

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: RAM DEVELOPMENT, LLC	ADMINISTRATIVE CONSENT ORDER NO. 2021-AQ- 06
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To: Ram Development, LLC
Andy Holt, President and Registered Agent
2659 Boyd
Des Moines, Iowa 50317

Ram Development, LLC
Andy Holt, President and Registered Agent
2507 East 21st Street
Des Moines, Iowa 50317

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Ram Development, LLC (Ram) for the purpose of resolving 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:

Mark Fields, Air Quality Bureau
Bryan Bunton, Field Office 5
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-725-9526

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR

Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
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

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II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of 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 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Ram Development is a commercial business that operates an Air Curtain Incinerator (Emission Point (EP) 1) to dispose of wood debris resulting from land development activities. The company clears land for development and disposes of the wood debris. Wood waste is brought from off-site to 32501 Wendover Road in Waukee, Iowa (the site).

Permit Violations

2. DNR issued Air Quality Construction Permit No. 14-A-464 for the Air Curtain Incinerator (EP 1) on October 27, 2014. Condition 10 of Construction Permit No. 14-A-464 requires that the Air Curtain Incinerator (EP 1) comply with an opacity limit of 10%, in accordance with the provisions of 567 IAC 23.1(2)"vvv", which adopts by reference 40 CFR Part 60, Subpart CCCC, "*Commercial and industrial solid waste incineration*". Condition 10 also requires:

- Except during startup, the opacity shall not exceed 10% on a six-minute average;
- The 10% opacity limit is 35% (on a 6-minute average) during the startup period that is within the first 30 minutes of operation; and
- The opacity limits apply at all times except during malfunctions.

The opacity emissions in excess of permitted limits, described below, indicate that unpermitted emissions of PM, PM10, and PM2.5 are occurring.

3. Ram Development is currently subject to the requirements of NSPS 40 CFR Part 60, Subpart CCCC, which requires that Ram Development obtain a Title V operating permit. TV Operating Permit No. 18-TV-005-M001 was issued to Ram Development on June 18, 2019.

4. Administrative Order No. 2018-AQ-24 was issued to Ram Development on November 20, 2018, for illegal open burning. The order was appealed, and a Consent Amendment to Administrative Order No. 2018-AQ-24 was issued to Ram Development on May 8, 2019. Ram Development has failed to comply with Administrative Order No. 2018-AQ-24 and the Consent Amendment thereto. This failure to comply includes failure

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to comply with the Operation and Maintenance Plan, which is Exhibit A to the Consent Amendment, and with TV Operating Permit No. 18-TV-005-M001, into which Exhibit A was incorporated on June 18, 2019. The violations are as follows:

- Ram Development personnel are required to operate the Air Curtain Incinerator (EP 1) and be present at all times when burning activities are ongoing unless material is completely extinguished pursuant to the conditions contained in the Consent Amendment. Citizen complaints have alleged burning activities occurring without the Air Curtain Incinerator (EP 1) in operation and without personnel on site. During attempted stack testing on December 31, 2019, DNR personnel observed burning activities for approximately 45 minutes prior to the Air Curtain Incinerator (EP 1) being operated.
- Ram Development is required by the Operation and Maintenance Plan, which is Exhibit A to the Consent Amendment, and is a part of the TV Operating Permit No. 18-TV-005-M001, to measure the trench during testing and not operate with a larger trench than was documented to demonstrate compliance during the most recent stack testing. Dimensions of trench size were not provided to DNR during the attempted stack testing on December 31, 2019. The Air Curtain Incinerator (EP 1) cannot control emissions if the trench is too large. This will allow emissions to escape.
- Production levels should be consistent with production level of the most recent compliance test that successfully demonstrated compliance, pursuant to the conditions contained in the Consent Amendment. DNR personnel were on site for two stack test events in 2018 and 2019. During testing, large diameter tree debris was on site but was not loaded into the pit to demonstrate compliance.
- Ram Development failed to complete a compliance stack test for opacity in November or December 2019, pursuant to the conditions contained in the Consent Amendment.
- On November 23, 2020, Ram Development completed opacity stack testing on the Air Curtain Incinerator (EP 1). The stack test resulted in opacity emissions of 26.24%, in violation of the 10% opacity limit required in 40 CFR Part 60 NSPS Subpart CCCC.

5. Additionally, Ram Development has violated the following:

- Ram Development failed to provide proper notification of the December 2019 stack testing as required by Construction Permit No. 14-A-464, Condition 8; Title V Operating Permit No. 18-TV-005-M001, General Condition G30; and 40 CFR § 60.7(6); and 567 IAC 25.1(7)"a";
- Ram Development failed to submit its July 11, 2019, stack test information to DNR within 42 days of the test event in accordance with the requirements of Construction Permit No. 14-A-464 and 567 IAC 25.1(7). The report was submitted 54 days after the testing was completed;
- Ram Development failed to report excess emissions, as required by Construction Permit No. 14-A-464 and 567 IAC 24.1;

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- Ram Development failed to submit its 2018 Title V Annual Certification and its 2019 and 2020 Title V Semiannual reports, as required by TV Operating Permit No. 18-TV-005-M001.

6. Ram Development failed to submit its 2018 Title V Annual Compliance Certification by March 31, 2019, as required by 567 IAC 22.108(5) and Title V Operating Permit No. 18-TV-005-M001. On June 11, 2019, DNR issued a Notice of Violation letter (NOV) to Ram Development for failure to submit its required Title V Annual Compliance Certification. DNR has no record of receiving the 2018 Title V Annual Compliance Certification. Also, Ram Development submitted its January 1, 2019 – June 30, 2019, Title V Semi-Annual Report late for the reporting period January 1, 2019 – June 30, 2019.

7. Also on June 11, 2019, Ram Development submitted to DNR a test protocol providing 30-day notification for July 11, 2019, stack testing for opacity. On July 11, 2019, Ram Development completed the first of the opacity stack tests required by the Administrative Consent Order and its Consent Amendment.

8. On September 4, 2019, DNR received a stack test report for the July 11, 2019, stack testing. Opacity results were shown to be 9.96%, demonstrating compliance with the 10% opacity limit contained in Construction Permit No. 14-A-464. This stack test report was not timely submitted. On October 22, 2019, a Letter of Non-Compliance (LNC) was issued for the late stack testing report, which was received 54 days after the testing. Test reports are due to DNR within 42 days of the test event.

9. On October 30, 2019, an NOV was issued to Ram Development for failure to submit its January 1, 2019 – June 30, 2019 Semi-Annual Title V Report. On November 12, 2019, RAM submitted its Semi-Annual Title V Report.

10. On December 30, 2019, DNR was informed by Comprehensive Emissions Services that opacity stack testing was to be attempted at the RAM site that day. DNR also was informed by Comprehensive Emissions Services that at least three other attempts to conduct the required testing at Ram Development had been made without notifying DNR, as required. On December 30, 2019, DNR approved Ram Development to stack test without the required 30-day notification, in order to allow Ram Development the opportunity to comply with the stack testing requirements of the Administrative Order and its Consent Amendment. However, the planned December 30, 2019, testing was cancelled by Ram Development and testing was rescheduled for December 31, 2019.

11. On December 31, 2019, Ram Development began compliance testing as required by the Administrative Order and its Consent Amendment. After one run, Ram Development personnel discontinued production and ended the test prior to finishing the required three separate one-hour runs due to emissions exceeding the permitted limit. Ram Development halted the compliance test. Both DNR and the stack test company observers witnessed, on December 31, 2019, credible evidence that the emissions from

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Air Curtain Incinerator (EP 1) exceeded both the 35% opacity standard required within 30 minutes of startup and the 10% opacity standard that applies after the 30-minute startup period, in violation of Construction Permit No. 14-A-464.

12. On January 6, 2020, Andy Holt, President of Ram Development, sent an email to DNR requesting a meeting pertaining to the December 31, 2019, opacity testing. On January 7, 2020, DNR responded to Mr. Holt's meeting request and proposed a January 23, 2020, meeting date. No response was received from Mr. Holt.

13. DNR issued a January 10, 2020, NOV to Ram Development for violating the following requirements of the Administrative Order and its Consent Amendment:

- Ram Development failed to complete a compliance stack test in November or December 2019;
- Ram Development was in violation of its permitted opacity limits;
- Ram Development failed to provide proper notification of compliance testing; and
- Ram Development failed to follow the requirements of the Operation and Maintenance Plan attached as Exhibit A to the Administrative Consent Amendment.

The January 10, 2020, NOV required Ram Development to submit a compliance plan to DNR by February 9, 2020. The NOV was emailed to Mr. Holt and a meeting was again offered for January 23, 2020. Mr. Holt did not respond.

14. On January 23, 2020, Ram Development submitted a determination request to DNR, requesting that DNR review the applicability to the Air Curtain Incinerator (EP 1) of NSPS Subpart CCCC. On February 27, 2020, DNR sent a certified letter to Ram Development requesting that Ram Development draft and submit a determination request regarding the Air Curtain Incinerator (EP 1) to EPA Region VII by no later than March 13, 2020. The DNR letter also reminded Ram Development that it continued to be out of compliance with the Administrative Order and its Consent Amendment and with its permitted opacity limits.

15. On March 13, 2020, Ram Development submitted the required determination letter to EPA Region VII. On March 18, 2020, EPA Region VII sent an email to Ram Development, requesting additional information. EPA Region VII reported to DNR that no response was received. On March 25, 2020, EPA Region VII issued a determination that Ram Development is a commercial entity and the Air Curtain Incinerator (EP 1) is subject to NSPS Subpart CCCC opacity requirements and the requirement to obtain a Title V permit.

16. On April 28, 2020, Ram Development submitted to DNR its 2019 Title V Annual Compliance Certification.

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17. On June 11, 2020, DNR sent Ram Development a certified letter stating that it had failed to submit a compliance plan to DNR by February 9, 2020, as required by the January 10, 2020, NOV.

18. On June 23, 2020, Ram Development contacted DNR to discuss the violations and the missed stack testing. Mr. Holt was informed that Ram Development needed to submit a compliance plan addressing both the missed stack testing and the violations of the Operation and Maintenance Plan. Mr. Holt was reminded that the missed stack testing had been required to be conducted in November or December 2019, to demonstrate compliance during cold weather, and that the compliance plan should, therefore, include testing during cold weather.

19. On June 25, 2020, Ram Development submitted a compliance plan to DNR to address the violations indicated in the January 10, 2020, NOV. The compliance plan proposed retesting on July 28, 2020, to satisfy the missed 2018 test, and retesting on August 27, 2020, to address the 2020 annual testing requirement contained in Construction Permit No. 14-A-464 and NSPS Subpart CCCC.

20. On July 23, 2020, DNR sent Ram Development an email approving the July 28, 2020, proposed testing date to satisfy the annual testing requirement contained in Construction Permit No. 14-A-464 and NSPS Subpart CCCC. The requirement to conduct stack testing during cold weather remained.

21. On July 27, 2020, RAM contacted DNR to cancel the stack testing scheduled for July 28, 2020, due to water in the pit and wet wood from a rain event on July 26, 2020. Ram Development was informed by DNR that the weather forecast for July 28 should not prevent Ram Development from testing and that the testing should be conducted as scheduled.

22. On July 28, 2020, at approximately 8:15 am, DNR called Ram Development to discuss the phone message and email received by DNR the previous day regarding test cancellation. Ram Development was instructed to conduct the testing as scheduled. At 10:45 am, Ram Development contacted DNR to cancel testing due to malfunction of the excavator used to load the pit. Testing was rescheduled for August 12, 2020.

23. On August 11, 2020, stack test consultant, Comprehensive Emission Service, contacted DNR to reschedule Ram Development's testing for September 18, 2020. However, on August 12, 2020, Ram Development contacted DNR to see why testing was not being conducted and why DNR was not on site. Ram Development discussed testing and open burning rules with Air Quality Compliance Supervisor Brian Hutchins. The test was rescheduled for August 13, 2020. Ram Development completed stack testing on the Air Curtain Incinerator (EP 1) on August 13, 2020. DNR was present at the site to observe the testing. On August 26, 2020, Ram Development submitted an electronic test report

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for the August 13, 2020, stack test. Test results demonstrated compliance with the permitted opacity limits during warm weather.

24. The August 2020 testing satisfied Ram Development's annual stack testing requirement. At that point, Ram Development was directed by DNR to conduct a stack test in November or December 2020 to demonstrate compliance during cold-weather conditions.

25. On November 23, 2020, Ram Development completed opacity stack testing on the Air Curtain Incinerator (EP 1). The stack test results were received by DNR December 22, 2020. An NOV was issued January 12, 2021, for opacity test results of 26.24%, in violation of the 10% opacity limit.

26. DNR issued a December 14, 2020, NOV to Ram Development for failure to submit its 2020 Semi-annual Title V Report for the reporting period January 1, 2020 - June 30, 2020, as required by Title V Operating Permit No. 18-TV-005-M001. RAM submitted the required 2020 Semi-annual Title V Report on December 21, 2020.

Open Burning Violations

27. On April 26, 2019, DNR Field Office 5 received a citizen complaint with a photo of smoke and burning of material without the Air Curtain Incinerator (EP 1) controlling emissions, as required. DNR Field Office 5 contacted Mr. Holt by telephone to notify him of the complaint. No excess emissions report was filed by Ram Development in connection with this incident, as required.

28. On July 17, 2019, a citizen complaint was received by DNR Field Office 5, reporting unattended burning activities occurring after hours at Ram Development. On July 17, 2019, DNR Field Office 5 sent an email to Ram Development informing the company of the July 17, 2019, complaint and reminding the company of expected operating procedures.

29. On October 17, 2019, a citizen complaint was received by DNR Field Of, reporting burning activities at Ram Development with no machine and lots of smoke.

30. On December 6, 2019, DNR Field Office 5 received a citizen complaint regarding burning activities occurring unattended and smoldering all overnight. The complainant stated that when the Air Curtain Incinerator (EP 1) was used a large amount of smoke was emitted. No excess emissions report was filed by Ram Development in connection with this incident, as required. On December 13, 2019, DNR Field Office 5 received a citizen complaint regarding open burning activities occurring unattended, while the Air Curtain Incinerator (EP 1) was not operating. On December 18, 2019, DNR Field Office 5 sent an email to RAM informing Ram Development of the recent complaints and again reminding the company of expected operating procedures.

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31. During a seven-day period beginning August 14, 2020, and ending August 20, 2020, DNR Field Office 5 staff investigated two open burning complaints at the site and observed several piles of landscape waste on fire. Over the course of the investigation, the Air Curtain Incinerator (EP 1) was being stored at the back of the site and was not in use, as required. A derecho storm occurred on August 10, 2020, in the area and it is Ram Development's position that the material being burned was the result of the derecho event. It is DNR's position that the burned material was placed on the site by Ram Development.

32. On August 14, 2020, Bryan Bunton of DNR Field Office 5 received a complaint that Ram Development was conducting illegal open burning at the site. Jeff Theobald of DNR Field Office 5 visited the site on August 14, 2020, and observed a burning pile of landscape waste consisting primarily of logs. The Air Curtain Incinerator (EP 1) was located on the far west side of the site and, as stated above, was not in use. Further, the site had been left unattended.

33. On August 17, 2020, DNR Field Office 5 received a follow-up complaint stating that Ram Development was still burning without the use of the Air Curtain Incinerator (EP 1). The complainant shared two videos and a photo via text message. The first video was taken on August 17, 2020, and shows an open burn pile being fed by one of Ram Development's backhoes located on the site. The second video, taken on August 17, 2020, shows the backhoe still operating next to an active open burn pile. The photo, taken on August 17, 2020, shows smoke emanating from an active burn pile. Mr. Bunton contacted Mr. Holt to inform him of the situation so that immediate corrective action could be taken.

34. On August 20, 2020, DNR Field Office 5 received a complaint that burning was continuing to occur at the site. Mr. Bunton investigated the site the same day and observed a smoldering pile of wood and ash. When Mr. Bunton visited the site on August 20, 2020, the site was again left unattended. Mr. Bunton observed on August 20 that most of the woody debris that had been stockpiled at this location when DNR visited the site for stack testing purposes on July 28 and August 13, 2020, was no longer present. There was only one pile of logs remaining on the site. DNR personnel took photos of the site on July 28, August 13, and August 20, 2020, to document the condition of the site.

35. No excess emissions reports were filed by Ram Development in connection with this incident, as required by 567 IAC 24.1

36. Also on August 20, 2020, Mr. Bunton contacted Mr. Holt via email and informed him that Ram Development would be receiving a NOV for illegal open burning.

37. On August 28, 2020, DNR issued an NOV to Ram Development for the illegal open burning that occurred on the site from August 14 through August 20, 2020. On

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September 19, 2020, Mr. Holt contacted Mr. Bunton regarding the recent illegal open burning activity and disputed issuance of the NOV.

38. The DNR Air Quality Bureau conducted an air quality modeling analysis of the illegal open burning at the site from August 14 through August 20, 2020, using EPA's approved AERMOD model. The model was run using approved emission factors for smoke to simulate the open burning that occurred at the site over a seven-day period. Results indicated that burning wood at this location for seven straight days causes exceedances of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (1-hour and 8-hour standards), PM_{2.5} (particulate matter, 24-hour and annual standards), PM₁₀ (particulate matter, 24-hour standard) and nitrogen oxides (1-hour and annual standards). The geographical extent of the exceedances varied, with the worst case being the PM_{2.5} 24-hour NAAQS, with impacts reaching areas at least 1.2 miles away in all directions. PM_{2.5} particles in concentrations that exceed ambient standards are harmful to human health, as the size of these particles is small enough to enter into the lungs and become lodged.

39. The Consent Amendment to Administrative Order No. 2018-AQ-24, issued to Ram Development on May 8, 2019, includes the following as part of Section V. Order:

2. Ram Development shall immediately cease, and prevent, any future, illegal open burning of combustible material in the state of Iowa. This includes preventing open burning of material stored on property where it operates the unit.

3. Ram Development shall comply with all terms of the existing and future air permits issued by the DNR and shall cease the burning of any landscape waste unless it does so in compliance with Iowa law and the terms of the applicable permits.

Ram Development personnel are required to operate the Air Curtain Incinerator and be present at all times when burning activities are ongoing unless material is completely extinguished pursuant to the conditions contained in the Consent Amendment.

40. TV Operating Permit No. 18-TV-005-M001, General Condition G21 [Open Burning], states that:

The permittee is prohibited from conducting open burning, except as provided in 567 IAC 23.2(455B).

567 IAC 23.2 prohibits illegal open burning, and states that "[n]o person shall allow, cause or permit open burning of combustible materials", with certain exceptions. Burning landscape waste that does not originate on the premises is a violation of the prohibition against illegal open burning.

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41. Exhibit A to the May 8, 2019, Consent Amendment to Administrative Order No. 2018-AQ-24 is the Operation and Maintenance Plan, which states, in Condition 1, that:

No burning of materials shall take place at a Ram Development, LLC work site subject to the above referenced permits unless the burning is being controlled by the air curtain incinerator....If burning is occurring, the unit must be operating.

Condition 2 states that: "Sufficient dirt or other material shall be used to fully extinguish any burning material when the air curtain incinerator is not operating." Condition 3 states that:

Ram Development, LLC personnel shall be present at the site at all times the air curtain incinerator is in operation, and whenever smoke is being emitted on the property from a burn site or storage pile.

As stated above, this Operation and Maintenance Plan was incorporated into Ram Development's Title V Permit 18-TV-005-M001 as Appendix B on June 18, 2019.

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. Iowa Code section 455B.134(3) provides that the director of DNR shall grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, modified, or existing air contaminant sources and for related control equipment.

3. 567 IAC 22.3(3) states that a construction permit may be issued subject to conditions that shall be specified in writing. Such conditions may include but are not limited to emission limits, operating conditions, fuel specifications, compliance testing, continuous monitoring, and excess emission reporting. As stated above, Ram Development has failed to comply with the requirements of Construction Permit No. 14-A-464 to maintain opacity emissions from the Air Curtain Incinerator (EP 1) to less than or equal to 10% opacity and to maintain opacity to less than or equal to 35% opacity during the startup period that is within the first 30 minutes of operation. On November 23, 2020, Ram Development completed opacity stack testing on the Air Curtain Incinerator (EP 1), showing opacity test results of 26.24%, in violation of the 10% opacity limit. Further, both DNR and stack test company observers witnessed on December 31,

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2019, credible evidence that the emissions from the Air Curtain Incinerator (EP 1) exceeded both the required 35% opacity standard required within 30 minutes of startup, and the required 10% opacity standard that applies after 30-minute startup period. As stated above, the December 31, 2019, stack testing was halted by the company.

4. Title V Operating Permit No. 18-TV-005-M001 was issued to Ram Development on June 18, 2019. The opacity emission limit violations of Construction Permit No. 14-A-464 also are violations of Title V Operating Permit No. 18-TV-005-M001.

5. 567 IAC 25.1(7) and 40 CFR § 60.7(6) state that the owner of new or existing equipment or the owner's authorized agent shall notify the DNR in writing not less than 30 days before a required test or before a performance evaluation of a continuous emission monitor to determine compliance with applicable requirements of 567 IAC Chapter 23 or a permit condition. As stated above, Ram Development failed to provide notification for testing attempted on December 31, 2019.

6. 567 IAC 25.1(7) and 40 CFR § 60.7(6) state that results of the tests shall be submitted in writing to the director in the form of a comprehensive report within six weeks (42 days) of the completion of the testing. As stated above, Ram Development submitted its July 11, 2019, stack test 54 days after the testing was completed.

7. 567 IAC 22.108(5) and Title V Operating Permit No. 18-TV-005-M001 require that by March 31 of each year, the permittee shall submit compliance certifications for the previous calendar year. As stated above, Ram Development failed to submit the 2018 Annual Compliance Certification.

8. 567 IAC 22.108(5) and Title V Operating Permit No. 18-TV-005-M001 require that by March 31 and September 30 of each year, the permittee shall submit a report of any monitoring required under the permit for the six-month periods of July 1 to December 31 and January 1 to June 30, respectively. As stated above, Ram Development submitted its January 1, 2019 – June 30, 2019, Title V Semi Annual Report and its January 1, 2020 – June 30, 2020, Title V Semi-annual Monitoring Report late.

9. As stated above, on at least two occasions, Ram Development has failed to timely report excess emissions, as required by Construction Permit No. 14-A-464, and 567 IAC 24.1. Also, Ram Development failed to report excess emissions during the period August 14 through 20, 2020. 567 IAC 24 requires that an initial report of excess emissions shall occur within eight hours of, or at the start of the first working day following the onset of the incident. The rule also requires that a written report of excess emissions shall be submitted within seven days of the onset of the upset condition.

10. As stated above, Ram Development has violated the provisions of Administrative Order No. 2018-AQ-24, the Consent Amendment thereto, and Title V Operating Permit No. 18-TV-005-M001.

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11.567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in subrule 23.2(2) (variances) and subrule 23.2(3) (exemptions). The open burning of solid waste materials consisting of landscape waste not originating on the premises by Ram Development, as described above, is a violation of the provisions of 567 IAC 23.2.

12. Additionally, when conducting illegal open burning, Ram Development has violated the provisions of the following, as described above:

- a. Title V Permit 18-TV-005-M001, General Condition G21 [Open Burning] General Condition G21, which states:

The permittee is prohibited from conducting open burning, except as provided in 567 IAC 23.2(455B).
- b. Title V Permit 18-TV-005-M001, Appendix B [Administrative Consent Order #2018-AQ-24 Amendment 1], Condition 1, of the Operations and Maintenance Plan, which states:

No burning of materials shall take place at a Ram Development work site subject to the above referenced permits unless the burning is being controlled by the air curtain incinerator.
- c. The Consent Amendment to Administrative Order #2018-AQ-24 Amendment 1, Section "V.", conditions "2" and "3", which state:
 2. Ram Development shall immediately cease, and prevent, any future, illegal open burning of combustible material in the state of Iowa. This includes preventing open burning of material stored on property where it operates the unit.
 3. Ram Development shall comply with all terms of the existing and future air permits issued by the DNR and shall cease the burning of any landscape waste unless it does so in compliance with Iowa law and the terms of the applicable permits.

V. ORDER

THEREFORE, DNR orders and Ram Development, LLC agrees to the following:

1. Since Ram Development is currently out of compliance with the requirements of both the 10% opacity limit contained in Construction Permit No. 14-A-464 and the requirements of Title V Operating Permit No. 18-TV-005-M001, as stated above, RAM Development shall not operate the Air Curtain Incinerator (EP 1);

2. Within 30 days of the date this Order is signed by the Director, Ram Development shall:

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a. Request, in writing, the rescission of Construction Permit No. 14-A-464 and TV Operating Permit No. 18-TV-005-M001, and

b. Permanently discontinue the use of and disable the Air Curtain Incinerator (EP 1) by removing the engine and by removing EP 1 from the site;

3. Ram Development shall cease all illegal solid waste disposal activity and all illegal open burning of combustible materials at the site, and shall comply in the future with the regulations concerning disposal of solid waste and open burning;

4. Any solid waste, including landscape waste, that has been placed at the site by Ram Development that is present at the site on the date this order is signed by the Director shall be removed within 30 days of the date this order is signed by the Director; and Ram Development shall not place any new solid waste at the site; and

5. Pay an administrative penalty in the amount of \$2,500.00. \$500.00 shall be paid to DNR within 30 days of the date this Order is signed by the Director. In lieu of payment of the remainder of the administrative penalty, Ram Development shall conduct a Supplemental Environmental Project (SEP) with the Dallas County Conservation Board. Ram Development shall provide payments to the Dallas County Conservation Board, Attention: Mike Wallace, Executive Director, 14581 K Avenue, Perry, Iowa 50220, in accordance with the payment schedule stated below:

Payment Amount	Payment Due Date
\$500.00	June 1, 2021
\$500.00	July 1, 2021
\$500.00	August 1, 2021
\$500.00	September 1, 2021

Each time a payment is made to the Dallas County Conservation Board, Ram Development shall submit a receipt of payment by mail and by email to:

Iowa Department of Natural Resources
ATTN: Anne Preziosi
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Email: Anne.Preziosi@dnr.iowa.gov

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, the director is authorized to assess administrative penalties, as follows:

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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.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.

The administrative penalty and SEP are described in Section V, paragraph 5, above. The amount of the administrative penalty assessed by this order is determined as follows:

Economic Benefit – 567 IAC Chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, DNR shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

Ram Development has operated an Air Curtain Incinerator (EP 1) to dispose of wood waste from land development. Every truckload of wood waste that Ram Development has been able to incinerate has saved the company money when compared to other methods of disposal. Ram Development has demonstrated that it cannot consistently comply with incinerator emission limits or follow required operation and maintenance plans, but Ram Development has continued to operate the incinerator to save disposal costs. On November 23, 2020, Ram Development completed opacity stack testing on the Air Curtain Incinerator (EP 1), showing opacity test results of 26.24%, in violation of the permitted 10% opacity limit.

During the period from August 14, 2020, through August 20, 2020, Ram Development illegally open burned logs, tree stumps and woody debris in lieu of taking the material to an approved disposal site. This allowed the company to avoid paying tipping fees for material that was consumed during the illegal open burning. The actual number of truckloads of material that were on site and open burned during this period is unknown, but based on recent photos and visual observations, it is estimated to be at least five. Ram Development also realized an economic benefit by saving on fuel costs needed to run the diesel engine that powers the permitted Air Curtain Incinerator. In addition, illegally burning the material allowed Ram Development to gain an illegal competitive advantage over similar companies that dispose of the material properly. Ram Development was able to underbid competitors by avoiding disposal fees.

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It is estimated that Ram Development has saved at least \$1,500.00. For these reasons, \$1,500 is assessed for economic benefit.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter.

Credible evidence shows that Ram Development has violated the opacity limits for its Air Curtain Incinerator (EP 1). Citizen complaints also have alleged burning activities have taken place onsite unattended without the Air Curtain Incinerator (EP 1) in operation. RAM operated the Air Curtain Incinerator (EP 1) in exceedance of the permitted opacity limits, which indicates excess emissions of PM, PM10, and PM2.5 are occurring. Actual harm to the environment and public health is likely occurring due to the amount of PM, PM10, and PM2.5 contained in the opacity being emitted above the permitted limits.

Emissions of PM10 and PM2.5 pose an increased public health risk due to the size of particles being directly linked to their potential for causing health issues. Small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into the lungs, and some may even get into the bloodstream. Numerous scientific studies have linked particle pollution exposure to a variety of problems, including: premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing.

Ram Development operated the Air Curtain Incinerator (EP 1) from December 31, 2019, until August 13, 2020, in violation of permitted limits. This behavior threatened the integrity of the Iowa DNR Air Quality Program and the health of Iowa citizens.

Further, improper open burning of wood waste can degrade air quality in the immediate area and emits potentially harmful pollutants into the atmosphere. Smoke is also aesthetically unpleasing and can cause odors. Ram Development was issued construction and Title V permits to incinerate this material, which reduces the impact of combustion when the permitted Air Curtain Incinerator is working properly. In addition, state and federal air quality regulatory programs that protect public health and the environment are undermined by improper open burning activities.

As stated above, the Air Quality Bureau conducted an air quality modeling analysis which indicated that burning wood at this location for seven straight days caused exceedances of the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (1-hour and 8-hour standards), PM_{2.5} (particulate matter, 24-hour and annual standards), PM₁₀ (particulate matter, 24-hour standard) and nitrogen oxides (1-hour and annual standards).

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The geographical extent of the exceedances varied, with the worst case being the PM_{2.5} 24-hour NAAQS, with impacts reaching areas at least 1.2 miles away in all directions. PM_{2.5} particles in concentrations that exceed ambient standards are harmful to human health, as the size of these particles is small enough to enter into the lungs and become lodged.

For these reasons \$500.00 should be assessed for this factor.

Culpability – Ram Development has a history of exceeding permitted limits. Since April 2019, Ram Development has failed to provide Title V Annual Certification and Semi-Annual reports timely, failed to provide notification of stack testing, aborted at least one compliance stack test, exceeded permitted emission limits during attempted stack testing, and continues to be the subject of citizen complaints.

Ram Development's failure to submit Title V reports timely threatens the integrity of the DNR Air Quality Title V Operating Permit Program. These reports allow industry, citizens, and regulatory agencies to be informed when a facility fails to meet Title V permit conditions, and what action is being taken to correct these problems.

Ram Development's actions have threatened the integrity of the DNR Air Quality Compliance Program by not notifying of stack testing events, which does not allow DNR to observe compliance testing as required by 567 IAC 25.1(7). When DNR representatives were on site for stack testing on December 31, 2019, RAM personnel stopped loading material to the Air Curtain Incinerator (EP 1) due to emissions exceeding the permitted limit. Ram Development halted the compliance test. Altering the compliance test to affect opacity results does not allow the DNR to evaluate the true emission levels of the source or evaluate operation during ambient conditions under which the source is currently permitted to operate.

The January 10, 2020, NOV issued to Ram Development required a compliance plan be submitted to DNR by February 9, 2020. This plan was required to include steps detailing how emission limit violations would be addressed, when the required compliance test would be completed, and how Ram Development planned to comply with its Title V Operation and Maintenance Plan in the future. Ram Development did not provide a compliance plan by the February 9, 2020, deadline to address the ongoing violations, choosing instead to pursue a NSPS applicability determination from EPA Region VII. Ram Development did not submit a compliance plan to DNR until June 25, 2020, and did not complete a stack test to satisfy the annual stack test requirement until August 13, 2020. This approach caused violations noted in the January 10, 2020, NOV to go unaddressed for 225 days. The cold weather stack test requirement remained outstanding.

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Ram Development has consistently failed to coordinate testing activities with the Air Quality Bureau staff. Finally, on November 23, 2020, Ram Development completed cold weather opacity stack testing on the Air Curtain Incinerator (EP 1), showing opacity test results of 26.24%, in violation of the 10% opacity limit.

For these reasons, \$500.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Ram Development, LLC. For that reason, Ram Development, LLC waives its right to appeal this order or any part thereof.

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 section 455B.146. 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.

Kayla Lyon, Director
Iowa Department of Natural Resources

Dated this _____ day of _____, 2021.



Ram Development, LLC

Dated this 30 day of March, 2021.

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