

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

<p>IN THE MATTER OF:</p> <p><b>AgriReNew</b></p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. <del>2022-SW</del>-----2023-SW-12</p>
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To: AgriReNew  
26618 20<sup>th</sup> Avenue  
Stockton, Iowa, 52769

Re: Illegal disposal of solid waste.

**I. SUMMARY**

This administrative consent order (Order) is entered into by the Iowa Department of Natural Resources (DNR) and AgriReNew, a joint venture partnership (AgriReNew) to resolve violations of Iowa law governing the disposal of solid waste.

As detailed below, AgriReNew agrees to cease the illegal disposal of solid waste and to comply with Iowa Solid Waste regulations at all times in the future and to pay an administrative penalty of \$5,000 within 90 days of this Order being signed by the Director.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

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

**Relating to legal requirements:**

Bradley Adams, Attorney  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, IA 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 50319-0034

## 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; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

## III. STATEMENT OF FACTS

AgriReNew neither admits nor denies the Statement of Facts and enters into this administrative consent order for settlement purposes only. The following facts are relevant to this matter:

1. AgriReNew leases property from Sievers Family Farms, LLC at 26618 20th Ave, Stockton, IA 52769. The parcel ID is 0123221003, with a total size of 57.05 acres.

2. In 2018, AgriReNew took ownership of 168 barrels and 10 totes of soy lecithin from an unspecified supplier for use in the digesters on site.

3. Effective Jan. 1, 2022, AgriReNew entered into an agreement with Roeslein Alternative Energy, to operate the entity Horizon II, LLC.

4. On June 28, 2022, Iowa DNR Field Office (FO) 6 received an anonymous complaint regarding the alleged burial of up to 100 drums containing unknown and potential hazardous materials at the above listed address.

5. On June 29, 2022, FO6 staff visited the AgriReNew property and spoke with Bryan Sievers. Mr. Sievers provided a tour of the property, including a drum storage area. The drums were located on the property behind an out-building. A rough count showed at least 70 metal drums and at least 20 plastic drums. Mr. Sievers counted 35 metal CAT drums that were empty and could be recycled with the distributor, an additional 40 metal/CAT drums that contained engine coolant and at least 20 additional plastic drums. There were also 9 plastic bulk totes that Mr. Sievers said he believed contained corn oil. Mr. Sievers stated that he was in the process of contracting with Safety-Kleen to remove the drums that cannot be recycled with the distributor, as well as the bulk storage totes. Earthwork was occurring on-site during the visit, where a new earthen basin (digester) was being constructed. A visual inspection of the area was conducted and no evidence of buried solid waste, or any drums was observed in the active earthwork, or throughout the area where the new digester was being constructed. At this meeting, Mr. Sievers stated that he was not aware of any drums buried on the property. DNR sent a letter dated July 12, 2022, confirming the June 29 site visit and observations during that visit.

6. On July 24, 2022, during construction work for the new digester Roeslein & Associates learned from an AgriReNew employee that barrels had been buried on the property. Roeslein then conducted exploratory digging on the property. Two blue poly drums were discovered buried 3 feet deep, located near what was reported to be an old farm burn pit area. Roeslein notified DNR. The exposed drums were not removed and re-covered with soil until a plan of action for further digging and disposal could be developed. Mr. Sievers then learned from the employee that the former employee had buried the drums. Mr. Sievers stated that the burial would have occurred in late May or early June of 2021 while he was on a family vacation, without his knowledge and despite his instructions to the former employee to recycle the drums in a recycling trailer that was already onsite.

7. On August 2, 2022, FO6 staff met virtually with Mr. Sievers, Mrs. Sievers, and representatives from Roeslein. During this meeting, the details of the discovery of the buried barrels was discussed with DNR. Mr. Sievers stated that based on his instructions to the former employee any buried drums should have been empty, or contain small amounts of waste soy lecithin, and that they were likely buried in May or June of 2021. Mr. Sievers and the representatives of Roeslein agreed to plan and perform a voluntary clean up and excavation of the area.

8. On October 4, 2022, the excavation and cleanup began and was organized by staff from Roeslein. The cleanup was planned and managed by Archview Services and Sitex Environmental Inc., and the excavation was performed by Nail Excavating. Mr. Sievers was not present during the excavation. DNR staff was on-site to provide technical assistance and document observations. The area containing the buried drums ended up being more than 20 feet wide, 40 feet long, and at least 14 feet deep in places. At least 20 drums were discovered during the excavation and many of the drums were not empty. A few of the drums that appeared early in the excavation contained a foamy liquid that had a very strong rancid, or rotten odor, and some of the drums deeper in the excavation area contained brownish-black fluids. Due to concerns over the pit being unsafe to occupy, no samples were taken of any of the liquids or fluids contained therein.

9. On October 20, 2022, the results from three soil samples and one groundwater sample from a nearby private well taken by Archview Services during the excavation on Oct. 5, 2022 were made available to DNR. The samples were analyzed by QC Metallurgical Laboratory, Inc. All of the lab results came back below laboratory detection limits except for Barium in the groundwater and soil, and Chromium and Lead in the soil. The lab results indicated 25.42 mg/kg Barium was detected, which is below the Statewide soil standard of 15,000 mg/kg. The detection of Chromium, of 12.65 mg/kg, was also below the statewide standard of 190 mg/kg. The water sample results 0.107 mg/L of Barium from the private well was also considerably below the 2 mg/L MCL for public drinking water standards. No petroleum-based substances were found in the samples.

10. On October 21, 2022, the Scott County Landfill agreed to take the waste product unearthed during the excavation. The wastes were hauled for

several days during the week of October 26, 2022. The excavation site was then refilled utilizing sand that was already on site, and the portion of topsoil from the excavation that was not deemed to be contaminated. A report of this remedial activity was made to DNR.

#### **IV. CONCLUSIONS OF LAW**

AgriReNew neither admits nor denies the Conclusions of Law and enters into this administrative consent order for settlement purposes only.

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 § 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 above-stated facts establish a violation of this statutory prohibition.

3. Iowa Code § 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste, including appliances. The Commission has adopted such rules at 567 IAC chapters 100-123.

4. The Commission has adopted 567 IAC 100.4 which prohibits the illegal disposal of solid waste. The above-stated facts establish violations of this provision.

#### **V. ORDER**

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

1. AgriReNew will ensure the proper disposal of any solid waste remaining on the property at a permitted landfill. Employees will be properly managed while performing duties and instructed on compliance with Iowa solid waste regulations at all times in the future.

2. AgriReNew will pay an administrative penalty of \$5,000 within 90 days of the date that this Order is signed by the Director. The basis for the administrative penalty is provided in Section VI, below.

#### **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.

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.”

AgriRenew did not recognize an economic benefit after properly disposing of the materials.

As such \$0.00 is assessed for this factor.

- 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.

Improperly disposing of solid waste damages the environment, prevents proper management of the solid waste stream, and may create incentives for others to do the same. Improper burial of waste drums threatens the integrity of the regulatory program by circumventing the requirements imposed by rule and statute. As such, \$2,500 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.

The prohibition against improperly burying solid waste is a long-standing state regulation. AgriRenew, by nature of its business, should be aware of all applicable law regarding proper disposal of waste.

As such, \$2,500 is assessed for this factor.

#### VII. APPEAL RIGHTS

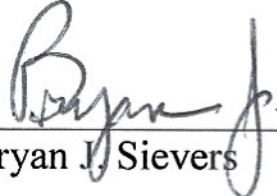
As this Order is entered by consent of the parties, there is no right of appeal.

#### 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

 Bryan J. Sievers, MANAGER OF AGRIRENEW  
Bryan J. Sievers

CC: DNR Field Office 6; Bradley Adams