

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

IN THE MATTER OF: STEVE GRITTON CEDAR COUNTY, IOWA	ADMINISTRATIVE CONSENT ORDER NO. 2016-AQ-03
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TO: Steve Gritton
1706 Madison Street
Tipton, Iowa 52772-9217

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Steve Gritton for the purpose of resolving air quality 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:

Bert Noll
Iowa Department of Natural Resources
Field Office No. 6
1023 West Madison
Washington, Iowa 52353-1623
Phone: (319)-653-2135

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 division; and Iowa Code section 455B.109 and 567 Iowa

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Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On February 1, 2016, DNR Field Office No. 6 received an anonymous complaint alleging that Steve Gritton had burned a mobile home over the previous weekend at 1726 Washington Street, in the un-incorporated town of Rochester, Iowa (the site). On February 1, Bert Noll and Ryan Stouder of DNR Field Office No. 6 investigated the complaint. At the site, Mr. Noll and Mr. Stouder spoke with Mr. Gritton, who stated that he had dismantled most of a mobile home at the site. Mr. Gritton stated that he had taken everything but the wooden framing to the Cedar County Transfer Station. Mr. Gritton stated that he had burned the wooden frame at the site.

2. Mr. Noll explained to Mr. Gritton that it was a violation of the Iowa prohibition against illegal open burning to burn the mobile home wooden frame. A February 3, 2016, Notice of Violation (NOV) letter was issued to Mr. Gritton for illegal open burning.

3. Mr. Gritton has a past history of illegal open burning. Twice, he has been specifically informed by DNR of the prohibition against illegal open burning. A June 15, 2015, Letter of Non-Compliance was issued to Mr. Gritton for illegal open burning of trade waste at Cedar County Garage Doors, which is located at 1889 – 3rd Street, Tipton, Iowa. This property is owned by Mr. Gritton. A copy of the DNR rules prohibiting illegal open burning were sent with the June 15, 2015, letter.

4. Also, a December 30, 2015, NOV letter was issued to Mr. Gritton for illegal open burning of trade waste on December 20, 2015, at the same address. A copy of the DNR rules prohibiting illegal open burning were sent with the December 30, 2015, letter.

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. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). The illegal open burning of solid waste in this case demonstrates a violation of this provision.

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V. ORDER

THEREFORE, DNR orders and Steve Gritton agrees to do the following:

1. Steve Gritton shall pay a penalty of \$3,000.00 within 30 days of the date this order is signed by the Director; and
2. Steve Gritton shall cease all illegal open burning of combustible materials at any location in the State of Iowa, and shall comply in the future with the regulations concerning open burning.

VI. PENALTY

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 \$3,000.00 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Based on DNR's observations at the site, Steve Gritton received an economic benefit of approximately \$100.00 by avoiding landfill and transportation costs. Therefore, \$100.00 is assessed for economic benefit.

Gravity of the Violation – Open burning damages air quality in Iowa and can cause significant acute and chronic health effects. Particulate matter from the open burning of solid wastes released toxic substances into the air. This fire and related open burning threatens the integrity of the state's environmental programs and efforts to protect natural valuable resources. Further, DNR has observed evidence that Mr. Gritton has conduct illegal open burning in May 2015, December 2015, and February 2016. Therefore, \$900.00 is assessed for the gravity of the violations.

Culpability – Open burning prohibitions have been in place for over 35 years. It is the responsibility of Steve Gritton to know and abide by these rules.

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Further, as stated above, Mr. Gritton has conduct illegal open burning in May 2015, December 2015, and February 2016. In May and December 2015, DNR sent letters to Mr. Gritton, specifically informing him of the prohibition against illegal open burning, yet Mr. Gritton continued to illegally burn. Therefore, \$1,000.00 is assessed for culpability.

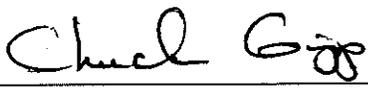
Aggravating Factor - DNR personnel have attempted to work with Mr. Gritton, without the assessment of a penalty, to prevent illegal open burning. However, Mr. Gritton has failed to cooperate. The assessment of a penalty appears to be the most appropriate way to deter future illegal open burning by Mr. Gritton. Therefore, an additional penalty of \$1,000.00 is assessed.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Steve Gritton. For that reason, Steve Gritton waives his 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 5th day of
May, 2016.



Steve Gritton

Dated this 24 day of
April, 2016.

DNR Field Office 6; Anne Preziosi; VII.C.2