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MADISON COUNTY
SOIL CONSERVATION DISTRICT
WINTERSET, IOWA 50273

Compared ✓

ADMINISTRATIVE ORDER

FILED NO. 1024
BOOK 34 PAGE 32
1982 FEB -1 AM 10:30
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee $9.00

February 1, 1982

Mr. James A. Van Gundy
Truro, Iowa 50257

Dear Mr. Van Gundy:

The commissioners of the Madison County Soil Conservation District do hereby find that soil erosion is occurring on lands you own or occupy in excess of the District's Soil loss limits and, pursuant to section 467A.47, Iowa Code, do hereby order you to take the actions specified below in order to comply with District Soil loss limitations.

I. FINDINGS

1. The property in question is described as:
The Northwest 1/4 of the Southeast 1/4 of Section 25, in Township 75 North, Range 26 West.

A map of your involved lands is attached.

2. The landowners of record are Kenneth M. Mallas and James A. Van Gundy.

3. The property described in paragraph 1 is being used for agricultural or horticultural purposes.

4. A written and signed complaint has been filed with the Madison County Soil Conservation District Commissioners by Ralph Lawrence stating that sediment damages are being sustained on adjoining property, which he farms and occupies, as a result of sediment originating from soil erosion occurring on your land described in paragraph 1 at rates in excess of limits established by the district's soil erosion control regulations.

5. The commissioners of the District inspected the properties on December 7, 1981.

6. Such inspection revealed, and the Commissioners so find, that sediment damage is occurring to property of the complainant and that excessive soil erosion is occurring on the property described in paragraph 1.

7. Said erosion exceeds the applicable soil loss limit of 5 tons for (MbA & MbB) Macksburg soils and 5 tons for (CoC) Clearfield soils, per acre per year average by the amounts indicated on IA. WS-5, attached hereto and by this reference made a part hereof.

8. Work needed to establish erosion control measures must be commenced by March 15, 1982, and such work must be completed by September 15, 1982.

9. Such work shall be deemed commenced when an application for public or cost-sharing funds has been submitted to the Madison County Soil Conservation District.

10. Funds representing seventy-five percent (75%) of the cost of the more expensive soil conservation practice will be made available to you upon proper application and approval before commencement of actual work.

II. CONCLUSIONS

1. Sections 467A.43 and 467A.44(3),Iowa Code, require the owners of real property to establish and maintain soil and water conservation practices or erosion control practices as required by soil conservation district regulations.

2. Having found that sediment damages are occurring to property owned or occupied by the complainant and that soil erosion is occurring on your property in excess of the district's soil erosion control regulations, the commissioners have determined that an administrative order shall be issued pursuant to section 467.47, Iowa Code.

3. Section 467.47(2), Iowa Code, requires that the commissioners state a time not more than six months after service or mailing of this order for commencement of the needed work and a time not more than one year for satisfactory completion.

   Submission of an application for cost-sharing funds on the attached form to the District shall constitute commencement of the work. When such application is approved, a supplementary order shall be issued pursuant to section 467A.48, Iowa Code.

4. Section 467A.44(3)(b), Iowa Code, allows the commissioners to specify two or more approved erosion control practices, one of which shall be employed by the landowner to bring erosion from the land within the applicable soil loss limit.

5. The applicable soil loss limit is 5 tons (MbA-MbB) Macksburg soils, and 5 tons (CoC) Clearfield soils, per acre per year average soil loss as established by district regulations. See attached maps for location of soil types.

6. The District recommends that you utilize one of the erosion control practices listed below. However, you may seek approval of an alternative practice by submitting a written request to the District Office at P.O. Box 347, Winterset, Iowa 50273.

7. Should you fail to comply with this Order, the District Commissioners will request the Iowa Attorney General to petition for a court order compelling immediate compliance. Such action will be brought if the work is not commenced by the date specified (absent statutory good cause), or if such work is not being performed with due diligence, or if the work is not satisfactorily completed by the date specified for completion, or if the work does not reduce soil erosion from such land below the limits specified above.

   THEREFORE, you are hereby ordered to establish permanent erosion control practices as indicated on the attached document labeled Alternative Practices.

You are ordered to commence the work necessary by March 15, 1982. Submission of an application for cost-share funds described above should be made to Madison County Soil Conservation District, P.O. Box 347, Winterset, Iowa 50273. Submission of such application will be regarded as commencement of this work.

The district commissioners stand ready to assist you in any way possible to plan and install the needed erosion control practices within the time limits prescribed.

Sincerely,

MADISON COUNTY SOIL CONSERVATION
DISTRICT COMMISSIONERS

BY _____
Cyrus B. McDonald, Chairman

Dated: February 1, 1982

Attachments:
1. Maps of involved property (2)
2. Form WS-5
   Watershed Land Treatment Analysis
3. Alternative Practices
4. Application blank for cost-sharing assistance

cc: Kenneth M. Mallas
Mike McKenna, Farm Manager for Paul D. Dunlap
Ken Bruene, Dept. of Soil Conservation
Mr. Ralph Lawrence
Mary Welty, Madison County Recorder