IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
DOUGLAS BLOOMQUIST; Webster County, Iowa.	NO. 2008-SW- 05 NO. 2008-AQ- 04

TO: **Douglas Bloomquist**
PO Box 451
1304 Webster St.
Gowrie, IA 50543

I. SUMMARY

This Administrative Consent Order (Order) is entered into between Douglas (Doug) Bloomquist and the Iowa Department of Natural Resources (Department) in order to resolve solid waste disposal and open burning violations. Pursuant to this Order, Douglas Bloomquist shall remove and properly dispose of all remaining solid waste and shall pay an administrative penalty in the amount of $5,000 pursuant to the payment schedule set forth herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:
Glenn Carper
IDNR Field Office #2
2300 15th St. S.W.
Mason City, IA 50401
Ph: 641-424-4073

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

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 Admin. Code

(IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Doug Bloomquist is the owner and operator of Lost Grove Produce and engages in construction work as Doug Bloomquist Construction (primarily roofing contracting) in addition to his produce business.

2. On March 1, 2002, the Department received a complaint from the Webster County Sanitarian which alleged that Doug Bloomquist was illegally open dumping and open burning construction and demolition (C & D) wastes at a site owned by Eleanor Bloomquist.

3. On March 19, 2002, the Department inspected the alleged dumpsite and confirmed that C & D waste was being illegally dumped and burned at this location. The dumpsite extended about 200 feet along both sides of an old railroad cut. Solid waste had been dumped down both sides of the cut from the top. There was evidence of several past fires. The solid waste observed on this date consisted primarily of asphalt shingles. There was also a considerable amount of house siding (both wood and aluminum) and insulation along with other miscellaneous solid waste. Several piles of asphalt shingles had been burned. Wire bead rings remaining from burned tires were observed in one area. Photographs were taken. During the investigation, Department personnel spoke with Wayne Bloomquist, brother of Doug, who confirmed that Doug occasionally hauled lumber from his business to the site and burned that waste.

4. On April 3, 2002, Doug Bloomquist returned a call to Environmental Specialist Glenn Carper. Doug Bloomquist confirmed that he had engaged in open dumping and open burning and agreed to remove the solid waste by October 31, 2002.

5. On April 3, 2002, a Notice of Violation was issued to Doug Bloomquist in regard to the illegal open dumping and open burning violations documented against him. The Notice confirmed the October 31, 2002 deadline for cleanup.

6. On June 30, 2003, Glenn Carper visited the subject site. Doug Bloomquist was at the site at the time of the visit. There appeared to be no change to the site and none of the solid waste had been removed. Photographs were taken. Doug Bloomquist indicated that he would start cleanup in August of 2003.

7. On October 24, 2003, Glenn Carper again visited the subject site. There appeared to be no change to the site and none of the solid waste had been removed. Photographs were taken. Mr. Carper spoke with Arnold Bloomquist, father of Doug Bloomquist. Arnold Bloomquist was informed that the cleanup of the site needed to start within the next few weeks or enforcement action would be necessary.

8. On October 27, 2003, Glenn Carper telephoned Doug Bloomquist. Doug Bloomquist was informed that he would be given 30 days to initiate cleanup.

9. On November 10, 2003, Doug Bloomquist contacted Department Field Office #2 and indicated that the cleanup would begin that week.

10. On November 17, 2003, Doug Bloomquist contacted Glenn Carper and indicated that cleanup had not begun.

11. On November 25, 2003, Doug Bloomquist contacted Glenn Carper and indicated that cleanup had not begun.

12. On December 1, 2003, Glenn Carper contacted Doug Bloomquist. Doug Bloomquist indicated that the cleanup had not been initiated.

13. On December 8, 2003, Glenn Carper contacted Doug Bloomquist. Doug Bloomquist indicated that the clean up had not been initiated.

14. On December 15, 2003, Glenn Carper visited the subject property. There appeared to be no change to the site and none of the solid waste had been removed. Photographs were taken. Mr. Bloomquist was contacted on December 17, 2003 and he indicated that he would begin removing the solid waste. On December 18, 2003, Matt Nordin, a neighbor of Doug Bloomquist and a contractor, contacted Glenn Carper and indicated that he would begin removing the solid waste for Doug Bloomquist within the next week.

15. On January 21, 2004, Doug Bloomquist contacted Glenn Carper and indicted that cleanup had not begun.

16. On February 19, 2004, Doug Bloomquist returned a telephone call from Glenn Carper and indicted that cleanup had not begun.

17. On April 12, 2004, Shirley Erb called Glenn Carper and indicated that Doug Bloomquist had been injured. Ms. Erb indicated that she would try and arrange for a person other than Matt Nordin to conduct the cleanup.

18. On April 26, 2004. Glenn Carper telephoned Doug Bloomquist. Mr. Bloomquist indicated that they would try to arrange for someone to begin the cleanup.

19. On May 7, 2004, Doug Bloomquist contacted the Department and indicated that he would personally begin the cleanup of the solid waste on the property within the week.

20. On June 3, 2004, Doug Bloomquist contacted the Department and indicated that he was still working on getting a dumpster delivered to the subject site.

21. On July 16, 2004, Doug Bloomquist contacted Glenn Carper and indicated that Matt Nordin had removed one load of solid waste and that Mr. Bloomquist was working on getting a dumpster delivered to the subject site.

22. On October 7, 2004, Glenn Carper visited the subject site. A dumpster loaded with solid waste was observed at the east end of the site. There was evidence of skid loader activity throughout the site and a substantial amount of solid waste had been removed. The majority of the solid waste remained on site but significant progress had been made. Photographs were taken. Glenn Carper attempted to telephone Doug Bloomquist and spoke with Shirley Erb. Landfill receipts were requested from Ms. Erb.

23. On October 22nd and November 18th, 2004, Glenn Carper discussed the progress of the cleanup with Ms. Erb and requested receipts verifying clean up.

24. On November 22, 2004, Department Field Office #2 received a billing record from Doug Bloomquist showing that Blair Sanitation had removed two 20-yard roll-off containers from the subject site.

25. On February 8, 2005, Glenn Carper left a telephone message for Doug Bloomquist indicating that the cleanup of the site must resume as spring weather allowed.

26. On March 2, 2005, Glenn Carper visited the site. There had been no change since the visit on October 7, 2004. No additional solid waste had been removed. Photographs were taken.

27. October 4, 2005, Glenn Carper visited the site. There had been no change since the visit on March 2, 2005. No additional solid waste had been removed. Photographs were taken. Mr. Carper spoke with Doug Bloomquist on this date. Mr. Bloomquist indicated that cleanup would resume after the fall harvest.

28. On November 22, 2005, Glenn Carper visited the site. There were signs of activity at the site. An old building had been demolished and removed. Trees had been knocked over and piled. No additional solid waste had been removed. Photographs were taken. Mr. Carper spoke with Mr. Bloomquist at the site. Mr. Bloomquist indicated that he was waiting on the funds necessary to remove the remaining solid waste.

29. On December 13, 2006, Glenn Carper visited the site. No additional solid waste had been removed since November 22, 2005. However, two new piles of roofing debris, including asphalt shingles, had been illegally dumped at the site. Photographs were taken. Doug Bloomquist returned a call from Glenn Carper on December 18, 2006. Mr. Bloomquist indicated that he was temporarily storing the roofing debris at the site and would clean it up when the site was cleaned up. Mr. Bloomquist indicated that all of the solid waste would be removed in the next few days.

30. On January 18, 2007, Doug Bloomquist returned a call from Glenn Carper. Mr. Bloomquist indicated that one load of solid waste had been removed from the site but that the cleanup was not finished.

31. On January 26, 2007, Glenn Carper visited the subject site. On that date, Mr. Carper observed that the C & D waste which had been discovered on December 13, 2006 had been illegally burned. None of the older waste had been removed. Photographs were taken. A Notice of Violation was issued on January 30, 2007.

IV. CONCLUSIONS OF LAW

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.

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.

V. ORDER

The Department orders and Doug Bloomquist agrees to the following:

1. By July 1, 2007, Doug Bloomquist shall remove any and all solid waste from the property described in this Order. Receipts verifying proper disposal shall be submitted to the Department within seven days of disposal; and

2. Doug Bloomquist agrees to pay an administrative penalty in the amount of $5,000. $1,000 shall be paid by September 1, 2007 and by the first day of each month thereafter until the penalty is paid in full. The full administrative penalty of $5,000 shall be paid in full on or before January 1, 2008.

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 penalty. The administrative penalty assessed by this Order is determined as follows:

a. Economic Benefit. Doug Bloomquist has achieved an economic benefit from its illegal conduct. Costs avoided include 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%. The cost savings realized in this case was reduced due to the subsequent removal and proper disposal of the remaining waste. Based upon these facts and in order to resolve this matter consensually, $500 is assessed for this factor.

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. 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. Based on the above considerations, $1,500 is assessed for this factor.

c. Culpability. Doug Bloomquist is engaged in the construction business, specifically roofing. The generation of C & D wastes, including asphalt shingles, is a routine part of the operation of this business. Doug Bloomquist has a duty to be aware of the applicable prohibitions against open burning of solid waste. In this case, Doug Bloomquist has been given an extreme length of time to achieve compliance. The violations were first documented over five years prior to the issuance of this Order. The initial deadline for completion of the cleanup was agreed upon by the parties as October 31, 2002. Mr. Bloomquist has not only missed the initial deadline by over 4 ½ years, he has recently engaged in additional burning of C & D wastes. These actions are evidence of the willful nature of these violations and a disregard for the regulation governing the

proper handling and disposal of trade wastes. There are multiple days of violation, each of which could be assessed at $5,000 per day for open dumping violations and $10,000 per day for open burning violations. Based upon these factors and the desire to resolve this matter consensually, $3,000 is assessed for this factor.

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 Doug Bloomquist. By signature to this Order, all rights to appeal this Order are waived.

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.

RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 13 day of March, 2008

DOUGLAS BLOOMQUIST

Dated this 29 day of August, 2007

Field Office #2; Jon Tack; VII, C.1.