

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p><b>IOWA ACQUISITIONS, LLC</b></p> <p>Floyd County, Iowa</p>	<p style="text-align:center">ADMINISTRATIVE ORDER</p> <p style="text-align:center">NO. 2009-SW- 13</p>
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TO: John Holtz  
Iowa Acquisitions, LLC  
9588 East Pinnacle Peak Road  
Scottsdale, AZ 85255

**I. SUMMARY**

This administrative order (Order ) is issued to Iowa Acquisitions, LLC (Iowa Acquisitions) for the purpose of resolving an issue pertaining to improper solid waste disposal.

Questions regarding this Order should be directed to:

**Relating to technical requirements:**

Michelle Johnson, Field Office 2  
Iowa Department of Natural Resources  
2300 15<sup>th</sup> Street NW  
Mason City, Iowa 50402-1443  
Phone 641-424-4073

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**Relating to legal requirements:**

Jon Tack, Attorney for the DNR  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319  
Phone: 515-281-5145

**II. JURISDICTION**

This Order is issued pursuant to the provisions of Iowa Code section 455B.307 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; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the director to assess administrative penalties.

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**III. STATEMENT OF FACTS**

1. Iowa Acquisitions is the deed holder of a 2.38 acre tract of land in the SW ¼ of the SE ¼ Section 32, Rockford Township (T96N R18W), Floyd County, Iowa (the site). Iowa Acquisitions is based out of Arizona.

2. On March 27, 2007, Michelle Johnson, environmental specialist for Department Field Office # 2, observed illegal disposal of solid waste while conducting routine inspections. Ms. Johnson observed material including wood waste, metal waste, tires, appliances, and other miscellaneous refuse. Access to the site was not restricted by means of fencing or signage. Ms. Johnson obtained the current deed holder information through the Floyd County Assessor.

3. On April 4, 2007, Iowa Acquisitions was issued a Notice of Violation letter requiring compliance with solid waste regulations by June 30, 2007. The letter was signed for on April 13, 2007 by John Holtz.

4. On August 6, 2007, Ms. Johnson conducted a follow-up inspection to determine compliance. During this inspection, it appeared that no solid waste had been removed and additional waste had been deposited.

5. On August 31, 2007, a letter was sent to the facility regarding Ms. Johnson's August 6, 2007 follow-up inspection. The letter informed the addressee the matter was being referred for further enforcement due to the facility's neglect to attain compliance.

6. On October 1, 2007, Ms. Johnson returned a phone call from Mr. Holtz. Ms. Johnson provided Mr. Holtz the Floyd County Assessor's telephone number so he could obtain more information about the site. Ms. Johnson deferred the referral for further enforcement in a good faith effort to get the site cleaned up.

7. On October 15, 2007, Ms. Johnson left Mr. Holtz a phone message to inquire about his progress. Ms. Johnson's call was not returned.

8. On October 19, 2007, Ms. Johnson reached Mr. Holtz by phone. Mr. Holtz requested some contact information to get the site cleaned up.

9. On November 14, 2007, Ms. Johnson gave Mr. Holtz a final deadline of December 1, 2007 to complete cleanup. Ms. Johnson informed Mr. Holtz that failure to meet the deadline would result in the matter being referred for further enforcement action which would include a monetary penalty.

10. On May 5, 2008, Ms. Johnson visited the site and observed that no progress had been made and waste was deposited in standing water. The deed holder information remained unchanged as confirmed by the Floyd County Assessor.

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11. As of August 25, 2009, Iowa Acquisitions has failed to correct the violations or clean up the site.

**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 567 IAC chapter 100.

2. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit a private or public agency from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director. The above facts demonstrate a violation of this provision.

**V. ORDER**

THEREFORE, the Department orders Iowa Acquisitions to do the following:

1. Pay a penalty of \$5,000 no later than 60 days after execution of this Order; and
2. Ensure that all solid waste at the site is properly disposed of in accordance with the solid waste rules and submit the landfill receipts to the Department by December 31, 2009.

**VI. PENALTY**

1. Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the solid waste disposal violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with an administrative penalty of \$5,000. The administrative penalty is determined as follows:

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Economic Benefit – Iowa Acquisitions saved time, labor, and landfill costs by not properly removing, transporting, and disposing of the solid wastes from the site. Therefore, \$1,500 is assessed for this factor.

Gravity – The waste is disposed in a low-lying, non-tillable area adjacent to railroad property. Moreover, Ms. Johnson observed waste in contact with standing water. Open dumping impacts the environment, the character of the neighborhoods, and the quality of life of local residents. The solid waste disposal violations threaten the integrity of the environmental regulations. Therefore, \$2,500 is assessed for this factor.

Culpability – Iowa Acquisitions was given multiple chances and multiple years to attain compliance with solid waste disposal regulations. However, Iowa Acquisitions has failed to take any actions to correct the violation. The culpability assessment is mitigated by the fact that Iowa Acquisitions has not been shown to have deposited or directed the deposit of solid waste on the site. However, Iowa Acquisitions has failed to take any action to prevent the further dumping of solid waste on this site. Therefore, \$1,000 is assessed for this factor.

**VII. APPEAL RIGHTS**

Pursuant to Iowa Code section 455B.308 and 561 IAC 7.5(1), as adopted by reference at 567 IAC 7.1, a written Notice of Appeal to the Commission may be filed within 30 days of issuance of this Order. The Notice of Appeal should be filed with the director of the Department, and must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal.

**VIII. NONCOMPLIANCE**

Failure to comply with this Order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.307. 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.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 31 day of  
August, 2009.

Field Office #2; Jon Tack; V.L.C.