

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

IN THE MATTER OF:

**HAND NUTRIENTS
MANAGEMENT, L.L.C.**

Hardin County Iowa
CMS #1404CMS

ADMINISTRATIVE CONSENT ORDER
NO. 2025-AFO-09

TO: Hand Nutrients Management, L.L.C.
Tony Hand, Registered Agent and Commercial Manure Service Manager
27646 Hwy 175
Eldora, Iowa 50627

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Hand Nutrients Management, L.L.C. (Hand Nutrients) for the purpose of resolving a water quality violation resulting from a manure release during the transportation of manure in Hardin County. This administrative consent order requires Hand Nutrients to: 1) develop and implement a Standard Operating Procedure for employee training regarding transportation and 2) pay a \$2,500.00 administrative penalty.

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Sheila Bly, Field Office 2
Iowa Department of Natural Resources
2300 15th St SW
Mason City, Iowa 50401
Phone: 641/424-4073

Relating to legal requirements:

Kelli Book, Attorney for the DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste 200
Des Moines, Iowa 50321
Phone: 515/210-3408

Payment of penalty to:

Director of the Iowa DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste 200
Des Moines, Iowa 50321

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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 and the rules adopted or permits issued pursuant thereto; 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. Hand Nutrients is a certified manure service and Tony Hand is the commercial manure service manager for Hand Nutrients. In October 2024, Hand Nutrients was hired to apply liquid manure from a confinement feeding operation located in Hardin County.

2. On October 21, 2024, DNR Field Office 2 received a telephone call from Thomas Craighton, the Hardin County Emergency Management Coordinator. Mr. Craighton stated he was on his way to the scene of a manure tanker rollover located one mile east of Buckeye, Iowa. DNR Field Office 2 also received a telephone call from Mr. Hand. He stated that one of Hand Nutrients' drivers lost control of the manure tanker. The tanker flipped and approximately 7,000 gallons of manure spilled into the south road ditch of 195th Street, east of Buckeye. Mr. Hand stated that the manure flowed through a culvert under the road and then into a small creek that leads to a pond. Mr. Hand stated that Hand Nutrients was pumping the manure from the north side of the culvert and had dammed the creek to contain the manure. He stated that the company would flush the area with clean water, pump the creek out, and land apply the contaminated water.

3. Sheila Bly, DNR Field Office 2 environmental specialist senior and Brandon Flugum, DNR Field Office 2 environmental specialist, responded to the manure release. When they arrived on site, the tractor and tanker had been removed from the roadway. They noted manure in the south road ditch. Manure was also pooled in the area of the 195th Street culvert. Wood chips were being used to absorb the manure and a skid loader was scraping up the wood chips and contaminated soil, which was then being land applied.

4. The field office personnel proceeded to the creek area. The creek was shallow. The staff on-site explained that the pond was also very shallow. The pond had an outlet structure to another pond before an overflow to an unnamed tributary of the South Fork of the Iowa River. However, due to the dry conditions, the first pond had not reached the outlet level to the second pond at the time of the visit. Two dams had been constructed prior to the pond. The water upstream of the dams was very dark, murky, and had a manure odor. The water between the two dams was less

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turbid, but still murky. The water in the creek downstream of the dams was clearer, with a greenish tint, and no noticeable odor. The field office personnel conducted field tests and collected laboratory samples of the impacted areas. The results are summarized below:

Sample Location	Field Test - Ammonia Concentration (mg/L)	Laboratory Sample - Ammonia Concentration (mg/L)	Laboratory Sample - Biochemical Oxygen Demand (BOD5) (mg/L)
Downstream of both dams	0.2	0.14	62
Between the dams	>3.0	6.8	62
Between discharge point and first dam	not tested	450	3400

5. Hand Nutrients continued to flush the area with clean water and remove the water and manure from the creek. The field office personnel instructed Hand Nutrients to continue flushing and pumping until the manure was out of the creek. Hand Nutrients was informed that since the manure reached the creek the matter would be referred for further enforcement. Hand Nutrients provided an update to the field office on October 25, 2024. They estimated they had pumped three feet of water from the pond and the ammonia levels were coming down. The field office instructed them to continue clean up efforts until the ammonia levels were below 2.0 mg/L.

6. On November 5, 2024, Hand Nutrients submitted the written spill report. The report indicated they hauled approximately 162,000 gallons of contaminated water from the creek and land applied it to the nearby field. They continued pumping water from the creek and estimated that 300,000 gallons were applied into the wooded area near the pond.

7. On November 5, 2024, DNR issued a Notice of Violation letter to Hand Nutrients for the October violations. The letter informed the company that the matter was being referred for further enforcement.

8. Hand Nutrients reported manure releases in November 2014, October 2021, and December 2021. The 2021 releases did not reach a water of the state while the 2014 release did reach a water of the state. In December 2014, Hand Nutrients was issued a Notice of Violation letter for the November 2014 manure release.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.173 provides that the Environmental Protection Commission (Commission) shall adopt rules related to water quality standards, pretreatment standards, and effluent standards. The Commission has adopted such rules at 567 IAC chapters 61 and 62.
2. 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 animal or plant life. During the October 2024 investigation, DNR Field Office 2 noted that a manure release from the accident entered a creek causing turbid water, a manure odor, and elevated pollutant levels. The above-mentioned facts indicate violations of the general water quality criteria.
3. 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.
4. 567 IAC 65.100(1) states that the minimum level of control for a confinement feeding operation shall be the retention of all wastes between periods of 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. During the October 2024 investigation, DNR Field Office 2 noted that a manure release from the accident entered a creek. The above-mentioned facts indicate a violation of this provision.
5. 567 IAC 65.100(5) states that all manure removed from an animal feeding operation shall be land applied in a manner that will not cause surface or groundwater pollution. During the October 2024 investigation, DNR Field Office 2 noted that a manure release from the accident entered a creek. The above-mentioned facts indicate a violation of this provision.
6. DNR has determined that there is no likelihood that the violations identified in this administrative consent order will recur if Hand Nutrients complies with the provisions listed in Paragraph 1, Section V Order of this administrative consent order.

V. ORDER

THEREFORE, the DNR orders and Hand Nutrients agrees to do the following:

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1. Develop and submit a Standard Operating Procedure for manure application, including but not limited to employee transportation training. The plan shall be submitted to DNR Field Office 2 within 30 days of the date the Director signs this administrative consent order and implemented immediately upon approval by DNR Field Office 2; and
2. Pay an administrative penalty in the amount of \$2,500.00 within 30 days of the date the Director signs this administrative consent order.

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.

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 \$2,500.00. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.30(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.30(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.” The manure release occurred as a result of a transportation accident and Hand Nutrients took immediate actions to minimize any impact on the creek and pond. Based on the above facts, no economic benefit 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. The manure release from the transportation accident resulted in the degradation of water quality. The manure containment requirements are integral

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parts of the animal feeding operation programs and violations of the regulations threaten the integrity of the animal feeding operation regulations. Based on the information above, \$2,000.00 is assessed for this factor.

Culpability – Hand Nutrients has a duty to know the regulations and to be aware that its actions are subject to the regulations. Hand Nutrients took immediate actions to minimize the impact on the creek; however, Hand Nutrients has a responsibility to ensure that all its applicators are proficient in their operation of the application equipment. Based on the information above, \$500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Hand Nutrients. For that reason, Hand Nutrients waive the right 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 section 455B.191.

KAYLA LYON, DIRECTOR
Iowa Department of Natural Resources

Hand Nutrients Mgmt. LLC
Hand Nutrients Management, L.L.C.

Dated this 18th day of
Feb., 2025.