

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

<p>IN THE MATTER OF:</p> <p>Donald, Ronald, Anne and Ericka Breuer</p>	<p style="text-align: center;">ADMINISTRATIVE ORDER</p> <p>NO. 2016-SW-05 Amendment 1 NO. 2016-AQ-07 Amendment 1</p>
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To: Ronald E. & Anne Breuer
6097 108th Avenue
Burlington, Iowa 52601

Donald & Erika Breuer
4512 148th St.
Burlington, Iowa 52601

RE: Illegal disposal and open burning of solid waste at 5391 Summer
Street, Burlington, Iowa

I. SUMMARY

This administrative order (Order) amends Administrative Order Nos. 2016-SW-05 and 2016-AQ-07 (Previous Orders) issued to the above-referenced parties and signed by the Director of the Department of Natural Resources (DNR) on August 17, 2016. Based on discussions with the recipients' legal counsel, DNR has agreed to decrease the administrative penalty by \$1,000.00 due to the assertion that the incident at issue was not a repeat violation. The remaining elements of the Previous Orders remain in effect unless amended herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

John Ryk, Environmental Specialist
Iowa Department of Natural Resources
Field Office 6
1004 W. Madison
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Division
Wallace State Office Building
502 E. 9th St.
Des Moines, IA 50319
Phone: 515-725-8239

Payment of penalty to:

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

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER AMENDMENT
ISSUED TO: RONALD, ANNE, DONALD & ERICKA BREUER

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.307(2) which authorizes the Director of the DNR to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules and regulations adopted pursuant to that part; Iowa Code § 455D.23 which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of the provisions of Iowa Code chapter 455D, and the rules adopted pursuant to that chapter; Iowa Code §§ 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 § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

All statements of fact enumerated in the Previous Orders are incorporated herein by reference. In addition:

6. On September 14, 2016, the Breuers' legal counsel contacted DNR to appeal the Previous Orders, and concurrently requested that a hearing not be set in order to allow negotiations related to the penalty included in the Previous Orders.

7. After discussions, DNR agreed to decrease the administrative penalty in the Previous Orders by \$1,000.00 based on the Breuers' assertion that the violations involved were not repeated violations.

IV. CONCLUSIONS OF LAW

All conclusions of law enumerated in the Previous Orders are incorporated herein by reference.

V. ORDER

All requirements of the Previous Orders are incorporated herein by reference, except for the following amendment:

6. The Co-owners shall pay an administrative penalty of \$6,694.50 within thirty (30) days of this Order being signed by the Director of the DNR.

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VI. CIVIL PENALTY

The basis for the Civil Penalty enumerated in the Previous Orders is incorporated herein by reference, except for the following amendment to subparagraph 3(c) and to paragraph 4:

c) Culpability: Open burning and open dumping prohibitions have been in place in Iowa for more than 40 years. \$3,000.00 is assessed for this factor.

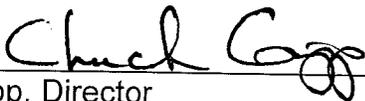
4. Failure to assess an administrative penalty for the violations listed above would threaten the integrity of DNR regulatory programs by not providing a financial incentive for citizens to comply. In this case, a penalty of \$6,694.50 is less than the DNR could impose administratively but it is assessed due to the fact that the violating party has taken steps to clean up the Property.

VII. APPEAL RIGHTS

A written Notice of Appeal may be filed with the Director within 30 days of your receipt of this Order. A contested case hearing will then be commenced pursuant to Iowa Code § 17A and 561 IAC 7. Please note that failure to file a timely appeal within 30 days will result in you forfeiting the right to appeal this Order.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code §§ 455B.146 and 455B.307. Compliance with Section V (Order) of this Order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section IV (Conclusions of Law) of this Order.



Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 21st day of
September, 2016

CC: DNR Field Office 6; David Scott; VI.C., VII.C.1.

