

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

IN THE MATTER OF:

**76 LTD.  
Facility #59410**

**Washington County, Iowa**

ADMINISTRATIVE CONSENT ORDER  
NO. 2009-AFO-10

TO: John Klein, Registered Agent  
76 Ltd.  
1980 Elm Avenue  
Keota, Iowa 52248

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and 76 Ltd. for the purpose of resolving environmental violations at the 76 Ltd. facility. 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:**

Mark Heiderscheid, Field Office 6  
Iowa Department of Natural Resources  
1023 W. Madison  
Washington, Iowa 52353-1623  
Phone: 319/653-2135

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-8563

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**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 (animal feeding) and the rules adopted or permits issued pursuant; Iowa Code sections 455B.134(9) and 455B.138(1), which authorizes the Director to issue any

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order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; 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. 76 Ltd. is located at 1980 Elm Avenue, Keota, Iowa in Section 23 of Seventy Six Township, Washington County. 76 Ltd. is owned by John Klein, Kevin Greiner, and Mark Beenblossom. The facility consists of four interconnected confinement buildings, two hoop buildings, and an earthen manure storage structure. The facility has over 2,000 head of swine.

2. On September 19, 2008, DNR Field Office 6 received a complaint stating that there was a dip in the road with a wet spot in Statler Park near Keota, Iowa. The complainant stated that it had not rained so the complainant believed there was something else keeping the spot wet. The complainant stated there was a confinement facility to the north of the park. The facility the complainant referred to was 76 Ltd.'s facility.

3. On September 19, 2008, Mark Heiderscheid, DNR Field Office 6 environmental specialist, investigated the complaint. Mr. Heiderscheid visited the 76 Ltd. facility and observed standing water in the ditch north of 200<sup>th</sup> Street and south of the earthen manure storage structure at 76 Ltd. The water was purple in color and the ammonia field test indicated >3 mg/L. An inspection of the earthen manure storage structure revealed the following deficiencies: 1) erosion of the outer berm; 2) poor vegetation and weeds; 3) trees and woody vegetation around the outer berm; 4) less than two feet of freeboard; 5) rodent holes; and 6) a discharge from the west side of the earthen manure storage structure to the road ditch. Mr. Heiderscheid also noted a burn barrel at the facility. Mr. Heiderscheid then spoke to Rick Bethke, facility manager, and informed him of the manure discharge. Mr. Bethke stated he was aware there may be a problem. Mr. Bethke informed Mr. Heiderscheid that the facility had been given permission to pump on CRP ground. Mr. Heiderscheid reminded Mr. Bethke to document this addition on the manure management plan (MMP). Mr. Heiderscheid collected a laboratory sample of the discharge from the west side of the berm. John Klein and Kevin Greiner arrived on site and discussed the situation with Mr. Heiderscheid. Mr. Klein informed Mr. Heiderscheid that the owners of the facility were Mr. Klein, Mr. Greiner, and Mark Beenblossom. As Mr. Heiderscheid left the facility, Mr. Klein, Mr. Greiner, and Mr. Bethke were in the process of backing the pump into the earthen manure storage structure and connecting the hoses. Mr. Klein indicated that they would bring in a vacuum truck the following day to remove the discharge from the ditch.

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4. On September 20, 2008, Mr. Heiderscheit returned to the facility. Mr. Heiderscheit entered the field and parked between the creek to the south and the irrigator to the north and west of the grass waterway. The spray irrigator was set up on a ridge line west and south of the facility. Mr. Heiderscheit heard running water and observed purplish pink colored liquid being discharged from a tile line to the West Fork of Crooked Creek. Mr. Heiderscheit talked to Mr. Klein and informed him that the irrigation pumps should be turned off. Mr. Klein met Mr. Heiderscheit at the tile and stated that he had turned the pumps off. Mr. Klein stated he had been watching for surface runoff, but had not thought about the tile line. He left to search for the location of where the manure was entering the tile. Mr. Heiderscheit collected samples of the liquid and began to walk the grass waterway. He observed manure flowing through the waterway. Near the tile outfall, Mr. Heiderscheit discovered a depression or sink hole and this was the location the manure was entering the tile. Mr. Heiderscheit proceeded to the facility and met with Mr. Klein and Mr. Bethke. Mr. Heiderscheit informed them of where the manure was entering the tile and told them they needed to stop the discharge from the tile line and pump the earthen manure storage structure down to reach the required two feet of freeboard. Mr. Heiderscheit visited locations along Crooked Creek to check for signs of a fish kill. The slug of the discolored water first appeared at the Fir Avenue bridge and the field tests indicated the ammonia level was approximately 1.2 mg/L. There was no evidence of a fish kill at this location. The confluence of an unnamed tributary to the West Fork of Crooked Creek to the east of Statler Park was running clear. Mr. Heiderscheit noted that the slug of discolored water was bypassing the mouth of the confluence. A field test taken at the mouth of the confluence indicated the ammonia level was approximately 3.0 mg/L. There was no evidence of fish kill at this location. The laboratory samples collected by Mr. Heiderscheit indicated the following:

<b>Location</b>	<b>Ammonia</b>	<b>Fecal Coliform</b>	<b>E Coli</b>	<b>Biological Oxygen Demand (BOD)</b>	<b>Total Suspended Solids (TSS)</b>
Ditch South of the Basin and North of 200 <sup>th</sup> Street	160 mg/L	N/A	N/A	N/A	N/A
Berm of the Basin	210 mg/L	N/A	N/A	N/A	N/A
Upstream of the manure discharge	<0.05 mg/L	1,000/100mL	800/100mL	<2 mg/L	9 mg/L
Tile/Effluent Point	80 mg/L	480,000/100mL	300,000/100mL	98 mg/L	220 mg/L
Confluence/Point where ditch met the stream	59 mg/L	280,000/100mL	230,000/100mL	80 mg/L	800 mg/L.

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Downstream of the manure discharge	4.4 mg/L	37,000/100mL	33,000/100mL	7 mg/L	49 mg/L
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The samples results were sent to 76 Ltd. on October 3, 2008.

5. On September 21, 2008, Mr. Heiderscheit visited the site again. No one was on site at the time. Mr. Heiderscheit noted that the discharge had stopped; however, the earthen storage structure had not been pumped down to obtain the required two feet of freeboard. Mr. Heiderscheit observed dead animals on top of the compost pile and leachate flowing downhill from the pile. Mr. Heiderscheit investigated the burn barrel he first saw on September 19, 2008. The burn barrel contained various solid waste including but not limited to tin cans, beverage containers, and plastic bottles.

6. On September 23, 2008, Mr. Heiderscheit and Aaron Pickens, DNR Field Office 6 environmental specialist, conducted another visit to the site. The ditch along 200<sup>th</sup> Street had been pumped; but the earthen manure storage structure had not been pumped down to meet the required two feet of freeboard. The field office personnel noted poor vegetation and weeds on the berm along with trees and woody vegetation on the outer berm. They also noted erosion of the berm and rodent holes with large animal burrows. The field office personnel informed Mr. Klein that the field office would visit the facility every other day until the earthen manure storage structure was pumped down.

7. On September 24, 2008, DNR Field Office 6 issued a Notice of Violation letter to 76 Ltd. for numerous water quality, air solid and solid waste violations discovered during the field office's September inspections at the facility. The letter required 76 Ltd. to take the following actions: 1) ensure compliance with all animal feeding operation regulations; 2) prevent future discharges; 3) notify the DNR within six hours of discovery of a release; 4) immediately pump the earthen manure storage structure to be in compliance with the freeboard requirements; 5) maintain a minimum of two feet of freeboard; 6) ensure land application of manure does not enter a water of the state; 7) by October 21, 2008, hire an engineer to perform an evaluation of the entire operation; 8) by December 15, 2008, submit a copy of that assessment to DNR; 9) submit a letter from the engineer that earthen manure storage structure work has been completed and meets design standards; 10) ensure compliance with the solid waste disposal regulations; 11) ensure that all people involved in the application of manure for the facility are properly certified; and 12) ensure compliance with the open burning and asbestos regulations. The letter also informed the facility that the matter was being reviewed for further enforcement.

8. On September 26, 2008, Mr. Heiderscheit and Russ Royce, DNR Field Office 6 environmental specialist, conducted a follow-up visit at the site. No facility personnel were present at the time of the inspection. The earthen basin storage structure had not been pumped down to meet the two feet of freeboard requirement. The DNR personnel noted the continued problems with the berm including: poor vegetation and weeds, trees and woody vegetation, erosion, and rodent holes. Mr. Heiderscheit and Mr. Royce noted manure solids

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and liquid on the ground between the earthen manure storage structure and the confinement buildings. The release appeared to be caused by a broken pipe. The confinement manure pit was within inches of overflowing. Mr. Heiderscheid left a message at the facility office informing facility personnel of the visit and suggesting the pit and storage structure be pumped immediately. Mr. Klein and Mr. Heiderscheid later discussed the visit's findings via a telephone conversation. Mr. Klein was informed the field office would be making periodic visits to the facility.

9. On October 2, 2008, Mr. Heiderscheid and Bert Noll, DNR Field Office 6 environmental specialist, conducted a follow-up visit to the facility. Mr. Heiderscheid and Mr. Noll inspected the earthen manure storage structure and noted little change since the last visit on September 26, 2008. The earthen manure storage structure did not meet the minimum requirement of two feet of freeboard. The problems with poor vegetation and weeds, trees and woody vegetation, erosion and rodent holes continued with the berm. Mr. Heiderscheid and Mr. Noll noted manure solids and liquids on the ground between the earthen manure storage structure and the confinement buildings. Additionally, they noted a total of three burn barrels at the facility. One of the barrels contained the remains of aerosol cans.

10. On October 7, 2008, Mr. Heiderscheid and Jon Ryk, DNR Field Office 6 environmental specialist, conducted a follow-up visit at the facility. The earthen manure storage structure failed to meet the minimum requirement of two feet of freeboard; however, the earthen manure storage structure was within a few inches of meeting the requirement. The majority of the grass and weeds had been removed around the earthen manure storage structure; however, there was some grass that remained that needed to be removed. Most of the smaller trees had been cut down, but the larger ones remained on the outer berm. The erosion and rodent holes remained and the berm had been damaged by the machinery being used to clear the berm. Most of the manure solids and liquids had been removed from the ground. Mr. Heiderscheid and Mr. Ryk observed bones and carcasses that had not been covered on the compost pile. There was also leachate on the ground. Following the visit, the facility's consultant contacted Mr. Heiderscheid to discuss the evaluation of the facility. On October 10, 2008, DNR personnel took part in a telephone conference call with the facility's consultant to discuss what was needed in the facility assessment.

11. On October 13, 2008, DNR sent 76 Ltd. a letter regarding the October 8 visit. It was noted that the earthen manure storage structure still did not meet the two feet of freeboard requirement, but that it was within a few inches of meeting the requirement. The letter required that the facility continue to pump down the earthen manure storage structure to meet the requirement. 76 Ltd. was once again reminded this matter was being referred for further enforcement.

12. On October 15, 2008, Mr. Heiderscheid and Ryan Stouder, DNR Field Office 6 environmental specialist, returned to the facility to conduct a follow-up visit. There appeared to be no changes since the previous inspection on October 7. The earthen manure

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storage structure still did not meet the 2 feet of freeboard requirement; it was within a few inches of meeting the requirement. The majority of the grass and weeds had been removed around the earthen manure storage structure; however, there was some grass that remained that needed to be removed. Most of the smaller trees had been cut down, but the larger ones remained on the outer berm. The erosion and rodent holes remained and the berm had been damaged by the machinery being used to clear the berm. Most of the manure solids and liquids had been removed from the ground. On October 29, 2008, 76 Ltd. forwarded to DNR Field Office 6 a copy of the Engineering Services Agreement with French Reneker Associates, Inc. for the evaluation of the waste storage system at the facility. On December 15, 2008, French Reneker Associates, Inc. forwarded the evaluation of 76 Ltd. to DNR Field Office 6.

13. On December 15, 2008, DNR Field Office 6 received a letter from the facility's consultant indicating that the burn barrels had been replaced with a commercial dumpster.

14. 76 Ltd. has had previous warnings regarding the condition of the earthen manure storage structure. During an inspection on December 4, 2000, it was noted that there was poor vegetation and weeds on the berm. During an inspection on November 21, 2002, it was noted there was rodent infestation in the berm and cracked piping. During an inspection on October 21, 2005, it was noted that there was poor vegetation and weeds on the berm. Additionally, 76 Ltd. and the DNR entered into Administrative Consent Order No. 2008-AFO-31 on October 2, 2008 to resolve violations concerning the submittal of the facility's updated MMP for 2008. The consent order included a \$2,000.00 penalty. 76 Ltd. submitted the updated MMP and paid the penalty. In addition to the consent order, 76 Ltd. was issued a Notice of Violation letter in August 2007 for failing to timely submit its updated MMP for 2007.

#### 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, including permit and minimum manure control requirements. The Commission has adopted such rules at 567 IAC chapter 65.

2. 567 IAC 65.2(3) states that the minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure 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. On September 19, 2008, DNR Field Office 6 observed that the earthen manure storage structure had no freeboard and that the manure was flowing over the top of the structure to the road ditch located along Elm Avenue. On September 26, 2008 and October 2, 2008 manure solids and liquids were observed on the

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ground between the earthen manure storage structure and the confinement buildings. The above mentioned facts indicate several violations of this provision.

3. 567 IAC 65.2(3)"b" states that manure shall be removed from the control facilities as necessary to prevent overflow or discharge of manure from the facilities. Manure stored in unformed manure storage structures or earthen waste slurry storage basins shall be removed from the structures as necessary to maintain a minimum of two feet of freeboard in the structure. On September 19, 2008, DNR Field Office 6 observed that the earthen manure storage structure had no freeboard and that manure was discharging over the top of the structure to the road ditch located along Elm Avenue. Follow-up visits by DNR Field Office 6 on September 23, September 26, October 2, October 7, and October 15 indicated that the freeboard did not meet the minimum requirement of two feet. As of October 15, 2008, the earthen manure storage structure had been out of compliance with the freeboard requirement for at least 27 days. The above mentioned facts indicate several violations of this provision.

4. 567 IAC 65.2(7) states that all manure removed from an animal feeding operation or its manure control facilities shall be land-applied in a manner which will not cause surface or groundwater pollution. On September 20, 2008, DNR Field Office 6 noted runoff from the land application of manure by spray irrigation entered a field tile that discharged into a ditch to the West Fork of Crooked Creek. The field office confirmed that the manure had reached the creek. The above mentioned facts indicate a violation of this provision.

5. Iowa Code section 455B.186 and 567 IAC 62.1(1) state that a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the Director. On September 20, 2008, DNR Field Office 6 noted runoff from the land application of manure by spray irrigation entered a field tile that discharged into a ditch to the West Fork of Crooked Creek. The field office confirmed that the manure had reached the creek. The above mentioned facts indicate a violation of this provision.

6. 567 IAC 65.3(2)"c" states that spray irrigation equipment shall be operated in a manner and with an application rate and timing that does not cause runoff of the manure onto the property adjoining the property where the spray irrigation equipment is being operated. On September 20, 2008, DNR Field Office 6 noted runoff from the land application of manure by spray irrigation entered a field tile that discharged into a ditch to the West Fork of Crooked Creek. The above mentioned facts indicate a violation of this provision.

7. 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

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animal or plant life. On September 20, 2008, DNR Field Office 6 observed discoloration and sludge in the West Fork of Crooked Creek from the manure discharge caused by 76 Ltd.'s irrigation system. Additionally, laboratory results indicated elevated levels of Ammonia, BOD, TSS, Fecal Coliform, and E. Coli in the West Fork of Crooked Creek due to the manure discharge. The above mentioned facts indicate several violations of the general water quality criteria.

8. Iowa Code section 455B.133 provides that the Commission shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

9. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). Over the course of the visits to 76 Ltd. DNR Field Office 6 observed several burn barrels around the facility indicating that trade waste and other solid waste from the facility was being improperly disposed of and burned. The above facts demonstrate noncompliance with this provision.

10. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-123.

11. 567 IAC 100.4 prohibits a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. Over the course of the visits to 76 Ltd. DNR Field Office 6 observed several burn barrels around the facility indicating that trade waste and other trade waste from the facility was being improperly disposed of and burned. The above facts demonstrate noncompliance with this provision.

12. 567 IAC 105.6(6) states that dead farm animals shall be incorporated into the composting process within 24 hours of death. An adequate base layer with 6 to 12 inches of bulking agent between carcasses and an additional 12 inches of cover material shall be maintained around carcasses at all times. On September 21, 2008, DNR Field Office 6 observed a compost pile that had dead animals on top of the piles and covered with flies. Skeletal remains were observed around the pile and were not completely covered. There was evidence of leachate running off toward a grassy area. A follow-up visit on October 7, 2008 indicated that the carcasses of two small pigs were lying next to the pile and skeletal remains could still be observed. The above mentioned facts indicate violations of this provision.

**V. ORDER**

THEREFORE, the DNR orders and 76 Ltd. agrees to do the following:

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1. 76 Ltd. shall pay an administrative penalty of \$10,000.00 in accordance with the following payment schedule:

\$1,000.00 due April 15, 2009;	\$1,000.00 due September 15, 2009;
\$1,000.00 due May 15, 2009;	\$1,000.00 due October 15, 2009;
\$1,000.00 due June 15, 2009;	\$1,000.00 due November 15, 2009;
\$1,000.00 due July 15, 2009;	\$1,000.00 due December 15, 2009;
\$1,000.00 due August 15, 2009;	\$1,000.00 due January 15, 2010.

If any of the above-mentioned payments are not received in accordance with the schedule the remaining portion of the penalty shall be due immediately.

**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. More serious criminal sanctions are also available pursuant to that provision. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste 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 \$10,000.00. The administrative penalty is determined as follows:

Economic Benefit – 76 Ltd. has saved time and money by delaying the implementation best management practices, including but not limited to: properly pumping the earthen manure storage structure and deep pits, mowing the weeds and grass around the earthen manure storage structure, repairing the rodent holes, repairing erosion damage, and removing trees from around the basin. Additionally, 76 Ltd. gained an economic benefit by burning its trade waste and other solid waste rather than by disposing of it at a landfill. The facility has been in operation for many years, so it is likely that it has been burning its trade waste and other solid waste the entire time. Therefore, \$2,800.00 is being 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 DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. DNR Field Office 6 documented a manure discharge to the West Fork of Crooked Creek that caused water quality violations.

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The facility failed to properly maintain the earthen manure storage structure, which led to an actual manure discharge. Open burning of solid waste results in the release of large amounts of particulates, carbon monoxide, and hydrocarbons. Such open burning may violate ambient air standards. Open burning releases toxins which pollute the air, may pollute groundwater, and pose a risk to human health and the environment. Failing to properly compost the dead animals and by allowing leachate to leave the compost pile creates the potential for a discharge as well as threatens the water quality. Improper disposal of solid waste creates nuisance conditions for surrounding property owners and the potential contamination of soil and groundwater. These violations threaten the integrity of the regulatory programs because compliance with the animal feeding operation, open burning and solid waste regulations is required of all persons in this state. Additionally, DNR Field Office 6 expended a large amount of staff time in visiting the facility to determine the compliance status of the facility. \$2,000.00 is assessed for the violations noted in Section IV, Paragraphs 2 and 3, \$2,000.00 is assessed for the violations noted in Section IV, Paragraphs 4, 5, 6, and 7, \$1,200.00 is assessed for the violations noted in Section IV, Paragraphs 8 and 9; and 1,000.00 is assessed for the violations noted in Section IV, Paragraphs 10, 11, and 12 for a total of \$6,200.00 assessed for this factor.

Culpability – 76 Ltd. has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. 76 Ltd. has previously been warned about the conditions of its earthen manure storage structure. 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 76 Ltd. For that reason 76 Ltd. waives its rights to appeal this administrative consent order or any part thereof.

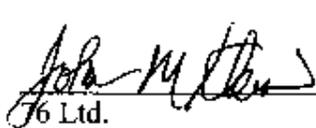
## **VIII. NONCOMPLIANCE**

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 sections 455B.146, 455B.191, and 455B.307.

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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 31 day of  
March, 2009.

   
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76 Ltd.

Dated this 20 day of  
March, 2009.

Facility #59410; Barb Stock (Con 10-6 Washington County); Kelli Book, Mark Heiderscheit  
(DNR Field Office 3), EPA, VLC, VILC.1, VIII.D.1, VIII.D.2.a, and VIII.D.3.a

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