

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

**CRAIG HANCOCK
dba Country Estates Mobile Home
Park;
Mills County, Iowa.**

**ADMINISTRATIVE
CONSENT ORDER**

**NO. 2007-SW- 03
NO. 2007-AQ- 09**

**TO: Craig Hancock
Owner
Country Estates Mobile Home Park
PO Box 833
Council Bluffs, IA 51502**

I. SUMMARY

This Administrative Consent Order (Order) is entered into between Craig Hancock and the Iowa Department of Natural Resources (Department) in order to resolve continuing violations at a mobile home park site in Mills County, Iowa.

The parties hereby agree that Craig Hancock shall:

- By September 1, 2007, remove and properly dispose of all mobile homes, junk automobiles, discarded appliances and other solid wastes and recyclable materials at his property located in Section 6, Township 73 N, Range 43 W, Mills County, Iowa. Asbestos testing and abatement must be performed prior to the disposal or demolition of any mobile home. A stipulated penalty shall be assessed for the failure to comply with the deadline established herein.
- By September 15, 2007, submit to Department Field Office #4 receipts verifying the proper disposal of all materials removed from the subject property; and
- At the time of execution of this Order, pay an administrative penalty in the amount of \$3,000.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Matt Rhodes
IDNR Field Office #4
1401 Sunnyside Lane
Atlantic, IA 50022
Ph: 712-262-4177

Payment of penalty to:

Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034

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II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.307(2) which authorizes the Director 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 adopted pursuant to that part; Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II, (air quality) and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Craig Hancock is the owner and operator of Country Estates Mobile Home Park, located in Section 6, Township 73 N, Range 43 W, Mills County, Iowa. The site contains at least 20 junk mobile homes, over 100 discarded appliances, junk automobiles, waste tires, and miscellaneous solid waste.

2. On March 4, 2005, the Department received a complaint alleging the illegal disposal of mobile homes and other solid wastes on the property of Craig Hancock. An inspection was conducted on March 15, 2005. A large number of abandoned mobile homes, junk automobiles, and discarded appliances were observed, along with miscellaneous solid wastes. A Notice of Violation was issued to Craig Hancock on March 23, 2005. The Notice informed Mr. Hancock of the applicable regulations and required him to submit a compliance plan by May 1, 2005.

3. On May 6, 2005, Environmental Specialist Matt Rhodes met with Mr. Hancock at the subject property. The parties discussed the actions needed to achieve compliance and agreed that a compliance plan would be submitted by June 15, 2005.

4. On June 22, 2005, the Department sent a letter to Mr. Hancock due to his failure to submit a compliance plan as previously agreed. The letter provided a new deadline of July 15, 2005 for the submission of the plan.

5. On July 21, 2005, the Department received a letter from Mr. Hancock. Mr. Hancock agreed to begin the clean-up of the property by October 15, 2005. The initiation date was stated to be due to the need to wait until surrounding crops were removed. Mr. Hancock agreed to provide receipts verifying proper disposal.

6. On August 1, 2005, the Department replied to the proposed clean-up plan with a request for additional detail. The Department further required the initiation of clean-up

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efforts by September 1, 2005. Mr. Hancock was requested to provide a list of the individuals or companies that would be handling the disposal of the various wastes located on Mr. Hancock's property.

7. On February 28, 2006, the Department received a complaint in regard to the continued existence and disposal of solid waste on the subject property.

8. On March 20, 2006, a Notice of Violation was issued to Craig Hancock.

9. On March 22, 2006 Craig Hancock contacted the Department by email. Mr. Hancock indicated that the clean-up was underway and records were being maintained.

10. On April 3, 2006, the Department received records indicating that Mr. Hancock had removed 16 discarded appliances and 3 junk automobiles.

11. On April 10, 2006, the Department issued a letter acknowledging the receipt of the receipts and indicating that insufficient progress was being made in light of the substantial volume of waste at the site.

12. On July 20, 2006, an inspection was conducted at the subject property. During the inspection, Mr. Hancock acknowledged that progress was not being made in regard to the clean-up of the property. It was observed that an additional mobile home had been disposed of in a wooded draw to the east of the mobile home park. Mr. Hancock acknowledged placing the mobile home in this location. Mr. Hancock further stated that he did not dispose of the solid waste on the south portion of the property.

13. On November 28, 2006, an inspection of the subject property was conducted. During the visit, the Department observed evidence of recent open burning and continued open dumping. It was noted that at least one additional mobile home had been improperly disposed of since the prior inspection. An inspection of the south portion of the property disclosed that some portion of the mobile homes and other solid waste had been disposed of since Mr. Hancock obtained ownership in 1996. It was further observed that the wastewater lagoon on the property appeared to be in a state of disrepair.

IV. CONCLUSIONS OF LAW

The Department and Craig Hancock agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC Chapters 100-121.

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2. Iowa Code section 455B.307(1) and 567 IAC 100.4 prohibit dumping or depositing or permitting dumping or depositing of any solid waste at any place other than a facility permitted by the Department, unless otherwise provided by rule. The above facts disclose violations of these provisions.

3. Iowa Code section 455B.133 provides that the Commission shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC Chapters 20-30 relating to air quality.

4. Rule 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). The materials burned in this case do not qualify for exemption or variance. The above facts disclose violation of this provision.

5. Pursuant to Iowa Code section 455B.133, 567 IAC 23.1(3) was established, which adopts by reference the federal regulations regarding asbestos removal. The United States Environmental Protection Agency has delegated to the State of Iowa the authority to implement and enforce the demolition and renovation portions of the federal National Emission Standards for Hazardous Air Pollutants.

6. Pursuant to 40 CFR 61.145(b), prior to the commencement of demolition or renovation of a regulated structure, the owner or operator of the demolition or renovation activity shall thoroughly inspect the affected facility for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material. The mobile homes located on the property may not be disposed of or demolished until the required inspections and testing are completed.

7. Pursuant to 40 CFR 61.145(b), the owner or operator of a demolition project shall provide the Department with notice of intent to demolish or renovate the regulated structure. Such notice must be provided prior to any on-site demolition of mobile homes.

V. ORDER

The Department orders and Craig Hancock hereby agrees to:

1. By October 1, 2007, remove and properly dispose of all mobile homes, junk automobiles, discarded appliances and other solid wastes and recyclable materials at his property located in Section 6, Township 73 N, Range 43 W, Mills County, Iowa. Asbestos testing and abatement must be performed prior to the disposal or demolition of any mobile home. The failure to comply with the deadline established by this provision shall result in the automatic assessment of a stipulated penalty in the amount of \$3,000 for each month, or part thereof, until compliance is achieved. This stipulated penalty

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shall be due and payable immediately upon the failure to complete the removal of all described solid wastes by October 1, 2007 and on the first day of each subsequent month until full compliance is attained.

2. By October 15, 2007, submit to Department Field Office #4 receipts verifying the proper disposal of all materials removed from the subject property; and

3. At the time of execution of this Order, pay an administrative penalty in the amount of \$3,000.

VI. PENALTY

1. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000 per day for solid waste violations. Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC Chapter 10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with a combination of immediate and stipulated penalties. The administrative penalty assessed by this Order is determined as follows:

a. Economic Benefit. Craig Hancock has achieved a substantial economic benefit from his illegal conduct. Costs avoided include testing costs, disposal fees, labor, and hauling costs. The open burning of solid waste has resulted in cost avoidance. The burning of solid waste typically reduces the volume of the waste by greater than 50%. There are approximately 5.74 acres of solid waste materials located on site. It costs approximately \$200 per home for disposal. Prior to disposal, each mobile home is subject to asbestos testing at a cost of approximately \$125 per home. Appliance disposal costs for 100 discarded appliances equal approximately \$1,500. Waste tire disposal costs are estimated at \$200 for the site. The total cost to dispose of all solid waste on the site is estimated to exceed \$18,000. When coupled with the benefits accrued through cost avoidance and delay, the Department believes that a penalty in excess of \$20,000 could be justified for the economic benefit achieved by Craig Hancock for the open dumping and open burning that have been documented on his property. In order to resolve this matter consensually and expedite the removal of the materials, the parties have agreed to the initial assessment of only \$1,000 for this factor. The stipulated penalties contained herein further incorporate the economic benefit realized by Craig Hancock.

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b. Gravity of the Violation. One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violation. The illegal open dumping of solid waste threatens the groundwater of the state. The improper storage of junk vehicles threatens the waters of the state due to pollutants normally contained within such vehicles. The illegal open dumping of waste tires poses a risk to human health and the environment. Waste tires stored outdoors provided breeding areas for mosquitoes and other pests. Open burning of solid waste releases toxic air emissions and can produce run-off that pollutes the surface and ground water of the state. Such open burning may violate ambient air standards. Mobile homes can contain friable asbestos. The improper disposal of asbestos poses a human health threat. Based on the above considerations and multiple days of violation, an initial penalty of \$1,000 is assessed for this factor. The stipulated penalties contained herein further incorporate the gravity of the violations committed by Craig Hancock.

c. Culpability. Craig Hancock has been informed of the applicable regulations and given the opportunity to achieve compliance without the necessity of an enforcement action or penalty. Mr. Hancock has promised to properly dispose of the solid waste but has made only minimal efforts. Mobile homes and appliances are types of wastes normally generated in the operation of a mobile home park and Mr. Hancock has a duty to properly dispose of these wastes. The continued open dumping and open burning of solid waste after being notified of the applicable prohibitions constitutes a willful disregard for Iowa Law. Based upon these factors and the multiple days of violation, an initial penalty of \$1,000 is assessed for this factor. The stipulated penalties contained herein further incorporate the culpability of Craig Hancock.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code sections 455B.138 and 455B.308 and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Craig Hancock. By signature to this Order, all rights to appeal this Order are waived.

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VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.146 and 455B.307. Compliance with provision "V. Order" of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order. The Department reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 27 day of
April, 2007



CRAIG HANCOCK
COUNTRY ESTATES MOBILE HOME PARK

Dated this 5th day of
April, 2007

Field Office #4; Jon Tack; V.I.C.; VII, C.1.