

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

<p>IN THE MATTER OF:</p> <p><b>CHAMNESS TECHNOLOGY, INC.</b></p>	<p style="text-align:center">ADMINISTRATIVE ORDER</p> <p>NO. 2021-SW- <u>11</u></p> <p>NO. 2021-WW- <u>18</u></p>
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To: Chamness Technology, Inc.  
Gary Chamness, Registered Agent  
2255 Little Wall Lake Road  
Blairsburg, Iowa 50034

Re: Failure to operate industrial composting facility in compliance with Iowa law; illegal discharges into water of the State.

**I. SUMMARY**

This administrative consent order (Order) is entered into by the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) to resolve violations of Iowa law governing the proper operation of an industrial composting operation (facility) located in Eddyville, Iowa. Despite ongoing efforts by the DNR to assist Chamness in bringing the facility into compliance, in May of 2021, DNR staff inspecting the facility following a complaint found Palestine Creek had been impacted by compost leachate runoff in violation of the facility's permit and Iowa water quality regulations.

As detailed below, Chamness' composting permit (90-SDP-10-97P-COM) is temporarily suspended. This suspension is in effect until at least August 15, 2021, and is limited to prohibiting any additional feedstock material from being delivered to the facility. Additionally, Chamness shall, among other requirements, implement measures to prevent future discharges, meet specific staffing requirements, and pay an administrative penalty of \$4,000.00. The basis for this Order and the penalty is further explained herein.

Any questions regarding this Order should be directed to:

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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

**Relating to technical requirements:**

Kurt Leveltzw, Supervisor  
Iowa Department of Natural Resources  
Field Office No. 6  
1023 W. Madison Street  
Washington, Iowa 52353  
Phone: 319-653-2135

**Relating to legal requirements:**

David Scott, Attorney  
Iowa Department of Natural Resources  
1023 W. Madison Street  
Washington, Iowa 52353  
Phone: 319-321-8504

**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 Order is issued pursuant to Iowa Code § 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I (water quality) and the rules promulgated or permits issued pursuant thereto; 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; 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. In April, 2020, the DNR and Chamness entered Consent Orders 2020-HC-02, 2020-SW-02, and 2020-WW-05 that required Chamness to comply with the requirements of the revised compost permit, participate in regular on-site inspections, develop and implement a leachate management plan, and pay an administrative penalty for past permit-noncompliance.

2. On June 11, 2020, DNR Field Office (FO) 6 staff investigated multiple complaints regarding burning compost, smoke, odor and leachate compliance issues at the Chamness facility.

3. On June 30, 2020, the DNR issued a Notice of Violation (NOV) to Chamness due to leachate runoff from the facility impacting Palestine Creek in violation of the facility's permit and the prior Consent Orders.

4. On September 3, 2020, DNR FO6 staff conducted a routine compliance inspection of the facility.

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5. On September 9, 2020, DNR issued an NOV due to permit non-compliance witnessed during the September 3 inspection.

6. On March 8, 2021, due to ongoing compliance issues at the Chamness facility, DNR issued a warning letter to Chamness noting three primary actions items required to avoid future permit enforcement including fixing drainage, screening on-site compost and re-establishing windrows. It was subsequently communicated to Chamness representatives that DNR expected the facility to be in compliance with these requirements by July 1, 2021 in order to avoid permit suspension.

7. On May 1, 2021, DNR FO6 received additional complaints regarding a large fire at the facility and that Palestine Creek was running black. Due to the large fire, local fire departments responded in attempt to control the fire. The fire reportedly burned for two days.

8. On May 3 and 4, 2021, DNR FO6 staff inspected the facility to determine the cause of the discoloration of the Creek. Staff took water quality samples and determined that the runoff was from the compost material into the creek. The samples showed water quality violations resulting from the illegal discharge into the creek.

9. May 26, 2021, DNR issued an NOV to Chamness for prohibited discharge and for causing water quality criteria violations.

#### IV. CONCLUSIONS OF LAW

1. Chamness' permit non-compliance referenced above are also violations of the requirements of Consent Orders 2020-HC-02, 2020-SW-02, and 2020-WW-05.

2. Iowa Code § 455B.186 prohibits the depositing or discharging of any pollutant into any water of the state of Iowa. The facts outlined above establish a violation of this section of the Iowa Code.

3. The Iowa Environmental Protection Commission (Commission) enacted 567 IAC 105.3, which enumerates requirements for composting operations in Iowa.

4. 567 IAC 105.3(2) requires composting to be performed in a manner that minimizes the formation of compost leachate. As explained above, failure to maintain windrows and drains on both sides of the 18-acre compost pad at the facility resulted in leachate runoff into a nearby creek. These facts establish a violation of this requirement.

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5. 567 IAC 105.3(3) requires that measures be taken to prevent water from running onto the facility from adjacent land and to prevent compost leachate and runoff from leaving the composting facility. Runoff from the composting facility must be properly managed. The above-stated facts establish a violation of this regulatory requirement.

6. 567 IAC 105.3(4) requires composting facilities to be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur must be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding. The facts above establish a violation of this requirement.

7. The facility was issued a revised permit to operate a composting facility in April, 2020. The facts stated above establish multiple violations of the facility's permit.

8. 567 IAC 61.3 establishes water quality criteria for Iowa waters. Pollutants entering Palestine Creek due to Chamness' non-compliance with its permit and composting regulations caused water quality violations due to documented impacts from ammonia, biological oxygen demand (BOD) limits, and Total Suspended Solid (TSS) limits.

9. Finally, pursuant to Section VIII (General Conditions) of Chamness' composting permit, "failure to comply with Iowa Code Sections 455B and 455D, or any rule of order promulgated pursuant thereto, or any or all provisions of this permit may result in . . . the suspension or revocation of this permit."

## V. ORDER

**THEREFORE**, the DNR orders and Chamness agrees to the following:

1. Chamness' composting permit (90-SDP-10-97P-COM) is temporarily suspended as follows: no feedstock material or bulking agent of any kind may be deposited at the facility by any party. This restriction is in effect until August 15, 2021 and may be extended based on a site inspection by DNR FO6 staff. The determination on whether to extend the restriction will be based on permit compliance and is at the sole discretion of DNR.

2. Chamness shall pay an administrative penalty of \$4,000.00 within 90 days of this Order being signed by the Director.

3. Chamness shall comply with its existing operations plan and 567 IAC chapter 105 at all times.

4. Chamness must certify to DNR FO6 on a monthly basis in writing that all necessary equipment is functional. This includes the compost screener,

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grinder, windrowing equipment, and leachate land application equipment. In the event any process-crucial equipment is not functional, it must be fixed or replaced within a reasonable period not to exceed 45 days.

5. Chamness shall implement preventative measures to ensure the drainage system associated with the east and west leachate lagoons remain operational (i.e. clear of obstructions that could cause plugs from occurring in the future).

6. Chamness shall ensure that the pad at the facility is impervious. Holes in the pad will be patched or permanently repaired within a reasonable amount of time after discovery.

7. All compost operators/site managers must successfully become certified operators within six months of the date that the Director signs this Order. Chamness shall also ensure sufficient staffing at all times to maintain minimum onsite daily composting operations.

#### 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.191 provides for civil penalties of up to \$5,000.00 per day for water 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. The administrative penalty assessed by this Order is determined as follows:

- a) 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, the department 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."

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Failure to permanently replace leachate drainage pipes leading into the east and west leachate storage lagoons has saved Chamness equipment and staff time costs. Failure to keep compost on the asphalt pad has saved time and costs associated with operating compost equipment, leachate land application equipment, and fuel costs.

As such, DNR conservatively estimates avoided costs of \$3,000.00 for continued non-compliance.

- b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Failure to maintain the leachate drains and allowing compost to migrate off of the permitted portions of the asphalt pad for over two years, as well as land application of leachate, has led to environmental impacts including the discharge of leachate into Palestine Creek. Field Office 6 staff have dedicated a great deal of time and effort to assist Chamness since October 2016. Historical chronic violation of compost regulations has threatened the integrity of DNR's regulatory program.

Therefore, \$500.00 is being assessed for this element.

- c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Chamness' operational staff and management are fully aware of their obligations under the company's composting permit and other applicable Iowa law. DNR staff have spent numerous hours explaining these requirements. While there has been no evidence of false reporting or tampering, the leachate runoff was not voluntarily reported to DNR. Being in the industrial composting business for many years, Chamness' staff should have known the importance of following their own standard operating procedures when it comes to building and maintaining windrows and proper leachate management.

As such, \$500.00 is being assessed for the factor.

4. The administrative penalty imposed for this matter is based, in part, on good faith negotiations with Chamness and the specific facts of this matter. It has no precedential value for future enforcement actions.

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**VII. APPEAL RIGHTS**

As this Order is being entered by consent, 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.

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Kayla Lyon, Director  
Iowa Department of Natural Resources

  
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Gary Chamness

Dated this 7<sup>th</sup>  
day of July, 2021.

CC: DNR Field Office 6; David Scott; I.C.1, IV.A, VI.B.2.