

Agenda

Environmental Protection Commission

Tuesday, April 18, 2023

Teleconference: 631-618-4607 PIN: 484 733 354#

Video Conference: <https://meet.google.com/rzo-uidn-tvg>

502 East 9th Street, Des Moines, Iowa 50319

DNR 2 North Conf Room

Tuesday, April 18, 2023

10:00 AM – EPC Business Meeting

If you are unable to attend the business meeting, comments may be submitted for public record to Alicia Plathe at Alicia.Plathe@dnr.iowa.gov or 502 East 9th St, Des Moines IA 50319 up to 24 hours prior to the business meeting.

1	Approval of Agenda	
2	Approval of the Minutes (Packet Page 3)	
3	Monthly Reports (Packet Page 9)	Ed Tormey (Information)
4	Director's Remarks	Kayla Lyon (Information)
5	Contract with the State Hygienic Laboratory-Laboratory Analytical Services for the Shallow Lakes Restoration Program (Packet Page 19)	Jacklyn Gautsch (Decision)
6	Contract with the State Hygienic Laboratory-Bacteria Analytical Services for the Iowa Beach Monitoring Program (Packet Page 21)	Dan Kendall (Decision)
7	Contract with the State Hygienic Laboratory-Biological and Habitat Sample Collection for the National Rivers and Streams Assessment Project (Packet Page 29)	Ken Krier (Decision)
8	Contract with the U.S. Department of the Interior, Geological Survey- Processing and Analysis of Environmental Samples (Packet Page 31)	Jason Palmer (Decision)
9	Contract with Iowa Department of Agriculture and Land Stewardship (IDALS)-Palo Alto Shallow Lakes Watershed Project-Year 2 (Packet Page 34)	Kyle Ament (Decision)
10	Adopted and Filed-567 IAC Chapter 135-Technical Standards and Corrective Action Requirements for Owners and Operation of Underground Storage Tanks (Packet Page 36)	Keith Wilken (Decision)
11	Contract Amendment with Houston Engineering, Inc.-High Hazard Risk Review (Packet Page 45)	Jonathan Garton (Decision)
12	Contract with Maquoketa River Watershed Management Authority for Maquoketa River Watershed Stream Sign Project (Packet Page 47)	Steve Konrady (Decision)
13	Referral to the Attorney General-Che Hanson of Hanson & Sons Tire, LLC (Packet Page 50)	Tamara McIntosh (Decision)
14	Referral to the Attorney General-Chamness Technology, Inc. (Packet Page 62)	Noah Poppelreiter (Decision)
15	General Discussion	
16	Upcoming Meetings	
	<ul style="list-style-type: none">Monday, May 15, 2023, EPC Tour in Palo Alto CountyTuesday, May 16, 2023, EPC Meeting in Clay CountyTuesday, June 20, 2023, Wallace Building	

For details on the EPC meeting schedule, visit <http://www.iowadnr.gov/About-DNR/Boards-Commissions>

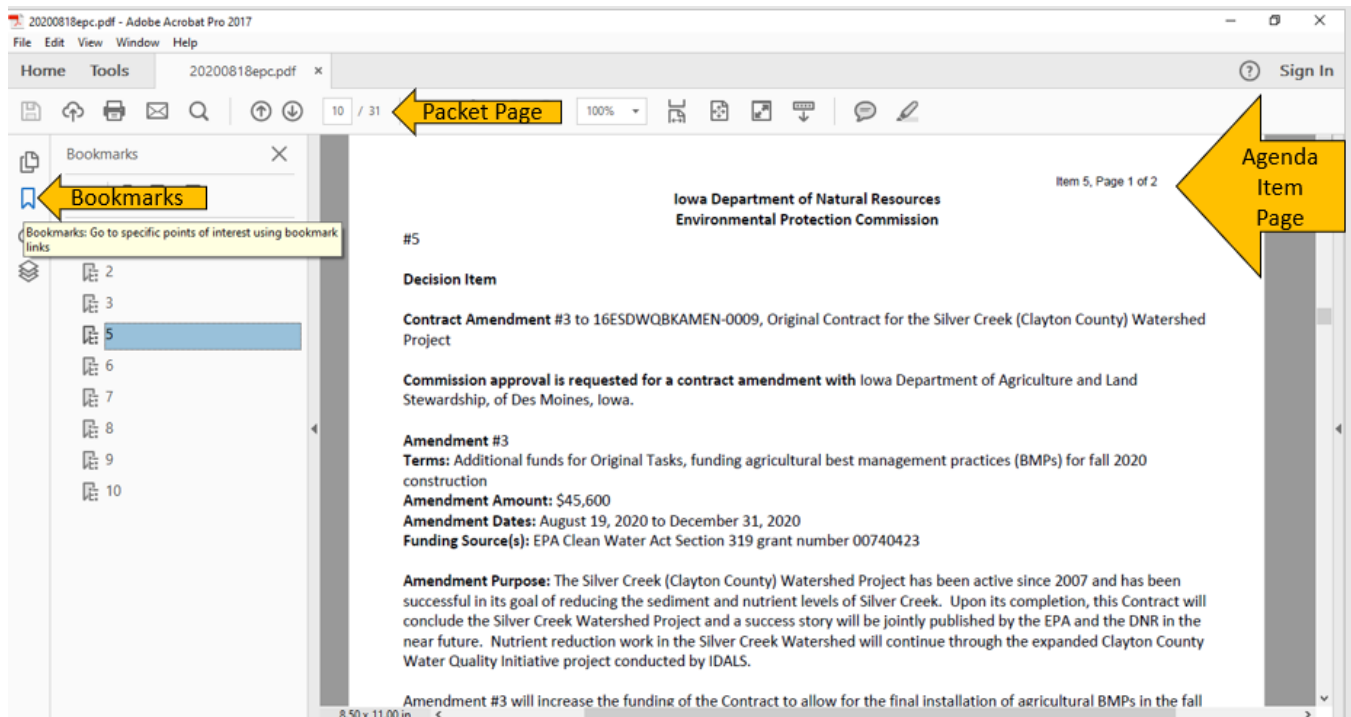
Updated 07/2022

¹Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person with special requirements such as those related to mobility or hearing impairments who wishes to participate in the public meeting should promptly contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or Webmaster@dnr.iowa.gov to advise of specific needs.

Utilize bookmarks to transition between agenda items or progress forwards and backwards in the packet page by page with the Packet Page number on the agenda.

The upper right-hand corner will indicate the Agenda Item Number and the page of the agenda item.



**MINUTES OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING**

March 22, 2023

**Video Teleconference
and
Wallace State Office Building**

Approved by the Commission **TBD**

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Meeting Minutes

CALL TO ORDER

The meeting of the Environmental Protection Commission (Commission or EPC) was called to order by Chairperson Harold Hommes at 10:00am on March 22, 2023 via a combination of in-person and video/teleconference attendees.

COMMISSIONERS PRESENT

- Rebecca Dostal
- Brad Bleam-virtual
- Stephanie Dykshorn
- Mark Stutsman
- Ralph Lents
- Lisa Gochenour
- Harold Hommes
- Patricia Foley

COMMISSIONERS ABSENT

- Amy Echard

APPROVAL OF AGENDA

Motion was made by Stephanie Dykshorn to approve the agenda as amended. Seconded by Lisa Gochenour.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

AGENDA APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Rebecca Dostal to approve the February 21, 2023 EPC minutes as presented. Seconded by Ralph Lents.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

MONTHLY REPORTS

- Division Administrator Ed Tormey introduced Angie Clark to Commissioners. Angie will be filling in as interim Board Administrator for the months of May, June and part of July. Mr. Tormey then turned it over to General Counsel Tamara McIntosh for an update on the Executive Order 10 (EO10) schedule as well as Tim Hall for an updated drought presentation.
- General Counsel Tamara McIntosh provided the final calendar for EO10 which outlined the years in which various DNR rule chapters will need to be reviewed and approved through the Commission. She highlighted that several Notices of Intended Action will come before the Commission in late Fall of 2023. She also mentioned that all of the EPC rule chapters will be reviewed by 2025. Normal rulemaking for these chapters may proceed after they have gone through EO10.
- Tim Hall provided an updated drought presentation as requested by the Commission. He provided an overview of the current conditions following above normal rainfall recorded in late 2022 and early 2023. Mr. Hall gave a brief overview of Iowa’s new drought plan and responded to Commissioner questions regarding Spring weather outlook and the potential affects the snow melt may have on Mississippi River water levels.

INFORMATION

DIRECTOR’S REMARKS

- Deputy Director Alex Moon thanked the Commissioners for their attendance at the Iowa State Capitol building earlier that morning. Commissioners joined DNR Leadership during their weekly Wednesday open discussion with Iowa Legislators during legislative session.

INFORMATION

CONTRACT AMENDMENT WITH REGION XII COUNCIL OF GOVERNMENTS-PROFESSIONAL AUDITING SERVICES FOR THE ENVIRONMENTAL MANAGEMENT SYSTEM (EMS)

Laurie Rasmus requested Commission approval for a contract extension with Region XII Council of Governments to continue to provide professional EMS auditing services through 2024.

Public Comments – None

Written Comments – None

Motion was made by Stephanie Dykshorn to approve the item as presented. Seconded by Patricia Foley.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

DESIGNATION OF APPLICANT FOR THE SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEM PROGRAM-CITY OF MUSCATINE

Laura Rasmus requested Commission approval to designate the City of Muscatine as a participant in the Solid Waste Environmental Management System Program.

Public Comments – None

Written Comments – None

APPROVED AS PRESENTED

Motion was made by Rebecca Dostal to approve the item as presented. Seconded by Stephanie Dykshorn.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

CLEAN WATER AND DRINKING WATER STATE REVOLVING LOAN FUND-FY 2023 INTENDED USE PLAN (IUP) FOURTH QUARTER UPDATE

Theresa Enright requested Commission approval for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund IUP fourth quarter update for state fiscal year 2023. Ms. Enright shared information indicating a significant increase in loan funding requests in FY23 compared to FY22 and responded to Commissioner questions regarding Iowa’s SRF allocation, including the addition of BIL general supplemental funding. Ms. Enright explained in detail the potential additional SRF funding that will be available for projects related to PFAS and emerging contaminants, as well Lead Service Line replacement.

Public Comments – None

Written Comments – None

Motion was made by Ralph Lents to approve the item as presented. Seconded by Stephanie Dykshorn.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH THE UNIVERSITY OF IOWA OFFICE OF THE STATE ARCHAEOLOGIST-ARCHAEOLOGICAL SERVICES

Karrie Darnell requested Commission approval for a contract with the Office of the State Archaeologist to retain the Contractor to provide archaeological services as needed for projects funded through the SRF program. Mrs. Darnell explained that every project goes through an environmental review, through which it is sometimes determined that the DNR must conduct investigations into the historical and cultural resources that may be affected by the project’s

construction and development phase. Mrs. Darnell and Ms. Enright responded to several questions regarding the increase of the estimated single project cost outlined in the contract compared to the previous contract estimates, indicating that the projection is based largely on the increase of funding requests for projects with a larger physical footprint. Commissioners requested additional detailed information regarding the projected cost per project difference following the approval of the contract.

Public Comments – None

Written Comments – None

Motion was made by Rebecca Dostal to approve the item as presented. Seconded by Ralph Lents.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

SOLID WASTE ALTERNATIVES PROGRAM (SWAP) CONTRACT RECOMMENDATION-CHEROKEE COUNTY SOLID WASTE AGENCY

Tom Anderson requested Commission approval for a SWAP contract recommendation for the Cherokee County Solid Waste Agency. The contract will provide funding assistance for the applicant to purchase and install a horizontal baler and in-feed conveyor system to process cardboard and office paper.

Public Comments – None

Written Comments – None

Motion was made by Ralph Lents to approve the item as presented. Seconded by Patricia Foley.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT AMENDMENT WITH STEARNS , CONRAD AND SCHMIDT, CONSULTING ENGINEERS (SCS), INC.-DATA GATHERING AND ANALYSIS, SUSTAINABLE MATERIALS MANAGEMENT VISION FOR IOWA INITIATIVE

Tom Anderson requested Commission approval for a contract with SCS Consulting Engineers to gather and analyze data in support of the short-term strategies identified by the stakeholders participating in the Sustainable Materials Management (SMM)– Vision for Iowa initiative (SMM Phase II).

Public Comments – None

Written Comments – None

Motion was made by Rebecca Dostal to approve the item as presented. Seconded by Brad Bleam.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

AIR QUALITY-FISCAL YEAR 2024 DRAFT BUDGET REVIEW

Wendy Walker presented the fiscal year 2024 draft budget for the DNR Air Quality Bureau.

INFORMATION

ADOPTED AND FILED-567 IAC CHAPTERS 100, 102, 104, 120 AND IAC CHAPTERS 114.29 AND 115.29-CLEANUP OF SOLID WASTE CHAPTERS

Theresa Stiner requested Commission approval of this Adopted and Filed rulemaking to reduce and consolidate administrative rules related to solid waste.

Public Comments – None

Written Comments – None

Motion was made by Stephanie Dykshorn to approve the item as presented. Seconded by Patricia Foley.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-aye, Patricia Foley-aye, Brad Bleam-aye, Lisa Gochenour-aye, Amy Echard-absent, Ralph Lents-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

GENERAL DISCUSSION

- Chairperson Lents reminded Commissioners that May is Officer election month and to start thinking about whether or not they would like to serve in an EPC Officer role for FY24.
- Alicia Plathe reminder Commissioners that comments on Chapter 1 are due to Tamara McIntosh by March 31.
- Ed Tormey invited Commissioners to tour the Army Ammunition Plant with DNR Leadership on June 6.

ADJOURN

The Chairperson adjourned the Environmental Protection Commission meeting at 12:00 p.m. on March 22, 2023.

ADJOURNED

**Monthly Waiver Report
March 2023**

Item #	DNR Reviewer	Facility/City	Program	Subject	Decision	Date	Agency
1	Lucas Tenborg	3M Knoxville	AQ	Request to operate following construction of Mogul 1A prior to permit issuance. 3M Knoxville submitted a construction permit application (submittal ID 56731) to do a like-for-like replacement of our Mogul 1A.	Approved	2.28.23	23aqw046
2	Rachel Quill	Pella Corporation - Pella Division	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	2.28.23	23aqw047
3	Larry Bryant	Tiffin City of STP	CP (wastewater)	Installation of sewer segments via pipe bursting.	Approved	2.27.23	23cpw048
4	Larry Bryant	Tiffin City of STP	CP (wastewater)	An existing sewer reach will be increased in size by pipe bursting methods. One of the existing sewer segments to be replaced has a reverse slope and therefore upsizing this segment via pipe bursting will not meet IWWFDS 12.5.3 minimum slope.	Approved	2.27.23	23cpw049
5	Danjin Zulic	J and J Ready Mix	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.6.23	23aqw050
6	Karen Kuhn	Fisher Controls Int	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.8.23	23aqw051
7	Lucas Tenborg	Marshall Ridge Renewable Energy	AQ	variance of Condition 5 part (A) from the Operating Condition Monitoring section in permit 22-A-014. Marshall Ridge Renewable Energy (MRRE) is requesting the ability to vent gas to the ambient air during gas production ramp up stage	Approved	3.9.23	23aqw052
8	Danjin Zulic	RM100GO	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.10.23	23aqw053
9	John Curtin	Excel Engineering	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for an engine test cell.	Approved	3.13.23	23aqw054
10	Danjin Zulic	M.H. Eby, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.13.23	23aqw055
11	Nate Tatar	Industrial Laminates/Norplex, Inc	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.14.23	23aqw056
12	Mark Fields	Pine Lake Corn Processors	AQ	Facility has requested a stack test extension of the April 17, 2023 initial stack test due date due to icy conditions experienced during December stack test attempt causing postponement of the testing.	Approved	3.14.23	23aqw057
13	Danjin Zulic	Guttenberg Industries, Inc - Garnavillo	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.17.23	23aqw058
14	Mark Fields	HillPhoenix Speciality Products	AQ	Request for a temporary variance from need to have a construction permit prior to venting foam densifier equipment to ambient air.	Approved	3.16.23	23aqw059
15	Nate Tatar	Winneshiek Medical Center	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.21.23	23aqw060
16	Lucas Tenborg	SSAB Iowa Inc.	AQ	Request for trial usage of biocoal as a carbon substitute to test for CO2 emission reduction	Approved	3.21.23	23aqw061
17	Karen Kuhn	Absolute Energy	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.21.23	23aqw062
18	Theresa Stiner	Robert William Thorpe	Solid Waste	The National Pork Board in collaboration with Gary A Flora Consulting and Black Bear Agricultural Services (Mark Hutchinson) is requesting a waiver to conduct a proof of concept project for swine carcass composting without a compost facility permit.	Approved	3.23.23	23sdw063
19	Casey Laskowski	Bellevue Sand and Gravel Co.	Permitting-Bank Stabilization	The petitioner is requesting a variance to allow for a bank stabilization project placing riprap at a slope of 1.5:1 in place of the stated code requirement of a slope of 2:1 along the Mississippi River.	Approved	3.16.23	23fpw064

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: April 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Attorney General Referrals (January 2023 – March 2023)

Name, Location and Region Number	Program	Alleged Violation	DNR Action	Status	Date
City of Sioux City (3)	Wastewater	Inadequate wastewater treatment	Referred to Attorney General	Referred Petition Filed Answer Filed by City Discovery Served Trial set for May 2023 continued; trial scheduling conference set for 3/29/23	6/27/16 1/07/22 2/21/22 4/8/22 6/23/22 3/8/23
Global Fiberglass Solutions, LLC	Solid Waste	Illegal Stockpile	Referred to Attorney General	Referred	7/7/21
JDog and Justin Pollard Cambridge (5)	Solid Waste	Open Dumping; Open Burning	Referred to Attorney General	Referred Petition Filed Answer Court Ordered Stay due to Pollard filing for bankruptcy Court Granted Relief From Stay Discovery Served Motion for Partial Summary Judgment Filed Hearing on MSJ scheduled 9/7/21 Trial Scheduled for 10/6/21 Consent Decree Approved - \$19,800 penalty to be repaid over 3 years.	6/16/20 10/1/20 10/14/20 11/3/20 2/25/21 4/23/21
Steven Kerns Clearfield (4)	Animal Feeding Operation	Manure release; Composting dead animals	Referred to Attorney General	Referred Tolling Agreement through August 17, 2020 Consent Decree Approved - \$23,000 penalty and injunctive relief to be repaid over 2 years Satisfaction of Judgment Filed	10/15/19 9/4/20 11/7/22
Sierra Club (5)	Animal Feeding Operation	Petition for Judicial Review	DNR Named Respondent	Petition filed in Clayton County Motion to Dismiss Filed Petition Dismissed without Prejudice Petition Re-filed in Polk County Motion to Dismiss Filed Hearing on Motion to Dismiss Petition to Intervene by Trout Unlimited Intervenor Petition for Judicial Review (PJR) Order Granting Intervention Motion to Dismiss Intervenor PJR Hearing on Motion to Dismiss	9/23/21 10/18/21 10/24/21 10/27/21 11/22/21 1/6/22 1/6/22 1/6/22 1/25/22 2/15/22 3/22/22

				Order Denying Motion to Dismiss Sierra Club (SC) Motion to Present Additional Evidence DNR Answer to Intervenor PJR DNR Answer to SC PJR Hearing on Motion to Present Additional Evidence Order allowing discovery but denying expert testimony Order setting hearing for 12/9/22 SC Motion to Compel Deposition of Jared Walz Motion to Compel Deposition Granted Order setting hearing on petition for judicial review for 1/20/23 Sierra Club Brief Filed Intervenor Joinder in Brief Filed DNR Brief Filed Supreme Beef Brief Filed Sierra Club Reply Brief Filed Intervenor Reply Brief Filed Hearing on PJR Awaiting Ruling	3/28/224/ 4/224/4/2 2 4/7/22 4/22/22 4/28/22 6/2/22 8/19/22 9/17/22 10/31/22 11/15/22 11/15/22 12/15/22 12/15/22 12/29/22 12/29/22 1/20/23
Peters, Mercado, and TNT Disposal LLC (6)	Solid Waste	Open Dumping	Referred to Attorney General	Petition filed in Scott County Motion for Default Entry Entry of Default Application for Order to Show Cause Show Cause Hearing continued to July 12, 2023	6/15/22 8/18/22 8/22/22 11/21/22 3/6/23
Apex Construction Group Cedar Rapids (1)	Air Quality	Asbestos	Referred to Attorney General	Referred	11/15/22
Shane and Michelle Larsen	Animal Feeding Operation	Failure to submit MMP; illegal land application	Referred to Attorney General	Referred	10/11/22

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: April 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Contested Cases (January 2023 – March 2023)

Date Received	Name Of Case	Action Appealed	Program	Assigned Attorney	Status
6/10/13	Mike Jahnke	Dam Application	FP	Schoenebaum	<p>Hearing held 7/30/14. ALJ upheld the permit issued by the Department. Mr. Jahnke appealed but on 11/3/14 he asked that his appeal be put on hold until April, 2015. For various reasons has asked that the appeal be postponed. Sept. 2017 – Mr. Jahnke called and asked that his appeal be put on hold until Spring 2018. September 2018 Mr. Jahnke called and asked that the matter be postponed to Spring '19. Jan. 2019 no changes, matter was postponed to Spring 2019.</p> <p>April 2019 – no change; matter postponed to Spring 2019.</p> <p>July 2019 – No changes.</p> <p>10/25/19 – Mr Jahnke has called many times to discuss his ongoing medical problems and his families' each time he asks for the matter not to be placed on the agenda and asks for a delay. He again asked for a delay until Spring.</p> <p>1/24/20 – Mr. Jahnke called again and explain ongoing medical problems and that he cannot be present for a winter meeting and asked that the matter continue to be delayed.</p> <p>5/25/20 to the 2/21/23 – no changes</p> <p>3/22.2023 – sent letter asking if he would like to withdraw his appeal or set it to go before the commission. A response was requested no later than April 12, 2023.</p>
11/9/17	IA Regional Utilities Association	Permit Issuance	WW	Poppelreiter (Crotty)	<p>10/25/18 –Negotiating before setting a hearing date. A final meeting with facility's new director is expected before the end of 2018.</p> <p>01/24/19 –Negotiating before setting a hearing date. Meeting with permittee 1/24/19. Permittee must discuss</p>

					<p>options with Board. Decision from Permittee on whether to withdraw appeal or move forward with hearing is expected in Spring 2019. April 2019 – Waiting on permittee to decide whether to set a hearing or withdraw appeal. 10/25/19 – Permittee and DNR still in negotiations re: engineering proposals at the facility. No change in the appeal status. 1/24/20 – Finalizing the report on the progress they have made and will meet with DNR’s Wastewater staff in February to discuss settlement options.</p> <p>5/25/20 – No Changes</p> <p>11/18/2020 - Ongoing negotiations with IRUA. No hearing set as yet. Looking into alternative solutions.</p> <p>3/25/2021 - Continuing discussions with IRUA. Both parties are interested in non-litigation solutions. No hearing set.</p> <p>5/27/21 to the present – No Changes</p>
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**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: March 20, 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Enforcement Report Update (December 16, 2022 – March 20, 2023)

The following new enforcement actions were taken during this reporting period:

Individual/Entity	Program	Alleged Violation	Type of Order/Action	Penalty Amount Due	Date
Ronald Aukes	AQ/SW	Open burning and Improper solid waste disposal	Consent	\$5,000.00	12/21/22
Nolan Junker	AFO	Manure management plan	Unilateral	\$3,000.00	1/13/23
Brad Zieser	AFO	Manure management plan	Unilateral	\$3,000.00	1/13/23
Steve Nelson dba Nelson Corporation LLC	AQ	Asbestos	Unilateral	\$6,000.00	1/13/23
Kevin Flynn	AQ/SW	Open burning, Asbestos and Improper solid waste disposal	Unilateral	\$10,000.00	1/13/23
Hightower Development, Inc.	WW	Permit violations	Consent	\$5,000.00	1/13/23
Cody Ritter	AQ	Open burning	Consent	\$4,500.00	1/20/23
Chad Roche	SW	Improper storage and disposal of tires	Unilateral	\$10,000.00	1/20/23
City of Sloan	WW	Prohibited discharge and Permit violations	Consent	\$1,000.00	1/23/23
Joe Brandenburg and Brandenburg Drainage, Inc.	AQ/SW	Open burning and Improper solid waste disposal	Unilateral	\$4,500.00	1/27/23
Boderic Higgins	AFO	Manure management plan	Consent	\$3,000.00	2/3/23

James and Debbie Whistler	AQ/SW	Open burning and Improper solid waste disposal	Consent	\$5,000.00	2/8/23
Michael Arends	AQ	Addition of payment plan	Amendment to 2022 Order	N/A	2/8/23
Mike Pope	AQ/SW	Open burning and Improper solid waste disposal	Consent	\$3,000.00	2/15/23
Thomas Stevenson	AQ/SW	Open burning and Improper solid waste disposal	Consent	\$4,500.00	2/15/23
N-T Lands, L.L.C.	WW	Prohibited discharge and Permit violation	Consent	\$8,000.00	2/15/23
Mike Gilarski	WS	Operator certification	Consent	0	2/21/23
S.E. Iowa Metals Recycling, Inc. and Phil Feinberg	AQ/SW/WW	Penalty reduction and Compliance schedule	Amendment to 2022 Order	N/A	3/2/23
Precision Manure Application, Inc.	AFO	Applicator certification	Consent	\$5,000.00	3/8/23
Jacob, Tyler, and Kenneth Sutter	AFO	Manure management plan	Consent	\$4,500.00	3/9/23
Dallas Pork, LLC and Gift Pork, LLC	AFO	Manure discharge	Consent	\$3,500.00	3/9/23
Mike Burken	AQ/SW	Open burning and Improper solid waste	Consent	\$4,500.00	3/9/23
Grand Total				\$93,000.00	

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: March 20, 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Summary of Administrative Penalties (December 16, 2022 – March 20, 2023)

The following administrative penalties are being collected by DRF:

NAME	PROGRAM	AMOUNT (remaining)
Jon Knabel	AQ/SW	\$1,037.33
Randy Wise; Wise Construction	AQ/SW	\$2,081.32
Gary Eggers	SW/WW	\$10,000.00
Dennis R. Phillips; Marty's Convenience Mart	UT	\$9,954.53
Frank Robak	UT	\$10,000.00
Randy Cates	AQ/SW	\$10,000.00
Jeff Gray dba Grayz Metal Recycling	AQ/SW	\$918.53
Jayson Schlafke	AFO	\$3,000.00
Strickler Farms, LTD	AFO	\$2,592.78
Steve Seelye	AQ	750.00
Brandon Stewart	AQ/SW	\$2,100.00
North Iowa Custom Finishing	AFO	\$2,250.00
North Iowa Custom Finishing	AFO	\$4,100.00
Total		\$58,784.49

The following administrative penalties are DUE:

NAME	PROGRAM	AMOUNT (remaining)
Sport Wade, Inc.	UT	\$10,000.00
Recycling Services	WW/HC/SW	\$7,000.00
Michael Pearson	WW	\$5,000.00
Lu Jen Farms	AFO	\$5,000.00
Blue Hyll Dairy Farm, LLC	AFO	\$6,500.00
Michael Matthews	AQ	\$4,630.00
Bar K Cattle, LLC	AFO	\$5,000.00
Robert Bryant	AFO	\$2,000.00
Amritdeep Kaur – Pari, Inc.	UT	\$7,000.00
Amritdeep Kaur – Cissy's II	UT	\$8,890.00
Ronald Stratton	FP	\$5,000.00
Jaymaharaj, L.L.C. and Monaj Desai	HC	\$7,000.00
CJ's Construction, Inc.	WW	\$5,000.00
RAM Development	AQ	\$500.00
Tyler Investment Company, Inc.	WW	\$10,000.00
Harold Chapman	WW	\$1,350.00
ReNew Trient I, LLC dba NuOrganics, LLC	WW	\$8,000.00
Jason Larabee	AFO	\$7,500.00
Larrell DeJong	AFO	\$4,000.00
Wright Materials Company	AQ	\$2,500.00
Tim Peters and TNT Disposal	SW	\$10,000.00
David Omar Mercado	SW	\$10,000.00

Regancrest Holsteins, LLC	AFO	\$1,500.00
Opal Eggs	AFO	\$6,000.00
Upcountry Fab LLC/Alexander Buck	AQ/SW	\$1,530.00
Nick and Ray Ohl	AQ	\$3,000.00
Jacob Wagoner/Wagoner Construction	AQ	\$4,000.00
Digital Print Enterprises LLC	WW	\$1,000.00
Brookstone Specialty Servicing, Inc.	WW	\$10,000.00
Daniel and Linda Troyer	AQ/WW	\$500.00
Scott Ellsworth	AFO	\$5,000.00
North Filter Media	AQ	\$10,000.00
Sunrise Village LLC and Havenpark Management LLC	WW	\$8,000.00
Nolan Junker	AFO	\$3,000.00
Brad Zieser	AFO	\$3,000.00
Chad Roche	SW	\$10,000.00
Total		\$198,400.00

The following administrative penalties have been COLLECTED:

NAME	PROGRAM	AMOUNT (Collected)
S & V LLC	AFO	\$375.00
Rodney Ballhagen	AQ/SW	\$200.00
Milan Hageman	AFO/WW	\$1,370.00 (administrative) \$988.00 (restitution)
Jeff Hoeg	AQ/SW	\$1,300.00
Freedom Junk Removal & Dumpster, LLC	AG	\$1,650.00
Boderic Higgins	AFO	\$3,000.00
Hightower Development, Inc.	WW	\$5,000.00
City of Sloan	WW	\$1,000.00
Ronald Aukes	AQ/SW	\$5,000.00
Mike Pope	AQ/SW	\$3,000.00
N-T Land, LLC	WW	\$8,000.00
Brandenburg Drainage	AQ/SW	\$4,500.00
Timothy Bomgaars	AFO	\$3,000.00
Clint Stencil	AQ	\$1,000.00
LCNJ Farms LLC	AFO	\$1,100.00 (restitution)
Hanson & Sons Tire & Auto Repair	SW	\$2,000.00
Arlen Near	AQ	\$1,000.00
Steve Nelson dba Nelson Construction, LLC	AQ	\$6,000.00
Sutter Finishing LLC	AFO	\$4,500.00
Cody Ritter	AQ	\$2,500.00
Ray Steffens	AFO	\$3,000.00
Tanner Seuntjens	AFO	\$3,000.00
Amy Knapp	WS	\$4,000.00
Amy Knapp	WW	\$4,500.00
Total		\$70,983.00

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: April 2023 (January 2023 – March 2023)

TO: Environmental Protection Commission

FROM: Tamara McIntosh

SUBJECT: Rulemaking Status Report

Rule Proposal	Sent to Director for Approval	Sent for Governor's Approval	Received Governor's Approval	Notice to EPC	Notice Published	ARRC #	ARRC Mtg	Hearing	Comment Period ends	Final to EPC	Rules Published	ARRC #	ARRC Mtg	Rules Effective
AQ Various	9/7/22	9/7/22	10/3/22	10/11/22	11/2/22	6631C	11/15/22	12/5/22	12/5/22	1/17/23	2/8/23	6873C	2/16/23	3/15/23
SW Cleanup rules	10/13/22	10/21/22	10/27/22	11/15/22	12/14/22	6755C	1/6/23	1/3/23	1/3/23	3/22/23	4/19/23		MAY?	5/24/23
Tank rules – HF 2128	11/30/22	11/30/22	12/16/22	1/17/23	2/8/23	6884C	2/19/23	2/28/23	2/28/23	4/18/23	5/17/23		JUNE?	6/21/23

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #5

DECISION

Contract with THE UNIVERSITY OF IOWA**Recommendation:**

Commission approval is requested for a contract with the State Hygienic Laboratory (SHL) at the University of Iowa.

Contract Terms:

Amount: Not to exceed \$26,730

Dates: May 1, 2023 to April 1, 2024

Funding Source(s): This contract will be funded in part through the Environment First Fund (HB8A) 25% - i.e., for \$6,682.50. The remainder of this contract will be funded through Iowa Code 456.33A Lake Restoration Program (39HA-23)-25%, Fisheries Bureau funds (CC 8250)-25%, and Wildlife Bureau funds (CC 8350-5E)-25%.

Statutory Authority: DNR has the authority to enter into this Contract pursuant to the provisions of Iowa Code 455B.103.

Contract Background: The shallow lakes monitoring program started in 2005-2006 and has provided the DNR, and other project partners, with beneficial pre- and post- shallow lake renovation information. This contract maintains the standard number of lakes, at 25 lakes. Data collected and analyzed as a part of this contract will help decision makers better understand the effectiveness of shallow lake restoration and allow managers to make more effective management decisions regarding future planning for restoration of shallow lakes across the state. Data collected through this project will be made available through the DNR's publicly available water quality database (AQUiA).

Monitoring of shallow lakes for a variety of water quality parameters leads to a better understanding of these unique ecosystems and evaluate how individual systems responded to restoration efforts. Overall, restoration efforts have resulted in lakes with better water clarity, changes to the nutrient dynamics in the lake, and changes to the plant and invertebrate communities. These changes are indicative of a clear-water plant-dominated stable state. For example the Lost Island Lake project resulted in the enhancement of over 1,000 acres of wetland habitat within the Barringer Slough/Blue-wing Marsh complex. Ducks Unlimited engineering staff surveyed and designed a series of water control structures and fish barriers that will allow managers to effectively manage for a productive habitat. Unique fish barrier solutions, from electric to physical and specific to five different sites were needed for this project. To date, average water clarity has improved over 2 feet since the wetland restoration and commercial fishing efforts began.

Contract Purpose: The parties propose to enter into this contract to retain SHL to provide laboratory analytical services of samples collected by DNR staff, in order to help assess the effectiveness of shallow lakes restoration projects.

Contractor Selection Process:

DNR is allowed to contract with the University of Iowa pursuant to Iowa Code section 455B.103(3).

Contract History:

Fiscal year 2022 Contract; \$ 23,760.00; 20 lakes in this contract

Fiscal year 2021 Contract; \$ 27,675.00; 25 lakes in this contract

Fiscal year 2020 Contract; \$ 29,330.10; 25 lakes in this contract

Fiscal year 2019 Contract; \$ 47,250.00; 25 lakes in this contract

Fiscal year 2018 Contract; \$ 26,858.34; 25 lakes in this contract

Fiscal year 2017 Contract; \$ 27,433.35; 25 lakes in this contract

Jacklyn Gautsch, Environmental Specialist Senior, Water Quality Bureau
Environmental Services Division
April 18, 2023

Parameter	Analytical Method	Test Fee	# of Samples	Total Fee
Total Dissolved Solids	SM 2540 C	\$16.00	125	\$2,000
Total Suspended Solids	USGS I-3765-85	\$16.00	125	\$2,000
	SM 2540 D			
Total Volatile Suspended Solids	EPA 160.4 TVSS	\$16.00	125	\$2,000
Total Phosphorus as P	LAC 10-115-01-1F	\$16.00	125	\$2,000
	EPA 365.1			
	LAC 10-115-01-1E			
	LAC 10-115-01-2b			
	EPA 365.4			
Ammonia Nitrogen as N	LAC 10-107-06 1J	\$16.00	125	\$2,000
	EPA 350.1			
Nitrite + Nitrate as N	LAC 10-107-04 1J	\$16.00	125	\$2,000
	EPA 353.2			
Total Kjeldahl Nitrogen	LAC 10-107-06 2M	\$40.00	125	\$5,000
	EPA 351.2			
Orthophosphate as P	LAC 10-115-01 1A	\$16.00	125	\$2,000
	EPA 365.1			
Chlorophyll a Analysis of Water	EPA 445.0 Rev 1.2	\$46.00	125	\$5,750
	SM 10200 H			
Facilities and Administrative Costs @ 8%				\$1,980.00
Overall Total Cost				\$26,730.00

Iowa Department of Natural Resources
Environmental Protection Commission

ITEM #6

DECISION

Contract with THE UNIVERSITY OF IOWA**Recommendation:**

Commission approval is requested for a service contract with the State Hygienic Laboratory at the University of Iowa.

Contract Terms:

Amount: Not to exceed \$30,748.41

Dates: May 1, 2023, to October 31, 2023

Funding Source(s): Environment First Appropriation

Statutory Authority: Iowa Code section 455B.103(3)

Contract Background: Since 2006, the DNR Beach Monitoring Program has sampled and reported indicator bacteria concentrations at swimming areas throughout the state. Routine monitoring takes place from the week before Memorial Day through Labor Day. The beach monitoring project fits into the mission of the DNR by ensuring high quality recreational opportunities within the state park system and by assessing and reporting on the quality of surface waters in the State.

Contract Purpose: The parties propose to enter into this Contract to retain the Contractor to provide assistance to DNR in the analysis of indicator bacteria and cyanobacteria toxins (microcystin, anatoxin, saxitoxin) samples collected by the DNR as part of the beach monitoring program. Indicator bacteria samples are collected weekly during the monitoring period at up to 41 state park beaches and as many as 34 city and county park beaches.

Contractor Selection Process:

DNR is allowed to contract with the University of Iowa pursuant to Iowa Code section 455B.103(3).

Contract History:

The DNR has entered into contracts with the State Hygienic Laboratory at the University of Iowa on a regular basis since 2014. The purpose of the contracts with University of Iowa is to have the State Hygienic Laboratory provide the DNR with indicator bacteria analysis at state, county, and city-owned beaches. This information is used to inform the public of current beach warning status. Additionally, the DNR intends to utilize the information gathered and analyzed in this Contract in partial fulfillment of sections 303d and 305b of the Clean Water Act including biennial reports on the status of lake water quality, impaired water listing, and total maximum daily load reports. The most recent contracts have been the following:

Contract #1: Timeframe: May 1, 2018, to October 31, 2018; Amount \$ \$24,457.14 ; Amendment: None

Contract #2: Timeframe: May 1, 2019, to October 31, 2019; Amount \$ \$25,963.74 ; Amendment: None

Contract #3: Timeframe: May 1, 2020, to October 31, 2020; Amount \$ \$27,839.16; Amendment: None

Contract #4: Timeframe: May 1, 2021, to October 31, 2021; Amount \$ \$84,956.58; Amendment: None

Contract #5: Timeframe: May 1, 2022, to October 31, 2022; Amount \$ \$27,697.68; Amendment: None

Daniel Kendall, Environmental Specialist Senior, Water Quality Bureau
Environmental Services Division
April 18, 2023

5.1 Statement of Work. Contractor shall perform the following Tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Obligation	Task Milestone Date
<p>Task 1: Analysis of water samples from state park beaches for indicator bacteria</p> <p>Description:</p> <ul style="list-style-type: none"> a) Laboratory analysis shall be completed for <i>Escherichia coli</i> (see Table 4 for a parameter list) on surface water samples collected at up to 41 state park beaches by DNR staff (see Table 1 for a list of these beaches). Samples shall be run at a 1:10 dilution. b) All samples submitted for analysis through this Task shall be coded as IDNR BEACH. c) Laboratory staff shall email the Contract Manager with notification of results greater than 235 CFU/100ml within 2 hours of sample analysis completion. d) SHL shall provide sample containers and chain of custody forms for water samples to be collected by DNR staff during the Contract period. 	<p>Contractor shall conduct sample analysis, including sample set-up, on a weekly basis beginning no later than May 22, 2023, and continuing for 15 weeks.</p> <p>Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.</p>
<p>Task 2: Analysis of QA/QC samples</p> <p>Description:</p> <ul style="list-style-type: none"> a) Laboratory analysis shall be completed for <i>Escherichia coli</i> (see Table 4 for a parameter list) on all QA/QC samples (field blanks and splits) submitted to SHL by DNR as part of the state beach monitoring program. Samples shall be run at a 1:10 dilution. b) All samples submitted for analysis through this Task shall be coded as IDNR BEACH QAQC. c) SHL shall provide sample containers and chain of custody forms for water samples to be collected by DNR staff during the Contract period. 	<p>Contractor shall conduct sample analysis, including sample set-up, on a weekly basis beginning no later than May 22, 2023, and continuing for 15 weeks.</p> <p>Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.</p>
<p>Task 3: Assemble and ship bacteria sample kits to city/county beaches</p> <p>Description:</p> <ul style="list-style-type: none"> a) SHL shall ship coolers, cold packs, bottles, and chain of custody forms to all beaches participating in the city/county beach monitoring program (see Table 2 for a list of these beaches). b) SHL shall provide return shipping labels to meet required holding times. 	<p>Contractor shall complete the first shipment of this task no later than May 15, 2023.</p> <p>Contractor shall continue to ship supplies outlined in this task on an as needed basis with the last shipment sent no later than August 28, 2023.</p>
<p>Task 4: Return shipping and analysis of city/county beach bacteria samples</p> <p>Description:</p> <ul style="list-style-type: none"> a) Laboratory analysis shall be completed for <i>Escherichia coli</i> (see Table 5 for a parameter list) on surface water samples collected by DNR, or collected and shipped to SHL from up to 34 city/county park beaches (see Table 2 for a list of these beaches). Return shipping by local city/county staff will allow for samples to arrive at SHL and be analyzed within the 30 hour sample holding time. Samples shall be run at a 1:10 dilution. b) Samples received outside of the 30 hour sample holding time shall not be analyzed. SHL shall email the DNR Contract Manager by end of business on date of sample receipt when city/county beach samples are not analyzed. c) SHL shall email the DNR Contract Manager to notify when city/county beach samples are received on a Thursday or Friday. Samples received on a 	<p>SHL shall complete this Task weekly, beginning week of May 22, 2023, and continuing for 15 weeks.</p> <p>SHL shall make completed results available to DNR via the SHL OpenELIS web portal not later than close of business on Thursday of each week of the monitoring season (May 22–Sept 4, 2023).</p>

<p>Thursday or Friday and within 30 hour sample holding time shall be analyzed.</p> <p>d) All samples submitted for analysis through this task shall be coded as CO BEACH.</p>	
<p>Task 5: Special Projects Description:</p> <p>a) SHL shall complete additional analyses from state park or county beaches for indicator bacteria (see Table 4 for a parameter list) as mutually agreed upon in writing by SHL and DNR. Samples shall be run at a 1:10 dilution.</p> <p>b) All samples submitted for analysis through this task shall be coded as IDNR BEACH SPECIAL.</p> <p>c) Laboratory staff shall email the Contract Manager with notification of results greater than 235 CFU/100ml</p>	<p>Contractor shall conduct sample analysis, including sample set-up, on a as needed basis beginning no later than May 22, 2023, and continuing for 15 weeks.</p> <p>Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.</p>
<p>Task 6: Data Transfer Description: SHL shall make the data generated pursuant to this Contract available to DNR electronically through the State Hygienic Laboratory OpenELIS database web portal. Data shall be available for download by DNR staff in a mutually agreeable format. The available sample information shall include the STORET station identification number (aka AQuIA SiteID), which will be provided by DNR for all station locations. Data shall be retrievable via the web portal by DNR staff.</p> <p>Analytical reports may be retrieved electronically by DNR staff having the appropriate authorization. SHL shall assist DNR staff in obtaining appropriate authorization when requested.</p> <p>When accessing electronic data, the following information is required:</p> <ul style="list-style-type: none"> • SHL OpenELIS/Telcor Organization ID number: 7002 (IDNR BEACH MONITORING) • SHL Project Code: (IDNR BEACH; IDNR BEACH QAQC; CO BEACH; IDNR BEACH SPECIAL) 	<p>SHL shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 15 calendar days after the end of each month.</p> <p>If SHL determines that extra time for analysis should be allowed in specific cases, then a written notification shall be made to the DNR Project Manager, stating that analytical results from a sample will be delayed and the reasons for the delay. This notification shall occur as soon as possible but not later than 15 days following receipt of the sample.</p>

7.3 Budget & Submission of Invoices. The budget and submission of invoices for this Contract shall be as follows:

Task*	Total Amount of compensation allotted to Task** (Variable *** Payment)	Task Milestone Date	Invoice Due No Later Than:
<p>Task 1. Analysis of water samples from state park beaches for indicator bacteria (see Table 4 for a parameter list)</p>	<p>No greater than \$11,992.50, at the per sample costs contained in Table 3.</p>	<p>Contractor shall conduct sample analysis including sample set-up, on a weekly basis beginning no later than May 22, 2023, and continuing for 15 weeks.</p> <p>Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.</p>	<p>Monthly, no later than thirty (30) days following the end of each month.</p>
<p>Task 2: Analysis of QA/QC samples (see</p>	<p>No greater than \$1,482.00, at the per</p>	<p>Contractor shall conduct sample analysis including sample set-up, on a weekly basis beginning no later than May 22, 2023, and continuing for 15 weeks.</p>	<p>Monthly, no later than thirty (30) days following the</p>

Table 4 for a parameter list)	sample costs contained in Table 3.	Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.	end of each month.
Task 3: Assemble and ship bacteria sample kits to city/county beaches	\$ 0	Contractor shall complete the first shipment of this task no later than May 15, 2023. Contractor shall continue to ship supplies outlined in this task on an as needed basis and no later than August 28, 2023.	N/A
Task 4: Return shipping and analysis of city/county beach bacteria samples (see Table 5 for a parameter list)	No greater than \$14,703.75, at the per sample costs contained in Table 3.	SHL shall complete this task weekly, beginning week of May 22, 2023, and continuing for 15 weeks. SHL shall make completed results available to DNR via the SHL OpenELIS web portal not later than close of business on Thursday of each week of the monitoring season (May 22– September 4, 2023).	Monthly, no later than thirty (30) days following the end of each month.
Task 5: Special Projects (see Table 4 for a parameter list)	No greater than \$292.50, at the per sample costs contained in Table 3.	Contractor shall conduct sample analysis including sample set-up, on an as needed basis beginning no later than May 22, 2023, and continuing for 15 weeks. Contractor shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 2 hours after completion of sample analysis.	Monthly, no later than thirty (30) days following the end of each month.
Task 6: Data Transfer	N/A	SHL shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 15 calendar days after the end of each month. If SHL determines that extra time for analysis should be allowed in specific cases, then a written notification shall be made to the DNR Project Manager, stating that analytical results from a sample will be delayed and the reasons for the delay. This notification shall occur as soon as possible but not later than 15 days following receipt of the sample.	N/A
Sub-totals	\$28,470.75		
Facilities and Administrative Costs @ 8%	\$2,277.66		
Total	Not to exceed \$30,748.41		

*Payment for completion of Tasks where specific payment is allotted shall be dependent upon the timely completion of corresponding items required by Tasks where no specific payment is allotted.

**Payment also shall conform to any pricing Tables contained in this Contract and referenced in the Budget Table above; or to the relevant SHL Pricing Table. Tables contained in this Contract shall take precedence, in the event of any inconsistency.

Table 1 – List of 41 State Park Beaches (Collected by DNR)

Beach Name	Park	AQuIA SiteID
Backbone Beach	Backbone State Park	21280001
Beed's Lake Beach	Beed's Lake State Park	21350001
Big Creek Beach	Big Creek State Park	21770001
Black Hawk Campground Beach	Black Hawk State Park	21810002
Denison Beach	Black Hawk State Park	21810001
Brushy Creek Beach	Brushy Creek State Recreation Area	21940001
Clear Lake Beach	Clear Lake State Park	21170001
Crandall's Beach	Crandall's Beach	21300005
Emerson Bay Beach	Emerson Bay State Recreation Area	21300004
Geode Beach	Geode State Park	21440001
George Wyth Beach	George Wyth Memorial State Park	21070001
Green Valley Beach	Green Valley State Park	21880001
Gull Point Beach	Gull Point State Park	21300001
Honey Creek Resort Beach	Honey Creek Resort State Park	21040001
Lacey-Keosauqua Beach	Lacey-Keosauqua State Park	21890001
Orleans Beach	Orleans Beach Area	21300007
Lake Ahquabi Beach	Lake Ahquabi State Park	21910001
Lake Anita Beach	Lake Anita State Park	21150001
Lake Darling Beach	Lake Darling State Park	21920001
Lake Keomah Beach	Lake Keomah State Park	21620001
Lake Macbride Beach	Lake Macbride State Park	21520001
Lake Manawa Beach	Lake Manawa State Park	21780001
Lake of Three Fires Beach	Lake of Three Fires St. Park	21870001
Lake Wapello Beach	Lake Wapello State Park	21260001
Lewis and Clark (Blue Lake) Beach	Lewis & Clark State Park	21670001
Marble Beach	Marble Beach State Rec Area	14000380
McIntosh Woods Beach	McIntosh Woods State Park	21170002
Nine Eagles Beach	Nine Eagles State Park	21270001
Pike's Point Beach	Pike's Point State Park	21300002
Lower Pine Lake Beach	Pine Lake State Park	21420001
Pleasant Creek Lake Beach	Pleasant Creek State Recreation Area	21570001
Prairie Rose Beach	Prairie Rose State Park	21830001
Red Haw Beach	Red Haw State Park	21590001
Rock Creek Beach	Rock Creek State Park	21500001
Springbrook Beach	Springbrook State Park	21390001
Triboji Beach	Triboji Beach	21300003
North Twin Lake East Beach	Twin Lakes State Park	21130002
North Twin Lake West Beach	Twin Lakes State Park	21130001
Union Grove Beach	Union Grove State Park	21860001
Viking Lake Beach	Viking Lake State Park	21690001
Bob White Beach	Bob White State Park	21930001

Table 2 – 34 City/County Park Beaches (Collected by City/County Personnel)

<u>Site</u>	<u>Contact</u>	<u>Street Address/P.O.Box</u>	<u>City</u>	<u>Zip Code</u>	<u>AQuiA SiteID</u>
Mormon Trail Beach	Dominic Johnson, Adair County Conservation Board	705 NE 6th Street	Greenfield	50849	21010001
Hannen Lake Park	Camryn Grubic	1949 Benton-Iowa Road	Blairstown	52209	14000158
Rodgers Lake Beach	Ed Hach	2113 57th Street Trail	Vinton	52349	14000236
Don Williams Beach	Boone County Conservation - Don Williams Park	610 H Ave	Ogden	50212	21080001
Struchler Pit Beach	Buena Vista County Conservation, Greg Johnson	377 440th Street	Peterson	51047	21110002
Gabrielson Park Beach	Buena Vista County Conservation, Greg Johnson	377 440th Street	Peterson	51047	21110001
Malone Park	Kyle Redmond	3942 291st Street	Camanche	52731	21230001
Little River Recreation Area	Decatur CCB – Brandon Smith	20401 NW Little River Rd	Leon	50144	21270002
Big Hollow Recreation Area	Des Moines County Conservation - Tanner Grimm	13700 Washington Rd	West Burlington	52655	21290001
Willow Lake Recreation Area	Harrison County Conservation Board - Byron Vennink	2725 Easton Trail	Woodbine	51579	21430001
Lake Iowa Park	Phil DeJarnatt	2550 G ave	Ladora	52251	21480001
Fairfield Waterworks Park	The Fairfield Waterworks – Steve Redinger	700 Waterworks Rd	Fairfield	52556	21510001
Pollmiller Park	Lee County Conservation - Clint Oldfield	2652 Hwy 61	Montrose	52639	21560001
Deep Lakes Park Beach (Formerly: Muscatine Island)	Muscatine Co Cons Bd - Ryne Brimeyer	3300 Cedar Street/PO Box 109	Muscatine	52761	14000136
Gray's Lake Park	Parks and Recreation – Josh Dewes	1551 E. Martin Luther King Jr. Pkwy	Des Moines	50317	21770003
Big Sioux Recreation Area	Sioux County Conservation - Jessica Van Oort	4051 Cherry Ave	Hawarden	51023	21840001
Sandy Hollow Recreation Area	Sioux County Conservation - Jessica Van Oort	3395 400th St	Sioux Center	51250	14000120
Three Mile Lake beach	Union CCB - Michael Hilger	1577 Creamery Rd	Afton	50830	14000186
Lake Cornelia	Wright CCB – Jeremiah Feltz	1768 O'Brien Ave	Clarion	50525	21990001
Lake Pahoja	Kyle Ciesielski	1831 Buchanan Ave	Inwood	51240	21600001
Treman Park Beach	Calhoun County Conservation - Curtis Vanderheiden	1228 High St	Rockwell City	50579	21130003
Central Park Lake Beach	Jones County Conservation - John Klein	12515 Central Park Road	Center Junction	52212	21530001
Hickory Grove Park	Story County Conservation - Sara Carmichael, Jake Smith	67464 250th Street	Colo	50056	21850001
Peterson Park Beach	Story County Conservation - Sara Carmichael, Russ Dewall	56461 180th St.	Ames	50010	21850002
Browns Lake Beach	Browns Lake - Josh VanVoorst	722 Bigelow park Road	Salix	51052	21970002
Little Sioux Park Beach	Little Sioux Park - Nathan Silfies	1746 O'Brien Ave	Correctionville	51016	21970001
West Lake Park	Scott County Conservation – J.B. Graham	14910-110th Avenue	Davenport	52804	21820001
Alwaysis Park*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110004
Bel Air Beach*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110005

Casino Beach*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110006
Chautauqua Park*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110007
Frank Starr Beach*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	14000121
Edson Park*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110008
Old Water Plant*	City of Storm Lake - Kim Woltman	433 Vilas Rd	Storm Lake	50588	21110009

*Indicates DNR will drop off to SHL

Table 3 – Breakdown of Costs

Task	Number of Samples	Cost per Sample	Total Cost
Task 1: Analysis of water samples from state park beaches for indicator bacteria	615 (41 state park beaches × 15 weeks)	615 @ \$19.50	\$11,992.50
Task 2: Analysis of QA/QC samples	76 (4 field replicate per week × 15 weeks=60) + (4 equipment blank × 4 (every 4 weeks)=16)	76 @ \$19.50	\$1,482.00
Task 3: Assemble and ship bacteria sample kits to city/county beaches	Outgoing shipments	\$0.00	\$0.00
Task 4: Return shipping and analysis of city/county beach bacteria samples			
Task 4a: Analysis of city/county beach bacteria samples (shipped)	405 (27 beaches × 15 weeks)	405 @ \$19.50	\$7,897.50
	Ground return shipping	405 @ \$11.75	\$4,758.75
Task 4b: Analysis of city/county beach bacteria samples (delivered by DNR)	105 (7 beaches × 15 weeks)	105 @ \$19.50	\$2,047.50
Task 5: Special Projects	Up to 15 samples	15 @ \$19.50	\$292.50
Task 6: Data Transfer		\$0.00	\$0.00
		Subtotal	\$28,470.75
		Facilities and Administrative Costs @ 8%	\$2,277.66
		Contract Total	\$30,748.41

Table 4. Water quality sampling parameters, frequency and fee for Tasks 1, 2, and 5.

SHL Bottle # ¹	Parameter	Analytical Method	Reporting Limit ²	Holding Time	Sample Handling	Test Fee	# of Samples	Total Fee
81	<i>E. coli</i> in water ³	SM 9223 B	<10 MPN/100ml ⁴	CWA 8 hours	Sodium thiosulfate, On ice	\$19.50	706	\$13,767.00
¹ Final type and quantity of bottles will be specified in the bottle order and on the test request form (TRF).								
² DNR requires that the analytical method with the lowest reporting limit be used if the parameter is non-detect.								
³ This parameter will be run at a 1:10 dilution.								
⁴ Result may be reported as greater than the maximum measurable value (e. g. >24,000).								

Table 5. Water quality sampling parameters, frequency and fee for Task 4.

SHL Bottle # ¹	Parameter	Analytical Method	Reporting Limit ²	Holding Time	Sample Handling	Test Fee	# of Samples	Total Fee
81	<i>E. coli</i> in water ³	SM 9223 B	<10 MPN/100ml ⁴	30 hours	Sodium thiosulfate, On ice	\$19.50	510	\$9,945.00
¹ Final type and quantity of bottles will be specified in the bottle order and on the test request form (TRF).								
² DNR requires that the analytical method with the lowest reporting limit be used if the parameter is non-detect.								
³ This parameter will be run at a 1:10 dilution.								
⁴ Result may be reported as greater than the maximum measurable value (e. g. >24,000).								

Iowa Department of Natural Resources
Environmental Protection Commission

ITEM

#7

DECISION

Contract with THE UNIVERSITY OF IOWA**Recommendation:**

Commission approval is requested for a service contract with the State Hygienic Laboratory at the University of Iowa.

Contract Terms:

Amount: Not to exceed \$270,522.00

Dates: May 1, 2023 to October 31, 2024

Funding Source(s): EPA 106 Part B Grant

Statutory Authority: Iowa Code section 455B.103(3)

Contract Background:

The National Rivers and Streams Assessment (NRSA) is a U.S. Environmental Protection Agency (EPA) two-year sampling project that began in 2008 and happens every five years. NRSA is a national probability-based (random) survey of rivers and streams based on physical, chemical, and biological data collected and analyzed using standardized field and laboratory methods.

The goals of the NRSA are to determine the extent to which rivers and streams support a healthy biological condition and the extent of major stressors that affect them. The survey supports a longer-term goal: to determine whether our rivers and streams are getting cleaner and how we might best invest in protecting and restoring them. Determining the health of Iowa streams and rivers and how the health of our streams and rivers compares to the rest of the country is important to Iowans. Additionally, results from the national surveys allows DNR to direct additional sampling resources and watershed projects to appropriate watersheds.

Previous NRSA sampling results can be found here: <https://www.epa.gov/national-aquatic-resource-surveys/nrsa>

Contract Purpose:

The parties propose to enter into this contract for the purpose of retaining SHL to assist the DNR in the biological and habitat sample collection for the NRSA project. The EPA 106 Part B grant can only be awarded to states, tribes, and territories and can only be used to complete the NRSA sampling. DNR does not have the staffing capacity to complete the NRSA sampling; therefore, the 106 Part B grant funds were used to develop this contract with SHL to complete the 2023-24 NRSA project. It is important that DNR stay engaged and participate in the national sampling programs.

Contractor Selection Process:

The authority to enter into this contract is found in Iowa Code section 455B.103(3). The State Hygienic Laboratory at the University of Iowa was chosen for this project because of its ability to provide the necessary services.

Contract History:

There have been no previous contracts with the State Hygienic Laboratory for this work.

Ken Krier, Environmental Specialist Senior, Water Quality Monitoring and Assessment Section
Water Quality Bureau
Environmental Services Division
April 18, 2023

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the following Tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Obligation	Task Milestone Date
Task 1: NRSA Site Sampling Description: All of the biological and habitat sampling required of the NRSA program shall be completed by the Contractor at 42 sites. All sampling must occur between May 1, 2023 through October 31, 2024. All sampling data and recorded observations shall be submitted to the EPA as per their National Rivers and Streams Assessment 2023/24 Wadeable and Non-Wadeable Field Operations Manuals. An additional copy of all sampling data and recorded observations shall be submitted to DNR for billing documentation.	October 31, 2024

7.1 Budget & Submission of Invoices. The budget and submission of invoices for this Contract shall be as follows:

Task*	Total Amount of compensation allotted to Task** (Variable*** Payment)	Task Milestone Date	Invoice Due No Later Than:
Task 1: NRSA Site Sampling	Not to exceed \$250,483.33 @ \$5,963.89 per site	October 31, 2024	The 30 th of each month following the month of collection beginning May 1, 2023
Sub-totals	\$250,483.33		
Facilities and Administrative Costs @ 8%	\$20,038.37		
Total	\$270,522.00		

Iowa Department of Natural Resources
Environmental Protection Commission

ITEM #8

DECISION

Contract with THE UNITED STATES DEPARTMENT OF THE INTERIOR - GEOLOGICAL SURVEY**Recommendation:**

Commission approval is requested for a service contract with the U.S. Department of the Interior - Geological Survey (USGS) for work at its Upper Midwest Water Science Center.

Contract Terms:

Amount: Not to exceed \$180,960.00

Dates: May 1, 2023, to June 30, 2025.

Funding Source(s): EPA Section 106 grant award, grant number 00793520

Statutory Authority: Intergovernmental contracting is authorized by 11 IAC 118.4.

Contract Background: The DNR has been collecting E. coli bacteria samples at public beaches for many years and has just recently been adding source tracking and pathogen sampling to some of these systems. This Contract will expand DNR's ability to further understand the nature of the problems at Iowa public beaches by expanding the number of locations and samples the DNR is able to screen for these additional parameters.

These efforts are an expansion of the beach bacteria investigation efforts that were highlighted in a presentation during the December 2022 EPC meeting.

Contract Purpose: The parties propose to enter into this Contract to retain the Contractor to provide the service of processing and analyzing environmental samples. The USGS laboratory will screen samples for the presence of pathogens, identify sources of fecal contamination and contextualize the human health risk of any pathogens identified by sampling.

Analysis targets, sample number and sample cost are highlighted in tables in the attachment.

Contractor Selection Process:

Intergovernmental contracting is authorized by 11 IAC 118.4. The USGS was chosen for this project because they were the most capable and affordable laboratory available for processing samples.

Contract History: There have been no similar contracts in the last five years.

Jason Palmer, Natural Resource Biologist, Water Quality Bureau
Environmental Services Division
April 18, 2023

GENETIC TARGET TABLE

Table 1 Genetic Endpoint Targets

<p>Genetic endpoints for sand and water samples</p> <ul style="list-style-type: none"> ● Bacteroidales – like cow M3 ● Bacteroidales – like cow M2 ● Ruminant Bacteroides ● Pig 1 – Bacteroidales ● Pig 2 – Bacteroidales ● Goose source tracking gene ● Dog source tracking gene ● Gull source tracking gene ● Human Bacteroides (HF183/R287) ● Bacteroidales – like HummM2 ● Campylobacter jejuni ● Cryptosporidium spp. (pan-crypto) ● Enteropathogenic <i>E. coli</i> (eae gene) ● Human adenovirus groups A-F ● Salmonella spp. (invA gene) ● Shiga toxin 1-producing bacteria ● Shiga toxin 2-producing bacteria ● Human enterovirus ● Norovirus genogroup 1 ● Norovirus genogroup 2
<p>Genetic endpoints for archived environmental samples</p> <ul style="list-style-type: none"> ● Bacteroidales – like cow M3 ● Ruminant Bacteroides ● Pig 1 – Bacteroidales ● Pig 2 – Bacteroidales ● Goose source tracking gene ● Dog source tracking gene ● Gull source tracking gene ● Human Bacteroides (HF183/R287) ● Cryptosporidium spp. (pan-crypto)

COMPENSATION

Task Milestone Date	Amount of Compensation Allotted to Task	Invoice Due No Later Than
<p>Task 1: Analysis of water Samples: 76 samples @ \$460.00 each</p>	<p>Not to exceed \$34,960.00</p>	<p>Invoices shall be due no later than: July 31, 2023; October 31, 2023; January 31, 2024; April 30, 2024; July 31, 2024; October 31, 2024; January 31, 2025; April 30, 2025; June 30, 2025</p>
<p>Task 2: Analysis of Sand Substrate Samples: 96 samples @ \$435.00 each</p>	<p>Not to exceed \$41,760.00</p>	<p>Invoices shall be due no later than: July 31, 2023;</p>

		October 31, 2023; January 31, 2024; April 30, 2024; July 31, 2024; October 31, 2024; January 31, 2025; April 30, 2025; June 30, 2025
Task 3: Analysis of Archived Samples: 220 samples @ \$292.00 each	Not to exceed \$64,240.00	Invoices shall be due no later than: July 31, 2023; October 31, 2023; January 31, 2024; April 30, 2024; July 31, 2024; October 31, 2024; January 31, 2025; April 30, 2025; June 30, 2025
Task 4: Risk Analysis Product Development: Four Risk Analyses @ \$10,000 each.	Not to exceed \$40,000.00	Invoices shall be due no later than: July 31, 2023; October 31, 2023; January 31, 2024; April 30, 2024; July 31, 2024; October 31, 2024; January 31, 2025; April 30, 2025; June 30, 2025
Total	Not to exceed \$180,960.00	

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #9

DECISION

Contract with Iowa Department of Agriculture and Land Stewardship (IDALS) – Palo Alto Shallow Lakes Watershed Project – Year 2

Commission approval is requested for a Contract with IDALS, of Des Moines, Iowa.

Contract Terms:

Amount: Not to exceed \$77,638

Dates: May 1, 2023 to June 30, 2024

DNR shall have the option to extend this Contract for up to six years from the beginning date of the original contract by executing a signed amendment prior to the expiration of this Contract.

Funding Source(s): EPA Clean Water Act Section 319 grant to DNR (Grant Number 00740429)

Statutory Authority: Funds are administered by DNR under statutory authority granted by Iowa Code section 455B.103.

Contract Background:

This Contract provides funding and support for a new water quality project in Palo Alto County, Iowa. This Project is contracted through IDALS and carried out by the Palo Alto County Soil and Water Conservation District. The focus of the Project is to work with the various stakeholders to reduce the amount of phosphorus reaching three shallow lakes in Palo Alto County (Five Island, Lost Island, and Silver Lakes). A 9-element watershed plan has been developed for Five Island Lake and Lost Island Lake to address the phosphorus issue that has plagued the system for years. A 9-element plan for Silver Lake is currently in development and will become part of this Project when the plan is approved by EPA.

Work in the Project consists of management practices, conservation cover, and wetland restoration efforts to address the phosphorus issue. Year 2 activities under this Contract focus on outreach to landowners, farmers, partners and residents/users of Five Island and Lost Island Lake to encourage further implementation of these practices.

Contract Purpose:

The purpose of this Contract is to designate Section 319 funding to support this Project. This Contract will work to carry out the goals of the Project for the stated Contract term. In August of 2022 Harley Butler was hired as the Palo Alto Shallow Lakes Watershed Coordinator and will oversee carrying out year two activities. The partners involved in this Project are the DNR, Palo Alto County Conservation Board, Palo Alto County Soil and Water Conservation District, IDALS, and the Natural Resources Conservation Service. Each partner will provide financial support and/or technical assistance to help ensure the successful completion of the activities proposed in this Project.

This Contract will place an emphasis on load reductions from rural inputs as well as urban demonstration projects.

Phosphorus Load Reduction Five Island - 78 lbs

Phosphorus Load Reduction Lost Island - 69 lbs

Selection Process Summary:

Intergovernmental contracting with IDALS is authorized under 11 IAC 118.4. Contracts with state universities and other public agencies for laboratory work, scientific field measurement and environmental quality evaluation services necessary to implement Iowa Code Chapter 455B is authorized under Iowa Code section 455B.103(3).

Contract History:

The DNR has contracted with IDALS to administer Section 319-funded watershed projects since the early 1990s. The purpose of the contracts with IDALS is to provide funds and project management support to IDALS, which then enters

into subsequent agreements with soil and water conservation districts to implement the specific watershed implementation project activities.

Previous Contract:

22-ESDWQBKAMEN-0005: July 2022 – June 2023 (\$59,758)

STATEMENT OF WORK

- Task 1. **Submit and Carry Out Project Activities** – Contractor shall submit annual Work Plan and Budget consistent with EPA-Approved Project Implementation Plan. **Timeframe** – No later than May 1 of each year
- Task 2. **Quarterly Financial Reports** – Summarize expenses each quarter. **Timeframe** – 10/15, 1/15, 4/15 yearly
- Task 3. **Quarterly Progress Reports** – Summarize activities each quarter. **Timeframe** – 10/15, 1/15, 4/15 yearly
Note: Quarterly reports are superseded by annual reports for the expected 7/15 report as follows
- Task 4. **Annual Progress Report** – Summarize activities, progress, project costs, water monitoring data (if applicable), and water quality improvements (load reductions) made during the previous fiscal period.
Timeframe – No later than August 1 of each year
- Task 5. **Final Project Report** – Total Section 319 funds expended by the project, summary of other funds, summary of accomplishments and objectives, comparison of actual accomplishments to objectives established by annual work plans and project implementation plan, summary of water quality improvements (load reductions), explanation of unmet objectives, and all other reporting requirements in the Section 319 guidance document. **Timeframe** – Due no later than 30 days prior to the expiration of this Contract.

Budget Item	Amount of 319 Funds
Salary and Benefits	\$38,358
Travel/Training:	\$750
IDALS Conservation Assistant Support	\$5,000
Supplies:	\$1,500
Inform./Outreach:	\$4,000
Practices	
Cover Crops	\$12,150
To-till	\$6,750
CRP Incentive	\$4,000
Wetland Incentive	\$450
Rain Gardens	\$4,200
Rain Barrels	\$480
Total:	\$77,638

Matching Funds:

IDALS - \$37,000 (Salary/BMPs)

FSA/USDA - \$26,145 (Practices/Technical Assistance)

Kyle Ament, Watershed Basin Coordinator, Water Quality Bureau

Environmental Services Division

April 18, 2023

Iowa Department of Natural Resources
Environmental Protection Commission

ITEM

#10

DECISION

Adopted and Filed – 567 IAC Chapter 135 – Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks

The Commission is requested to approve this Adopted and Filed rulemaking to amend 567 Iowa Administrative Code (IAC) Chapter 135- Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks.

This proposed rulemaking aligns the rules with the 2022 Iowa Acts, House File 2128, which amended Iowa Code Chapter 455G. This legislation requires that all new, replacement, or converted gasoline or diesel fuel storage and dispensing infrastructure be compatible with E-85 and B-20, respectively.

A public hearing was held on February 28, 2023 in Conference Room 5W of the Wallace Building. One stakeholder attended the public hearing and provided a public comment. A Public Participation Responsiveness Summary was prepared and is attached.

Timeline for rulemaking

- The Notice of Intended Action was approved by the Commission on January 17, 2023.
- A public hearing was held on February 28, 2023.
- The Notice of Intended Action was presented to the Administrative Rules Review Committee (ARRC) on March 13, 2023. No comments were received.
- The Adopted and Filed rule will come to the Commission for approval on April 18, 2023.
- Anticipated effective date June 21, 2023.

Keith Wilken, Supervisor
Underground Storage Tank Section
Land Quality Bureau
Environmental Services Division

April 18, 2023

Attachments – Adopted and Filed
Public Participation Responsiveness Summary

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

The Environmental Protection Commission (Commission) hereby amends Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2022 Iowa Acts, House File 2128, section 32, signed by Governor Kim Reynolds on May 17, 2022.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code Chapter 455G, as amended by 2022 Iowa Acts, House File 2128.

Purpose and Summary

Chapter 135 regulates underground storage tanks used for the storage of regulated substances. This rule making will align the administrative rules in that chapter with 2022 Iowa Acts, House File 2128, which recently amended Iowa Code Chapter 455G. The legislation requires that all new, replacement, or converted gasoline or diesel fuel storage and dispensing infrastructure be compatible with E-85 and B-20, respectively.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 8, 2023, as **ARC 6884C**.

A public hearing was held on February 28, 2023, at 1:00 PM at the Wallace State Office Building. Mr. John Maynes of FUEL Iowa attended the public hearing. Mr. Maynes’ comments were associated with Items 1, 3, 4, and 5 as they pertain to House File 2128, and the requirement for owners and operators to document compatibility and capability of equipment, and in regard to DNR form 542-1336 (UST System Checklist for Equipment Compatibility) and DNR form 542-0510

(Equipment Repair and Replacement Form). Prior to final implementation of the aforementioned forms, and the need for owners and operators to maintain records, Mr. Maynes believed that there are some points of House File 2128 that need further clarification so owners and operators can complete the forms correctly once the final understanding of the regulation is determined. Mr. Maynes requested the DNR to consider convening a stakeholder group to evaluate and review the forms, and to refine the forms to help owners and installers complete the forms in a proper manner to implement the rules and the intent of the legislation.

The DNR agreed to review the aforementioned existing forms and present the forms to Mr. Maynes and Iowa licensed installers for comment and consideration. The amendments are identical to those filed under notice.

Adoption of Rule Making

This rule making was adopted by the Commission on **April 18, 2023**.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting.

The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 21, 2023.

The following rule making action is adopted:

ITEM 1. Amend paragraph **135.4(3)“b”** as follows:

b. Owners and operators must have a UST installer licensed under 567—Chapter 134, Part C, submit the department's checklist for equipment compatibility for the UST system to the department at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, or greater than 20 percent biodiesel, or any other regulated substance identified by the department.

ITEM 2. Adopt the following **new** paragraph **135.4(3)“c”**:

c. A retail dealer, as defined in Iowa Code section 214A.1, must show compliance with the requirements of Iowa Code sections 455G.32 and 455G.33, if applicable, by submitting and maintaining the applicable reporting and record keeping documentation listed in ~~567~~ subparagraphs 135.4(5)“a”(10) and (11) and ~~567~~ subparagraphs 135.4(5)“b”(12) and (13).

ITEM 3. Amend subparagraph **135.4(5)“a”(9)** as follows:

(9) Notification prior to UST systems switching to certain regulated substances;:

ITEM 4. Adopt the following **new** subparagraph **135.4(5)“a”(10)**:

(10) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable;:

~~ITEM 4. 5.~~ Adopt the following **new** subparagraph **135.4(5)“a”(11)**:

(11) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

~~ITEM 5.~~ ITEM 6. Amend subparagraph **135.4(5)“b”(11)** as follows:

(11) Documentation of compliance for spill and overfill prevention equipment and containment sumps used for interstitial monitoring of piping (135.4(12));:

ITEM 7. Adopt the following **new** subparagraph **135.4(5)“b”(12)**:

(12) Documentation establishing compatibility and capability as required in Iowa Code section 455G.32, if applicable.;

~~ITEM 6.~~ 8. Adopt the following **new** subparagraph **135.4(5)“b”(13)**:

(13) Documentation establishing compatibility and capability as required in Iowa Code section 455G.33, if applicable.

PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY

FOR

RULEMAKING ON 567 IAC 135

Underground Storage Tank Regulations

Public Hearing – February 28, 2023

IOWA DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL SERVICES DIVISION

LAND QUALITY BUREAU

March 1, 2023

*Rulemaking on Underground Storage Tank Regulation Update:
March 1, 2023*

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*Rulemaking on Underground Storage Tank Regulation Update:
March 1, 2023*

INTRODUCTION

This is a summary of the Iowa Department of Natural Resources' (DNR) response to comments received in response to the proposed rulemaking for Iowa Administrative Code 567 IAC 135. The primary purpose of the rulemaking is to conform regulations to recently enacted legislation, 2022 Iowa Acts, House File 2128, sections 32 and 33, signed by Governor Kim Reynolds on May 17, 2022.

Notice of the proposed rulemaking was released for public review and comments following approval of the Notice of Intended Action (NOIA) by the Environmental Protection Commission (EPC) on January 17, 2023. The EPC meeting minutes which include the NOIA are available online.

The proposed rulemaking was published in the Iowa Administrative Bulletin (NOIA ARC 6884C) on February 8, 2023. Public comments were accepted from February 8, 2023 through February 28, 2023, with one public hearing held on February 28, 2023, from 1pm to 2 pm. The Iowa Administrative Rules Review Committee (ARRC) meeting was also held on March 13, 2023. No comments were presented to the ARRC.

PUBLIC HEARING

The public hearing was opened by Keith Wilken, Iowa Department of Natural Resources at 1:00 pm on February 28, 2023.

COMMENTS

Commenter 1: John Maynes, FUEL Iowa

Date Received, February 28, 2023

Mr. John Maynes of FUEL Iowa, a trade association representing fuel retailers, haulers, and associated businesses, with 500 member's state wide and more than 80% of the 2002 retail facilities in Iowa, thanked the Department for the opportunity to provide comments. Mr. Maynes noted his comments will be brief and limited to the proposed rules, particularly Items # 1, 3, 4, and 5 as they pertain to HF 2128, and the requirements for owners and operators to document compatibility and capability of equipment, and in regard to DNR forms 542-1336 UST System Checklist for Equipment Compatibility and DNR Form 542-0510 Equipment Repair and Replacement Form. Prior to final implementation of those two forms, and need for owners to maintain records, Mr. Maynes noted that he believes there are some points in the HF 2128 that need further clarification so that owners and installers can fill out the forms correctly once the final understanding of the regulation is determined.

Mr. Maynes respectfully requests DNR to consider convening a stakeholder group to evaluate and review the forms, and to refine the forms to help owners and installers complete the forms in a proper manner to implement the rules and intent of the legislation.

*Rulemaking on Underground Storage Tank Regulation Update:
March 1, 2023*

No other commenters were present and hearing no other comments, Mr. Wilken ended the public hearing at 1:15 pm on February 28, 2023.

DNR RESPONSE; CHANGES TO FINAL RULE

Following the comments presented by Mr. Maynes of Fuel Iowa, the DNR agreed to review existing forms 542-1336 UST Checklist for Equipment Compatibility and 542-0510 Equipment Repair and Replacement Form. Rather than convening a stakeholder group, the DNR will revise the existing forms and present to Mr. Maynes and installers for comment and consideration.

In light of the comments, the DNR has made no changes to the proposed rules in regard to stakeholder concerns. The DNR will attempt to secure additional input regarding the intent of the rules, to ensure implementation of the rules is consistent with what was originally intended.

FURTHER WORK

Lastly, from the comments presented by Mr. Maynes, the DNR is in the process of looking at options to revise certain forms to ensure that the forms are consistent with Federal and State requirements.

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

#11

DECISION

High Hazard Dams Risk Review contract amendment with Houston Engineering Inc. Contract No. 23ESDLQBGART-0002

Recommendation:

Commission approval is requested for a contract amendment with Houston Engineering Inc. (aka Fyra Engineering)

Contract Terms:

Amount of current contract: Not to exceed \$134,884.32

Amount of current amendment: \$60,000

Total Contract: Not to exceed \$194,884.32

Dates: November 1, 2022 to July 31, 2023.

Funding Source(s): This contract amendment will be funded through the FEMA National Dam Safety Program State Assistance Grant

Statutory Authority: 11 IAC Chapter 118

Contract Background: This year's FEMA Dam Safety State Assistance grant had an additional funding available through the Infrastructure Investment and Jobs Act (IIJA) and the DNR proposed to FEMA to use up to \$195,000 of this funding to contract a risk analysis for a portion of Iowa's high hazard dams in the state. In the original grant proposal, DNR reserved internal staff time to help with the contract; however, DNR has not had to provide much staff support and now recommends adding \$60,000 of the grant to this contract.

Contract Purpose:

All of Iowa's state regulated high hazard dams receive a visual inspection at least every two years. These visual inspections identify issues with the dam that can be easily observed; however, dams that were designed decades ago may have features that don't meet current best practices for dam design and/or other internal weaknesses (called probable failure modes) that have not been identified. These probable failure modes of the dam will be identified along with potential consequences if the dam should fail due to any of these probable failure modes. This process is called a screening level risk assessment. The study will help determine if there are any unacceptable risks that warrant lowering the condition rating of the dam resulting in requiring upgrades to the dam to ensure its ongoing safety.

Over the next several years (dependent on yearly grant funding), the DNR plans to use IIJA FEMA Dam Safety State Assistance Grant funds to:

- Review high hazard dam records to evaluate the original design;
- Conduct a screening level risk assessment;
- Conduct a downstream impacts assessment; and
- Develop mitigation goals and recommended actions for the evaluated dams.

Contractor Selection Process:

An Informal RFP was advertised from August 31 to September 29, 2022. One responsive proposal was received. Houston Engineering Inc.'s proposal met the requirements and was very similar to the budgeted amount. Based on responsiveness to the RFP, cost proposal, and reputation; DNR contracted with Houston Engineering Inc.

Abbreviated Scope of Work Task Descriptions:

The DNR is conducting a high hazard dam portfolio risk assessment. The work will include:

- Review of dam records to evaluate original design drawings and calculations. The task will include determining if there are gaps in available information that would make the subsequent tasks difficult.
- Perform a Screening Level Risk Assessment
 - Determine methodology for approximation of the probability and magnitude of dam failure.
 - Identify and Evaluate Potential Failure Modes: Static
 - Identify and Evaluate Potential Failure Modes: Hydrologic
- Perform a Downstream Impacts Assessment
 - Identify Population at Risk via existing inundation mapping
 - Economic Impacts
 - Environmental Impacts
- Develop mitigation goals and recommended actions for the evaluated dams.

Contract Amendment Statement of Work:

Deliverable	Task Milestone Date	Amount of compensation allotted to Task	Invoice Due No Later Than
Original Task 1 is revised as follows: Task 1: Review Dam Records Description of Revision: Extending number of evaluations from 27 to 39.	June 30, 2023	\$5,162.46	August 31, 2023
Original Task 2 is revised as follows: Task 2: Screening Level Assessment Description of Revision: Extending number of evaluations from 27 to 39.	June 30, 2023	\$24,550.34	August 31, 2023
Original Task 3 is revised as follows: Task 3: Downstream Impacts Assessment Description: Extending number of evaluations from 27 to 39.	June 30, 2023	\$10,872.44	August 31, 2023
Original Task 4 is revised as follows: Task 4: Develop Mitigation Goals Description: Extending number of evaluations from 27 to 39.	July 31, 2023	\$19,414.76	August 31, 2023
			Total: \$60,000

Jonathan Garton
Floodplain and Dam Safety Section Supervisor
Land Quality Bureau, Environmental Services Division

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #12

DECISION

Contract with Maquoketa River Watershed Management Authority (WMA) for Maquoketa River Watershed Stream Sign Project (parts of Delaware, Buchanan, Fayette, Clayton, Dubuque, Jackson, Clinton, Jones, and Linn counties)

Commission approval is requested for a Contract with Maquoketa River WMA in Mechanicsville, IA.

Contract Terms:

Amount: Not to exceed \$30,569

Dates: April 18, 2023 to September 30, 2023

Funding Source(s): U.S. EPA Clean Water Act Section 319 grant to DNR (Grant Number 00740429 - FY18 Grant)

Statutory Authority: Funds are administered by DNR under statutory authority granted by Iowa Code section 455B.103.

Contract Background:

As the state agency having primary responsibility for implementation of Iowa's Nonpoint Source Management Program plan, the DNR has identified awareness of water bodies as an important factor in residents' understanding of how actions within their watersheds impact water quality, including how behaviors by residents affect water quality. Therefore, installing signs at bridges over water bodies within designated DNR watershed project areas creates and enhances awareness of the water body and its watershed in the project area.

Contract Purpose:

The purpose of this Contract is to provide funding from DNR to the Contractor for the construction and installation of 57 stream and watershed signs to be installed at designated stream bridges in priority watersheds in Iowa, as identified on the project spreadsheet (Attachment).

Selection Process Summary:

A competitive application process was issued May 11, 2022 with a due date of July 15, 2022. Regardless of the applicant, each county was limited to receiving a maximum award of \$10,000. Applicants acting as an organizing entity for multiple counties (such as a Resource Conservation & Development entity or a Watershed Management Authority) were allowed to submit applications on behalf of multiple counties, with no single county totaling over \$10,000. Because these stream signs are constructed on county managed roads, all construction work will be handled through the various county engineering departments.

Statement of Work:

Task 1: Sign Construction and Installation

Task 2: Final Report

Partnerships Summary:

The DNR's primary partnerships for this Contract include:

- County Engineers of Delaware, Buchanan, Fayette, Clayton, Dubuque, Jackson, Clinton, Jones, and Linn counties
- County Conservation Boards of Delaware, Buchanan, Fayette, Clayton, Dubuque, Jackson, Clinton, Jones, and Linn counties
- County Boards of Supervisors of Delaware, Buchanan, Fayette, Clayton, Dubuque, Jackson, Clinton, Jones, and Linn counties
- Maquoketa River WMA Members (Cities, Soil and Water Conservation Districts, and the above County Entities)
- Dubuque County Watersheds (independent watershed management agency)
- Limestone Bluffs Resource Conservation and Development Incorporated (RC&D) - Fiscal Agent

Budget Summary

See attachment.

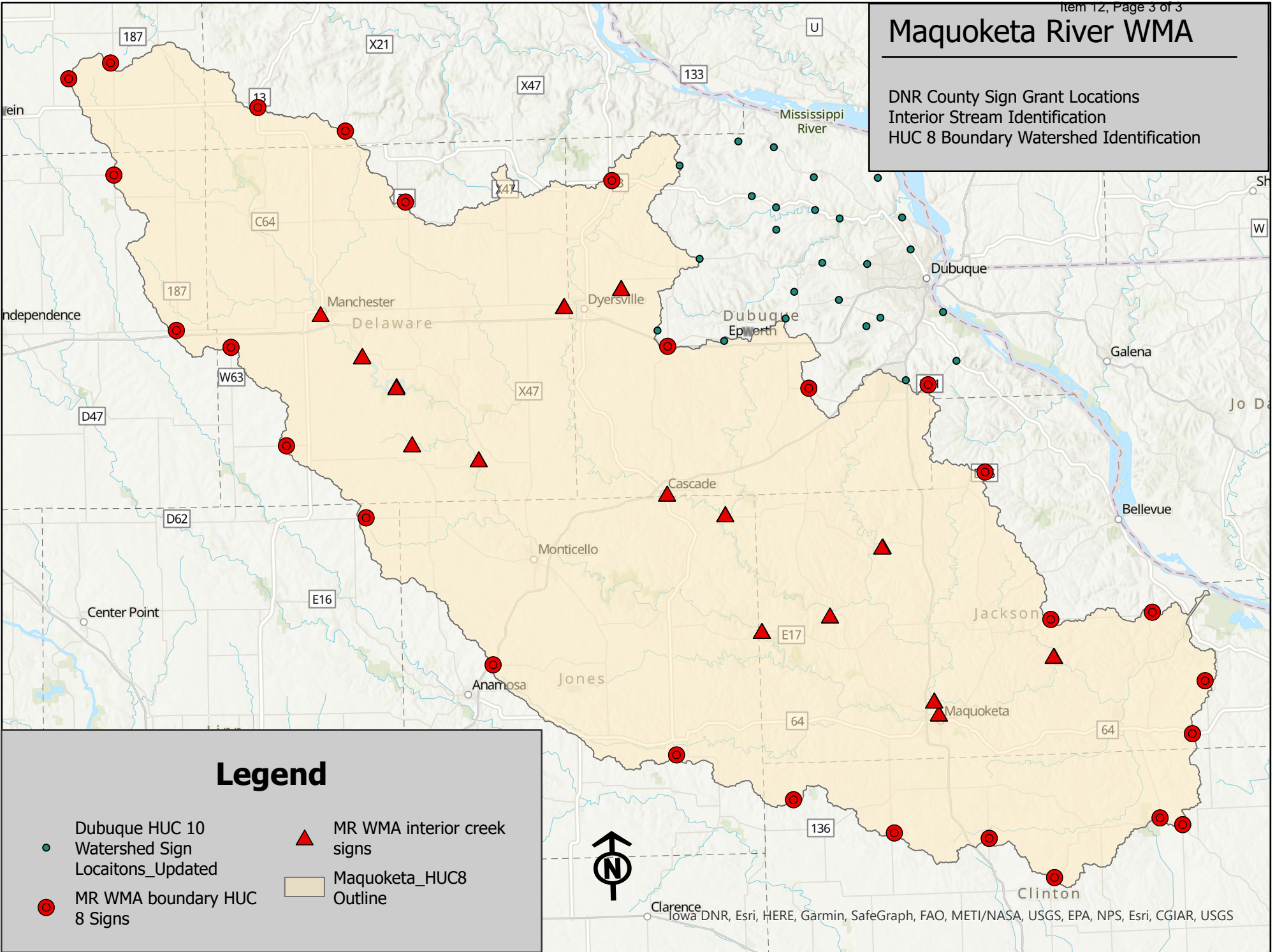
Steve Konrady, Water Quality Bureau
 Environmental Services Division
 April 18, 2023

SIGN LOCATIONS, DETAILS AND COSTS**Maquoketa River Sign Grant Budget**

County	# of signs	@ cost per sign dependent on text	Total sign cost	Installation Bid Per county Engineer	Total installation cost	Total Cost per county
Fayette	2	\$515 /sign	\$1030	\$150 each	\$150	\$1180
Clayton	2	\$515 /sign	\$1030	\$150 each	\$150	\$1180
Delaware	15	\$431 /sign	\$6495	\$100.90 each	\$1630.50	\$8125.50
Jackson	17	\$385 /sign	\$6545	\$170 each	\$2890	\$9435
Jones	4	\$385 /sign	\$1540	\$150 each	\$600	\$2140
Clinton	6	\$385 /sign	\$2313	\$170 each	\$1020	\$3333
Linn	2	\$385/sign	\$770	\$150 each	\$150	\$920
Dubuque	8	\$431 /sign	\$3448	\$100.9 Each	\$807.20	\$4255.20
Totals	57		\$23,171		\$7397.70	Grand Total \$30,568.70

Maquoketa River WMA

DNR County Sign Grant Locations
Interior Stream Identification
HUC 8 Boundary Watershed Identification



Legend

- Dubuque HUC 10 Watershed Sign Locations_Updated
- MR WMA boundary HUC 8 Signs
- ▲ MR WMA interior creek signs
- Maquoketa_HUC8 Outline



**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

#13

DECISION**TOPIC****Referral to the Attorney General**

The Director requests the referral of the following matters to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- Che Hanson; Hanson & Sons Tire, LLC

Tamara McIntosh, General Counsel
Legal Services Bureau

April 18, 2023

LITIGATION REPORT

Prepared By: David Scott
Date: April 18, 2023

I. Summary

The Department of Natural Resources (DNR) seeks referral of Mr. Che Hanson, owner of Hanson & Sons Tire, LLC in Clarion, Iowa, to the Iowa Attorney General's Office for violations of Iowa's waste tire storage and disposal regulations.

Mr. Hanson owns and operates three tire sales and automotive repair shops, and he reportedly stores all discarded tires at his primary location in Clarion, Iowa. DNR staff have had an ongoing dialogue with Mr. Hanson regarding his accumulation of discarded waste tires at the Clarion location, and he has been in and out of compliance with the maximum 500 passenger tire equivalent (PTE) requirement for approximately eight years.¹

During 2021, it became apparent that Mr. Hanson had ceased efforts to reduce his discarded waste tire inventory to below the 500 PTE requirement. DNR staff warned Mr. Hanson that an enforcement action would commence unless full compliance was attained by December 31, 2021. Mr. Hanson failed to comply by this date and, in the days before a scheduled DNR compliance visit on January 7, 2022, Mr. Hanson began unlawfully disposing the tires at a farm in rural Clarion.

DNR's Administrative Consent Order entered between Mr. Hanson and the DNR requiring compliance with applicable regulations (2022-SW-14) is attached. The Order was issued on May 26, 2022, and has not been complied with despite DNR's agreement to extend compliance deadlines.² As of the DNR's last visit to the properties, staff estimate that approximately 5,000 PTEs remain on Mr. Hanson's properties.

II. Alleged Violator

Mr. Che Hanson, Owner and Registered Agent
Hanson & Sons Tire, LLC
1501 Central Avenue East
Clarion, Iowa 50525

III. Description of Facility/Property

Hanson & Sons Tire and Auto, 1501 East Central Avenue East, Clarion, IA 50525

¹ 567 IAC 117.4(1)"a" states that "[n]o business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile"

² DNR notes that Mr. Hanson continues to pay the penalty amount in installments as agreed to by the parties.

LITIGATION REPORT
HANSON & SONS TIRE, LLC
APRIL 18, 2023 EPC MEETING

IV. Basis for Referral Request

a. Facts/ Chronological

The attached Order (2022-SW-14) provides a detailed list of the facts relevant to this matter. Additional facts include the following:

1. On May 26, 2022, DNR and Mr. Hanson entered into Administrative Consent Order 2022-SW-14. The Order required, among other things, that he must come into compliance with waste tires storage regulations within 60 days.
2. On June 21, 2022, Mr. Hanson sent an email asking for an extension of the final compliance date of the Order.
3. On July 6, 2022, DNR granted an extension until September 26, 2022.
4. On September 27, 2022, Mr. Hanson sent an email indicating he had not yet reached final compliance, but was diligently working at doing so.
5. On October 13, 2022, DNR staff inspected the properties to determine compliance with waste tire storage regulation. Staff noted that Mr. Hanson had started an inventory area for used tires, but he was still not under the storage limit established by rule. Mr. Hanson then indicated he would have the properties in compliance by the end of the year.
6. On January 10, 2023, DNR staff conducted another follow-up inspection. Since the previous inspection, Mr. Hanson had disposed of one trailer full of tires. However, the number of waste tires observed at both properties was similar to what was observed during the October inspection.
7. On January 23, 2023, a Notice of Violation was issued to Mr. Hanson for unlawful tire storage and for failure to comply with the Order.
8. As of the end of 2022, Mr. Hanson has paid \$7,000.00 of the \$10,000.00 penalty for the original Order (note, the parties agreed to a \$1,000.00 per month payment plan, and DNR records may be behind by 1 month).

b. Applicable Law

1. Iowa Code Section 455D.11(2) prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR.
2. The Commission has adopted 567 IAC 117.4(1), which states in part that “[n]o business or individual shall store more than 500 passenger tire equivalents

LITIGATION REPORT
HANSON & SONS TIRE, LLC
APRIL 18, 2023 EPC MEETING

without obtaining a permit for a waste tire stockpile.” Mr. Hanson does not have such a permit.

3. Iowa Code Section 455B.307 generally prohibits the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the director.

V. Available DNR Witnesses

Staff from DNR’s Field Office 2 will be available either in person or remotely to answer questions.

VI. Public comments

Unlikely. As of the date this report was drafted, Mr. Hanson had not indicated an intention to participate in the hearing. He was provided notice.

VII. Exhibits

- DNR Administrative Order 2022-SW-14

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

<p>IN THE MATTER OF:</p> <p>Hanson & Sons Tire, LLC; Mr. Che Hanson</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>NO. 2022-SW- <u>14</u></p>
--	---

To: Mr. Che Hanson, Owner and Registered Agent
Hanson & Sons Tire, LLC
1501 Central Avenue East
Clarion, Iowa 50525

RE: Non-compliance with Iowa waste tire storage and disposal regulations.

I. SUMMARY

This administrative consent order (Order) is entered between the Iowa Department of Natural Resources (DNR) and Mr. Che Hanson to address the illegal storage and disposal of waste tires. Mr. Hanson is required to remove and properly dispose of waste tires pursuant to the provisions below and is also required to pay an administrative penalty of \$10,000.00 due to the ongoing nature of these violations.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Madelynn Nelson, Env. Specialist
Iowa Department of Natural Resources
Field Office No. 2
2300 15th St. SW
Mason City, Iowa 50401
Ph: 641-424-4073

**Relating to legal requirements and
administrative penalty:**

David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Division
1023 W. Madison St.
Washington, Iowa 52353
Ph: (319) 653-2135

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.307(2), which authorizes the Director of the DNR 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 and regulations adopted pursuant to that part; Iowa Code Chapter 455D, which restricts the land disposal of tires, addresses criteria for legitimate recycling in Iowa, and authorizes the Director to issue any order necessary to secure compliance with those criteria, including removal and proper

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

disposal; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following relevant facts are stated in chronological order:

1. On February 26, 2014, DNR received an anonymous complaint that Hanson & Sons Tire, LLC, located at 1407 Central Avenue East in Clarion, had an excessive number of tires.

2. On February 28, 2014, DNR staff investigated the complaint and estimated that the number of discarded tires stored was 500+/- passenger tire equivalents (PTEs) and was not actionable because Iowa's rule allows up to 500 PTEs to be stored on a property. A letter was sent to owner Che Hanson outlining the discarded tire requirements and transmitted a copy of Iowa Administrative Code 567 IAC 117.

3. On August 12, 2019, DNR staff investigated another complaint that there was an excessive number of tires present at Hanson & Sons Tire's new address, 1501 Central Avenue East (the Site). Staff determined that, even subtracting the tires Mr. Hanson was claiming were for resale (an estimated 250 PTEs) there were well more than 500 PTEs present. Mr. Hanson was advised that Iowa regulations governing tire recycling require that the tires claimed to be for resale must be orderly stacked and that some sort of inventory must be maintained which would allow a specific tire to be quickly retrieved. Mr. Hanson was further advised that, moving forward, DNR would likely consider all un-inventoried tires to be discarded and counted toward the 500 PTE limit.

4. On January 3, 2020, DNR staff conducted a follow-up visit and noted numerous additional tires had been brought to the site, with an estimated 1,000+ PTEs being present. A Notice of Violation (NOV) was issued with the requirement that the number of tires be reduced to below 500 PTEs within 60 days. Mr. Hanson was warned that failure to comply could result in a referral to DNR Legal Services Bureau with a recommendation for a financial administrative penalty.

5. In March, 2020, DNR staff had a discussion with Mr. Hanson that he was still well over the 500 PTE maximum storage requirement. Mr. Hanson claimed that the COVID-19 pandemic was preventing his vendor from disposing of the tires despite his repeated requests. Mr. Hanson was cautioned that he must resume tire removal as soon as his vendor was responsive.

6. On September 24, 2021, DNR staff investigated another complaint that there was an excessive number of tires present at the Site. DNR estimated that there were 1,500 PTEs present, plus the tires that were being claimed as resale stock (an estimated 300 additional PTEs). No inventory was provided which

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

demonstrated that the latter were exempt from the 500 PTE requirement. Mr. Hanson stated he would properly dispose of the excess tires and reach compliance by the end of November, 2021.

7. On October 11, 2021, a second NOV was issued to Mr. Hanson reiterating the requirements outlined in the January 3, 2020, NOV. DNR stated that the matter would be referred to DNR's legal services bureau for administrative enforcement if the 500 PTE limit was not attained by December 31, 2021.

8. On November 19, 2021, DNR staff again visited the Site, but did not observe meaningful progress toward compliance since the September 24, 2021, visit. Staff advised Mr. Hanson that the compliance deadline of December 31, 2021 was final. Mr. Hanson indicated that he understood and promised compliance.

9. On January 4, 2022, DNR staff drove by the Site and noted the site was not in compliance. DNR notified Mr. Hanson via email that a site visit would be conducted on January 7, 2022, to determine compliance.

10. On January 7, 2022, DNR staff visited the Site along with City of Clarion (the City) officials. Mr. Hanson was present and provided an "inventory" of tires which he claimed demonstrated that many of the tires were stored for resale. The discarded tires were not plainly labeled nor was there a map or other mechanism that would allow Mr. Hanson to retrieve a specific tire upon demand.

11. During this visit, Mr. Hanson forbade DNR and the City from entering the property, but the tires were readily visible from public rights-of-way. DNR noted that, while there were still easily more than 1,500 PTEs present, the number of tires had been noticeably reduced since the DNR drive-by observation three days prior.

12. On the same day, DNR was notified via citizen complaint that Mr. Hanson had been disposing of tires at a farm at 2271 Nelson Avenue, Clarion, Iowa, which was owned by Hanson & Sons Tire employee Patrick McCormick. The City volunteered to investigate this allegation and shortly thereafter confirmed that this was indeed true.

13. On January 10, 2022, DNR staff visited 2271 Nelson Avenue and documented that approximately 100 semi-tractor tires and approximately 200 farm tractor tires which, based upon tire tracks, appeared to have been brought to that location in recent days. Based on 20 pounds per PTE enumerated in 567 IAC 117, and assuming that a semi tire weighs 100 pounds and a tractor tire weighs 400 pounds, DNR estimated that more than 4,000 PTEs had been unlawfully disposed at the McCormick farm.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

14. On January 11, 2022, DNR staff spoke with Mr. McCormick via telephone. Mr. McCormick freely admitted that Mr. Hanson had promised him remuneration to allow discarded tires to be transported to his property, and that all the tires present at his property were from the Site. Mr. McCormick was advised to properly dispose of the tires and maintain receipts of proper disposal. He was advised that an NOV would be issued if the tires were not immediately removed.

15. On March 3, 2022, DNR staff visited 2271 Nelson Avenue in rural Clarion and determined that the quantity of discarded tires present was materially the same as it had been on January 10, 2022.

16. On March 9, 2022, DNR issued a NOV to Mr. Hanson and Mr. McCormick for the unlawful land disposal of tires and for exceeding the 500 PTE limit of discarded tires.

17. On April 15, 2022, Mr. Hanson submitted an email response to the most recent NOV. He stated that the tires on the McCormick property would be removed by June, 2022. He did not address the ongoing violations of Iowa law relative to tire storage and disposal for multiple years prior.

IV. CONCLUSION OF LAW

1. Iowa Code § 455B.307 prohibits a private entity 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 unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The above-stated facts establish a violation of this statutory prohibition.

2. Iowa Code Chapter 455D regulates recycling of materials that would otherwise be solid waste. Section 455D.4A addresses the requirements a facility must meet to establish that the facility is legitimately recycling material.

3. Iowa Code § 455D.4A(3) authorizes the DNR to deem material that is not legitimately recycled to be solid waste.

4. Iowa Code § 455D.11(2) prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR.

5. Iowa Code § 455D.23 authorizes the DNR to require material that is not legitimately recycled to be properly disposed of.

6. Iowa Code § 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 Iowa Administrative Code (IAC) chapters 100-123.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

7. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity from dumping or depositing, or permitting the dumping or depositing, of any solid waste at any place other than a sanitary disposal project approved by the Director and pursuant to the terms of a permit granted by the DNR authorizing the disposal of solid waste. The above-stated facts establish multiple and continued violations of this prohibition on open dumping.

8. The Commission has adopted 567 IAC 117.4(1) to prevent accumulation of waste tires on a property. The provision states that no business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 117.4(2). The above-stated facts establish a violation of this regulation.

9. The Commission has adopted 567 IAC 117.5 to address acceptable used tire storage for resale. The regulation specifically requires a business to store tires in an organized manner which provides for accurate descriptions and inventories of the types and sizes of tires stored. Additionally, the regulation states that used tires stored for more than a year without such documentation will be considered waste tires subject to the 500 PTE storage restriction.

V. ORDER

THEREFORE, the DNR orders and Mr. Hanson agrees to the following:

1. Within 60 days of this Order being signed by the Director, Mr. Hanson must remove and properly dispose of all tires, at both the business Site and the McCormick Farm, down to a total below 500 PTEs. Based up Chapter 567 IAC 117, a tractor tire shall be considered 20 PTEs and a semi tire shall be considered 5 PTEs. Mr. Hanson must submit receipts to DNR showing proper disposal of tires within 10 days of removal/disposal.

2. Mr. Hanson must implement an inventory and storage process that complies with the requirements of 567 IAC 117.5. The inventory system shall be provided to the DNR on request. Failure to develop and maintain an inventory system will result in the DNR determining that all tires on site are waste tires.

3. Mr. Hanson will pay an administrative penalty of \$10,000.00 due to the ongoing nature of the violations. - Payment Plan, \$1,000 per month. DGS

VI. CIVIL PENALTY

1. Iowa Code § 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE CONSENT ORDER
 ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

administratively. The Commission has adopted this schedule with procedures authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. The administrative penalty assessed by this Order is determined as follows:

a) Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available."

Using the conversion factors cited in Chapter 567 IAC 117, DNR estimates that there are 1,000 PTEs at the business Site, plus another 2,000 PTEs which Mr. Hanson is claiming as used tires for resale. Further, Mr. Hanson has disposed of an estimated 4,000 PTEs at the McCormick Farm. Based on a disposal cost of \$3.00 per tire, Mr. Hanson has avoided significant disposal costs over the life of this matter.

As such, the DNR considers assessing the \$4,000.00 maximum administrative penalty amount reasonable for this factor.

b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Mr. Hanson's refusal to abide by Iowa tire storage and disposal regulations have resulted in numerous citizen's complaints regarding eyesore and nuisance and City citations for encroaching upon the right-of-way. Additionally, failing to comply with the applicable regulations threatens the integrity of the regulatory program for those parties that do comply with the law.

As such, \$3,000.00 is assessed for this factor.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: HANSON & SONS TIRE, LLC and MR. CHE HANSON

c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Mr. Hanson has been notified of DNR waste tire rules and regulations on multiple occasions and he is aware of waste tire restrictions applicable to his business. These interactions go back many years.

As such, \$3,000.00 is assessed for this factor.

VII. APPEAL RIGHTS

As this Order is entered into by consent, there is no right of appeal.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order may result in the imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief, and/or civil penalties.



Digitally signed by Kayla Lyon
Date: 2022.05.26 09:15:58
-05'00'

Kayla Lyon, Director
Iowa Department of Natural Resources



Mr. Che Hanson

Dated this 9 day of
May, 2022.

CC: DNR Field Office 2, David Scott, V.I.C.

30944

Date	Payee	Memo	Check Num	Amount
5/18/2022	DIRECTOR, DNR		30944	\$1,000.00
Invoice Num	Method of Payment			Amount
10F10	Check # 30944			\$1,000.00



HANSON & SONS TIRE & AUTO REPAIR
 1501 CENTRAL AVE E
 CLARION, IA 50525
 515-532-2444

**FIRST BANK
 HAMPTON**
 PO Box 59
 Hampton, Iowa 50441
 72-332/739



30944
 30944

Pay: One Thousand and 00/100 *****
 DATE

Date: 5/18/2022
 Amount: *****\$1,000.00
 AMOUNT

Dollars

THE DIRECTOR, DNR
 Order Of: 1023 W MADISON ST
 WASHINGTON, IA 52353



[Signature]
 AUTHORIZED SIGNATURE

Security features. Details on back.

Memo:



**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

#14

DECISION**TOPIC Referral to the Attorney General**

The Director requests the referral of the following matters to the Attorney General for appropriate legal action. A litigation report on this referral has been prepared by the DNR and is provided below. Additional litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

- Chamness Technology, Inc.

Noah Poppelreiter, Attorney
Legal Services Bureau

April 18, 2023

LITIGATION REPORT

Prepared By: Noah Poppelreiter
Date: April 18, 2023

I. Summary

The Department of Natural Resources (DNR) seeks referral of Chamness Technology, Inc. (Chamness), to the Iowa Attorney General's Office for violations of Iowa's solid waste and wastewater laws, including administrative orders issued pursuant to those laws.

Chamness owns and operates an industrial composting facility located at or about 24820 160th Street, Eddyville, Iowa (Facility). Beginning in 2008, the DNR has issued a total of six administrative orders to Chamness regarding violations of solid waste and wastewater laws at the Facility. Additionally, the Iowa Attorney General's Office negotiated a consent decree with Chamness in case CVEQ108302 after a referral in 2011, which included a \$30,000 penalty and injunctive relief. The DNR's long-running enforcement related to violations at the Facility culminated in the issuance of DNR Administrative Order No. 2021-SW-13 (September 2021 Order). This Order revoked Chamness' permit to operate a solid waste composting facility (Permit) and required the closure of the Facility pursuant to the Facility's Closure Plan.

Chamness appealed the September 2021 Order, then withdrew that appeal on April 14, 2022. The Facility's Permit was officially revoked as of that date.

On June 29, 2022, the DNR approved an updated Closure Plan for the Facility. The Closure Plan provided Chamness until January 1, 2023, to remove all compost material and solid waste from the Facility.

As of February 1, 2023, approximately 50% of the compost and solid waste remained at the Facility.

The DNR intends to conduct an inspection of the Facility in April 2023, prior to this referral, and will report on the condition of the Facility to the Commission at hearing on this matter.

Due to Chamness' failure to comply with the September 2021 Order, the Closure Plan, and Iowa law, the DNR requests the Commission refer Chamness to the Iowa Attorney General's Office for enforcement of the September 2021 Order and other action as deemed appropriate.

II. Alleged Violator

Chamness Technology, Inc.
2255 Little Wall Lake Road

LITIGATION REPORT
 CHAMNESS TECHNOLOGY, INC.
 APRIL 18, 2023

Blairsburg, Iowa 50034

III. Description of Facility/Property

Chamness Technology, Inc., owns and operates an industrial composting facility, located at 24820 160th Street, Eddyville, Iowa. The Facility has an eighteen-acre asphalt pad for storing compost and three leachate lagoons.

IV. Basis for Referral Request

a. Prior Enforcement

1. The DNR has issued the following Administrative Consent Orders to Chamness:
 - a. 2008-WW-31//2008-SW-40
 - b. 2010-WW-10//2010-SW-27
 - c. 2016-WW-21 (2016 Order)
 - d. 2020-HC-02//2020-SW-02//2020-WW-05
 - e. 2021-SW-11//2021-WW-18

Jointly, these orders will be referred to as the Prior Orders.
2. The DNR issued the following Administrative Order to Chamness:
 - a. 2021-SW-13 (September 2021 Order)
3. The District Court of Wapello County issued a consent decree against Chamness in:
 - a. Case CVEQ108302 (Chamness Technology Inc.

b. Facts/Chronology

1. The September 2021 Order is attached to this referral. That Order revoked the Permit; required Chamness to close the Facility pursuant to the Permit and the Facility's Closure Plan; deemed all compost still at the Facility to be solid waste; required Chamness to remove all solid waste from the Facility within 30 days; required the Chamness to control all leachate at the Facility; and kept the provisions of the Prior Orders in place.
2. Details on the facts related to the September 2021 Order, up until September 13, 2021, can be found in that order.
3. The Prior Orders are attached to this referral. The facts from those matters can be found in each respective order. Additionally, a summary of each of the Prior Orders can be found in Section III (Statement of Facts) of the September 2021 Order.

LITIGATION REPORT
CHAMNESS TECHNOLOGY, INC.
APRIL 18, 2023

4. The September 2021 Order also summarizes the proceedings in State of Iowa Etc. vs. Chamness Technology, Inc. (case CVEQ108302), which culminated in a consent decree filed in the District Court for Wapello County and included a \$30,000 penalty and injunctive relief.
5. The consent decree is attached to this referral.
6. Additional facts post-September, 2021, are set out below.
7. Chamness filed a timely appeal of the September 2021 Order.
8. On November 17, 2021, the DNR issued Chamness a Notice of Violation (NOV) for the failure to control leachate at the Facility. Chamness' failure resulted in a discharge of pollutants to Palestine Creek and elevated ammonia levels in the creek.
9. On December 20, 2021, the DNR issued Chamness an NOV for the failure to control leachate at the facility. Chamness' failure again resulted in a discharge of pollutants to Palestine Creek and elevated ammonia levels in the creek.
10. On April 5, 2022, the DNR issued Chamness an NOV for violations of the July 2021 Order and for violations of laws related to the operation of the Facility.
11. On April 14, 2022, Chamness withdrew the appeal of the September 2021 Order. The Permit was deemed revoked as of that date.
12. On April 29, 2022, the DNR sent Chamness a letter noting the Permit's revocation; noting that the DNR had not received any plan related to the disposal of materials at the Facility, as committed to by Chamness; and noting that the Facility was not excused from compliance with all applicable laws and orders during the closure process.
13. Between April 14, 2022 and July 1, 2022, the DNR and Chamness engaged in negotiations. At the end of these negotiations, the parties agreed to the Closure Plan. The Closure Plan and the DNR's cover letter approving it are attached in full to this referral.
14. The Closure Plan updated any and all of the Facility's prior closure plans and provided a DNR-approved schedule pursuant to 567 IAC 105.13(2). Among other things, the Closure Plan provided Chamness six months from July 1, 2022, to remove all solid waste and remaining compost from the Facility. Additionally, the Closure Plan expressly stated the DNR would refer Chamness to the Iowa Attorney General's Office for enforcement if Chamness did not meet the requirements of the Closure Plan.

LITIGATION REPORT
CHAMNESS TECHNOLOGY, INC.
APRIL 18, 2023

15. DNR Field Office 6 conducted monthly inspections of the Facility on July 13, 2022; August 8, 2022; September 14, 2022; October 12, 2022; November 16, 2022; December 15, 2022; and January 23, 2023; and March 22, 2023.
16. The DNR intends to conduct an inspection of the Facility in April 2023, prior to this referral, and will report to the Commission the results of that inspection.
17. As of the date of the submission of this litigation report, the Facility remains out of compliance with, and has violated, the Closure Plan, the September 2021 Order, and Iowa law.

c. Applicable Law – Jurisdiction

1. Iowa Code section 455B.305 requires the DNR to issue, suspend, and revoke, as necessary, construction and operation permits for sanitary disposal projects.
2. Iowa Code section 455B.307(2) authorizes the referral of a matter to the Iowa Attorney General’s Office to ensure compliance with the solid waste provisions of Iowa Code chapter 455B, including the rules enacted and orders issued under those provisions.
3. Iowa Code section 455B.307(3) authorizes a penalty of up to \$5,000 per day for violations of the solid waste provisions of Iowa Code chapter 455B.
4. Iowa Code section 455D.25(1) authorizes the referral of a matter to the Iowa Attorney General’s Office to ensure compliance with the Iowa Code chapter 455D, including the rules enacted and orders issued under that chapter.
5. Iowa Code section 455D.25(2) authorizes a civil penalty of up to \$10,000 per day for violations of applicable sections of Iowa Code chapter 455D.
6. Iowa Code section 455B.191(5) authorizes the referral of a matter to the Iowa Attorney General’s Office to ensure compliance with the wastewater provisions of Iowa Code chapter 455B, including the rules enacted and orders issued under those provisions.
7. Iowa Code section 455B.191(2) authorizes a penalty of up to \$5,000 per day for violations of the wastewater provisions of Iowa Code chapter 455B.

LITIGATION REPORT
CHAMNESS TECHNOLOGY, INC.
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d. Applicable Law – Substantive

1. Iowa Code chapter 455D regulates recycling of materials that would otherwise be solid waste. Section 455D.4A addresses the requirements a facility must meet to establish that the facility is legitimately recycling material.
2. Iowa Code § 455D.4A(3) authorizes the DNR to deem material that is not legitimately recycled to be solid waste.
3. Iowa Code § 455D.23 authorizes the DNR to require material that is not legitimately recycled to be properly disposed of.
4. 567 IAC 105.7(1) requires all composting facilities to obtain a permit prior to construction and operation.
5. 567 IAC 105.7(2) requires all permitted composting facilities to operate in compliance with an issued permit.
6. 567 IAC 105.3(2) requires composting to be performed in a manner that minimizes the formation of compost leachate.
7. 567 IAC 105.3(3) requires that measures be taken to prevent water from running onto the facility from adjacent land and to prevent compost leachate and runoff from leaving the composting facility. Runoff from the composting facility must be properly managed.
8. 567 IAC 105.3(4) requires composting facilities to be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur must be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding.
9. 567 IAC 105.3(5) requires composting facilities to conduct all operations on an all-weather, impervious pad.
10. 567 IAC 105.3(6) requires composting facilities to properly dispose of solid waste that cannot be composted. This includes material “stored” at the facility or on private property.
11. 567 IAC 105.3(7) requires composting facilities to manage material in a manner to prevent odors, dust, and other nuisance conditions, such as fires, that may impact public health or the environment.
12. 567 IAC 105.3(8) requires composting facilities to move compost material off-site within 18 months.

LITIGATION REPORT
CHAMNESS TECHNOLOGY, INC.
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13. 567 IAC 105.7(2) requires a composting facility to operate at all times in compliance with its operations plan.
14. 567 IAC 105.9(1)“a” requires composting facilities to install a lockable gate at its entrance.
15. 567 IAC 105.9(1)“b” requires composting facilities to restrict access to only those times when an employee is on duty.
16. 567 IAC 105.13 requires the removal of all solid waste and finished compost to be removed from facility within six months of its closure, unless an alternative schedule is approved by the DNR.
17. Iowa Code section 455B.186 and 567 IAC 62.1 prohibit the discharge of pollutants to a water of the state without a valid National Pollutant Discharge Elimination System permit.

V. Available DNR Witnesses

Staff from DNR’s Field Office 6 will be available either in person or remotely to answer questions.

VI. Public comments

DNR Legal Services has been in communication with Chamness’ attorney on this referral. Chamness, on its own or through its counsel, may wish to make a statement.

VII. Exhibits

- A. Permit 90-SDP-10-97P-COM [revoked]
- B. Pictures
 - March 2019
 - September 2019 (#1)
 - September 2019 (#2)
 - November 2019
 - June 2020
 - September 2020
 - August 2021 (#1)
 - August 2021 (#2)
 - May 2022
 - December 2022
 - March 2023
- C. Order 2021-SW-13
- D. Closure Plan and Cover Letter
- E. Order 2008-WW-31//2008-SW-40

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APRIL 18, 2023

- F. Order 2010-WW-10//2010-SW-27
- G. Order 2016-WW-21
- H. Order 2020-HC-02//2020-SW-02//2020-WW-05
- I. Order 2021-SW-11//2021-WW-18
- J. Case CVEQ108302

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit A



April 10, 2020

GARY CHAMNESS
CHAMNESS TECHNOLOGY INC.
2255 LLITTLE WALL LAKE ROAD
BLAIRSBURG IA 50034

Re: *Renewed Compost Permit Renewal #90-SDP-10-97P-COM*

Dear Mr. Chamness:

Enclosed is the renewed sanitary disposal project permit for Chamness Technology Inc. – Eddyville Organics Recycling & Compost Facility located at 24820 160th Street in Eddyville. The permit is authorized from April 10, 2020 to April 10, 2023, and is retroactive from March 2, 2020.

The permit certificate must be posted in a conspicuous place at the facility and the permit provisions, along with the engineering plans and specifications must be kept on file at the facility. Please review the permit and requirements of Iowa Administrative Code 567 Chapter 105 with your operators, as they must be familiar with them.

Please contact me at 515.725.8317 or susan.johnson@dnr.iowa.gov if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Susan Johnson". The signature is written in a cursive, flowing style.

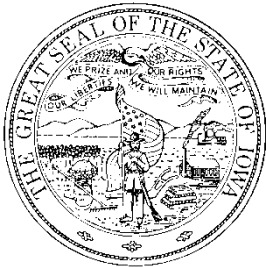
Susan Johnson, CHMM
Environmental Specialist Sr.
Land Quality Bureau

Enclosures: (2) Permit Certificate and Permit Conditions

Cc: DNR Field Office #6, Washington IA

STATE OF IOWA
DEPARTMENT OF NATURAL RESOURCES
PERMIT FOR
SOLID WASTE COMPOSTING

ISSUED UNDER THE PROVISIONS OF IAC 567 CHAPTER 105(455B)




**CHAMNESS TECHNOLOGY INC.
EDDYVILLE ORGANICS COMPOST FACILITY
24820 160TH STREET
EDDYVILLE, IA 52553**



Is hereby authorized to engage in the composting of solid waste pursuant to 567 IAC Chapter 105(455B). This permit shall remain in effect from the date of issue until its expiration date, unless revoked or suspended for cause by the Director of this agency for noncompliance with IAC 567 Chapter 105(455B) or rules adopted pursuant thereto.

Permit No. **90-SDP-10-97P-COM**

DATE OF ISSUE: April 10, 2020 (*retroactive to March 2, 2020)
EXPIRATION DATE: April 10, 2023

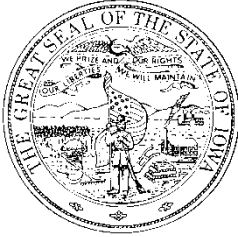


Iowa Department of Natural Resources

POST IN A CONSPICUOUS PLACE

NONTRANSFERABLE

For additional information regarding this PERMIT, contact the Environmental Services Division at 515/725-8200 or Field Office # 6, Washington, Iowa at (319) 653-2135



**IOWA DEPARTMENT
OF NATURAL RESOURCES**

**SOLID WASTE
COMPOSTING PERMIT**



- I. Permit Number: 90-SDP-10-97P-COM
- II. Permitted Agency: Chamness Technology, Inc.
- III. Project Location: Eddyville Organics Recycling and Compost Facility
24820 160th Street
Eddyville, IA 52553

Phone: 641-969-5702
FAX: 641-969-5802

- IV. Responsible Official
Name: Gary M. Chamness
Address: 2255 Little Wall Lake Road
Blairsburg, IA 50034

Phone: 515-325-6133
FAX: 515-325-6134

- V. Date Permit Issued: April 10, 2020 (*retroactive to March 2, 2020)

- VI. Permit Expiration Date: April 10, 2023

- VII. Issued by:

A handwritten signature in blue ink that reads "Susan Johnson".

Iowa Department of Natural Resources

VIII. General Provisions

The above named permitted agency is hereby authorized to operate a solid waste composting facility at the described location in conformance with Iowa Code Sections 455B and 455D, the rules pursuant thereto existing at the time of issuance, and any subsequent new rules which may be duly adopted, and any provisions contained in Section X of this permit.

The project shall be constructed and operated according to the engineering plans; specifications and the operation plan approved by the DNR and these shall become a part of this permit. Updated planning documents shall be submitted at the time of each permit renewal application and included with any request for permit modification to incorporate a facility expansion or significant changes in facility operation that require modification of the currently approved plans and specifications. No legal or financial responsibility arising from the construction or operation of the approved project shall attach to the State of Iowa or the Department of Natural Resources due to the issuance of this permit.

If title to this project is transferred, the new owner must apply to the DNR for a transfer of this permit within thirty days of the date of title transfer. This permit is void sixty days after the date of title transfer unless the DNR has transferred the permit.

The following records shall be maintained by the facility for a period of three years and at the facility at all times and shall be submitted to the DNR upon request:

1. Analytical results described in 567 IAC 105.9(4). These results shall be recorded on a DNR approved reporting form.
2. Types and weight of compostable materials and bulking agent, in tons, accepted at the facility annually.
3. Weight of compost, in tons, removed from the facility annually.
4. A copy of the plan, the permit, annual reports, and the current storm water pollution prevention plan.

An annual report for the previous fiscal year beginning July 1 and ending June 30 shall be submitted to the DNR by July 31 of each year by the permit holder. The report shall be submitted using Form 542-3276C, provided by the DNR, and all applicable sections of the form must be completed.

The permit holder shall maintain financial assurance in accordance with 567 IAC 105.14. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the DNR.

The person responsible for daily operation of the facility shall be certified by a DNR approved program upon approval of such a program by the DNR. The certification must be renewed every three years.

Prior to a change in the facility's process, Chamness shall make a request in writing and obtain approval from the department for an amendment to the permit as stated in (105.7(10)).

Failure to comply with Iowa Code Sections 455B and 455D, or any rule of order promulgated pursuant thereto, or any or all provisions of this permit may result in 1) a civil penalty of up to \$5000 for each day of violation, pursuant to Iowa Code Section 455B.307, or 2) the suspension or revocation of this permit, pursuant to Iowa Code Section 455B.305.

The issuance of this permit in no way relieves the applicant of the responsibility for complying with all other local, state, and federal statutes, ordinances, and rules or other requirements applicable to the establishment and operation of this solid waste composting facility.

IX. Special Provisions

1. The permit holder shall operate the facility in accordance with 567 IAC 105(455B, 455D). No provision in this permit or the approved site operation plan, emergency response and remedial action plan, and closure plan as described in the permit renewal application dated November 28, 2016 (Doc# 87854), constitutes a waiver or variance from 567 IAC 105 or the Code of Iowa. Any conflict between a provision of the permit or referenced documents and Iowa rules or statutes shall be resolved in favor of the duly adopted rules and statutes.
2. The DNR will approve the incidental composting of bird mortalities as part of the USDA nuisance wildlife control program as administered by the USDA Wildlife section as a provisionally approved activity, so long as this is not an annual occurrence and that the bait chemistry does not persist after the 3 days as described in the February 1, 2017 (Doc #88473) email.
3. The facility is not approved to accept animal carcasses from infectious disease mortalities.
4. The facility must comply with the storage of any feedstock as stated in 455D.4A – Legitimate Recycling which states:
For a recycling facility owner or operator to prove that solid wastes are being legitimately recycled the recycling facility owner or operator must establish that:
 - a) The solid waste is potentially recyclable and has a feasible means of being recycled into a valuable product;
 - b) The recyclable materials are being managed as a valuable commodity when under their control; and
 - c) All stockpiled materials meet the requirements demonstrating that speculative accumulation as defined in section 455D.1 is not occurring.
5. Quarterly on-site meetings with DNR staff to review permit compliance. This provision will sunset if compliance is documented for a period of two years.
6. Chamness will include a long-term leachate management plan to prevent any further discharges into Palestine Creek.
7. Any permit violation will also be considered a violation of the Administrative Consent Order:
 - NO.2020-HC-02
 - NO.2020-SW-02
 - NO.2020-WW-05

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit B

March 2019



September 2019



September 2019



November 2019



June 2020



September 2020



August 2021



August 2021



May 2022



December 2022



March 2023



In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit C

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p>CHAMNESS TECHNOLOGY, INC.</p>	<p>ADMINISTRATIVE ORDER</p> <p>NO. 2021-SW-13</p>
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To: Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

Re: Revocation of Composting Permit 90-SDP-10-97P-COM and Order to properly dispose of remaining material following revocation.

I. SUMMARY

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Chamness Technology, Inc. (Chamness) to resolve repeated violations of Iowa law governing the proper operation of an industrial composting operation (facility) located in Eddyville, Iowa. Despite years of compliance assistance, the facility continues to violate Iowa law resulting in, among other things, impacts to public health and safety and impacts to Iowa's air and water quality.

As such, permit 90-SDP-10-97P-COM is revoked, subject to the appeal provisions enumerated below. Subsequent to revocation, all material remaining at the facility, including but not limited to feedstock, bulking agent, material in the process of being composted, and yard waste whether generated on the property or not, is deemed to be solid waste that must be properly disposed of pursuant to the requirements enumerated in section V(3), below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Kurt Levetzow, Supervisor
Iowa Department of Natural Resources
Field Office No. 6
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-321-8504

II. JURISDICTION

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE ORDER
 ISSUED TO: CHAMNESS TECHNOLOGY, INC.

This Order is issued pursuant to Iowa Code §§ 455B.305(1) and 455B.307(2) which authorize the Director of the DNR to revoke permits and 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 promulgated or permits issued pursuant thereto; Iowa Code §§ 455D.4A and 455D.23 which authorize the Director to deem improperly-recycled material, including compost material, as solid waste and to require the removal and proper disposal of such solid waste; Iowa Code 17A.18, which enumerates the process for revoking permits; Iowa Code § 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with Iowa Code chapter 455B, Division III, Part 1 (water quality), and any rule or standard established or permit issued pursuant to that part; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following facts are relevant to this matter:

1. In 2008, the DNR entered into Administrative Consent Order (2008-WW-31/2008-SW-40) (2008 Order) with Chamness to address allegations of wastewater and storm water violations at the facility. The 2008 Order required Chamness to develop an operating plan to ensure future compliance with the facility's permit and to prevent any future discharge of wastewater (leachate) or other waste material from the facility.

2. In June 2010, DNR entered into an Administrative Consent Order (2010-WW-10/2010-SW-27) (2010 Order) with Chamness addressing complaints received and violations that occurred in 2009 and 2010, including permit non-compliance, improperly stockpiling material, odor, and improper operation of leachate lagoons resulting in overflow/discharge in violation of the 2008 Order. The 2010 Order included multiple requirements intended to bring Chamness into compliance with its permit and to prevent wastewater discharges, as well as requiring the company to pay an administrative penalty.

3. In 2011, the Iowa District Court for Wapello County issued an order and decree for violations at the facility involving the intentional pumping of wastewater (leachate) into a nearby river in violation of the facility's composting permit, prior orders, and state and federal law. The court assessed a penalty of \$30,000.00 and also added injunctive provisions permanently enjoining future violations of the following,

- Iowa Code § 455B.186(1);
- 567 IAC 61.3(2), 64.3(1) and 105.3(3);
- The facility's National Pollution Discharge Elimination System (NPDES) permit (NPDES permit number 900-00-1-05);

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

- The storm water management and pollution prevention plan requirements of the composting permit; and,
- The 2008 Order and the 2010 Order.

The Court expressly retained jurisdiction over these matters subject to contempt proceedings.

4. In April 2020, following continued efforts over multiple years by DNR Field Office 6 (FO6) staff to work with Chamness to address permit violations at the facility, the DNR entered into Administrative Consent Order 2020-HC-02/2020-SW-02/2020-WW-05 (2020 Order) with Chamness for permit violations occurring since at least 2018. Violations included improper operation of the facility pursuant to permit requirements and prior administrative and court orders, such as non-maintenance of windrows, black leachate runoff from the facility into Palestine Creek, smoke and odor emanating from the compost piles, fire at the compost piles, and excessive material at the facility resulting in material stored off the impervious compost pad. The 2020 Order required Chamness to, among other things, comply with its permit, comply with the permit's operations plan, and to develop and implement a long-term leachate management plan to prevent any further discharges into Palestine Creek. The 2020 Order stated that any permit violation would also be considered a violation of the 2020 Order.

5. In March 2021, FO6 staff submitted a letter to Chamness noting multiple areas of permit non-compliance in violation of the previous orders that must be addressed including fixing drainage, screening on-site material, and re-establishing windrows as required by the facility's permit. DNR staff noted on calls with Mr. Chamness that the issues must be addressed by July 1, 2021, to prevent permit action.

6. On July 7, 2021, DNR entered into Administrative Consent Order (2021-SW-11/ 2021-WW-18) (2021 Order) with Chamness due to the ongoing failure of the facility to comply with its permit. These violations included a May 1, 2021, discharge resulting in leachate runoff into Palestine Creek. Samples determined the runoff was from the compost piles and resulted in water quality violations. Additionally, none of the required compliance matters referenced in the March 2021 correspondence had been addressed. The 2021 Order temporarily suspended Chamness' composting permit by preventing any feedstocks or bulking agents to be deposited at the site until August 15, 2021. If the facility was in compliance as of that date, the suspension would be lifted. If not, the suspension would be extended at the discretion of the DNR. The 2021 Order was entered by consent, so it was agreed to and signed by Chamness.

7. On August 19, 2021, following a DNR site inspection, DNR extended the permit suspension until at least September 30, 2021, due to failure to bring the facility into permit compliance.

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE ORDER
 ISSUED TO: CHAMNESS TECHNOLOGY, INC.

8. In mid-August 2021, the facility experienced a multi-day fire resulting from multiple, ongoing violations of Iowa law. Those violations were enumerated in a Notice of Violations dated September 2, 2021. The violations included:

- Failure to operate the facility in a manner that minimizes the formation of leachate;
- Failure to prevent compost leachate (wastewater) from leaving the facility;
- Failure to operate the facility in a manner that prevents ponding of water and failing to correct water-ponding violations in a timely manner;
- Failure to conduct all composting operations on an impervious all-weather surface;
- Failure to properly dispose of solid waste that cannot be composted;
- Failure to manage solid waste in a manner that prevents odors, dust or other nuisance conditions that may impact public health;
- Failure to move compost material off-site within 18 months;
- Failure to restrict access to the facility with a lockable gate, and to only those times when an employee is on-duty;
- Failure to have all employees certified as required by the Iowa Code and by previous orders;
- Multiple failures to comply with the facility's operations plan as required by the facility permit;
- Failure to operate the facility in compliance with the facility's NPDES permit; and,
- Failure to comply with the legitimate recycling requirements enumerated in the facility's permit and the Iowa Code.

IV. CONCLUSIONS OF LAW

1. Each violation referenced in the preceding sections is, at a minimum, a violation of the facility's permit, the 2020 Order, the 2021 Order, and the 2011 Order from the Wapello County District Court.

2. Iowa Code § 455B.305 authorizes the Director to revoke permits.

3. Iowa Code § 455B.307 authorizes penalties of \$5,000.00 per day for permit non-compliance.

4. Iowa Code Chapter 455D regulates recycling of materials that would otherwise be solid waste. Section 455D.4A addresses the requirements a facility must meet to establish that the facility is legitimately recycling material. Chamness' permit requires that the facility comply with the requirements of Iowa Code § 455D.4A in addition to the composting rules referenced below.

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

5. Iowa Code § 455D.4A(3) authorizes the DNR to deem material that is not legitimately recycled to be solid waste.

6. Iowa Code § 455D.23 authorizes the DNR to require material that is not legitimately recycled to be properly disposed of.

7. The Environmental Protection Commission (Commission) promulgated 567 IAC 105, which establishes operational requirements for compost facilities.

8. 567 IAC 105.3(2) requires composting to be performed in a manner that minimizes the formation of compost leachate. As explained above, failure to maintain windrows and drains on both sides of the compost pad at the facility, in addition to placement of material off of the composting pad, resulted in leachate runoff into a nearby creek. These facts establish a violation of this requirement.

9. 567 IAC 105.3(3) requires that measures be taken to prevent water from running onto the facility from adjacent land and to prevent compost leachate and runoff from leaving the composting facility. Runoff from the composting facility must be properly managed. The above-stated facts establish a violation of this regulatory requirement.

10. 567 IAC 105.3(4) requires composting facilities to be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur must be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding. The facts above establish a violation of this requirement.

11. 567 IAC 105.3(5) requires composting facilities to conduct all operations on an all-weather, impervious pad. The facts above establish continued violations of this requirement.

12. 567 IAC 105.3(6) requires composting facilities to properly dispose of solid waste that cannot be composted. This includes material “stored” at the facility or on private property. The facts above establish violations of this requirement.

13. 567 IAC 105.3(7) requires composting facilities to manage material in a manner to prevent odors, dust, and other nuisance conditions, such as fires, that may impact public health or the environment. The facts above establish multiple, continued violations of this requirement.

14. 567 IAC 105.3(8) requires composting facilities to move compost material off-site within 18 months. The facts above establish violations of this regulatory requirement.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

15. 567 IAC 105.7(2) requires a composting facility to operate at all times in compliance with its operations plan. The facts above establish multiple violations of this requirement including, but not limited to, failing to establish and maintain windrows, failure to manage odors, failure to market a finished product, and failure to maintain conditions to allow proper composting.

16. 567 IAC 105.9(1)"a" requires composting facilities to install a lockable gate at its entrance. The facility is not in compliance with this regulatory requirement.

17. 567 IAC 105.9(1)"b" requires composting facilities to restrict access to only those times when an employee is on duty. The facility is not in compliance with this regulatory requirement.

18. 567 IAC 105.10 requires employees responsible for facility operation to be certified. This requirement is also enumerated in the 2021 Order. The facility is not in compliance with this requirement.

19. The facility's NPDES permit requires the facility to maintain a minimum of 2 feet of freeboard in each leachate storage basin at all times. The facility is in violation of this requirement.

20. The facility is in violation of the legitimate recycling requirements enumerated in its permit and in Iowa Code Chapter 455D.

21. Finally, pursuant to Section VIII (General Conditions) of the facility's permit, "failure to comply with Iowa Code [Chapters] 455B and 455D, or any rule of order promulgated pursuant thereto, or any or all provisions of this permit may result in . . . the suspension or revocation of this permit."

V. ORDER

THEREFORE, the DNR orders the following:

1. Chamness' permit (90-SDP-10-97P-COM) shall be revoked subject to the requirements established by Iowa Code § 17A.18 and Section VII, below. Upon revocation, the facility shall be closed pursuant to the facility's closure plan.

2. Upon permit revocation, all compost material including feedstocks, bulking agent, and any material that is in the process of being composted is deemed solid waste.

3. Upon permit revocation, Chamness must initiate removal and proper disposal of all solid waste from the facility and the property within 14 days pursuant to the facility's closure plan. All material must be removed from and properly disposed of within 30 days of permit revocation. Any solid waste remaining on the

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

property after 30 days may result in daily penalties of up to \$5,000.00 per day for the illegal disposal of solid waste.

4. All leachate generated at the facility must be properly managed. Upon revocation, all leachate must be properly disposed of within 30 days.

5. All prior orders remain in effect until such time as the DNR determines that the facility and property have been properly cleaned up and the material has been properly disposed of.

VI. CIVIL PENALTY

1. Iowa Code § 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations. Iowa Code § 455B.191 provides for civil penalties of up to \$5,000.00 per day for water quality violations.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be.

4. No penalty is incorporated in this Order. Any previous penalties imposed in prior orders remain due if yet unpaid.

VII. APPEAL RIGHTS

This Order is subject to appeal pursuant to Iowa Code § 455B.110 and the contested case rules promulgated pursuant to that section. An appeal must be received by the DNR within 60 days of the date this Order is issued, at which time a contested case hearing will be scheduled before an Administrative Law Judge. All prior Orders remain in effect during the appeal period.

Regarding permit revocation, Iowa Code § 17A.18 requires that the DNR provide Chamness with an opportunity to show at an evidentiary hearing that the facility complies with all legal requirements for retention of the permit. Filing the timely notice of appeal will result in the matter being scheduled for a hearing in front of an administrative law judge. Failure to file a timely notice of appeal will result in permit revocation effective 61 days from the date this Order is issued.

VIII. NONCOMPLIANCE WITH THIS ORDER

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

Failure to comply with any requirement of this Order may result in the imposition of administrative penalties and referral to the Iowa Attorney General.

Kayla Lyon Digitally signed by Kayla Lyon
Date: 2021.09.13 13:36:19
-05'00'

Kayla Lyon, Director
Iowa Department of Natural Resources

CC: DNR Field Office 6; David Scott; I.C.1, IV.A, VI.B.2.

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit D



June 29, 2022

Via Electronic Mail

Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

Gary:

Attached please find the final DNR-approved Closure Plan for the Chamness Eddyville Composting Facility. This Plan was developed in a manner consistent with the facility's original permitting documents.

The Department will consider Chamness to be in compliance with Administrative Order 2021-SW-13 (Order), Section V, Paragraphs 1, 3 and 4 so long as Chamness remains in compliance with the requirements of this Closure Plan. Should the requirements of this Closure Plan be violated, the DNR may refer the matter to the Iowa Attorney General for full and immediate enforcement of the Order and any other action the Attorney General's office deems appropriate.

While this Closure Plan is in effect, please have your staff remain in regular contact with DNR Field Office 6 staff.

Sincerely,

David Scott Digitally signed by David Scott
Date: 2022.06.29 12:49:47
-05'00'

David G. Scott, Attorney
Legal Services Bureau, Iowa DNR

CC: Doug Maccree
F. Montgomery Brown

**Chamness Eddyville Composting Facility
Closure Requirements
Effective July 1, 2022**

A. Closure deadline.

1. The DNR agrees to provide Chamness six (6) months from the effective date of this Closure Plan (Plan) (July 1, 2022) to remove all compost material (material) and solid waste from the facility.
2. DNR retains the right to extend the closure period up to a month, at its sole discretion, if Chamness has made significant progress at the end of the six-month closure period.
3. During the closure period, Chamness must continue processing unfinished material currently onsite in a manner consistent with Iowa's composting regulations located at 567 IAC 105.
4. If the DNR determines that Chamness is not making reasonable progress toward achieving the 6-month deadline, the DNR retains the authority to determine that Chamness is not in compliance with this Plan. Reasonable progress means approximately 1/6th of the material on the pad is screened per month.
5. Throughout the closure period, DNR staff will be available to assist with regulatory compliance matters.

B. Processing material.

1. No additional material may be added to the facility.
2. Of the existing material at the facility, Chamness must continue composting, screening and removing/selling finished compost during the closure period in a manner that complies with Iowa composting regulations (567 IAC 105).
3. Screened, finished and unfinished material may be stored on site during the closure period, but there must be sufficient protections in place to prevent any run-off.
4. Screened, finished and unfinished material may be land applied pursuant to the regulations located at 567 IAC 121.

5. The order of processing of material during the closure period is at the discretion of Chamness.

C. Leachate ponds.

1. During the closure period, Chamness must maintain sufficient leachate pond capacity to capture all leachate generated.
2. Land application of leachate must occur continuously as conditions allow to ensure leachate levels are minimal at the end of the closure period.
3. Land application of leachate must be done in full compliance with Chamness' land application permit and Iowa law.
4. Sludge must be removed from the leachate ponds prior to final closure and applied in a manner consistent with Iowa law (567 IAC 121).
5. While ensuring sufficient capacity during the closure period, all leachate ponds must be closed once the authorized closure period has been completed, if not sooner.
6. Closure of the leachate ponds will be completed by filling the ponds, after sludge removal, with finished, screened compost or other clean fill. Unfinished material cannot be used as fill as it may continue to break down. Final fill must be compacted and covered with vegetation.

D. Record keeping.

1. Chamness must keep weekly records of the amount of material screened and the amount of material removed from the site.
2. Chamness must take temperature readings of windrows as required in 567 IAC 105.9(4)a and keep a log of each reading. This is necessary to prevent combustion, especially during warmer months.
3. Chamness must sample moisture levels of compost windrows as required in 567 IAC 105.9(4)b and keep a log of each reading. Again, this is necessary to prevent combustion.
4. These records must be submitted via email to DNR/Brian Lee on a bi-weekly basis until the closure period ends.

E. Fire prevention.

1. Windrows must be turned regularly to prevent combustion.
2. Chamness must conduct daily inspections of composting material and stockpiled carbon material (wood waste) to determine if any areas are smoking or showing signs of combustion. Chamness must take immediate action if “hot spots” are located to ensure there is no combustion. Records of these inspections must be available upon request from the DNR.
3. Uncontrolled combustion of materials resulting in smoke may be considered a violation of this Closure Plan.

F. Non-Compliance.

1. The DNR and Chamness agree to the terms of this closure plan as an outcome of good-faith settlement negotiations resulting in the revocation of Chamness’ composting permit. In the event the DNR determines, at its sole discretion, that Chamness is not meeting the requirements of this Plan, DNR retains the authority to refer the matter to the Iowa Attorney General to enforce the terms of Order 2021-SW-13 and take whatever other action that office deems appropriate.
2. Any violation of Iowa law, including a violation of any term in any permit held by Chamness for this facility and the regulations governing composting operations in Iowa located at 567 IAC 105 will result in referral of this matter to the Attorney General. This includes any violation caused by a contractor working for Chamness.

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit E

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

<p>IN THE MATTER OF:</p> <p>CHAMNESS TECHNOLOGY, INC.</p> <p>Wapello County, Iowa</p>	<p align="center">ADMINISTRATIVE CONSENT ORDER NO. 2008-WW - 31 NO 2008-SW- 40</p>
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TO: Chamness Technology, Inc.
Autumn Denato, Manager
24820 160th Street
Eddyville, Iowa 52553

Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) for the purpose of resolving solid waste and waste water violations. 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:
Paul Brandt, Field Office 6
Iowa Department of Natural Resources
1023 W. Madison
Washington, Iowa 52353
Phone: 319/653-2135

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

II. JURISDICTION

This administrative consent order is issued pursuant to the provisions of Iowa Code sections 455B.175(1) and 455B.307(2), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B,

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**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.**

Division III, Part 1 or Iowa Code chapter 455B, Division IV, Part 1 and the rules adopted or permits issued pursuant thereto 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

Chamness neither admits nor denies the Statement of Facts and enters into this administrative consent order for settlement purposes only.

1. Chamness is an active, permitted, composting facility located several miles south of Eddyville (N 1/2, NW 1/4, Section 19, T73N, R15W, Wapello County). In addition to wood waste and yard waste, Chamness uses numerous industrial waste streams in its composting process. The facility has two retention basins (east and west ponds) to collect and contain all runoff from the 16 acre, asphalt paved composting pad.

2. On October 16, 2006, Chamness was issued an Operation Permit for a Land Application System (Permit #90-00-1-05). The operation permit provided provisions for the land application of storm water runoff from the Chamness facility. The operating permit specifically states that any discharge of waste water to surface waters is not permitted and no sanitary waste may be discharged to the runoff storage ponds. On December 6, 2007, Chamness was issued a Solid Waste Composting Permit (Permit #90-SDP-10-97P-COM). The composting permit included the provisions on the operation and maintenance of the facility, an operating plan, and a list of approved facilities and products to be accepted at the facility. The composting permit has been amended on several occasions since the original issuance.

3. On November 2, 2007, DNR Field Office 6 received a complaint. The complainant stated that it had rained 21 inches during the summer and fall and questioned whether the Chamness facility could hold all the water without overflowing. DNR Field Office 6 staff investigated the complaint on November 9, 2007. The ponds were not overflowing. The east pond had one inch of freeboard and the west pond had three inches of freeboard.

4. On February 26, 2008, DNR Field Office 6 received a complaint concerning the possibility of snow melt runoff at Chamness. DNR Field Office 6 investigated the complaint on March 4, 2008 and found the ponds to be within inches of overflowing. On March 10, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of the facility's Storm Water Pollution Prevention Plan of its composting permit, specifically provisions 6 – 8 regarding when the water reaches or exceeds the freeboard levels. The letter informed Chamness that further evidence of improper operation and management of the storm water control lagoons would result in further enforcement.

5. On April 21, 2008, DNR Field Office 6 received a complaint stating that a terrible odor was coming from the Chamness facility and the complainant questioned the

**IOWA DEPARTMENT OF NATURAL RESOURCES
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facility's ability to hold all the water generated from the heavy rains that were occurring. On April 22, 2008, DNR Field Office 6 received a complaint that the lagoons at Chamness were overflowing. Paul Brandt, environmental specialist for DNR Field Office 6, investigated the complaint and observed that the west pond was full and overflowing and the east pond was leaking through the berm and the discharge was reaching Palestine Creek. Mr. Brandt collected a sample of the discharge where it met Palestine Creek, a sample from 10 yards upstream from the point at which the discharge met Palestine Creek, and a sample 20 yards downstream from the point at which the discharge met Palestine Creek. The results were as follows:

Location	Biochemical Oxygen Demand (BOD)	Ammonia Nitrogen (NH₃)	Total Suspended Solids (TSS)
Discharge Point	8900 mg/L	190 m/L	550 mg/L
Downstream	520 mg/L	42 mg/L	64 mg/L
Upstream	Less than 7 mg/L	1.9 mg/L	9 mg/L

6. On April 23, 2008, Mr. Brandt called the Chamness facility site manager, Autumn Denato, to inform her of the results of his investigation. Mr. Brandt advised Ms. Denato that the ponds were overflowing and leaking. Mr. Brandt also received a call from Gary Chamness. Mr. Chamness reported that he was sending bigger equipment, including an umbilical applicator, to the Eddyville facility to get the ponds pumped down.

7. On April 29, 2008, DNR Field Office 6 received a complaint stating that Chamness was allowing the storm water ponds to overflow and discharge into a nearby creek. The complainant stated the discharge was causing the creek to smell. On May 1, 2008, DNR Field Office 6 received another complaint alleging that a strong odor was coming from the Chamness facility. Mr. Brandt called Ms. Denato about the complaint. Ms. Denato stated that they were pumping out of the ponds and that was probably the source of the odor. Ms. Denato also reported that they had gained enough freeboard to drain the water on the pad back into the pond, and also that the big equipment had arrived and was set up.

8. On May 8, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violating conditions of its operating permit, having an unpermitted discharge, and failing to maintain its facility in good working order. The letter also informed Chamness that the matter was being referring for further enforcement.

9. On May 12, 2008, DNR Field Office 6 received a complaint that the Chamness facility was generating a terrible odor and because it rained 2 inches on May 10, 2008 there was water standing on the pad. On May 20, 2008, Mr. Brandt from DNR Field Office 6, along with Matt McDonald, Chad Stobbe, and Kirsten Duke, DNR Central Office personnel, visited the Chamness facility. Facility staff had been pumping and applying from the ponds. The west pond had about two feet of freeboard; however there was still water standing on the west end of the pad. The east pond had only a few inches of freeboard, but facility staff was setting up to land apply from the east pond during the visit. The DNR staff

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observed that the east pond was overflowing the south side of the dike. The leak in the berm was still there, but facility staff had constructed a dam composed of compost from the Chamness facility across the drainage way below the seep to contain what leaked out. Dead vegetation indicated there had been an overflow from the south dike of the east pond since the April 22, 2008 visit.

10. On May 27, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violating the facility's operating permit and the facility's lack of freeboard. The letter required the facility to develop an emergency waste water contingency plan, a plan of action regarding waste water storage capacity, and to keep pumping down the ponds. The letter also reminded Chamness the violations were being referred for further enforcement.

11. On July 15, 2008, DNR Field Office 6 received a complaint alleging that Chamness was not mixing raw feedstock into the compost pad for 8-9 weeks at a time. The complainant also stated that the raw feedstock did not have a bulking agent mixed with it. The complainant also alleged that the odor was terrible, corn starch had been accepted without DNR approval, soybeans were scattered all over, and Chamness was selling uncured compost. Kurt Levetzow and Aaron Pickens, DNR Field Office 6 environmental specialists, investigated the complaint on the same day it was received. While investigating the mixing area, Mr. Levetzow and Mr. Pickens observed the compost pile was extremely large and did not appear to have bulking material mixed in. Since the compost pad containing the compost material was at its maximum holding capacity, there was not enough room to start new rows of compost with the mixed material. The leachate being released onto the westerly edge of the pile indicated the pile had been sitting in the same location in excess of 24 hours. Due to the size of the pile, lack of aeration due to the absence of bulking material, and the excessive moisture present, the compost mixtures went anaerobic and caused an unfavorable odor. Mr. Levetzow and Mr. Pickens also observed standing water (ponding) on the northeast corner of the compost pad. Mr. Levetzow and Mr. Pickens did not observe evidence of scattered soybeans and could not verify the selling of uncured compost. On July 21, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of the facility's composting permit.

12. On July 22, 2008, Brent Earley, DNR Field Office 6 environmental specialist, visited the Chamness facility to investigate an issue with regard to odor from compost that was delivered to the Ottumwa Landfill. During the inspection, Mr. Earley noted a large volume of water retained at the east end of the pad and as a result of the ponding the leachate was running off the pad to the east into the unlined soil. Mr. Earley also noted that the facility may be receiving more feedstock than it can adequately process. Mr. Earley found indications that Chamness was accepting starch from Cargill, Cedar Rapids. Cargill, Cedar Rapids and starch were not on the Approved Solid Waste Feedstock list as stated in Table 1 of its composting permit. Mr. Earley found evidence that Chamness was not following best management practices in terms of the maintenance of the ponds. On July 24, 2008, DNR Field Office 6 issued a Notice of Violation letter to Chamness for violations of its operating permit and its composting permit. The letter required Chamness to submit a Plan of Action to address the violations by August 8, 2008. On August 4, 2008, Chamness submitted a Plan

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of Action and met with DNR personnel to discuss the plan. Chamness indicated the facility planned to construct a third storage pond. Chamness also stated that a more detailed letter regarding the Notice of Violation letters would be submitted to the DNR within the next week.

IV. CONCLUSIONS OF LAW

Chamness neither admits nor denies the Conclusions of Law and enters into this administrative consent order for settlement purposes only.

1. Iowa Code section 455B.186 states that a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except for adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the Director. On April 22, 2008, Mr. Brandt observed that the west pond was full and overflowing and the east pond was leaking through the berm. The discharge was reaching Palestine Creek. The above facts indicate a violation of this provision.

2. 567 IAC 64.3(1) states that no person shall operate any wastewater disposal system or part thereof, without, or contrary to any condition of an operation permit issued by the Director. Operating Permit #09-001-1-05 allows for the land application of wastewater. However, the permit prohibits waste discharge into a water of the State caused, allowed or permitted from waste storage facilities or from the land application system. During Mr. Brandt's inspection in April 2008, he observed and confirmed that discharge from the Chamness facility was reaching a water of the State. The above facts indicate a violation of this provision.

3. Pursuant to 567 IAC 105.3(4), Provision #10 in Composting Permit #90-SDP-10-97P-COM states that the compost facility must be managed so as to minimize ponding of water or liquids and to provide adequate drainage of storm water offsite to the detention ponds. Any ponding that does occur shall be corrected through routine facility maintenance and/or operation within 24 hours after the termination of the event causing ponding. On July 15, 2008, Mr. Levetzow and Mr. Pickens observed a large volume of water retained at the east end of the pad, both on the north and south side most likely caused by drainage lines being plugged to the stormwater/leachate pond. On July 22, 2008, Mr. Earley observed ponding at the facility as well. The above-mentioned facts indicate violations of this provision.

4. Provision #6 in Composting Permit #90-SDP-10-97P-COM states that the permit holder shall operate the facility in accordance with 567 IAC 105.3. 567 IAC 105.3 requires that measures shall be taken to...and to prevent compost leachate and runoff from leaving the composting facility. On July 22, 2008, Mr. Earley observed leachate was running off the pad to the east into the unlined soil. The above-mentioned facts indicate a violation of this provision.

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

5. The Storm Water Pollution Prevention Plan of Composting Permit #90-SDP-10-97P-COM, specifically provisions 6 – 8 states the requirements for when the water reaches or exceeds the freeboard levels. During DNR Field Office 6's March 4, 2008 inspection, it was discovered Chamness was not complying with provisions 6-8 as both ponds were within inches of overflowing the earthen berms. The above-mentioned facts indicate a violation of this provision.

6. Provision #1 in Composting Permit #90-SDP-10-97P-COM requires that Chamness only accept solid waste from facilities listed in Table 1 of the permit and only products listed in Table 1 of the permit. On July 22, 2008, Mr. Earley discovered that Chamness was accepting starch from Cargill, Cedar Rapids. Cargill, Cedar Rapids was not listed in Table 1 of the permit, nor was the starch product. The above-mentioned facts indicate a violation of this provision.

7. 567 IAC 105.9(3) states that all materials received must be incorporated into the composting process within 24 hours of receipt unless storage of these materials is specified in the plan and approved by the DNR. During the field office's visit on July 15, 2008, the field staff observed that the mixing area compost pile was extremely large. Since the compost pad containing the compost material was at its maximum holding capacity, there was not enough room to start new rows of compost with the mixed material. The leachate being released onto the westerly edge of the pile indicated the pile had been sitting in the same location in excess of 24 hours. The above-mentioned facts indicate a violation of this provision.

8. 567 IAC 64.7(5) requires that the permittee must maintain the facility in good working order and operate as efficiently as possible any facilities or systems of control to achieve compliance with the terms and conditions of the permit. The inspections conducted by DNR Field Office 6 between March 2007 and July 2008 indicate that Chamness has failed to properly maintain the facility on several occasions. The above-mentioned facts indicate violations of this provision.

9. 567 IAC 105.3(7) states that solid waste materials shall be managed through the entire process in accordance with best management practices to minimize conditions such as odor, dust, noise, litter and vectors which may create nuisance conditions or a public health hazard. Chamness has had four odor complaints thus far in 2008. Due to the size of the compost pile, lack of aeration due to not containing bulking material, and the excessive moisture present, the compost mixtures went anaerobic and caused an unfavorable odor. The above-mentioned facts indicate violations of this provision.

V. ORDER

THEREFORE, the DNR orders and Chamness agrees to do the following:

1. Chamness shall comply with the attached Plan of Action and all other provisions of 567 IAC 105, Permit #90-00-1-05, and Permit #90-SDP-10-97P-COM and

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

2. Chamness shall pay a penalty of \$10,000.00. \$2,000.00 of the penalty shall be paid to the DNR within 30 days of the date the Director signs this administrative consent order. In lieu of payment of the remaining \$8,000.00, Chamness shall:

Conduct a Supplemental Environmental Project (SEP). The SEP shall consist of a payment to the Iowa Natural Heritage Foundation. Chamness shall make a payment of \$8,000.00 to the Iowa Natural Heritage Foundation within 30 days of the date the Director signs this administrative consent order. Once the payment is made, Chamness shall submit a receipt of payment to Kelli Book, attorney for the DNR.

VI. PENALTY

1. Iowa Code sections 455B.191 and 455B.307 authorize the assessment of civil penalties of up to \$5,000.00 per day of violation for each of the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000.00, 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 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 an administrative penalty of 10,000.00. The administrative penalty is determined as follows:

Economic Benefit – Land application of wastewater is labor intensive, time consuming, and costs money. Hauling it to a treatment plant is even more expensive. Chamness saved considerable money by not maintaining adequate freeboard in its lagoons and not properly managing its waste water. Based on the above considerations, \$3,000.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The water that reached Palestine Creek had significantly high BOD and ammonia nitrogen levels. Moreover, failure to properly maintain and manage waste water threatens the integrity of the regulatory program. Based on the above considerations, \$2,000.00 is assessed for the discharge to Palestine Creek and \$2,500.00 is assessed for the operating and composting permit violations, for a total of \$4,500.00 being assessed for this factor.

Culpability – Chamness has a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Chamness was well aware of its waste water situation. DNR Field Office 6 had visited the

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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

facility on March 3, 2008 and sent a letter on March 10, 2008 advising the facility that the ponds were within inches of overflowing and action was needed. Based on the above considerations, \$2,500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Chamness. For that reason Chamness waives its rights to appeal this administrative consent order or any part thereof.

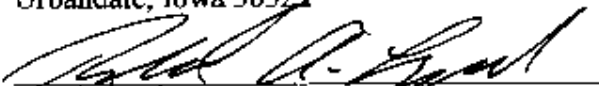
VIII. NONCOMPLIANCE


Compliance with Section V of this administrative consent order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative 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.191 and 455B.307.

Payment of Penalty shall be submitted to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

Payment to the Iowa Natural Heritage Foundation shall be submitted to:
Stacy Nelson, Membership Coordinator
Iowa Natural Heritage Foundation
505 5th Avenue, Suite 444
Des Moines, Iowa 50309

Receipt of Iowa Natural Heritage Foundation payment shall be submitted to:
Kelli Book, Attorney
DNR
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources


AUTHORIZED AGENT
Chamness Technology, Inc.

Dated this 19 day of
Nov., 2008.

Dated this Nov day of
10, 2008.

Kelli Book; Paul Brandt-FO6; Matt McDonald; EPA; VIII.D.1.b

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

**PLAN OF ACTION
CHAMNESS TECHNOLOGY, INC.
EDDYVILLE, IOWA COMPOST FACILITY**

A copy of the revised Operation Plan shall be submitted to the DNR by December 31, 2008.

1: Prevention of Storm Water Ponding

- Properly maintain the drain line on the east end of the pad;
- Revise the Operation Plan by December 15, 2008 to include monthly drain line inspection and cleaning within five days after the inspection, if necessary; and
- Revise the Operation Plan by December 15, 2008 to require the placement of compost windrows in a manner that does not impede storm water drainage from the feedstock mixing area.

2: Storm Water Pollution Prevention Plan Amendment

- The May 2007 Storm Water Pollution Plan will be revised by December 15, 2008 to include the following:
 - Revise the description of storm water storage ponds to include the proposed temporary storm water storage pond;
 - Add a provision for the annual inspection of the temporary storm water storage ponds for solid accumulation and pond cleaning, if necessary; and
 - Add a provision for quarterly inspections of the site during a significant precipitation event to ensure all storm drainage from the composting pad is being collected and diverted to the temporary storm water storage ponds.
- Submit a copy of the revised plan to the Department by December 31, 2008.

3: Storm Water Pond Sludge Management

- The quantity of sludge in each of the two temporary storm water storage ponds will be determined by December 15, 2008; and
- If the estimated quantity of sludge in either of the temporary storm water storage ponds exceeds 25% of the total pond storage capacity, the sludge will be removed and wither utilized in the composting process or applied to permitted land application sites within 60 days of completion of the third storage pond.

4: Feedstock Processing Management

- The Operating Plan will be revised by December 15, 2008 to include the following:
 - Modify the description of the mixing and blending operation to ensure the material flows through the process in a plug flow pattern (i.e. oldest mixed material is removed from mixing and blending area first and moved to the composting pad);
 - New materials in the moving stacks will be put down at the lowest elevation level of each specific moving stack formation and the materials in each formation will be moved upgradient toward the pad center as material is turned so the more finished the material in each stack formation, the higher the elevation of that material in the formation; and

Handwritten signature and date: 11/10/08

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

-Modify the description of frequency of stack turning from at least once per week to at least twice per week.

5. Housekeeping

- The Operating Plan will be revised by December 15, 2008 to include significant, generally accepted best management (housekeeping) practices; and
- Plant a row of trees to provide adequate coverage on the north berm of the compost site by June 1, 2009.

6. Storm Water Storage and Management

- An additional pump has been purchased for loading storage pond water onto high capacity tankers and field application equipment;
- A four-wheel drive tractor has been allocated to the facility for using 6,000 gallon field injection equipment in addition to the existing 2,250 gallon application equipment and direct injection system;
- A truck tractor power unit has been allocated to this facility for hauling storm water offsite, if necessary;
- An additional employee has been added to the staff for storm water management;
- A construction permit application for an additional temporary storm water storage pond has been submitted to DNR and will be constructed within one year after the DNR issues the construction permit;
- If not already completed, the Operation Plan and Storm Water Pollution Prevention Plan will be revised by December 15, 2008 to include the following:
 - Add a provision for weekly monitoring and recording of temporary storm water storage pond levels. This includes the installation of a marker or gauge to provide a tool for the monitoring and recording; and
 - Expand the recommended actions for addressing high storage pond water levels including transferring water to the proposed temporary storm water storage ponds and a treatment agreement with a Waste Water Treatment Plant.

[Handwritten signature]
11/10/08

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit F

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

<p>IN THE MATTER OF:</p> <p>CHAMNESS TECHNOLOGY, INC.</p> <p>Wapello County, Iowa</p>	<p>ADMINISTRATIVE CONSENT ORDER</p> <p>No. 2010-WW -10</p> <p>No. 2010-SW- 27</p>
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<p>TO: Chamness Technology, Inc. Rebecca Nott Environmental Compliance Manager 24820 160th Street Eddyville, Iowa 52553</p>	<p>Chamness Technology, Inc. Gary Chamness, Registered Agent 2255 Little Wall Lake Road Blairsburg, Iowa 50034</p>
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I. SUMMARY

This administrative consent order (order) is entered into between the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) for the purpose of resolving alleged wastewater violations at the Chamness facility located south of Eddyville, Iowa. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Questions regarding this order should be directed to:

<p><u>Relating to technical requirements:</u> Paul Brandt, Field Office 6 Iowa Department of Natural Resources 1023 W. Madison Washington, Iowa 52353 Phone: 319/653-2135</p>	<p><u>Relating to legal requirements:</u> Kelli Book, Attorney for the DNR Iowa Department of Natural Resources 7900 Hickman Road, Suite 1 Windsor Heights, Iowa 50324 Phone: 515/281-8563</p>
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Payment of penalty to:
Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This order is issued pursuant to the provisions of Iowa Code sections 455B.175(1) and 455B.307(2), which authorize the Director to issue any order

necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1 or Iowa Code chapter 455B, Division IV, Part 1 and the rules adopted or permits issued pursuant thereto 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

Chamness neither admits nor denies the Statement of Facts and enters into this administrative consent order for settlement purposes only.

1. Chamness is an active, permitted, composting facility located several miles south of Eddyville (N 1/2, NW 1/4, Section 19, T73N, R15W, Wapello County). In addition to wood waste and yard waste, Chamness uses numerous industrial waste streams in its composting process. The facility has two retention basins (east and west ponds) to collect and contain all runoff from the 16 acre, asphalt paved composting pad. In November 2009, a third retention basin was added to the facility.

2. On October 16, 2006, Chamness was issued an NPDES Operation Permit for a Land Application System (Permit #90-00-1-05). The operation permit provided provisions for the land application of storm water runoff from the Chamness facility. The operating permit specifically stated that any discharge of wastewater to surface waters was not permitted and no sanitary waste could be discharged to the runoff storage ponds. On December 6, 2007, Chamness was issued a Solid Waste Composting Permit (Permit #90-SDP-10-97P-COM). The composting permit included the provisions on the operation and maintenance of the facility, an operating plan, and a list of approved facilities and products to be accepted at the facility. The composting permit has been amended on several occasions since the original issuance.

3. On November 19, 2008, the DNR entered into an Administrative Consent Order with Chamness to address alleged solid waste and wastewater violations at the Chamness facility (Administrative Consent Order No. 2008-WW-31/2008-SW-40). A plan of action was attached to address the storm water management issues. These actions were required to be incorporated into a revised operating plan submitted to the DNR by December 15, 2008, and then carried out at the specified frequencies. On December 15, 2008, Chamness submitted the required revised operating plan. The operating plan for the compost permit was approved of by the DNR Solid Waste section on April 8, 2009.

4. On January 9, 2009, Brent Earley, DNR Field Office 6 environmental specialist, conducted a facility inspection at the Chamness facility. Chamness had taken a majority of the actions as required by the Administrative Consent Order's operating plan and was intending on beginning the construction of a new storm water and leachate lagoon in the spring.

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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

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5. On February 6, 2009, DNR Field Office 6 received a complaint alleging odor from the Chamness facility for two days. On February 25, 2009, Paul Brandt, DNR Field Office 6 environmental specialist senior, investigated the complaint. He noted that the two storm water ponds had freeboard greater than two feet, and he did not observe any odor.

6. On March 24, 2009, DNR Field Office 6 received a complaint alleging that Chamness was stock piling material from Cargill to the east of the site. The complainant stated that the pile was not on the permitted property and was covered by compost. On March 25, 2009, Kurt Levetzow, DNR Field Office 6 environmental specialist senior, investigated the complaint. Mr. Levetzow observed a white pile of material stockpiled on barren soil next to a pile of compost. Mr. Levetzow met with company officials. The Chamness employees stated that the material was a mix of 80% mycelium and 20% compost. The facility personnel referred to the mixture as Soil Microbial Stimulant (SMS). The facility personnel stated that Cargill was backed up, but offered no explanation as to why the material was not placed on the composting pad. Mr. Levetzow asked if the facility was permitted to accept the mycelium. The facility's permit did not authorize the accepting, mixing, storing, or composting of mycelium. On April 9, 2009, DNR Field Office 6 sent Chamness a letter regarding Mr. Levetzow's visit. A follow-up visit was conducted by Bert Noll, DNR Field Office 6 environmental specialist, Mr. Levetzow, and Mr. Brandt. The field office 6 personnel met with Chamness personnel to discuss Mr. Levetzow's complaint investigation. The facility personnel indicated that stockpiling in a nearby pile rather than on the composting pad was an error and would not happen again. The facility personnel indicated that all compost/feedstock would be stored and mixed on the weather pad in the future. During the visit, the field office 6 personnel noted the stock pile and composting areas appeared to be working as indicated in the facility's operating plan. On May 19, 2009, DNR Field Office 6 sent Chamness a letter summarizing the visit. The letter requested that Chamness submit further information regarding the use of mycelium. Chamness removed the mycelium from the facility.

7. On May 11, 2009, DNR Field Office 6 received a complaint alleging odor from the facility. On June 10, 2009, Mr. Levetzow investigated the complaint. A south wind enabled Mr. Levetzow to smell the facility from a gravel road on the north side of the facility. He was able to detect a composting odor from the road, however after the site visit he determined the facility was operating under normal operations.

8. On May 26, 2009, DNR Field Office 6 received a call at 4:59 PM from Chamness personnel stating that due to recent precipitation the east pond was starting to overflow. On May 27, 2009, the facility personnel called back to the field office. The facility personnel informed Mr. Brandt that the fields were too wet for land application and that the facility would try pumping from the east pond to the west pond. The west pond was full too. Mr. Brandt suggested pumping to the tank

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trucks to give the facility usable capacity. The facility personnel stated the truck capacity would be about 18,000 gallons and the facility would try that approach. On June 18, 2009, DNR Field Office 6 received a call from Chamness personnel stating that because of recent precipitation the lagoons were full and could not contain any more liquids. The facility planned to start hauling later in the week if the weather allowed. On June 24, 2009, DNR Field Office 6 received a call from Chamness personnel indicating that the east pond was overflowing due to the precipitation over night. The overflow ended mid-morning on June 25, 2009. In an email dated June 26, 2009 from Chamness personnel, the facility intended to start hauling immediately and the soil borings had taken place for the new lagoon.

9. On July 8, 2009, DNR Field Office 6 received an email from Chamness personnel stating that the west lagoon at the facility had starting to overflow on July 7, 2009 due to precipitation. The west lagoon overflowed until the morning of July 8, 2009. The email stated as soon as the ground dried up, water would be hauled from the lagoon. On July 10, 2009, DNR Field Office 6 received an email from Chamness personnel stating that the west lagoon had overflowed for a seven hour period during the morning because of precipitation. The email stated some water had been hauled out and more would be as weather permitted.

10. On July 15, 2009, DNR Field Office 6 received a message from Chamness personnel stating that the west lagoon at the facility had overflowed from approximately 11:30 the night before until 7:00 on the morning of July 15. On July 15, 2009, DNR Field Office 6 also received a complaint alleging odor from the Chamness facility. On August 19, 2009, Mr. Levetzow investigated the complaint. Mr. Levetzow met with facility personnel and noted that the windrows were small and had recently been turned. There was no unordinary ponding on the pad and the lagoons were not overflowing. Mr. Levetzow did not note an abnormal odor at the facility; however the odor from the facility was a little greater on the gravel road on the north side of the property. On September 15, 2009, DNR Field Office 6 sent a letter to the facility regarding Mr. Levetzow's inspection. The facility was informed that DNR Field Office 6 would be making periodic visits to the facility.

11. On August 27, 2009, DNR Field Office 6 received an email from Chamness personnel stating that both the east and west lagoons were overflowing because of precipitation. On September 2, 2009, Mr. Brandt conducted an inspection at the facility. Mr. Brandt noted that the east pond had about six inches of freeboard and the west pond had about 12 inches of freeboard. Mr. Brandt noted that soil had been added to the berm near the northeast corner of the west pond to raise a low area. On the day of the inspection, the wind was from the southeast and as Mr. Brandt approached the facility from the gravel road he detected a strong, unpleasant odor. He noted the strongest odor during the facility inspection was observed while standing down-wind of a windrow turner. Mr. Brandt reviewed the facility storm water land application records. The facility personnel stated that a crew would be on site the following week to draw the two ponds down and land apply the contents. In reviewing the facility's Monthly Operation Reports (MOR) for the

ADMINISTRATIVE CONSENT ORDER

ISSUED TO: CHAMNESS TECHNOLOGY, INC.

previous two years, Mr. Brandt compared them to the facility's operating plan. The operating plan stated that based on average rainfall, approximately 6.8 Million Gallons (MG) of storm water must be land applied annually. The MORs showed that 2.62 MG was applied in 2008. Since there had been higher than average rainfall in 2008, Mr. Brandt determined there was about 4 MG of storm water unaccounted for. Through July 2009, 2.2 MG had been land applied. A review of the laboratory data indicated that in 2008, the east pond Biological Oxygen Demand (BOD) ranged from 8,000 to 15,000 mg/L and the ammonia-nitrogen ranged from 170 to 950 mg/L. The west pond BOD ranged from 1,300 to 3,300 mg/L and the ammonia-nitrogen ranged from 160 to 400 mg/L. During the inspection, Mr. Brandt observed that there was long grass growing on the tops of the pond berms. The facility's operating permit required that all facilities and control systems be maintained in good working order. Mr. Brandt also reviewed compliance with the administrative consent order issued in November 2008. The facility had complied with all of the terms of the Administrative Consent Order's operating plan except for three areas of concern. First, Mr. Brandt noted that construction on the third storm water pond had not started. The construction permit for the third pond had been issued on November 14, 2008. The Administrative Consent Order required that construction of the third pond be completed within one year of the issuance of the permit. Facility personnel stated the facility was working with the constructor on the construction of the third pond. Second, the plan required the facility to install a marker or gauge to provide a tool for monitoring and recording pond levels, this had not been completed. And, third the plan required the facility to procure a treatment agreement with a wastewater treatment plant for emergency hauling of wastewater. The facility did have an agreement with the Ottumwa wastewater treatment plant, but the Ottumwa plant was only willing to accept a small amount of wastewater due to the high BOD concentration. An additional requirement in the Administrative Consent Order's operating plan stated the facility would turn the windrows at least twice a week. A review of the quarterly reports indicated that the twice weekly turning had not been attained in the first half of the year.

12. On October 9, 2009, DNR Field Office 6 issued a Notice of Violation letter to Chamness for several violations including: violations of conditions of the Administrative Consent Order; pond freeboard exceedances; and reporting of discharges. The Notice of Violation letter noted that facility personnel had reported seven pond overflow events between May and August 2009. All of the events were caused by precipitation. The ponds at the facility were designed to contain a 25 year/24 hour rainfall event. The data indicates that the 25 year/24 hour rainfall event for the Ottumwa area is approximately 5.5". Records indicate that the greatest amount of rain received during the seven discharges at the facility was 3.7". The facility's Operation Plan of the Composting Permit states that the water level in the basins should never get within two feet of the top of the basin wall. In regards to the reporting requirements, the facility's NPDES permit requires that discharges are to be reported to the DNR within six hours. (The permit has since been amended to allow for a 24 hour reporting time.) The reporting times by Chamness personnel on the seven discharges ranged from immediately to 18 hours. The Notice of Violation

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ISSUED TO: CHAMNESS TECHNOLOGY, INC

letter required Chamness to develop a reporting protocol. The Notice of Violation letter required the following: 1) finish the third storm water pond by November 14, 2009; 2) assure that all storm water controls are in place before starting land disturbing activities; 3) install pond depth markers or gauges on the ponds; 4) negotiate a treatment agreement with a wastewater treatment plant for emergency hauling of larger quantities of wastewater; 5) assure all windrows are turned at least twice weekly; 6) keep all pond berms mowed; 7) manage storm water to prevent pond overflows; 8) manage the facility with best management practices to minimize conditions such as odors which may create nuisance condition or a public health hazard; 9) develop a standard plan for reporting overflows and other types of spills; and 10) provide an accounting for the missing four MG of storm runoff in 2008.

13. On November 3, 2009 and November 12, 2009, DNR Field Office 6 received complaints regarding the odor at the Chamness facility.

14. On November 27, 2009, Chamness completed construction on the third pond at the facility.

IV. CONCLUSIONS OF LAW

Chamness neither admits nor denies the Conclusions of Law and enters into this administrative consent order for settlement purposes only.

1. The Storm Water Pollution Prevention Plan of Composting Permit #90-SDP-10-97P-COM, specifically Special Provision 6, Section L of the Operation Plan states that the water level in the basins should never get within two feet of the top of the basin wall. Between the months of May and August 2009, there were at least seven overflow events at the facility indicating that the facility was not in compliance with the composting permit. Additionally, during Mr. Brandt's inspection in September 2009, both basins had less than two feet of freeboard. The above-mentioned facts indicate violations of this provision.

2. 567 IAC 64.3(1) states that no person shall operate any wastewater disposal system contrary to any condition of an operation permit issued by the Director. Standard Condition 14 of Operating Permit #90-00-1-05 (permit in place at the time of the violations) required that all discharges were to be reported within six hours. The reporting of the seven overflows by Chamness personnel to DNR Field Office 6 ranged from immediately to 18 hours. The reports made after the six hour requirement were violations of the operating permit. The above-mentioned facts indicate violations of this provision.

3. 567 IAC 105.3(7) states that solid waste materials shall be managed through the entire process in accordance with best management practices to minimize conditions such as odor, dust, noise, litter and vectors which may create nuisance conditions or a public health hazard. DNR Field Office 6 received at least

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five odor complaints between February 2009 and November 2009. The above-mentioned facts indicate violations of this provision may have occurred.

4. The plan of action included with Administrative Consent Order No. 2008-WW-31/2008-SW-40 required that Chamness install pond water level markers by December 15, 2008. During Mr. Brandt's September 2009 investigation, he noted that the water level markers had not been installed. The above-mentioned facts indicate a violation of the Administrative Consent Order.

5. The plan of action included with Administrative Consent Order No. 2008-WW-31/2008-SW-40 required that Chamness procure a treatment agreement with a wastewater treatment plant for emergency hauling of wastewater. Chamness has an agreement with the Ottumwa wastewater treatment plant, but that plant is only willing to accept a small amount of wastewater because of the high BOD concentration. This is not a viable option in a high water emergency. The facility had at least seven overflow events in a three month period of 2009 but did not haul any of the water to a wastewater treatment plant. The above-mentioned facts indicate a violation of the Administrative Consent Order.

6. The plan of action included with Administrative Consent Order No. 2008-WW-31/2008-SW-40 required that the windrow turning frequency would be at least twice per week. The review of the records for the first half of 2009 indicated that the twice per week frequency had not been achieved. The above-mentioned facts indicate a violation of the Administrative Consent Order.

V. ORDER

THEREFORE, the DNR orders and Chamness agrees to do the following:

1. Chamness shall comply with all provisions of 567 IAC 105, NPDES Permit #90-00-1-05, and Permit #90-SDP-10-97P-COM, and the Plan of Action included in Administrative Consent Order No. 2008-WW-31/2008-SW-40;
2. Chamness shall maintain at least two feet of freeboard at all times in all three of the storm water ponds at the facility;
3. Chamness shall ensure that there are no overflows from any of the three storm water ponds at the facility;
4. Chamness shall employ best management practices to minimize odor;
5. Within 30 days from the date the Director signs this order, Chamness shall develop a contingency plan and treatment agreement with a wastewater treatment facility that can accept large volumes of wastewater in the event the ponds are nearing full capacity and land application is not possible;

6. Chamness shall turn the compost windrows at least twice a week;
7. Within 30 days from the date the Director signs this order, Chamness shall install pond level indicators in all three ponds;
8. Within 30 days from the date the Director signs this order, Chamness shall submit a written plan to DNR Field Office 6 detailing the facility's plan for reporting overflows and other reportable spills; and
9. Chamness shall pay a penalty of \$10,000.00. \$2,000.00 of the penalty shall be paid to the DNR within 30 days of the date the Director signs this order. In lieu of payment of the remaining \$8,000.00, Chamness shall:

Conduct a Supplemental Environmental Project (SEP). The SEP shall consist of research project between Chamness, Drake University, and the Wapello County Conservation Board investigating the effects of compost on prairie seed production. The study shall be conducted on a variety of native prairie species planted Wapello County Conservation Board's production plots. Drake University will be responsible for the set up and study of the project. The study is scheduled to begin in late spring 2010 and conclude at the end of the summer 2011. The study results will be provided to the Wapello County Conservation Board. A copy of the study results shall also be provided to the DNR at the conclusion of the study.

VI. PENALTY

1. Iowa Code sections 455B.191 and 455B.307 authorize the assessment of civil penalties of up to \$5,000.00 per day of violation for each of the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000.00, 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 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 an administrative penalty of 10,000.00. The administrative penalty is determined as follows:

Economic Benefit – 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the DNR shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made

ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC

where clear data are not available." Land application of wastewater is labor intensive, time consuming, and costs money. Hauling it to a treatment plant is even more expensive. Chamness saved considerable money by not maintaining adequate freeboard in its lagoons, allowing the lagoons to overflow, and not properly managing its wastewater. It is estimated that the Ottumwa wastewater treatment plant would charge \$0.10 per gallon for the wastewater from the Chamness facility. Based on the size of the ponds at the Chamness facility at the time of the discharges, it is estimated that Chamness would have had to haul approximately 100,000 gallons each time to prevent a discharge. If the Ottumwa facility had been willing to accept the wastewater, it would have cost Chamness approximately \$10,000.00 for each discharge event. In looking at other wastewater treatment facilities in the area, it is estimated that if the wastewater had been taken to the Iowa City wastewater treatment plant that the costs, including trucking costs, would have been approximately \$5,000.00 for each discharge event. It is estimated that Chamness was able to save between \$35,000.00 and \$70,000.00 by allowing the ponds to overflow rather than hauling the wastewater off site. Based on the above considerations, \$8,000.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. The wastewater in the ponds contains high concentrations of BOD and ammonia-nitrogen and poses a threat of reaching a water of the state. Moreover, failure to properly maintain and manage wastewater threatens the integrity of the regulatory program. Additionally, Chamness violated provisions of the previous Administrative Consent Order. Based on the above considerations, \$1,500.00 is assessed for this factor.

Culpability – Chamness has a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Chamness was well aware of its wastewater situation. Chamness has had ongoing issues with the ponds as well as odor complaints. Based on the above considerations, \$500.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

This order is entered into knowingly and with the consent of Chamness. For that reason Chamness waives its rights to appeal this order or any part thereof.


VIII. NONCOMPLIANCE

Compliance with Section V of this order constitutes full satisfaction of all requirements pertaining to the violations described in this administrative consent order. Failure to comply with this order may result in the imposition of

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

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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.191 and 455B. 307.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 23 day of
June, 2010.



CHAMNESS TECHNOLOGY, INC.

Dated this 8 day of
June, 2010.

Kelli Book; Paul Brandt-FO6; Matt McDonald; EPA; VIII D.1.b

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit G

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

IN THE MATTER OF: CHAMNESS TECHNOLOGY, INC.	ADMINISTRATIVE CONSENT ORDER NO. 2016-WW- 21
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TO: Gary Chamness
2255 Little Wall Lake Road
Blairsburg, IA 50034

I. SUMMARY

This administrative consent order ("Order") is entered into between Chamness Technology, Inc. ("Chamness") and the Iowa Department of Natural Resources ("DNR") for the purpose of resolving a prohibited discharge to a water of the state. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Alison Manz
Field Office 4
Iowa Department of Natural Resources
1401 Sunnyside Lane
Atlantic, Iowa 50022
Ph. 712-243-1934

Relating to legal requirements:

John Crotty
Legal Services Bureau
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319-0034
Ph. 515-725-8249

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319-0034

II. JURISDICTION

This Order is issued pursuant to Iowa Code 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code Chapter 455B, Division III, Part 1 and the rules adopted or permits issued pursuant thereto, and pursuant to Iowa Code 455B.109 and 567 Iowa Administrative Code ("IAC") Chapter 10, which authorize the Director to assess administrative penalties.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Chamness Technology, Inc.**

III. STATEMENT OF FACTS

1. On January 7 and 8, 2016, DNR Field Office 4 received calls from concerned citizens alleging that improper application of fertilizer was occurring on fields southeast of Harlan, Iowa.

2. DNR staff visited the site in question on January 8, 2016. They observed liquid being land applied in the SE ¼ of Section 30 of Center Township by Robert Staiert. Mr. Staiert was applying the liquid under a contract with Chamness. The liquid was being pumped to the site through an umbilical hose from the wastewater lagoons at Essentia Protein Solutions.

3. DNR staff observed pools of darkly colored, odorous liquid in the land application field. They observed that application had occurred within 6-9 feet of the West Nishnabotna River.

4. DNR staff observed that the liquid being applied was running off into the river. Mr. Staiert began constructing a berm in the southwest corner of the application field in an attempt to prevent any further runoff.

5. DNR staff collected samples of the runoff liquid for lab analysis. Lab results showed the liquid had high levels of fecal coliforms, ammonia nitrogen, phosphorus, total Kjeldahl nitrogen, carbonaceous biological oxygen demand, and total dissolved solids.

IV. CONCLUSIONS OF LAW

DNR and Chamness agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged in accordance with rules adopted by the Environmental Protection Commission ("Commission").

2. The facts stated in Section III of this Order constitute violations of Iowa Code 455B.186.

V. ORDER

Therefore, DNR orders and Chamness agrees to do the following:

1. Chamness shall cease all discharges to waters of the state.
2. Chamness shall prepare a written contingency plan for each job involving the land application of liquids originating from a wastewater disposal system. The

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Chamness Technology, Inc.**

contingency plan shall set out alternative disposal or storage methods that shall be used in the event that weather conditions prohibit safe land application. The contingency plan shall be signed by a responsible company official and a copy shall be made available to each employee or contractor performing the application. A copy of any contingency plan shall be provided to DNR upon request.

3. Chamness shall pay an administrative penalty of \$5,000 within 30 days of the date the Director signs this Order.

VI. PENALTY

1. Iowa Code 455B.191 authorizes the assessment of civil penalties of up to \$5,000 per day of violation for the violations involved in this matter.

2. Iowa Code 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at 567 IAC chapter 10. DNR is assessing a penalty of \$5,000 for the violations described above. The following factors were considered in the assessment of this penalty:

a. Economic benefit. Chamness land applied liquid from the Essentia wastewater lagoons under inappropriate conditions. By doing so, Chamness avoided costs for hauling the liquid to a wastewater treatment facility or a suitable application area. \$1,000 is assessed for this factor.

b. Gravity of the violation. The unpermitted discharge of pollutants to a water of the state negatively affects the beneficial uses of Iowa's rivers and streams. \$1,000 is assessed for this factor.

c. Culpability. Chamness land applied liquid from a wastewater lagoon on partially frozen land. This application occurred within six to nine feet of the river bank. Chamness knew, or should have known, that runoff to a water of the state could occur. \$2,000 is assessed for this factor.

d. Aggravating factors. DNR took enforcement action against Chamness in 2008 for an illegal discharge to a water of the state and in 2010 for violating composting permit conditions, failing to timely report a discharge, and violating the terms of a prior order. The Iowa Attorney General's office took enforcement action against Chamness in 2011 for illegal discharges to a water of the state and for violating the terms of a prior order. \$1,000 is assessed for this factor.


IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Chamness Technology, Inc.

VII. WAIVER OF APPEAL RIGHTS


Iowa Code 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC 7.1, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Chamness. By signing this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

Compliance with section V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this 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 455B.191.



Bruce Troutman for
CHUCK GIPP, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES
Dated this 16 day of
November, 2016



CHAMNESS TECHNOLOGY, INC.
Dated this 28th day of
OCTOBER, 2016

Field Office #4; John Crotty; EPA; I.C.1

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit H

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

IN THE MATTER OF:

CHAMNESS TECHNOLOGY, INC.

ADMINISTRATIVE
CONSENT ORDER

NO. 2020-HC- 02
NO. 2020-SW- 02
NO. 2020-WQ- 05
 WW

To: Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

Re: Failure to operate industrial composting facility in compliance with Iowa law.

I. SUMMARY

This administrative order (Order) is entered into between the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) to resolve alleged violations of Iowa law governing the proper operation of an industrial composting operation (facility) located in Eddyville, Iowa. DNR staff met with Mr. Chamness and his staff on February 3, 2020 in DNR Field Office (FO) 6 to discuss the allegations of non-compliance, settlement and a proposed consent order.

As detailed below, Chamness agrees to comply with a revised operating permit for the facility, to develop and submit to the DNR a leachate management plan, to have Chamness staff participate in site inspections with DNR staff on a quarterly basis, and to pay an administrative penalty of \$10,000.00. The basis for this Order and the penalty is further explained herein.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Kurt Levetzow, Env. Specialist Sr.
Iowa Department of Natural Resources
Field Office No. 6
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

Payment of penalty to:

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

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I (water quality) and the rules promulgated or permits issued pursuant thereto; Iowa Code § 455B.382, which authorizes DNR to prevent, abate and control exposure of citizens to hazardous conditions; Iowa Code § 455B.386, which authorizes penalties for failure to properly notify DNR in the event of discharges of hazardous substances; Iowa Code § 455B.307(2) which authorizes the Director of the DNR 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 promulgated or permits issued pursuant thereto; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following facts are relevant to this matter:

1. On October 19, 2018, staff from DNR FO 6 visited the facility and observed that the facility was not in compliance with its permit and operations plan. Among other violations, the facility failed to operate traditional windrows on the 18-acre compost pad.
2. On October 31, 2018, DNR FO6 staff sent a letter to Chamness explaining staff observations during the October 19 facility visit, enumerating violations of the facility's operations plan, and explaining the matters that needed to be addressed to bring the facility into compliance.
3. On March 26, 2019, FO6 staff conducted a follow-up visit to the facility and again documented violations similar to those observed in October 2018.
4. On April 1, 2019, DNR issued a Notice of Violation (NOV) to the facility. The NOV stated that the violations noted must be addressed and that another visit would be conducted to assess compliance.
5. On May 28, 2019, Chamness requested permission for a one-time discharge of leachate from the middle (large) lagoon at the facility due to excessive

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

spring rains. DNR FO6 staff approved the one-time discharge of leachate into Palestine Creek.

6. On August 27, 2019, DNR FO6 received an anonymous complaint about black runoff entering Palestine Creek. DNR staff investigated and documented that leachate from the facility's compost pad appeared to be flowing directly into Palestine Creek. Water samples were collected.

	Ammonia	BOD	CBOD	pH	TSS
Upstream A	0.11 mg/l	<2	<2	8.1	2
Upstream B	0.73	4	<2	7.7	13
Discharge Point	32	610	630	7.6	750
Downstream	20	190	140	7.3	340
One mile downstream	5	5	4	7.8	53

7. On September 4, 2019 DNR FO6 staff conducted a site visit to the facility and documented several violations of the facility's operations plan.

8. On September 9, 2019, an NOV was issued to Chamness, citing various violations resulting from the August 27 inspection and sampling results.

9. On September 16, 2019, Jerry Parker, Wapello County Supervisor, received and forwarded a complaint to DNR FO6 regarding smoke and odor from the facility. Also, on September 16, 2019, FO6 received a separate complaint regarding fires in the compost pile, odor from the smoke, and the allegation that the operators of the facility were digging holes and burying the compost onsite.

10. On September 17, 2019, DNR FO6 staff investigated the complaints. The smoke and odor were found to be attributed to hot spots and diatomaceous earth in the compost that had not been effectively mixed. As for the burial allegation, facility staff claimed they were "reclaiming" farm ground by spreading finished/unscreened compost and working it into the row crops east of the main maintenance shed. Also on September 17, 2019, Chamness submitted a status update concerning efforts to bring the facility into compliance.

11. On October 1, 2019, an NOV was issued to Chamness regarding violations of the facility's permit and operations plans, in addition to other violations of Iowa law.

12. On November 4, 2019, FO6 staff conducted a visit to the facility to check the status of operations. The facility was not in compliance as of the date of this visit.

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

13. On December 30, 2019, DNR sent an offer for settlement and administrative consent order to Chamness to settle the violations referenced in this Order. The parties subsequently met in person to discuss settlement.

IV. CONCLUSIONS OF LAW

1. Iowa Code § 455B.186 prohibits the depositing or discharging of any pollutant into any water of the state of Iowa. The facts outlined above establish a violation of this section of the Iowa Code.

2. Iowa Code § 455B.381 defines a "hazardous substance" as any substance that presents a danger to the public health or safety and includes any substance that is toxic, corrosive, flammable, or that is an irritant. Section 381 further defines a "hazardous condition" as any situation involving the actual, imminent, or probable spillage, leakage or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. The discharge of leachate to a water of the state is a hazardous condition. ***Chamness has stated during settlement negotiations that it has not accepted any hazardous materials for composting. DNR agrees with this statement. DNR is not asserting that Chamness has accepted hazardous materials for composting. DNR is asserting that industrial leachate is a hazardous material as defined in Iowa Code and leachate runoff from the property may cause a hazardous condition as defined in Iowa Code.***

3. The Iowa Environmental Protection Commission enacted Iowa Administrative Code section 567 IAC 105.3, which enumerates requirements for composting operations in Iowa.

4. 567 IAC 105.3(2) requires composting to be performed in a manner that minimizes the formation of compost leachate. As explained above, failure to maintain windrows and drains on both sides of the 18-acre compost pad at the facility resulted in leachate runoff into a nearby creek. These facts establish a violation of this requirement.

5. 567 IAC 105.3(4) requires composting facilities to be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur must be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding. The facts above establish a violation of this requirement.

6. Finally, the facility was issued a permit for operation pursuant to the composting regulations (Permit No. 90-SDP-10-97P-COM). The permit included an operations plan. Violation of permit terms is a violation of Iowa law. The facts above establish numerous violations of the permit and operations plan, including failing to maintain windrows, failure to properly aerate the compost, failure to take

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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

internal temperature readings of the compost, failure to manage odors, and failure to keep feedstock on the cement pad. All of these facts establish violations of permit requirements and Iowa law.

V. ORDER

THEREFORE, the DNR orders and Chamness agrees to the following:

1. Chamness has applied for a new permit as previously requested by DNR. Permit renewal is pending, and Chamness' current permit is in force until a new permit is issued. As part of the new permit, Chamness will agree to the following provisions in addition to the standard permit conditions:

- a. Quarterly on-site meetings with DNR staff to review permit compliance. This provision will sunset if compliance is documented for a period of two years.
- b. Chamness will include a long-term leachate management plan to prevent any further discharges into Palestine Creek.
- c. Any permit violation will also be considered a violation of this Order.

2. Chamness will pay an administrative penalty of \$10,000.00 within 120 days of this Order being signed by the Director.

VI. PENALTY

1. Iowa Code § 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations. Iowa Code § 455B.191 provides for civil penalties of up to \$5,000.00 per day for water quality violations. Iowa Code § 455B.386 authorizes the DNR to impose penalties of up to \$1,000.00 for each failure to properly notify the DNR and other parties when hazardous substances are spilled.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the fine should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. 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 Order with a \$10,000.00 penalty, which is the

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE CONSENT ORDER
 ISSUED TO: CHAMNESS TECHNOLOGY, INC.

maximum DNR is authorized to impose administratively. The administrative penalty assessed by this Order is determined as follows:

- a) Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available."

Failure to build and turn compost windrows has saved time and costs associated with operating the windrow turning equipment. Time and expenses have been saved by not routinely testing moisture content, oxygen content and temperature of the compost in the windrows. According to the facility's permitted operations plan, once compost is placed into a windrow the temperature must be measured at least twice weekly until it has reached the conclusion of the Process to Further Reduce Pathogens (PFRP). The operations plan also states that a minimum of five turns is required during high temperature periods. All of the above-stated issues have been ongoing since prior to October 2018.

Economic benefit for non-compliance is primarily determined in this matter by expenses saved by employees failing to conduct required activities at the facility. Composting activity (managing mixing area, building compost rows, turning compost windrows, monitoring temperature and oxygen) hours per week = 40; estimated wage of staff per hour = \$15.00; estimated number of weeks composting activity was not completed = 15.

Therefore, a very conservative economic benefit is estimated at \$9,000.00. Despite this estimate, the DNR has determined the most effective and efficient means of addressing the above-cited violations is through the administrative process; therefore only \$4,000.00 is being assessed for this factor.

- b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Failure to maintain the leachate drains and failure to conduct traditional methods of windrowing resulted in the discharge of leachate that entered Palestine Creek. Impacts to Palestine Creek have been documented in previous inspections/complaint investigations. Long-term non-compliance with the permitted operations plan threatens the integrity of DNR's

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

regulatory program.

Additionally, the facility has been the subject of a prior administrative consent order which has not been fully complied with.

Therefore, \$3,000.00 is being assessed for this factor.

- c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Facility operations staff failed to comply with their permitted operations plan and failed to comply with numerous Iowa regulations. Staff and management should be aware of conditions that can change and be prepared to respond. While there has been no evidence of false reporting or tampering, the leachate spillage was not voluntarily reported to DNR. Being in the industrial composting business for many years, facility staff should have complied with the terms of their permit and operations plan, and should have known the importance of following their own standard operating procedures for building and maintaining windrows and proper leachate management.

Chamness has been cooperative since being contacted in late 2018 concerning the numerous ongoing violations at the facility.

Therefore, \$3,000.00 is being assessed for this factor.

VII. APPEAL RIGHTS

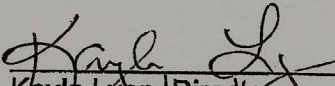
As this order is entered voluntarily by both parties, there is no right of appeal.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code § 455B.146. Compliance with Section V (Order)

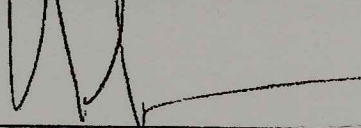
IOWA DEPARTMENT OF NATURAL RESOURCES
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of this Order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section IV (Conclusions of Law) of this Order.



Kayla Lyon, Director
Iowa Department of Natural Resources

Dated this 1st day of
April, 2020.



For: Chamness Technology, Inc.

Dated this 25th day of
March, 2020

CC: DNR Field Office 6; David Scott; I.C.1, IV.A, VI.B.2.

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit I

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

<p>IN THE MATTER OF:</p> <p>CHAMNESS TECHNOLOGY, INC.</p>	<p style="text-align: center;">ADMINISTRATIVE ORDER</p> <p>NO. 2021-SW- <u>11</u></p> <p>NO. 2021-WW- <u>18</u></p>
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To: Chamness Technology, Inc.
Gary Chamness, Registered Agent
2255 Little Wall Lake Road
Blairsburg, Iowa 50034

Re: Failure to operate industrial composting facility in compliance with Iowa law; illegal discharges into water of the State.

I. SUMMARY

This administrative consent order (Order) is entered into by the Iowa Department of Natural Resources (DNR) and Chamness Technology, Inc. (Chamness) to resolve violations of Iowa law governing the proper operation of an industrial composting operation (facility) located in Eddyville, Iowa. Despite ongoing efforts by the DNR to assist Chamness in bringing the facility into compliance, in May of 2021, DNR staff inspecting the facility following a complaint found Palestine Creek had been impacted by compost leachate runoff in violation of the facility's permit and Iowa water quality regulations.

As detailed below, Chamness' composting permit (90-SDP-10-97P-COM) is temporarily suspended. This suspension is in effect until at least August 15, 2021, and is limited to prohibiting any additional feedstock material from being delivered to the facility. Additionally, Chamness shall, among other requirements, implement measures to prevent future discharges, meet specific staffing requirements, and pay an administrative penalty of \$4,000.00. The basis for this Order and the penalty is further explained herein.

Any questions regarding this Order should be directed to:

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

Relating to technical requirements:

Kurt Levetzow, Supervisor
Iowa Department of Natural Resources
Field Office No. 6
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-653-2135

Relating to legal requirements:

David Scott, Attorney
Iowa Department of Natural Resources
1023 W. Madison Street
Washington, Iowa 52353
Phone: 319-321-8504

Payment of penalty to:

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

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I (water quality) and the rules promulgated or permits issued pursuant thereto; Iowa Code § 455B.307(2) which authorizes the Director of the DNR 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 promulgated or permits issued pursuant thereto; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following facts are relevant to this matter:

1. In April, 2020, the DNR and Chamness entered Consent Orders 2020-HC-02, 2020-SW-02, and 2020-WW-05 that required Chamness to comply with the requirements of the revised compost permit, participate in regular on-site inspections, develop and implement a leachate management plan, and pay an administrative penalty for past permit-noncompliance.

2. On June 11, 2020, DNR Field Office (FO) 6 staff investigated multiple complaints regarding burning compost, smoke, odor and leachate compliance issues at the Chamness facility.

3. On June 30, 2020, the DNR issued a Notice of Violation (NOV) to Chamness due to leachate runoff from the facility impacting Palestine Creek in violation of the facility's permit and the prior Consent Orders.

4. On September 3, 2020, DNR FO6 staff conducted a routine compliance inspection of the facility.

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

5. On September 9, 2020, DNR issued an NOV due to permit non-compliance witnessed during the September 3 inspection.

6. On March 8, 2021, due to ongoing compliance issues at the Chamness facility, DNR issued a warning letter to Chamness noting three primary actions items required to avoid future permit enforcement including fixing drainage, screening on-site compost and re-establishing windrows. It was subsequently communicated to Chamness representatives that DNR expected the facility to be in compliance with these requirements by July 1, 2021 in order to avoid permit suspension.

7. On May 1, 2021, DNR FO6 received additional complaints regarding a large fire at the facility and that Palestine Creek was running black. Due to the large fire, local fire departments responded in attempt to control the fire. The fire reportedly burned for two days.

8. On May 3 and 4, 2021, DNR FO6 staff inspected the facility to determine the cause of the discoloration of the Creek. Staff took water quality samples and determined that the runoff was from the compost material into the creek. The samples showed water quality violations resulting from the illegal discharge into the creek.

9. May 26, 2021, DNR issued an NOV to Chamness for prohibited discharge and for causing water quality criteria violations.

IV. CONCLUSIONS OF LAW

1. Chamness' permit non-compliance referenced above are also violations of the requirements of Consent Orders 2020-HC-02, 2020-SW-02, and 2020-WW-05.

2. Iowa Code § 455B.186 prohibits the depositing or discharging of any pollutant into any water of the state of Iowa. The facts outlined above establish a violation of this section of the Iowa Code.

3. The Iowa Environmental Protection Commission (Commission) enacted 567 IAC 105.3, which enumerates requirements for composting operations in Iowa.

4. 567 IAC 105.3(2) requires composting to be performed in a manner that minimizes the formation of compost leachate. As explained above, failure to maintain windrows and drains on both sides of the 18-acre compost pad at the facility resulted in leachate runoff into a nearby creek. These facts establish a violation of this requirement.

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

5. 567 IAC 105.3(3) requires that measures be taken to prevent water from running onto the facility from adjacent land and to prevent compost leachate and runoff from leaving the composting facility. Runoff from the composting facility must be properly managed. The above-stated facts establish a violation of this regulatory requirement.

6. 567 IAC 105.3(4) requires composting facilities to be designed, constructed, and maintained so as to minimize ponding of water or liquids. Any ponding that does occur must be corrected through routine facility maintenance within 48 hours after the termination of the event causing the ponding. The facts above establish a violation of this requirement.

7. The facility was issued a revised permit to operate a composting facility in April, 2020. The facts stated above establish multiple violations of the facility's permit.

8. 567 IAC 61.3 establishes water quality criteria for Iowa waters. Pollutants entering Palestine Creek due to Chamness' non-compliance with its permit and composting regulations caused water quality violations due to documented impacts from ammonia, biological oxygen demand (BOD) limits, and Total Suspended Solid (TSS) limits.

9. Finally, pursuant to Section VIII (General Conditions) of Chamness' composting permit, "failure to comply with Iowa Code Sections 455B and 455D, or any rule of order promulgated pursuant thereto, or any or all provisions of this permit may result in . . . the suspension or revocation of this permit."

V. ORDER

THEREFORE, the DNR orders and Chamness agrees to the following:

1. Chamness' composting permit (90-SDP-10-97P-COM) is temporarily suspended as follows: no feedstock material or bulking agent of any kind may be deposited at the facility by any party. This restriction is in effect until August 15, 2021 and may be extended based on a site inspection by DNR FO6 staff. The determination on whether to extend the restriction will be based on permit compliance and is at the sole discretion of DNR.

2. Chamness shall pay an administrative penalty of \$4,000.00 within 90 days of this Order being signed by the Director.

3. Chamness shall comply with its existing operations plan and 567 IAC chapter 105 at all times.

4. Chamness must certify to DNR FO6 on a monthly basis in writing that all necessary equipment is functional. This includes the compost screener,

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

grinder, windrowing equipment, and leachate land application equipment. In the event any process-crucial equipment is not functional, it must be fixed or replaced within a reasonable period not to exceed 45 days.

5. Chamness shall implement preventative measures to ensure the drainage system associated with the east and west leachate lagoons remain operational (i.e. clear of obstructions that could cause plugs from occurring in the future).

6. Chamness shall ensure that the pad at the facility is impervious. Holes in the pad will be patched or permanently repaired within a reasonable amount of time after discovery.

7. All compost operators/site managers must successfully become certified operators within six months of the date that the Director signs this Order. Chamness shall also ensure sufficient staffing at all times to maintain minimum onsite daily composting operations.

VI. CIVIL PENALTY

1. Iowa Code § 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 authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations. Iowa Code § 455B.191 provides for civil penalties of up to \$5,000.00 per day for water quality violations.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted; and if so how much the penalty should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. The administrative penalty assessed by this Order is determined as follows:

- a) Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available."

IOWA DEPARTMENT OF NATURAL RESOURCES
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ISSUED TO: CHAMNESS TECHNOLOGY, INC.

Failure to permanently replace leachate drainage pipes leading into the east and west leachate storage lagoons has saved Chamness equipment and staff time costs. Failure to keep compost on the asphalt pad has saved time and costs associated with operating compost equipment, leachate land application equipment, and fuel costs.

As such, DNR conservatively estimates avoided costs of \$3,000.00 for continued non-compliance.

- b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Failure to maintain the leachate drains and allowing compost to migrate off of the permitted portions of the asphalt pad for over two years, as well as land application of leachate, has led to environmental impacts including the discharge of leachate into Palestine Creek. Field Office 6 staff have dedicated a great deal of time and effort to assist Chamness since October 2016. Historical chronic violation of compost regulations has threatened the integrity of DNR's regulatory program.

Therefore, \$500.00 is being assessed for this element.

- c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Chamness' operational staff and management are fully aware of their obligations under the company's composting permit and other applicable Iowa law. DNR staff have spent numerous hours explaining these requirements. While there has been no evidence of false reporting or tampering, the leachate runoff was not voluntarily reported to DNR. Being in the industrial composting business for many years, Chamness' staff should have known the importance of following their own standard operating procedures when it comes to building and maintaining windrows and proper leachate management.

As such, \$500.00 is being assessed for the factor.

4. The administrative penalty imposed for this matter is based, in part, on good faith negotiations with Chamness and the specific facts of this matter. It has no precedential value for future enforcement actions.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
ISSUED TO: CHAMNESS TECHNOLOGY, INC.

VII. APPEAL RIGHTS

As this Order is being entered by consent, there is no right of appeal.

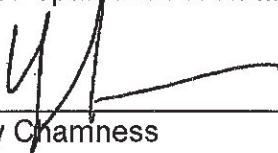
VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the Iowa Attorney General.

Kayla Lyon

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Date: 2021.07.08 15:38:07
-05'00'

Kayla Lyon, Director
Iowa Department of Natural Resources



Gary Chamness

Dated this 7th
day of July, 2021.

CC: DNR Field Office 6; David Scott; I.C.1, IV.A, VI.B.2.

In re: Chamness Technology, Inc.

EPC April 18, 2023

Exhibit J

Chamness Compost

IN THE IOWA DISTRICT COURT FOR WAPELLO COUNTY

STATE OF IOWA, ex rel., IOWA)
 DEPARTMENT OF NATURAL)
 RESOURCES,)
 Plaintiff,)
 vs.)
 CHAMNESS TECHNOLOGY, INC.,)
 Defendant.)

CASE NO. C1EQ 102302

CONSENT ORDER, JUDGMENT AND DECREE

WAPELLO COUNTY, IOWA
 FILED
 2011 NOV -7 PM 1:39
 CLERK OF DISTRICT COURT

The Court is presented with Plaintiff's petition seeking civil penalties and injunctive relief pursuant to Iowa Code sections 455B.191 and 455B.307. The Court having read the petition and being otherwise advised by the parties FINDS:

1. The Court has jurisdiction of the parties and the subject matter of this action, and the parties consent to entry of this Consent Order, Judgment and Decree.
2. For purposes of settlement in this action, Defendant admits the violations alleged in paragraphs 69-74 of Plaintiff's petition. Defendant neither admits nor denies the remaining alleged violations.
3. Defendant states that any basin overflows were unintentional and occurred in connection with significant rainfall events which it did not anticipate.
4. Defendant states that in December 2010 and May 2011, Red Barn, LLC, a company under common ownership and control with Defendant, voluntarily purchased approximately 422 acres of land in Monroe and Wapello Counties at a cost exceeding \$1.4 million for the purpose of providing land application of water from the retention basins to provide greater control of storm water runoff and to assist in avoiding future overtopping of the basins.

5. Defendant states that in 2010 and 2011 it spent over \$2.3 million on new equipment for the facility which assists in management and control of water, in addition to the land purchased for land application of water.

6. Permit No. 90-SDP-10-97P-COM was revised and reissued effective February 28, 2011.

7. Defendant states that it has installed a new plant manager at the Eddyville facility.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

8. Defendant is assessed a civil penalty of Thirty Thousand and no/100 Dollars (\$30,000.00) for the violations admitted herein.

9. Defendant shall pay the civil penalty within ten (10) days of the entry of this Consent Order, Judgment and Decree. Defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payments of the civil penalty and interest shall be made payable to the State of Iowa and submitted to plaintiff's attorney, David S. Steward, at the address noted below.

10. Defendant is hereby permanently enjoined from future violations of Iowa Code section 455B.186(1), 567 Iowa Admin. Code 61.3(2)Ad@, 64.3(1) and 105.3(3), NPDES Permit No. 90-00-1-05, the storm water management and pollution prevention requirements of Composting Permit No. 90-SDP-10-97P-COM, and Administrative Consent Orders 2008-WW-31/2008-SW-40 and 2010-WW-10/2010-SW-27.

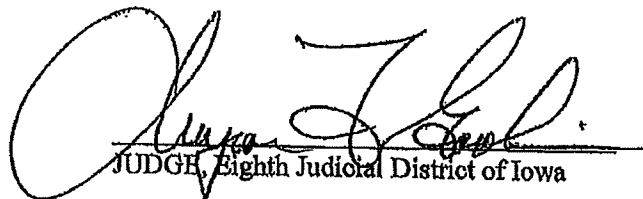
11. This Consent Order, Judgment and Decree is in full compromise and settlement of all violations alleged in the Petition to have been committed by Defendant, and all violations by Defendant arising out of the same facts and circumstances referred to in the Petition which were known to the State of Iowa or were reasonably ascertainable from information in the State's possession as of the date of the filing of this Consent Order, Judgment and Decree, except for the alleged release of retention pond wastewater from an irrigation hose occurring on or about November

1, 2010, at Defendant's Eddyville, Iowa, facility which matter was referred to the United States Environmental Protection Agency.

12. Willful failure to comply with the terms of this Consent Order, Judgment and Decree, and the injunction set out above may subject Defendant to punishment for contempt of court as well as other penalties and sanctions provided by law. Violations will not be deemed willful if they were caused by unanticipated and exceptional rainfall events and the Defendant fully complied with the "Storm Water Pollution Prevention Plan" and "Retention Lagoon Water Level Action Points and Operating Steps" contained in the Eddyville Composting Facility Operating Plan, as incorporated by Composting Permit No. 90-SDP-10-97P-COM. The Court, therefore, retains jurisdiction over this matter to ensure compliance with the terms of this Order.

13. Costs of this action are taxed to Defendant in the amount of \$ 185.⁰⁰ (Clerk to enter).

Dated this 7th day of November, 2011.


JUDGE, Eighth Judicial District of Iowa

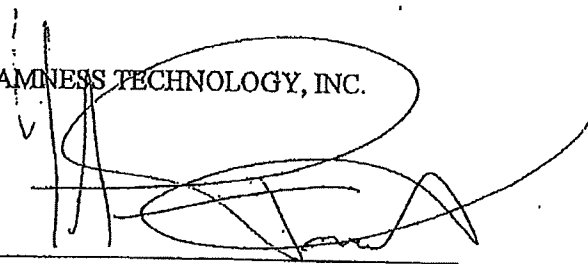
Approved as to form:

IOWA DEPARTMENT OF NATURAL
RESOURCES



ROGER L. LANDE, DIRECTOR

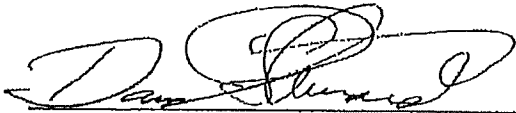
CHAMNESS TECHNOLOGY, INC.



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