

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:  <b>STEVEN R. HOPKINS MARION COUNTY</b>	ADMINISTRATIVE CONSENT ORDER  NO. 2016-AQ- 08 NO. 2016-SW- 0u
---	--

TO: Steven R. Hopkins  
1317 Quebec Street  
Knoxville, Iowa 21646

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Steven R. Hopkins for the purpose of resolving solid waste and 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:**

Anthony Bigger  
Iowa Department of Natural Resources  
Field Office No. 5  
7900 Hickman Road  
Windsor Heights, Iowa 50324  
Phone: 515-725-0268

**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 chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; 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

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: STEVEN R. HOPKINS

section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Steven R. Hopkins owns property located at 1317 Quebec Street in Knoxville, Marion County, Iowa (the site). On June 16, 2015, DNR Field Office No. 5 received a complaint that on June 15, 2015, Steven R. Hopkins and Emily Foltz had burned down a house located at the site. According to the Marion County assessor website, there was one residential home on this site, and the house was 1225 square feet in size. Prior to the burn, Steven R. Hopkins and Emily Foltz had notified the Knoxville Fire Department, and the Knoxville Fire Chief had explained the steps required to conduct a training fire. The Knoxville Fire Chief had believed that Steven R. Hopkins would observe the training fire requirements, rather than burning the house himself.

2. Anthony Bigger of DNR Field Office No. 5 visited the site on June 18, 2015. When Mr. Bigger visited the site, he observed that a house had been completely burned to the ground. A large pile of construction and demolition (C&D) debris and other miscellaneous wastes was located in the burn pile at the site, and the burn pile was still smoldering. Some dirt work had occurred to the burn pile to smooth out the area.

3. While at the site on June 18, 2015, Mr. Bigger knocked on the front doors of both houses that remained at the site, but no one answered. Mr. Bigger then called Steven R. Hopkins, but no one answered. Finally, Mr. Biggers called Emily Foltz. Ms. Foltz explained to Mr. Biggers that Steven R. Hopkins had instructed her to burn down the house. Ms. Foltz said that she just piled up some old carpet and other trash and lit it on fire. Ms. Foltz also explained that she and Steven R. Hopkins did some demolition work on the house while planning to remodel the house, so most of the insulation had been removed and many of the walls had been cleared to the studs. When they subsequently discovered that the house was structurally unsafe, Steven R. Hopkins decided to burn down the house.

4. On June 22, 2015, Mr. Bigger sent a Notice of Violation (NOV) letter to Steven R. Hopkins for illegal burning and solid waste disposal. The NOV stated that open burning of the waste is not allowed. The NOV required that the site be cleaned up, and it required the disposal receipts be delivered to DNR Field Office No. 5 by July 25, 2015. Copies of the DNR open burning and solid waste disposal rules were sent with the letter.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: STEVEN R. HOPKINS

5. On June 20, 2016, Mr. Bigger visited the site and found that the burn pile remained at the site and the site had not been cleaned.

6. On August 9, 2016, Mr. Bigger re-visited the site and observed that cleanup has occurred. Steven R. Hopkins has stated that he spent approximately \$1,300.00 for site cleanup.

**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.

3. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123.

4. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director. The illegal open dumping of construction and demolition solid waste in this case demonstrates non-compliance with this provision.

**V. ORDER**

THEREFORE, DNR orders and Steven R. Hopkins agrees to the following:

1. Steven R. Hopkins shall pay a penalty of \$750.00 within 30 days of the date this order is signed by the Director; and

2. Steven R. Hopkins shall cease all illegal solid waste disposal activity and 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 disposal of solid waste and open burning.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: STEVEN R. HOPKINS

**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.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the type of solid waste disposal violations involved in this matter.

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 \$750.00 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Steven R. Hopkins has conducted cleanup at the site and has provided information to DNR that he spent approximately \$1,300.00 for cleanup. Therefore, no amount is assessed for this factor.

Gravity of the Violation – Improper solid waste disposal and illegal open burning can degrade air and water quality and contribute contaminants to both land and water resources as well as threaten public health. Open burning results in emission of particulates to the ambient air. Particulate matter from the open burning of solid waste released toxic substances into the air. Further, failure to properly dispose of solid waste threatens the integrity of the regulatory program. Therefore, \$375.00 is assessed for the gravity of the violations.

Culpability – Steven R. Hopkins received information about open burning from the Knoxville Fire Department prior to the illegal open burning. However, Steven R. Hopkins knowingly conducted the illegal open burning of the demolition debris and the house located at the site. Therefore, \$375.00 is assessed for this factor.

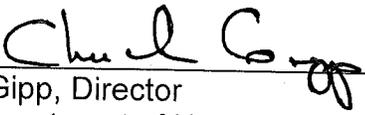
**VII. WAIVER OF APPEAL RIGHTS**

This administrative consent order is entered into knowingly and with the consent of Steven R. Hopkins. For that reason, Steven R. Hopkins waives his right to appeal this order or any part thereof.

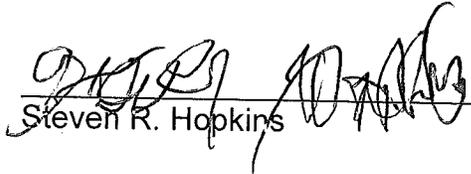
IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
ISSUED TO: STEVEN R. HOPKINS

**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 sections 455B.146 and 455B.307. 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 28<sup>th</sup> day of  
August, 2016.

  
\_\_\_\_\_  
Steven R. Hopkins

Dated this 17 day of  
August, 2016.

DNR Field Office 5; Anne Preziosi; VII.C.2