

IOWA DEPARTMENT OF NATURAL RESOURCES

ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: QUALITY TRUSS & DESIGN, L.L.C. DAVIS COUNTY	ADMINISTRATIVE CONSENT ORDER NO. 2024-SW- 09 NO. 2024-AQ-16
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To: Quality Truss & Design, L.L.C.
Eldon Lambright, Owner
17850 Hwy 2
Bloomfield, Iowa 52537

Quality Truss & Design, L.L.C.
c/o Eldon Lambright, Registered Agent
17830, Hwy 2
Bloomfield, Iowa 52537

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Quality Truss & Design, L.L.C. (Quality Truss & Design) for the purpose of resolving air quality and solid waste 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:

Anthony Kerker, Field Office 6
Iowa Department of Natural Resources
1023 W. Madison
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

Anne Preziosi, Attorney for DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste. 200
Des Moines, Iowa 50321
Phone: 515-238-3429

Payment of penalty to:

Director of the Iowa DNR
Iowa Department of Natural Resources
6200 Park Avenue, Ste. 200
Des Moines, Iowa 50321

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II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 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 part; Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules promulgated pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Quality Truss & Design is a facility located in at 17850 Hwy 2, Bloomfield, Davis County, Iowa. The facility custom designs, manufactures and sells wood trusses. The facility specializes in wholesale distribution of trusses to lumber yards and building materials markets that supply the agricultural industry. Quality Truss & Design also offers commercial and residential roof trusses, as well as custom design, scissor and attic trusses as well. The facility is owned by Eldon Lambright. The Quality Truss & Design facility is located next to a residential dwelling owned by Mr. Lambright's. The address of the residential dwelling is 17830, Hwy 2, Bloomfield, Iowa 52537.

2. The facility has conducted illegal open burning and illegal solid waste disposal of trade waste since 2019. On July 22, 2019, DNR Field Office 6 received a complaint from the Iowa Department of Transportation (DOT) that burning could be seen from the road while driving by Quality Truss & Design. On July 25, 2019, DNR Field Office 6 Environmental Specialist Senior Ryan Stouder investigated that complaint. Eldon Lambright, the owner of Quality Truss & Design, admitted to burning waste wood from the truss building process.

3. On August 4, 2019, DNR Field Office 6 issued a Notice of Violation letter (NOV) to Quality Truss & Design. In the NOV, Mr. Stouder explained that it is illegal to burn trade waste. The NOV also stated that continued improper solid waste disposal could result in being referred to the DNR Legal Services Bureau for enforcement action.

4. On September 1, 2023, Field Office 6 received an anonymous complaint, stating that solid waste was being dumped and burned at the Quality Truss & Design facility. On September 5, 2023, Field Office 6 Environment Specialist Anthony Kerker investigated the complaint. While driving by the Quality Truss & Design facility, Mr. Kerker was able to confirm the complainant's reports of improper solid waste disposal. In addition, a burn pile could be seen per satellite imagery on the northeast corner of the property.

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5. On September 6, 2023, a second NOV was sent to Mr. Lambright at the Quality Truss & Design facility. The second NOV explained the solid waste rules in the State of Iowa. The NOV mentioned that continued noncompliance to these rules could result in a monetary penalty.

6. On September 12, 2023, Mr. Lambright called DNR Field Office 6 to discuss the NOV letters. Mr. Lambright talked to Mr. Kerker. Mr. Lambright stated that the pile of solid waste on the northeast corner of the property had been cleaned up and removed. Mr. Kerker explained to Mr. Lambright that no solid waste originating from the Quality Truss & Design facility can be open burned. Mr. Lambright stated the open dumping and open burning would not happen again.

7. On September 25, 2023, DNR Field Office 6 received another complaint. The complainant reported that tires and shingles were being burned on land next to the Quality Truss & Design facility. The complainant also stated that black smoke was originating from this location during the open burns.

8. On September 26, 2023, Mr. Kerker investigated the September 25 complaint regarding the burning of tires and shingles near 17830 Hwy 2, Bloomfield. On land next to the Quality Truss & Design facility, construction work was being conducted on what appeared to be a new structure or dwelling. Mr. Kerker was able to speak with the workers at the new construction site. Mr. Kerker asked if anything had been open burned. Mr. Kerker was directed to a burn pile where he was shown black plastic siding that had been burned at the construction site. Mr. Kerker requested the workers on construction site to end the illegal burning and to dispose of all solid waste that had resulted from work occurring at the construction site. After the investigation occurred, Mr. Kerker was able to confirm that the construction site property next to Quality Truss & Design facility is also owned by Mr. Lambright.

9. A September 26, 2023, NOV was sent to Mr. Lambright explaining the solid waste disposal rules in Iowa. Mr. Kerker once again informed Mr. Lambright that if any future illegal burning occurred on the construction site or at the Quality Truss & Design facility that referral to the Iowa DNR Legal Services Bureau for enforcement action would occur.

10. On December 4, 2023, Mr. Kerker conducted a follow-up visit. A dumpster had been purchased and was located next to the Quality Truss & Design facility. The burn pile with construction materials at the construction site had also been disposed of.

11. On March 20, 2024, while in the area of Bloomfield, Mr. Kerker noticed black smoke originating from the Quality Truss & Design facility at approximately 11:00 am. Mr. Kerker stopped at Quality Truss & Design facility to discuss this with Mr. Lambright. Mr. Kerker questioned what was being burned and was told by Mr. Lambright that only cardboard was burning. However, Mr. Kerker proceeded to check

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the burn pile and observed wooden materials, which included wooden trusses from the business, in the burn pile. This constitutes trade waste. Once arriving back to Field Office 6, Mr. Kerker wrote a March 20, 2024, NOV, which informed Mr. Lambright that Quality Truss & Design facility is being referred to the DNR Legal Services Bureau for enforcement action.

12. On July 11, 2024, Mr. Kerker drove by the Quality Truss & Design facility and observed that there is now a dumpster located at the facility and it appears that trade waste is going into it.

IV. CONCLUSIONS OF LAW

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

2. 564 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). Exemptions listed in subrule 567 IAC 23.2(3) include various residential wastes, but specifically does not include trade waste. Therefore, it is a violation to burn trade waste, or any material not specifically exempted in the regulations. "Trade waste" includes "any refuse resulting from the prosecution of any trade, business, industry, commercial venture ... whether or not for profit" as defined in 567 IAC 23.2. The facts in this case demonstrate non-compliance with these provisions. The open burning of trade waste has occurred in this case, as stated above.

3. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-12

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.

5. Iowa Code section 455B.301 defines "solid waste" as garbage, refuse, rubbish, and other similar discarded solid or semisolid materials." The facts in this case demonstrate non-compliance with these provisions.

V. ORDER

THEREFORE, DNR orders Quality Truss & Design agrees to the following:

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1. Quality Truss & Design shall cease all illegal solid waste disposal activity and open burning at the above-described locations and at any location in the State of Iowa, and shall comply in the future with the regulations concerning disposal of solid waste; and
2. Within 90 days of the date this order is signed by the director, Quality Truss & Design shall collect, containerize, and dispose of all solid waste materials remaining at the site by taking the waste to a permitted solid waste facility (landfill and/or recycling facility) for disposal; and shall obtain and submit to DNR Field Office 6 all copies of all landfill and recycling receipts for documentation of the proper disposal of the solid waste; and
3. Within 45 days of the date this order is signed by the Director, Quality Truss & Design shall pay a penalty of \$5,000.00.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the director to assess administrative penalties, a penalty of \$5,000.00 is assessed by this administrative consent order. The administrative penalty is determined 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. 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. 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 10.30(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 10.30(1) further states that

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reasonable estimates of economic benefit should be made where clear data are not available.

Quality Truss & Design has improperly disposed of trade waste in multiple instances over since at least 2019. Quality Truss & Design has avoided paying disposal fees for trade waste and other solid waste items. Based on the repeated violations of burning large amounts of solid waste and trade waste, a minimal penalty of \$3,000.00 is recommended for this factor.

For these reasons, \$3,000.000 is assessed for economic benefit.

Gravity of the Violation – Improper solid waste disposal and the decomposing of those materials can degrade water quality and contribute contaminants to both land and water resources as well as threaten public health. Further, improper disposal of solid waste creates a nuisance condition.

Field Office 6 informed Quality Truss & Design of the Iowa rules regarding illegal open dumping and illegal open burning since 2019, and violations have continued into 2024.

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

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 the harm caused by the violations.

Quality Truss & Design has continued to be in non-compliance with the four notice of violation letters that were sent since 2019. Open dumping and open burning prohibitions have been in place in Iowa for more than 40 years.

Therefore, due to the continued noncompliance an additional \$1,000.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Quality Truss & Design. For that reason, Quality Truss & Design waives its right to appeal this order or any part thereof.

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VIII. NONCOMPLIANCE

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. Failure to comply with this 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.109.

Kayla Lyon, Director
Iowa Department of Natural Resources


Quality Truss & Design

Dated this 3RD day of
SEPTEMBER, 2024.

DNR Field Office 6