

**MINUTES OF THE  
ENVIRONMENTAL PROTECTION COMMISSION  
MEETING**

**May 15, 2018**

**State of Iowa Capitol  
1007 East Grand Avenue, Des Moines, IA**

**Approved by the Commission June 19, 2018**

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**Meeting Minutes**

**CALL TO ORDER**

The meeting of the Environmental Protection Commission was called to order by Chairperson Ralph Lents at 10:05 a.m. on May 15, 2018 at the State of Iowa Capitol in Des Moines, Iowa.

**COMMISSIONERS PRESENT**

- Mary Boote
- Nancy Couser, Secretary
- Rebecca Guinn
- Howard Hill (arrived during the Monthly Reports presentation)
- Harold Hommes
- Ralph Lents, Chair
- Joe Riding, Vice Chair
- Bob Sinclair (arrived during the Monthly Reports presentation)

**COMMISSIONERS ABSENT**

Vacant Seat – Finance & Commerce

**APPROVAL OF AGENDA**

*Motion was made by Joe Riding to approve the agenda as presented. Seconded by Mary Boote. Motion passes.*

**APPROVED AS PRESENTED**

**ELECTION OF OFFICERS**

**CHAIR**

*Joe Riding nominated Ralph Lents to be Chair. Seconded by Mary Boote. No other nominations were provided. A vote was conducted and passed unanimously by voting members.*

**RALPH LENTS, CHAIR**

**VICE – CHAIR**

*Nancy Couser nominated Joe Riding to be Vice- Chair. Seconded by Mary Boote. No other nominations were provided. A vote was conducted and passed unanimously by voting members.*

**JOE RIDING, VICE-CHAIR**

**SECRETARY**

*Mary Boote nominated Rebecca Guinn to be Secretary. No other nominations were provided. A vote was conducted and passed unanimously by voting members.*

**REBECCA GUINN, SECRETARY**

**APPROVAL OF MINUTES**

*Motion was made by Mary Boote to approve the April 17, 2018 EPC minutes as presented. Seconded by Harold Hommes. Joe Riding abstained from the vote due to him not being in attendance at the April 17, 2018 meeting. Motion passes.*

**APPROVED AS PRESENTED**

**MONTHLY REPORTS**

Bill Ehm welcomed the Commissioners to the State of Iowa Capitol. He shared with the Commission the Administrative Rules Review Committee provided areas of concern to the Department for the Notice of Intended Action regarding the asbestos fee schedule. The Department has 180 days from the last public hearing to finish the rulemaking process. The Department will determine by the June EPC meeting whether it will update the current proposed rules or start over. In addition to the rulemaking package, the Department plans to improve the presentation of how the funding will be used for educational resources rather than field inspectors.

Bill Ehm shared with the Commission the Regents received less funding from the state. The University of Iowa State Hygienic Laboratory (SHL) had to reduce its team by 11 people due to less revenue. As one of DNR’s partners for laboratory analysis, SHL has assured the Department that laboratory services will not be impacted.

Bill Ehm shared with the Commission the Legislature updated the Code of Iowa for the University of Iowa to house the state’s Geological Survey. During the transition the past few years in contracting with the University of Iowa for geological services, the relationship and services have met the Department’s needs. He continues to look forward to the partnership between the DNR and Geological Survey.

Bill Ehm shared with the Commission the Legislature supported the Governor’s budget for a \$954,000 appropriation to update the air program database which is 20 years old. Many of the updates will bring the program into current technology standards and allow businesses to submit applications online.

The monthly report(s) has been posted on the DNR website under the appropriate meeting month:  
<http://www.iowadnr.gov/About-DNR/Boards-Commissions>

**INFORMATION**

**IOWA’S WATER MONITORING PROGRAM OVERVIEW**

Roger Bruner provided a summary of the DNR Water Quality Monitoring and Assessment program. The presentation focused on ambient and targeted water monitoring programs. He provided visuals of the equipment and methods used to collect insect, fish, and water samples. After water samples are collected, they are processed by certified laboratories to generate data. He also explained how the samples assist with determining the health of the water body. The presentation finished with a description of how the data is used for various programs at the DNR, provided to the US EPA, and uploaded to the web for public access.

**INFORMATION**

**PUBLIC COMMENT**

**Linda King – Conservation Districts of Iowa**

Linda King introduced herself as the Executive Director of the Conservation Districts of Iowa. She offered her services to answer questions regarding a contract the Commission would be reviewing later in the day.

- No written comments were submitted.

**END OF PUBLIC COMMENT**

**ACTING DIRECTOR’S REMARKS**

Acting Director Bruce Trautman shared with Commission that former Director Chuck Gipp retired after many years of service to the state. He and his wife are enjoying retirement and traveling the US. For the last six years, Chuck Gipp assembled a leadership team who will continue to run the operations of the agency. Ed Tormey and Dave Cretors are assisting with some of the Deputy Director responsibilities while Bruce Trautman fills the role of Director. In his acting role, he has no reason for big changes. He estimates he will be in the acting role until a Governor is elected and has time to select a qualified Director.

Acting Director Bruce Trautman shared with the Commission a recent event at Honey Creek State Park Resort called Cast Away Disabilities for specially abled veterans. DNR staff and volunteers aided people on and off boats, cleaned fish, and conducted several other activities to assist over 60 veterans and 30 care givers. The DNR partnered with the Veterans Administration and other donors for a successful event and he can’t wait to host the event again next year.

Acting Director Bruce Trautman thanked Roger Bruner for his report on the DNR water monitoring program. From his personal experiences fishing this season, he shared his positive experiences with the quality of water and quality of fishing in various locations around Iowa and encouraged others to enjoy the resources.

Acting Director Bruce Trautman shared with the Commission the Natural Resource Commission (NRC) will be reviewing a recommendation to rename a northeast Iowa fish hatchery after a former DNR Director. With the NRC support, look forward to an announcement marking the celebration.

Acting Director Bruce Trautman invited Sharon Tahtinen, DNR Legislative Liaison, to summary the activities of the legislative session. She provided a summary of the financial decisions of the legislature affecting DNR. These decisions were predominately status quo except there was a small increase in General Fund and 3 million of REAP was allocated to DNR Parks operations. The previous funding for Geological Survey was moved to the University of Iowa. She also summarized various policy bills, including a new water funding bill, an increased reimbursement cap for the land recycling program, fish CAFOs, and a legislative change allowing the EPC to file a bennial report rather than an annual report.

Sharon Tahtinen also discussed legislative changes to DNR’s recycling laws regarding the speculative accumulation of material intended to be recycled. Commissioners discussed whether the laws needed to be further strengthened to ensure the stockpiling of product does not become abandoned and a burden to the state. Alex Moon provided a summary of the program and the historical challenges working with recycling facilities. The legislation now provides an avenue to determine whether a facility is a recycling facility or a disposal facility. He asked the Commission to allow the Department to use the new criteria because the Department doesn’t want over regulation of recycling efforts to discourage communities from recycling.

Chairperson Lents asked Acting Director Bruce Trautman to convey the Commission’s appreciation for former Director Gipp’s work and dedication to the State of Iowa. Various Commissioners provided their accolades for his work and that it was an honor to work with him.

**INFORMATION**

**NOTICE OF INTENDED ACTION**

**CHAPTER 119-USED OIL AND USED OIL FILTERS**

**CHAPTER 123 – REGIONAL COLLECTION CENTERS AND MOBILE UNIT COLLECTION AND CONSOLIDATION CENTERS**

**CHAPTER 144 – HOUSEHOLD HAZARDOUS MATERIALS EDUCATION**

**CHAPTER 211 – FINANCIAL ASSISTANCE FOR THE COLLECTION OF HOUSEHOLD HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS**

**CHAPTER 214 – HOUSEHOLD HAZARDOUS MATERIALS PROGRAM**

Tom Anderson presented a rulemaking package for the Solid Waste program. He further explained the infrequent Toxic Clean Up Days have been replaced with regularly available Regional Collection Centers for residents to properly dispose of their household hazardous materials. Private entities can participate in these activities by working directly with public entities.

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Nancy Couser. Motion passes.*

**APPROVED AS PRESENTED**

**CONTRACT WITH IOWA ASSOCIATION OF SOIL CONSERVATIONS DISTRICT COMMISSIONERS, DBA CONSERVATION DISTRICTS OF IOWA**

Jeff Vansteenburgh presented a contract for source water protections services. He summarized how Department staff, Conservation Districts of Iowa staff, and Iowa Rural Water Association staff work collaboratively to provide source water protection planning services across the state by working together and without duplicating efforts. To obtain funding, communities must implement the practices within their source water protection plan.

*Motion was made by Nancy Couser to approve the agenda item as presented. Seconded by Mary Boote. Motion passes.*

**APPROVED AS PRESENTED**

**CONTRACTS WITH BLACK HAWK, CERRO GORDO, JOHNSON, LINN AND SCOTT COUNTY HEALTH DEPARTMENTS**

Jeff Vansteenburgh presented a contract for local County Health Departments to perform drinking water inspections. Previously the contract was set up for a six year timeframe but this contract is set up for three years to evaluate on a more frequent basis the appropriate service rates. Facilities are required at a minimum to conduct one nitrate sample a year and one bacterial sample per quarter. The frequency may be increased if there are challenges with the facility meeting standards. If facilities experience challenges, the local county health department transfers the facility to the DNR to conduct compliance and enforcement actions.

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Howard Hill. Motion passes.*

**APPROVED AS PRESENTED**

Chairperson Lents offered to David Scott and David Wiederstein that they begin their presentations regarding the potential referral to the Attorney General of Jason and David Wright, dba Recycling Services LLC since the time was slightly past 11:30 a.m. David Wiederstein offered the Commission to complete the few remaining agenda items before hearing the referral.

**CONTRACT WITH IOWA STATE UNIVERSITY**

Jason Marcel presented a contract with Iowa State University (ISU) to coordinate the Manure Applicator Certification (MAC) training. Dr. Anderson from ISU provided a summary of improvements made to the training from last year which included hands on exercises, road safety, and an option for Spanish translation.

*Motion was made by Howard Hill to approve the agenda item as presented. Seconded by Joe Riding. Motion passes.*

**APPROVED AS PRESENTED**

**REGION XII COUNCIL OF GOVERNMENTS - GRANT AWARDEE FOR DELIVERY OF THE IOWA WASTE EXCHANGE PROGRAM**

Jennifer Wright presents a grant recommendation for Region XII Council of Governments. She shared Region XII serves as the primary contractor and sub contracts with other community colleges and regional governments. She explained how the funds are outlined in Iowa Code to be collected and distributed with the mission to divert materials from the landfills. Annually a goal is set for a specific volume of tonnage to be diverted from landfills. In addition to diverting materials from the landfill, the contractor also assists with writing grant requests for various programs and other DNR priorities such as food waste in schools.

*Motion was made by Rebecca Guinn to approve the agenda item as presented. Seconded by Mary Boote. Motion passes.*

**APPROVED AS PRESENTED**

**CONTRACT AMENDMENT # 2 TO CONTRACT 16ESDLQBGOLD1 WITH REGION XII COUNCIL OF GOVERNMENTS**

Leslie Goldsmith presented a contract amendment to the Commission.

*Motion was made by Joe Riding to approve the agenda item as presented. Seconded by Rebecca Guinn. Motion passes.*

**APPROVED AS PRESENTED**

**REFERRAL TO THE ATTORNEY GENERAL JASON AND DAVID WRIGHT, DBA RECYCLING SERVICES LLC**

Dave Scott, Attorney, represented the DNR. To his aid was Thad Nanfito from Iowa DNR Field Office 4 in Atlantic, Iowa. The DNR requested the Commission refer the matter involving Recycling Services LLC to the Iowa Attorney General’s office for civil enforcement.

Recycling Services LLC was issued an administrative order in July of 2017 due to non-compliance with regulations governing the handling of hazardous materials, solid waste disposal, and failure to comply with its NPDES general permit requirements. The order was issued following multiple site visits, starting in June 2015. DNR field staff explained the company’s obligations in correspondence, and during face to face meetings. Additionally, the field office provided the company with options for site cleanup. In late 2016, DNR FO 4 believed an agreement for cleanup had been reached, and DNR provided the company with a final deadline for cleanup and other requirements in June 2017.

The company did not comply with the terms of the agreement, leading to issuance of the aforementioned order. This order required remediation to be conducted by October 2017. The order was not appealed. The October 2017 deadline for compliance with provisions of the order passed, and the order has yet to been complied with.

The company was administratively dissolved in August of 2017. The company remains the owner of record for the contaminated property.

The order required the company to conduct a site assessment to determine the extent of hazardous contamination on the property and to conduct site remediation based on the findings; it required proper disposal of solid waste and contaminated soils; and it required payment of an administrative penalty.

Referral of this matter to the Attorney General is necessary for at least two reasons. First, there is an outstanding order that was ignored. DNR has exhausted its administrative remedies.

Second, the company has been administratively dissolved. While it still exists as a property owner, it may be necessary to pursue individuals in court who were officers or shareholders in the company and who had apparent authority within and over the company. These proceedings require a civil action being filed in court, and there is legal precedent in Iowa for pursuing individuals in this circumstance.

The DNR believes it is appropriate to refer the company, as well as Jason and David Wright, given their involvement with the company, the site, and negotiations with DNR FO staff concerning remediation. However, once the matter is referred, whether the Attorney General pursues an individual in court is within the AG's full discretion.

DNR's concern in this matter is that the company, through its attorney, signaled that a cleanup plan was agreed to but nothing was ever done. Only a month after an order was finally issued, the company was administratively dissolved. Referral is appropriate if only to discourage other companies from seeking to avoid their compliance obligations in this manner.

In response to the Company's letter explaining its position it is worth a quick review of the timeline in this matter:

- First inspection of the company's property, summer 2015.
- Second inspection of the site authorized by Jason Wright, August 2015.
- Face to face meeting to discuss the site, January 2016.
- Third visit to the site by DNR staff, including soil sampling, January 2016.
- Fourth visit to the site, April 2016
- DNR proposal to RS for site remediation, including disposal options, April 2016
- October 2016 – RS attorney inquiries about extension for cleanup. Extension granted, deadline of June 2017.
- June 2017 – deadline not met.
- July 2017 – issuance of DNR Order requiring remediation by October 2017.
- August 2017, company dissolved.
- October 2017, Order not complied with.
- October 2017, DNR issued warning to company and the Wrights that failure to comply would result in referral.
- November 11, 2017 – Email from opposing counsel asking if Mr. David Wright would be referred as well. No reference to desire to comply.
- Feb. 2018 – Attorney General's office recommends referral of company, and David and Jason Wright.
- March 2018, DNR notifies company and principals that referral will be scheduled.

At no point in 2017 or 2018 did any party state their intent to comply with the order, let alone suggest that the order was "confusing."

David Scott referenced the letter sent by opposing counsel to the EPC yesterday. The Attorney General's office will determine the appropriate entities to be involved in the case. The Department is doing its due diligence to notify the company along with all listed owners and decision makers in control of the company. The DNR has exhausted its administrative process and options. The Department recommends the matter be referred to the Attorney General's office.

David Scott distributed photos from the site that were not included in the referral package. The photos were from 2015 to 2017 of the property.

David Wiederstein distributed photos taken recently of the property. David Wiederstein is an attorney and runs a general practice in Atlantic, Iowa. He is representing David Wright. He doesn't normally appear before Commissions for just that morning he was reviewing a will. As real estate is part of his business, he often times is an environmental attorney. He routinely calls upon the DNR Field Office for ground water hazardous statements and the staff are extremely helpful. Often he is the point of contact between the public and the DNR. The public may or may not know what the regulations area. If he doesn't know the regulations, he has the DNR Atlantic Field Staff to assist.

He encouraged the Commission to not get hung up on the administrative dissolution of the business. One might think it was purposely done by the owners but it was not. The company had its assets sold, were no longer accepting materials, and had no reason for the business to continue operating. Company LLCs often don't file their biennial report. When the Secretary of State performs an administrative dissolution, it is not done because of the intent of the owners.

The former owner, Jason Wright, was not aggressive in marketing the sale of the property. He now lives in Colorado to pursue other opportunities in the same field. Jason's father, David Wright, was in attendance at the EPC meeting and was described as not being active and having physical impediments.

When the DNR first inspected the property, the company had decided to stop operations and was in the process of selling the company and land. The land was put up for auction with the knowledge that the top 10" of dirt would need to be removed. The successful bidder said the landfill was not agreeable to waive the fees for the disposal of the soil. David Wiederstein now understands that the DNR's position on cleanup is that debris needs to be removed from the property and a couple hot spots of dirt but not dirt removal from the entire property.

David Wiederstein believe David Wright was not a principle owner of the LLC. He did make some business decisions but the primary decisions were from son Jason Wright. Principle owners should be on the hook for cleanup even if they have some corporate protection under the LLC. Even often times operators can be liable. David Wright was not an operator. He was just an employee of the business. If the LLC, David Wright, and/or Jason Wright are referred to the Attorney General, David Wiederstein will advocate with the Attorney General on behalf of his clients.

David Wiederstein shared that the site has been cleaned up, with most of the material removed. There is debris that does need to be cleaned up. He plans to forward the burden of remaining cleanup to the future owners of the site. He asked for additional time to explore opportunities to sell the property, assist future buyers with understanding the property cleanup needs, and to determine what the DNR remediation plan is.

Commissioner Mary Boote emphasized that remediation is the goal for the property. David Wiederstein clarified that he is representing the business, David Wright, and Jason Wright. Jason Wright is in Colorado and is aware of the materials before the Commission. This property is now subject to remediation and FEMA flood plain rules. The adjacent landowner has a crushed rock/concrete business and may be a

potential buyer. The land is in the LLC and in Jason Wright’s name. The LLC will have to be involved to sell the property. Any buyer will want to see the abstract and restrictions on the property. David Wiederstein will do his best to make the sale as clean as possible.

David Wiederstein affirmed his plan to transfer remediation responsibility to the buyer of the property. If the land does not sell, there is no plan for remediation and he would work with the Attorney General on next steps. The DNR has been patient with his clients and extended the time frames for compliance multiple times.

David Wright was not aware if any Phase 1 or 2 environmental assessments were conducted on the property.

David Wiederstein clarified the price of the property. Discussions ensued regarding whether the cost for remediation will exceed the value (sale price) of the property. The Beacon report indicates the property is 1.65 acres.

David Wright believes 2017 sales tax certificates were purchased. David Wiederstein affirmed the tax sale certificate holders would need to be paid in whole at approximately \$2,400 plus interest prior to transfer of the property. David Wiederstein stated there is no mortgage to the property but there may be other creditors seeking recourse.

Thad Nanfito received a request by the two property owners to meet regarding removing the top 10” of soil on the property and sifting of soil for debris. Following the meeting, the DNR paid for random soil sampling which confirmed its estimate that there were contamination hot spots on the property. The order required a site assessment in order to know the exact size and locations of contamination but at this point, a site assessment has not been completed.

David Scott confirmed the Attorney General’s office has the authority to review all the requests from David Wiederstein presented to the Commission.

*Motion was made by Joe Riding to refer agenda item 14 to the Attorney General. Seconded by Bob Sinclair. Joe Riding-yea, Bob Sinclair-yea, Ralph Lents-yea, Howard Hill-yea, Nancy Couser-yea, Rebecca Guinn-yea, Mary Boote-yea, Harold Hommes-yea, and Finance and Commerce Vacant Seat.*

**REFERRED TO THE ATTORNEY GENERAL**

**GENERAL DISCUSSION**

- Commissioner Sinclair shared his understanding of how a potential property buyer can order a Phase 1 or 2 assessment to determine if there are any issues with the property in question to purchase. If issues are found from the Phase 1 or 2 report, the DNR is notified and remediation is required.
- Jerah Sheets summarized logistics for the upcoming June and July EPC meetings.
- David Scott, DNR Attorney, provided a summary on a pending appeal regarding the improper disposal of a residence in Lineville. The parties have entered into a settlement and a hearing before the EPC is now unlikely to occur.

Chairperson Lents adjourned the Environmental Protection Commission meeting at 1:06 p.m. on May 15, 2018.

# OTTO, LORENCE & WIEDERSTEIN, P.L.L.C.

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JOHN OTTO - RETIRED (2017)  
JOANNE C. LORENCE - RETIRED (2016)

May 14, 2018

Environmental Protection Commission (EPC)  
State of Iowa Capitol  
1007 E. Grand Ave., Rm. 116  
Des Moines, IA 50319

Re: Recycling Services, LLC

Dear Sirs & Madams,

I am writing to you as the legal counsel for Recycling Services, LLC, and for David Wright and Jason Wright. This letter is in response to the Litigation Report prepared by David Scott. I trust that the Commission will give consideration to my clients' position, detailed herein, and to what they think will be a positive way of resolving the issues as suggested by the DNR. The timeline as shown in the Litigation Report does appear to be correct and we do not take any issue with it therefor.

## Summary

1. Liability of David Wright? David Wright was merely an employee of the company and at no time was he a member or principal of the company. Recycling Services, LLC ("RS"), was a single-member limited liability company, with the sole principal thereof being Jason Wright. Liability should not attach to David Wright.

2. Dissolution of Company. On August 14, 2017, it was administratively dissolved by the Secretary of State for failure to file the required biennial report. This was done not to avoid compliance with the DNR order, but it was simply due to the fact that Recycling Services had not been in operation for quite some time (November 2015) and there was no legitimate business reason to keep it an ongoing commercial operation. Assets of the company were sold to appease creditors of the business.

3. Attempts to Sell Property. RS was actively trying to sell the property before the DNR request and site visits occurred. RS, in its attempts, acted in good faith to sell the property and did not mislead potential buyers as to any remediation conditions imposed by the DNR. I wish to emphasize that at one time RS had earnest money and a contract in hand from a potential buyer that included the conditions of cleaning and remediation as recommended by FO4 to RS. My clients are still attempting to sell the property under the conditions required by the DNR.

Responses to DNR recitation of facts

1. Agreed.

2. & 3. Deny. The runoff was unfounded and potentiality was not illegal. DNR FO4 officers are misstating violations that were due to temporary storage for upcoming closure and sale. The site plan was on site but Jason Wright was unavailable to locate. The FO4 employee used intimidating tactics and threatened to bring armed officers and shut the facility down if RS did not allow them unfettered access immediately. The site plan was found and delivered to Thad Nanfito the next day.

4. Agreed.

5. The site plan had not been updated, but RS was allowed to renew from 2005 until 2015 without validation or updating and multiple visits by other FO4 employees.

6. David Wright was not a principal, but an employee and had no authority to grant access to private property.

7. & 8. Agreed.

9. This appears correct, however this is not the only or first time DNR had discussed the property with Mr. Murphy, but it was the first time where it was witnessed that the DNR made discouraging statements to the potential buyer.

10.-12. Agreed.

13. Jason Wright had no knowledge of the visit and was not notified of the visit.

14. Agreed, however the order was far less than what was described to potential buyers.

15.-19. Agreed.

20. The order was unclear, difficult to understand, and contained factual errors.

21. & 22. RS was the property owner of record. Jason Wright was not an active party to violations as stated, i.e., the violations were unintentional. David Wright was exclusively an employee of RS. David Wright never committed any of the violations personally either. He was then a late 60's male (now late 70's) in charge of truck dispatch, delivery, and limited amounts of sales.

Over the eleven years at the Atlantic location, RS was visited for inspection over numerous unnamed and unfounded complaints. During the time RS operated, it recycled 200,000 tons of metal, paper and rubber, and incidents of small spills were few and far between. Extensive and thorough efforts to eliminate and minimize problems were always pursued by RS. RS provided good jobs to many people during its time of operation, and the services offered by it were in high demand.

In summary, it is the goal of my clients to follow through on the remediation plan, done either by themselves, or by a future purchaser of the lot. We ask that enforcement be delayed to allow additional time to complete this project. Jason Wright is now a resident of Colorado, and thus his geographical proximity, or lack thereof, has not been conducive to achieving the remediation in a timely manner. Moreover, due to aging and health problems, David Wright is less and less capable of assuming the mantle for completing the project (nor should he be required to since he should not be a subject to any of these proceedings). We do not deny there is a need for remediation, and are asking for some additional time to clean up this property, or to sell it to a willing buyer. Thank you for your consideration of this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Wiederstein', with a stylized flourish at the end.

David L. Wiederstein

DLW:cep





**Summary**

Parcel ID 303004885001000  
 Alternate ID  
 Property Address 102 State  
 Atlantic  
 Sec/Twp/Rng 0-0-0  
 Brief Legal Description WALKER'S ADD LOT 35 36,37  
 (Note: Not to be used on legal documents)  
 Document(s) DED: 2006-2114 (2006-10-02)  
 Gross Acres 0.00  
 Exempt Acres N/A  
 Net Acres 0.00  
 CSR N/A  
 Class C - Commercial  
 (Note: This is for tax purposes only. Not to be used for zoning.)  
 Tax District ATLANTIC SCH ATLANTIC CITY N TIF  
 School District ATLANTIC SCHOOL



**Owners**

<b>Primary Owner</b> (Deed Holder) Recycling Services LLC PO Box 454 Atlantic, IA 50022	<b>Secondary Owner</b>	<b>Mailing Address</b>
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**Land**

Lot Area 1.65 Acres; 71,918 SF

**Sales**

Date	Seller	Buyer	Recording	Sale Condition - NUTC	Type	Multi Parcel	Amount
10/2/2004	ROLAND FUNERAL SERVICES, INC.	RECYCLING SERVICES, LLC	2006-2114	Fulfillment of Prior Year Contract	Deed		\$0.00
7/5/2005	ROLAND'S FUNERAL SERVICE, INC	RECYCLING SERVICES, LLC	2005-1520	Unuseable Sale - Other	Contract		\$45,000.00

+ There are other parcels involved in one or more of the above sales:

**Valuation**

	2018	2017	2016	2015	2014
Classification	Commercial	Commercial	Commercial	Commercial	Commercial
+ Land	\$26,150	\$26,150	\$26,150	\$26,150	\$23,140
+ Building	\$0		\$74,280	\$74,280	\$65,730
= Total Assessed Value	\$26,150	\$26,150	\$100,430	\$100,430	\$88,870

**Taxation**

	2016	2015	2014
Classification	Commercial	Commercial	Commercial
+ Taxable Land Value	\$23,535	\$23,535	\$20,826
+ Taxable Building Value	\$66,852	\$66,852	\$59,157
+ Taxable Dwelling Value	\$0	\$0	\$0
= Gross Taxable Value	\$90,387	\$90,387	\$79,983
- Military Exemption	\$0	\$0	\$0
= Net Taxable Value	\$90,387	\$90,387	\$79,983
x Levy Rate (per \$1000 of value)	41.95224	42.34714	41.85269
= Gross Taxes Due	\$3,791.94	\$3,827.63	\$3,347.50
- Ag Land Credit	\$0.00	\$0.00	\$0.00
- Disabled and Senior Citizens Credit	\$0.00	\$0.00	\$0.00
- Family Farm Credit	\$0.00	\$0.00	\$0.00
- Homestead Credit	\$0.00	\$0.00	\$0.00
- Business Property Credit	(\$1,392.94)	\$0.00	\$0.00
- Prepaid Tax	\$0.00	\$0.00	\$0.00
= Net Taxes Due	\$2,400.00	\$3,828.00	\$3,348.00

**Tax History**

Year	Due Date	Amount	Paid	Date Paid	Receipt
2016	March 2018	\$1,200	No		13556
	September 2017	\$1,200	No		
2015	March 2017	\$1,914	Yes	2017-06-19	13589
	September 2016	\$1,714	Yes	2016-09-30	
2014	March 2016	\$1,674	Yes	2016-03-22	13632
	September 2015	\$1,674	Yes	2015-09-30	
2013	March 2015	\$1,829	Yes	2015-06-05	13613
	September 2014	\$1,829	Yes	2014-12-24	
2012	March 2014	\$1,790	Yes	2013-07-30	13697
	September 2013	\$1,790	Yes	2013-07-30	

**Tax Sale Certificates**

Date	Certificate
2017-06-19	2017-87

**Photos**

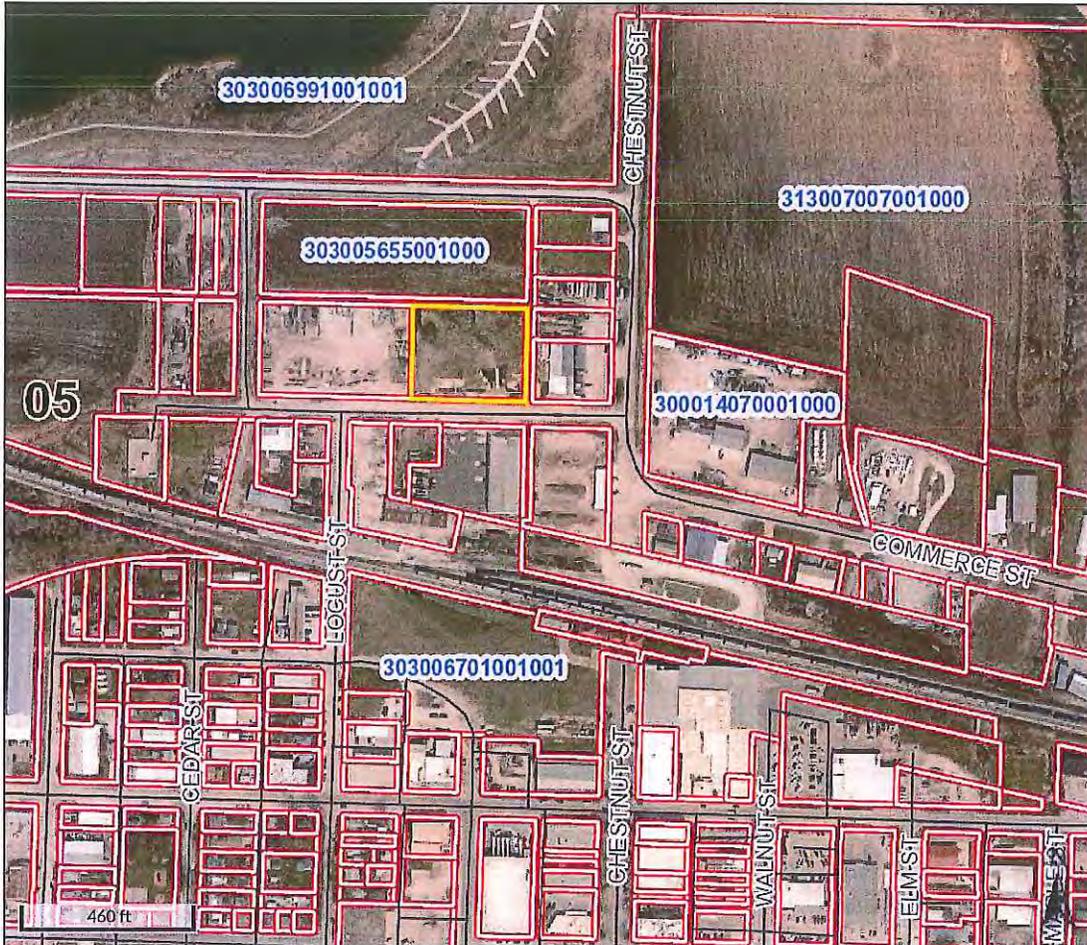
No data available for the following modules: Residential Dwellings, Commercial Buildings, Agricultural Buildings, Yard Extras, Ag Soils, Sketches, Surveys.

Disclaimer: Every attempt has been made to ensure that the information contained on the website is valid at the time of publication. Cass County reserves the right to make additions, changes, or corrections at any time and without notice. Additionally, Cass County disclaims any and all liability for damages incurred, directly or indirectly, as a result of errors, omissions or discrepancies and is not responsible for misuse or misinterpretation.

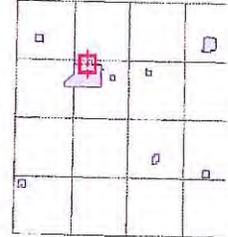
Last Data Upload: 5/15/2018, 12:56:43 AM



  
Schneider  
Developed by  
The Schneider Corporation



**Overview**



**Legend**

- Centerlines
- Named Roads
- Unnamed Roads
- Corporate Limits
- Political Township
- Sections
- Parcels

Parcel ID	303004885001000	Alternate ID	n/a	Owner Address	Recycling Services LLC
Sec/Twp/Rng	0-0-0	Class	C		PO Box 454
Property Address	102 STATE ATLANTIC	Acreage	n/a		Atlantic, IA 50022
District	ATLANTIC SCH ATLANTIC CITY N TIF				
Brief Tax Description	WALKER'S ADD LOT 35 36,37				

(Note: Not to be used on legal documents)

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Date created: 5/15/2018  
Last Data Uploaded: 5/15/2018 1:56:43 AM



Above: radiator processing Below: burning rubber hose



Above burned area near radiator processing Below: antifreeze colored water



Above: oil on ground surface Below: oil stained areas near differentials



Above: waste tires Below: large debris pile with weed growth



Above: spilled antifreeze Below: oil spillage below auto rack



Above: oil spillage Below: tire stockpile



Above and Below: pooled auto liquids and stained soil

4



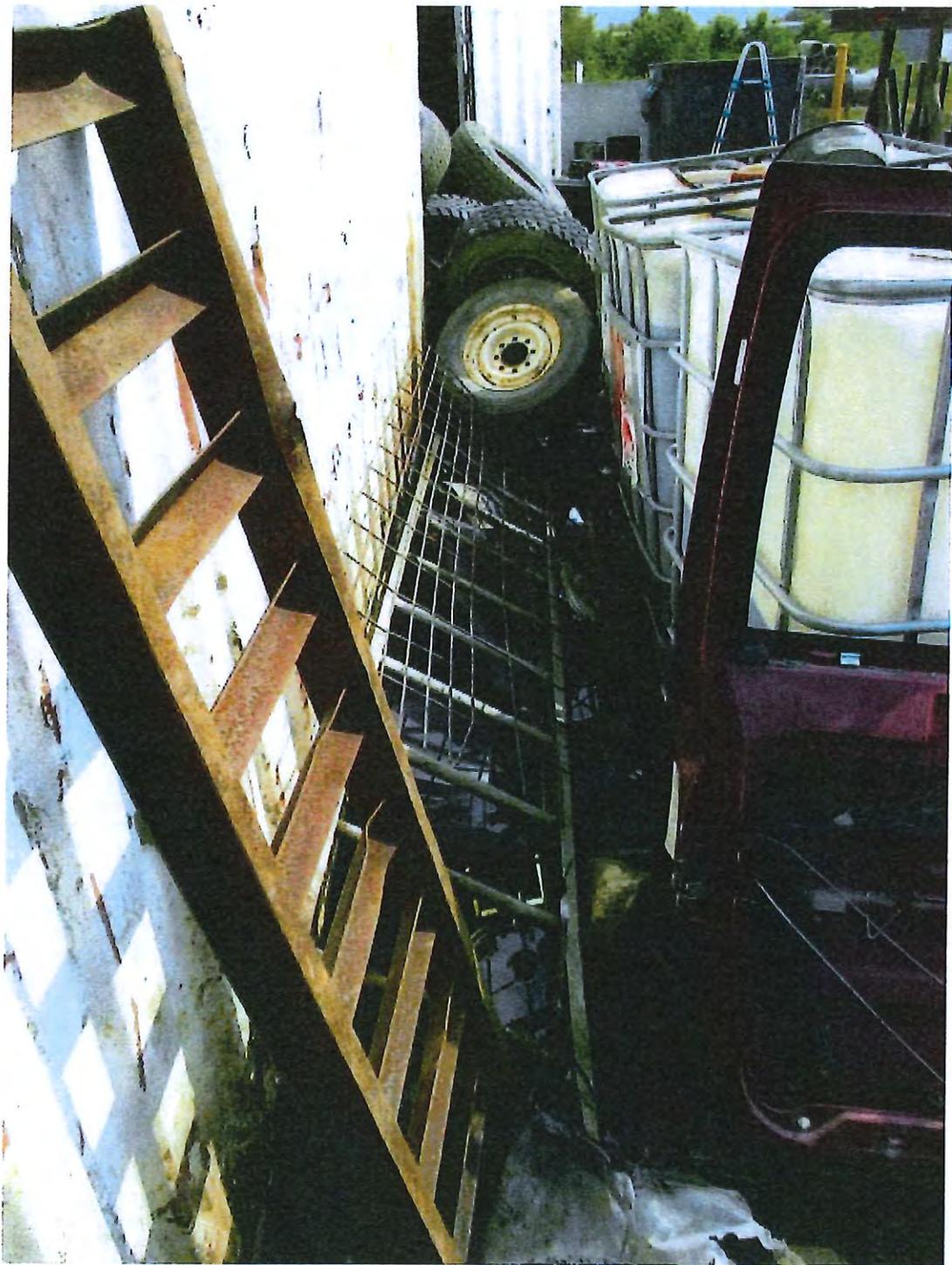
Above and below: improperly stored automotive fluids

6



Above: antifreeze tote Below: refrigerant bottles

3



20



Pooled auto fluids under debris



Above: pooled oil in working area Below: unattended oil spillage from maintenance



Above and Below: bins of appliances (air conditioning units)

7



Above and Below: full totes of automotive fluids



Above and Below: spillage around totes



Above: salvage equipment tires for facility use or resale

22



Above and Below: cleaned area where radiators were processed



Above: mounded debris mixed w/ waste soil (behind working area) Below: open topped containers (free draining) w/ engines and transmissions

P



Above and below: debris mixed with waste soil

10



Above: water heaters in working area Below: cut drainage at north side of property



Above: large stockpile of tires Below: mounded area of debris/waste soil

11



Above: working area w/ water heater unloading Below: area where some oil and contaminated soil was removed



Above: exposed oil in buckets Below: remnant oil staining under tires, totes and containers

12



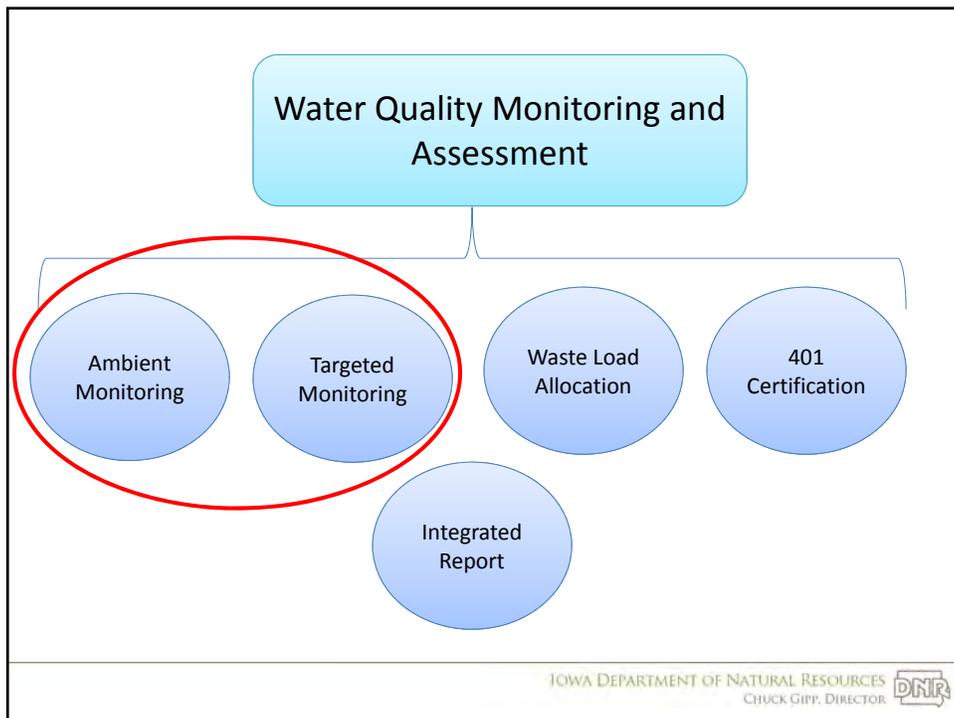
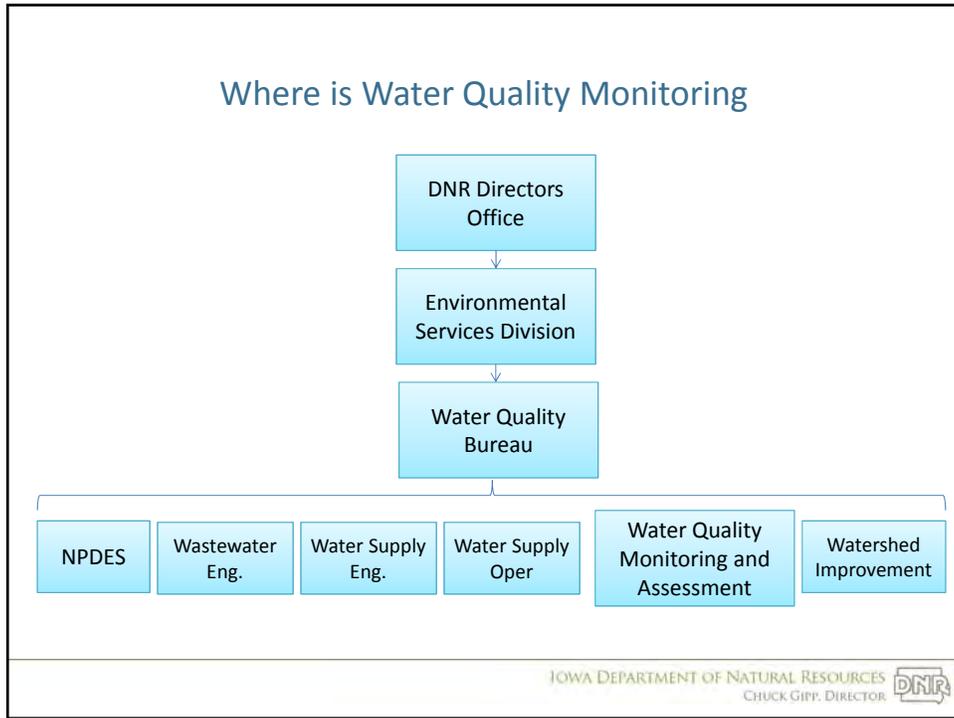
# IOWA DEPARTMENT OF NATURAL RESOURCES

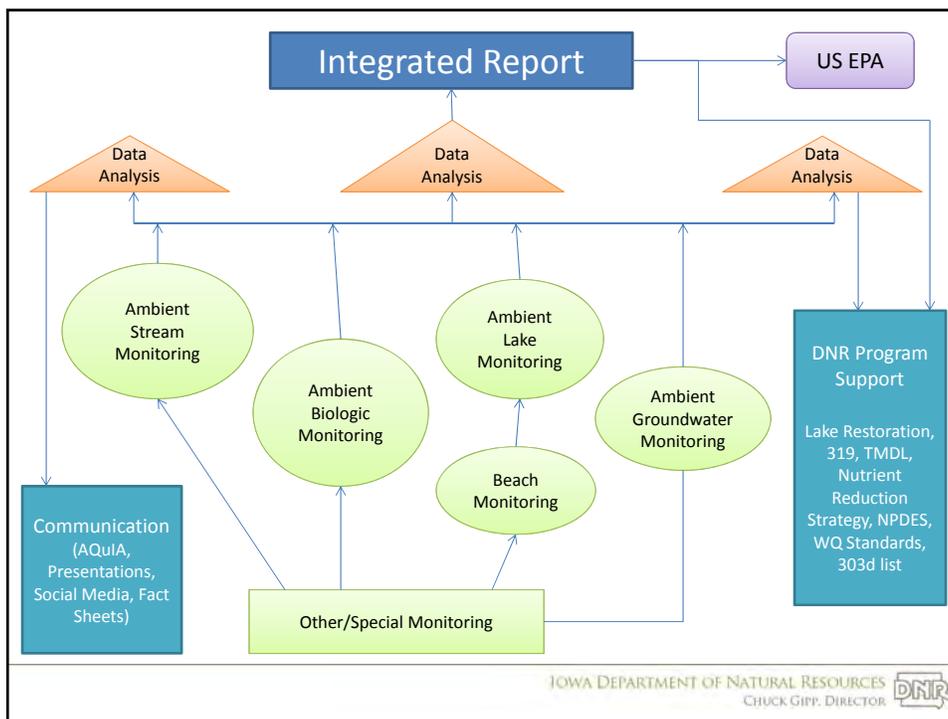
LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

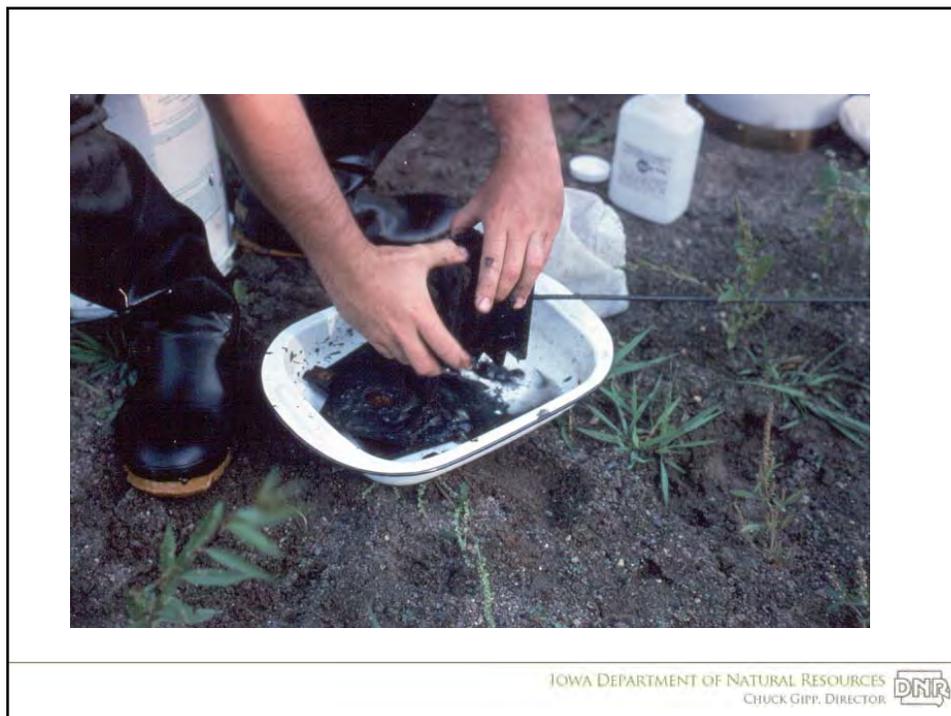
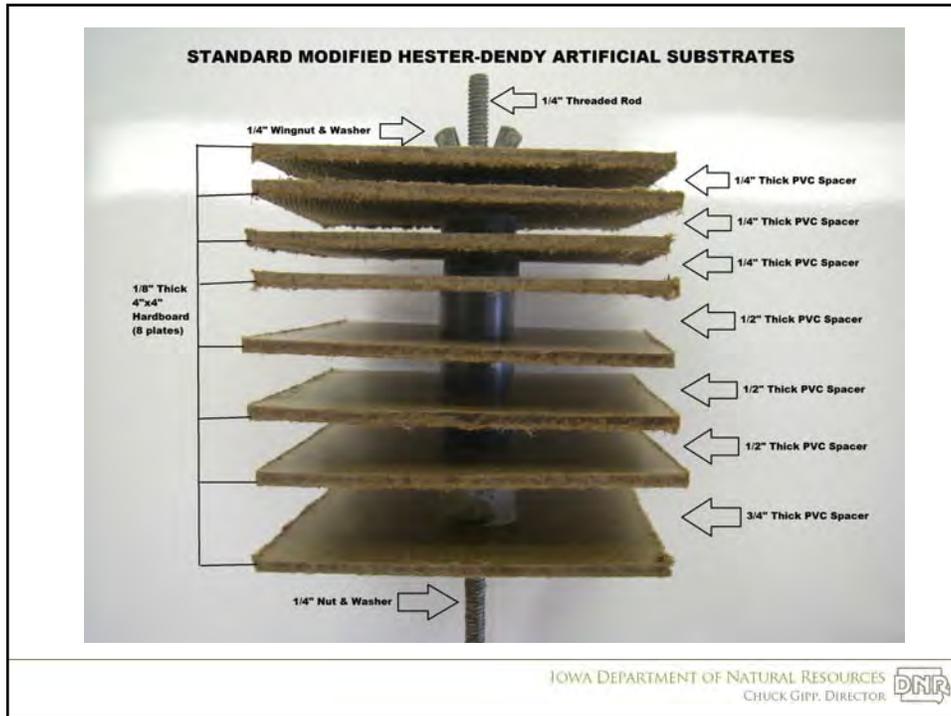
## Overview of Water Quality Monitoring

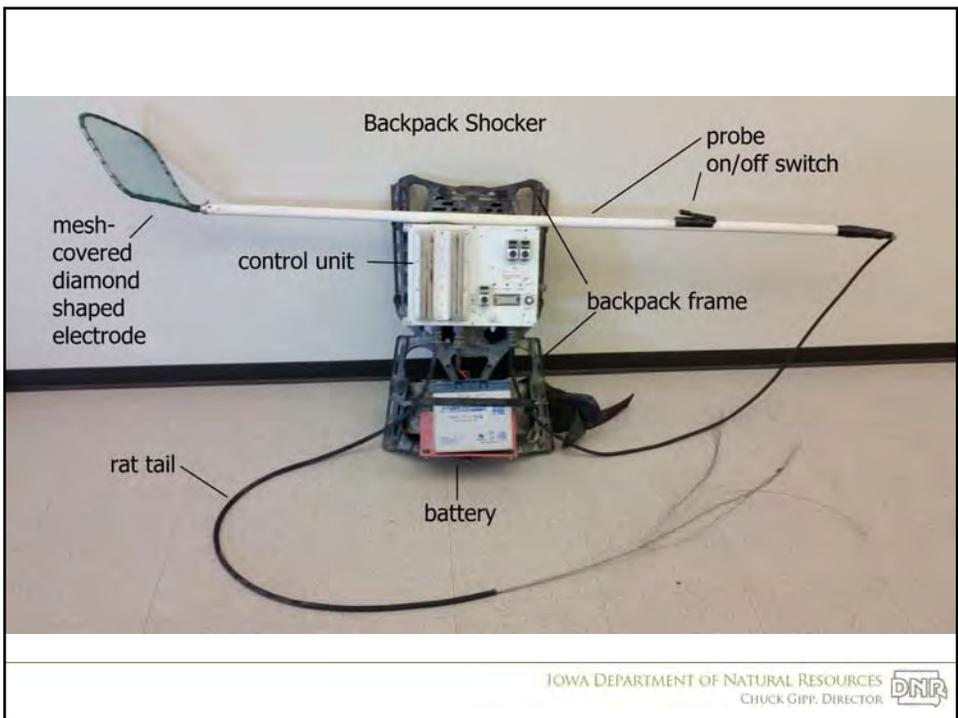
Roger Bruner  
Iowa DNR Water Quality Monitoring & Assessment  
Section

Meeting of the  
Environmental Protection Commission  
May 15, 2018







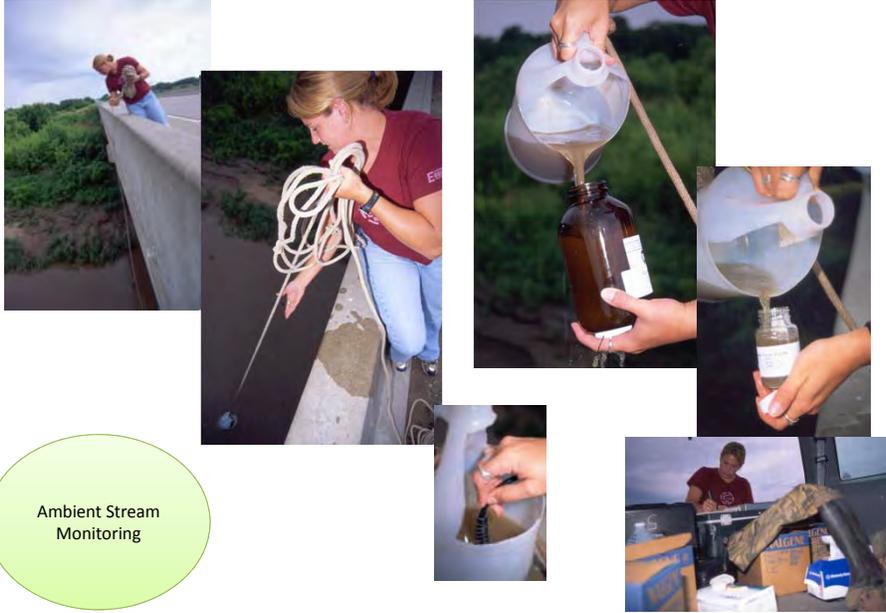


Ambient  
Biologic  
Monitoring



Ambient  
Biologic  
Monitoring





Ambient Stream Monitoring

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CHUCK GIPP, DIRECTOR 



Ambient Stream Monitoring

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CHUCK GIPP, DIRECTOR 

Ambient Lake Monitoring



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Ambient Lake Monitoring



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CHUCK GIPP, DIRECTOR





## State Park Beach Monitoring

- Elements of the program
  - Parameters collected:
    - Field (Beach):
      - Temperature
      - pH
      - Dissolved Oxygen (mg/L and % saturation)
      - Turbidity
      - Wave Height and Direction
      - Current Weather Conditions
    - Laboratory:
      - E. Coli (Indicator Bacteria) (SHL)
      - Microcystin toxin (DNR)

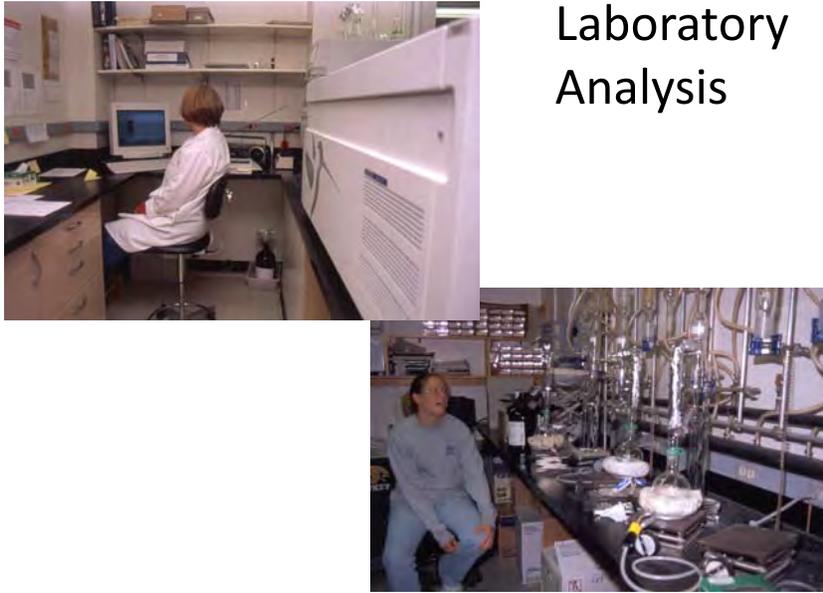




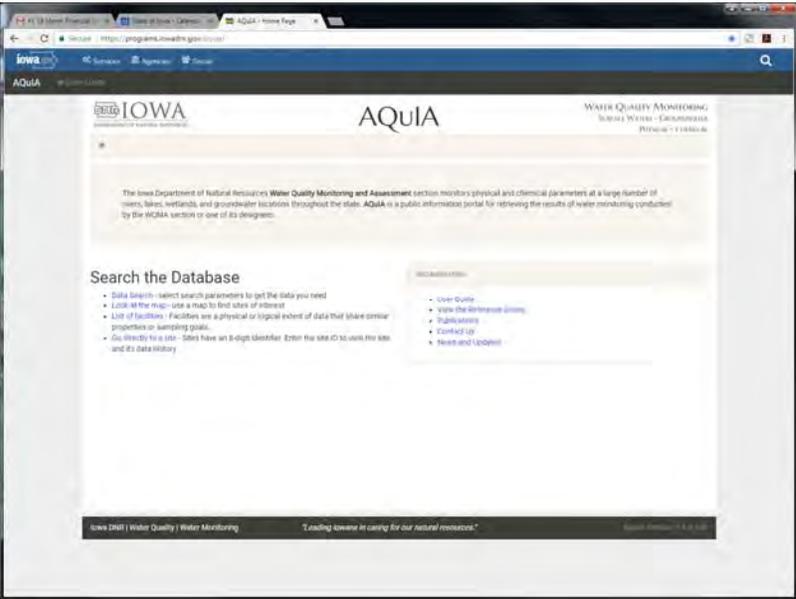


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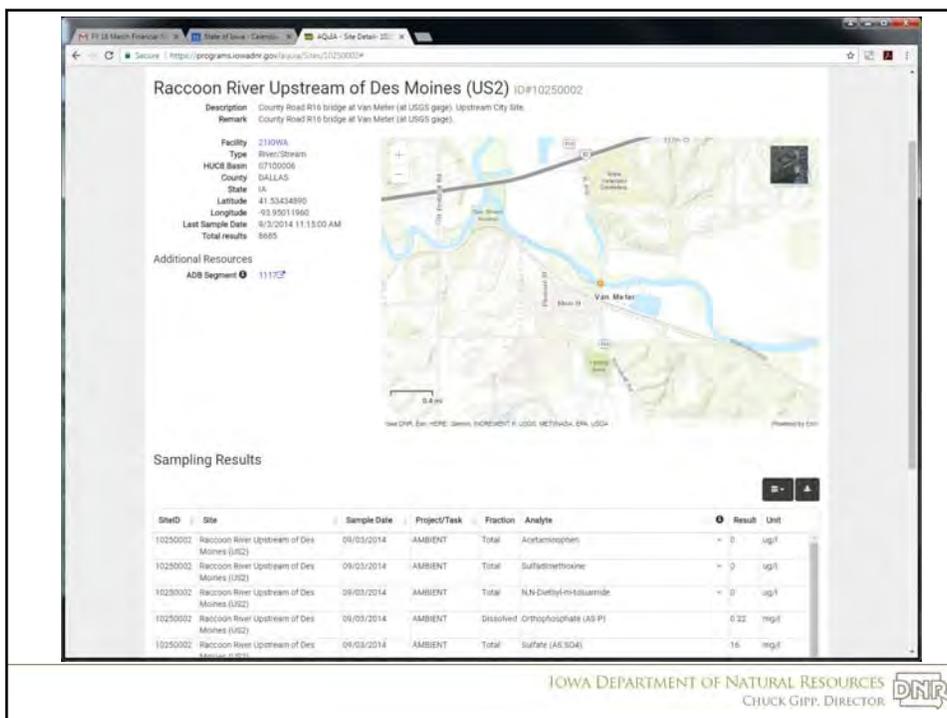
# Laboratory Analysis

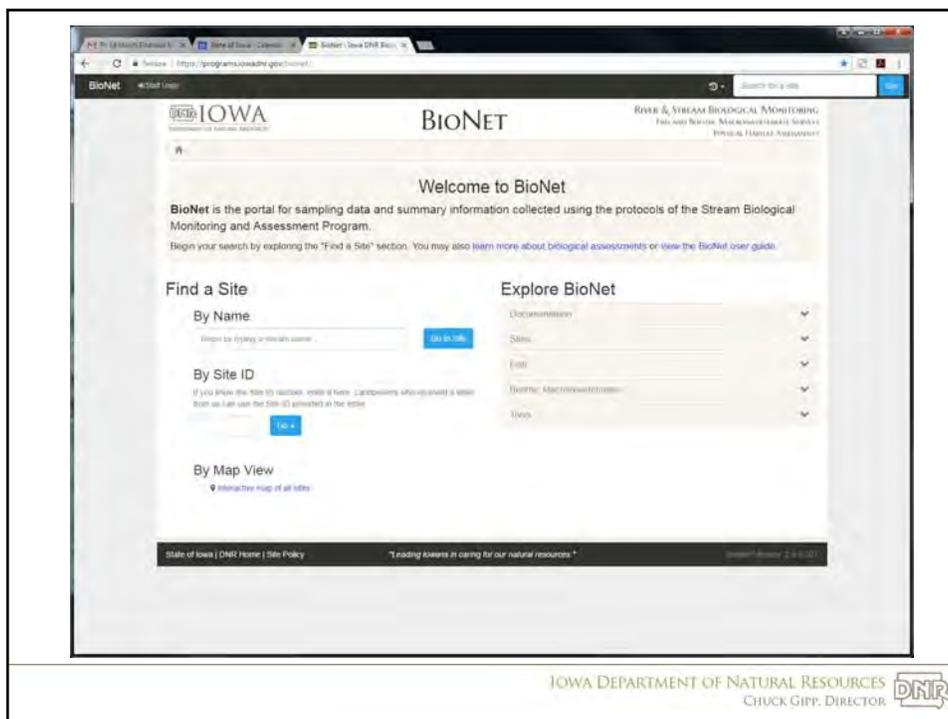


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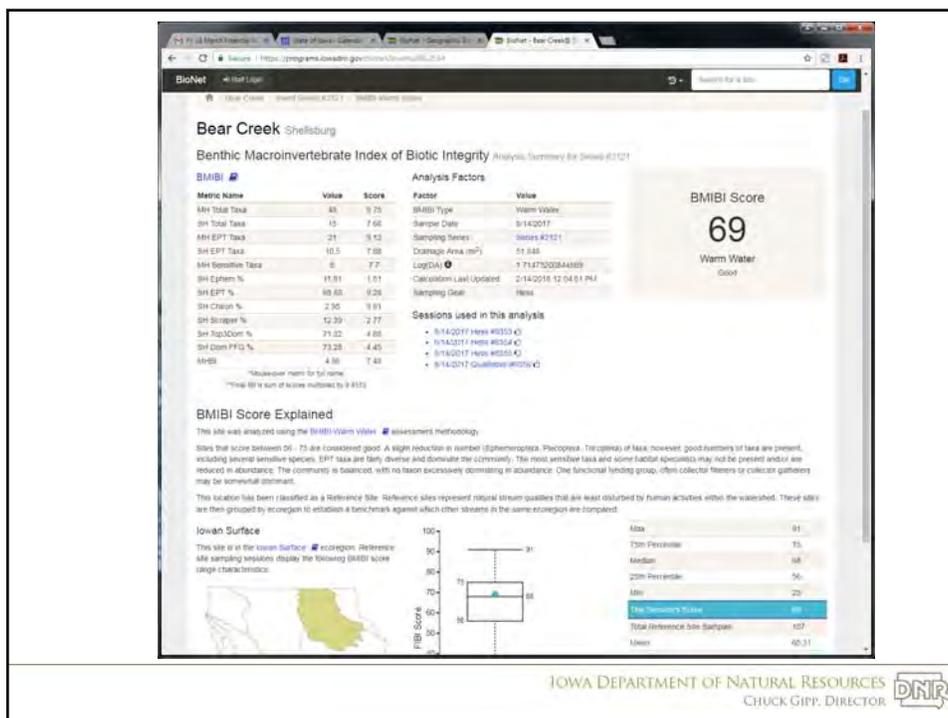


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**2016 305(b) Assessment Summary**

**2016 Impaired Waters List: Approved by U.S. EPA January 16, 2018:**

As required by Section 305(b) of the Federal Clean Water Act to the U.S. EPA, the Iowa DNR submitted its final 2016 Integrated Report, including Iowa's 2016 list of impaired waters, to U.S. EPA for approval on December 1, 2017. Iowa DNR received final approval of this submission from U.S. EPA on January 16, 2018.

Public comments were sought on Iowa's draft 2016 list of impaired waters from April 14, 2017, through May 29, 2017. Seventeen comments were submitted to DNR. Iowa DNR prepared a summary of responses to these comments. Iowa's draft list was updated following the public comment period. Iowa's final 2016 Section 305(b) list, as submitted to U.S. EPA, contained 108 waterbodies with a total of 768 impairments.

**2016 Integrated Report Documentation**

- 2016 Iowa Integrated Report 27th Submittal Letter
- Methodology for Iowa's 2016 Water Quality Assessment, Listing, and Reporting Pursuant to Sections 305(b) and 305(d) of the Federal Clean Water Act
- Public Participation Responsiveness Summary for Iowa's 2016 Section 305(b) List of Impaired Waters
- 2016 305(b) Impaired Waters List EPA Approval Letter

Links to additional information can be found at: <http://www.iowadnr.gov/EnvironmentalProtection/Water-Quality/Water-Monitoring/Impaired-Waters>.

**Background**

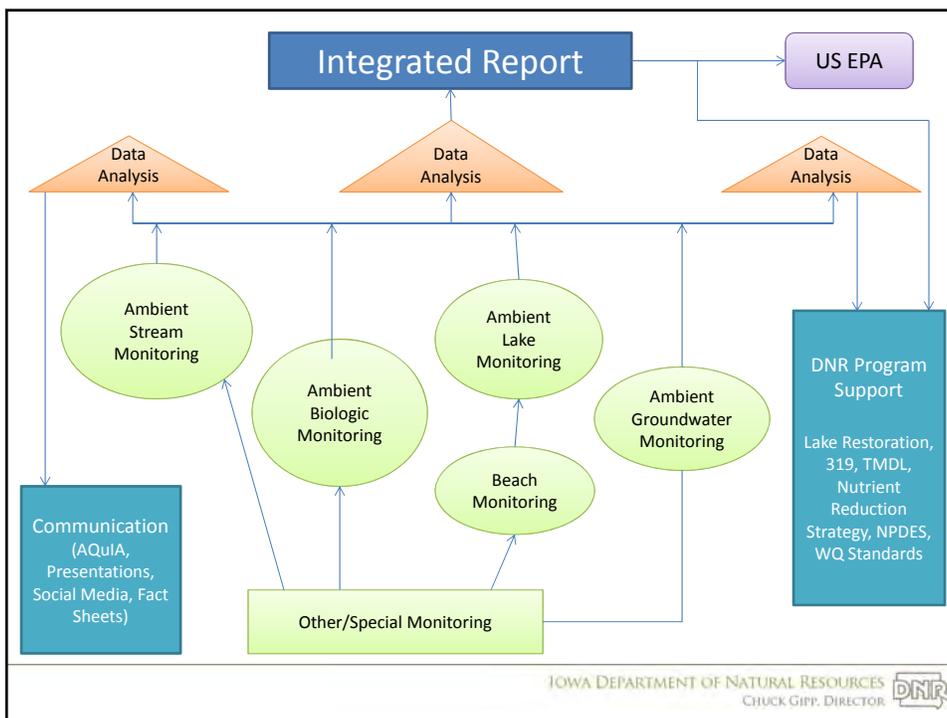
Iowa's Section 305(b) lists and Integrated Reports are prepared according to Iowa DNR's assessment and listing methodology and follow U.S. EPA guidelines for "integrated reporting" that combine requirements of Sections 305(b), 305(d), and 316 of the Federal Clean Water Act. These U.S. EPA guidelines suggest that states place all their waters into one of the following categories that comprise a state's Integrated Report:

- Supporting:** These waterbodies are assessed as fully supporting their assessed designated uses. Waters assessed as supporting all their designated uses are in Category 1 of the Integrated Report. Those waters where some of the designated uses are met but insufficient information exists to determine whether the remaining uses are met are placed in Category 2 of the Integrated Report.
- Uses Not Assessed:** These are designated uses for which insufficient information exists to determine whether that designated use is met. Other designated uses for that waterbody however, may have been assessed as either "supporting" or "impaired".
- Waterbodies Not Assessed:** Insufficient information exists to determine whether any beneficial uses designated for that waterbody are met. These waterbodies are placed into Category 3 of the Integrated Report.
- Category 4:** The waterbody is impaired but a TMDL is not required, the waterbody is not included on the state's section 305(b) list of impaired waters (Category 5 of the Integrated Report).
- Category 5:** The state's section 305(b) list of impaired waters. The waterbody is impaired and a total maximum daily load (TMDL) is needed.
- Designated:** As provided for in Iowa's credible data law, the Department is to maintain a separate list of waters that require further investigative monitoring. As specified in the

**Checklist:**

- Supporting: Uses assessed as fully supporting:
- Uses Not Assessed:
- Waterbodies Not Assessed: Designated uses for designated use have been assessed:
- Waters to Be Assessed:
- Category 4: Impaired waterbodies where a TMDL has been completed or is not required:
- Category 5: 2016 List of Impaired Waters - TMDL needed:
- Designated: 2016 previous impaired waters list:
- All Assessed Segments: All segments with an assessment:
- All Assessed Uses: All designated uses with an assessment:

IOWA DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR





# Questions?



# Agenda

## Environmental Protection Commission

Tuesday, May 15, 2018  
State of Iowa Capitol  
1007 East Grand Ave  
Room 116  
Des Moines, Iowa

### Tuesday, May 15, 2018

10:00 AM – EPC Business Meeting

11:30 AM – Referral to the Attorney General Jason and David Wright, dba Recycling Services LLC

Public Participation<sup>1</sup> - Requests to speak during the business meeting Public Participation must be submitted to Jerah Sheets at [Jerah.Sheets@dnr.iowa.gov](mailto:Jerah.Sheets@dnr.iowa.gov) 502 East 9<sup>th</sup> St, Des Moines IA 50319, 515-313-8909, or in-person by the start of the business meeting. Please indicate who you will be representing (yourself, an association, etc.), the agenda item of interest, and your stance of For, Opposed, or Neutral.

If you are unable to attend the business meeting, comments may be submitted via mail and email for the public record. The Commission encourages data, reports, photos, and additional information provided by noon the day before the meeting to allow ample time for review and consideration.

- |    |  |                                  |
|----|--|----------------------------------|
| 1  | Approval of Agenda   |                                  |
| 2  | Election of Officers   |                                  |
| 3  | Approval of the Minutes  |                                  |
| 4  | Monthly Reports  | Bill Ehm<br>(Information)        |
| 5  | Iowa's Water Monitoring Program Overview   | Roger Bruner<br>(Information)    |
| 6  | Public Participation   |                                  |
| 7  | Acting Director's Remarks  | Bruce Trautman<br>(Information)  |
| 8  | Notice of Intended Action  | Tom Anderson<br>(Decision)       |
|    | Chapter 119-Used Oil and Used Oil Filters  |                                  |
|    | Chapter 123 – Regional Collection Centers and Mobile Unit Collection and Consolidation Centers   |                                  |
|    | Chapter 144 – Household Hazardous Materials Education  |                                  |
|    | Chapter 211 – Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators |                                  |
|    | Chapter 214 – Household Hazardous Materials Program  |                                  |
| 9  | Contract with Iowa Association of Soil Conservation District Commissioners, dba Conservation Districts of Iowa   | Jeff Vansteenburgh<br>(Decision) |
| 10 | Contracts with Black Hawk, Cerro Gordo, Johnson, Linn and Scott County Health Departments  | Jeff Vansteenburgh<br>(Decision) |
| 11 | Contract with Iowa State University  | Jason Marcel<br>(Decision)       |
| 12 | Region XII Council of Governments - Grant Awardee for delivery of the Iowa Waste Exchange program  | Jennifer Wright<br>(Decision)    |

13	Contract Amendment # 2 to Contract 16ESDLQBGOLD1 with Region XII Council of Governments	Leslie Goldsmith (Decision)
14	Referral to the Attorney General Jason and David Wright, dba Recycling Services LLC	
15	General Discussion	
16	Items for Next Month's Meeting <ul style="list-style-type: none"> <li>• Tuesday, June 19, 2018 – EPC Business Meeting – Des Moines</li> <li>• Tuesday, July 17, 2018 – EPC Business Meeting – Des Moines</li> </ul>	

For details on the EPC meeting schedule, visit <http://www.iowadnr.gov/About-DNR/Boards-Commissions>

<sup>1</sup>Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person attending the public meeting and has special requirements such as those related to mobility or hearing impairments should contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or [Webmaster@dnr.iowa.gov](mailto:Webmaster@dnr.iowa.gov), and advise of specific needs.

**MINUTES OF THE  
ENVIRONMENTAL PROTECTION COMMISSION  
MEETING**

**April 17, 2018**

**Three Mile Lake Lodge  
Campground Road, Afton, IA**

**Approved by the Commission DATE**

DRAFT

RECORD COPY

File Name Admin 1-1-1

Sender's Initials jzs

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DRAFT

**Meeting Minutes**

**CALL TO ORDER**

The meeting of the Environmental Protection Commission was called to order by Chairperson Ralph Lents at 10:00 a.m. on April 17, 2018 at the Three Mile Lake Lodge outside Afton, Iowa.

**COMMISSIONERS PRESENT**

- Mary Boote
- Nancy Couser, Secretary
- Rebecca Guinn
- Howard Hill
- Harold Hommes
- Ralph Lents, Chair
- Bob Sinclair

**COMMISSIONERS ABSENT**

- Joe Riding, Vice Chair
- Vacant Seat – Finance & Commerce

**APPROVAL OF AGENDA**

*Motion was made by Mary Boote to approve the agenda as presented. Seconded by Harold Hommes. Motion passes.*

**APPROVED AS PRESENTED**

**APPROVAL OF MINUTES**

*Motion was made by Bob Sinclair to approve the March 20, 2018 EPC minutes as presented. Seconded by Howard Hill. Motion passes.*

**APPROVED AS PRESENTED**

**MONTHLY REPORTS**

Bill Ehm shared with the Commission the legislative package has passed and has been signed by the Governor to clarify the EPC’s requirement for a biennial report. The bill did not state which years a biennial report was required but he recommended submitting a report for the end of this year to aid newly elected legislators who will be starting next year.

He continued that in the same legislative package was a provision to move the State’s Geological Survey to the University of Iowa. The funding specifics for the Survey will be finalized in the budget bill which has yet to be passed by both houses.

In a separate legislative bill, the Land Recycling Program has received increased funding support. This Program aids communities with cleaning up parcels of land previously contaminated so they can be used for other purposes.

The electronic Manure Management Plan (eMMP) online submission and payment program went live about a month ago and Ted Petersen and Alison Manz will be providing an update and demonstration later in the meeting.

The Rivers Mitigation Method has been in place for about a year and provides the Army Corps of Engineers the ability to calculate the disturbance impacts to a stream and also the benefits of a restoration project nearby. Engineers can use a mitigation bank to buy credits for restoration projects completed for impactful disturbance projects. He also shared examples of the types of mitigation projects that might be eligible for the mitigation bank.

The monthly report(s) has been posted on the DNR website under the appropriate meeting month:  
<http://www.iowadnr.gov/About-DNR/Boards-Commissions>

<b>INFORMATION</b>
--------------------

Doug Day from Union County Conservation Board welcomed the Commission, DNR, and guests to the Three Mile Lake Lodge. He introduced his staff and shared the types of resources Union County has to offer with lodges, cabins, campgrounds, hiking, fishing, and more. He provided some history on the lake and how it was recently renovated.

### **PUBLIC COMMENT**

#### **Shamus Brown – Iowa Select Farms**

Dr. Brown shared with the Commission he is a veterinarian for Iowa Select Farms for the southern Iowa territory. They have six veterinarians who visit sow farms regularly with no more than 60 days between visits and at least once for finisher pig sites. This veterinarian care is above and beyond the industry care standards. Iowa Select Farms employs around 1,200 team members with extremely competitive pay and benefits. They have been ranked as a top Iowa work place by the Des Moines Register for 3 years in a row. One of the comments from the Des Moines Register survey stated “I am passionate about what I do and am part of something meaningful.” The company has an environmental team which is a supplement to what DNR provides as oversight. Animal wellbeing and biosecurity are in place to ensure animals are taken care of, clean, and healthy for the betterment of the environment, people, and food supply. Over last 3 years, the company has invested in technology for positive pressure filtration to filter air going into barns before animals breathe the air along with working different ways to reduce odor with livestock production. He thanked the Commissioners for their service.

#### **Karan Finn – Self**

Karan Finn inquired with the Commission about hosting the meeting in the county where the Demand for Hearing originated so they could hear from the concerned neighbors. She asked the Commission to think about Scott Moore and Dean Anderson. When the Commission reviewed a proposed hog facility in Adair County, Scott attended in person and Dean was on the video. After the EPC decision to build the hog facility, they both died. She asked the Commission to remember their names. The EPC is not the Agriculture Expansion Commission but the Environmental Protection Commission and should be protecting the people first. She believes it is time for a moratorium on hog confinements because they have a lot of problems and people are impacted. The facilities are not getting inspections because the DNR’s funding has been cut. Scott died of a heart attack due to the stress and Dean died from breathing problems and the EPC is responsible for their deaths.

#### **Laura Mathes – Iowa Select Farms**

Laura Mathes shared with the Commission a little about her life living in rural Iowa with her husband and kids focusing on the farm and 4-H activities. Her family has a cow-calf operation and also grows row crops. She also manages a sow farm for Iowa Select Farms. These facilities keep her busy and she wouldn’t change it for anything because she is proud to live in Iowa. She admits that at times it smells when manure is applied

but the manure is also valuable. The manure fertilizes the land which grows food for the world and for our animals to eat. With strict oversight from the DNR, Iowa Select Farms injects only the amount of manure the crops can absorb into the ground. They only apply what the crops can use. She is proud of how Iowa Select Farms takes care of the environment, animals, and the community. In rural Iowa, there are few jobs with good benefits. When she entered the workforce, she started at an entry level job with Iowa Select Farms and has been able to grow with the company. Iowa Select Farms gives back to the community through their various outreach programs.

**Jennifer Crall – Iowa Select Farms**

Jennifer Crall distributed a flyer describing the Iowa Select Farms company and community projects. She has returned to Iowa to work for Iowa Select Farms. Her role at Iowa Select Farms is to increase communication with neighbors and county supervisors regarding potential new farms. Iowa Select Farms is working in 56 counties in Iowa. She does her best to answer questions even though sometimes the answers may not be what they want to hear. But these are opportunities to be open and honest with each other. Her focus is with neighbors within a 1-2 mile radius of new farms. Finishing barns historically were negative pressure air facilities, but with new technology improvements they are now being transitioned to positive pressure barns. Positive pressure flow of air filters the incoming and outgoing air of the building. Electrostatic fences outside buildings knock down dust which odor travels on. There are also tree lines and brush lines planted to push the air upwards. She hopes the EPC sees less concerns as Iowa Select Farms moves forward with communicating with our communities and neighbors.

**Tyler Bettin – Iowa Pork**

Tyler Bettin thanked the Commission for their time and service. The Commission has heard from farmers in rural Iowa who take their role seriously. The master matrix is an effective tool for farmers and county boards. When the master matrix was adopted, it set requirements above and beyond the law. DNR does an outstanding job with its compliance and enforcement efforts. He thanked the Commission for their time and asked for support later in the meeting for permitting a facility subject to a demand for hearing.

- No written comments were submitted.

**END OF PUBLIC COMMENT**

**DIRECTORS REMARKS**

Director Chuck Gipp thanked the Commission for touring and meeting outside of Des Moines. He reminded the audience that the DNR does not own any land but rather the State of Iowa owns land in which the DNR and other partners manage the land on behalf of the state.

Director Gipp shared with the Commission the legislative session has reached the 100<sup>th</sup> day which signals that the session will be ending soon. The only thing we know is the Department was deappropriated \$123,000 of General Funds but no other final budget numbers have been decided. Over the past decade, the Department has gone from \$22 million to \$11 million in General Fund allocations. The General Fund supports efforts in the parks, federal funds match, and forestry. There are three parks with no staff and other parks where staff are traveling miles between two parks to keep them open. As the General Fund is reduced, he has to make a list of things that no longer can be done. Over the past decade, salary expenses, required training, and updating technologies have raised the DNR’s costs and each year there is no financial support from the legislature for these items. One good thing has occurred which is dynamic pricing for the parks where rental prices can be set based on seasonal demands rather than through rulemaking.

**INFORMATION**

**UPDATE FOR THE NEW ELECTRONIC MANURE MANAGEMENT (EMMP) SYSTEM**

Ted Petersen and Alison Manz provided an educational presentation of the status of the electronic Manure Management Plan system. The project started in 2016 with stakeholders, DNR staff, counties, and farmers gathering to determine ways to improve the process to submit and pay for MMPs. From the discussions, they developed online options, tested with users, and provided educational opportunities to users. They also provided a summary of what a MMP is, what type of facilities are subject to provide a MMP, and the distribution across the state of MMP submissions by county. The provided a visual example of a long form and short form submission to show the difference in volume from one page short forms to sometimes 100's of pages in a long form. Director Chuck Gipp summarized the history of creation of MMPs to control concentrated livestock manure and determine application rate to lands. MMPs were filed at the county court house so locals could know what was going on with the neighbors. Going electronic balances preserving the privacy of producers and access for the public.

**INFORMATION**

**DEMAND FOR HEARING – BUENA VISTA COUNTY**

David Steward from the Attorney General Office briefed the Commission of their role to review the records submitted and receive oral presentations from the parties. The EPC is to confirm or deny the permit application.

Kelli Book, DNR Attorney, along with Paul Petitti, DNR Engineer presented to the Commission. She summarized the order of events which included the receipt of the application and the county holding a public meeting. The county decided there was an acreage near the proposed facility that did not meet the separation distance for a residence so the county failed the matrix. Once the county fails a matrix, the DNR is required to review the application. After DNR review, the matrix passed and a draft construction permit was issued. The DNR determined the residence in question did not meet the residence requirements.

When asked why the county did not send representatives to the meeting, Kelli Book was unable to speculate their decision to waive their opportunity to present.

Amy Johnson of JPS Farms presented on behalf of the applicant. She agrees with the DNR scoring of the matrix. The proposed site passes the matrix, complies with the law, and the construction permit should be granted. Buena Vista County failed JPS Farms' matrix because of inadequate separation distance to a residence. Iowa residency must meet four criteria: (1) non-mobile residence or other building, (2) habitable for humans on a permanent and frequent basis, (3) be connected to sewer, water, and electricity, and (4) pay taxes. The property owner in question does pay taxes and does have outbuildings but the property is not habitable for humans nor is it connected to sewer, water, or electricity. The next closest residence is over 2,000 feet away which is above the required separation distance. She asked the Commission to affirm the DNR's decision to grant the construction application.

*Motion was made by Mary Boote to approve the permit. Seconded by Nancy Couser. Joe Riding-absent, Bob Sinclair-yea, Ralph Lents-yea, Howard Hill-abstain, Nancy Couser-yea, Rebecca Guinn-yea, Mary Boote-yea, Harold Hommes-yea, and Finance and Commerce Vacant Seat.*

**CONSTRUCTION PERMIT APPROVED**

**ADOPTED AND FILED – AMENDMENTS TO CHAPTER 64 TO INCLUDE NPDES GENERAL PERMITS 8 AND 9**

Julie Faas and Wendy Hieb presented final rules for the general permits.

*Motion was made by Bob Sinclair to approve the agenda item as presented. Seconded by Mary Boote. Motion passes.*

**APPROVED AS PRESENTED**

**CONTRACT - BEAVER CREEK WMA PLANNING GRANT**

Kyle Ament presented a contract for watershed improvement projects. He also shared that many Watershed Management Areas (WMAs) utilize a financial management group like a County Conservation Board.

*Motion was made by Howard Hill to approve the agenda item as presented. Seconded by Bob Sinclair. Motion passes.*

**APPROVED AS PRESENTED**

**SOLID WASTE ALTERNATIVES PROGRAM – CONTRACT RECOMMENDATION**

Tom Anderson presented recommendations for grants. He also notified the Commission the City of Sheldon has recently withdrew their application and are not seeking funding at this point. He shared the process for evaluating applications which includes the difficulty of the materials being managed and the amount being diverted from the landfill. The Commission and Mr. Anderson discussed FarmTable’s project. Grade B food waste will be diverted away from landfill disposal if the project obtains funding.

*Motion was made by Mary Boote to approve funding awards except for the City of Sheldon who recently withdrew their application. Seconded by Bob Sinclair. Motion passes.*

**APPROVED AS AMENDED**

**GENERAL DISCUSSION**

- Chairperson Lents announced Barbara Hovland had resigned from the Commission.
- Kelli Book summarized that the parties in the recent Demand for Hearing from Humboldt County have reached agreement. The applicant has removed the field for manure application near the restaurant in the city of Thor and chose another field in its place.
- Jerah Sheets obtained feedback from the Commission regarding future educational tours after the business meetings in Des Moines.

Chairperson Lents received a motion from Bob Sinclair to adjourn the Environmental Protection Commission meeting. Second from Nancy Couser. Motion passes unanimously at 12:00 p.m. on April 17, 2018.

## Monthly Variance Report

March 2018

Item #	DNR Reviewer	Facility/City	Program	Subject	Decision	Date	Agency Reference
1	Tara Naber	Des Moines Water Works	Water Supply Construction	Construct water main of DIP with nitrile gaskets and within casing pipe instead of constructing sewers of water main material at three locations where there is less than 10 feet of horizontal separation. PWSID 7727031, project W2018-0144.	approved	3/1/18	18wcv074
2	Marty Jacobs	Park View Sanitary Dist	Wastewater	Valley Construction is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 12 – Iowa Standards for Sewer Systems – 12.6 (Details of Construction) for the installation of a gravity sewer by directional drilling.	approved	3/2/18	18cpv075
3	Reid Bermel	Grain Processing Corporation	Air Quality	GPC is requesting a variance to operate a new scrubber for Dryer House 4 prior to permit issuance.	approved	3/2/18	18aqv076
4	Ann Seda	Pella - Sioux Center	Air Quality	Pella determined they need to modify permits to adjust paint usage and VOC content. Asked for additional time to apply for modified construction permits.	approved	3/2/18	18aqv077
5	Ashley Dvorak	GCC Alliance Concrete - Sioux Center	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/5/18	18aqv078
6	Ashley Dvorak	GCC Alliance Concrete - Sioux Center	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/5/18	18aqv079
7	Jason Christopherson	Nestle Purina PetCare Davenport	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/6/18	18aqv080
8	Jason Christopherson	AG Processing Inc. - Eagle Grove	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/7/18	18aqv081
9	Marty Jacobs	City of Sibley	Wastewater)	The City of Sibley is requesting variance from the Iowa Wastewater Facilities Design Standards Chapter 13 – 13.4.3 (Pump Openings) for installing a submersible lift station pump that does not have the capability to pass a 3-inch spherical solid.	approved	3/7/18	18cpv083
10	Danjin Zulic	Transco Railway Products, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/8/18	18aqv082
11	Matt Phoenix	Iowa American Water - Clinton District	Water Supply Construction	A variance from requirements to construct conflicting storm sewers of water main material where separations cannot be obtained by instead constructing water main of DIP w/ nitrile gaskets.	approved	3/12/18	18wcv084
12	Danjin Zulic	ADM Terminal Services	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/13/18	18aqv085
13	Reid Bermel	Cargill Inc. - Eddyville	Air Quality	Cargill wants to delay of installing condensing economizers on High Pressure Gas Boilers 1 (EP 232 permit 15-A-219) and 2 (EP 233 permit 15-A-220).	approved	3/13/18	18aqv086
14	Dennis Thielen	Cargill - Ft. Dodge	Air Quality	Permit 07-A-847-P7 requires Cargill to conduct a S02 testing by May 1, 2018. Cargill is requesting to extend the testing deadline for 120 days.	approved	3/13/18	18aqv087
15	Reid Bermel	Cargill, Inc. - Eddyville	Air Quality	Requesting a temporary boiler while Cargill does repairs to steam boilers HP 1 and HP-2. Cargill intends to operate the rental boiler while repairs are being made to HP boilers along with a period of time that all three boilers will operate together.	approved	3/13/18	18aqv088
16	Rachel Quill	Templeton Rye Spirits, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/14/18	18aqv089
17	Danjin Zulic	The University of Iowa	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/14/18	18aqv090
18	Danjin Zulic	The University of Iowa	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/14/18	18aqv091

19	Tara Naber	Des Moines Water Works PWSID 7727031	Water Supply Construction	Construct wm of DIP w/ nitrile gaskets: 1) and encase wm @sanitary sewer horizontal conflicts; 2)@storm sewer horizontal conflicts; 3) and either encase wm OR 4) construct stm sewer of wm material @stm sewers xing above w/ less than 18" separation.	approved	3/14/18	18wcv092
20	Dennis Thielen	New Heaven Chemicals	Air Quality	New Heaven is requesting a variance to install a temporary header on EP 2-1, 2-2, and 2-3 in order to conduct flow testing.	approved	3/15/18	18aqv093
21	Jason Christopherson	IPL Marshalltown Generating Station	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/16/18	18aqv094
22	Reid Bermel	Muscatine Power and Water	Air Quality	DNR received a variance request from Muscatine Power and Water to conduct a feasibility test to combust miscanthus grass with coal in boilers #7 and #8 at your facility, without obtaining a modified construction permit.	approved	3/16/18	18aqv095
23	Karen Smith	Lyon County BHS- CO60(95)--63-60	Flood Plains	The applicant is requesting a variance to IAC 567—72.2(1)"a" backwater criterion, which states the maximum allowable backwater for Q100 is limited to 1.5 ft. in rural areas. Cost to lengthen bridge will cause unneeded expense to the county.	approved	3/19/18	18fpv096
24	Jason Christopherson	Camso Manufacturing USA Ltd.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/20/18	18aqv097
25	Danjin Zulic	Flint Hills Resources Fairbank, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/20/18	18aqv098
26	Lanie Boas	MUSCATINE POWER & WATER	Water Supply Construction	Construct water main of DIP with nitrile gaskets & maintain 6" where crossing under storm sewer instead of maintaining 18" separation	approved	3/21/18	18wcv103
27	Danjin Zulic	Koch Fertilizer Fort Dodge, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/23/18	18aqv099
28	Dennis Thielen	Lincolnway Energy	Air Quality	Permit 05-A-087-S7 requires LWE to conduct a VOC and HAP testing by March 21, 2018. LWE is requesting to extend the testing deadline for 30 days.	approved	3/23/18	18aqv100
29	Dennis Thielen	Pine Lake Corn Processing	Air Quality	Condition 2 requires PLCP to conduct a VOC, Single HAP, and Total HAP testing for permit 03-A-622-S8. PLCP is requesting an extension to the deadline to perform stack testing because due to a force majeure event.	approved	3/23/18	18aqv101
30	Ann Seda	CORN, LP	Air Quality	CORN requested to run their backup boiler at a level that would exceed the natural gas usage and tpy limit due to malfunction of new boiler.	approved	3/26/18	18aqv102
31	Matt Phoenix	Cedar Falls Municipal Water Utilities	Water Supply Construction	A variance from requirements to construct conflicting storm sewers of water main material where separations cannot be obtained by instead constructing storm sewers of gasketed RCP or using DIP w/ nitrile gaskets for the water main.	approved	3/27/18	18wcv104
32	Ashley Dvorak	Schildberg Construction Company Inc	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/27/18	18aqv109
33	Kelly M. Stone	Cabins # 4, 5, and 9 at Lazy H Campground	Flood Plain Management and Dam Safety	The owner requests variance to 567 IAC 72.5(1)"b" that requires high damage potential buildings be protected to the level of a flood equivalent to Q100 plus 1 foot. Cabins are protected to Q100 plus 0.8 feet (# 4 & # 5) and Q100 plus 0.7 feet (# 9).	approved	3/27/18	18fpv113
34	Tara Naber	Cedar Rapids Water Department	Water Supply Construction	Construct water main of DIP w/ nitrile gaskets AND construct storm sewer of O-ring gasketed RCP where there is between 2 and 3 feet of horizontal separation instead of constructing the storm sewer of water main pipe. PWSID 57150393; Proj. W2018-0153.	approved	3/28/18	18wcv105
35	Tara Naber	Springville Water Supply	Water Supply Construction	Construct water main of DIP with nitrile gaskets where there is 3-10 feet of horizontal separation with the storm sewer instead of constructing the storm sewer of water main material. PWSID IA 5782087, project W2018-0173.	approved	3/28/18	18wcv106
36	Danjin Zulic	Frontier Coop	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/29/18	18aqv110

37	Jason Christopherson	Clow Valve Company	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/29/18	18aqv111
38	Tara Naber	Cedar Rapids Water Department	Water Supply Construction	Construct water main of DIP w/ nitrile gaskets instead of constructing the storm sewer of water main material where there is 3-10 feet of horizontal separation. Project W2018-0199, PWSID IA 5715093.	approved	3/30/18	18wcv107
39	Tara Naber	Cedar Rapids Water Department	Water Supply Construction	Construct water main of DIP w/ nitrile gaskets instead of constructing the storm sewer of water main material where there is 3-10 feet of horizontal separation. Project W2018-0200, PWSID IA 5715093.	approved	3/30/18	18wcv108
40	Michael Hermsen	Louis Dreyfus Company Grand Junction LL	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	approved	3/30/18	18aqv112

**IOWA DEPARTMENT OF NATURAL RESOURCES  
LEGAL SERVICES BUREAU**

**DATE:** April 2018  
**TO:** Environmental Protection Commission  
**FROM:** Ed Tormey  
**SUBJECT:** Attorney General Referrals (February 1, 2018 – April 20, 2018)

<b>Name, Location and Region Number</b>	<b>Program</b>	<b>Alleged Violation</b>	<b>DNR Action</b>	<b>Status</b>	<b>Date</b>
Abatement Specialties, LLC Cedar Rapids (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	2/16/16
Frank Robak	UST	Noncompliance with Administrative Order		Referred Petition Filed Robak served <b>Order Granting Default Judgment (\$10,000 Civil penalty, 90 days to comply with DNR Admin. Order, and permanent injunction)</b>	11/15/16 9/13/17 12/7/17  <b>3/1/18</b>
City of Sioux City (3)	Wastewater		Referred to Attorney General	Referred	6/27/16
Sedore Inc.; Troy and Emily Sedore	Air Quality Solid Waste Wastewater	Open Burning; Operation Permit Violations. Illegal Disposal; SWAP Agreement Violations; Operation Without a Permit	Referred to Attorney General	Referred Petition Filed Answer-Troy Sedore Answer-Sedore Inc. State's Motion for Summary Judgement Order Setting Trial for 9/19/17 Order Granting Partial Summary Judgement (injunction, \$10,000 penalty, and \$89,201.41 for breach of contract) Application for Contempt of Court Consent Decree – Emily Sedore (\$500 civil penalty; permanent injunction) Trial Consent Decree – Troy Sedore (\$15,000 civil penalty; permanent injunction) Contempt Order against Troy Sedore (\$500 fine; 30-days in jail suspended; court costs; attorney fees) <b>2<sup>nd</sup> Contempt Hearing set for May 8, 2018</b>	6/27/16 9/19/16 10/12/16 10/24/16 11/18/16 11/18/16 1/13/17  5/05/17 9/14/17  9/19/17 9/20/17  9/22/17  <b>2/23/18</b>
Swiss Valley Farms Cooperative	Air Quality		Referred to Attorney General	Referred	9/28/16
Recycletronics ( <b>Aaron Rochester</b> )	Solid Waste	Illegal management and storage of CRTs and other electronic waste; SWAP Agreement Violations	Referred to Attorney General	Referred Petition Filed Defendants served <b>Aaron Rochester filed chpt 7 bankruptcy Woodbury Co. District Court-Order holding case in temporary abeyance Bankruptcy Court-Order lifting automatic stay from Iowa enforcement action</b>	8/15/17 1/9/18 1/17/18 <b>2/23/18</b>  <b>3/15/18</b>  <b>4/13/18</b>

<b>Name, Location and Region Number</b>	<b>Program</b>	<b>Alleged Violation</b>	<b>DNR Action</b>	<b>Status</b>	<b>Date</b>
Thys Automotive Group	Air Quality Solid Waste	Asbestos	Referred to Attorney General	Referred	9/18/17
McDowell and Sons Contractors, Inc.	Air Quality Solid Waste	Open Burning; Open Dumping	Referred to Attorney General	Referred	10/17/17
<b>Deere &amp; Company</b>	<b>Air Quality</b>	<b>Excess Emissions</b>	<b>Referred to Attorney General</b>	<b>Referred</b>	<b>2/20/18</b>
<b>61 Park LLC</b>	<b>Wastewater Solid Waste</b>	<b>NPDES violations; Open Dumping</b>	<b>Referred to Attorney General</b>	<b>Referred</b>	<b>3/20/18</b>

**IOWA DEPARTMENT OF NATURAL RESOURCES  
LEGAL SERVICES BUREAU**

**DATE:** April 2018  
**TO:** Environmental Protection Commission  
**FROM:** Ed Tormey  
**SUBJECT:** Contested Cases (February 1, 2018 – April 25, 2018)

<b>Date Received</b>	<b>Name Of Case</b>	<b>Action Appealed</b>	<b>Program</b>	<b>Assigned Attorney</b>	<b>Status</b>
6/10/13	Mike Jahnke	Dam Application	FP	Schoenebaum	Hearing held 7/30/14. ALJ upheld the permit issued by the Department. Mr. Jahnke appealed but on 11/3/14 he asked that his appeal be put on hold until April, 2015. For various reasons has asked that the appeal be postponed.  Sept. 2017 – Mr. Jahnke called and asked that his appeal be put on hold until Spring 2018.
6/27/16	Plum River Fault Line Golf Inc.; Meadowcrest Farms, Ltd.	Order/Penalty	WS	Schoenebaum	Assigned to new attorney. 3/27/17 negotiating. August 2017 - Settlement offers mailed. <b>4/23/18 – Dept sent an updated settlement offer</b>
7/26/17	University of Iowa – Sovereign Lands	Permit Issuance	SL	Brees	Negotiation pending results of mussel survey (may take a little longer)
8/1/17	Cargill Inc – Cargill Corn Milling (Eddyville)	Permit Issuance	AQ	Preziosi	Working to set negotiation mtg with appellant
9/5/17	Brant Lemer	Order/Penalty	AQ	Preziosi	Negotiating amendment with appellant’s attorney
9/18/17	Gary & Lori Porter	Order/Penalty	AQ/SW	Scott	9/20/17 – Hearing requested – scheduled for 1/2/18.  <b>ALJ decision on 2/16/18 was in DNR favor. DNR and appellant reached a settlement agreement on 4/11/18</b>
11/9/17	IA Regional Utilities Association	Permit Issuance	WW	Crotty	Settlement negotiations still taking place

<b>Date Received</b>	<b>Name Of Case</b>	<b>Action Appealed</b>	<b>Program</b>	<b>Assigned Attorney</b>	<b>Status</b>
11/22/17	Dennis & James Shipley	Order/Penalty	SW/HC	Scott	<b>Dept entered into settlement agreement on 2/28/18. Appeal is stayed pending final cleanup.</b>
12/5/17	Clark Farms	Order/Penalty	WW/SW	Scott	<b>Hearing on 2/1/18. Case dismissed by ALJ on 3/29/18. Entity appealed ALJ "motion to dismiss" on 4/24/18</b>
12/8/17	Jason Wernimont	Order/Penalty	AFO	Book	Settlement negotiations still taking place
12/28/17	Jai Parkash dba JMD Oil, Inc	Order/Penalty	WS	Schoenebaum	Settlement negotiations still taking place
1/17/18	Hickory Grove Golf Course	Permit Issuance	WS	Schoenebaum	Settlement negotiations still taking place
2/1/18	Hickory Hills	Permit Issuance	WS	Schoenebaum	<b>Settlement negotiations taking place before setting a hearing</b>
4/10/18	Central States Coatings, Inc	Order/Penalty	WW	Crotty	<b>recent appeal; nothing further at this time</b>
4/16/18	Global Masters Investments LLC dba Johnson's Dry Cleaners	Order/Penalty	AQ	Book	<b>recent appeal; nothing further at this time</b>
4/20/18	Ag Processing, Inc (Sergeant Bluff)	Permit Issuance	AQ	Preziosi	<b>recent appeal; nothing further at this time</b>
4/20/18	Ag Processing, Inc (Eagle Grove)	Permit Issuance	AQ	Preziosi	<b>recent appeal; nothing further at this time</b>

**IOWA DEPARTMENT OF NATURAL RESOURCES  
LEGAL SERVICES BUREAU**

**DATE:** April 2018  
**TO:** Environmental Protection Commission  
**FROM:** Ed Tormey  
**SUBJECT:** Enforcement Report Update (February 1, 2018 – April 20, 2018)

The following new enforcement actions were taken during this reporting period:

Individual/Entity (County)	Program	Alleged Violation	Type of Order/Action	Penalty Amount Due	Date
Ryan Kent	Animal Feeding Operation	prohibited discharge - confinement	Consent Order	\$3,000.00	2/1/2018
Custom Cabinets of Iowa	Air Quality	not submit MSEI	Administrative	\$2,500.00	2/6/2018
GATR of Des Moines Inc	Air Quality	not submit MSEI	Administrative	\$1,500.00	2/6/2018
Steven Kalvig	Air Quality; Solid Waste	illegal disposal; open burning	Consent Order	\$5,000.00	2/8/2018
CHS, Inc	Air Quality	layout provisions for closed facility and if decide to begin operations again	Consent Amendment	\$0	3/6/2018
Convenience Stores Leasing & Management LLC	UT	identify sole proprietor personally liable for order obligations and associated fees totaling \$1,890; administrative penalty still \$8,000	Administrative Amendment	\$8,000.00	3/12/2018
Greenway Farms	Air Quality	change in penalty now 1000 (was 5,000)	Consent Amendment to Administrative Order	\$1,000.00	3/12/2018
City of Allison	Wastewater	monitoring/reporting permit condition violations	Consent Order	\$1,000.00	3/12/2018
Michael Matthews	Animal Feeding Operation	operation permit violations - general water quality criteria violations	Consent Order	\$6,000.00	3/12/2018

Individual/Entity (County)	Program	Alleged Violation	Type of Order/Action	Penalty Amount Due	Date
Jason Sickles (JWS LLC)	Animal Feeding Operation	Prohibited Discharge - confinement; General criteria water quality violations	Consent Order	\$2,100.00	3/12/2018
Central States Coatings, Inc	Wastewater	prohibited discharge	Administrative Order	\$10,000.00	3/20/2018
Mark Samson	Wastewater; Water supply	Licensee discipline - operator certification revoked	Consent Order	\$0	3/21/2018
LCNJ Farms LLC	Animal Feeding Operation	Prohibited Discharge - confinement	Consent Order	\$7,000.00	3/27/2018
Todd Van Middendorp	Animal Feeding Operation	Uncertified applicator; MMP recordkeeping violation	Administrative Order	\$5,000.00	3/28/2018
Global Masters Investments LLC dba Johnson's Dry Cleaners	Air Quality	comply w AQ requirements for dry cleaners	Administrative Order	\$10,000.00	3/28/2018
James & Joseph Schieltz	Animal Feeding Operation	Prohibited Discharge - open feedlot; General criteria water quality violations; failure to report release	Consent Order	\$2,000.00	3/29/2018
David Albrecht	Animal Feeding Operation	Prohibited Discharge - open feedlot; failure to report release	Consent Order	\$4,000.00	4/9/2018
City of Cedar Rapids	Wastewater	water quality violations	Consent Order	\$2,000.00	4/9/2018
MK Mini Mart Inc	Underground Storage Tanks	site assessment	Consent Order	\$3,300.00	4/11/2018
<b>Grand Total</b>				<b>\$73,400.00</b>	

**IOWA DEPARTMENT OF NATURAL RESOURCES  
LEGAL SERVICES BUREAU**

**DATE:** April 2018  
**TO:** Environmental Protection Commission  
**FROM:** Ed Tormey  
**SUBJECT:** Rulemaking Status Report

Proposal	Sent for Governor's Pre-Approval (Job Impact Statement)	Received Governor's Pre-Approval	Notice to EPC	Notice Published	ARRC No.	ARRC Mtg.	Hearing Date(s)	Comment Period	Final Summary to EPC	Rules Adopted	Rules Published	ARRC No.	ARRC Mtg	Rules Effective
Ch. 61, Ch. 62 - Water Quality Criteria & Revised Documents	12/7/16	5/4/17	6/20/17	7/19/17	3202C	8/4/17	8/8/17	8/8/17	12/19/17	12/19/17	1/17/18	3583C	2/9/18	2/21/18
Ch. 64 - Wastewater Construction and Operation Permits No. 4	6/1/17	7/24/17	8/15/17	9/13/17	3310C	10/10/17	10/3/17	10/3/17	12/19/17	12/19/17	1/17/18	3585C	2/9/18	3/1/18
Ch. 64 - Wastewater Construction and Operation Permits NO. 1 - 3	6/12/17	7/24/17	8/15/17	9/13/17	3309C	10/10/17	10/10/17	10/18/17	12/19/17	12/19/17	1/17/18	3584C	2/9/18	3/1/18
Ch. 20, 22, 23, 25, 30, 33 and 34 – AQ Regulatory Certainty	8/1/17	10/31/17	11/21/17	12/20/17	3520C	1/5/18	1/22/18	1/22/18	2/20/18	2/20/18	3/14/18	3679C	4/6/18	4/18/18
Ch. 40, 41, 42, 43, 81 and 83 – State Drinking Water Act (SDWA)	8/1/17 10/3/17	10/31/17	12/19/17	1/17/18	3568C	2/9/18	2/8/18	2/9/18	3/20/18	3/20/18	4/11/18	3735C	5/8/18	5/16/18
Ch 111 - Environmental Management Systems	11/6/17	12/8/17	12/19/17	1/17/18	3569C	2/9/18	2/13/18	2/14/18	3/20/18	3/20/18	4/11/18	3736C	5/8/18	5/16/18
Ch. 64 - Wastewater Construction and Operation Permits No. 8 & 9	11/6/17	12/7/17	1/17/18	2/14/18	3625C	3/9/18	3/14/18	3/19/18	4/17/18	4/17/18	5/9/18	3786C		7/1/18
Ch. 30 - Asbestos Fees	11/27/17	1/3/18	1/17/18	2/14/18	3622C	3/9/18	3/6/18	3/6/18						
Ch 119, 123, 144, 212, 214 - Hazardous Materials	12/11/17	4/17/18	5/15/18											

**Iowa Department of Natural Resources  
Environmental Services Division  
First Quarter 2018 Report of Wastewater By-passes**

During the period January 1, 2018 through March 31, 2018, 52 reports of a wastewater by-pass were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events or by-passes resulting in basement backups.

<b>Quarter</b>	<b>Total</b>	<b>Avg. Length (days)</b>	<b>Avg. Volume (MGD)</b>	<b>Sampling Required</b>	<b>Fish Kill</b>
1 <sup>ST</sup> Quarter '18	52(43)	0.689	0.038	1	0(0)
2 <sup>ND</sup> Quarter '17	48(52)	0.572	0.015	2	0(0)
3 <sup>RD</sup> Quarter '17	34(49)	0.288	0.040	3	0(0)
4 <sup>TH</sup> Quarter '17	29(39)	0.203	0.043	7	0(0)

(numbers in parentheses are for same period last year)

Total Number of Incidents per Field Office This Quarter:

<b>Field Office</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Reports</b>	10	3	7	3	5	24



**Iowa Department of Natural Resources  
Environmental Services Division  
First Quarter 2018 Report of Manure Releases**

During the period January 1, 2018, through March 31, 2018, 2 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

		Total Incidents		Surface Water Impacts		Feedlot		Confinement		Land Application		Transport		Hog		Cattle		Poultry		Other	
Month	Year	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago
Jan	2018	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb	2018	1	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0
Mar	2018	1	1	0	1	0	0	1	0	0	1	0	0	0	0	1	1	0	0	0	0
<b>Total</b>		<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Total Number of Incidents per Field Office for the Selected Period	Field Office 1		Field Office 2		Field Office 3		Field Office 4		Field Office 5		Field Office 6	
	Current	Previous										
<b>Total</b>	2	0	0	0	0	1	0	0	0	0	0	0



Iowa Department of Natural Resources  
 Environmental Services Division  
 First Quarter 2018 Report of Hazardous Conditions

During the period January 1, 2018, through March 31, 2018, 86 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

		Substance								Mode													
		Total Incidents		Agrichemical		Petroleum Products		Other Chemicals		Transport		Fixed Facility		Pipeline		Railroad		Fire		Other*		CR-ERNS	
Month	Year	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago
Jan	2018	19	29	0	1	13	21	5	7	9	10	8	14	0	1	1	1	0	2	0	1	1	11
Feb	2018	38	30	0	1	29	22	8	7	17	11	19	16	0	0	1	3	0	0	1	1	0	0
Mar	2018	29	59	2	2	21	44	4	13	11	19	12	34	0	0	1	1	0	1	1	5	4	2
<b>Total</b>		<b>86</b>	<b>118</b>	<b>2</b>	<b>4</b>	<b>63</b>	<b>87</b>	<b>17</b>	<b>27</b>	<b>37</b>	<b>40</b>	<b>39</b>	<b>64</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>5</b>	<b>0</b>	<b>3</b>	<b>2</b>	<b>7</b>	<b>5</b>	<b>13</b>

\*Other includes dumping, theft, vandalism and unknown  
 \*\* CR-ERNS incidents are ongoing releases as defined by Federal regulations.

Total Number of Incidents per Field Office This Selected Period	Field Office 1		Field Office 2		Field Office 3		Field Office 4		Field Office 5		Field Office 6	
	Current	Year Ago										
<b>Total</b>	19	13	8	14	2	3	12	20	20	41	24	41



**Iowa Department of Natural Resources  
Environmental Services Division  
Report of Hazardous Conditions**

**IOWA DEPARTMENT OF NATURAL RESOURCES  
LEGAL SERVICES BUREAU**

**DATE:** April 2018  
**TO:** Environmental Protection Commission  
**FROM:** Ed Tormey  
**SUBJECT:** Summary of Administrative Penalties (February 1, 2018 – April 20, 2018)

**The following administrative penalties are being collected by DRF:**

<b>NAME/LOCATION</b>	<b>PROGRAM</b>	<b>AMOUNT (remaining)</b>
Harold Linnaberry (Clinton Co.)	SW	1,000.00
Jon Knabel (Clinton Co.)	AQ/SW	1,408.98
Rick Renken (LeMars)	AFO	728.39
Steve Friesth (Webster Co.)	AQ/SW	6,650.24
Millard Elston III; The Earthman (Jefferson Co.)	AQ/SW	1,815.00
Randy Wise; Wise Construction (Buena Vista Co.)	AQ/SW	2,081.32
Annie's LLC; Togie Pub (Lime Springs)	WS	1,550.00
Tim Van Eaton (Adair Co)	AFO	560.33
Gary Eggers (Stacyville)	SW/WW	10,000.00
Dennis R. Phillips; Marty's Convenience Mart (Riverton)	UT	9,954.53
Frank Robak (Little Sioux)	UT	10,000.00
Jeremy VanderVegt; Boerderij DeVeldhoek LLC (Butler Co.)	AFO	10,000.00
Kenneth Grandstaff (Clay co)	AQ/SW	3,000.00
James Bockoven/Lehigh Gas Service (Webster Co)	UT	2,400.00
Mary Jo Engle; Doug Engle; Jo's Longbranch Bar (Cresco)	WS	3,884.77
City of Dedham	WW	1,000.00
Jerry Passehl	HC/WW/SW	2,960.00
Randy Cates	AQ/SW	10,000.00
JS Properties LLC (Terry Anderson)	AQ	8,000.00
Michael Macumber	AFO	10,000.00
Dean Marten	AQ/SW	10,000.00
Justin Clasen	AFO	5,000.00
Jeff Gray dba Grayz Metal Recycling	AQ/SW	4,466.00
<b>Grand Total</b>		<b>\$121,412.73</b>

The following administrative penalties are DUE (and being collected by DNR):

NAME/LOCATION	PROGRAM	AMOUNT (remaining)
Joshua Van Der Weide (Lyon Co.)	AFO	3,500.00
AKD Investments, LLC (Muscatine Co)	UT	8,950.00
Convenience Stores Leasing & Management LLC (Poweshiek Co)	UT	10,000.00
Sport Wade, Inc. (Decatur Co)	UT	10,000.00
Massey Properties, LLC; The Wharf (Dubuque)	WS	10,000.00
Bhupinder Gangahar/Saroj Gangahar/International Business	UT	7,934.82
Recycling Services	WW/HC/SW	7,000.00
Scott Heise dba Tricounty Tree Pros	AQ	5,500.00
Keaven Faber	AFO	5,500.00
<b>Grand Total</b>		<b>\$68,384.82</b>

The following administrative penalties have been COLLECTED:

NAME/LOCATION	PROGRAM	AMOUNT (Collected)
Simon Simonson	SW	400.00
IOWA IOLTA Account (Sedore)	SW/AQ/WW	10,000.00
Sheryl Sovereign (Togie Pub)	WS	130.00
Robert Downing	AQ/SW	3,021.76
Timothy Van Eaton	AFO	2,307.31
Jerry Passehl	SW/HC/WW	40.00
James Bockoven	UT	300.00
Terry Anderson	AQ	2,000.00
Jeff Gray	AQ/SW	34.00
Brian Crees	AFO	33.25
Jon Knabel	AQ/SW	391.02
Steven Kalvig	AQ/SW	5,000.00
Mike Lalumendre	AQ/SW	100.00
Greenway Farms	AQ	1,000.00
Jeffrey Turkle	AQ	720.00
Matt McCollum	SW	225.00
Hahn Investment Company	AQ	2,500.00
James & Sheila Klingborg	AQ	750.00
Floyd Toomey	AQ/SW	400.00
Kerns Farms Corporation	AFO	4,000.00
Jason Sickels (JWS LLC)	AFO	2,100.00
City of Allison	WW	1,000.00
LCNJ Farms LLC	AFO	3,500.00
James Schieltz	AFO	2,000.00
Grevengoed Custom Inc (Travis Grevengoed)	AFO	1,500.00
David Albrecht	AFO	500.00
GATR of Des Moines	AQ	1,500.00
Jerry Fetters	AQ/SW	1,500.00
Sleister Brothers	AFO	750.00
Lawrence Handlos (Waspy's Truck Stop)	WW	5,000.00
<b>Grand Total</b>		<b>\$52,702.34</b>

**Iowa Department of Natural Resources  
Environmental Protection Commission**

Item 8

Decision

Topic: **Notice of Intended Action**

**Chapter 119-Used Oil and Used Oil Filters**

**Chapter 123 – Regional Collection Centers and Mobile Unit Collection and Consolidation Centers**

**Chapter 144 – Household Hazardous Materials Education**

**Chapter 211 – Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators**

**Chapter 214 – Household Hazardous Materials Program**

Attached for the Commission's review is a Notice of Intended Action as it applies to the following Iowa Administrative Code (IAC) chapters:

1. Chapter 567-119: amend
2. Chapter 567-123: rescind and replace
3. Chapter 567-144: rescind
4. Chapter 567-211: amend
5. Chapter 567-214: rescind

The proposed rule changes are necessary to provide consistency between Iowa Code Chapters 455E and 455F and IAC 567 Chapters 119,123 and 211. In addition, the proposed revisions will incorporate for consistency the United States Environmental Protection Agency's (US EPA) recent nomenclature change to 40 C.F.R. 262.13 which addresses hazardous waste generator categories. Other changes are being made to update terminology and provide clarification regarding regulatory requirements.

A summary of each proposed rule revision is provided below:

**IAC 567-119 *Used Oil and Used Oil Filters*** – the proposed rule changes will amend this chapter by removing two references to IAC 567-144. Chapter 144, Household Hazardous Materials Education, is proposed for rescission.

**IAC 567-123 *Regional Collection Centers and Mobile Unit Collection and Consolidation Centers*** – the proposed rule changes contain several revisions to this chapter intended to update terminology, to remove rules that are unnecessary or no longer applicable, to remove non-required facility planning documents and financial assurance requirements, and to replace Regional Collection Center (RCC) sanitary disposal project permitting requirements. The proposed rule also removes all references to Mobile Unit Collection and Consolidation Centers (MUCCCs).

**IAC 567-144 Household Hazardous Materials Education** – the proposed rule changes would include rescission of this chapter. Recent changes to Iowa Code 455F resulted in the removal of the mandatory requirement to prominently display consumer education materials as part of the Retailer’s Consumer Education Program. The Department will provide HHM education materials as required in Iowa Code section 455F.9 to citizens and provide retailers selling HHMs with consumer education materials upon request.

**IAC 567-211 Financial Assistance for the Collection of Household Hazardous Materials (HHMs) and Hazardous Waste from Conditionally Exempt Small Quantity Generators** – the proposed rule changes would amend this chapter to incorporate US EPA’s nomenclature of very small quantity generator (VSQG) to replace conditionally exempt small quantity generators, to remove reference to MUCCCs, and to broaden and clarify the types of financial assistance available to RCCs and satellite facilities. The amendment would also outline requirements for obtaining financial assistance.

**IAC 567-214 Household Hazardous Materials Program** – the proposed rule changes would include rescission of this chapter. Funding for the toxic clean-up day (TCD) program was removed from Iowa code section 455E.11(2)“c”(1).

The proposed rule changes were first posted for informal review and comment on December 15, 2016, and then again on July 13, 2017. In addition, emails were sent directly to each Regional Collection Center and the Resource Conservation and Recovery Act (RCRA) compliance officer at the US EPA. On both posting occasions, an email was sent to board members of the two major Iowa stakeholder professional organizations, the Iowa Society of Solid Waste Operations (ISOSWO) and the Iowa Recycling Association (IRA). Board members distributed the proposed rules to their membership and included the web link of where the proposed rules were posted for review and comment in their respective newsletters.

Comments were received from fifteen (15) stakeholders. Most comments simply stated approval of the proposed rule revisions as presented. Stakeholder comments requiring a clarification or response were addressed as appropriate in the proposed rules.

**The Commission is asked to approve this Notice of Intended Action.**

Tom Anderson, Executive Officer 2  
Financial and Business Assistance Section, Land Quality Bureau  
Environmental Services Division

April 30, 2018

**ENVIRONMENTAL PROTECTION COMMISSION [567]**  
**Notice of Intended Action**

The Environmental Protection Commission hereby proposes to:

- Amend Chapter 567-119 Used Oil and Used Oil Filters,
- Rescind and replace Chapter 123 Regional Collection Centers and Mobile Unit Collection and Consolidation Centers (MUCCC),
- Rescind Chapter 567-144 Household Hazardous Materials Education,
- Amend Chapter 567-211 Financial Assistance for the Collection of Household Hazardous Materials and Hazardous Waste from Conditionally Exempt Small Quantity Generators, and
- Rescind Chapter 567-214 Household Hazardous Materials Program, Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 455B.304(10), 455D.7(1), 455E.9(1) and 455F.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 455E and 455F.

*Purpose and Summary*

Proposed rule revisions contained herein are necessary to provide consistency between Iowa Code Chapters 455E and 455F and IAC Chapters 119, 123 and 211. In addition, the proposed revisions will incorporate for consistency the United States Environmental Protection Agency's (US EPA) recent nomenclature change to 40 CFR 262.13 which addresses hazardous waste generator categories. Other changes are being made to update terminology and provide clarification regarding regulatory requirements.

*Fiscal Impact*

This rule making has no fiscal impact to the state of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561-Chpater 10.

*Public Comment*

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 27, 2018. Comments should be directed to:

Kathleen Hennings  
Land Quality Bureau  
Iowa Department of Natural Resources  
502 E. Ninth Street  
Des Moines, Iowa 50319-0034

*Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held.

June 27, 2018 from 1:00p.m. to 3:00p.m.  
Conference Room 4 West  
Wallace State Office Building  
502 E. Ninth Street  
Des Moines, Iowa

Upon arrival, attendees should proceed to the 4<sup>th</sup> floor to check in at the DNR Reception Desk to sign in and be directed to the appropriate hearing location:

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action proposed:

ITEM 1: Rescind subrule **119.6(5)**.

ITEM 2: Rescind subrule **119.7(4)**.

ITEM 3: Rescind 567-Chapter 123 and adopt the following **new** chapter in lieu thereof:

CHAPTER 123

REGIONAL COLLECTION CENTERS AND SATELLITE FACILITIES

**567—123.1(455F) Purpose.** The purpose of this chapter is to implement operating license requirements for regional collection centers and satellite facilities which provide for the collection and proper disposal of household hazardous materials (HHMs) and hazardous waste from very small quantity generators (VSQGs).

**567—123.2(455B,455D,455F) Definitions.** For the purposes of this chapter, these terms shall have the following meanings:

*“Department”* means the Iowa department of natural resources.

*“Hazardous waste or HW”* means the same as defined in Iowa Code section 455B.411.

*“Hazardous waste contractor”* means a private company that provides proper management (e.g., disposal, recycling) of hazardous waste. “Hazardous waste contractor” does not include regional collection centers.

*“Household hazardous material or HHM”* means the same as defined in Iowa Code section 455F.1.

*“Household hazardous waste or HHW”* means a HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

*“Regional collection center or RCC”* means the same as defined in Iowa Code section 455F.1.

*“RCC mobile unit”* means a truck or trailer owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to an RCC for sorting and consolidation.

*“Satellite facility”* means the same as defined in Iowa Code section 455F.1.

*“Very small quantity generator or VSQG”* means a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 lbs) of non-acute hazardous waste; (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e); (3) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).

**567—123.3(455F) Regional collection center license and license renewal.** A license or license renewal will be issued under the following conditions:

**123.3(1) License.**

a. An RCC shall not operate without a license issued by the department. RCCs in existence prior to **January 14, 2019** will automatically be issued an operating license.

b. A satellite facility shall not be required to obtain a license.

**123.3(2) Compliance.** An RCC and satellite facility must be in compliance with current local, state and federal statutes and regulations regarding the management, storage, transportation and disposition of HHM, HHW and HW from VSQGs.

**123.3(3) Construction.** A RCC shall not be constructed without review of the site plan and written approval of the site plan by the department. The approved plans and specifications shall constitute a condition of the initial operating license.

**123.3(4) Inspection prior to commencing initial operation.** The department shall be notified before a RCC or satellite facility begins operations. No HHM or HW from VSQGs shall be accepted by the RCC or satellite facility until it has been inspected and approved by the department.

**123.3(5) Duration and renewal of license.** The initial license issued may be renewed for a period of five years. If the license applicant is a private agency under contract with a local government, the license shall not extend past the end date of the contract. An entity designated as an environmental management system pursuant to Iowa Code section 455J.7 may opt out of the license renewal requirement provided the entity is in compliance with 567-123.3(2) and there has been no change in the provisions of the current license. Any change in the provisions of the current license requires department notification as defined in 567-123.3(7).

**123.3(6) Request and approval of initial license or license renewal.** A new RCC shall file a request for a license on a form provided by the department. An established RCC shall file a request for license renewal forty-five (45) calendar days prior to the expiration of the

current license, via hard copy request or electronically, on a form provided by the department. A renewal shall be issued within 30 business days if the facility is in compliance with Iowa Code chapters 455B, 455D and 455F and the conditions of the current license.

**123.3(7) License modification.** An RCC shall request to modify its license by notifying the department of changes to any provision of its license via hard copy or electronic correspondence. An RCC shall notify the department within thirty calendar days of a planned change to the provisions of its license and within seven calendar days of an unplanned change to the provisions of its license. Upon approval of a request to modify an RCC license, the department will issue a license modification within fourteen business days of approving the license modification request.

**567—123.4(455F) Site, Structure, Storage, Staff Qualifications.** RCCs, satellite facilities and mobile units shall each meet the following criteria:

**123.4(1) Siting.** A site selected for an RCC, satellite facility or mobile unit shall meet the following criteria.

*a.* A RCC, satellite facility or a mobile unit used for the collection of VSQG waste and HHMs shall be sited on public property or on private property if an agreement exists that guarantees public access. Documentation of the private property agreement for RCCs and satellite facilities shall be provided to the department upon request or upon application and renewal for license.

*b.* The site shall provide adequate secondary containment in case of a spill or other possible on-site contamination.

*c.* The site shall meet all applicable zoning requirements.

*d.* The site shall be adequately sized to accommodate all structures, units and activities that will take place on the site.

e. RCCs and satellite facilities shall each have adequate security to prevent unauthorized access. Adequate security may include, but is not limited to, a fence and locking gate.

f. All mobile units and the containers used to package collected materials shall comply with applicable Iowa department of transportation (DOT) rules and guidelines. At each mobile unit site, the unit shall rest on a pad of a chemical resistant, impervious, smooth material that provides secondary containment in case of a spill. A temporary surface created by securing an impervious tarp to the unloading/receiving area will meet the requirements of an impervious surface. Plans for conducting mobile unit collection events must consider the possibility of inclement weather. The plan must ensure collected HHM and VSQG hazardous waste have protection from the elements and minimize the risk of environmental contamination.

**123.4(2) Structures.** RCC or satellite facility structures shall each meet the following criteria:

a. All structures shall be sized to adequately accommodate the collection, sorting, bulking and lab packing, packaging for disposal and temporary storage of HHM and HW from VSQGs.

b. All permanent structures shall meet the requirements of applicable fire codes and building codes.

c. RCC structures and satellite facility structures shall each be designed to prevent run-on entering from adjacent areas.

d. All receiving areas shall have a storage capacity of at least one day's processing capacity.

e. All receiving, sorting, bulking, transfer and storage area surfaces shall be constructed of a chemical resistant, impervious, smooth material so designed to be easily cleaned,

nonreactive with the waste, and with proper drainage, in the form of sloped flooring, plastic-lined pits or concrete sumps, according to applicable codes. Areas used for the receiving, bulking, transferring, lab packing and storing of HHM, HHW and VSQG hazardous waste shall be provided with secondary containment and shall be protected from exposure to the weather.

**123.4(3) Storage.** All full containers of HHW and hazardous wastes from VSQGs must be stored in a building designed in accordance with Group H Occupancy requirements, and local, state and federal fire codes. It is required that HW or HHW accumulated for disposal not be accumulated on site for more than 180 days. Once the capacity limit of a collection site or time limit is reached, all waste collected shall be collected by a licensed hazardous waste contractor.

**123.4(4) Staff Qualifications.** RCC and satellite facility staff shall each have received applicable training conducted by trainers who meet Occupational Safety and Health Administration (OSHA) instructor qualification standards prior to handling any HHM or HW. Training shall include but is not limited to the following:

- a. OSHA 24-hour health and safety training as described in 29 CFR 1910.120.
- b. Annual 8-hour refresher training as described in 29 CFR 1910.120.
- c. Hazardous materials chemistry.
- d. Personnel and site safety.
- e. Proper lab packing techniques.
- f. Proper transporting of hazardous materials.
- g. When applicable, U.S. department of transportation hazardous materials training for the operation of a mobile unit used in the collection and transportation of HHM and HW from VSQGs.

**567—123.5(455F) Operations plans and procedures.** RCCs and satellite facilities must each prepare and maintain on site a current plan of operations.

**123.5(1) Operations plan.** The operations plan shall include, at a minimum, the following information:

- a.* Schedule of operations including hours of operations for RCCs or satellite facilities.
- b.* Site selection procedures for mobile unit collections.
- c.* Standard receiving procedures for HHM and VSQG HW.
- d.* Procedures for managing unknown materials.
- e.* Procedures for handling open or leaking containers.
- f.* Procedures for managing large quantities of wastes.
- g.* Recycling and reuse procedures for usable materials.
- h.* Disposal of nonhazardous waste.
- i.* Personal protection equipment (PPE).
- j.* Initial training requirements and continuing education of staff.
- k.* An emergency response plan, such as the facility's response to spills, fires or weather related events.

**567—123.6(455F) Closure notification.** RCCs and satellite facilities shall each notify the department via hard copy or electronic correspondence at least 60 calendar days prior to ceasing operations.

**123.6(1)** The notification shall include, at a minimum, the following information:

- a.* A description of how the RCC or satellite facility will notify the public within its service area that the facility is closing and how HHM and HW from VSQGs should be managed after closure of the facility.
- b.* A description of how all HHM, HHW and HW from VSQGs will be removed from

the RCC or satellite facility and properly managed within 60 calendar days of the RCC or satellite facility ceasing operations.

c. A description of how final waste disposal costs will be paid.

**123.6(2)** After removal of HHW and VSQG HW, a final inspection shall be conducted by department staff.

**567—123.7(455F) Regional collection center reporting requirements.** On a form supplied by the department, each RCC shall submit to the department a correctly completed RCC semiannual report. The report shall include, but is not limited to, the pounds of materials managed through a reuse program, by hazardous waste contractors, and by nonhazardous waste contractors. All hazardous waste contractor invoices shall be attached. Such invoices shall depict hazardous material types, net weight of hazardous materials, and associated collection and disposal costs charged by the hazardous waste contractor to the RCC. RCC semiannual reports shall be submitted by September 15 for the portion of the calendar year January 1 through June 30, and by March 15 for the portion of the previous calendar year July 1 through December 31.

These rules are intended to implement Iowa Code chapter 455F.

ITEM 4. Rescind and reserve **567- Chapter 144**.

ITEM 5. Amend **567- Chapter 211** as follows:

FINANCIAL ASSISTANCE FOR THE ~~COLLECTION~~ MANAGEMENT OF  
HOUSEHOLD HAZARDOUS MATERIALS AND HAZARDOUS WASTE FROM  
~~CONDITIONALLY EXEMPT~~ VERY SMALL QUANTITY GENERATORS

**567—211.1(455F) Purpose.** The purpose of this program is to reduce the amount of hazardous materials disposed in Iowa's sanitary landfills, thereby protecting groundwater resources, the health and safety of Iowa citizens, and the environment.

The costs and accessibility of hazardous materials management can be improved by the

establishment and maintenance of a system of regional collection centers (RCCs) and satellite facilities for the safe and proper ~~disposal~~ management of household hazardous materials and hazardous materials from ~~conditionally exempt~~ very small quantity generators (~~CESQGs~~)(VSQGs). Therefore, the department may provide financial assistance for costs associated with establishing or improving RCCs and satellite facilities, when such funding is available. The department may also provide financial assistance for ongoing collection and disposal costs for RCCs and MUCCCs ~~whether public agencies or activities which result in eligible private agencies operate them~~ pounds, when such funding is available.

**567—211.2(455F) Definitions.** ~~The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated verbatim in these rules.~~ For the purposes of this chapter, these terms shall have the following meanings:

*~~“Applicant for an RCC establishment grant~~ RCC or satellite facility financial assistance”* means a an RCC or satellite facility operated by a private agency, local government or a public agency representing local governments pursuant to Iowa Code chapter 28E.

*~~“Conditionally exempt small quantity generator” or “CESQG”~~* means a generator that ~~in a calendar month generates no more than 100 kilograms of hazardous waste in that month and is further defined by 40 CFR 261.5.~~

*“Department”* means the Iowa department of natural resources.

*~~“Eligible private agency”~~* means a ~~privately owned landfill, transfer station or citizen convenience center which acts as an RCC or MUCCC as part of an approved comprehensive plan pursuant to Iowa Code section 455B.306. The facility must either include hazardous waste collection activities in its SDP permit or have an RCC or MUCCC permit in accordance with the requirements of 567—Chapter 123.~~

“Eligible pounds” means household hazardous waste or hazardous waste from VSQGs which is disposed or recycled with a licensed hazardous waste contractor. VSQG hazardous waste for which the RCC is required to charge a fee under Iowa Code section 455F.8A are considered eligible pounds if there is a corresponding disposal charge from a hazardous waste contractor. Eligible pounds means net weight as shown on the final disposition documents. A manifest shows an estimated weight and cannot be used to determine eligible pounds. VSQG hazardous waste or household hazardous waste which has no disposal cost, or for which RCCs receive compensation, or charge a fee is not eligible pounds. Materials such as cathode ray tubes, electronics, and used oil which are not destined for final disposal, but are instead recycled for reuse of components, are not eligible pounds.

*“Financial assistance”* means monetary assistance including grants, cash payments, or support by other financial means.

~~*“Hazardous materials disposal costs”* means costs incurred from a hazardous waste contractor for disposal of household hazardous materials and hazardous waste from conditionally exempt small quantity generators. Costs may include, but are not limited to, transportation to the hazardous waste contractor, incineration, fuel blending, hazardous waste landfilling, and waste profile testing. “Hazardous materials disposal costs” does not include transportation from a satellite to a main RCC facility, staff time, equipment, overhead costs, or costs to dispose of waste that is not HHM or a hazardous material.~~

*“Hazardous waste or HW”* means the same as defined in Iowa Code section 455B.411.

*“Hazardous waste contractor”* means a private company that provides management (e.g., recycling, disposal) of household hazardous waste or VSQG hazardous waste in compliance with federal regulations. “Hazardous waste contractor” does not include regional collection centers.

*“Household hazardous materials or HHM”* means the same as defined in Iowa Code subsection 455F.1(4).

*“Household hazardous waste or HHW”* means a HHM as defined in Iowa Code section 455F.1 which has served its intended use and is designated for disposal.

*“Indirect costs”* means costs that are not identifiable with a specific product, function or activity.

~~*“Mobile unit collection and consolidation center” or “MUCCC”*~~ means a government agency or private agency under contract with a government agency as part of a solid waste comprehensive plan that provides HHM collection events at temporary sites. Collection events are held a minimum of 16 hours per month in each county served by the MUCCC. MUCCCs do not provide public access to a fixed facility. Materials collected are consolidated and stored for removal by a hazardous waste contractor. MUCCCs do not include RCCs that utilize a mobile collection unit along with access to a permanent facility.

*“Overhead costs”* means expenses not chargeable to a particular part of the work or product including, but not limited to, utilities and insurance.

*“Regional collection center or RCC”* means the same as defined in Iowa Code section 455F.1.

*“RCC mobile unit”* means a truck or trailer ~~belonging to~~ owned and operated under the direction of a regional collection center that can be moved to different sites within a region. A mobile unit is used to perform collection events and to transport collected materials to the fixed RCC for sorting and consolidation.

~~*“Regional collection center” or “RCC”*~~ means a secured facility at which collection, sorting, and packaging of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to the final disposal site.

~~RCCs have regular hours during which the public may drop off hazardous materials. An RCC may be a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. RCCs are referred to as temporary collection sites in Iowa Code subsection 455F.8A(1).~~

~~“Satellite facility” means a secured facility at which collection and storage of household hazardous materials and hazardous materials from CESQGs are accomplished prior to transportation of these wastes to an RCC. A satellite facility has a written contract with an RCC for the removal of collected waste. A satellite facility may be operated by a government agency or a private agency under contract with a government agency as part of a solid waste comprehensive plan. A satellite facility is available for public drop off of hazardous materials either during regularly scheduled hours or by appointment the same as defined in Iowa Code section 455F.1.~~

~~“Staffing costs” means salaries and benefits related to payment of personnel.~~

~~“Very small quantity generator or VSQG” means a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220) pounds of non-acute hazardous waste; (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e); (3) 100 kilograms (220 lbs) of any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 40 CFR 261.31 or 40 CFR 261.33(e).~~

**567—211.3(455E,455F) Role of the department.** The department is responsible for the administration of ~~funds for projects~~ financial assistance sponsored under this chapter. The department shall ensure that funds disbursed meet guidelines established ~~by the groundwater protection Act (in Iowa Code chapters 455E and 455F) and Iowa Code section 455B.484.~~ An applicant for an RCC establishment grant financial assistance under this chapter may submit any eligible project as defined in the application provided by the

department. The department shall determine which projects, if any, will receive funding after review of all applications, subject to available funding.

**567—211.4(455E,455F) Funding sources.** The department will use funds appropriated by Iowa Code section ~~455E.11(2)“a”(2)(d)~~ 455E.11(2)”a”(2)(d) and 455E.11(2)”c” to achieve the purpose of this chapter. The department shall ensure that moneys appropriated meet both federal and state guidelines pertaining to the use of the moneys.

**567—211.5(455E,455F) Eligible costs.** ~~An applicant for an RCC establishment grant~~ Applicants may request monetary financial assistance for the purpose of project development and implementation that which includes funds for the following expense categories, but is not limited to:

~~1. Materials and labor for construction, and the purchase cost of structures or mobile units, or both, to be used as an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.~~

~~2. A one year education program for households and CESQGs within the RCC service area. Eligible education expenses may include but are not limited to:~~

- ~~● Supplies, including paper and postage.~~
- ~~● The purchase of books, resource materials, slide shows, video materials, and other media for education of the local population or donation to local libraries or schools.~~
- ~~● Fees for public service announcements.~~

~~3. Equipment relating directly to the RCC or satellite operation.~~

~~4. First year staffing costs.~~

~~5. Site and building design fees.~~

**211.5(1) Material and labor for construction and the purchase cost of structures or RCC mobile units to be use in the operation of an RCC or satellite facility, including but not limited to site excavation for the structure and modifications to control runoff.**

211.5(2) Education programs for households and VSQGs within the RCC service area.

Eligible education expenses may include but are not limited to:

a. Public education and awareness materials and supplies.

b. Fees for public service announcements.

211.5(3) Equipment relating directly to the RCC or satellite facility operation.

**567—211.6(455E,455F) Ineligible costs.** Applicants for RCC establishment grants ~~financial assistance~~ cannot request monetary assistance for the following costs:

1. Taxes.
2. Vehicle registration.
3. Indirect or overhead costs.
4. Legal costs.
5. Contingency funds.
6. Land acquisition.
7. Disposal of hazardous materials.
8. Office equipment.
9. Staffing costs.
10. Site and building design fees.

**567—211.7(455E,455F) ~~Criteria for the selection of an RCC establishment grant~~**  
**RCC and satellite facility financial assistance.**

**211.7(1)** An applicant for an RCC establishment grant and satellite financial assistance shall submit to the department a completed application ~~and a comment~~ on a form provided by the department. ~~The comment form shall be completed by the agency responsible for the submission of a solid waste comprehensive plan for the area in which the RCC or satellite facility will be established.~~

**211.7(2)** The department shall coordinate the evaluation of proposals, ~~and applicants~~

~~Applications will be awarded financial assistance~~ evaluated based on selection criteria contained in the application form. Prior to receiving financial assistance from the department, an RCC applicants must ~~either~~ obtain a regional collection center ~~permit,~~ amend the SDP permit of the host license. A satellite facility ~~to include regional collection center activities,~~ or shall provide documentation of a contractual arrangement with a ~~permitted~~ licensed RCC for removal of the waste to be collected.

~~211.7(3) Applicants shall submit a completed application on a form provided by the department and three photocopies, and shall address criteria in the order presented in the application and guidelines. An application that fails to address all of the criteria may not receive further consideration. The applicant must be in compliance with applicable federal and state statutes and regulations.~~

**567—211.8(455E,455F) Grant denial.** An application may be denied for the following reasons, including but not limited to:

1. The applicant does not meet eligibility requirements pursuant to the provisions of this chapter.
2. The applicant does not provide sufficient information requested in the application proposal pursuant to this chapter.
3. The project goals or scope is not consistent with this chapter.
4. Funds are insufficient to award financial assistance to all qualified applicants.
5. The applicant has not met contractual obligations of previous grant awards.
6. The department received the application after the deadline stated in the application and guidelines.
7. The applicant is found to be out of compliance with applicable federal or state statutes or regulations.

**567—211.9(455E,455F) RCC collection and MUCCC ~~household hazardous material disposal support~~ funding.**

~~211.9(1) All RCCs and MUCCCs, whether they are operated by a public agency or an eligible private agency, may receive to receive funding support, when available, from the department to offset the cost associated with proper disposal of properly manage eligible pounds of VSQG hazardous waste and household hazardous waste. To receive funding, an RCC must be in compliance with applicable federal and state statutes and regulations. The source for this funding is described in Iowa Code section 455E.11(2) “a”(2)(d) and (e).~~

**211.9(2)** To be eligible to receive support and disposal-funding assistance, an RCC or MUCCC must:

- a. Have household hazardous materials waste and VSQG hazardous waste removed by a licensed hazardous waste contractor.
- b. ~~Complete~~ Correctly complete the hazardous materials collection semiannual report on a form supplied by the department.
- c. Attach the ~~hazardous waste contractor invoices depicting hazardous material types, net weight of hazardous materials, and associated management fees charged by the hazardous waste contractor.~~ following documentation:
  1. Hazardous waste contractor invoices depicting cost and hazardous waste types.
  2. The net weight of household hazardous waste and VSQG hazardous waste, calculated by removing container weight from final disposal weight, not the manifest weight.
  3. Documentation that all household hazardous waste and VSQG hazardous waste was disposed of by a licensed hazardous waste contractor.
  4. Documentation of materials shipped using final disposal receipts.
- d. Submit regional collection center semiannual reports by September 4 15 for the

portion of the ~~fiscal~~ current calendar year January 1 through June 30, and by March 15 for the portion of the ~~fiscal~~ previous calendar year July 1 through December 31. Reports submitted after the due date without prior approval by the department are not eligible for reimbursement funding.

~~211.9(3) The fall payments~~ Fall collection and disposal funding will be based on the regional collection center semiannual report due September 15 and on available funding. An RCC or MUECC will receive a percentage of the available funding in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC or MUECC recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials~~ regional collection center semiannual report form, compared to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs and MUECCs. ~~The fall payment shall not exceed total disposal costs for the reporting period as reported on the regional collection center semiannual report form.~~

~~The spring payments~~ Spring collection and disposal funding will be based on the total eligible pounds reported for the calendar year and on available funding. An RCC or MUECC will receive a percentage of the available funding for the calendar year minus the amount received for the fall payment, in an amount proportional to the amount of ~~HHM~~ eligible pounds the RCC or MUECC recycled or disposed of through a hazardous waste contractor, as reported on the ~~hazardous materials~~ regional collection center semiannual report form for the calendar year, compared to the total amount of ~~HHM~~ eligible pounds recycled or disposed of by all RCCs and MUECCs. ~~The spring and fall payments combined shall not exceed an RCC's or MUECC's total disposal costs for the calendar year as reported on the regional collection center semiannual report form.~~

ITEM 6. Rescind and reserve **567- Chapter 214.**

Iowa Department of Natural Resources  
Environmental Protection Commission

#9

**Decision Item**

**Contract with Iowa Association of Soil Conservations District Commissioners, dba Conservation Districts of Iowa**

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**Commission approval is requested for a contract with** Iowa Association of Soil Conservations District Commissioners, dba Conservation Districts of Iowa, of Des Moines, Iowa.

**Contract Terms:**

**Amount:** Not to exceed \$119,736

**Dates:** July 1, 2018 to June 30, 2019.

**Funding Source(s):** Drinking Water SRF Other Authorized Uses Set Aside from the US Environmental Protection Agency.

**Statutory Authority:** 455B.103(3).

**Contract Background:** The Iowa Source Water Protection (SWP) Program is designed to assess and protect untreated source water used in public drinking water systems. Protecting drinking water at the source ensures the public has an adequate supply of safe drinking water and also helps reduce the cost of treatment to the water supply. The SWP Program relies heavily on partnerships with local, state, federal, private and non-profit conservation and agricultural entities for success. These partnerships range from gathering and sharing data to leveraging outside funds for best management practices and the promotion and education of source water protection through other existing programs.

**Contract Purpose:** The parties have entered into this Contract for the purpose of retaining the Contractor to hire and employ 2 full-time staff, for a period of one year, to assist both the DNR and selected communities in Iowa in meeting the DNR's Source Water Protection goals through the development and implementation of Phase 2 Source Water Protection Plans.

**Selection Process Summary:** INTERGOVERNMENTAL: Intergovernmental contracting with Iowa Association of Soil Conservations District Commissioners, dba Conservation Districts of Iowa, is authorized under 11 IAC 118.4. Also contracts with state universities and other public agencies for laboratory work, scientific field measurement and environmental quality evaluation services necessary to implement Iowa Code Chapter 455B is authorized under Iowa Code section 455B.103(3).

**Contract History:**

This will be the second contract with this Contractor.

**Contract #1:** Timeframe: 3/1/2017 to 6/30/2018; Amount \$119,722; Amendments: The original Contract was amended twice for time extensions only. The original Contract timeframe was from March 1, 2017 through February 28, 2018. Amendment 1 extended the Contract end date to May 31, 2018. Amendment 2 extended the Contract end date to June 30, 2018.

Jeff Vansteenburgh, Environmental Program Supervisor, Field Services and Compliance Bureau  
Environmental Services Division  
May 15, 2018

**Iowa Department of Natural Resources  
Environmental Protection Commission**

**Item 10**

**Decision Item**

**Contracts with Black Hawk, Cerro Gordo, Johnson, Linn and Scott County Health Departments**

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**Commission approval is requested for contracts with** Black Hawk, Cerro Gordo, Johnson, Linn and Scott County Health Departments.

**Contract Terms:**

**Amount for Five Contracts:** Not to exceed \$327,450.

**Dates:** 7/1/2018 to 6/30/2021.

**Funding Source(s):** Federal funds from the Local and Other Authorized Use Set-aside of the Drinking Water State Revolving Loan Fund, administered through the Drinking Water Facilities Administration Fund.

**Statutory Authority:** IAC 455B.295(3).

**Contract Background:** Since 2003, the DNR has successfully contracted with Black Hawk, Cerro Gordo, Johnson, Lynn and Scott County Health Departments for inspections and visits to transient noncommunity (TNC) Public Water Supplies (PWSs). Because county personnel are already visiting many of these smaller PWSs annually for other regulatory purposes, this contract represents an effective mechanism for more frequent visits, at a significantly lower cost than having department staff provide these services. Pursuant to this contract, the five counties will inspect and visit a combined total of approximately 356 TNCs each year, for three years, in a 26-county area of northeast and northcentral Iowa (see the list of counties, below). DNR will continue to handle any compliance and enforcement issues that arise for these water supplies.

Nothing in this Contract limits the power of the DNR to regulate PWSs and to take any other actions consistent with the provisions of Iowa Code chapter 455B Division III, and 567 Iowa Administrative Code (IAC) chapter 40, the DNR conducts the public water supply (PWS) program.

**Contract Purpose:** The parties have entered into these contracts to delegate part of the DNR’s regulatory authority with respect to PWS systems, as detailed in the IAC Drinking Water Chapters, and to specify the extent and manner of cooperation between DNR and each of the Contractors, in conducting programs for the evaluation and regulation of TNC PWSs.

The Contractors shall specifically have delegation to perform, for the DNR, certain compliance checks of the TNCs in their jurisdictions. The objective is to ensure all PWSs inspected under the Contractors’ jurisdictions are correctly identified and regulated, sanitary surveys for TNCs are completed once every three years, each TNC is visited annually, and technical assistance is provided to the TNC upon request.

The jurisdictions of the Contractors under these contracts shall include the following Iowa counties and the respective DNR Field Offices (FOs):

<b>Contractor</b>	<b>Counties Included</b>		<b>Inspections &amp; Visits Per Year/Contract Total</b>
Black Hawk County Health Department	Benton, FO #1 Black Hawk, FO #1 Bremer, FO #1 Buchanan, FO #1	Delaware, FO #1 Fayette, FO #1 Grundy, FO #2	55
Cerro Gordo County Health Department	Cerro Gordo, FO # 2 Chickasaw, FO #1 Floyd, FO #2 Franklin, FO #2 Hamilton, FO #2	Humboldt, FO #2 Kossuth, FO #1 Mitchell, FO #2 Webster, FO #2 Winnebago, FO #2	170

	Hancock, FO #2 Hardin, FO #2 Howard, FO #1	Winneshiek, FO #1 Worth, FO #2 Wright, FO #2	
Johnson County Health Department	Johnson, FO #6		43
Linn County Health	Linn, FO #6		62
Scott County Health	Scott, FO #6		26

The DNR estimates that at the beginning of these Contracts (July 1, 2018), approximately 356 TNCs are in the Contractors’ jurisdictions. The number of TNCs may increase or decrease throughout the timeframe of this Contract.

**Selection Process Summary:** INTERGOVERNMENTAL: For intergovernmental Contracts, competitive selection is not required. Intergovernmental contracting with the Black Hawk, Cerro Gordo, Johnson, Linn and Scott County Health Departments is authorized under 11 IAC 118.4. Also contracting with state universities and other public agencies for laboratory work, scientific field measurement and environmental quality evaluation services necessary to implement Iowa Code Chapter 455B is authorized under Iowa Code section 455B.103(3).

**Contract History:**

The DNR has entered into contracts with Black Hawk, Cerro Gordo, Johnson, Linn and Scott County Health Departments since SFY 2003. The purpose of the contracts has been to have the counties perform annual inspections and visits to TNC PWSs in a 26-county area of northeast and northcentral Iowa. The Department has entered into three contracts with each of the Contractor included above:

Contract #1: Timeframe: three-year contracts, from July 1, 2006 through June 30, 2009; Amount \$ 241,020.00.

Contract #2: Timeframe: two-year contracts, from July 1, 2009 through June 30, 2012; Amount \$ 278,100.00.

Contract #3: Timeframe: six-year contracts, from July 1, 2012 through June 30, 2018; Amount \$ 645,756.00.

Jeff Vansteenburgh, Environmental Program Supervisor, Field Services and Compliance Bureau  
 Environmental Services Division  
 May 15, 2018

Iowa Department of Natural Resources  
Environmental Protection Commission

#11

Decision Item

**Contract with Iowa State University for Manure Applicator Certification (MAC) Training**

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**Commission approval is requested for a contract with Iowa State University, of Ames, Iowa.**

**Contract Terms:**

**Amount:** Not to exceed \$428,002

**Dates:** July 1, 2018 to Jun 30, 2020.

**Funding Source(s):** Manure applicator license and education fees, Manure Compliance Fund.

**Statutory Authority:** Iowa Code section 455B.103(3).

**Contract Background and History:** Since at least 2007, DNR has contracted with ISU to develop and provide manure applicator certification training.

**Contract Purpose:** DNR proposes to enter into this Contract for ISU to conduct activities in developing manure applicator certification training and testing material for commercial manure service representatives and confinement site manure applicators, including online versions of certification training materials. These materials will be utilized, as appropriate, by Iowa State University (ISU) and the Iowa Department of Natural Resources (DNR) to implement the manure applicator certification requirements contained in Iowa Code §§459.314A and 459.315 and 567 Iowa Administrative Code (IAC) 65.19.

**Selection Process Summary:** Intergovernmental contracting is authorized under 11 IAC 118.4. Also contracts with state universities and other public agencies for laboratory work, scientific field measurement and environmental quality evaluation services necessary to implement Iowa Code Chapter 455B is authorized under Iowa Code section 455B.103(3)

Jason Marcel, Bureau Chief, Field Services and Compliance Bureau  
Environmental Services Division  
May 15, 2018

## Iowa Department of Natural Resources Environmental Protection Commission

Item # 12

Decision

Region XII Council of Governments - Grant Awardee for delivery of the Iowa Waste Exchange program

**Recommendation:**

The Department requests Commission approval of a grant award, in the amount of \$468,000 to Region XII Council of Governments for one year, with the option of five additional year extensions, for the delivery of the Iowa Waste Exchange (IWE) program.

**Funding Source:**

This project is funded through the Groundwater Protection Fund, Solid Waste Account where monies are received from the tonnage fee imposed under Iowa Code section 455B.310. The specific allocation from the Fund directed to this grant is in Iowa Code section 455E.11 Ground Water Protection Fund Established Appropriations.

**Background:**

According to Iowa Code section 455E.11(2)(a)(2)(c), in the Groundwater Protection Fund, Solid Waste Account, out of the first \$1.50 per ton collected:

*Six and one-half percent [shall be used] for the department to establish a program to provide competitive grants to [one or more community colleges or councils of governments] for projects ... related to a by-products and waste exchange system.*

**Purpose:**

Since 1990, the IWE has been a free, confidential, non-regulatory program that enables the recycling of used and unwanted materials by matching parties that have those materials with others who look to obtain and add value to such resources. The Grantee under this Agreement will sub-contract and supervise the work of regionally-based Resource Specialists. Performing the direct work of the IWE, Resource Specialists facilitate the waste exchange matches, as well as provide a range of services to help divert many thousands of tons of by-products and excess materials from Iowa landfills, help manage and reduce waste streams, and enhance pollution prevention.

**Consulting Firm Selection Process:**

A Request for Proposals (RFP) was posted on the Dept. of Administrative Services "State of Iowa Bid Opportunities" web-page, and a notification e-mail was sent to the Community Colleges and to the Iowa Association of Regional Councils of Governments. One proposal was received for consideration, and a three-person committee reviewed and evaluated it. The committee then met to discuss the proposal, and achieved consensus on the selection of Region XII Council of Governments to provide the services needed due to the quality of their proposal, understanding of Department goals of the program, and the experience members of their team possess.

We request the recommended Iowa Waste Exchange grant award be approved.

Jennifer Wright, Supervisor  
Land Quality Bureau  
Environmental Services Division

May 15, 2018

Attachment: Agreement Statement of Work

**STATEMENT OF WORK**

The Iowa Waste Exchange (IWE) Grantee is principally responsible for the work of regionally-based Resource Specialists who provide to Iowa businesses, schools, hospitals, government institutions, industries, and individuals a range of services for diverting by-products and excess materials from Iowa landfills, managing and reducing waste streams, and enhancing pollution prevention.

The Grantee shall perform the following Tasks by the Task Milestone Dates set out in the following table:

Deliverables	Task Milestone Dates
<p><b>Task 1:</b> Recruit and subcontract IWE Resource Specialists.  <b>Description:</b> IWE program services should be delivered by approximately 4 to 5 Full-Time Equivalent positions operating in approximately 4 to 5 service regions to cover the entire state. IWE services are to be available statewide.</p> <p>Particular attention is to be paid to prospective Resource Specialist’s qualifications related to: •technical competence, especially regarding solid waste management, •high productivity, •being team players, •interpersonal skills, and •customer focus.</p> <p>All prospective Resource Specialist’s resumes and pre-interview evaluations are to be submitted to the DNR for review prior to commencing the interview process.</p> <p>The DNR retains the right of final approval of all IWE Resource Specialist subcontracts.</p>	<p>No later than July 1, 2018</p>
<p><b>Task 2:</b> Direct and oversee IWE Resource Specialists’ work, and review and evaluate on-going performance.  <b>Description:</b> Assure that IWE Resource Specialists –</p> <p>Actively search for the generators and the users of excess materials and by-products, and facilitate the matching and transfer of excess materials and by-products between generators and users.</p> <p>Establish working relationships with excess materials and by-products generator and user clients by:</p> <ul style="list-style-type: none"> <li>• Responding to written or telephone requests for information or technical assistance on a variety of waste management issues no more than 2 business days after receiving each request</li> <li>• Conducting ‘walk-through’s of customer facilities to identify opportunities for improving waste management and pollution prevention</li> <li>• Working with solid waste agencies to help them meet their waste diversion goals</li> <li>• Identifying client needs and accessing the team of experts including each other, the Iowa Economic Development Authority (IEDA), the Iowa Waste Reduction Center (IWRC), and the DNR to help meet those client needs</li> </ul> <p>Focus on obtaining the greatest <u>reduction</u> in by-product generation and the landfilling of excess materials. Priorities, in no particular order, are:</p> <ul style="list-style-type: none"> <li>•Old corrugated containers and kraft bags</li> <li>•Demolition/renovation/construction debris</li> <li>•Renewable energy by-products</li> <li>•Industrial by-products/materials</li> <li>•Food &amp; food processing residuals</li> <li>•Mixed recyclable paper</li> <li>•Non-treated wood</li> <li>•Compostable paper</li> <li>•Hazardous materials</li> <li>•Plastic film/wrap/bags</li> </ul>	<p>On-going, over the course of the Grant</p>

<p>Deliver a new comprehensive approach to helping schools minimize waste and implement recycling. In conjunction with the DNR, IWRC and IEDA support, IWE Resource Specialists will:</p> <ul style="list-style-type: none"> <li>• Develop a survey and methods to obtain data from as many as possible of the approximately total 1,524 public and private Iowa schools.</li> <li>• Establish waste reduction/sustainability contacts at the schools according to the respective IWE service areas.</li> <li>• Conduct surveys with the contacts using a variety of means, including — online correspondence, telephone calls, onsite visits, and through interested third parties (haulers/contractors).</li> <li>• Compile and document the data.</li> <li>• Analyze and evaluate the data in order to establish school waste reduction focus areas.</li> <li>• Based on the waste reduction focus areas, plan and implement waste minimization and recycling projects and programs in Iowa’s schools.</li> </ul> <p>Enter performance data and complete bi-weekly updates in the IWE database.</p>	
<p><b>Task 3.</b> Support program communications and on-site contacts.  <b>Description:</b> Make available to all IWE Resource Specialists:</p> <ul style="list-style-type: none"> <li>• a cell phone</li> <li>• Internet service</li> <li>• a secure wireless laptop computer, tablet computer or other electronic means to maintain contact with other services providers while in the field and to provide timely assistance to program customers</li> <li>• compensation for in-Iowa travel.</li> </ul>	<p>On-going, over the course of the Grant</p>
<p><b>Task 4.</b> Require attendance of all Resource Specialists at four quarterly meetings.  <b>Description:</b> Items covered to include:</p> <ul style="list-style-type: none"> <li>• progress on quarterly objectives</li> <li>• roundtable discussion of issues concerning excess materials and by-products matches</li> <li>• professional development training</li> </ul>	<p>Within 3 weeks of the end of each fiscal quarter</p>
<p><b>Task 5.</b> Meet with the DNR to discuss contractual progress.  <b>Description:</b> Items covered to include:</p> <ul style="list-style-type: none"> <li>• Resource Specialists’ performance,</li> <li>• budget items,</li> <li>• progress on goals,</li> <li>• primary duties listed in this RFP and other items as needed,</li> <li>• coordination and tracked delivery of additional projects &amp;/or programs as new challenges and opportunities develop.</li> </ul>	<p>When requested</p>
<p><b>Task 6.</b> Track progress toward program goals.  <b>Description:</b> These include:</p> <p>Diverting at least 100,000 tons of materials and by-products from landfills.  Completion of a combined minimum of 3,200 IWE client contacts, with tracking each Resource Specialist’s both on-site visits to assist clients and in-house client assists.</p> <ul style="list-style-type: none"> <li>• On-site visits are in-person site visits to, and tours of, client facilities for purposes of offering assistance. A single client can be counted for multiple on-site visits, as long as each visit counted is a legitimate, new assistance initiative. An on-site visit does not include subsequent follow-ups by telephone, e-mail or letters relating to the initial on-site visit.</li> </ul>	<p>On-going, over the course of the Grant</p>

<ul style="list-style-type: none"> <li>• In-house assistance includes calls, e-mails and letters to clients to provide help with a specific market referral or other specific information. A client can be counted as in-house assistance multiple times for legitimate, new assistance initiatives. In-house assistance does not include subsequent assistance via telephone, e-mail or letter relating to the initial in-house assistance.</li> <li>• submittal to the DNR of at least one IWE success story from each of the Service Areas per year.</li> </ul>	
<p><b>Task 7.</b> Direct the IWE Resource Specialists to use the special allocation in the Grant Award for publicity, promotion and marketing.</p> <p><b>Description:</b> As part of general program expectations, Grantee(s) and the IWE Resource Specialists will:</p> <ul style="list-style-type: none"> <li>• represent the DNR and its FABA programs in presentations on current waste management and pollution prevention programs and practices</li> <li>• share information on excess materials and by-products uses and markets via on-site visits, e-mail, phone calls, and at quarterly IWE meetings</li> <li>• advise clients on the services of the Iowa Waste Reduction Center, and provide referrals as appropriate</li> <li>• complete other special promotion and information projects as directed or approved by the DNR.</li> </ul>	<p>On-going, over the course of the Grant</p>

Iowa Department of Natural Resources  
Environmental Protection Commission

**Item 13**

**Decision Item**

**Contract Amendment # 2 to Contract 16ESDLQBGOLD1 with Region XII Council of Governments**

**Commission approval is requested for a contract amendment with Region XII Council of Governments, of Carroll, IA.**

**Amendment # 2 of this amendment to the original contract Terms:**

**Amendment Amount:** \$24,990

**Amendment Dates:** July 1, 2018 to June 30, 2019

**Funding Source:** G550

**Amendment Purpose:** The purpose of the Contract Amendment is to continue to secure professional services to audit Environmental Management System (EMS) participants.

**Original Contract Purpose:** Iowa Code section 455J establishes criteria for EMS. Solid waste planning areas comprised of cities and/or counties may be designated as an EMS. An EMS provides multiple environmental services in addition to solid waste disposal including continuous improvement of solid waste management by appropriately and aggressively mitigating the environmental impacts of solid waste disposal. An EMS is required to submit to the department an annual report to document the system's compliance with the requirements of Iowa Code section 455J.3. The department has adopted by rule [Iowa Administrative Code 567 111.6(7)] an external audit process, to be completed by an independent third party, for determining whether an EMS is in compliance with the provisions of the applicable statute and administrative rules.

**Original Selection Process Summary:** DNR followed the Competitive Bidding process for Professional Services. DNR received six applications for the contract. A team of five reviewed and scored the proposals. The Region XII Council of Governments proposal earned an average score of 83.4. The next highest applicant proposal score was 76.8. Region XII Council of Governments was selected.

**Contract History:**

This is the first time this contract has come before the Environmental Protection Commission. In prior years, because the amount of the contract/contract extension was under \$25,000, DNR was not required to secure EPC approval. An update of contract extension process resulted in a new interpretation of the rules regarding documentation and EPC approval.

**Original Contract Terms:** Amount \$ 23,940; **Timeframe:** July 1, 2016 to June 30, 2017; **Purpose:** The purpose of this contract was to set forth terms for professional services for a contractor to assist DNR in completing statutory duties stated in 567 IAC 111.6(7).

- Amendment-1 Terms: Amount: \$24,990; Timeframe: July 1, 2017 to June 30, 2018; Purpose: The purpose of the Contract Amendment is to continue to secure professional services to audit Environmental Management System participants.

Leslie Goldsmith, Program Planner, Land Quality Bureau  
Environmental Services Division  
Tuesday, May 15, 2018

**LITIGATION REPORT**  
**RECYCLING SERVICES L.L.C. and JASON and DAVID WRIGHT**

**Prepared By: David Scott**  
**Date: April 30, 2018**

**I. Alleged Violators**

**Recycling Services L.L.C.**  
**Jason and David Wright**

**II. Summary**

The Iowa Department of Natural Resources (DNR) issued Administrative Orders 2017-SW-11, 2017-WW-09, and 2017-HC-01 (collectively, the Order) to Recycling Services L.L.C. (RS), on July 24, 2017. The Order was issued due to the illegal disposal of trade wastes on the company's property in Atlantic, Iowa, including, but not limited to, waste oil, fuel, antifreeze and miscellaneous solid waste. The Order also addressed RS' noncompliance with its National Pollutant Discharge Elimination System (NPDES) permit, the company's failure to comply with certain hazardous condition notification requirements, and the company's failure to remediate contamination at its facility within the timeline provided by DNR during prior site inspections.

DNR issued a Notice of Violation to RS in October 2015, and following additional site visits, provided site remediation options in correspondence provided to RS in April, 2016. That correspondence included a remediation deadline after which the matter would be referred for enforcement. DNR believed an informal site remediation agreement had been reached in the fall of 2016 when RS' legal counsel contacted DNR to request an extension of time for site remediation. RS never cleaned the site.

The Order issued in July 2017 required RS to pay an administrative penalty of \$7,000.00, to assess contamination at the facility, to conduct certain removal actions, and to ensure that sufficient notice was attached to the property so future owners would be aware of the potential contamination at the site.

RS did not appeal the Order. Despite ongoing efforts by the DNR to secure compliance with the Order through the company's legal counsel, the company has not complied with the Order. The company was administratively dissolved on August 14, 2017, after the Order was issued.

**III. Relief Requested**

The DNR is requesting that the matter be referred to the Iowa Attorney General's office for civil prosecution. The Iowa Attorney General's office will be able to determine if there is a reasonable and legal basis for pursuing company officials personally, as they appear to have dissolved the company in order to avoid compliance with the Order.

**IV. Alleged Violations**

LITIGATION REPORT  
RECYCLING SERVICES L.L.C. and JASON and DAVID WRIGHT  
MAY 2018 EPC MEETING

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A. *Facts*

The facts of this case are presented in chronological order:

1. RS is a waste services and recycling operation located at 101 State St., Atlantic, Iowa. The company's operations are covered by NPDES General Permit No. 1 for storm water discharges associated with industrial activity.<sup>1</sup>

2. On June 16, 2015 DNR Field Office (FO) 4 received a complaint alleging that contaminated storm water run-off was leaving the RS facility property.

3. On June 28, 2015, FO 4 staff investigated the complaint and conducted an NPDES General Permit No. 1 inspection. Violations of storm water regulations and potential discharge issues were observed and subsequently described to Jason Wright of RS, including evidence of significant amounts of spilled fluids and large volumes of improperly-stored fluids without proper containment. A copy of the facility's Storm Water Pollution Prevention Plan (SWPPP) was required to be on-site but was not available during the inspection.

4. On June 29, 2015, a follow-up email was sent to Jason Wright summarizing issues that required immediate response. Reference material (web links) related to auto salvagers was also provided.

5. On July 30, 2015, the facility's SWPPP was received at FO4 via email. Upon review of the SWPPP, it became clear that RS had failed to update the SWPPP since the initial draft was created for RS by the Iowa Waste Reduction Center in 2005. This failure is a violation of NPDES requirements. Additionally, basic inspection record-keeping was found to be inadequate, among other permit violations.

6. On August 11, 2015, RS principal Dave Wright was unwilling to provide a walk-through of the facility during a follow-up visit by FO4 staff. This occurred despite DNR providing notice of the inspection via a phone message and email prior to the inspection.

7. On August 17, 2015, Jason Wright allowed DNR to walk through the facility.

8. On October 2, 2015, DNR issued a Notice of Violation (NOV) and provided an NPDES General Permit No.1 Inspection Report to RS via U.S. mail. The documents described deficiencies and enumerated

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<sup>1</sup> RS dissolved after it received the DNR's compliance Order. The company is referenced in the present tense for the purposes of this referral because it existed at the time of the Order, and because it is the DNR's position that a company cannot avoid environmental liabilities by dissolving. It will be up to the Attorney General's office to determine how to enforce the Order, including pursuing the company principals personally.

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certain requirements including that spilled material and contaminated soil must be addressed immediately and that stockpiled solid waste soil/debris must be removed and properly disposed of by October 1, 2016.

9. On January 14, 2016, a meeting was requested by David Wright to discuss prospective purchase of the facility by Mr. Duane Murphy. During the meeting, DNR discussed certain requirements and options for managing the facility moving forward. Both parties were notified that if known contaminated soil was not removed from the facility property, additional sampling of soil would be required throughout the facility property to determine the extent of petroleum-contaminated soil (PCS).

10. On January 15, 2016, a summary of the 1/14/16 meeting was provided to Jason Wright by DNR via email.

11. On January 27, 2016, FO4 staff visited the facility and conducted soil sampling which confirmed petroleum contamination above statewide standard action levels. The sampling was limited to the stockpiled material on the north portion of the facility property. At that time, the facility was not in operation and it appeared all equipment and most salvageable materials had been removed.

12. The facility property contained pieces of plastics, rubber, glass, wood (all considered solid waste by definition) and some salvageable metal. The site appeared to be covered with soil that is presumed to be contaminated based on initial sampling and evidence of spills. It is also presumed that given the normal course of the salvage business, many small spills occurred throughout the property. Evidence of contaminant spills were also visually observed during the initial investigation and documented via photographs. It appeared that there were multiple PCS locations throughout the facility property.

13. On April 7, 2016, FO 4 staff again visited the facility in order to confirm the status of facility operation. As was observed on January 27, 2016, the facility was not in operation.

14. On April 18, 2016, DNR sent correspondence to RS providing an option for site remediation and disposal. DNR allowed RS until October 1, 2016, to mechanically sift through the soil on the property—both in the stockpiles and the top ten inches of the soil for the entire site—and to remove and properly dispose of any recovered solid waste at a sanitary landfill. The remedial activity would be required to occur as follows: (1) the working portion of the site being addressed first; (2) solid waste removal from the stockpiles; (3) solid waste removal from ten inches of subgrade; and, (4) even application of the stockpiles across the site.

15. If RS agreed to DNR's remediation plan, RS would also be required to furnish proof of an affidavit explanatory of title filed with the Cass County Recorder and on the property deed, which describes that PCS was found on the property and that future development of the property must consider appropriate installation of utilities. The affidavit must explain to prospective buyers that any activity that encounters contamination would require proper disposal by the current owner and could thereby trigger an environmental impact assessment. Further, if the City of Atlantic did not already restrict water wells on the facility property, then an environmental covenant prohibiting such installation would also be required.

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16. On October 17, 2016, legal counsel for RS, Mr. David Wiederstein, contacted FO4 to clarify options for solid waste/ PCS disposal. A request for an extension was made for disposal until October 2018. Information was provided in successive emails and in a response letter dated November 10, 2016.

17. A letter was sent to Mr. David Wiederstein providing an extension for compliance until June 1, 2017.

18. As of the date of the Order, no remediation or removal or other action had been taken at the facility or on the site.

19. On August 14, 2017, RS was administratively dissolved.

20. On October 5, 2017, DNR provided Jason Wright with a warning that failure to comply with the Order would result in referral to the Attorney General and to the Iowa Department of Revenue.

21. In February, 2018, the Attorney General's office recommended that Recycling Services L.L.C. and Jason and David Wright be referred for civil prosecution.

22. On March 16, 2018, DNR provided notice to all parties that the matter would be referred to the Attorney General's office.

*B. Law*

1. Iowa Code § 455B.197 authorizes the DNR to issue permits related to the administration of the federal NPDES permit program. 455B.103A authorizes the DNR to issue general permits addressing storm water discharge. Violation of the terms of a permit issued pursuant to these sections is a violation of Iowa law.

2. DNR issued NPDES General Permit No. 1, which applies to the discharge of storm water from industrial facilities. RS obtained coverage under this permit and was responsible for complying with the requirements of NPDES General Permit No. 1. Permit violations noted during site inspections included, among other violations: failure to amend the SWPPP (Part III.C.3); failure to accurately describe flow directions and likely discharge locations (Part III.C.4.A(1-3)); failure to provide accurate information as to the processes to be used on site and potential pollutants (id.); failure to provide accurate information as to the storm water controls and practices that are implemented on the site (Part III.C.4.B(2)); failure to provide details on, and comply with, spill prevention and response procedures (Part III.C.4.B(5)); and, failure to keep adequate records (Part III.C.4.B(9)). Each instance of non-compliance with an NPDES general permit is a violation of Iowa law and a violation of the federal Clean Water Act subject to enforcement by the Environmental Protection Agency.

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3. 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.

4. 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.

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

6. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity 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 and pursuant to the terms of a permit granted by the agency authorizing the disposal of solid waste. The above-stated facts establish continued violations of this regulatory prohibition.

7. Iowa Code § 455B.386 requires any person manufacturing, storing, handling, transporting or disposing of a hazardous substance to notify the DNR and the local police department or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The above-stated facts establish a violation of this statutory obligation.

8. The Commission has adopted 567 IAC 131.2 which requires any person manufacturing, storing, handling, transporting or disposing of a hazardous substance to notify the DNR of the occurrence of a hazardous condition/spill. This must be done as soon as possible, but in no case later than six hours after its discovery. Based on site inspections and site sampling, RS violated this regulatory requirement as it failed to notify DNR of any hazardous conditions or spills on the site.

9. Iowa Code § 455B.392 holds a party strictly liable for site remediation costs for hazardous conditions caused by that party and authorizes the State of Iowa to collect triple damages from a party that refuses to remediate such hazardous conditions. RS is strictly liable for site remediation, and if DNR is forced to undertake site remediation it is authorized to compel RS to pay three times the remediation or removal costs incurred.

10. The Commission has adopted 567 IAC 133.3 which, in part, establishes that where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory, and remedial actions.

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11. Corporate protections do not extend to company principals in cases where the principals have used the corporation to accomplish and end that is fraudulent or illegal. This includes failing to comply with a valid Order.

**V. DNR Witness**

Thad Nanfito, Environmental Specialist, FO4

**VI. Exhibits**

- AO 2017-SW-11, 2017-WW-09, and 2017-HC-01.
- Primary correspondence with RS

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p><b>Recycling Services, L.L.C.</b></p>	<p style="text-align: center;">ADMINISTRATIVE ORDER</p> <p>NO. 2017- SW- <u>11</u> NO. 2017- WW- <u>09</u> NO. 2017- HC- <u>01</u></p>
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To: Recycling Services, L.L.C.  
Jason Wright, Registered Agent  
PO Box 454  
Atlantic, IA 50022

CC: 101 Main Street  
Atlantic, IA 50022

Re: Illegal disposal of solid waste; non-compliance with National Pollutant Discharge Elimination System (NPDES) permit; non-compliance with Iowa hazardous condition reporting requirements.

**I. SUMMARY**

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Recycling Services, L.L.C. (RS), due to the disposal of trade wastes including, but not limited to, waste oil, fuel, antifreeze and miscellaneous solid waste resulting in, at a minimum, the contamination of soil on the company's property. This Order addresses RS' noncompliance with its National Pollutant Discharge Elimination System (NPDES) permit, the company's failure to comply with certain hazardous condition notification requirements, and the company's failure to remediate contamination at its facility within the timeline provided by DNR. The Order requires RS to pay an administrative penalty of \$7,000.00, assess contamination at the facility, conduct certain removal actions, and ensure that sufficient notice is attached to the title of the property so future owners will be aware of the potential contamination at the site.

Any questions regarding this Order should be directed to:

**Relating to technical requirements:**

Thad Nanfito, Environmental Specialist  
Iowa Department of Natural Resources  
Field Office No. 4  
1401 Sunnyside Ln.  
Atlantic, Iowa 50022  
Phone: 712-243-1934

**Relating to legal requirements:**

David Scott, Attorney  
Iowa Department of Natural Resources  
1023 W. Madison St.  
Washington, IA 52353  
Phone: 515-725-8239

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ISSUED TO: RECYCLING SERVICES, L.L.C.

**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.175 which authorizes the Director of the DNR to issue orders to secure compliance with or prevent violation of Iowa Code chapter 455B, Division III, Part 1 (water quality) and the rules and regulations adopted pursuant to that part; 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 and regulations adopted pursuant to that part; and Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

The following facts are presented in chronological order:

1. Recycling Services L.L.C. is a waste services and recycling operation located at 101 State St., Atlantic, Iowa. The company's operations are covered by NPDES General Permit No. 1 for storm water discharges associated with industrial activity.

2. On June 16, 2015 DNR Field Office (FO) 4 received a complaint alleging that contaminated storm water run-off was leaving the RS facility property.

3. On June 28, 2015, FO 4 staff investigated the complaint and conducted an NPDES General Permit No. 1 inspection. Violations of storm water regulations and potential discharge issues were observed and subsequently described to Jason Wright of RS, including evidence of significant amounts of spilled fluids and large volumes of improperly-stored fluids without proper containment. A copy of the facility's Storm Water Pollution Prevention Plan (SWPPP) was required to be on-site, but was not available during the inspection.

4. On June 29, 2015, a follow-up email was sent to Jason Wright summarizing issues that required immediate response. Reference material (web links) related to auto salvagers was also provided.

5. On July 30, 2015, the facility's SWPPP was received at FO4 via email. Upon review of the SWPPP, it became clear that RS had failed to update the SWPPP since the initial draft was created for RS by the Iowa Waste

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Reduction Center in 2005. This failure is a violation of NPDES requirements. Additionally, basic inspection record-keeping was found to be inadequate, among other permit violations.

6. On August 11, 2015, RS principal Dave Wright was unwilling to provide a walk-through of the facility during a follow-up visit by FO4 staff. This occurred despite DNR providing notice of the inspection via a phone message and email prior to the inspection.

7. On August 17, 2015, Jason Wright allowed DNR to walk through the facility.

8. On October 2, 2015, DNR issued a Notice of Violation (NOV) and provided an NPDES General Permit No.1 Inspection Report to RS via U.S. mail. The documents described deficiencies and enumerated certain requirements including that spilled material and contaminated soil must be addressed immediately and that stockpiled solid waste soil/debris must be removed and properly disposed of by October 1, 2016.

9. On January 14, 2016, a meeting was requested by David Wright to discuss prospective purchase of the facility by Mr. Duane Murphy. During the meeting, DNR discussed certain requirements and options for managing the facility moving forward. Both parties were notified that if known contaminated soil was not removed from the facility property, additional sampling of soil would be required throughout the facility property to determine the extent of petroleum-contaminated soil (PCS).

10. On January 15, 2016, a summary of the 1/14/16 meeting was provided to Jason Wright by DNR via email.

11. On January 27, 2016, FO4 staff visited the facility and conducted soil sampling which confirmed petroleum contamination above statewide standard action levels. The sampling was limited to the stockpiled material on the north portion of the facility property. At that time, the facility was not in operation and it appeared all equipment and most salvageable materials had been removed.

12. The facility property contains pieces of plastics, rubber, glass, wood (all considered solid waste by definition) and some salvageable metal. The site appears to be covered with soil that is presumed to be contaminated based on initial sampling and evidence of spills. It is also presumed that given the normal course of the salvage business, many small spills occurred throughout the property. Evidence of contaminant spills were also visually observed during the initial investigation and documented via photographs. It appears that there are multiple PCS locations throughout the facility property.

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13. On April 7, 2016, FO 4 staff again visited the facility in order to confirm the status of facility operation. As was observed on January 27, 2016, the facility was not in operation.

14. On April 18, 2016, DNR sent correspondence to RS providing an option for site remediation and disposal. DNR allowed RS until October 1, 2016, to mechanically sift through the soil on the property—both in the stockpiles and the top ten inches of the soil for the entire site—and to remove and properly dispose of any recovered solid waste at a sanitary landfill. The remedial activity would be required to occur as follows: (1) the working portion of the site being addressed first; (2) solid waste removal from the stockpiles; (3) solid waste removal from ten inches of subgrade; and, (4) even application of the stockpiles across the site.

15. If RS agreed to DNR's remediation plan, RS would also be required to furnish proof of an affidavit explanatory of title filed with the Cass County Recorder and on the property deed, which describes that PCS was found on the property and that future development of the property must consider appropriate installation of utilities. The affidavit must explain to prospective buyers that any activity that encounters contamination would require proper disposal by the current owner and could thereby trigger an environmental impact assessment. Further, if the City of Atlantic did not already restrict water wells on the facility property, then an environmental covenant prohibiting such installation would also be required.

16. On October 17, 2016, legal counsel for RS, Mr. David Wiederstein, contacted FO4 to clarify options for solid waste/ PCS disposal. A request for an extension was made for disposal until October 2018. Information was provided in successive emails and in a response letter dated November 10, 2016.

17. A letter was sent to Mr. David Wiederstein providing an extension for compliance until June 1, 2017.

18. As of the date of this Order, no remediation or removal or other action has been taken at the facility or on the site.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code § 455B.197 authorizes the DNR to issue permits related to the administration of the federal NPDES permit program. 455B.103A authorizes the DNR to issue general permits addressing storm water discharge. Violation of the terms of a permit issued pursuant to these sections is a violation of Iowa law.

2. Iowa DNR issued NPDES General Permit No. 1, which applies to the discharge of storm water from industrial facilities. RS obtained coverage

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under this permit and was responsible for complying with the requirements of NPDES General Permit No. 1. Permit violations noted during site inspections included, among other violations: failure to amend the SWPPP (Part III.C.3); failure to accurately describe flow directions and likely discharge locations (Part III.C.4.A(1-3)); failure to provide accurate information as to the processes to be used on site and potential pollutants (id.); failure to provide accurate information as to the storm water controls and practices that are implemented on the site (Part III.C.4.B(2)); failure to provide details on, and comply with, spill prevention and response procedures (Part III.C.4.B(5)); and, failure to keep adequate records (Part III.C.4.B(9)). Each instance of non-compliance with an NPDES general permit is a violation of Iowa law and a violation of the federal Clean Water Act subject to enforcement by the Environmental Protection Agency.

3. 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.

4. 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.

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

6. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity 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 and pursuant to the terms of a permit granted by the agency authorizing the disposal of solid waste. The above stated facts establish continued violations of this regulatory prohibition.

7. Iowa Code § 455B.386 requires any person manufacturing, storing, handling, transporting or disposing of a hazardous substance to notify the DNR and the local police department or the office of the sheriff of the affected county of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The above-state facts establish a violation of this statutory obligation.

8. The Commission has adopted 567 IAC 131.2 which requires any person manufacturing, storing, handling, transporting or disposing of a hazardous

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substance to notify the DNR of the occurrence of a hazardous condition/spill. This must be done as soon as possible, but in no case later than six hours after its discovery. Based on site inspections and site sampling, RS violated this regulatory requirement as it failed to notify DNR of any hazardous conditions or spills on the site.

9. Iowa Code § 455B.392 holds a party strictly liable for site remediation costs for hazardous conditions caused by that party and authorizes the State of Iowa to collect triple damages from a party that refuses to remediate such hazardous conditions. RS is strictly liable for site remediation, and if DNR is forced to undertake site remediation it is authorized to compel RS to pay three times the remediation or removal costs incurred.

10. The Commission has adopted 567 IAC 133.3 which, in part, establishes that where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory, and remedial actions.

**V. ORDER**

**THEREFORE**, the Director of the DNR orders:

1. RS must conduct necessary preventative, investigatory, and remedial actions. The extent and levels of contamination must be determined through a further site assessment. This shall be conducted under the supervision of a registered professional engineer, an expert in the field of hydrogeology, or other qualified person, such as a certified groundwater professional. A Site Assessment Plan must be submitted to the DNR no later than October 1, 2017. The plan must be approved by the DNR prior to the initiation of the assessment.

2. RS must properly dispose of all solid waste and PCS located on the facility property by October 1, 2017.

3. RS must pay a penalty of \$7,000.00. Payment shall be due within sixty (60) days after the Director signs this Order.

4. RS shall complete remediation of its facility based on the results of the Site Assessment Plan and in accordance with 567 IAC 133. RS shall comply with all requirements enumerated by DNR following review of the Site Assessment Plan, and any requirements imposed shall be considered part of this Order including the date by which completion of remediation must occur following DNR's receipt of the Site Assessment Plan.

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**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. Additionally, Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations and Iowa Code § 455B.191(2) provides for civil penalties of up to \$5,000.00 per day for water quality violations. Iowa Code § 455B.386 provides for a civil penalty of no more than \$1,000.00 for failure to report a hazardous condition. The DNR reserves the right to pursue additional penalties pursuant to this section if RS fails to comply with the terms of this Order.

3. Iowa Code § 455B.392 authorizes DNR to recover treble damages for remediation and removal costs it incurs at the facility site if RS fails to comply with this Order.

4. 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 fine 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.

- a) Economic Benefit: The economic benefit element of a penalty is intended to recoup the economic benefit a party enjoyed as a result of non-compliance. Economic benefit would appear to be the motive for not properly disposing of the solid waste and PCS. RS received an economic benefit for its avoided and delayed costs of properly disposing of its solid waste. It also received a benefit for its avoided costs of complying with NPDES General Permit No. 1. A penalty of \$250.00 is assessed.
- 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 the public health and safety, and whether the violation threatens the integrity of the regulatory program. The improper disposal of petroleum products may pose a significant risk to human health and the environment. Further, failure to properly dispose of automotive liquids and solid waste materials threatens the integrity of the regulatory program if others determine that such action will not result in a penalty. As such, \$3,000.00 is assessed for this factor.

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- 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. This is not the first time DNR has responded to a complaint at the RS facility concerning spill reporting, during which RS was instructed to prevent and report any spills. RS has the duty to remain knowledgeable of the regulations with which it must comply. RS has refused to conduct any site remediation. \$2,750.00 is assessed for this factor.
- d) Aggravating factor - \$1,000.00 is assessed for RS' failure to meet the agreed-upon remediation deadline.

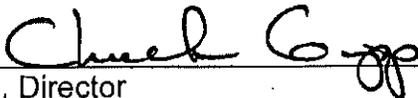
5. It remains the DNR's position that failure to assess an administrative penalty for these violations would threaten the integrity of the regulatory program by not providing a financial incentive for owners/operators to comply.

**VII. APPEAL RIGHTS**

A written Notice of Appeal may be filed with the Director within 30 days of this Order being signed by the Director. A contested case hearing will then be scheduled pursuant to Iowa Code § 17A and 561 IAC 7. Failure to file a Notice of Appeal within this time frame will result in the waiver of the right to 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 pursuant to Iowa Code §§ 455B.191, 455B.307 and 455B.391. Compliance with Section V (Order) of this Order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section IV (Conclusions of Law) of this Order.

  
\_\_\_\_\_  
Chuck Gipp, Director  
Iowa Department of Natural Resources

Dated this 24<sup>th</sup> day of  
July, 2017.

CC: DNR Field Office 4; David Scott; I.B.2, IV.A, IV.B, VI.C.



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

October 2, 2015

Jason Wright  
Recycling Services  
101 State Street  
Atlantic, IA 50022

**NOTICE OF VIOLATION:** **Subrule 567-131.2-Iowa Administrative Code (IAC)-**  
Hazardous Incident Reporting Requirements  
**Subrule 567 IAC 64.3(1)-Storm Water General Permit #1**

SUBJECT: NPDES General Permit #1 Compliance Inspection and Follow-up  
Investigation of Complaint No. 21638  
IA Authorization #10700-10498

Dear Mr. Wright:

The Iowa Department of Natural Resources recently conducted a NPDES General Permit #1 Compliance Inspection in conjunction with a complaint investigation which alleged that contaminated stormwater run-off was leaving the facility. Violations of stormwater regulations are described in the inspection report. The report is enclosed and should be self-explanatory.

It was communicated with you during the inspection and via follow-up email correspondence, that some issues observed during the inspection required immediate action/response in order to prevent further contamination and potential spills. These items are described as follows: spilled material including all automotive fluids, leaked material from equipment and storage of automotive fluids in totes. Photographic evidence was collected during the initial inspection and follow-up (enclosed for your reference).

Please note that Subrule 567-131.2 of the IAC requires any person manufacturing, storing, handling, transporting or disposing of a hazardous substance to notify this department of the occurrence of a hazardous condition/spill. This must be done as soon as possible, but in no case later than six hours after its discovery. The 24-hour telephone number for this department is 515/725-8694. The spilled material left unaddressed as referenced above indicates a violation of the 6-hour notification requirement. It should also be noted that the department has previously investigated a complaint (No. 01/07-19) where Recycling Services was instructed to prevent and report if necessary any spills. Information was also provided regarding regulations for tire disposal following that investigation.

Subrule 567-133.3(4) IAC states where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory, and remedial actions.

During the initial inspection I discussed revisiting the facility in two weeks to provide time to clean up the spills etc. and re-inspect. Mr. Dave Wright was unwilling to provide a walk through on August 11, 2015, however we were able to meet with you and revisit the facility on September 17th.

During the follow-up visit you stated the following:

- Automobiles would no longer be crushed at the facility
- Radiators were not going to be removed
- You estimated that ½ of the tire pile would be removed in a month
- Remaining contaminated soil located under storage containers and tires would be removed and containerized with the other contaminated soil already removed by November 1, 2015.
- You would have the solid waste i.e. waste soil/debris stockpiled at the north of the property properly disposed of by October 1, 2016. (reference to solid waste rules provided in report)
- You only accept water heaters (in reference to white goods that were found in piles and being unloaded during the visit). Please see specific requirements for white goods in the report.

As we discussed a visit will be conducted following the November 1, 2015 deadline (see below) to review records for proper disposal of tires and stored automotive fluids as well as to conduct a site review to verify adequate clean-up of the remaining automotive fluid contamination adjacent to the automotive fluid drain rack. **You are to make every effort to ensure your business is of no threat to public safety and public or private property, particularly with your handling of volatile petroleum products.**

Please note that future violations will likely result in referral to the department's legal section for possible enforcement action.

If you have any questions with regard to my report, please contact me at 712/243-1934.

Sincerely,



Thad Nanfito  
Environmental Specialist  
Field Services & Compliance Bureau

Enclosure Inspection Report  
Photos ( 31 from inspection) (14 from follow-up)

TMN/STW/Atlantic072815.stw.recycling services gp1 inspection letter.nanfito

CC Joe Griffin, WW Section, IDNR, Des Moines, IA  
City of Atlantic, John Lund, City Administrator, 23 East 4<sup>th</sup> St., Atlantic, IA 50022  
Recycling Services STW File, Cass County, IA

**Suspense: Immediately- Adhere to provisions in permit and clean-up spills  
(567-131.2 and 567- 64.3(1)  
October 1, 2016- Removal of stockpiled waste soil/debris (567-100.4)**

IOWA DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL SERVICES DIVISION – Field Office #4

NPDES **General Permit #1** Inspection Report  
For Industrial Activities

Facility Name: Recycling Services NPDES No.: 10700-10498 Permit Issued: 10-1-04 Valid Through: 9-30-16	Owner: Recycling Services, 101 State St., Atlantic, IA 50022 Primary Contact: Jason Wright Phone Number: (712) 243-1194	Persons Interviewed: Jason Wright, Vice President, David Wright, Operations Manager
<b>Type of Inspection</b> <input checked="" type="checkbox"/> Routine Compliance Inspection <input type="checkbox"/> Follow-Up Compliance Inspection <input type="checkbox"/> Complaint Investigation <input type="checkbox"/> Site Visit	Inspection Date: 7-28-15 Inspection Time: 3:30 PM Previous Inspection: n/a Site Location: same as above	Inspection Weather: clear  Recent Rainfall: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Comments: ponding water observed

The following items are required to comply with Subrule 567 IAC 64.3(1): Refer to Storm Water General Permit #1

"C" means the requirement is "in compliance." "NC" means the requirement is "not in compliance." "NA" means that the requirement is "not applicable."

Part III.C. of General Permit #1	C	NC	NA
1. NOI is complete, PPP was completed prior to submittal of NOI, proof of public notice.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Plan is signed in accordance with Part VI.G and is retained on site	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The plan has been amended based on changes in design, construction, operation or maintenance or if PPP proved to be ineffective.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Pollution Prevention Plan includes the following:			
<b>A. Description of Potential Pollutant Sources</b>			
(1). Site map (drainage area, stormwater outfalls, existing structural controls, surface water bodies)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2). Narrative description of materials that have been treated, stored or disposed, in a manner to allow exposure to storm water during 3 years prior to discharge authorization, method and location of storage or disposal, and management practices to minimize contact with water.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3). List of releases which prompted the existence of a hazardous condition	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4). For each area of the plant with potential to contain pollutants, the direction of flow and type of pollutant present	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5). Summary of existing sampling data	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>B. Storm Water Management Controls</b>			
(1). Responsible person identified	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2). Risk identification and assessment / materials inventory: include an inventory of the types of materials handled, quantity of the chemical used, potential for contact with stormwater, history of "hazardous condition reporting" (including SARA Title III chemicals)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a) loading and unloading operations			
b) outdoor storage activities			
c) outdoor manufacturing or processing activities			
d) dust or particulate generating processes			
e) on-site waste disposal practices			
(3). Preventive maintenance	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4). Good housekeeping	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5). Spill prevention and response procedures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6). Storm water management	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(7). Sediment and erosion prevention	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(8). Employee training (including dates of periodic training)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(9). Record keeping and internal reporting procedures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(10). Non-storm discharges: certification of testing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>C. Visual Inspection: no less than once a year.</b>			
(1). Material handling areas and other areas identified in the PPP	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2). Based on results of inspection, plan must be revised within 2 weeks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3). Report summarizing inspection must be signed and retained for at least 3 years (included date, inspector, observations, action taken)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

"C" means the requirement is "in compliance." "NC" means the requirement is "not in compliance." "NA" means that the requirement is "not applicable."

Part III.C. of General Permit #1 Continued	C	NC	NA
D. Special Requirements for Storm Water Discharges Through Municipal Separated Storm Sewer Systems.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Consistency with Other Plans	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
F. Additional Requirements for Storm Water Discharges From Facilities Subject to SARA Title III Section 313 Requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
G. Salt Storage	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
H. Non-Storm Water Discharges	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Part IV. of General Permit #1			
Numeric Effluent Limitations:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Part V. of General Permit #1			
A. Failure to Certify: if certification was not provided under Part III.C.4(B)(10).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Monitoring Requirements: see general permit #1 for specific facilities that have specific monitoring requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Noncompliance Reporting	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
D. Reporting			
1. For permittees subject to <u>Numeric Effluent Limitations</u> , must submit signed copies of discharge monitoring results within 30 days after sampling occurred.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. All sampling results must be retained on site.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Additional Notification: if discharging through a municipal separate storm sewer system, signed monitoring results must be submitted to the operator of the municipal system when requested.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
E. Retention of Records: Storm water permit, monitoring records, copies of all reports required by the permit, and records of all data used to prepare the NOI must be retained on site for at least 3 years.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Please note: Blank items not classified in the compliance block section were not able to be determined during the inspection.

**COMMENTS:**

Potential discharge issues were described to Mr. Jason Wright including significant amounts of spilled fluids and large volumes of improperly stored fluids without proper containment. A copy of the Storm Water Pollution Prevention Plan (SWPPP) was received via email following the inspection and was reviewed. An updated plan had not been created since the initial draft was created for Recycling Services by the Iowa Waste Reduction Center in 2005. We discussed a variety of updates that would improve the intent of the plan. It should be noted that the plan will need significant changes following removal and repositioning of materials in the coming months. Information on entities that provide assistance were provided via email following the initial inspection. Iowa Waste Reduction Center is an excellent resource for assistance.

Record keeping in general was found to be inadequate. Most importantly the SWPPP was not available during the inspection, however it was provided to the field office following the inspection, and again on September 17, 2015, where some revisions were made. Mr. Wright verbally committed to amending practices to become compliant with General Permit #1. which includes adherence to record keeping requirements.

**Permit Compliance:**

**Part III.C.3, Amendments:** The SWPPP will need to be amended to meet the requirements in the permit following upcoming changes at the facility. Plan amendments will be discussed during the follow-up visit planned for November 2015.

**Part III.C.4.A(1-3): Description of potential pollutant sources:** An improved site map would be both helpful as a training aid and as reference for emergency response. Discharge points of the property were reviewed as they related to the current site map and did not adequately describe flow directions e.g. drainage cut directing water to the north. Improvements to make the site map compliant could include using aerial photo/satellite imagery with better defined flow directions following the rainy day inspection.

The SWPPP contained a description of "scrap metal" as potential pollutant source; however facility processes which would include details of various dismantling and subsequent storage outside were not adequately described.

**Part III.C.4.B(2), Storm Water Management Controls:** Actual site conditions observed during the inspection did not correspond to controls and practices prescribed in the SWPPP.

**Part III.C.4.B(4), Good Housekeeping:** Site conditions observed during the inspection did not relay "good housekeeping". Given the severity of spillage, subsurface contamination can not be ignored which includes contamination of groundwater. The need for an environmental assessment will be made following the November 2015 visit.

**Part III.C.4.B(5), Spill prevention & response procedures:** Mr. Wright stated that in the event of a spill or release staff would "use oil dry" or "dig up stained soil and put it in a car". **Multiple spills were observed and left unaddressed including areas where oil dry had been applied but was left; never being properly disposed of. Spill response may be as simple as applying oil dry, and later shoveling to remove it along with any impacted soil for many of these small releases. However, it would appear some fundamental changes are necessary in the vehicle processing area where quantities of fluids were observed spilled and left unaddressed. Upon the September 17, 2015 follow-up Mr. Wright stated that they are no longer processing cars at the facility.**

**Part III.C.4.B(8), Employee training:** It was unclear if employees are trained according to the guidelines as required in the permit. As discussed the descriptions of materials stored outside of the facility were not adequately described in the site map which would likely be the most important training tool.

**Part III.C.4.B(9), Record Keeping:** Information was provided during the inspection. However it was found to be incomplete or mis-represented for example the number of spills observed did not reflect adequate self monitoring and thus recording.

**Part III.C.4.C Visual inspections:** Visual inspections must describe potential contaminant sources. Critical self-examination is inherent in the general permit.

**Part III.C.H, Non-Storm water Discharge:** The possible discharges from improperly disposed materials by dumping (solid mixed material to the ground surface near the north portion of the facility and spilling onto City of Atlantic property) and comingling with stormwater currently has the potential to discharge where an area has been cut to drain the facility on the north edge to an undeveloped alley. The department recognizes that Recycling Services is working to remove this material; therefore a deadline for complete removal will be October 1, 2016, to allow sufficient time to properly dispose of the material.

**Other Non-stormwater related regulations:**

**567—100.4(455B) General conditions of solid waste disposal.** Except as provided otherwise in 567—Chapters 100 to 121, a private or public agency shall not dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director, or pursuant to a permit granted by the department which allows the disposal of solid waste on land owned or leased by the agency.

**567—117.4 (455B,455D) Waste tire storage permits and requirements.**

**117.4(1) Storage quantity limitations.**

a. No business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 117.4(2).

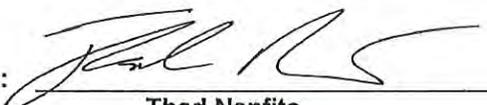
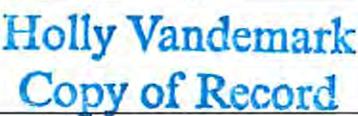
\*note that all tires at the facility would be calculated including large stockpile of salvage equipment tires

**567—118.3(455B,455D) Definitions.**

“Appliances” means household and commercial devices such as refrigerators, freezers, kitchen ranges, **air-conditioning units**, dehumidifiers, **gas water heaters**, furnaces, clothes washers, clothes dryers, dishwashers, microwave ovens and commercial coolers with components containing mercury, refrigerants, or PCB-containing capacitors.

**REQUIRED ACTION(S):**

- Comply with requirements specified in NPDES General Permit #1 as noted above
- Clean up all spilled material and report/address spills in a timely manner as required
- Properly dispose of all stockpiled solid waste (soil/debris mixture) by October 1, 2016.

Inspector Signature:  Thad Nanfito	Date: 10-1-15
Reviewer Signature:  Holly Vandemark	Date: 10-1-15



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

April 18, 2016

Jason and Dave Wright  
Recycling Services  
101 State Street  
Atlantic, IA 50022

SUBJECT: NPDES General Permit #1 Compliance and Complaint No. 21638 Follow-up visit  
IA Authorization #10700-10498

Dear Sirs:

On April 7, 2016, Jessica Montana, Field Office Supervisor and I visited the above noted site in order to confirm the state of operation. As was previously observed on January 27, 2016, the facility is no longer in operation and has removed all equipment and salvageable materials. During that visit Keith Wilken, Environmental Specialist Senior, and I conducted sampling (sampling diagram, photos and results enclosed) which confirmed petroleum contamination above statewide standard action levels (also attached). It should be noted that sampling was relegated to the stockpiled material on the north portion of the property.

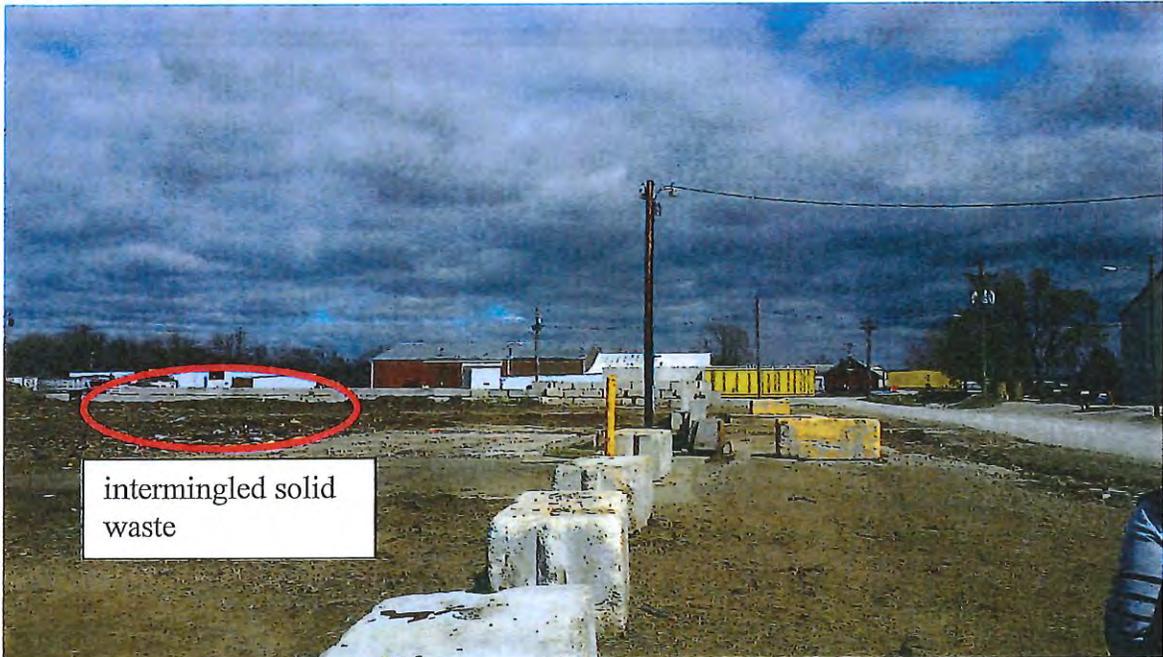
The material left following years of processing scrap contains smaller pieces of plastics, rubber, glass, wood (all considered solid waste by definition) and salvageable metal; however is primarily composed of soil (see photos on following page). The sample results describe intermittent soil contamination in the stockpiled material. It is presumed that given the normal course of the salvage business that many small spills were likely to have occurred across the property. A detailed assessment to find these spills would be difficult and furthermore to require additional sampling of the entire site likely moot in determining if more Petroleum Contaminated Soil (PCS) exists. Therefore, rather than trying to distinguish or segregate pockets of contamination, it can be deduced that similar areas of (PCS) exists throughout the site.

Please note the following with respect to proper solid waste disposal:

Section 455B.301, Code of Iowa defines "solid waste" as garbage, refuse, rubbish, and other similar discarded solid or semisolid materials. However, the section does not prohibit the use of dirt, stone, brick or similar inorganic material (rubble) for fill, landscaping, excavation or grading at places other than a sanitary disposal project.

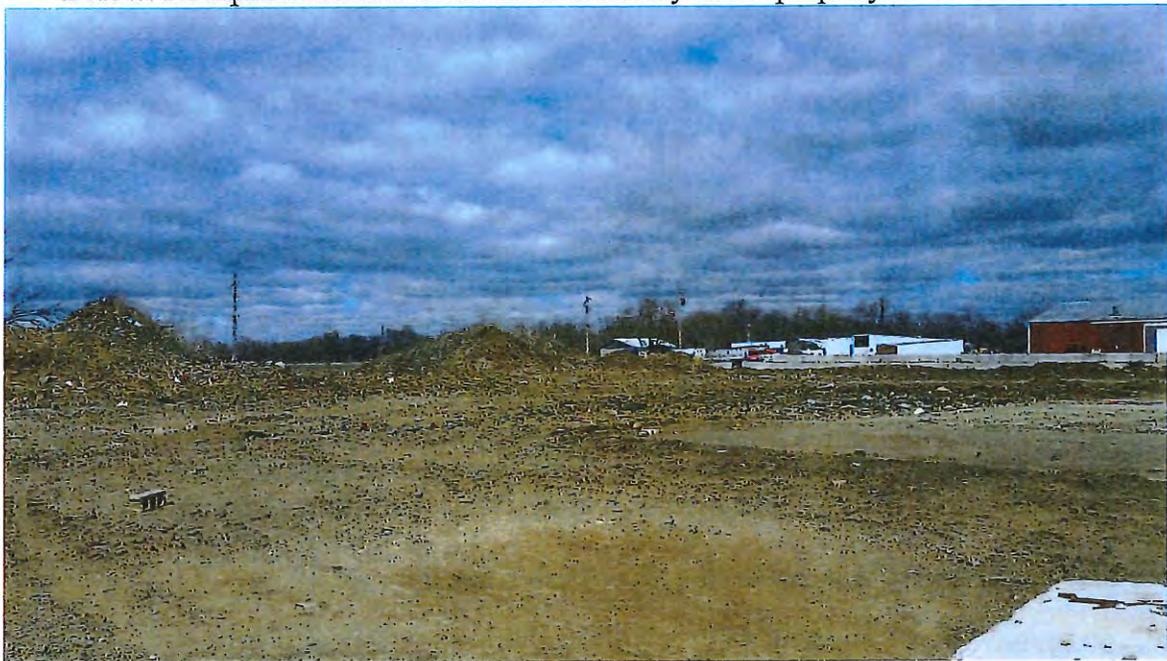
Subrule 567 IAC 100.2(455B) defines "rubble" as stone, brick, or similar inorganic material. This definition makes no allowance for disposing of wood, metal or other types of 'non-rubble' material at any place other than a sanitary disposal project approved by the director.

Section 455B.307, Code of Iowa and Rule 567 IAC 101.3(455B) 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.



Above: solid waste in working area

Below: stockpiled material at the north boundary of the property



Recycling Services has been required to remove and properly dispose of the stockpiled material by October 1, 2016. In an attempt to further assist the facility in achieving compliance, the field office is proposing another option which would both address the large stockpile waste soil as well as the large working area that would presumably contain PCS and also contains comingled solid waste as described above.

Recycling Services would be required to mechanically sift through the material, both in the stockpiles and the first ten inches of the soil for the entire site, and remove and properly dispose of solid waste at a sanitary landfill. The remedial activity would also have a required sequence:

the working portion of the site being addressed first, then subsequent solid waste removal of the stockpiles including ten inches of subgrade followed by even application of the stockpiles across the site.

Recycling Services would also be required to furnish proof of an affidavit explanatory of title filed with the Cass County Recorder and on the property deed, which describes that PCS was found on the property and that future development of the property must consider appropriate installation of utilities etc. Should the City of Atlantic not already require by ordinance that water wells cannot be installed within city limits then an environmental covenant prohibiting such installation would also be required. In addition, the affidavit must explain to prospective buyers that any activity e.g. excavation that encounters contamination would require proper disposal by the current owner and could thereby trigger a environmental impact assessment by Dave and/or Jason Wright d.b.a. Recycling Services LLC. However, it must be noted that the Department of Natural Resources reserves that right to require an assessment at any time based on the findings of the initial complaint investigation and sampling results.

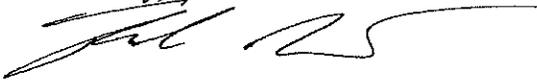
**Subrule 567-133.3(4) IAC states where a source or likely source of contamination is identified, the person or persons responsible for that source or sources shall conduct necessary preventative, investigatory, and remedial actions.**

If the aforementioned option is chosen a copy of affidavit must be submitted to the Atlantic Field Office by October 1, 2016.

In summary, failure to remove the solid waste/PCS stockpiles and properly disposing of them at a sanitary landfill or not submitting an "affidavit explanatory of title" including all of the required alternate actions described above by October 1, 2016, may result in possible enforcement action.

If you have any questions with regard to this letter or the information attached, please contact me at 712/243-1934.

Sincerely,



Thad Nanfito  
Environmental Specialist  
Field Services & Compliance Bureau

Enclosure sample results  
site diagram and photos from January 27, 2016  
statewide standards

TMN/STW/Atlantic040716.stw.recycling services follow up visit letter.nanfito

CC David Scott, IDNR Legal Section, Des Moines  
Joe Griffin, WW Section, IDNR, Des Moines, IA  
City of Atlantic, John Lund, City Administrator, 23 East 4<sup>th</sup> St., Atlantic, IA 50022  
Recycling Services STW File, Cass County, IA

**Suspense: October 1, 2016- Removal of waste soil/solid waste (567-100.4) or submission of affidavit explanatory of title including prescribed remedial actions**

January 27, 2016- Sampling diagram and photos(7) for Recycling Services, 101 State Street, Atlantic, IA 50022



The sample sites outlined in yellow had a strong petroleum odor.



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

November 10, 2016

David L. Wiederstein  
Otto, Lorence & Wiederstein, P.L.L.C.  
520 Chestnut St.  
Atlantic, IA 50022

SUBJECT: Ground Contamination and Contaminated Waste Material  
Recycling Services, 101 State Street, Atlantic, IA 50022

Dear Mr. Wiederstein:

On November 4, 2016, the Iowa Department of Natural Resources, Field Office 4 received an email response regarding previous correspondence to you on behalf of your aforementioned client. As we have discussed verbally, your client has made no attempt to perform clean-up activities and we had not received a request for an extension until we spoke in early October following the deadline. Please note that the timeframe you proposed via email of October 1, 2018, as an extension to the original deadline of October 1, 2016, is found to be too lengthy given what is known about the property with respect to contamination, and the practices of your client which caused this contamination.

While it is the intent of the Department to work with individuals to achieve compliance this office cannot reasonably justify a two year extension. Therefore, a revised deadline of June 1, 2017 is provided. Please reference previous correspondence dated April 7, 2016, for guidance which must be followed explicitly for any consideration not to refer this matter to IDNR Legal Services Section.

If you have any questions with regard to this letter or the information attached, please contact me at 712/243-1934.

Sincerely,

A handwritten signature in black ink, appearing to read "Thad Nanfito".

Thad Nanfito  
Environmental Specialist  
Field Services & Compliance Bureau

TMN/STW/Atlantic111016.stw.recycling services response letter.nanfito

CC David Scott, IDNR Legal Section, Des Moines  
Recycling Services STW File, Cass County, IA

**Suspense: June 1, 2017- Removal of waste soil/solid waste (567-100.4) or  
submission of affidavit explanatory of title including  
prescribed remedial actions**