

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

<p>IN THE MATTER OF:</p> <p>Joe Steffes</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2016-AQ-<u>19</u> NO. 2016-SW-<u>13</u></p>
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To: Joe Steffes
19837 580th Avenue
Nevada, Iowa 50201

Re: Illegal disposal of solid waste; Illegal open burning of solid waste at 19837
580th Avenue, Nevada, Iowa.

I. SUMMARY

This administrative consent order (Order) follows a Notice of Violation (NOV) issued to Joe Steffes on August 2, 2016, addressing alleged repeated violations including illegal open dumping and illegal open burning of solid waste on Mr. Steffes' property in Nevada, Iowa (the Property).

Due to Mr. Steffes' prompt response to the concerns raised by Iowa Department of Natural Resources' (DNR) Field Office (FO) 5, including removal and proper disposal of the solid waste at issue, this Order imposes an administrative penalty in the amount of \$2,442.60; requires Mr. Steffes to cease any and all open dumping and open burning activities at the Property and anywhere else in Iowa now and in the future; requires Mr. Steffes to store all solid waste on the Property in a manner that will ensure that solid waste remains contained prior to removal; and requires Mr. Steffes to ensure that solid waste is removed from the Property and properly disposed of on a regular basis.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Bill Gross
Environmental Specialist Senior
Iowa Department of Natural Resources
Field Office 5
7900 Hickman Rd. Suite 200
Windsor Heights, IA 50324-4404
Phone: 515-725-0268

Relating to legal requirements:

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

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Send payment to:

Director of the Iowa DNR
Wallace State Office Building
502 E. Ninth St.
Des Moines, Iowa 50319
*[Please note the Order number on the
payment]*

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 §§ 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

The following relevant facts are presented in chronological order and agreed to by the DNR and Mr. Steffes:

1. On April 7, 2014, DNR FO5 staff received a report that Mr. Steffes was dumping drums haphazardly on the Property in Nevada, burning oil and other debris, and allowing oil spillage and runoff.

2. On April 10, 2014, DNR FO5 staff investigated the complaint and found empty metal drums and other debris (furniture, lumber, pallets, a tire, miscellaneous household wastes, and ashes and charred material from previous burns) on the Property.

3. On April 16, 2014, DNR issued a Notice of Violation (NOV) to Mr. Steffes requiring that he clean up and properly dispose of the debris on the Property by May 15, 2014. The NOV also required Mr. Steffes to cease the burning of solid waste.

4. On August 26, 2014, DNR staff inspected the Property again and found that the waste and debris had not been removed.

5. On September 12, 2014, DNR sent a follow-up letter to Mr. Steffes requiring that the Property be cleaned up by October 1, 2014.

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6. On October 1, 2014, Mr. Steffes sent an email to the DNR with photos indicating that cleanup was complete and that he had obtained a dumpster for waste storage.

7. On July 27, 2016, DNR FO5 received a report that Mr. Steffes was continuing to burn debris, including insulation a couple times a week at night.

8. On July 28, 2016, DNR staff investigated the complaint and discovered a pile of insulation, a tire, charred tire steel belts, pallets, and other debris (charred and unburned), as well as empty metal drums—some charred. When asked about the evidence, Mr. Steffes initially stated that he only burned wood pallets. He eventually admitted burning other items. During this investigation, the Iowa regulations prohibiting open burning were again explained to Mr. Steffes and an open-burning brochure was left with him.

9. On August 2, 2016, an NOV was sent to Mr. Steffes stating that the matter was being referred to DNR Legal Services Bureau. He was given until September 1, 2016, to clean up and properly dispose of the debris.

10. On August 5, 2016, Mr. Steffes sent an email with a landfill receipt indicating he had cleaned up the Property and that he would be using Pratt Sanitation for weekly solid waste disposal. He subsequently sent a photo of the cleaned Property.

11. In late-August and early-September, 2016, DNR and Mr. Steffes discussed alternatives to ensure that solid waste would be properly stored for removal on the site.

IV. CONCLUSIONS OF LAW

1. Iowa Code § 455B.307 prohibits a private entity 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 of the DNR unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The above-stated facts represent a violation of this requirement.

2. Iowa Code § 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 Iowa Administrative Code (IAC) chapters 100-123.

3. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity from dumping or depositing, or permitting the dumping or depositing, of any solid waste at any place other than a sanitary disposal project (SDP) approved by the Director and

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pursuant to the terms of a permit granted by the DNR authorizing the disposal of solid waste. The above-stated facts represent violations of this prohibition on open dumping.

4. The Commission has also adopted 567 IAC 23.2 for the regulation of open burning of solid waste in Iowa. The regulation specifically prohibits individuals from allowing, causing or permitting open burning of combustible materials in Iowa, except in certain situations that are not applicable. The above stated facts represent violations of this prohibition.

V. ORDER

THEREFORE, the Director of the DNR orders and Mr. Steffes agree to the following:

1. Mr. Steffes will immediately discontinue the practice of illegal solid waste disposal and open burning, and will prevent either from happening in the future.

2. Mr. Steffes will ensure that no solid waste is disposed of or discarded on the Property, and will store all solid waste on the Property in a dumpster and similar enclosure to ensure that no solid waste is disposed of or discarded on the Property. The dumpster and other enclosures must be serviced regularly.

3. Within 30 days of the date that this Order is signed by the Director, Mr. Steffes will pay an administrative penalty of \$2,442.60. DNR will consider a payment plan if Mr. Steffes is unable to pay the full penalty within 30 days.

VI. CIVIL PENALTY

1. Iowa Code § 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Additionally, Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations. Iowa Code § 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 § 455B.146A. The DNR reserves its right to pursue additional penalties pursuant to these sections of Iowa law if Mr. Steffes fails to comply with the terms of this Order.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories of consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged

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violation, and the culpability of the violator. These categories are addressed below and the administrative penalty is determined as follows:

- a) Economic Benefit: Based on a \$64/ton landfill tipping fee, a conservative estimate of one ton of trade wastes burned, and an estimate of \$150.00 in transportation costs, the economic benefit of illegal burning was \$214.00.
- b) Gravity of the Violations: Illegal disposal and open burning of waste can degrade air quality and cause a nuisance in the immediate area. Burning foam insulation can release hazardous air pollutants. Due to the potential health risks involved, \$1,500.00 is assessed for this factor.
- c) Culpability: Mr. Steffes was informed of the state of Iowa's open burning and solid waste disposal laws. These are repeated violations. \$1,000.00 is assessed for this factor.
- d) Mitigating factor: Due to Mr. Steffes' prompt response to DNR's concerns, DNR has agreed to decrease the penalty by 10%.

4. As such, an administrative penalty of \$2,442.60 is imposed by this Order. Failure to assess a penalty for the violations listed above would threaten the integrity of the regulatory program by not providing a financial incentive for responsible parties to comply with applicable regulations.

VII. APPEAL RIGHTS

This Order is entered into knowingly and with the consent of Mr. Steffes. For that reason, Mr. Steffes waives his right to appeal this Order or any part thereof.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order may result in the imposition of additional penalties and referral to the Iowa Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code §§ 455B.141 and 455B.307. Compliance with Section V (Order) of this Order constitutes full satisfaction of any requirements pertaining to any specific violations described in Section IV (Conclusions of Law) of this Order.

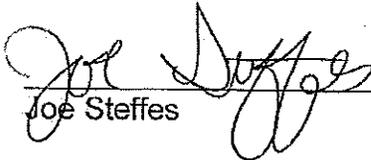
[Signatures on next page]

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Chuck Gipp, Director Bruce Trautman for
Iowa Department of Natural Resources chvcl-gpp

Dated this 14 day of
November, 2016.



Joe Steffes

Dated this 11 day of
Nov, 2016.

CC: FO5; David Scott; VI.C, VII.C.1.