

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

IN THE MATTER OF:

**WELLMAN DYNAMICS CORP.,
A wholly-owned subsidiary of Fansteel**

Facility ID# 88-01-002
Union County

ADMINISTRATIVE CONSENT ORDER
NO. 2010-AQ-16

TO: Wellman Dynamics Corp.
Mr. David Leitten, General Manager
1746 Commerce Road
Creston, Iowa 50801

CI Corporation System
Registered Agent for Wellman Dynamics Corp.
2222 Grand Avenue
Des Moines, IA 50312

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Wellman Dynamics Corp. d/b/a Fansteel/Wellman Dynamics (Wellman), for the purpose of resolving air quality violations at its Creston plant. 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:

Reid Bermel, Air Quality Bureau
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515/281-4918

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
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 to 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. Wellman is a facility located at 1746 Commerce Road in Creston, Iowa. Wellman manufactures aluminum and magnesium sand castings. Sources at this facility include Palmer Mixers, Sand Silos, Calciner, Welding Stations, Magnesium Chip Melt Furnace, Acid Pickle Dip Tank, Chill Spray Booth, and 450 Mixer. According to the 2005 Harris Directory of Iowa Manufacturers, Wellman employs approximately 280 people in Creston with estimated sales of \$25-50 million per year.

CURRENT ENFORCEMENT HISTORY

2. On September 27-28, 2007, DNR issued twelve permits. Eleven of these were "as-built" construction permits. These had previously been in violation because they were built before receiving the legally required permits. The only exception was the permit for Emission Point EP-3 which was issued to add VOC and PM₁₀ limits. All of these permits required stack testing within 90 days.

Permit #	Emission Point
07-A-735	EP-1a
99-A-144-S1	EP-3
07-A-741	EP-EF-1
07-A-742	EP-EF-2
07-A-743	EP-EF-3
07-A-744	EP-EF-4
07-A-745	EP-EF-5
07-A-746	EP-EF-6
07-A-747	EP-EF-7
07-A-748	EP-EF-8
07-A-749	EP-EF-10
07-A-750	EP-EF-11

3. By December 27, 2007, Wellman failed to complete stack tests within 90 days in accordance with Construction Permit Condition 12 in each permit. This requirement was

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designed to demonstrate compliance with emission limits for the twelve Emission Points listed in Point 2 above.

4. On June 12, 2008, DNR issued a NOV for Wellman's failure to complete the required stack tests for the sources referenced in Points 3 & 4 above.

PAST ENFORCEMENT HISTORY

5. On May 28, 2002, DNR issued Administrative Order 2002-AQ-31 to Wellman with a \$2,500.00 penalty.

6. On August 8, 2007, DNR issued Administrative Consent Order 2007-AQ-16 to Wellman with a \$10,000.00 penalty.

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 the DNR, unless an exemption applies. No exemption applies to the units mentioned above. The above facts indicate a violation of these provisions.

3. Pursuant to Iowa Code Section 455B.133, 567 IAC 22.3(3) authorizes permits to be issued subject to written conditions, and such conditions may include compliance testing requirements. The above facts indicate violations of these provisions.

V. ORDER

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

1. Comply with all permit conditions in the future;
2. When required, obtain construction permits before installing, modifying, or relocating emission equipment; and
3. Pay a penalty of \$10,000.00 within 30 days of the date the Director signs this administrative consent order.

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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 \$10,000.00. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Wellman's failure to comply with proper construction permitting steps prevented the DNR from evaluating the environmental impact of these sources prior to installation. Wellman's facility has enjoyed a cost savings by postponing and avoiding consultant and engineering fees. Wellman also enjoyed cost savings through the avoidance of stack testing costs. Therefore, \$3,000.00 is assessed for this factor.

Gravity of the Violation – Wellman's failure to perform emissions testing on twelve different Emission Points prevented the DNR from determining Wellman's compliance with DNR issued construction permits. Also, Wellman's construction of emission sources prior to obtaining the required permits prevented the DNR from evaluating the potential emissions and ambient air impacts from these emission sources. Finally, Wellman's unpermitted construction of emission sources and its lack of compliance with permit testing requirements both threaten the integrity of Iowa's permitting and air pollution control programs. Therefore, \$3,000.00 is assessed for this factor.

Culpability – Wellman has a duty to remain knowledgeable concerning DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. Wellman also has a duty to comply with the terms of its permits. Wellman is fully aware of the testing requirements set forth in its construction permits and the requirement to demonstrate compliance with permit limits. Wellman has been cited for numerous past violations and has previously signed two administrative consent orders acknowledging that it would follow all permit conditions and regulations in the future. Therefore, \$3,000.00 is assessed for this factor.

Aggravating Factors – Wellman has a documented history of non-compliance with permit requirements and other air quality regulations. The long-term and repetitive nature of Wellman's violations is grounds for an assessment of \$1,000.00 for this factor.

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VII. WAIVER OF APPEAL RIGHTS

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

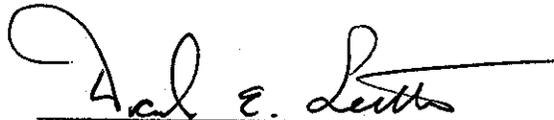
VIII. NONCOMPLIANCE

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 23 day of
March, 2010.



For Wellman Dynamics Corp.

Dated this 1st day of
March, 2010.

Facility # 88-01-002; Anne Preziosi; Reid Bermel; FO No 4. EPA; VII A 1; VII A 2