <p>AFO #69970</p>	<p style="text-align: center;">ADMINISTRATIVE CONSENT ORDER NO. 2024-AFO-34</p>
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TO: Scot Ladenthin
5762 J Avenue
Cherokee, Iowa 51012

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Scot Ladenthin for the purpose of resolving Mr. Ladenthin's failure to timely submit the 2024 annual Manure Management Plan (MMP) update and compliance fee for his animal feeding operation located in Cherokee County, Iowa. This administrative consent order requires Mr. Ladenthin 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
Iowa DNR Field Office 3
1900 North Grand Ave, Suite E17
Spencer, Iowa 51301
Phone: 712/262-4177

Relating to legal requirements:

Kelli Book, Attorney
Iowa DNR
6400 Park Avenue, Suite 200
Des Moines, Iowa 50321
Phone: 515/210-3408

Payment of penalty to:

Director
Iowa DNR
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. Scot Ladenthin owns and operates an animal feeding operation, known as Oaken Farms, located at 553 610 Street, Quimby, Iowa (Section 2, Grand Meadow Township, Cherokee County). The facility has one confinement building with 2,490 (996 animal units) grow to finish swine.

2. The annual MMP update deadline was established as July 1 of each calendar year and the annual compliance fee is \$149.40. Mr. Ladenthin failed to submit the 2024 annual MMP update and compliance fee by July 1, 2024.

3. On July 8, 2024, DNR issued Mr. Ladenthin a Notice of Violation letter for Mr. Ladenthin's failure to submit the 2024 MMP update and compliance fee. On August 15, 2024, DNR Field Office 3 emailed Mr. Ladenthin regarding the submittal of the 2024 MMP update and compliance fee and on August 26, 2024, DNR Field Office 3 texted Mr. Ladenthin regarding his failure to submit the update and fee. On August 30, 2024, DNR issued Mr. Ladenthin a Notice of Referral letter indicating the matter was being referred for further enforcement. On September 7, 2024, Mr. Ladenthin submitted the 2024 MMP update and compliance fee to DNR Field Office 3.

4. Mr. Ladenthin has a history of late submittals of the MMP updates and compliance fees for his facility. Mr. Ladenthin failed to timely submit the MMP updates and compliance fees for the following years: 2023, 2022, 2020, and 2019. A Notice of Violation letter was sent in 2023.

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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2. Iowa Code section 459.312(13) and 567 IAC 65.110(3)"b" require 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 2024 MMP update and compliance fee for Mr. Ladenthin's facility was due July 1, 2024 and the MMP update and compliance fee were not submitted until September 7, 2024. The above-mentioned facts indicate a violation of this provision.

V. ORDER

THEREFORE, the DNR orders and Scot Ladenthin agrees to do the following:

1. Pay an administrative penalty in the amount of \$2,000.00 within 30 days of 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 10.30(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." Mr. Ladenthin's delay in timely submitting the MMP update and compliance fee allowed him to save time and money. It is estimated that Mr. Ladenthin gained an economic benefit of at least \$100.00 and that amount is 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 MMP submittals are a crucial aspect of the DNR's animal feeding operation program and the compliance fees are crucial to the budget of the animal feeding program. Mr. Ladenthin's failure to timely submit the 2024 MMP update and compliance fee threatens the integrity of the animal feeding operation regulations. Therefore, \$900.00 is assessed for this factor.

Culpability – Mr. Ladenthin 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. Mr. Ladenthin has failed to timely submit MMP updates and compliance fees five times in the last six years. Mr. Ladenthin is aware of the regulations yet failed to comply with the requirements by the deadline. Therefore, \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

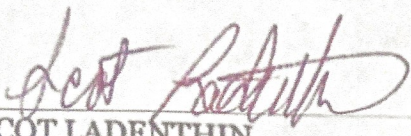
This administrative consent order is entered into knowingly and with the consent of Scot Ladenthin. For that reason, Scot Ladenthin waives the right to appeal this administrative consent order or any part thereof.

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. However, DNR reserves the right for further enforcement for violations related to the capacity and permitting of this facility. 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


SCOT LADENTHIN

Dated this 28th day of
November, 2024.