

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

IN THE MATTER OF:

GCC ALLIANCE CONCRETE, LLC

Facility ID# 84-01-001
Sioux County

ADMINISTRATIVE CONSENT ORDER
NO. 2009-AQ-23

TO: GCC Alliance Concrete, LLC
Dirk Dorn, Safety Director
412 8th Street SW
Orange City, Iowa 51041

GCC Alliance Concrete, LLC
Thomas J. Slaughter, Registered Agent
801 Grand Avenue, Suite 3100
Des Moines, Iowa 50309

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and GCC Alliance Concrete, LLC (GCC Alliance) for the purpose of resolving air quality permitting 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:

Bryan Bunton, Air Quality Bureau
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-0363

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-6243

Payment of penalty to:

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

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II. JURISDICTION

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, the DNR has jurisdiction to issue this administrative consent order.

III. STATEMENT OF FACTS

FACILITY DESCRIPTION

1. GCC Alliance has a parent facility located at 412 8th Street SW in Orange City, Iowa, and operates twenty-five ready mix plants in Iowa. Emissions sources at these facilities include truck load-outs, fly ash silos, cement silos, aggregate load-in hoppers, aggregate bins, batchers and various conveying equipment. The company's northwest Iowa fleet includes approximately 104 mixer trucks and 73 haul trucks. GCC Alliance was created in August 2005 by the merger of Russell's Ready Mix and Joe's Ready Mix, and it was subsequently acquired in January 2008 by Grupo Cementos de Chihuahua, S.A.B. de C.V. (GCC) to create GCC Alliance. GCC Alliance is a leading supplier of cement, aggregates, concrete, and construction-related services in Mexico and the United States, and holds an interest in Bolivia's largest cement company. The annual cement production of GCC Alliance is 4.0 million tons.

CURRENT ENFORCEMENT HISTORY

2. GCC Alliance failed to obtain construction permits prior to installing, constructing, or altering fourteen concrete batch plants, as summarized in Table 1 below.

Emission Unit	Date Installed or Modified
Concrete Batch Plant (Alton)	1979
Concrete Batch Plant (Cherokee North)	1982
Concrete Batch Plant (Cherokee South)	1973
Concrete Batch Plant (Hartley)	2003
Concrete Batch Plant (Holstein)	Unknown
Concrete Batch Plant (Ida Grove)	1989
Concrete Batch Plant (Kingsley)	1968
Concrete Batch Plant (Le Mars South)	Unknown
Concrete Batch Plant (Merville)	1979
Concrete Batch Plant (Paullina)	Unknown
Concrete Batch Plant (Sioux Center)	Unknown
Concrete Batch Plant (Remsen)	Unknown

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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. Pursuant to Iowa Code sections 455B.133 and 455B.134(3)(a), 567 IAC 22.1(1) requires that a person who constructs, installs, reconstructs or alters equipment or control equipment must first obtain an air quality construction permit from DNR, unless an exemption applies. GCC Alliance constructed fourteen concrete batch plants prior to obtaining the required construction permits. No exemption applies to these plants. The above facts indicate violations of these provisions.

V. ORDER

THEREFORE, the DNR orders and GCC Alliance agrees to do the following:

1. Comply with air quality construction permit requirements in the future; and
2. Pay a penalty of \$8,000.00 within 30 days of the date the Director signs this administrative consent order.

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 chapter, 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 penalty of \$8,000.00. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – GCC Alliance’s failure to comply with the proper construction permitting steps prevented the DNR from evaluating the environmental impact of these sources prior to installation. These facilities have enjoyed a cost savings by postponing and avoiding consultant and engineering fees. This savings is estimated at \$3,000.00 which is therefore the amount assessed for this factor.

Gravity of the Violation – The failure of GCC Alliance to obtain permits prior to construction or modification prevented DNR from evaluating the potential emissions and

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ambient air impacts from these emission sources. In addition, modification or construction of emission sources prior to obtaining the required permits threatens the integrity of the permitting and air pollution control programs. Fourteen separate concrete batch plant facilities were constructed without proper permits, and these facilities can be a significant source of particulate matter. Therefore, \$2,000.00 is assessed for this factor.

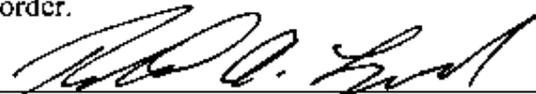
Culpability – GCC Alliance has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. A recent opportunity was provided for owners of concrete batch plants to bring un-permitted facilities into compliance through a streamlined general permit template for these types of plants. The deadline to seek compliance under the general permit was April 15, 2007. GCC Alliance failed to meet this deadline. Unless grandfathered, construction permits have been required since 1973. Based on these considerations, \$3,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

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

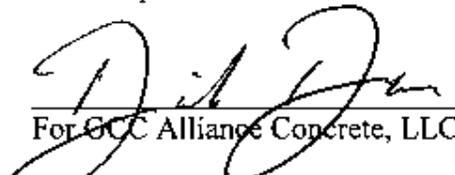
VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order may result in the imposition of 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 order.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 3 day of
August, 2009.



For GCC Alliance Concrete, LLC

Dated this 16 day of
July, 2009.

Facility # 84-01-001; Anne Preziosi; Bryan Bunton; EPA; VII.A.1