

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

**ELIZABETH R. MATHES**

ADMINISTRATIVE  
ORDER

NO. 2023-SW-10

To: Elizabeth R. Mathes  
1068 140th St.  
Wellman, IA 52356

Re: Non-compliance with Iowa solid waste and open burn regulations.

**I.SUMMARY**

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Elizabeth Mathes to resolve violations of Iowa law governing solid waste disposal and the open burning of combustible material.

As detailed below, Ms. Mathes is required to cease all improper disposal of solid waste, cease the illegal burning of combustible material, comply with Iowa law at all times in the future, and to pay an administrative penalty of \$4,000.00 within sixty days of this Order being signed by the Director.

**Relating to technical requirements:**

Jeremiah Kauffman, Env. Specialist  
Iowa Department of Natural Resources  
Field Office No. 6  
1023 W. Madison  
Washington, IA 52353  
Phone: 319-653-2135

**Relating to legal requirements:**

Bradley Adams, Attorney  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa, 50319  
Phone: 515-664-8894

**Payment of Penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa, 50319

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**II. JURISDICTION**

This Order is issued pursuant to: 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; 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, and; Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. On September 22, 2022, a complaint was filed with DNR Field Office 6 (FO6) indicating several hundred vehicle gas tanks, trash, and other solid wastes were being dumped and burned on properties located in the unincorporated area of Nira in Washington County, Iowa.<sup>1</sup>
2. On September 28, 2022, FO6 staff visited Nira and photographically documented improper solid waste disposal and open burning occurring in the Nira community, including properties belonging to Ms. Mathes. DNR staff spoke with Mr. Kris Ruggles, an associate of Ms. Mathes, and informed him of the violations. Mr. Ruggles agreed to inform Ms. Mathes of the conversation.
3. On October 19, 2022, DNR staff spoke with Heath McDonald, who was providing vehicle gas tanks to the Nira residents. Mr. McDonald claimed he was giving the residents the gas tanks for fuel and that they were supposed to return the tanks to him, but they had not.
4. On March 7, 2023, DNR staff sent an NOV letter to Ms. Mathes regarding continual open burning and open dumping violations.
5. On May 25, 2023, DNR staff photographically documented the compliance status from 140th Street, adjacent open fields, and the driveways belonging to the property owners of the Nira community. Properties with continued open dumping and open burning violations included those owned by Elizabeth Mathes. Another NOV letter was sent to Ms. Mathes.
6. On July 27, 2023, DNR staff photographically documented the compliance status, from 140th Street, adjacent open fields, and driveways belonging to Ms. Mathes. Ms. Mathes and FO6 supervisor Kurt Levetzow spoke about the open dumping and burning violations, along with the NOV letters previously sent. Ms. Mathes demonstrated an

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<sup>1</sup> The violations occurred on multiple parcels in Washington County, one of which has the address 1068 140<sup>th</sup> St., Wellman, IA 52356. The other properties do not have addresses assigned; their parcel identification numbers are 0119457018, 0119457014, and 0119457013 in the SE¼ of the SW¼ of the SE 1/4 of Sec. 19, T 77 N, R 09 W.

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understanding of the administrative code and the violations described in the previous NOV letters. Ms. Mathes stated the trench and the burn site east of her residence was being used for the unpermitted disposal of solid waste and open burning for herself, residents of Nira, and other parties. Ms Mathes stated she gave her permission for some of these activities, but for others she had not. Ms. Mathes and Mr. Levetzow agreed that DNR staff would revisit the property on August 10, 2023 to check its compliance status, and if significant progress had been made, then another two weeks would be allotted to address other violations occurring on the property. If significant progress had not been made by August 10, 2023, Ms. Mathes understood that the matter would be referred to the DNR Legal Services Bureau for further enforcement action.

7. On August 10, 2023, DNR staff again photographically documented the compliance status of the Mathes properties. Among the various wastes, including scattered tires, particular note was taken of the solid waste disposed of via a dug trench and partial burial. The solid waste in the trench had been open burned in a disposal effort. Parts of the trench also had dirt placed on the solid waste in an effort to hide some of the burnt remains. After initial denial and claims of proper disposal via the SEMCO Landfill in Richland, IA, Elizabeth Mathes and Kris Ruggles admitted to burning the solid waste knowing that the act of open burning was illegal. These acts, as explained by Ms. Mathes and Mr. Ruggles, were performed in an effort to deceive DNR staff. Mr. Levetzow discussed the continued violations of open burning and solid waste disposal on the property and stated the violations would result in a referral to the DNR Legal Services Bureau for further enforcement action.

**IV. CONCLUSIONS OF LAW**

1. The Environmental Protection Commission (Commission) has adopted 567 IAC 23.2(1), which prohibits a person from allowing, causing, or permitting the open burning of combustible materials. Certain exceptions to this rule are not applicable.
2. The Commission has adopted 567 IAC 117.3(1) prohibit the land disposal of waste tires unless the tires have been processed in a manner established by the DNR.
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 approved by the Director and pursuant to the terms of a permit granted by the DNR authorizing the disposal of solid waste.

As such, the above-stated facts establish violations of these regulatory provisions.

**V. ORDER**

**THEREFORE**, the DNR orders Elizabeth Mathes to do the following:

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1. Immediately discontinue all illegal open burning and solid waste disposal, and comply with all provisions of Iowa law regarding open burning and solid waste in the future.
2. Submit proof (e.g. disposal receipts and photos) to FO6 that the existing solid waste and burn piles have been removed and properly disposed of at an approved sanitary landfill or bona fide recycling center.
3. Pay an administrative penalty in the amount of \$4,000 within 45 days of the date the Director signs this administrative consent order.

**VI. PENALTY**

1. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations.

2. 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."

The property owner avoided paying disposal fees for house-hold trash and other solid waste. At SEMCO Landfill, which services Washington County, tipping fees are \$45.00 per ton. Due to unknown quantities of solid waste, including waste tires within the excavated dump pit, vehicle gas tanks, and other solid waste strewn around the property, DNR assesses \$500.00 for this factor.

As such, \$500.00 is assessed for this factor.

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

The burning of trash can degrade air quality in the immediate area and emit potentially harmful pollutants into the atmosphere. Smoke is also aesthetically unpleasing and potentially creates a nuisance condition. From the complaints received, smoke was causing a nuisance and possible health problems for neighbors. Improper disposal of solid waste also creates a nuisance condition. The decomposing materials within the open

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dump creates negative environmental impacts. Additionally, failure to comply with regulations governing proper disposal of solid waste threatens the integrity of the regulatory program by providing perverse incentives for those in the community to not utilize sanitary landfills.

As such, \$1,500.00 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, and whether the violator has taken remedial measures to address the harm caused by the violations.

Regulations prohibiting the illegal disposal of solid waste have been in force in Iowa for decades. The property owner was notified on multiple occasions of the applicable law.

As such, \$1,500.00 is assessed for this factor.

- d. Mitigating or Aggravating Factors. 567 IAC 10 instructs the department to consider other relevant factors which arise from the circumstances of each case.

Ms. Mathes admitted to burning solid waste in an effort to deceive DNR staff.

As such, \$500.00 is assessed for this factor.

**VII. APPEAL RIGHTS**

This Order is subject to appeal pursuant to Iowa Code § 4558.110 and the contested case rules promulgated pursuant to that section. An appeal must be received by the DNR within 60 days of the date this Order issued, at which time a contested case hearing will be scheduled before an Administrative Law Judge. Failure to appeal will result in this Order being considered final agency action.

**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.307.

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Kayla Lyon, Director  
Iowa Department of Natural Resources

CC: DNR Field Office 6; Bradley Adams