

IOWA DEPARTMENT OF NATURAL RESOURCES
CONSENT AMENDMENT TO ADMINISTRATIVE ORDER 1999-FP-01
ISSUED TO: GERALD VENS, JUDITH VENS AND GERALD D. VENS TRUST

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:

GERALD VENS

CONSENT AMENDMENT TO
ADMINISTRATIVE ORDER
NO 1999-FP-01-A1

To: Gerald, Vens, Judith Vens and Gerald D. Vens Trust
27901 Allens Grove Road
Dixon, IA. 52745

Administrative Order No. 1999-FP-01 was issued to Gerald Vens, Judith Vens and Gerald D. Vens Trust on March 31, 1999, and was timely appealed. In an effort to avoid litigation, the parties have agreed to the following:

1. Section III. STATEMENT OF FACTS is amended to add paragraph 4 as follows:

4. On July 10, 2007, Department staff conducted another survey of the levee profile on the Vens property, approximately similar to the 1998 survey. It was determined that the levees have not changed since 1998 except for a 0.3 foot lowering in many areas, apparently due to consolidation.

2. Section V. ORDER is amended to replace paragraphs 1 and 2 as follows:

THEREFORE, Gerald Vens, Judith Vens and Gerald D. Vens Trust are hereby ordered to refrain from raising, repairing or modifying the stream banks along both sides of Mud Creek in any manner that results in a top profile elevation higher than the elevations depicted on the Department's May 12, 1998 and July 10, 2007 surveys. In the event of differing elevations between the two surveys the lower elevation shall apply. A document depicting the May 12, 1998 and July 10, 2007 surveys is attached to this Order and is incorporated by this reference.

3. Section VI. PENALTY is replaced with the following:

1. Iowa Code subsection 455B.279(2) authorizes the assessment of civil penalties of up to \$500.00 per day per violation of flood plain laws, rules or permits.

2. Iowa Code section 455B.109 authorizes the Environmental Protection 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

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assessment of penalties; 567 IAC Chapter 10. However, in view of the requirements in this Order, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order without a penalty.

4. Section VII. APPEAL RIGHTS is replaced with the following:

This Consent Amendment to Administrative Order No. 1999-FP-01 is entered into knowingly and with the consent of Gerald Vens, Judith Vens and Gerald D. Vens Trust. For this reason, Gerald Vens, Judith Vens and Gerald D. Vens Trust waive the right to appeal this Consent Amendment to Administrative Order No. 1999-FP-01.

5. Section IX. DISMISSAL OF APPEAL is added, as follows:

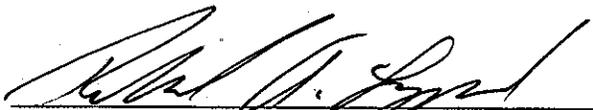
By signing this Consent Amendment to Administrative Order No. 1999-FP-01 Gerald Vens, Judith Vens and Gerald D. Vens Trust dismisses the appeal of Administrative Order No. 1999-FP-01 filed by Gerald Vens, Judith Vens and Gerald D. Vens Trust on April 26, 1999.

6. This Consent Amendment shall not be construed as a release or waiver of the responsibility of Gerald Vens, Judith Vens and Gerald D. Vens Trust to comply with applicable statutes and rules or as a release of liability for undiscovered violations or violations occurring after the date this consent amendment is signed by the director of DNR.

7. In all other respects, Administrative Order No. 1999-FP-01 remains in full force and effect.

Any questions regarding this Consent Amendment should be directed to:

Randy Clark
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, Iowa 50319-0034
515/281-8891


RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 23 day of
March, 2010

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CONSENT AMENDMENT TO ADMINISTRATIVE ORDER 1999-FP-01
ISSUED TO: GERALD VENS, JUDITH VENS AND GERALD D. VENS TRUST

Gerald Vens
GERALD VENS

Dated this 17th day of
MARCH, 2010.

Judith Vens
JUDITH VENS

Dated this 17th day of
MARCH, 2010.

Gerald D. Vens, TRUSTEE
GERALD D. VENS TRUST

Dated this 17th day of
MARCH, 2010.

Field Office 6; Randy Clark; Dennis Ostwinkle; III.A.1