

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

IN THE MATTER OF:

**SIVYER STEEL CORPORATION
Scott County, Iowa**

ADMINISTRATIVE CONSENT ORDER

NO. 2011-SW- 29

TO: Jane B. McAllister
Attorney for Sivyer Steel Corporation
100 Court Ave
Suite 600
Des Moines, IA 50309-7611

I. SUMMARY

This administrative consent order is entered into between the Iowa Department of Natural Resources (DNR) and Sivyer Steel Corporation for the purpose of establishing a schedule for the removal of foundry sand which has accumulated at the Sivyer Steel Corporation facility described herein

Questions regarding this administrative consent order should be directed to:

Relating to technical requirements:

Bert Noll, Environmental Specialist
DNR Field Office #6
1023 W. Madison
Washington, Iowa 52353-1623
Phone: 319-653-2135

Relating to legal requirements:

Jon Tack, Attorney for the DNR
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, Iowa 50319
Phone: 515-281-8889

II. JURISDICTION

This order is issued pursuant to Iowa Code section 455B 307(2) which authorizes the director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted 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.

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III. STATEMENT OF FACTS

1. Sivyer Steel Corporation (Sivyer), located at 225 S. 33rd Street Bettendorf, IA 52722 ("Facility") is a ferrous foundry that provides custom castings for manufacturing industries in the construction, mining, railroad, power generation, steel, and solid waste recycling industries. Sivyer generates as part of its casting operations, a residual by-product (foundry sand) that is approved to be used beneficially as a raw material in the manufacture of asphalt products, cement or concrete products, leachate control drainage material at a sanitary landfill, subbase for hard-surface road construction, fill material, emergency flood control use for sandbags, and as alternative daily cover at sanitary landfills. Pursuant to rule 108.6(2) "c"(5), Sivyer may store foundry sand for no more than 6 months prior to use.

2. For the past several years, DNR and Sivyer have been working through numerous scenarios and schedules to ensure Sivyer's compliance with the storage rules and beneficial reuse rules and have now reached agreement to address current foundry sand stored at the Facility and the foundry sand likely to be generated in the future.

3. Additionally, Sivyer has invested in and implemented thermal sand reclamation at its Facility to reduce sand quantities and is also implementing various beneficial uses off-site

IV. CONCLUSIONS OF LAW

1. 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.

2. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit 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.

3. However, pursuant to 567 IAC 108.4(6) foundry sand may be beneficially reused for certain purposes, subject to the requirement found at 567 IAC 108.6(2) "c"(5), whereby foundry sand intended for beneficial use is subject to a maximum storage time not to exceed 6 months unless authorized in writing by the DNR.

V. ORDER

THEREFORE, the DNR orders and Sivyer, without admission of violation of law, agrees to do the following:

1. By November 1, 2011, Sivyer shall submit to the DNR a report prepared by a professional engineer which includes, at a minimum, the following information:

- a. The estimated total volume of foundry sand stored at the Facility.
- b. The estimated total volume of foundry sand produced, on average, during six months of operation of the Facility.

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- c. Any expected future reduction in the production of waste foundry sand material and the basis for that reduction.
- d. The proposed beneficial uses to be made of existing foundry sand stockpiles including a description of any necessary applications for approval of such uses.

2. By December 31, 2012, Sivyer shall reduce the amount of waste foundry sand stored at its Facility to no more than the amount of waste foundry sand estimated to be produced by Sivyer at the Facility in a six-month period as identified in the report submitted pursuant to paragraph #1, above.

3. Beginning January 15, 2012 and within 15 days of the completion of each quarter thereafter through January 15, 2013, Sivyer shall submit to the DNR quarterly reports detailing the amount of waste foundry sand removed from its site, the amount of waste foundry sand estimated remaining at the Facility, and Total Metals testing results for all sand being used as beneficial fill.

VI. PENALTY

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 at 567 IAC chapter 10.


The DNR has determined that no penalty shall be assessed. The parties acknowledge that the DNR reserves the right to take additional enforcement action in the event of noncompliance with this administrative consent order and such enforcement action may include the assessment of administrative penalties.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly and with the consent of Sivyer. For that reason, Sivyer waives its right to appeal this order.

VIII. NONCOMPLIANCE

Failure to comply with this 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.307. 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.



ROGER L. LANDE, DIRECTOR
Iowa Department of Natural Resources

Dated this 1th day of October,
2011



SIVYER STEEL CORPORATION

Dated this 28th day of SEPTEMBER,
2011

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