

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

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<p>IN THE MATTER OF:</p> <p><b>AMES BUSINESS GROUP, LLC and WESLEY AMES</b></p>	<p style="text-align:center">ADMINISTRATIVE ORDER</p> <p style="text-align:center">NO. 2024-SW-02</p>
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To: Ames Business Group, LLC  
Mr. Wesley Ames  
2200 River Rd.  
Keokuk, IA 52632

Re: Non-compliance with Iowa solid waste regulations.

**I. SUMMARY**

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Ames Business Group, LLC and Wesley Ames for violations of Iowa law governing solid waste disposal resulting from the stockpiling of solid waste on property near Burlington in Des Moines County, Iowa.

As detailed below, Mr. Ames and Ames Business Group, LLC are ordered to pay a \$10,000 penalty, remove the solid waste stockpile from the Burlington property discussed below, and comply with all solid waste regulations in the future.

**Relating to Technical Requirements:**

Anthony Kerker, Environmental Specialist  
Iowa Department of Natural Resources  
Field Office No. 6  
1023 W. Madison St.  
Washington, IA 52353  
Phone: 319-653-2135

**Relating to Legal Requirements**

Bradley Adams, Attorney for the DNR  
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  
502 East Ninth Street  
Des Moines, Iowa, 50319

## **II. JURISDICTION**

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

## **III. STATEMENT OF FACTS**

1. On April 27, 2022, Iowa DNR Field Office 6 (FO6) received an anonymous complaint reporting a large stockpile of discarded pallets accumulating behind the old Norris Asphalt Plant, south of Burlington. The property's address is listed as 4065 US Hwy 61, Burlington, Des Moines County, Iowa.
2. That same day, DNR Environmental Specialist Anthony Kerker of FO6 conducted the first site visit and observed approximately 500,000-1,000,000 pallets discarded on the property owned by Ames Business Group, LLC.
3. On April 29, 2022, Mr. Kerker had a phone discussion with property/business owner Wes Ames. Mr. Ames provided an explanation of his operations at the property and where the pallets originated from. The majority of the pallets originated from the Case facility located in Burlington. Mr. Ames explained that a new 10,000 square foot building will break ground shortly with potential completion by summer of 2022.
4. On May 3, 2022, the first notice of violation (NOV) was issued to Wes Ames of Ames Business Group, LLC. The NOV explained the pallets would need to be removed from the property in a timely manner to avoid enforcement action.
5. On May 5, 2022, Wes Ames responded to the letter via email. Mr. Ames requested a meeting at the site to discuss a plan of action to achieve compliance.
6. On June 6, 2022, a follow up visit was conducted with the assistance of Environmental Program Supervisor Kurt Levetzow of FO6. Kurt Levetzow and Anthony Kerker were met on site by Mr. Ames and shown around the property. Mr. Levetzow and Mr. Kerker observed the shredder used to grind the wooden pallets, and were shown hundreds of rolls of fiberglass and bales of rags. Mr. Ames requested information on how these items could be recycled to avoid taking them to the landfill. Mr. Levetzow and Mr. Kerker observed that the original estimate of 500,000-1,000,000 pallets appeared to be inadequate. New estimates put the total around 1-2 million pallets. Mr. Levetzow and Mr. Kerker also informed Wes Ames about the fire risk this created for the surrounding residents. Later, Mr. Levetzow and Mr. Kerker contacted the local fire department, who also voiced their concern that there were no fire lanes between the pallets.

7. On June 9, 2022, an email with links to the Iowa Waste Exchange Program was sent to Wes Ames to show him avenues he could take for proper disposal of the recyclable items on his property.
8. On September 22, 2022, a follow up visit was conducted by FO6. Very little progress had been made. An estimate of a couple of hundred pallets appeared to have been removed from the property.
9. On September 26, 2022, Wes Ames reached out to Mr. Kerker via email on a status update for the property. Mr. Ames explained that the building project had run into delays and that by the end of the year the pallet yard would be cleaned up.
10. On November 28, 2022, another follow up visit was conducted. Very little to no progress had been made on the pallet disposal. Later that same day, Wes Ames provided an email update. Mr. Ames told Mr. Kerker that no significant progress had been made due to the grinder being removed from the site and taken to a local transfer station for maintenance. Mr. Ames said the grinder would be brought back to the property soon. Mr. Ames mentioned that the building was still in the process of being constructed.
11. On December 1, 2022, Wes Ames called Mr. Kerker to discuss the pallet yard clean up. Mr. Ames said that the pallet grinder was out of commission and would be fixed soon, and that the foundation of the building is in place on the property.
12. On June 22, 2023, Mr. Kerker contacted Wes Ames to inform him of a site visit scheduled for later that day. Mr. Ames returned the call and reported that no progress had been made since the previous year. Mr. Ames stated that the grinder needed a new rotor, and that the grinding operations would begin to take place on July 17, 2023. Mr. Ames was informed that a second NOV would be issued for continued non-compliance. Mr. Kerker proceeded to conduct the follow up visit, confirming no progress has been made.
13. On June 27, 2023, the second NOV letter was sent to Mr. Ames. Mr. Ames was informed in the letter that to avoid enforcement action, he must begin properly disposing of the solid waste on his property.
14. On August 15, 2023, another follow-up visit was conducted. No progress had been made regarding the proper disposal of the solid waste. In addition, the grinder was not on the property.

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

1. Iowa Code sections 455B.303-455B.304 grant the Environmental Protection Commission (Commission) the authority to adopt rules regulating solid waste and give the Department the authority to enforce those rules. Iowa Code section 455B.301(29) defines solid waste as garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Iowa Code section 455B.307 and 567 IAC 100.4

prohibit private or public agencies from dumping or depositing or permitting the dumping or depositing of any solid waste at any place other than a permitted sanitary disposal project. The facts set out above establish a violation of these rules.

## **V. ORDER**

**THEREFORE**, the DNR orders Mr. Ames and Ames Business Group, LLC to do the following:

1. Properly recycle or dispose of all solid waste (wooden pallets, wooden containers, fiberglass rolls, rags, or any other solid waste) that Mr. Ames has stored at the Burlington property, and submit documentation in the form of disposal or recycling receipts to Iowa DNR Field Office 6.
2. Comply with all provisions of Iowa law and regulation regarding solid waste in the future.
3. Pay an administrative penalty in the amount of \$10,000 within 30 days of the date the Director signs this administrative order.

## **VI. PENALTY**

1. Iowa Code section 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."

Mr. Ames gained an economic benefit by saving on costs associated with the proper disposal of the solid waste stored on the property. Des Moines County Landfill solid waste fees are \$55/ton. The pallet/brush fee is \$24/ton. Recently, the Des Moines County Landfill had their brush and pallet pile (which was smaller than Mr. Ames's pile) ground by an outside contractor; the resulting fee was \$11,500.

As such, \$5,000 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.

Ames Business Group, LLC has failed to comply with the solid waste and recycling regulations for the State of Iowa. The site and potential recyclable items have been deserted for over a year. The large quantity of pallets, less than 150 feet away from a neighboring housing community, is creating a fire risk to the citizens that live nearby.

As such, \$3,000 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.

The rules and regulations have been provided and explained to Wes Ames of Ames Business Group, LLC. As a business owner that partakes in recycling, Mr. Ames should be aware of the Iowa rules governing the business he operates. Over the past year, the DNR has been flexible in working with Ames Business Group, LLC, but Mr. Ames has repeatedly missed deadlines and has made little progress in cleaning the site.

As such, \$2,000 is assessed for this factor.

## **VII. APPEAL RIGHTS**

This Order is subject to appeal pursuant to Iowa Code section 455B.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 section 455B.307.

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Kayla Lyon, Director  
Iowa Department of Natural Resources

CC: DNR Field Office 6; Bradley Adams