IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
BERTCH CABINET MFG., INC.	NO. 2016-AQ-02

To: Bertch Cabinet Mfg., Inc.
Gary M. Bertch
President
4747 Crestwood Dr.
P.O. Box 2280
Waterloo, Iowa 50702

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Bertch Cabinet Mfg., Inc., (Bertch Cabinet) for the purpose of resolving air quality permit violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Ann Seda
Iowa Department of Natural Resources
Air Quality Bureau
7900 Hickman Road
Windsor Heights, Iowa 50324
Phone: 515-725-9565

Relating to legal requirements:
Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515-725-9551

Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or

permits issued pursuant to that part; 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. Bertch Cabinet has a facility located at 4747 Crestwood Drive, in Waterloo, Iowa (Facility No. 07-01-063). The facility manufactures wooden cabinets, vanities, doors and furniture. The facility conducts surface coating and woodworking operations. Sources of emissions to the outside atmosphere at the facility include wood-fired boilers, paint booths, and woodworking operations.

2. Bertch Cabinet failed to construct or implement stack changes within the time period specified in fifteen Air Quality Construction Permits issued by DNR on April 28, 2015, as part of Air Quality Construction Permit Project No. 14-468. Section 11 of each of these permits required that the changes required by the permits be completed by no later than February 15, 2016. As a result of Bertch Cabinet's failure to timely construct or implement the stack changes required by the construction permits, the construction permits have become void.

3. The changes required by the permits issued on April 28, 2015, are necessary because Bertch Cabinet currently is not able to demonstrate that PM_{10} emissions from its facility would not cause or contribute to an exceedance of the PM_{10} 24-hour National Ambient Air Quality Standard.

4. On February 25, 1993, DNR issued Air Quality Construction Permit No. 88-A-223-S1 to Bertch Cabinet for Emission Point (EP) TIM-001, which is a wood-fired boiler. Permit No. 88-A-223-S1 required the stack height of EP TIM-001 to be a minimum of 70 feet. Air Quality Construction Permit No. 88-A-223-S2 was issued on September 8, 1994, and required the stack height for EP TIM-001 to be at least 75 feet. Permit Nos. 88-A-223-S3 and 88-A-223-S4, issued on September 16, 2006, and February 26, 2009, also required the stack height for EP TIM-001 to be at least 75 feet.

5. However, the stack height of this emission point is 29 feet, rather than the required 75 feet. On December 12, 2014, Bertch Cabinet submitted air quality construction permit applications to DNR for the purpose of clarifying the capacity of EP TIM-001. Information included with this permit application stated that the stack height was 29 feet.

6. As a result of the stack height issues, facility-wide air quality dispersion modeling was conducted by DNR in March 2015. The modeling indicated that the Waterloo facility was within one Significant Impact Level (SIL) of the PM_{10} National Ambient Air Quality Standard. DNR determined that

changes to the facility would have to be made to ensure that the facility's emissions would not exceed the PM_{10} 24-hour National Ambient Air Quality Standard. Therefore, Bertch Cabinet applied for permits for fifteen emission points at the Waterloo facility. Construction Permit Nos. 01-A-046-S2, 01-A-047-S2, 01-A-048-S2, 01-A-049-S2, 01-A-050-S2, 02-A-439-S2, 02-A-440-S2, 02-A-441-S2, 02-A-442-S2, 92-A-007-S2, 92-A-008-S2, 92-A-009-S2, 92-A-010-S2, 92-A-021-S2, and 93-A-073-S3 were issued on April 28, 2015. Prior to issuance of the permits, Bertch Cabinet agreed upon a modification completion date of February 15, 2015. The April 28, 2015, permits required the following emission point characteristics:

Table 1

Emission Point	Stack Height (ft. from ground)	Discharge Style	Stack Opening (inches)	Exhaust Temp(F) and flow (scfm)
FIN-002	16	Vertical, unobstructed	47 x 47	70 / 40,000
FIN-003	16	Vertical, unobstructed	47 x 47	70 / 40,000
FIN-004	16	Vertical, unobstructed	47 x 47	70 / 40,000
FIN-005	16	Vertical, unobstructed	47 x 47	70 / 40,000
FIN-006	16	Vertical, unobstructed	47 x 47	70 / 40,000
PLY-002	11	Horizontal	27 x 41	70 / 32,625
PLY-003	11	Horizontal	27 x 41	70 / 32,625
PLY-004	11	Horizontal	27 x 41	70 / 32,625
PLY-005	11	Horizontal	27 x 41	70 / 32,625
ROU-005	20	Vertical, unobstructed	37.6	70 / 39,400
ROU-004	20	Vertical, unobstructed	37.6	70 / 39,400
ROU-003	20	Vertical, unobstructed	37.6	70 / 39,400
ROU-002	20	Vertical, unobstructed	37.6	70 / 39,400
PAN-002	24	Vertical, unobstructed	47 x 47	70 / 40,650
PAN-003	16	Vertical, unobstructed	37.6	70 / 39,400

The permits issued on April 28, 2015, also required the following emissions limits, along with the following indicator opacity footnote:

Table 2

Emission Point	PM (lb/hr)	Additional PM (gr/dscf)	Opacity	PM_{10} (lb/hr)
FIN-002	0.65	0.1	40% (1)	
FIN-003	0.65	0.1	40% (1)	
FIN-004	0.65	0.1	40% (1)	
FIN-005	0.65	0.1	40% (1)	
FIN-006	0.65	0.1	40% (1)	
PLY-002	0.5	0.1	40% (1)	0.5
PLY-003	0.5	0.1	40% (1)	0.5
PLY-004	0.5	0.1	40% (1)	0.5
PLY-005	0.5	0.1	40% (1)	0.5
ROU-005	6.35	0.1	40% (1)	
ROU-004	6.35	0.1	40% (1)	
ROU-003	6.35	0.1	40% (1)	
ROU-002	6.35	0.1	40% (1)	

PAN-002	6.35	0.1	40% (1)	
PAN-003	2.176	0.1	40% (1)	

(1) *An exceedance of the indicator opacity of no visible emissions will require the owner or operator to promptly investigate the emission unit and make corrections to operations or equipment associated with the exceedance. If exceedances continue after the corrections, the Department may require additional proof to demonstrate compliance.*

7. In February 16, 2016, email to DNR, Bertch Cabinet stated to DNR an intent to complete the changes required to comply with the emission points characteristics listed in Table 1 by no later than April 30, 2016. However, during an April 14, 2016, conference call, Bertch Cabinet committed to complete the changes required to comply with the emission points characteristics listed in Table 1 by no later than July 31, 2016.

8. In addition to the facts described above, Bertch Cabinet has a history of failure to comply with air quality construction and Title V permitting requirements. On December 12, 2008, DNR Field Office No. 1 inspected the Bertch Cabinet Waterloo facility (Facility No. 07-01-063) and the Bertch Cabinet Oasis Facility, also located in Waterloo (Facility No. 07-01-086). DNR found the following violations: (1) Bertch Cabinet had failed to conduct the recordkeeping required by thirteen of its air quality construction permits; and (2) the opacity of emissions from one of the wood-fired boilers ranged from 15% to 60%, in violation of the prohibition against opacity of greater than 40% contained in 567 IAC 23.3(2)(d). A December 16, 2008, Notice of Violation letter (NOV) required that Bertch Cabinet maintain the required records, and submit to DNR an emissions reduction plan for its boiler, in compliance with the 567 IAC 21.3.

9. An April 30, 2009, NOV was issued to Bertch Cabinet for failure to timely submit its required Emission Year 2008 Title V Annual Compliance Certification and Semi-Annual Monitoring Report for its Waterloo facility (Facility No. 07-01-063).

10. Following a December 7, 2009, inspection of its two facilities located in Waterloo, DNR issued a December 14, 2009, NOV to Bertch Cabinet for again allowing its wood-fired boiler emissions to exceed 40% opacity.

11. A July 12, 2012, NOV was issued to Bertch Cabinet for failure to timely submit the 2011 Title V fees for its Waterloo facility (Facility No. 07-01-063).

12. A January 14, 2014, NOV was issued to Bertch Cabinet for failure to comply with the PM_{10} emissions limits for two of its paint booths located at its Waterloo facility (Facility No. 07-01-063), as demonstrated by stack testing conducted in November 2013.

13. An April 14, 2014, NOV was issued to Bertch Cabinet for failure to timely submit its 2013 Title V Annual Compliance Certification reports for its four facilities located in Waterloo, Jesup, and Oelwein (Facility Nos. 07-01-063, 07-01-086, and 10-02-008, and 33-01-020). Further, reports submitted for two of the Bertch Cabinet facilities were incomplete or contained incorrect information.

14. A November 5, 2014, NOV was issued to Bertch Cabinet for failure to timely submit its September 2014 Semi-Annual Monitoring Report for its four facilities located in Waterloo, Jesup, and Oelwein.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. Iowa Code section 455B.134(3) provides that the Director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. Pursuant to Iowa Code sections 455B.133 and 455B.134, 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing. Such conditions may include but are not limited to emission limits, operating conditions, recordkeeping requirements, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. Bertch Cabinet has failed to comply with the requirements of its air quality construction permits, including those permits issued on April 28, 2015.

V. ORDER

THEREFORE, DNR orders and Bertch Cabinet agrees to the following:

1. By July 31, 2016, Bertch Cabinet shall complete modifications to its Waterloo facility to comply with the emission point characteristics listed in Table 1 above; and

2. By August 10, 2016, Bertch Cabinet shall submit to DNR a written statement of the date of each modification required by Table 1 above; and

3. Within 30 days of the date this order is signed by the Director, Bertch Cabinet shall submit air quality construction permit applications for each

of the emission points listed in Table 1 above, including the emission points characteristics specified in Table 1; and

4. Until air quality construction permits are issued for the emission points listed in Table 1, Bertch Cabinet shall comply with the emission limits listed in Table 2; and

5. Each emission point listed in Table 1 shall vent indoors until it complies with the stack characteristics listed for that emission point in Table 1; and

6. Bertch Cabinet shall maintain all control equipment associated with the emission points listed in Table 2, above, according to the manufacturers' specifications; and

7. Bertch Cabinet shall maintain a written record of the dates of all inspections of control equipment that is associated with the emission points listed in Table 2, the condition of the control equipment at the time of each inspection, and the date and nature of any control equipment repairs made; and

8. Bertch Cabinet shall pay a penalty of $7,200.00, within 30 days of the date this order is signed by the Director.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of $7,200.00 is assessed by this administrative consent order. The penalty must be paid within 30 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

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. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to $10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, 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 a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Bertch Cabinet was required by Permit Nos. 01-A-046-S2, 01-A-047-S2, 01-A-048-S2, 01-A-049-S2, 01-A-050-S2, 02-A-439-S2, 02-A-440-S2, 02-A-441-S2, 02-A-442-S2, 92-A-007-S2, 92-A-008-S2, 92-A-009-S2, 92-A-010-S2, 92-A-021-S2, and 93-A-073-S3 to complete the modifications necessary to comply with the emission points characteristics listed in Table 1 by February 15, 2016. Bertch Cabinet will receive minimal economic benefit if those modifications are completed by April 30, 2016. Therefore, $200.00 is assessed for economic benefit.

Gravity of the Violation – Since Air Quality Construction Permit No. 88-A-223-S1 was issued in 1993, EP TIM-001 at Bertch Cabinet's Waterloo facility has been required to have a stack height of at least 70 feet. In 1994, 2006, and 2009, DNR issued permits requiring a stack height of at least 75 feet for this emission point. However, Bertch Cabinet has maintained a stack height for this emission point of 29 feet. DNR modeling conducted in March 2015 indicated that the Waterloo facility emissions were within one Significant Impact Level (SIL) of the PM_{10} National Ambient Air Quality Standard. Therefore, fifteen construction permits were issued to Bertch Cabinet in April 2015, requiring that existing emission points at the facility be modified to ensure compliance with the National Ambient Air Quality Standard for PM_{10}. However, Bertch Cabinet failed to meet the requirement to timely complete the required changes. Therefore, the amount of $3,000.00 is assessed for gravity.

Culpability – Prior to issuance of the April 28, 2015, permits, Bertch Cabinet agreed to complete the required emission point characteristic modifications by February 15, 2016. However, Bertch Cabinet failed to make the changes by that date. Therefore, $3,000.00 is assessed for culpability.

Aggravating Factor – Since December 2008, DNR has issued seven Notice of Violation letters to Bertch Cabinet for failure to comply with DNR air quality construction permit and Title V permit program requirements. Therefore, an additional $1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Bertch Cabinet. For that reason, Bertch Cabinet waives its right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative

penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 2nd day of May, 2016.

Bertch Cabinet Mfg., Inc.

Dated this 21st day of April, 2016.

DNR Field Office 1; Anne Preziosi; VII.C.2