

IN THE IOWA DISTRICT COURT FOR LEE COUNTY
AT FORT MADISON

STATE OF IOWA, ex rel., IOWA)
DEPARTMENT OF NATURAL)
RESOURCES (99AG23542),)
)
Plaintiff,)
)
vs.)
)
FEINBERG RECYCLING LLC, and)
MARTY FEINBERG,)
)
Defendants.)

NO. CVEQ006511

**ORDER GRANTING
JUDGMENT ON DEFAULT**

NOW on this 10th day of March, 2017, the Court having been presented with plaintiff's Petition seeking civil penalties and injunctive relief and plaintiff's Motion for Sanctions, the Court having examined the record, and being fully advised in the premises, FINDS:

The Court has jurisdiction of the parties and of the subject matter of this action. The defendants were ordered by this Court to respond to Plaintiff's discovery requests by February 17, 2017. Defendants failed to comply, and Plaintiff filed a Motion for Sanctions on February 20, 2017, as a result. The defendants have not filed a response to the Motion for Sanctions.

The matter was submitted for ruling without the necessity for further court appearance. For the reasons stated in the Motion for Sanctions and without objection, the Motion shall be granted, and, pursuant to Iowa Rule of Civil Procedure 1.517(2)(b)(3), the Court will enter default judgment against defendants as a sanction for failing to comply with this Court's order compelling discovery responses.

IT IS ACCORDINGLY ORDERED, ADJUDGED AND DECREED THAT:

1. Defendants shall pay a civil penalty of One Hundred Twenty-Five Thousand

Dollars (\$125,000.00) for the violations of 567 Iowa Admin. Code 22.1(1), 23.2(1), 25.1(7), 64.3(1), and 117.4(2), 40 C.F.R. sections 63.1505(f)(1) and (2), 63.1506, 63.1510-63.1512, and 63.1515-63.1517, as adopted by 567 Iowa Admin. Code 23.1(4)(br), and NPDES General Permit No. 1, and shall pay the civil penalty within thirty (30) days of the entry of this Order. The defendants shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payment of the civil penalty and any interest shall be made payable to the State of Iowa and forwarded to Assistant Attorney General Jacob Larson at the Hoover Building, 1305 E. Walnut Street, 2nd Floor, Des Moines, Iowa 50319.

2. Defendants are hereby ordered to shut down any secondary aluminum production facility (“facility”), including, but not limited to, any sweat furnace owned or possessed by defendants, such that the facility cannot physically or legally burn fossil fuels, within thirty (30) days of the entry of this Order.

3. Defendants are hereby ordered to comply with applicable state and federal requirements for permanently ceasing operation of the facility, including permanently disconnecting the electrical and gas lines to the facility, and removing the facility, capture hood, and exhaust stack from the property, within thirty (30) days of the entry of this Order and provide receipts to the IDNR documenting proper disposal.

4. Defendants are permanently enjoined from further violations of 567 Iowa Admin. Code 22.1(1), 23.2(1), 25.1(7), 64.3(1), and 117.4(2), 40 C.F.R. sections 63.1505(f)(1) and (2), 63.1506, 63.1510-63.1512, and 63.1515-63.1517, as adopted by 567 Iowa Admin. Code 23.1(4)(br), and NPDES General Permit No. 1.

5. The court retains jurisdiction of this matter to ensure compliance with the terms of this Order. Costs of this action are taxed to the defendants in the amount of \$185.00.



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
CVEQ006511 STATE OF IOWA V. FEINBERG METALS, LLC

So Ordered

A handwritten signature in black ink, appearing to read "John M. Wright", written over a horizontal line.

John M. Wright, District Court Judge,
Eighth Judicial District of Iowa