

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

<p>IN THE MATTER OF:</p> <p>Global Fiberglass Solutions, Inc.</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2020-SW- <u>09</u></p>
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To: Paul Brush, Director of Plant Development
Global Fiberglass Solutions, Inc.
21222 30th Drive, SE
Suite 130, Building C
Bothell, Washington 98021

Re: Global Fiberglass Solutions, Inc., compliance plan and financial assurance related to wind turbine recycling.

I. SUMMARY

This administrative consent order (Order) is entered into by the Iowa Department of Natural Resources (DNR) and Global Fiberglass Solutions, Inc. (Global) to address alleged prior and ongoing illegal disposal of solid waste in Newton, Ellsworth, and Atlantic, Iowa. DNR contends that wind turbine blades have been speculatively accumulated for recycling for nearly three years in Iowa by Global and that no blades have been recycled. Pursuant to Iowa law, the DNR has thus determined that the blades are solid waste. None of the sites where Global has been storing the blades have been approved as Sanitary Disposal Project sites, so DNR considers the blades to be solid waste that has been disposed of illegally.

Global disagrees with the DNR's determination. Notwithstanding Global's disagreement with DNR's interpretation and application of Iowa law, Global agrees to be bound by this Order and the terms set forth herein.

In order to address the DNR's concerns, within 30 days of this Order being signed by the Director, Global will provide for the DNR's approval a proposed binding compliance schedule. Additionally, Global will provide financial assurance in a form to be approved by the DNR that will be adequate for removal and proper disposal of all blades in Iowa at an approved solid waste disposal site if Global fails to comply with the terms of the compliance schedule. The details of these requirements are enumerated below.

Any questions regarding this Order should be directed to:

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Relating to technical requirements:

Theresa Stiner, Env. Specialist Sr.
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-725-8315

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

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 promulgated or permits issued pursuant thereto; Iowa Code § 455D.4A, which addresses when a material is being legitimately recycled; 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 facts are relevant to this matter:

1. The DNR is aware of three locations in Iowa where Global is currently stockpiling wind turbine blades.
2. The first site is located on three parcels at 927 North 19 Avenue East in Newton, Iowa. The property is owned by Phoenix Newton Industrial Investors, LLC. The blades are stored in former parking lots. There are 868 blades stored at the Newton site. Blades have been stored on the site since at least November, 2017, and no blades have been processed for recycling at the site.
3. The second site is located at 3082 330th Street, Ellsworth, Iowa.
4. The third site is located at 607 Sunnyside Lane, Atlantic, Iowa. Global began storing blades at the Atlantic site in June, 2020, and is currently storing 22 blades at the Atlantic site.
5. At all sites the blades are stored outdoors, cut into two or three pieces, depending on the length of the blade. Metal has been removed from many root sections. A tracking system is in place. None of the material brought to the sites has yet been recycled.

A historic timeline as determined by DNR follows:

6. On November 10, 2017, the first wind turbine blade was deposited at the Newton site.

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7. On June 7, 2018, the first wind turbine blade was deposited at 2315 235th Street, Fort Dodge, Iowa ("Fort Dodge site"). This site is owned by Steve Grettenberg. As noted below, the blades located at this site were subsequently relocated to a property in Ellsworth, Iowa.
8. On August 28, 2018, DNR received its first complaint about the Newton site.
9. On August 31, 2018 staff from DNR Field Office (FO) 5 visited the site.
10. On December 4, 2018, DNR staff again visited the Newton site and raised the concern of speculative accumulation with site owners.
11. On June 15, 2019, the last wind turbine blade was deposited at the Fort Dodge site.
12. On August 13, 2019, DNR staff visited the Fort Dodge site and took photos.
13. On December 10, 2019, a Letter of Inquiry was sent to Global and to Mr. Grettenberg to determine their plans for processing the blades. Responses were received from each party.
14. On February 7, 2020, DNR staff visited the Fort Dodge site.
15. On March 3, 2020, a Notice of Violation was issued to Global and to Mr. Grettenberg.
16. On September 2, 2020, a Notice of Violation was issued to Phoenix Investors.
17. As noted above, during the month of September, 2020, the wind turbine blades from the Fort Dodge site were moved to 3082 330th St., Ellsworth, Iowa.
18. On October 12, 2020 a Notice of Violation was issued to Shinn Brothers, Ltd., in Ellsworth, Iowa for the illegal disposal of wind turbines.
19. On November 20, 2020, DNR received a response to DNR's Notice of Violation from counsel for Phoenix Investors updating the DNR on Phoenix's efforts related to Global and other parties.

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IV. CONCLUSIONS OF LAW

1. Iowa Code § 455B.301(23) defines solid waste as garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials including but not limited to materials resulting from industrial and commercial activities such as construction and demolition debris.

2. Iowa Code § 455D.4A prohibits the speculative accumulation of materials for recycling and deems material that is not being legitimately recycled to be subject to solid waste regulation. DNR contends that Global has speculatively accumulated blades at the properties referenced above within the meaning of Iowa Code § 455D.4A. The DNR further contends that the blades are not yet being legitimately recycled, so the blades are subject to solid waste regulations.

3. Iowa Code § 455B.307(1) prohibits a person from dumping or depositing, or permitting the dumping or depositing, of any solid waste at any place other than a sanitary disposal project approved by the Director of the DNR. The DNR contends that the above-stated facts establish a violation of this statutory prohibition, whereas Global contends that the blades do not constitute "solid waste."

4. Iowa Code § 455B.307(3) subjects any individual who violates the prohibition in section 455B.307 to civil penalties of \$5,000.00 per day of violation.

V. ORDER

THEREFORE, in resolution of the disputes and contentions above, the DNR orders and Global agrees to the following:

1. Within 30 days of this Order being signed by the Director, Global will submit for the DNR's approval a proposed binding compliance schedule. The schedule will include milestone dates for obtaining bids for grinding and recycling equipment, for the installation of such equipment, and for the beginning of blade processing. Should Global's proposed binding compliance schedule not be acceptable to DNR, DNR may notify Global in writing of such unacceptability within ten calendar days of DNR's receipt of said proposed binding compliance schedule. Global shall thereafter have ten calendar days to address DNR's stated concerns in writing with an updated proposed binding compliance schedule. The parties agree that if a binding compliance schedule is not in place within 60 days of this Order being signed by the Director, the DNR may issue a separate unilateral order requiring removal and/or proper disposal of the blades.

2. Within 30 days of this Order being signed by the Director, Global will provide a proposed financial assurance mechanism to be approved by the DNR that will be sufficient to cover the entire cost of removal and proper disposal of the

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blades currently located in Iowa. Failure to provide or maintain this assurance, once accepted by DNR in writing, will be considered a violation of this Order. Should Global's proposed financial assurance mechanism not be acceptable to DNR, DNR may notify Global in writing of such unacceptability within ten calendar days of DNR's receipt of said proposed financial assurance mechanism. Global shall thereafter have ten calendar days to address DNR's stated concerns in writing with an updated proposed financial assurance mechanism. The parties agree that if an acceptable financial assurance mechanism is not in place within 60 days of this Order being signed by the Director, the DNR may issue a separate unilateral order requiring removal and/or proper disposal of the blades.

3. No more than 40 additional blades will be deposited in Iowa from the date of this order until processing has started and no new storage sites will be established in Iowa without DNR pre-approval. Nothing in this paragraph shall preclude Global from temporarily storing blades at active project sites or transport transit sites such as rail yards in Iowa for up to 30 days while such blades await transport to a location outside of Iowa. Global will endeavor to provide DNR notice when such temporary storage is occurring.

4. Global may, at any time prior to disposal of any of the blades at an approved solid waste facility within the State of Iowa, remove any blades which are the subject of this Order from the State of Iowa, at Global's sole expense.

5. By signing this Order, Global confirms there are no additional storage sites of any type in Iowa.

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. 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 civil penalties of up to \$10,000.00 per day for air quality violations.

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 for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator.

4. Given the intent of the parties to develop and operate a viable recycling operation for wind turbine blades in Iowa, and the recognized value that such an operation would provide, DNR has determined that a civil penalty is not

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warranted at this time so long as Global and its partners comply with the terms of this Order, its operations plan, and provides financial assurance for removal and proper disposal of the blades. Failure to comply with any of these requirements may result in the issuance of an additional order with a significant administrative penalty for Global.

VII. APPEAL RIGHTS

As this Order is entered by consent of the parties, there is no right of appeal.

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. Compliance with Section V (Order) of this Order constitutes full satisfaction of all requirements pertaining to the specific violations alleged by DNR described in Section IV (Conclusions of Law) of this Order.



Kayla Lyon, Director
Iowa Department of Natural Resources

Dated this 7th day of
December, 2020.



Mr. Don L. Lilly, Global Fiberglass Solutions, Inc.

Dated this 3 day of
December, 2020.

CC: Theresa Stiner; David Scott; VI.C; VII.C.1.