

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER

<b>IN THE MATTER OF:</b> Kevin Montgomery Section 35, Deep Creek Township Clinton County, Iowa Facility #58999	<b>ADMINISTRATIVE CONSENT ORDER</b> NO. 2010-AFO-23
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**TO:** Kevin Montgomery  
3815 Highway 136  
Bryant, Iowa 52727

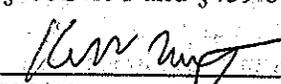
**VIOLATION:** 567 Iowa Administrative Code (IAC) 65.16(3) and 65.17(1). You failed to submit a complete manure management plan (MMP) update with an Iowa Phosphorus Index to the DNR, to the board of supervisors of the county where your confinement feeding operation is located, and to the board of supervisors of each county where manure from your confinement feeding operation is land-applied, by September 1, 2009. You were sent a notice of the requirements on April 27, 2009. On August 26, 2009, you submitted a MMP short form and annual compliance fees to DNR Field Office 6. This submittal did not include a Phosphorus Index. On September 3, 2009, you were sent a letter indicating that your MMP was incomplete and you had 10 days to submit the Phosphorus Index in order to avoid further enforcement. On October 7, 2009, you were sent a Notice of Referral letter indicating the matter was being referred because the MMP did not include a Phosphorus Index. To date the Phosphorus Index has not been submitted.

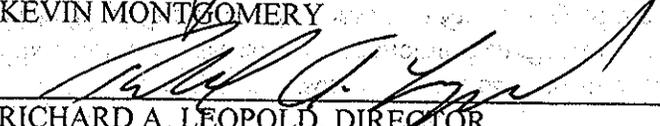
**ORDER:** You shall submit the complete MMP update with a Phosphorus Index to DNR Field Office 6 within 30 days of the date the Director signs this administrative consent order. In addition, a penalty of \$2,000.00 is being assessed and shall be paid in accordance with the attached payment plan. \$300.00 of this amount is assessed for economic benefit from delayed payment of fees and delayed preparation costs. \$700.00 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. \$1,200.00 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 a notice 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)

**APPEAL:** This administrative consent order is entered into knowingly and with the consent of Kevin Montgomery. For that reason, Kevin Montgomery 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.

  
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KEVIN MONTGOMERY

  
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RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

502 East Ninth Street; Wallace State Office Building, Des Moines, Iowa 50319  
#58999; Field Office 6; Kelli Book; Gene Tinker; EPA VIII.C 2

Dated this 30 day of  
APRIL, 2010

Dated this 5 day of  
May, 2010