

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:  
Derner's of Milford, Inc.  
Section 13, Okoboji Township  
Dickinson, Iowa  
Facility #60715

ADMINISTRATIVE CONSENT ORDER  
NO. 2010-AFO-39

RECEIVED

JUL 23 2010

Director's Office

TO: Jon Derner, President  
Derner's of Milford, Inc.  
2351 213<sup>th</sup> Avenue  
Milford, Iowa 51351

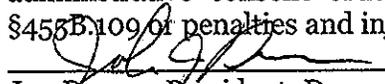
**VIOLATION:** 567 Iowa Administrative Code (IAC) 65.104(9)"e". Derner's of Milford, Inc. (Derner's) owns and operates an animal feeding operation at Sec. 13 T 98 NR 37 W, Okoboji Township, Dickinson County. ~~Derner's failed to timely submit reports to the DNR pursuant to the requirements of its NPDES Permit.~~ On October 9, 2000, the DNR issued NPDES permit #30-00-0-01 to Derner's. On August 14, 2008, a Notice of Violation (NOV) was issued to Derner's for failure to submit several quarterly reports including the most recent report due on July 10, 2008. On January 26, 2009, Derner's was issued a NOV for failing to submit the annual report that was due January 10, 2009. On October 14, 2009, the DNR issued NPDES Permit #2-30-00-0-01 to Derner's. ~~On January 22, 2010, Derner's was issued a NOV for failing to submit the annual report that was due January 10, 2010. The letter indicated that the matter was being referred for further enforcement.~~

**ORDER:** If Derner's has not already done so, it shall submit the complete annual report that was due January 10, 2010, to DNR Field Office 3 within 30 days of the date the Director signs this administrative consent order. In addition, a penalty of \$3,000.00 is being assessed and shall be paid to the Director at the address below within 30 days of the date the Director signs this administrative consent order. \$200.00 of this amount is based on the economic benefit from the violation; Derner's has been able to avoid and delay the costs associated with the recordkeeping and reporting. \$1,400.00 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. \$1,400.00 of this amount is for culpability. An owner and operator of an animal feeding operation is obligated to be aware of regulations concerning the monitoring and reporting requirements of the NPDES Permit. Derner's has been issued numerous NOV's for failing to timely submit reports required by its NPDES permit.

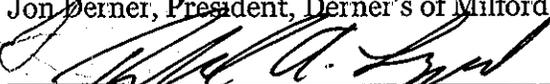
**AUTHORITY:** Iowa Code §455B.109; §459A.104; §459A.502; 567 IAC 10.3; 567 IAC 65.104(9)"e".

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

**NONCOMPLIANCE:** Compliance with the terms of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. 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 §459A.502.

  
\_\_\_\_\_  
Jon Derner, President, Derner's of Milford, Inc.

Dated this 20 day of  
July, 2010

  
\_\_\_\_\_  
RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 27 day of  
July, 2010

502 East Ninth Street; Wallace State Office Building, Des Moines, Iowa 50319  
#63263 Field Office 3; Carrie Schoenebaum; EPA; I.B.2.a