

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

IN THE MATTER OF:  
  
**WESSELS OIL COMPANY, INC.**

ADMINISTRATIVE  
CONSENT ORDER  
NO. 2022-WW- 17  
NO. 2022-HC- 01

To: Wessels Oil Company, Inc.  
Ronald G. Wessels, Registered Agent  
421 Railroad Avenue  
Palmer, Iowa 50571

Re: Water quality violation, failure to report hazardous condition.

**I. SUMMARY**

This administrative consent order (Order) is entered into by the Iowa Department of Natural Resources (DNR) and Wessels Oil Company, Inc. (Wessels) to resolve violations of Iowa law prohibiting the discharge of pollution into Iowa waters and the failure of the company to report the spill of a hazardous substance.

As detailed below, Wessels agrees to comply with Iowa water quality and hazardous condition reporting regulations at all times in the future and to pay an administrative penalty of \$6,000.00.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Jacob Simonsen, Env. Specialist  
Iowa Department of Natural Resources  
Field Office No. 3  
1900 North Grand, Suite E17  
Spencer, Iowa 51301  
Phone: 712-262-4177

**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

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**II. JURISDICTION**

This Order is issued pursuant to Iowa Code section 455B.175 which authorizes the Director to issue orders directing parties to cease practices that violate Iowa Code Chapter 455B, Division III (water quality) and the rules adopted pursuant to that part; Iowa Code section 455B.382, which authorizes the DNR to prevent, abate, and control exposure of citizens to hazardous conditions; Iowa Code section 455B.386, which authorizes penalties for failure to properly notify the DNR in the event of a spill of a hazardous substance; 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. On April 20, 2022, a fuel truck carrying 3,500 gallons of diesel fuel mistakenly off-loaded approximately 1,300 gallons of diesel fuel at the Lake Park facility. An estimated 600 gallons of diesel fuel overflowed from the tank and flowed into Trapper's Bay and saturated the ground.

2. On April 21, 2022, Steve Krummen—the former owner of the facility where the tank is located—contacted Wessel's Oil Company, Inc., about the spill and states that he was instructed by Wessels to scrape the top layer of soil and to cover the area with rock.

3. On the same day, DNR Field Office (FO) 3 staff were informed by staff from DNR's fisheries program of a diesel spill at a former industrial facility causing a sheen on Trapper's Bay. Local first-responders and DNR staff tried to contain the sheen.

4. On April 22, 2022, DNR FO staff and staff from Sunrise Farms began lake cleanup using a vacuum truck and absorbent pads to remove fuel from Trapper's Bay. A more permanent boom was installed to separate Trapper's Bay from Silver Lake.

5. On April 23 and April 24, 2022, Sunrise Farms staff monitored the bay to ensure the boom stayed in place and that no new pockets of fuel were discovered.

6. On April 25, 2022, contractors began excavating the contaminated soil.

7. On April 26, 2022, excavation was completed and the absorbent booms were removed from Trapper's Bay.

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8. On April 29, 2022 a Notice of Violation was issued to Wessel's Oil Company, Inc. During the remediation efforts, DNR staff had discussions with the owner of Wessels who acknowledged the spill was the result of a mistake by one of the company's drivers.

**IV. CONCLUSIONS OF LAW**

1. 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.

2. DNR has jurisdiction over certain water bodies in the state of Iowa. 567 IAC 61.3(2) establishes general water quality standards that must be complied with. The facts outlined above establish a violation of this section of the IAC due to hazardous materials reaching and entering a water of the state.

3. Iowa Code § 455B.381 defines a "hazardous substance" as any substance that presents a danger to the public health or safety and includes any substance that is toxic, corrosive, flammable, or that is an irritant.

4. Iowa Code § 455B.381 further defines a "hazardous condition" as any situation involving the actual, imminent, or probable spillage, leakage or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates and immediate or potential danger to the public health or safety or to the environment.

5. Iowa Code § 455B.386 requires any person manufacturing, storing, handling, transporting, or disposing of a hazardous substance to notify the DNR of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The facts above establish a violation of this requirement.

6. Iowa Code 455B.392 attributes liability to the person "having control over a hazardous substance" for assessment and remediation costs resulting from the failure of the person "to clean up a hazardous substance involved in a hazardous condition caused by that person." The facts above establish that the Company is the liable party.

7. 567 IAC 131.2 reiterates the requirements of Iowa Code § 455B.386 and delineates reporting and follow-up obligations of the responsible party. The facts above establish that the Company is the responsible party.

**V. ORDER**

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

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1. Wessels will comply with Iowa's hazardous condition/spill reporting requirements at all times in the future.
2. Wessels will comply with Iowa's water quality regulations at all times in the future.
3. Finally, Wessels will pay an administrative penalty of \$6,000.00 within 60 days of this Order being signed by the Director.

**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. 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 that were 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."

DNR is not assessing a penalty for this factor at this time.

- 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.

Failing to provide proper notification of spills of hazardous substances and the failure to prevent and remediate hazardous substances from impacting water quality results in serious impacts to both the environment and to

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public health and safety.

As such, \$3,000.00 is assessed for this factor.

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

Professionals in the fuel industry are expected to understand the rules and regulations regarding the transport and filling of fuel tanks. These rules and regulations include requirements that must be fulfilled when fuel is discharged to land and water resources of the State. Despite being aware that the tank had been overfilled, the driver that was responsible for the fuel failed to inform the proper departments of the hazardous condition, triggering an emergency response from multiple agencies upon discovery of fuel in Trapper's Bay and Silver Lake.

As such, \$3,000.00 is assessed for this factor.


**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.

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Kayla Lyon, Director  
Iowa Department of Natural Resources

  
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For Wessels Oil Company, Inc.

Dated this 25<sup>th</sup> day of  
May, 2022.

CC: DNR Field Office 3; David Scott; IV.A, I.C.1, I.C.6.a

