

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

IN THE MATTER OF: INTERNATIONAL PIPE MACHINERY CORPORATION, dba QUINN MACHINE AND FOUNDRY CORP.	ADMINISTRATIVE CONSENT ORDER NO. 2010-AQ- 04 NO. 2010-SW- 05
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TO: International Pipe Machinery Corporation,
dba Quinn Machine and Foundry Corp.
Roger L. Morrow, Registered Agent
111 S. George St.
Sioux City, Iowa 51102

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and International Pipe Machinery Corporation, dba Quinn Machine and Foundry Corp. (Quinn Machine), for the purpose of resolving violations pertaining to illegal open burning and open dumping of waste material that have occurred at property owned by Quinn Machine and located at in Boone County, Iowa. 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:

Bill Gross
Iowa Department of Natural Resources
Field Office No.5
401 SW 7th Street, Suite 1
Des Moines, Iowa 50309
Phone: 515/725-0271

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

This administrative consent order is issued pursuant to the provisions of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; 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 IAC chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Quinn Machine is a metal foundry located at 1518 12th Street, in Boone, Boone County, Iowa. Quinn Machine is a fictitious name for International Pipe Machinery Corporation, which is a division of Besser Corporation.

2. On October 8, 2008, DNR Field Office 5 received a complaint that open burning of trade waste was occurring at 1159 216th Drive, Boone, Boone County, Iowa (the site). On the same day, Bill Gross of DNR Officer Field Office 5 investigated the complaint and observed evidence of open burning of trade wastes at the site. The facility from which the waste originated is the Quinn Machine metal foundry, which uses recycled material to forge new products. The facility has a beneficial use permit from DNR for deposition of foundry sand at the site, which is an old sand quarry near the Des Moines River west of Boone. Quinn Machine owns the site.

3. While examining the foundry sand fill area on October 8, Mr. Gross found a pile a wood pallets and boards besides of pile of ashes containing charred wood, nails, and screws. The burn pile was located northeast of the sand fill area. On October 10, 2008, Mr. Gross spoke with Tom Tullis of Quinn Machine. Mr. Tullis confirmed that waste from the Quinn Machine operations, including pallets and boards, is taken from the Quinn Machine facility to the site on a regular basis and that pallets are open burned routinely. Mr. Gross informed Mr. Tullis that trade waste cannot open burned.

4. An October 14, 2008, a Notice of Violation letter (NOV) was sent to Tom Tullis, Vice President of Quinn Machine and Foundry, citing the violation of illegal open burning of trade waste.

ENFORCEMENT HISTORY

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5. Quinn Machinery has a history of violating air quality laws in Iowa. An April 21, 1999, NOV was sent by DNR to Quinn Machine for violating the prohibition against the open burning of trade waste. On April 14, 1999, Mr. Gross observed a smoldering pile of ashes and partially burned demolition debris in an old quarry west of Boone used by Quinn Machine to dispose of foundry sand. Further, Administrative Order No. 93-AQ-04 was issued to Quinn Machine on February, 22, 1993, for failure to timely obtain air quality construction permits prior to the installation of emission points to the outside atmosphere.

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. Iowa Code section 455B.304 provides that the Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted 567 IAC chapters 100-123

3. 567 IAC 23.2 states that no person shall allow, cause or permit open burning of combustible materials, except as provided in 23.2(2) and 23.2(3). The burning of trade waste is specifically prohibited. The facts described above demonstrate non-compliance with this provision.

4. 567 IAC 100.4 prohibits a private or public agency 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. The facts described above demonstrate non-compliance with this provision.

V. ORDER

THEREFORE, DNR orders and Quinn Machine agrees to the following:

1. Quinn Machine shall immediately halt improper open burning of trade wastes and other wastes, and shall comply with all state and local open burning and solid waste disposal laws in the State of Iowa hereafter; and

2. Quinn Machine shall pay a penalty of \$1,250.00 within 60 days of the date this order is signed by the Director.

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VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$1,250.00 is assessed. The penalty must be paid within 60 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

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.307 (3) authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the solid waste disposal violations involved in this matter.

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 penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Quinn Machine has gained economic benefit by failing to properly dispose of solid waste materials. DNR estimates that two tons of waste material was illegally burned at the site. The landfill tipping fee is \$50.00 per ton. Therefore, \$100.00 is assessed for this factor.

Gravity of the Violation – The burning of solid wastes releases hazardous air pollutants, particulate matter, and other pollutants. These air pollutants pose a health risk to persons breathing, particularly persons with pre-existing respiratory problems. Further, the pollutants resulting from open burning may pollute groundwater, and pose a risk to both human health and the environment. The violation threatens the integrity of the regulatory program because compliance with the open burning regulations is required of all persons in this state. Compliance with proper solid waste disposal practices is expected of all persons in the state. Improper disposal of solid waste creates nuisance conditions for surrounding property owners and the potential contamination of soil and groundwater. In this case, a residence is located near to the site. Further, the open burning of trade waste is specifically prohibited. Based on the above considerations, \$150.00 is assessed for this factor.

Culpability – Quinn Machine has a duty to remain knowledgeable of the DNR's requirements and to be alert to the probability that its conduct is subject to

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DNR's rules. Further, Quinn Machine was cited in 1999 for a similar violation of the state's prohibition against the illegal open dumping and illegal open burning of trade wastes; and Quinn Machine has been issued an administrative order by DNR in the past for other violations of the States' air quality laws. Therefore, \$1,000.00 is assessed for this factor.

VII. WAIVER OF APPEAL RIGHTS

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

VIII. NONCOMPLIANCE

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. Failure to comply with this administrative consent order 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 sections 455B 146 and 455B 307.



RICHARD A. LEOPOLD, DIRECTOR
Iowa Department of Natural Resources

Dated this 5 day of
Feb, ~~2009~~
2010



For Quinn Machine and Foundry

Dated this 26 day of
Jan, ~~2009~~
2010

Boone County Air Quality file and File No 8-01-002; Anne Preziosi; Field Office No. 5; VII.C.1