

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF: Buff's Iris City Truck Plaza, Inc. and Nile Buffington UST NO. 199117216	ADMINISTRATIVE ORDER NO. 2009-UT-05
---	--

**Mail To: Buff's Iris City Truck Plaza, Inc.
Nile Buffington, Registered Agent
2203 Iowa Ave.
Mt. Pleasant, IA 52641**

**Buff's Iris City Truck Plaza
1210 N. Grand Ave.
Mt. Pleasant, Iowa 52641**

I. SUMMARY

This administrative order (Order) requires Buff's Iris City Truck Plaza, Inc and Nile Buffington (Buff's) to perform an underground storage tank (UST) system compliance inspection, pay all overdue tank management and tank tag fees, and pay an administrative penalty of \$2,000. See Section IV for more details.

For questions regarding this Order contact the following:

Relating to technical requirements:

Paul Nelson
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8779

Relating to Legal Issues:

Tamara Mullen, Attorney
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8934

II. JURISDICTION

This Order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476 which authorize the Director to issue any order necessary to secure compliance with Iowa Code chapter 455B, Division IV, Part 8 and Environmental Protection Commission (Commission) rules contained in 567 Iowa Administrative Code (I.A.C.) Chapter 135. Iowa Code section 455B.109 and Commission rules at 567 I.A.C. Chapter 10 authorize the Director to assess administrative penalties up to \$10,000. Iowa Code section 17A.10 authorizes the use of informal settlements.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Buff's Iris City Travel Plaza, Inc.**

III. STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Iowa Code section 455B.474(1)(i) authorizes the Commission to adopt rules to establish an UST certified compliance inspection program. Commission rule 567 I.A.C. 135.20 requires owners and operators of USTs to retain a compliance inspector certified by the Department pursuant to 567 I.A.C. Chapter 134, Part B, to complete a facility inspection and submit a report by December 31, 2007. Compliance inspections are subsequently required to be performed on a biennial basis.
2. Buff's is the registered owner of the property and the five USTs located at 1210 N. Grand Ave. Mt. Pleasant, IA 52641. *See* IOWA CODE § 455B.471(6).
3. Nile Buffington, having the control of, and or the responsibility for, the daily operation of the USTs, is the operator of the USTs located at 1210 N. Grand Ave. Mt. Pleasant, IA 52641. *See* IOWA CODE § 455B.476(5).
4. On January 9, 2007, the Department mailed a letter informing Buff's of the December 31, 2007 deadline to complete a compliance inspection.
5. The Department mailed a second letter on October 17, 2007 reminding Buff's that it had not completed its inspection and that the inspection report was due no later than December 31, 2007.
6. On November 5, 2007, the Department posted a list of uninspected sites, including this site, on its webpage for compliance inspectors to contact.
7. On June 10, 2008 the Department mailed a "Notice of Violation" letter to Buff's for its failure to complete an inspection report. The notice required submittal of the report no later than July 11, 2008. To date, Buff's has failed to complete a compliance inspection and submit a report.
8. Iowa Code section 455B.479 requires owners and operators to pay an annual tank management fee of \$65 per tank on all tanks or compartments therein in excess of 1,100 gallons. Buff's has five tanks, four 10,000-gallons tanks and one 6,000-gallon tank, all of which require tank management fees.
9. Department rules at 567 IAC 135.3(5) require payment of the annual \$65 tank management fee by January 15 of each year. Iowa Code section 455B.473(8) provides that owners and operators shall pay a \$250 late fee for failure to register or obtain annual tank tags. Imposition of a late fee does not preclude assessment of an administrative penalty under Iowa Code section 455B.476.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
Buff's Iris City Travel Plaza, Inc.**

10. Buff's has failed to pay annual tank management fees for the five USTs for the years 2005 through 2009. The total amount due is \$7,875.00, calculated as follows: $(\$65 \times 5) + (\$250 \times 5) \times 5$ years.

IV. ORDER

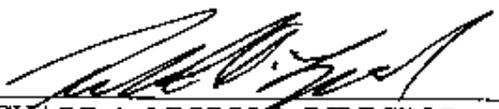
1. Buff's shall retain a Department-certified compliance inspector no later than September 7, 2009 and complete an initial compliance inspection no later than September 30, 2009. Buff's shall correct any violations as a result of the inspection in accordance with Department rule 567 IAC 135.20 and assure a final report is submitted to the Department no later than October 30, 2009.
2. Buff's shall pay all delinquent and current annual tank management fees, including late fees, for a total of \$7,875.00 within 60 days of receipt of this Order.
3. Buff's agrees to pay a penalty of \$2,000 to the order of the "Iowa Department of Natural Resources" within 60 days of receipt of this Order.

V. APPEAL RIGHTS

A written Notice of Appeal may be filed with the Director within 30 days of your receipt of this Order. A contested case hearing will then be commenced pursuant to Iowa Code Chapter 17A and 561 I.A.C. 7. You may contact Tamara Mullen, attorney for the Department, at (515) 281-8934 for more information regarding appeal procedures and resolution of this Order.

VI. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative or civil penalties and referral to the Iowa Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.476 and 455B.477. Compliance with the terms and conditions of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.


Dated this 31 day of August, 2009.
RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Buff's Iris City Truck Plaza, Inc.: Field Office 5; Elaine Douskey; Paul Nelson; V.C.