

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

<p>IN THE MATTER OF:</p> <p>CURTIS STROUSE STORY COUNTY, IOWA</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2024-AQ-06 NO. 2024-SW-03</p>
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To: Curtis Strouse
68132 US Highway 30
Colo, Iowa 50052

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Curtis Strouse, for the purpose of resolving solid waste and air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Malia Schepers, Field Office 5
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
P: 515-250-1097

Relating to legal requirements:

Anne Preziosi, Attorney for DNR
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034
Phone: 515-238-3429

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 administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1), which authorizes 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 Division IV (solid waste), and the rules promulgated or permits issued pursuant to those parts; and Iowa Code section 455B.109 and 567 Iowa

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Administrative Code (IAC) chapter 10, which authorize the director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On September 9, 2023, DNR Field Office 5 received an anonymous complaint regarding a large campground and RV sales and service business located at 68132, Colo, Story County, Iowa (the site).

2. On September 25, 2023, Malia_Schepers of DNR Field Office 5 visited the site and went immediately to the office to speak to the owner or manager. Curtis Strouse showed up shortly after Ms. Schepers' arrival. Mr. Strouse stated that he has been the owner of both the campground and the RV sales and service shop onsite for the past seven years. The site was previously owned by Twin Anchors R V Resort, Inc., and is known as Twin Anchors R V Resort. Mr. Strouse agreed to show Ms. Schepers where open burning had been conducted on the site.

3. Mr. Strouse showed Ms. Schepers a large burn pile that is located along the south side of the property in a gravel lot. Ms. Schepers observed burned items in the burn pile, including a minimum of 12 tires on rims, many other steel cords indicating other tires were also burned, construction and demolition waste, a small amount of household waste, and a large pile of metal that Mr. Strouse stated was furniture that had been located in campers. Other unidentified materials were also present along with multiple cut tree trunks. Ash from the open burned materials was located in the burn pile. Mr. Strouse stated that open burning is routinely conducted in this location, but stated that he does not routinely burn tires. Mr. Strouse also stated that he was not previously aware that employees of the RV sales and service shop onsite had deposited and burned the tires. Mr. Strouse did admit that burning the camper furniture was conducted in order to collect and recycle the metal. While she was at the site, Ms. Schepers took pictures of the burn pile.

4. Mr. Strouse informed Ms. Schepers that he would clean up the materials located in the burn pile the following week and that he would submit landfill receipts to DNR.

5. On September 29, 2023, Mr. Strouse texted Ms. Schepers a picture of the cleaned-up site and receipts from the landfill indicating all material had been disposed of properly.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in subrule 23.2(2) (variances) and subrule 23.2(3) (exemptions). The open burning of solid waste materials, as described above, is a violation of the provisions of 567 IAC 23.2. The open burning of tires is specifically prohibited.

3. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123.

4. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director. The facts in this case demonstrate non-compliance with this provision.

V. ORDER

THEREFORE, DNR orders and Curtis Strouse agrees to the following:

1. Curtis Strouse shall cease all illegal solid waste disposal activity and all illegal open burning of combustible materials at the site above and at any site in the state of Iowa; and shall comply in the future with the regulations concerning disposal of solid waste and open burning;

2. Within 60 days of the date this order is signed by the director, Curtis Strouse shall pay a penalty of \$1,500.00.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, the director is authorized to assess administrative penalties, as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

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Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the type of solid waste disposal violations involved in this matter.

Iowa Code section 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 and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a penalty of \$1,500.00. The administrative penalty assessed by this order is determined as follows:

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, DNR 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.”

It is estimated there were a minimum of 12 tires in the burn site. Assuming disposal of tires is currently a conservative \$20, the savings for the tires would be at bare minimum \$240. This does not include transportation costs or disposal of the other solid waste that was burned.

Therefore, a penalty of \$1,000.00 is assessed for this factor.

Gravity of the Violation – 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. Open burning of solid waste threatens both the environment and human health. It damages air quality and can cause significant acute and chronic health effects.

The burning of construction and demolition waste, miscellaneous household waste, and furniture can degrade air quality in the immediate area and emit potentially harmful pollutants into the atmosphere. Further, the burning of tires is specifically prohibited in the DNR’s rules. Smoke is also aesthetically displeasing and potentially creates a nuisance condition. There are many residences in the immediate area.

Therefore, \$250.00 is assessed for this factor.

Culpability – Factors to be considered in determining the amount to be assessed for culpability include the degree of intent or negligence; the standard of care required by the laws of the state; and whether the violator has taken remedial measures or mitigated

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the harm caused by the violations. A maximum of \$3,000.00 may be assessed for culpability.

The prohibition against open burning of tires and other debris are long-standing state rules. Mr. Strouse may not have been aware that employees were burning tires at the site, but he was aware of the open burning of all other materials. Additionally, Mr. Strouse acted quickly to clean up and properly dispose of the remaining debris, including the ash. He also provided receipts proving proper disposal.

Therefore, \$250.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Curtis Strouse. For that reason, Curtis Strouse waives his right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Kayla Lyon, Director
Iowa Department of Natural Resources



Curtis Strouse

Dated this 7th day of
FEBRUARY, 2024.

DNR Field Office 5