

IN THE IOWA DISTRICT COURT FOR HANCOCK COUNTY

STATE OF IOWA, ex rel., IOWA)
DEPARTMENT OF NATURAL)
RESOURCES (99AG23542),)
)
Plaintiff,)
)
vs.)
)
MONROE BRANSTAD,)
)
Defendant.)

LAW NO. CUCV018810

CONSENT ORDER,
JUDGMENT AND DECREE

2010 MAY 11 PM 1:59
CLERK OF DISTRICT COURT
FOR HANCOCK COUNTY

FILED

NOW on this 11 day of May, 2010, the Court is presented with the Plaintiff's Petition at Law seeking civil penalties and injunctive relief pursuant to Iowa Code section 455B.191(5), and collection of an unpaid administrative penalty pursuant to Iowa Code section 455B.109(4). The Court having read the Petition and being otherwise advised by the parties FINDS:

1. The Court has jurisdiction of the parties and subject matter of this action and the parties consent to the entry of this Consent Order, Judgment and Decree.
2. The defendant admits that on August 28-29, 2008, sweet corn silage leachate, a pollutant, discharged from a containment basin on his farm operation into the Winnebago River in violation of Iowa Code section 455B.186(1). The defendant states that the acts or omissions giving rise to the violations were not knowingly committed in violation of the law, and expressly states that any violations were unintentional. Defendant further states that with the exception of payment of the overdue administrative penalty and accrued interest, he enters into this Consent Order, Judgment and Decree to avoid the expense of proceeding to trial.

3. The defendant states that he had constructed the containment basin on his farm to collect silage leachate runoff; that he has worked in a cooperative manner with the State of Iowa to resolve these issues; and that he has submitted a Construction Permit application to the Iowa Department of Natural Resources (DNR) for the construction of additional runoff control structures and has completed construction of those additional runoff control structures.

4. Defendant denies that the discharges admitted herein caused the death of fish in the Winnebago River. Defendant further reserves the right to contest any claim for damages brought by the DNR, pursuant to Iowa Code section 481A.151 and 571 Iowa Admin. Code chapter 113, arising from the discharges admitted herein.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Defendant Monroe Branstad shall pay a civil penalty of Ten Thousand Two Hundred Five and no/100 Dollars (\$10,205.00) for the violations alleged in the Petition and admitted herein, within ten (10) days of the entry of this Consent Order, Judgment and Decree. The defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payment of the civil penalty and any interest shall be made payable to the State of Iowa.

2. Defendant Monroe Branstad shall pay the administrative penalty assessed by Administrative No. 2007-AQ-07, and accrued interest, in the amount of Six Thousand Seven Hundred Ninety-five and no/100 Dollars (\$6,795.00).

3. Defendant Monroe Branstad is permanently enjoined from further violations of Iowa Code section 455B.186(1), and 567 Iowa Admin. Code 61.3(2)“b”, 61.3(2)“d” and 69.1(3)“b”.

4. The Court retains jurisdiction of this matter to ensure compliance with the terms of this Order.

5. The costs of this action are taxed to the defendant in the amount of \$ 185.⁰⁰

(Clerk to enter).

Wendell Weiland
JUDGE, Second Judicial District of Iowa

Approved as to form:

IOWA DEPARTMENT OF NATURAL
RESOURCES

[Signature]
Deputy to
RICHARD A. LEOPOLD, Director

[Signature]
MONROE BRANSTAD, Defendant

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