

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER

<p>IN THE MATTER OF:</p> <p><b>KENNETH GRANDSTAFF CLAY COUNTY, IOWA</b></p>	<p>ADMINISTRATIVE ORDER</p> <p>NO. 2016-AQ- 13 NO. 2016-SW- 9</p>
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TO: Kenneth Grandstaff  
2895 – 420<sup>th</sup> Street  
Dickens, Iowa 51333

**I. SUMMARY**

This order requires you to comply with all open burning and solid waste regulations, and to pay a penalty of \$4,000.00, subject to your appeal rights stated in this order.

Any questions regarding this administrative order should be directed to:

**Relating to technical requirements:**  
 Michelle Sabatini  
 Iowa Department of Natural Resources  
 Field Office No. 3  
 Gateway North Mall  
 1900 North Grand Avenue  
 Spencer, Iowa 51301  
 Phone: (712)-262-4177

**Relating to legal requirements:**  
 Anne Preziosi, Attorney for the DNR  
 Iowa Department of Natural Resources  
 7900 Hickman Road, Suite 1  
 Urbandale, Iowa 50322  
 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 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 part; and Iowa Code section

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER  
ISSUED TO: Kenneth Grandstaff, Clay County, Iowa

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

**III. STATEMENT OF FACTS**

1. Kenneth Grandstaff owns land located near 420<sup>th</sup> Street and 290<sup>th</sup> Avenue, northwest of the town of Gillett Grove, Logan Township, in Clay County, Iowa (the site).

2. On September 25, 2014, DNR Field Office No. 3 received a complaint regarding the open burning of a trailer house at the site.

3. On September 26, 2014, Environmental Specialist Michelle Sabatini of DNR Field Office No. 3 conducted an investigation of the complaint. At the site, Ms. Sabatini observed two piles of debris on the property. One pile contained mainly lumber and insulation, and had not been burned. The second pile consisted of smoldering ash and steel. In addition, there was a second trailer house on the property, which appeared to be awaiting demolition in a similar manner. Photographs were taken at the site to document the violations.

4. Also on September 26, 2014, Ms. Sabatini contacted Mr. Grandstaff by phone to discuss the burning. Mr. Grandstaff stated he had burned a trailer house in order to recycle the steel. He had gutted the trailer prior to burning, removing counter tops, insulation, and other materials.

5. A November 3, 2014, Notice of Violation and Notice of Referral letter was sent to Mr. Grandstaff, citing illegal open burning of solid waste at the site.

6. Mr. Grandstaff has a previous history of illegal open dumping and illegal open burning. An August 20, 1999, Notice of Violation letter was issued to Mr. Grandstaff for open burning of construction waste at the Ruthven cemetery. Along with that letter, Mr. Grandstaff was provided a copy of the DNR rules prohibiting burning. That letter also informed Mr. Grandstaff that all solid waste must be recycled or disposed of at a permitted sanitary disposal site. Mr. Grandstaff also received a September 22, 1999, Notice of Violation letter for failure to conduct a thorough inspection for asbestos-containing material and for failure to notify DNR prior to demolition of the Long Branch Saloon in Ruthven, Iowa, as required. Mr. Grandstaff was the demolition contractor for the Long Branch Saloon.

7. On June 15, 1992, a complaint was received alleging that Mr. Grandstaff was open dumping waste from a building demolition. When interviewed

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER  
ISSUED TO: Kenneth Grandstaff, Clay County, Iowa

at that time, Mr. Grandstaff stated that he was salvaging lumber and tin from the demolition. No further action was taken at that time.

**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 solid waste in this case demonstrates non-compliance with this provision.

**V. ORDER**

THEREFORE, DNR orders Kenneth Grandstaff to do the following:

1. Kenneth Grandstaff shall pay a penalty of \$3,000.00 within 60 days of the date this order is signed by the Director;

2. Kenneth Grandstaff 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;

3. Within 30 days of the date this order is signed by the Director, Kenneth Grandstaff shall properly dispose of all ashes and residue from burning at the site, and shall provide disposal receipts to DNR Field Office No. 3.

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER  
ISSUED TO: Kenneth Grandstaff, Clay County, Iowa

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

Economic Benefit – Kenneth Grandstaff stated to a DNR representative he had burned a trailer house in order to recycle the steel. Mr. Grandstaff received economic benefit and saved time by illegal open dumping and open burning at the site, when he dismantled and open burned the trailer instead of properly decommissioning it. Therefore, \$500.00 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 the trailer released toxic substances into the air. This fire and related open burning threatens the integrity of the state of Iowa's environmental programs and efforts to protect the state's natural valuable resources. Therefore, \$1,000.00 is assessed for the gravity of the violations.

Culpability – Open burning prohibitions have been in place for over 25 years, and Mr. Grandstaff was previously provided with the DNR's open burning rules. It is the responsibility of Kenneth Grandstaff to know and abide by these rules. Moreover, Mr. Grandstaff previously received Notice of Violation letters for open burning. Therefore, \$1,500.00 is assessed for culpability.

**VII. APPEAL RIGHTS**

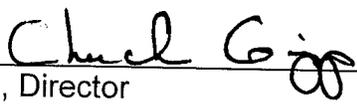
Pursuant to Iowa Code sections 455B.138 and 455B.308 and 561 IAC 7.4(1), a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of DNR and must identify the specific portion or portions of this order being appealed and

IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER  
ISSUED TO: Kenneth Grandstaff, Clay County, Iowa

include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

**VIII. NONCOMPLIANCE**

Failure to comply with this 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 order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this order.

  
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Chuck Gipp, Director  
Iowa Department of Natural Resources

Dated this 13<sup>th</sup> day of  
October, 2016.

DNR Field Office 3; Anne Preziosi; VII.C.2