

**IOWA DEPARTMENT OF NATURAL RESOURCES  
AMENDMENT TO ADMINISTRATIVE ORDER**

**IN THE MATTER OF:**

**MIKE BARRETT and JODY  
BARRETT;  
Polk County, Iowa.**

**AMENDMENT TO  
ADMINISTRATIVE ORDER**

**NO. 2007-SW-03-A1**

**TO: Mark Landa  
Sullivan & Ward, P.C.  
6601 Westown Parkway, Suite 200  
West Des Moines, IA 50266-7733**

**I. SUMMARY**

This Amendment to Administrative Consent Order (Amendment) is entered into between Mike Barrett, Jody Barrett and the Iowa Department of Natural Resources (Department) in order to resolve solid waste disposal violations.

Any questions regarding this Amendment should be directed to:

**Relating to technical requirements:**

Bill Gross  
IDNR Field Office #5  
401 S.W. 7th, Suite I  
Des Moines, IA 50309  
Ph: 515-725-0268

**Relating to this amendment:**

Jon C. Tack  
Iowa Department of Natural Resources  
Henry A Wallace Building  
Des Moines, Iowa 50319-0034  
Ph: 515-281-8889

**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; and Iowa Code section 455B.109 and 567 Iowa Admin. Code (IAC) 10, which authorize the Director to assess administrative penalties.

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Mike Barrett & Jody Barrett**

**III. STATEMENT OF FACTS**

1. Jody Barrett is the owner of a property located at 607 SE 21st Court, Des Moines, Iowa (the subject property). Mike Barrett arranged for the purchase of the business located at 607 SE 21st Court from Bill Reed and Heartland Mutual Service, LLC, through his wife, in order to operate a wood chipping business at the site.

2. On February 5, 2008, the Department issued Administrative Order No. 2008-SW-03 to Mike Barrett and Jody Barrett. The Order was not appealed and became final and effective. The Administrative Order required the removal of all solid waste from the property and assessed a penalty in the amount of \$6,200.

3. Prior to July 1, 2010, with the assistance of counsel, the property owners located the responsible parties for the barrels and other containers located on the subject property and arranged for the removal and proper disposal of those barrels. This removal and disposal action has been completed.

4. On or about March 2, 2011 the Department was notified that Jody Barrett has sold the property and that the buyer has assumed responsibility for any additional cleanup of the property.

5. Despite the entry of the Administrative Order and the failure to appeal, a legitimate fact question remains in regard to whether the now former property owners participated in the disposal of the solid waste on the property or arranged for such disposal.

**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.

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**V. ORDER**

The Department orders and Mike Barrett and Jody Barrett hereby agree that all prior penalties and interest accrued pursuant to the terms of Administrative Order No. 2008-SW-03 are forgiven and rescinded. Said rescission is perfected upon the execution of this Amendment and shall not require further action of the Department

**VI. WAIVER OF APPEAL RIGHTS**

Iowa Code sections 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 Amendment is entered into knowingly by and with the consent of Mike Barrett and Jody Barrett. By signature to this Amendment, all rights to appeal this Amendment are waived

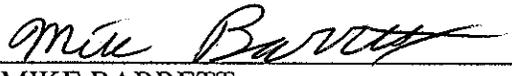
**VII. NONCOMPLIANCE**

Failure to comply with this Amendment 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 Amendment constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Amendment. 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 Amendment but which may arise from the facts summarized in Division III of this Amendment.

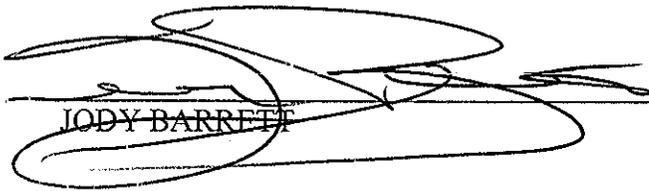
IOWA DEPARTMENT OF NATURAL RESOURCES  
AMENDMENT TO ADMINISTRATIVE ORDER  
Mike Barrett & Jody Barrett

  
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, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 19th day of  
April, 2011.

  
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MIKE BARRETT

Dated this 6 day of  
April, 2011.

  
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JODY BARRETT

Dated this 6 day of  
April, 2011.

Field Office #5; Jon Tack; VI, C.