

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF: CHERYL & TERRY HONTS UST # 198609107	AMENDMENT TO ADMINISTRATIVE ORDER NO. 2017-UT-08
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To: Cheryl & Terry Honts
1749 Douglas Avenue
Nichols, IA 52766

Re: Underground Storage Tanks (UST) at the former Atalissa Mini Mart in Atalissa, Iowa.

I. SUMMARY

This administrative order (Amended Order) amends Administrative Order 2017-UT-08 (Order) issued to Cheryl and Terry Honts (the Honts) as owners of the UST system located at the former Atalissa Mini Mart by the Iowa Department of Natural Resources (DNR) due to the Honts' ongoing failure to permanently close the UST system and failure to provide a Tier 2 risk assessment report to the DNR. The Honts claimed the inability to pay for the requirements in the Order pursuant to 567 IAC 135.17. DNR reviewed the financial documentation provided by the Honts and assessed their inability to pay based on EPA's financial modeling tool. The DNR has determined that the Honts are unable to pay for the requirements of the Order and are amending the Order accordingly.

Any questions regarding this Amended Order should be directed to:

Relating to technical requirements:

Paul Nelson
Environmental Specialist Senior
Iowa Department of Natural Resources
Wallace State Office Building
502 E. 9th Street
Des Moines, IA 50319
Phone 515-725-8324

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Bureau
Wallace State Office Building
502 E. 9th St.
Des Moines, IA 50319
Phone: 515-725-8239

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II. JURISDICTION

This Amended Order is issued pursuant to Iowa Code § 455B.476 which authorizes the Director of the DNR to issue orders directing a party to cease violation of Iowa Code chapter 455B, Division IV, Part 8 (underground storage tanks) and the rules and regulations adopted pursuant to that part and to require the party to take corrective action as necessary to ensure violations will not continue; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

All statements of facts enumerated in the Order are incorporated herein by reference. In addition:

12. DNR received financial information from the Honts and entered the relevant data in EPA's "Indipay" financial model. Based on the information provided, the DNR accepts the Honts' assertion that they are unable to pay.

IV. CONCLUSIONS OF LAW

All conclusions of law enumerated in the Order are incorporated herein by reference.

V. ORDER

The requirements of the Order are rescinded. The Honts remain the responsible party for the property under Iowa Law. If the Honts' financial situation changes in the future in a manner that would allow them to contribute to tank closure or corrective action, they must notify the DNR immediately.

VI. CIVIL PENALTY

The civil penalty in the Order has been rescinded due to the Honts' inability to pay.

VII. APPEAL RIGHTS

A written Notice of Appeal may be filed with the Director within 30 days of your receipt of this Amended Order. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC 7. Please note that failure to file a timely appeal within 30 days will result in you forfeiting the right to appeal this Amended Order.

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VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Amended Order may result in the imposition of penalties and referral to the Iowa Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code § 455B.477. Compliance with Section V (Order) of this Amended Order constitutes full satisfaction of any requirements pertaining to any specific violations described in Section IV (Conclusions of Law) of this Amended Order.

Chuck Gipp
Chuck Gipp, Director

Iowa Department of Natural Resources

Dated this 11th day of
December, 2017.

CC: Paul Nelson; David Scott; V.A, V.E, V.H, V.I.