IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: **Terrance Kooima** **NPDES PERMIT NO. 8463065** **Sioux County, Rock Valley**	ADMINISTRATIVE CONSENT ORDER NO. 2015-AFO- 03

TO: Terry Kooima
3219 Eagle Ave.,
Rock Valley, IA 51247

I. SUMMARY

This administrative consent order (order) is entered into between the Iowa Department of Natural Resources (Department) and Terrance Kooima for the purpose of resolving violations of Mr. Kooima's National Pollutant Discharge Elimination System (NPDES) permit. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this order should be directed to:

Relating to technical requirements:
Don Cunningham, Field Office 3
Iowa Department of Natural Resources
1900 Grand Avenue
Spencer, Iowa 51301
Phone: 712/262-4177

Relating to legal requirements:
Carrie Schoenebaum, Attorney for the
Iowa Department of Natural Resources
Wallace State Office Building
502 E 9th Street
Des Moines, Iowa 50319-0034
Phone: 515/281-8563

Payment of penalty to:
Director of the Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This 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 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. Mr. Kooima owns and operates a combined livestock operation with a capacity for housing 1,500 head of cattle in open lots and 1,100 head of nursery pigs in confinement. The operation is located in the NE ¼ of the NE ¼ of Section 31, T97N, R46W Rock Township, Sioux County, Iowa. The deed to this property is held by Terrance and Lyla Kooima.

2. In 2010, the Environmental Protection Agency (EPA) conducted a compliance evaluation of this facility (then operating under the name of Sandhill Farm, Inc.)[1] During this inspection EPA inspectors observed and sampled storm water runoff discharging from the feedlot through roadside ditches and culverts and into Rock River and its tributaries. EPA inspectors observed, and sampling confirmed, that the storm water runoff entering Rock River and its tributaries contained pollutants associated with runoff from the animal feeding operation. Consequently, the EPA issued a Finding of Violation Order for Compliance which required this facility to obtain an NPDES permit.

3. On March 15, 2013, Mr. Kooima was issued NPDES permit no. 8463065 for this facility. Section VI, Paragraph A of this permit requires that all monitoring results shall be reported to the Department on a quarterly basis. The quarterly reports shall cover the periods January through March, April through June, July through September and October through December. The quarterly report for each period shall be submitted by the 10th day of the month following the quarter being reported. Section VI, Paragraph B of this permit requires that the facility submit a federally mandated annual report by January 10 of the following year to the Department.

4. On April 19, 2013, the Department sent Mr. Kooima a Notice of Violation (NOV) for failure to submit its quarterly report due to the Department April 10, 2013. To date this report has not been submitted to the Department.

[1] Mr. Kooima was one of the original founders of Sandhill Farm, Inc. In fact, he signed the articles of incorporation which were filed with the Iowa Secretary of State. This entity was administratively dissolved in 2014 by the Iowa Secretary of State for failure to deliver the 2014 Biennial Report.

5. On July 22, 2013, the Department sent Mr. Kooima a NOV for failure to submit its quarterly report due to the Department July 10, 2013. On July 30, 2013, Mr. Kooima submitted the relevant annual report to the Department.

6. On January 22, 2014, the Department sent Mr. Kooima a NOV for failure to submit its annual report due to the Department on January 10, 2014. On January 29, 2014, Mr. Kooima submitted the relevant annual report to the Department.

7. On October 20, 2014, the Department sent Mr. Kooima a NOV for failure to submit its quarterly report due October 10, 2014. This NOV also informed Mr. Kooima that the matter was being referred to the Department's Legal Services Bureau for enforcement. To date this report has not been submitted.

IV. CONCLUSIONS OF LAW

1. 567 IAC 65.104(9) "e" states that a facility with an NPDES permit must submit quarterly reports by April 10, July 10, October 10, and January 10, following the respective calendar quarters. Section VI Paragraph A of Mr. Kooima's NPDES permit contains this same requirement. The quarterly reports shall cover the periods January through March, April through June, July through September and October through December. The quarterly report for each period shall be submitted by the 10th day of the month following the quarter being reported. Mr. Kooima failed to submit the required quarterly reports on 4 different occasions. Thus, the above stated facts indicate a violation of the IAC and the facility's NPDES permit.

2. 40 Code of Federal Regulations (CFR) 122.42 (e)(4) and 567 IAC 65.104(9) "f" requires that a facility with an NPDES permit must submit an annual report to the Department by January 10 of the following year. Section VI Paragraph B of Mr. Kooima's NPDES permit contains this same requirement. Mr. Kooima failed to timely submit its annual report. Thus, the above stated facts indicate a violation the CFR, IAC and the facility's NPDES permit.

V. ORDER

THEREFORE, the Department orders and Mr. Kooima agrees to do the following:

1. Mr. Kooima shall submit the quarterly report due to the Department on April 10, 2013, and October 10, 2014;

2. In the future Mr. Kooima shall timely submit all reports required by his NPDES permit; and

3. Mr. Kooima shall pay an administrative penalty of $3,000.00 within 30 days from the date the Director signs this 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 Environmental Protection Commission (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 Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty of $3,000.00. The administrative penalty is determined as follows:

Economic Benefit – Mr. Kooima has gained an economic advantage by delaying the costs associated with the reporting requirements. The economic benefit is estimated to be 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 Department has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The reporting dates are a requirement of the regulations and the facility's NPDES permit. Failure to comply with the reporting requirements threatens the integrity of the animal feeding operation program. Therefore, $1,400.00 is assessed for this factor.

Culpability – Mr. Kooima has a duty to remain knowledgeable of Department's requirements and to be alert to the probability that his conduct is subject to the Department's rules. Mr. Kooima was aware of the reporting requirements and has been repeatedly reminded of the requirements. Therefore, $1,500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This order is entered into knowingly and with the consent of Mr. Kooima. For that reason Mr. Kooima waives his right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Compliance with Section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this 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.

Chuck Gipp, DIRECTOR
Iowa Department of Natural Resources

Dated this 27th day of January, 2015.

Terrance Kooima

Dated this 20 day of JAN, 2015.

Facility # 8463065; Carrie Schoenebaum, Don Cunningham (Field Office 3), EPA, VIII.B.1

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