

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

<p>IN THE MATTER OF:</p> <p><b>DENNIS GOODRICH</b> <b>Hamilton County, Iowa</b></p>	<p style="text-align:center">ADMINISTRATIVE CONSENT ORDER</p> <p style="text-align:right">NO. 2009-AQ- <b>37</b> NO. 2009-SW- <b>25</b></p>
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TO: Dennis Goodrich  
1203 Walnut Street  
Webster City, Iowa 50595

**I. SUMMARY**

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Dennis Goodrich for the purpose of resolving the air quality and solid waste disposal violations which occurred at Mr. Goodrich's property located at 2950 Fenton Avenue, Stratford, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this administrative consent 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 S.W.  
Mason City, Iowa 50401  
Phone: 641/424-4073

**Relating to legal requirements:**

Kelli Book, Attorney for the DNR  
Iowa Department of Natural Resources  
7900 Hickman Road, Suite 1  
Urbandale, Iowa 50322  
Phone: 515/281-8563

**Payment of penalty to:**

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

**II. JURISDICTION**

Pursuant to the provisions of 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; 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; and Iowa Code section 455B.109 and 567 Iowa Administrative Code

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(IAC) chapter 10, which authorize the Director to assess administrative penalties, DNR has jurisdiction to issue this administrative consent order.

**III. STATEMENT OF FACTS**

1. Mr. Goodrich owns a piece of property located at 2950 Fenton Avenue, Stratford, Iowa in Hamilton County. The property comprises 1.730 acres and there is an abandoned house on the property. A creek flows along the east side of the property.

2. On April 5, 2006, Michelle Johnson, DNR Field Office 2 environmental specialist, drove by Mr. Goodrich's property and observed evidence of prohibited disposal of solid waste and prohibited open burning. She noted solid waste including appliances, tires, shingles, trash, and metal south of the house. There was a large burn pile in the middle of the solid waste. Ms. Johnson also noted a large pile of trash, including bags of trash and loose tin cans, mattress springs, air conditioners, and two 55-gallon burn barrels east of the house. It appeared that waste was being brought to the property for disposal. Ms. Johnson observed a perimeter fence around a portion of the property. But there were no secured gates during Ms. Johnson's visit. On April 12, 2006, a Notice of Violation letter was sent to Mr. Goodrich explaining the solid waste and open burning violations observed by Ms. Johnson. The letter required that Mr. Goodrich stop the improper disposal of solid waste and open burning, secure the property, properly dispose of the solid waste at the property, and retain the disposal receipts. These requirements were to be completed by June 30, 2006. The deadline was later extended to August 31, 2006, at Mr. Goodrich's request. The deadline was extended under the condition that Mr. Goodrich progress on the cleanup throughout the summer.

3. On September 27, 2006, Ms. Johnson returned to Mr. Goodrich's property to check the status of the cleanup project. The piles of ash had been removed, but the solid waste including tires, appliances, shingles, and metal had not been removed. The site had not been secured. On October 19, 2006, DNR Field Office 2 sent Mr. Goodrich a letter requesting a written response within 10 days of how Mr. Goodrich would comply with the requirements in the April 2006 Notice of Violation letter. Mr. Goodrich was given until December 31, 2006 to comply with the requirements. The letter informed Mr. Goodrich if the cleanup was not completed by December 31, 2006, the matter would be referred for further enforcement.

4. On January 11, 2007, Clay Swanson, DNR Field Office 2 environmental specialist senior, visited Mr. Goodrich's property. There had been no clean-up since Ms. Johnson's last visit. Mr. Swanson observed piles of solid waste, six junk vehicles, and at least 44 waste tires. There were also at least three appliances on the property. Mr. Swanson observed three burn barrels east of the house full of ash, cans, and other debris. He also observed solid waste in the creek bottom. On January 24, 2007, DNR Field Office 2 sent Mr. Goodrich a letter outlining the history and current status of the property. Mr. Goodrich was given until May 1, 2007 to stop open burning and remove solid waste from the property.

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5. On June 27, 2007, Ms. Johnson attempted to contact Mr. Goodrich and did not receive a returned phone call. On June 28, 2007, DNR Field Office 2 sent Mr. Goodrich a letter explaining that there had been several visits to the property with no progress on the cleanup. The letter informed Mr. Goodrich that the matter would be referred for further enforcement if the property was not cleaned up by July 31, 2007. On July 11, 2007, Mr. Goodrich telephoned Ms. Johnson and informed her that he was having financial problems and was unaware of the amount of solid waste on the property. Ms. Johnson explained that the DNR had been working with Mr. Goodrich, but had not seen progress. She informed him she would visit the property at a later date.

6. On August 30, 2007, Ms. Johnson visited Mr. Goodrich's property and noted that some of the tires and metal waste had been organized into piles. On September 20, 2007, Ms. Johnson spoke to Mr. Goodrich on the telephone. He stated that he had only been able to remove one load of debris from the property and that he was talking to a person about having the cars removed. Ms. Johnson explained that the DNR had been working with Mr. Goodrich and in order to keep working with him, the DNR would need to see progress and to be kept informed of the progress. Mr. Goodrich stated he understood and would keep Ms. Johnson informed.

7. On April 9, 2009, Ms. Johnson returned to Mr. Goodrich's property to determine if the solid waste had been removed. Ms. Johnson noted that three vehicles remained on site and none of the other solid waste had been removed. Ms. Johnson attempted to visit Mr. Goodrich at his residence in Webster City, but he was not home at the time. Ms. Johnson observed three batteries outside of the residence without proper protection.

8. On April 28, 2009, DNR Field Office 2 sent Mr. Goodrich a letter stating that since the solid waste had not been removed as required, the matter was being referred for further enforcement. Since the issuance of the letter, Mr. Goodrich has been working to clean up the property.

#### 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 20-35 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). On several visits to Mr. Goodrich's property, DNR Field Office 2 observed burn barrels at the property containing solid waste that had been burned. The above facts demonstrate noncompliance with this provision.

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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 such rules at 567 IAC chapters 100-123.

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. Since 2006, solid waste, including but not limited to tires, cars, metal, and appliances have been disposed of at Mr. Goodrich's property. The above facts demonstrate noncompliance with this provision.

**V. ORDER**

THEREFORE, it is hereby ordered and Mr. Goodrich agrees to do the following:

1. Mr. Goodrich shall remove all remaining solid waste at his property located at 2950 Fenton Avenue, Stratford, Iowa and properly dispose of it at a landfill by January 1, 2010;
2. Mr. Goodrich shall notify DNR Field Office 2 when the cleanup has been completed and shall submit the landfill receipts to DNR Field Office 2 within 10 days of the material being taken to the landfill;
3. Mr. Goodrich shall secure his property located at 2950 Fenton Avenue, Stratford, Iowa with locked gates within 90 days of the date the Director signs this administrative consent order;
4. Mr. Goodrich shall dispose of all solid waste in the future at a permitted landfill;
5. Mr. Goodrich shall cease all prohibited open burning; and
6. Mr. Goodrich shall pay a penalty of \$500.00 in accordance with the following payment plan:

\$50.00 due January 1, 2010;	\$50.00 due June 1, 2010;
\$50.00 due February 1, 2010;	\$50.00 due July 1, 2010;
\$50.00 due March 1, 2010;	\$50.00 due August 1, 2010;
\$50.00 due April 1, 2010;	\$50.00 due September 1, 2010;
\$50.00 due May 1, 2010;	\$50.00 due October 1, 2010.

If any of the payments are not made in accordance with the payment plan, the remainder of the penalty shall be due immediately.

**VI. PENALTY**

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to

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\$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. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste 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 through 567 IAC chapter 10. Pursuant to this rule, the DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a \$500.00 penalty. The administrative penalty is determined as follows:

Economic Benefit – Mr. Goodrich has saved time and money by not properly disposing of the solid waste from his property at a permitted landfill. He has delayed the cleanup costs since 2006. Therefore, \$50.00 is assessed for this factor.

Gravity of the Violation – Improper disposal of solid waste creates nuisance conditions for surrounding property owners and the potential contamination of soil and groundwater. Open burning of solid waste results in the release of large amounts of particulates, carbon monoxide, and hydrocarbons. Such open burning may violate ambient air standards. Open burning releases toxins which pollute the air, may pollute groundwater, and pose a risk to human health and the environment. These violations threaten the integrity of the regulatory program because compliance with the open burning and solid waste regulations is required of all persons in this state. Additionally, DNR Field Office 2 has expended a large amount of staff time in investigating these violations. Based on the above considerations, \$150.00 is assessed for this factor.

Culpability – Mr. Goodrich has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that this conduct is subject to DNR's rules. Since, 2006, Mr. Goodrich has been aware of the requirements and had not cleaned up the property. DNR Field Office 2 has made several attempts to work with Mr. Goodrich, but very little progress has been made in the removal of the solid waste. Based on the above considerations, \$300.00 is assessed for this factor.

## VII. WAIVER OF APPEAL RIGHTS

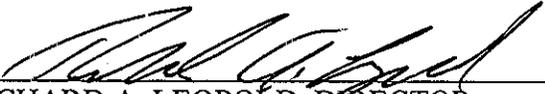
This administrative consent order is entered into knowingly and with the consent of Mr. Goodrich. For that reason, Mr. Goodrich waives the right to appeal this order or any part thereof.

## VIII. NONCOMPLIANCE

Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative

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consent order. Failure to comply with this administrative consent order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code sections 455B.146 and 455B.307.

  
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RICHARD A. LEOPOLD, DIRECTOR  
Iowa Department of Natural Resources

Dated this 22 day of  
Dec., 2009.

  
\_\_\_\_\_  
Dennis Goodrich

Dated this 9<sup>th</sup> day of  
December, 2009.

Barb Stock (Con 10-6 Hamilton County); Kelli Book; Michelle Johnson (FO2); VI C and VII C.1