

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:
Dan Muller
Section 36, Lotts Creek Township
Kossuth County, Iowa
Facility #60185

ADMINISTRATIVE CONSENT ORDER
NO. 2010-AFO- 12

TO: Dan Muller
506 230th Street
Whittemore, Iowa 50598

VIOLATION: 567 Iowa Administrative Code (IAC) 65.16(3) and 65.17(1)"d". You failed to submit a complete manure management plan (MMP) update with an Iowa Phosphorus Index to the DNR, to the board of supervisors of the county where your confinement feeding operation is located, and to the board of supervisors of each county where manure from your confinement feeding operation is land-applied, by October 1, 2009. You also failed to submit your annual compliance fee of \$0.15 per animal unit capacity at your animal feeding operation by that date. You were sent a notice of the requirements on May 12, 2009. On October 14, 2009, you were issued a Notice of Violation letter for failing to submit a complete MMP update with an Iowa Phosphorus Index and compliance fee by October 1, 2009. On December 3, 2009, you were sent a Notice of Referral letter.

ORDER: You shall submit a complete MMP update with an Iowa Phosphorus Index and compliance fee within 30 days of the date the Director signs this administrative consent order. In addition, a penalty of \$1,000.00 is being assessed and shall be paid to the Director within 30 days of the date the Director signs this administrative consent order. \$750.00 of this amount is based on the gravity of the violation; considering the size of this facility, agency costs in addressing this violation, the importance of the animal feeding operation program, and the threat to the integrity of the animal feeding operation program. \$250.00 of this amount is for culpability; the MMP requirements have been widely publicized in the industry, ample time for compliance was allowed, and you were sent notices of the requirements by the DNR.

AUTHORITY: Iowa Code §455B.109; §459.312; §459.601; §459.603; 567 IAC 10.3; 567 IAC 65.16(3); 567 IAC 65.17(1)"d".

APPEAL: This administrative consent order is entered into knowingly and with the consent of Dan Muller. For that reason, Dan Muller waives the right to appeal this administrative consent order.

NONCOMPLIANCE: If you fail to comply with this administrative consent order you may be subject to further penalties pursuant to Iowa Code §455B.109 or penalties and injunction pursuant to Iowa Code §455B.191 and §459.603.



DAN MULLER


RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

502 East Ninth Street; Wallace State Office Building, Des Moines, Iowa 50319

Dated this 17 day of
March, 2010
Dated this 23 day of
March, 2010