

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

<b>IN THE MATTER OF:</b>  <b>CROSSROADS CATTLE CO.</b> <b>Facility ID#56318</b> <b>Harrison County, Iowa</b>	<b>ADMINISTRATIVE CONSENT ORDER</b> <b>NO. 2007-AFO-13</b>
--------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------

TO: John Reisz, President  
Crossroads Cattle Co.  
1542 Quay Avenue  
Woodbine, Iowa 51579

Frank W. Pechacek, Jr., Registered Agent  
Crossroads Cattle Co.  
421 W Broadway, Suite 200  
Council Bluffs, Iowa 51502

**I. SUMMARY**

This administrative consent order is entered into between Crossroads Cattle Co. (Crossroads) and the Iowa Department of Natural Resources (DNR) for the purpose of resolving violations of Iowa's requirements pertaining to animal feeding operations and manure control. In the interest of avoiding litigation, the parties have agreed to the provisions set forth below.

Any questions or response regarding this administrative consent order should be directed to:

**Relating to technical requirements:**

Dan Stipe, Field Office 4  
Iowa Department of Natural Resources  
1401 Sunnyside Lane  
Atlantic, Iowa 50022  
Phone: 712/243-1934

**Relating to legal requirements:**

Randy Clark, Attorney II  
Iowa Department of Natural Resources  
Henry A. Wallace Building  
Des Moines, Iowa 50319-0034  
Phone: 515/281-8891

**Payment of penalty to:**

Director, Iowa Dept. of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**II. JURISDICTION**

This administrative consent order is issued pursuant to 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 and the rules adopted or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.

Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Crossroads owns and operates a cattle open feedlot operation at Panorama Avenue, Woodbine, located in Section 28, T81N, R42W (Lincoln Township), Harrison County, Iowa. The operation consists of an open feedlot and manure containment basins.

2. On March 14, 2001, the DNR received a completed Iowa Plan registration form from Crossroads indicating 900 head of beef cattle in a column with this heading: "Maximum Number of Animals in the Open Feedlot at Any One Time." On May 15, 2001, DNR sent Crossroads a letter confirming receipt of the registration and informing the facility the DNR would initiate an environmental assessment of the facility and the facility would receive the results of the assessment. On July 31, 2001, DNR sent Crossroads a letter informing the facility it was considered a medium priority facility and would be contacted by the DNR when the on-site assessment would take place.

3. On June 13, 2003, DNR Field Office 4 (FO4) received a complaint stating manure from the Crossroads facility was flowing into a tributary of Willow Creek. The complainant stated the manure structures blew out during the last rainfall. On June 30, 2003, FO4 investigated the complaint and verified that one of the manure structures had blown out, however, repairs had already been made. FO4 personnel met with John Reisz at the facility. Mr. Reisz said the capacity at the facility was 970 head. He stated that solids settling structures were constructed down gradient of the lots. The structures had reportedly been designed by the local Natural Resources Conservation Service (NRCS) and were designed to settle solids prior to discharging into a grass filter strip. Mr. Reisz stated the structures had been cleaned approximately 1½ years prior to the inspection. On July 29, 2003, FO4 sent Mr. Reisz a letter regarding the June 30, 2003 inspection. Mr. Reisz was required to submit a Statement of Intent by September 1, 2003, to clean and reseed the filter strip by November 1, 2003, and to submit an engineering evaluation by November 1, 2004. On August 15, 2003, FO4 received a Statement of Intent from Mr. Reisz stating he would maintain his facility at 1,000 animal units or less.

4. On August 15, 2005, FO4 received a complaint stating manure from the Crossroads facility had overflowed the manure storage structures and had entered a spring fed stream, turning the water brown. On August 25, 2005, FO4 investigated the complaint and did not observe manure runoff entering a water of the state. On September 28, 2005, FO4 sent Crossroads a letter regarding the August 25, 2005 inspection. Crossroads was required to submit an engineering evaluation by November 1, 2005. Mr. Reisz had failed to submit the engineering evaluation by November 1, 2004 as required by the DNR letter dated July 29, 2003. On October 5, 2005, FO4 received a letter from NRCS stating the manure storage structures at Crossroads meet the NRCS 350 Sediment Basin standard.

5. On March 31, 2006, Mr. Reisz informed FO4 that the manure controls associated with the Crossroads facility had failed during heavy precipitation. Mr. Reisz stated that one of solids settling structures was breached causing manure from the structure to

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.

flow through a grass waterway. On March 31, 2006 FO4 conducted an inspection of the facility and verified that the manure storage structure was breached and that manure had entered the grass waterway. The grass waterway was severely eroded causing trenching to occur. Manure runoff from the feedlot traveled through the waterway and entered an unnamed tributary of Willow Creek. Several water samples were taken in Willow Creek. Upstream samples had ammonia levels of 1.7 milligrams per liter (mg/L) and 0.92 mg/L. Samples were also taken from the grass waterway and the outlet into the unnamed tributary. The ammonia level in the grass waterway was 210 mg/L and the ammonia level in the outlet into the unnamed tributary was 5.8 mg/L. FO4 documented manure entering Willow Creek, but also observed that the flow of water from Willow Creek was likely diluting the manure. Due to the high flow there was no odor; however, the field office observed heavy manure solids in the headwaters of the unnamed tributary. Crossroads was required to remove all manure solids from the grass waterway by May 10, 2006. Additionally, Mr. Reisz stated the capacity of the feedlot was 1,200 head. He stated that he was in the process of submitting a permit application along with engineering plans to the DNR. DNR required that the information be submitted to DNR no later than June 1, 2006 or the feedlot must be reduced to under 1,000 head of cattle by June 1, 2006. FO4 also required Crossroads to install a temporary dam to provide total containment while proper controls were constructed to prevent further water quality violations from occurring.

6. On April 2, 2006, FO4 received a page from Emergency Response concerning foam in an unnamed tributary downstream from Crossroads. FO4 responded to the page and observed a large amount of foam in the unnamed tributary; a manure odor was also detected. Laboratory analysis of a water sample collected at the point of discharge from the unnamed tributary to Willow Creek revealed an ammonia concentration of 36 mg/L and a fecal coliform concentration of 300,000 per 100 milliliters.

7. On April 7, 2006, FO4 received a complaint stating that manure from Crossroads was being discharged into Willow Creek. On April 7, 2006, FO4 investigated the complaint and did not observe evidence of manure entering the unnamed tributary. The field office staff observed that a large dam had been constructed at the feedlot to contain all runoff and prevent manure from entering the unnamed tributary.

8. On June 14, 2006, FO4 issued a Notice of Violation letter to Crossroads for the violations observed during the March and April investigations. The letter cited Crossroads for failing to remove settleable solids from the effluent prior to discharge into a water of the state, for discharging a pollutant into a water of the state without a permit, and for failing to keep the surface water free of objectionable color and odor and allowing sludge deposits to form. The letter also discussed the requirements imposed during the investigation. Crossroads was required to install a dam near the manure controls and to remove manure solids from the grass waterway. The letter required Crossroads to notify the field office in writing as to the status of these two requirements by June 20, 2006. The letter also reminded Crossroads of the requirement to submit the permit application no later than June 20, 2006. On June 16, 2006, Crossroads sent a letter to FO4 with an update as to the status of the requirements. Mr. Reisz wrote the waterway had been cleaned out and that the interim dam was in the process of being "cleaned out" and was expected to be finished by

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.

June 25, 2006. Mr. Reisz also wrote that the permit application for a holding structure for total containment of the open feedlot was being worked on and was expected to be submitted by June 25, 2006. On July 11, 2006, DNR received the construction permit application for the feedlot. The permit application stated the facility currently had 1,600 head of cattle and was proposing to expand to 5,500 head of cattle. The DNR received Crossroads' application for an NPDES Permit on July 7, 2006.

9. On August 10, 2006, FO4 received a complaint stating that manure runoff was coming from Crossroads and that the terraces had blown out. FO4 personnel investigated the complaint and did not observe water quality violations at the time of the investigation.

10. The DNR issued a construction permit to Crossroads on December 11, 2006.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.186 and 567 IAC 62.1(1) prohibit the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit from the DNR. Inasmuch as no such permit had been issued for this facility at the time of the above-summarized discharges, the foregoing facts establish that these provisions have been violated.

2. Iowa Code section 459A.104 requires the Environmental Protection Commission (Commission) to adopt rules related to the construction or operation of open feedlot operations. The Commission has done so at 567 IAC Chapter 65.

3. Iowa Code subsection 459A.401(1) and 567 IAC 65.101(1) provide that the minimum level of manure control for any open feedlot is the removal of settleable solids from the manure prior to discharge into a water of the state. Iowa Code subsection 459A.401(3) and 567 IAC 65.101(3) prohibit open feedlot operations with an animal unit capacity<sup>1</sup> of 1,000 animal units or more from discharging open feedlot effluent<sup>2</sup> into any waters of the United States unless the discharge is pursuant to an NPDES permit. Based on the foregoing facts, the Crossroads facility has an animal unit capacity of greater than 1,000 animal units, and FO4 observed manure from the Crossroads facility in a tributary of Willow Creek. The above-facts disclose a violation of this provision.

4. 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. FO4 observed manure solids from the Crossroads facility in a tributary of Willow Creek. The above-facts disclose a violation of one or more of these criteria.

---

<sup>1</sup> Defined in 2005 Iowa Code Supplement subsection 459A.102(5) as "a measurement used to determine the maximum number of animal units that may be maintained as part of the open feedlot operation."

<sup>2</sup> Pursuant to 567 IAC 65.101(3) this discharge prohibition also applies to manure, process wastewater, settled open feedlot effluent and settleable solids as those terms are defined in 567 IAC 65.100.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.

5. 567 IAC 65.102 requires each CAFO<sup>3</sup> owner or operator to apply for an NPDES permit unless the open feedlot operation does not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent into any waters of the United States. The foregoing facts establish that this operation is a large CAFO and that it did discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent into waters of the United States.

**V. ORDER**

THEREFORE, the DNR orders and Crossroads agrees to do the following:

1. Within 60 days of the date this administrative consent order is signed by the Director and thereafter maintain at the operation a current emergency open feedlot effluent release response plan which includes the following provisions:

- ◆ A map of the operation and surrounding area which identifies the following locations and objects: buildings; electrical service boxes; water line connections and shut-valves; effluent storage structures and associated pump-out ports, valves and pumps; potential effluent release points; water wells; drainage tile inlets; surface drainage routes, streams and any other environmentally sensitive areas; Crossroads' property boundaries.
- ◆ Procedures for stopping and containing an open feedlot effluent release from each potential effluent release point and status of resources (including names and telephone numbers of any contractors) necessary to carry-out the procedures.
- ◆ Procedures and resources necessary for cleaning up areas impacted by an effluent release.
- ◆ List of contact names and telephone numbers.

2. Pay an administrative penalty of \$9,500.00. The penalty shall be paid to the DNR within 30 days of the date the Director signs this administrative consent order.

**VI. PENALTY**

<sup>3</sup> Defined in 567 IAC 65.100: "Large concentrated animal feeding operation" or "large CAFO." An AFO is defined as a large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

1. 700 mature dairy cows, whether milked or dry;
2. 1,000 cattle, including but not limited to heifers, steers, bulls, veal calves and cow/calf pairs;
3. 2,500 swine each weighing 55 pounds or more;
4. 10,000 swine each weighing less than 55 pounds;
5. 500 horses;
6. 10,000 sheep or lambs;
7. 55,000 turkeys;
8. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
9. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
10. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
11. 1,000 animal units, where more than one category of animals is maintained using the same type of operation.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.

1. Iowa Code section 459A.502 and Iowa Code section 455B.191 authorize 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 these rules, 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. The administrative penalty assessed by this administrative consent order is \$9,500.00. The administrative penalty is determined as follows:

Economic Benefit – Time and money were initially saved by Crossroads in avoiding required manure control. However, this saving has been offset by the cost of installing open feedlot effluent controls necessary to obtain an NPDES Permit.

Gravity of the Violation – 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. Actual harm to the environment was documented by visual and olfactory observation of impact to an unnamed tributary to Willow Creek. Multiple rule or statutory provisions were violated including discharge to water of the state, failure to maintain the minimum manure controls, and violation of water quality standards. The violations threaten the integrity of the water quality program. For these reasons, \$3,000.00 per day could be assessed for this factor for each of the three above-cited violations. However, in view of the maximum administrative penalty and the Culpability factor, below, \$5,000.00 is assessed for this factor.

Culpability – All feedlot operators have a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that the operator's conduct is subject to DNR's rules. Crossroads was aware of the manure control regulations yet failed to comply with the requirements. For these reasons, \$3,000.00 per day could be assessed for this factor for each of the three above-cited violations. However, in view of the maximum administrative penalty and the Gravity factor, above, \$5,000.00 is assessed for this factor.

Aggravating or Mitigating Factors. Crossroads cooperated fully in constructing and cleaning out the temporary dam until final open feedlot effluent control structures were constructed. These actions mitigate the foregoing penalty assessment, which is hereby reduced by \$500.00.

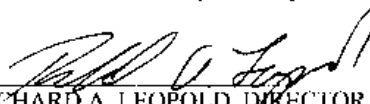
**VII. WAIVER OF APPEAL RIGHTS**

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: CROSSROADS CATTLE CO.


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

**VIII. NONCOMPLIANCE**

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order. The DNR reserves the right to bring enforcement action, including penalties, or to request that the attorney general initiate legal action to address other violations not described in Section "IV. Conclusions of Law" of this administrative consent order but which may arise from the facts summarized in Section "III. Statement of Facts" of this administrative consent order. DNR specifically reserves the right to pursue enforcement action, including penalties, for any current violations not specifically cited in this administrative consent order.

  
RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 14 day of  
May, 2007.

  
CROSSROADS CATTLE CO. *President*

Dated this 8 day of  
MAY, 2007.

#56318; FO4; Randy Clark; Ken Hassenius; EPA; VIII.D.1.b, VIII.D.3.a