IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF:	ADMINISTRATIVE CONSENT ORDER
ABC CRANE CO., TROY L. BARRINGER and LAURIE L. BARRINGER	NO. 2015-AQ-04

TO: ABC Crane Co.
Laurie Barringer, Registered Agent
1220 High Street
Rockwell City, Iowa 50579

Troy L. and Laurie L. Barringer
ABC Crane Co.
1220 High Street
Rockwell City, Iowa 50579

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, for the purpose of resolving air quality violations. In the interest of avoiding litigation, the parties have agreed to the provisions below.

Any questions regarding this administrative consent order should be directed to:

Relating to technical requirements:
Michelle Sabatini
Iowa Department of Natural Resources
Field Office No. 3
Gateway North Mall
1900 North Grand Avenue
Spencer, Iowa 51301
Phone: (712)-262-4177

Relating to legal requirements:
Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515-725-9551

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.134(9) and 455B.138(1), which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa

Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; 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

1. On October 27, 2014, DNR received an anonymous complaint that ABC Crane Co. in Rockwell City, Iowa, was hauling trade waste materials to its business office located at 1220 High Street in Rockwell City, Iowa, and open burning the materials. The property located at 1220 High Street (the site) is owned by Troy L. and Laurie L. Barringer. The debris pile, located on the northwest side of the site, was large enough that it could be seen clearly in an aerial photograph of the area. DNR estimates that the debris pile was 75' by 65'. The complainant stated that the burning had been occurring for a long time.

2. On October 31, 2014, Michele Sabatini, an environmental specialist from DNR Field Office No. 3, investigated at the site. Ms. Sabatini observed a large debris pile on the northwest side of the site. A large portion of the debris pile was still smoldering from previous open burning. Due to the sheer size of the debris pile and its appearance on aerial photos, it is evident that this open burning has been ongoing for a period of time. The debris pile contained untreated lumber and various metal debris, including a catwalk, coils, pipes, and a motor. The debris pile also contained unburned tires. Ms. Sabatini spoke with Troy Barringer at the site, and explained to him that the open burning of trade waste is illegal. Photographs were taken at the site to document the violations.

3. A December 9, 2014, Notice of Violation letter was sent to Troy Barringer at ABC Crane Co., citing the violation of illegal open burning.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 23.2(1) prohibits any person from allowing, causing, or permitting open burning of combustible materials, except as provided in 23.2(2) (variances) and 23.2(3) (exemptions). The illegal open burning of trade waste in this case demonstrates a violation of this provision.

V. ORDER

THEREFORE, DNR orders, and ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, agree, to do the following:

1. ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, shall pay a penalty of $5,000.00 within 30 days of the date this order is signed by the Director;

2. ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, shall cease all illegal open burning of combustible materials at any location in the State of Iowa, and shall comply in the future with the regulations concerning open burning; and

3. By no later than May 31, 2015, ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, shall properly dispose of all ashes and residue from burning at the site; and shall provide landfill disposal receipts to DNR Field Office No. 3.

VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to $10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to $10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative consent order with a $5,000.00 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, hauled trade waste to the site and burned the trade waste on site. Due to the sheer size of the debris pile and its appearance on aerial photos, it is evident that this open burning has been ongoing for a period of time. ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, have received economic benefit for a long period of time by illegal open burning. Therefore, $1,500.00 is assessed for economic benefit.

Gravity of the Violation – The continuous open burning of solid waste can release toxins that pollute the air, may pollute groundwater, and pose a risk to human health and the environment. Open burning can cause significant acute and chronic health effects. ABC Crane Co. is located on the edge of Rockwell City, causing many people to be exposed to these toxins. Further, illegal open burning threatens the integrity of Iowa's environmental programs and efforts to protect our natural valuable resources. Therefore, $2,000.00 is assessed for the gravity of the violations.

Culpability – Open burning prohibitions have been in place for over 25 years. It is the responsibility of ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, to know and abide by these rules. Therefore, $1,500.00 is assessed for culpability.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer. For that reason, ABC Crane Co., Troy L. Barringer, and Laurie L. Barringer, waive their right to appeal this order or any part thereof.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative consent order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative consent order.

Chuck Gipp
Chuck Gipp, Director
Iowa Department of Natural Resources

Dated this 11th day of May, 2015.

ABC Crane Co
ABC Crane Co.

Dated this 20th day of March, 2015.

Troy L. Barringer

Dated this 20th day of March, 2015.

Laurie L. Barringer

Dated this 20th day of March, 2015.

DNR Field Office 3; Anne Preziosi; VII.C.2