

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:

**Ramona Gronbach, Larry Allen
Gronbach, and Thomas Edward
Gronbach, Jr.**

**ADMINISTRATIVE ORDER
NO. 2009-AQ- 14
NO. 2009-SW- 09**

TO: Ramona Gronbach
812 S. Moore Street
Algona, Iowa 50511-3340

Ramona Gronbach
827 North Park Street
Fairmont, Minnesota 56031

Larry Allen Gronbach
713 East 2nd Street
Fairmont, Minnesota

Thomas Edward Gronbach, Jr.
827 North Park Street
Fairmont, Minnesota 56031

I. SUMMARY

This order requires you to remove and properly dispose of all solid waste located at the site described below in this order, and to pay a penalty of \$3,000.00 subject to your appeal rights stated in this order.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Jeremy Klatt
Iowa Department of Natural Resources
Field Office No. 2
2300 15th Street SW
Mason City, Iowa 50401
Phone: 515/725-0628

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322 Phone:
515/281-6243

Payment of penalty to:

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

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II. JURISDICTION

This order is issued pursuant to the provisions 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) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. On October 2, 2007, DNR Field Office No. 2 received an anonymous complaint stating that the Tom Gronbach house located at approximately 112 East Street in Irvington, Iowa, had burned in 2006 and that Tom Gronbach had been dumping solid waste into the open basement. The complainant also stated that several chicken coops on the property were filled with solid waste. Finally, the complainant stated that the property was owned by Tom Gronbach's mother, Ramona Gronbach, and that she lived in Minnesota with her other son, Larry Gronbach.

2. The local address of the site is 104 East Street, in Irvington, Iowa. The site is owned by Ramona Gronbach. Tom Gronbach and Larry Gronbach are her sons.

3. On October 3, 2007, Jeremy Klatt of DNR Field Office No. 2 visited the site and took pictures documenting the open dumping. Mr. Klatt observed several appliances, furniture, bed mattresses, garbage and other miscellaneous solid waste at the site. Mr. Klatt was not able to contact Tom Gronbach, but he did contact Larry Gronbach on October 5, 2007. Larry stated that he believed his brother, Tom, allowed solid waste disposal on the property. He requested that the cleanup deadline be March or April 2008. Mr. Klatt stated that cleanup should occur before March or April. Later on October 5, Larry Gronbach called Mr. Klatt and stated that he had contacted Reding Sand and Gravel for an estimate on cleanup costs.

4. An October 11, 2007, Notice of Violation letter sent to Larry Gronbach required that the site be cleaned up and that receipts documenting proper disposal of the waste at the site be submitted to Field Office No. 2 by January 1, 2008.

5. On October 22, 2007, Ramona Gronbach called Mr. Klatt. Mr. Klatt explained to her that it is illegal to dump and burn solid waste. Ramona Gronbach stated that her son, Tom Gronbach, lived with her in Minnesota.

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6. On October 23, 2007, Tom Gronbach called DNR Field Office No. 2. Mr. Gronbach told Mr. Klatt that he was planning to clean up the site. Mr. Klatt informed Mr. Gronbach that a separate Notice of Violation letter would be sent to him, specifying the cleanup requirements contained in the Notice of Violation letter previously sent to his brother, Larry Gronbach. An October 23, 2007, Notice of Violation letter was sent to Tom Gronbach, stating that the cleanup and disposal receipt submission deadline for the site was January 1, 2008.

7. On January 7, 2008, Mr. Klatt called Romana Gronbach and asked about cleanup progress. Romana Gronbach stated that cleanup had not occurred. She asked for an extension of the deadline. A January 8, 2008, Notice of Violation letter was sent to Romana Gronbach, extending the cleanup deadline to June 15, 2008.

8. On April 9, 2008, DNR Field Office No. 2 received a complaint that the Gronbach family had hauled in several additional pickup loads of garbage and dumped it at the site on top of the existing pile of garbage. On April 24, 2008, Mr. Klatt visited the site and found that additional solid waste had been dumped at the site. On April 29, Mr. Klatt called Larry Gronbach and informed him that more open dumping had occurred at the site. Larry Gronbach stated that he planned to work on cleaning up the site in the next few weeks.

9. On June 3, 2008, Mr. Klatt visited the site and observed that open burning of solid waste had occurred at the site. Neighbors at the site informed Mr. Klatt that the burning had occurred on a weekend in mid-May because the burn pile was smoldering when they came to work on Monday.

10. Mr. Klatt attempted to contact Romana Gronbach and Tom Gronbach, but the phone number he had for them was disconnected. Mr. Klatt contacted Larry Gronbach, who stated that he did not know who started the fire. Larry Gronbach also stated that his mother's phone number was disconnected because she was moving back to Algona, Iowa. Larry Gronbach also stated that he had removed one load of appliances from the site and hauled them to someone located in Minnesota. He did not know that name of the person who received the appliances from him. Mr. Klatt reminded Larry Gronbach to obtain receipts for all the waste he hauled. A June 4, 2008, Notice of Violation letter was sent to Romana Gronbach at her Minnesota address.

11. On July 1, 2008, Larry Gronbach called Mr. Klatt and stated that ex-friends of his brother, Tom, were open dumping at the site. The names of the alleged open dumpers were Brian and Angie Anderson. On July 22, 2008, Mr. Klatt visited the site and documented that cleanup had not been completed. Mr. Klatt spoke with a neighbor, who stated that a truck blocking the drive to the property had

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been moved out of the way to facilitate dumping on one weekend in June. Mr. Klatt observed that additional solid waste had been dumped at the site.

12. On August 1, 2008, Mr. Klatt and Clay Swanson, also of DNR Field Office No. 2, visited the site and observed that cleanup had not occurred. Mr. Klatt and Mr. Swanson also visited the residence of Brian Anderson, and Mr. Klatt explained to Mr. Anderson that open dumping of solid waste is illegal. Mr. Anderson stated that that last time he was in Irvington, he visited the site at the request of Tom Gronbach, who asked that he help oversee a controlled burn of some solid waste located on the property. That visit was in 2007.

13. On November 4, 2008, Mr. Klatt visited the site and the status of cleanup appeared to the same as when he had last visited the site on August 1, 2008.

14. On December 8, 2008, Mr. Klatt visited the site and observed that two appliances and a bed mattress had been dumped at the site since his November 4 visit.

15. Administrative Order No. 2008-AQ-55; 2008-SW-44 was issued on December 18, 2008, ordering Romana Gronbach, Larry Allen Gronbach, and Thomas Edward Gronbach, Jr., to immediately remove and properly dispose of all solid waste located at the site and to pay a penalty of \$3000.00 within 60 days of the date of the order. Following negotiations with the Gronbach family, Administrative Order No. 2008-AQ-55; 2008-SW-44 will be rescinded by DNR and this order is issued in its place.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-34 relating to air quality.

2. 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 above facts demonstrate violations of this provision.

3. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123.

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4. 567 IAC 100.4 prohibits 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 non-compliance with this provision.

V. ORDER

THEREFORE, DNR orders Ramona Gronbach, Larry Allen Gronbach, and Thomas Edward Gronbach, Jr., to do the following:

1. Immediately halt improper illegal open dumping and open burning of waste materials at any location in the State of Iowa and specifically at the site located at 104 East Street, in Irvington, Iowa, (the site) and comply in the future with all state and local requirements regarding the proper disposal of solid waste and the prohibition against illegal open burning;

2. By no later than August 1, 2009, remove all solid waste from the site, and provide DNR Field Office No. 2 with landfill or recycling receipts as proof of proper disposal;

3. Monitor the site and remove solid waste at least every two months; and

4. Pay a penalty of \$3,000.00 (three thousand dollars). The penalty shall be paid pursuant to the following payment plan:

\$125.00 due June 1, 2009	\$125.00 due June 1, 2010
\$125.00 due July 1, 2009	\$125.00 due July 1, 2010
\$125.00 due August 1, 2009	\$125.00 due August 1, 2010
\$125.00 due September 1, 2009	\$125.00 due September 1, 2010
\$125.00 due October 1, 2009	\$125.00 due October 1, 2010
\$125.00 due November 1, 2009	\$125.00 due November 1, 2010
\$125.00 due December 1, 2009	\$125.00 due December 1, 2010
\$125.00 due January 1, 2010	\$125.00 due January 1, 2011
\$125.00 due February 1, 2010	\$125.00 due February 1, 2011
\$125.00 due March 1, 2010	\$125.00 due March 1, 2011
\$125.00 due April 1, 2010	\$125.00 due April 1, 2011
\$125.00 due May 1, 2010	\$125.00 due May 1, 2011

Payments shall be made to DNR at the following address:
Director of the Iowa DNR

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Des Moines, Iowa 50319-0034

5. Administrative Order No. 2008-AQ-55; 2008-SW-44, issued on December 18, 2008, is rescinded, and this order is issued in its place.

VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$3,000.00 is assessed. The penalty shall be paid according to the penalty payment chart set out above. The administrative penalty is determined as follows:

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 Iowa Code section 455B.146A. Iowa Code section 455B.307(3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the solid waste disposal violations involved in this matter.

Iowa Code section 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 and criteria for assessment of penalties at 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Ramona Gronbach, Larry Allen Gronbach, and Thomas Edward Gronbach, Jr., have achieved an economic benefit from open burning and improper waste disposal. They have saved time, labor, and landfill costs by not timely and properly removing, transporting and disposing of the solid wastes from the site. Proper disposal of the solid wastes dumped and burned at the site would have required payment of landfill tipping fees and transportation costs. Based on these considerations, \$500.00 is assessed for this factor.

Gravity of the Violation – The burning of solid wastes releases hazardous air pollutants, particulate matter, and other pollutants. These air pollutants pose a health risk to persons breathing, particularly persons with pre-existing respiratory problems. Further, the pollutants resulting from open burning may pollute groundwater, and pose a risk to both human health and the environment. The violation threatens the integrity of the regulatory program because compliance with the open burning regulations is required of all persons in this state. Compliance with

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proper solid waste disposal practices is expected of all persons in the state. Improper disposal of solid waste creates nuisance conditions for surrounding property owners and the potential contamination of soil and groundwater. Based on the above considerations, \$500.00 is assessed for this factor.

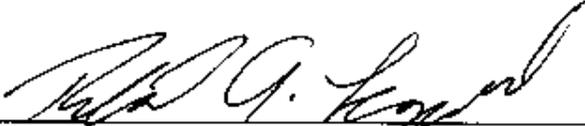
Culpability – Ramona Gronbach, Larry Allen Gronbach, and Thomas Edward Gronbach, Jr., have a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that their conduct is subject to DNR's rules. Further, Ramona Gronbach, Larry Allen Gronbach, and Thomas Edward Gronbach, Jr., specifically have been informed of the DNR's rules regarding open dumping and open burning numerous times in the past. Therefore, \$2,000.00 is assessed for this factor.

VII. APPEAL RIGHTS

Pursuant to Iowa Code sections 455B.138 and 455B.308 and 567 IAC 7.5(1), a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of DNR 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. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

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 sections 455B.146 and 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.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 26 day of
May, 2009.

Kossuth County Air Quality file; Anne Preziosi; DNR Field Office 2; VII.C.2