

COMPLAINT RECORD

FACILITY:

FILE: JOHANSON CO. OPEN BURIAL
DATE
PENDING X COMPLETED

DATE COMPLAINT IS RECEIVED:

3/20/12

COMPLAINT No.

3/12-28

RECEIVED BY: STAFF INITIALS

KL

FIELD OFFICE No.

6

OR CENTRAL OFFICE

COMPLAINANT:

NAME:

anonymous

PHONE:

ADDRESS:

COUNTY:

CITY:

ZIP CODE:

COMPLAINT AGAINST:

NAME:

Iowa City Excavating & Grading

PHONE:

319.351.6605

ADDRESS:

717 E. 2nd Ave, #1

COUNTY:

Johnson

CITY:

Iowa City COIARVILLE

ZIP CODE:

52241

PROGRAM AREA:

☐ WASTEWATER

☐ WATER SUPPLY

☒ AIR QUALITY

☐ ANIMAL OPERATION (OPEN LOT)

☐ FLOODPLAIN

☐ LUST/UST

☐ STORMWATER

☐ ANIMAL OPERATION (CONFINEMENT)

☒ SOLID WASTE

STATEMENT OF COMPLAINT:

metro parent = General Contractor / Iowa City Excavating & Grading is the contractor doing the work

Building a bike trail for Johnson County - hauling ~300 trees from ~2.5 acres of grubbed out areas, hauling tree debris south to the Tiffin Industrial Park where they're burning it.

REFERRED TO:

Jim K.

BY:

James

DATE:

3/22/12

IF COMPLAINT IS AFO RELATED:

COUNTY OFFICIAL CONTACTED:

DATE:

PHONE:

ACTION/RESOLUTION AND DATES:

INVESTIGATED ON 3-27-12 AND 3-30-12.

REFER TO THE ATTACHED MEMO AND NOV.

NO FURTHER ACTION.



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
ROGER L. LANDE, DIRECTOR

April 2, 2012

Iowa City Excavating & Grading
Attn: Shannon Siems, Director
717 E. 2nd Avenue
Coralville, IA 52241

RE: NOTICE OF VIOLATION, Complaint No. 3/12-28
Open Burning of Combustible Materials, 567 IAC 23.2(455B)
Improper Solid Waste Disposal, 455B.307, Iowa Code, and 567 Iowa Administrative Code 100.4(455B)

Dear Mr. Siems:

On March 20, 2012, our office received a report alleging that Iowa City Excavating was open burning trees at the Tiffin industrial park that originated from a bike trail project in Johnson County. On March 30, 2012, I took photos of open burning debris on property belonging to Iowa City Excavating at the Tiffin industrial park. Also on that day, I spoke with you at your office and showed you a photo provided to DNR by a Johnson County Supervisor showing open burning being conducted on this property. You stated that some trees had been burned at the site the previous week.

Summary of Violation:

Open Burning

The open burning regulation is summarized below:

- Rule 567 IAC 23.2 states, "No person shall allow, cause or permit open burning of combustible materials except as provided in subrules 567 IAC 23.2(2) and 567 IAC 23.2(3)." Exemptions listed in subrule 567 IAC 23.2(3) include trees and tree trimmings, landscape waste, various residential wastes, recreational cooking and heating fires etc. It is a violation to burn material not specifically exempted in the rules.

None of the exemptions listed in the regulation are applicable to the trees burned at the site since they did not originate on the site where they were burned.

Open Dumping of Solid Waste

The open dumping regulation is summarized below:

- Section 455B.307, Code of Iowa and Rule 567 IAC 100.4(455B) (enclosed) prohibit private or public agencies from dumping or depositing or permitting the dumping or depositing of any solid waste at any place other than a permitted sanitary disposal project.
- Section 455B.301, Code of Iowa defines "solid waste" as garbage, refuse, rubbish, and other similar discarded solid or semisolid materials. However, the section does not prohibit the use of dirt, stone, brick or similar inorganic material (rubble) for fill, landscaping, excavation or grading at places other than a sanitary disposal project.

Burn debris meeting the Iowa Code definition of solid waste was observed on the property where the trees were open burned. This waste must be disposed of at a permitted sanitary disposal project.

Further violations of these regulations may result in referral to DNR's Legal Services Bureau in Des Moines for appropriate administrative or judicial action, which could include monetary penalties.

Copies of the open burning and open dumping rules are attached to this letter. If you have any questions or would like further explanation of the regulations or of any part of this letter, please contact me at 319-653-2135 or jim.kacer@dnr.iowa.gov.

Sincerely,
FIELD SERVICES & COMPLIANCE BUREAU



Jim Kacer
Environmental Specialist

Encl. Open Dump & Open Burn Rules

JLK:j:\fo6\shared\jkacer\complaints\2012\3 12-28 ic excavating\ic exc 3 12-28 nov.doc

xc: Becky Jolly, DNR Solid Waste Section - (electronic mail)
File – Johnson County Open Dump
File – Johnson County Open Burn

MEMO

DATE: April 2, 2012

TO: File - Complaint No. 3/12-28 - Johnson County Open Dump/Open Burn

FROM: Jim Kacer, Environmental Specialist JK

RE: Investigation of Complaint No. 3/12-28, Iowa City Excavating Open Dumping/Open Burning

On March 27, 2012, I investigated complaint number 3/12-28 in Tiffin, Iowa. The complainant alleged that Iowa City Excavating & Grading was hauling 300 trees from the Johnson County bike trail project to the Tiffin Industrial Park and burning them. After unsuccessfully trying to find the burn site, I went to the Iowa City Excavating office at 717 E 2nd Avenue in Coralville and spoke to Shannon Siems, Director for the company. He said they hadn't burned landscape waste but had piled wood on their property and would be cutting it up for firewood. He stated that he believed the complaint had been reported by a competitor who bid unsuccessfully for this project. I provided him with a copy of the open burning and open dumping regulations and briefly explained them to him. I then left the Iowa City Excavating office.

Aerial Photo Source: <http://gis.johnson-county.com/PIV/>, accessed 4/2/2012



On Thursday, March 29, 2012, Dennis Ostwinkle forwarded photos to me that had been provided by a Johnson County Supervisor, showing landscape waste being burned (photo below). An Iowa City Excavating pickup was visible in the photo.



On March 30, 2012, I located the area where the photo had been taken, and took photos, several of which are included below.

I then went to the Iowa City Excavating office and again spoke with Mr. Siems. I showed him the photo of the burning and he stated that they had burned some landscape waste the previous week. We again discussed the open burning and open dumping regulations. I told him that we would be sending an NOV to Iowa City Excavating, and that if we document further violations of these regulations, we may refer the matter to our legal services section. I told him he could view the file on this complaint if he came to our field office. I left his office

and returned to the field office. Soon after I arrived at Field Office 6, Mr. Siems also arrived, asking to look at the complaint file. I told him I had not written the memo yet, but let him look at the complaint form. He then left the field office.



Pile of burn debris on property owned by Iowa City Excavating on West Greenfield Drive in Tiffin, looking toward the SE.



Closeup of the same pile shown in the previous photo.



Pile of logs on property owned by Iowa City Excavating on West Greenfield Drive in Tiffin, looking toward the SW.