

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

<p>IN THE MATTER OF:</p> <p>ROORDA DAIRY, LLC</p> <p>O'Brien County Iowa AFO #64981 Paullina</p>	<p>ADMINISTRATIVE CONSENT ORDER NO. 20<u>25</u> -AFO-02</p>
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TO: Lance Roorda
Roorda Dairy, LLC
5128 460th Street
Paullina, Iowa 51031

Amanda J. Behena, Registered Agent
Roorda Dairy, LLC
815 N. Main Avenue, Suite 2
Sioux Center, Iowa 51250

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Roorda Dairy, LLC (Roorda Dairy) for the purpose of resolving water quality violations and a fish kill resulting from a manure discharge from the Roorda Dairy facility. This administrative consent order requires Roorda Dairy to: 1) develop and implement a Standard Operating Procedures for land application methods; 2) pay fish restitution and investigative costs in the amount of \$30,791.07; and 3) pay a \$8,000.00 administrative penalty.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Tom Roos, Field Office 3
Iowa Department of Natural Resources
1900 N. Grand Ave., Suite E17
Spencer, Iowa 51301
Phone: 712/262-4177

Relating to legal requirements:

Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Avenue, Suite 2
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 2
Des Moines, Iowa 50321

RECEIVED

DEC 27 2024

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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: ROORDA DAIRY, LLC

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. Iowa Code section 481A.151 authorizes the assessment and recovery of damages to natural resources.

III. STATEMENT OF FACTS

1. Roorda Dairy owns and operates a confined dairy facility located at 5128 460th Street; Paullina, Iowa (Section 2, Caledonia Township, O'Brien County). The facility consists of a large free stall barn with an attached holding area and parlor. The free stall barn has the capacity to house up to 4,200 mature dairy cattle.

2. On July 17, 2024, an individual contacted the DNR's emergency response line and indicated dead fish and manure in Mud Creek. This area is downstream of the Roorda Dairy facility.

3. On July 18, 2024, Tom Roos, DNR Field Office 3 environmental specialist senior, and Ike Zebedee, DNR Field Office 3 environmental specialist investigated the fish kill. They contacted Lance Roorda with Roorda Dairy and Mr. Roorda indicated that he was aware of the manure release. He indicated that the facility was applying manure through a center pivot in an application field. A tile line ruptured and manure reached Mud Creek. The application field was about a quarter of a mile north of Roorda Dairy. Mr. Roorda stated the released was discovered around 8:00 pm on July 17, 2024. He stated that the center pivot irrigation system was shut down immediately. Mr. Roorda said he placed a dam in the creek and began pumping the manure back into the crop field; however, manure entered the creek as the dam failed due to the stream flow.

4. Mr. Roorda and Mr. Zebedee continued the investigation by conducting field tests and collecting laboratory samples of the impacted area. They noted the water was dark in color with a manure odor, turbidity, and foam. They also observed dead fish. The field office personnel collected samples upstream and downstream of the Roorda Dairy facility. The locations and laboratory samples are summarized below:

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE CONSENT ORDER
 ISSUED TO: ROORDA DAIRY, LLC

Sample Location	E.Coli (MPN/100 ML)	Ammonia Nitrogen (mg/L)	Biological Oxygen Demand (BOD) (mg/L)	Total Suspended Solids (mg/L)
Oak Hill Avenue Bridge (upstream of Roorda Dairy) (approximately 1/4 mile north of the facility)	100	2.3	4	4
Olive Avenue (downstream of Roorda Dairy) (approximately 2 miles south of the facility)	2,000	33	<60	35
470th Street (downstream of the Roorda Dairy) (approximately 4 miles south of the facility)	1,000	68	140	180

5. Between July 18-19, 2024, DNR's Fisheries Bureau personnel surveyed the impacted area of Mud Creek. Mike Hawkins and Jed Siegwarth conducted the fish kill investigation. The Fisheries personnel determined the fish kill started when manure entered a broken tile and then drained to Mud Creek near the Roorda Dairy. The fish kill extended downstream for approximately 16,900 yards (9.6 miles) to the confluence of Mud Creek and Mill Creek. The Fisheries Bureau personnel surveyed the impacted area in accordance with the "Narrow Stream, Incompletely Accessible" method outlined in American Fisheries Society, Special Publication 35. This method was chosen based on the length of the kill.

6. The fish kill assessment determined that 107,373 fish were killed, valued at \$27,913.04. The Fisheries Bureau investigative costs were \$1,463.45 and the field office investigative costs were \$1,414.58. The total fish value and investigative costs totaled \$30,791.07.

7. On August 28, 2024, DNR issued a Notice of Violation letter to Roorda Dairy for the violations observed during the July investigation. The letter informed Roorda Dairy that the matter would be referred for further formal enforcement.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: ROORDA DAIRY, LLC

IV. CONCLUSIONS OF LAW

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 July 2024 investigation, DNR Field Office 3 noted that a release from the manure application by Roorda Dairy entered Mud 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 July 2024 investigation, DNR Field Office 3 noted that a release from the manure application by Roorda Dairy entered Mud Creek and caused a fish kill 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 65.100(1) 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 July 2024 investigation, DNR Field Office 3 noted that a release from the manure application by Roorda Dairy entered Mud Creek. The above-mentioned facts indicate a violation of this provision.
6. 567 IAC 65.100(5) states that all manure removed from an animal feeding operation shall be land applied in a manner that will not cause surface or ground water pollution. During the July 2024 investigation, DNR Field Office 3 noted that a release from the manure application by Roorda Dairy entered Mud Creek causing water quality violations. The above-mentioned facts indicate a violation of this provision.
7. Iowa Code section 481A.151 provides that a person who is liable for polluting a water of the state in violation of state law shall also be liable to pay restitution to the DNR for injury caused to a wild animal by the pollution. The DNR

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: ROORDA DAIRY, LLC

has adopted 571 IAC 113. 571 IAC 113 provides that a person who is liable for polluting a water of this state in violation of state law shall also be liable to pay restitution to the DNR for injury caused to a wild animal by the pollution. A fish kill resulted from the land application of manure from the Roorda Dairy facility.

8. DNR has determined that there is no likelihood that the violations identified in this administrative consent order will recur if Roorda Dairy complies with the provisions listed in Paragraph 1, Section V Order of this administrative consent order.

V. ORDER

THEREFORE, the DNR orders and Roorda Dairy agrees to do the following:

1. Roorda Dairy shall submit a written plan with Standard Operating Procedures for land application methods; including but not limited to inspection of all equipment prior to application. The plan shall also include specific procedures for employee training, manure irrigation methods, and notification of release requirements. The Standard Operating Procedures shall be submitted to DNR Field Office 3 for approval within 30 days of the date the Director signs this administrative consent order. Roorda Dairy shall immediately implement the Standard Operating Procedures upon approval by DNR Field Office 3; and
2. Roorda Dairy shall pay fish restitution and investigative costs in the amount of \$30,791.07 and an administrative penalty in the amount of \$8,000.00 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. 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 \$8,000.00. The administrative penalty is determined as follows:

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: ROORDA DAIRY, LLC

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 manure release was caused by an equipment failure that resulted in no economic benefit being gained by Roorda Dairy.

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 discharge of manure from the land application ultimately resulted in the degradation of water quality and caused a fish kill. The manure discharge from the land application threatens the integrity of the animal feeding operation regulations. Therefore, \$6,000.00 is assessed for this factor.

Culpability – Roorda Dairy has a duty to know the regulations and to be aware that its actions are subject to the regulations. Roorda Dairy failed to notify the DNR of the manure release. Based on the information above, \$2,000.00 is being assessed.

VII. WAIVER OF APPEAL RIGHTS

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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: ROORDA DAIRY, LLC

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources


ROORDA DAIRY, LLC

Dated this 19 day of
December, 24.