

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: DEAN VAN RYSWYK, JASPER COUNTY	ADMINISTRATIVE CONSENT ORDER NO. 2016-AQ- 10 NO. 2016-SW- 11
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TO: Dean Van Ryswyk
416 South Monroe Street
Monroe, Iowa 50170

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Dean Van Ryswyk 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: 515-725-0333

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 part; and Iowa Code section

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

III. STATEMENT OF FACTS

1. DNR Field Office 5 received a complaint on February 9, 2015, that a house had been burned down at 602½ N. Mechanic Street, in Monroe, Jasper County, Iowa. The complainant stated that the fire department had been notified but did not respond. The complainant also stated that Dean Van Ryswyk had instructed the fire department not to extinguish the fire.

2. On February 11, 2015, Anthony Bigger of DNR Field Office 5 visited the site in response to the complaint. Mr. Bigger observed a large pile of construction and demolition (C&D) debris and other miscellaneous wastes that had been burned at the site. The pile was still smoldering five days later. It appeared that approximately 100 tons of C&D debris had been burned. DNR also estimates that approximately 400 cubic yards of C&D debris was located at the site at the time of the February 11 site visit. Mr. Bigger also observed that all the outbuildings located on the site had been demolished. Pictures were taken to document the observations.

3. Two employees of Van Ryswyk Plumbing & Heating, Inc. were present at the time of the site visit. The Van Ryswyk employees were running a back hoe and a large truck. They informed Mr. Bigger that several of the volunteer firemen also were employees of Van Ryswyk Plumbing and Heating, Inc., a business owned and operated by Dean Van Ryswyk and his father. Mr. Dean Van Ryswyk had instructed these volunteer firemen not to put out the fire, but to let the house burn all the way to the ground.

4. Mr. Bigger determined from records located on the Jasper County Assessor's webpage that the site is owned by Ross L. Steward, and that the site had formerly contained four buildings: a residential home 1728 square feet in size; a 10' x 50' mobile home; a 12' x 28' shed; and a 20' x 32' garage. It appears that the C&D debris from the outbuildings was combined with the C&D debris from the house and burned.

6. Mr. Bigger contacted Mr. Dean Van Ryswyk regarding the complaint and site investigation. Mr. Van Ryswyk told Mr. Bigger that the burning had been allowed to continue so that there would be less C&D debris to haul to the landfill so that the cost of waste removal would be less. Mr. Van Ryswyk stated to Mr. Bigger that he knew he should not have burned the buildings down.

7. Mr. Bigger sent a February 12, 2015, Notice of Violation letter (NOV) to Dean Van Ryswyk, stating that open burning of the solid waste is not allowed.

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The NOV requested that that all solid waste be removed from the site and that landfill disposal receipts be provided to DNR Field Office 5 by March 15, 2015. Copies of Iowa open burning and solid waste disposal regulations were sent with the letter.

8. Landfill disposal receipts dated February 16 and 17, 2015, were submitted to DNR Field Office 5 in February 2015. On May 18, 2015, Mr. Bigger re-visited the site, and all trash and debris had been cleaned up. A sign on the property indicated that the site was for sale.

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. The open dumping of C&D debris is specifically prohibited.

V. ORDER

THEREFORE, DNR orders and Dean Van Ryswyk agrees to the following:

1. Dean Van Ryswyk shall pay a penalty of \$4,800.00 within 30 days of the date this order is signed by the Director; and

2. Dean Van Ryswyk 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.

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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 \$4,800.00 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Dean Van Ryswyk received economic benefit and saved time by conducting illegal open dumping and illegal open burning at the site. DNR estimates that approximately 100 tons of C&D debris was burned. The Newton Sanitary Landfill (planning area) charges \$52.00 per ton, so the cost savings is estimated by DNR to have been at least \$5,200.00. DNR also estimates that approximately 400 cubic yards of C&D debris was located at the site at the time of the February 11 site visit. However, landfill disposal receipts totaling \$8,187.65 were submitted to DNR. Therefore, minimal economic benefit was received and no amount is assessed for this factor.

Gravity of the Violation – Improper open burning of waste can degrade air quality in the immediate area and can cause significant acute and chronic health effects. Particulate matter from the open burning of solid waste released toxic substances into the air. Therefore, \$2,500.00 is assessed for the gravity of the violations.

Culpability – Dean Van Ryswyk admitted to DNR that he knew it was illegal to burn the C&D debris, and that he did it to save money. Therefore, \$2,300.00 is assessed for this factor.

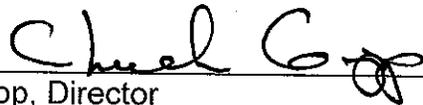
VII. WAIVER OF APPEAL RIGHTS

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

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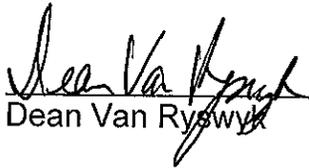
VIII. NONCOMPLIANCE

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 24th day of
October, 2016.



Dean Van Ryswyk

Dated this 14th day of
October, 2016.

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