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U.S. EPA REGION 7
HEARING CLERK

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of)
)
Van Diest Supply Company) Docket No. CAA-07-2025-0114
)
Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Van Diest Supply Company (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d).

2. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action, was appropriate for an administrative penalty assessment.

3. In satisfaction of the notice requirements of Section 113(a) of the CAA, 42 U.S.C. § 7413(a), the EPA issued two separate notices of violation (“NOVs”) to Respondent and the State of Iowa concerning Respondent’s violations of a requirement or prohibition of Section 110 of the CAA, 42 U.S.C. § 7410, as described in this Consent Agreement and Final Order. The NOVs provided Respondent an opportunity to confer with the EPA concerning the alleged violations.

Parties

4. Complainant is the United States Environmental Protection Agency, Region 7. On the EPA’s behalf and as delegated by the Administrator of the EPA and the Regional Administrator of Region 7, the Director of the Enforcement and Compliance Assurance Division is delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA.

5. Respondent is Van Diest Supply Company, a company incorporated under the laws of Iowa and registered to do business in Iowa.

Statutory and Regulatory Background

6. The CAA establishes a regulatory framework designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401.

7. Section 110(a) of the CAA, 42 U.S.C. § 7410(a), requires each state to adopt and submit to EPA for approval a plan that provides for the attainment and maintenance of the national ambient air quality standards in each air quality control region within each state. This plan is known as a State Implementation Plan (SIP).

8. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, after SIPs are approved by EPA, they are enforceable both by the respective states in which they are adopted and, pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), by the United States.

9. Failure to comply with any approved regulatory provision of a SIP, or with any permit limitation or condition contained within a permit issued under an EPA approved program that is incorporated into the SIP, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act. 40 C.F.R. § 52.23.

10. The Iowa regulations governing air quality and air pollution control are codified under Agency 567 of the Iowa Administrative Code, Title II, and were initially approved by EPA into the Iowa SIP on May 31, 1972. (37 Fed. Reg. 10842) and have been subsequently amended.

11. All citations herein refer to provisions of the Iowa SIP as applicable at the times of the violations alleged herein.

12. The regulation at IAC 567-22.1(455B) – *Permits Required for New or Existing Stationary Sources* was incorporated into and part of the Iowa SIP at the time of the violations alleged in this Notice of Violation. IAC 567-22.1(455B) was last approved by the EPA as part of the Iowa SIP on April 6, 2023 (88 Fed. Reg. 20408).

13. Pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, the requirements of the Iowa SIP, as approved by EPA, are enforceable by EPA. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), states that once the Administrator finds that any person is in violation of any requirement of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding.

14. Section 113(a)(1) of the CAA further provides that at any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator

may issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit.

15. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of Section 110 of the CAA, 42 U.S.C. § 7410, and its implementing regulations. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$59,114 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

Definitions

16. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include any individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency department, or instrumentality of the United States and any officer, agent, or employee thereof.

17. Section 302(z) of the CAA, 42 U.S.C. § 7602(z), defines “stationary source” as any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle.

18. Section 302(g) of the CAA, 42 U.S.C. § 7602(g), defines “air pollutant” as any air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the EPA Administrator has identified such precursor or precursors for the particular purpose for which the term “air pollutant” is used.

19. The Iowa regulations governing air quality and air pollution control are codified under Agency 567 of the Iowa Administrative Code, Title II, and were initially approved by EPA into the Iowa SIP on May 31, 1972 (37 Fed. Reg. 10842) and have been subsequently amended.

20. The regulation at IAC 567-20.2(455B) – *Definitions* was incorporated into and part of the Iowa SIP at the time of the violations alleged in this Notice of Violation. IAC 567-20.2(455B) was last approved by the EPA and incorporated by reference into 40 C.F.R. § 52.820(c) as part of the Iowa SIP on April 19, 2024 (89 Fed. Reg. 28640).

21. The regulations appearing at IAC 567-20.2(455B) define “stationary source” as any building, structure, facility or installation which emits or may emit an air pollutant.

22. The regulations appearing at IAC 567-20.2(455B) define “equipment” as “equipment capable of emitting air contaminants to produce air pollution such as fuel burning, combustion or process devices or apparatus including but not limited to fuel-burning equipment, refuse burning equipment used for the burning of fuel or other combustible material from which the products of combustion are emitted; and including but not limited to apparatus, equipment or process devices which generate heat and may emit products of combustion, and manufacturing, chemical, metallurgical or mechanical apparatus or process devices which may emit smoke, particulate matter or other air contaminants.”

23. The regulations appearing at IAC 567-20.2(455B) define “initiation of construction, installation or alteration” as “significant permanent modification of a site to install equipment, control equipment or permanent structures. Not included are activities incident to preliminary engineering, environmental studies, or acquisition of a site for a facility.”

Factual Allegations

24. Van Diest Supply Company is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(a).

25. Van Diest Supply Company is the “owner” or “operator” of the agricultural chemical distribution facility located at 1434 220th Street, Webster City, Iowa 50595 (the “Facility”).

26. At all times pertinent to this action, the Facility was a “stationary source” of an “air pollutant” as defined by Sections 302(g) and 302(z) of the Clean Air Act, 42 U.S.C. §§ 7602(g) and 7602(z) and IAC 567-20.2.

27. EPA conducted an inspection at the Facility on September 4-5, 2024, to determine compliance with the CAA.

28. The EPA issued NOVs to Van Diest Supply Company on June 26, 2025, and September 12, 2025, concerning the alleged violations in this Consent Agreement and Final Order, as required by Section 113(a) of the CAA, 42 U.S.C. § 7413(a).

Alleged Violations

29. Complainant hereby states and alleges that Respondent has violated the CAA and federal regulations promulgated thereunder as follows:

Count 1

30. The facts stated in Paragraphs 24 through 28 above are herein incorporated.

31. The regulations appearing at IAC 567-22.1(1)(455B) state that “...no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit.” The regulation goes on to state that “(a) permit

shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.”

32. As a part of the September 2024 inspection, EPA received information stating that the construction of Building 54 at the Facility began on September 6, 2022.

33. According to the Iowa Department of Natural Resources’ permitting documentation for Project No. 24-302, the Van Diest Supply Company submitted an application for a construction permit for the Building 54 construction project on September 18, 2024, and most recently amended it on November 4, 2024. The construction permits for the project were issued on November 7, 2024, approximately twenty-six months after the Van Diest Supply Company had initiated construction of Building 54.

34. Respondent’s failure to obtain a construction permit prior to the construction, installation, reconstruction or alteration of any equipment for Building 54 as required by IAC 567-22.1(1)(455B) and incorporated by reference into 40 C.F.R. § 52.820(c), is a violation of a State Implementation Plan approved pursuant to Section 110 of the CAA, 42 U.S.C. § 7410.

Count 2

35. The facts stated in Paragraphs 24 through 28 above are herein incorporated.

36. The regulations appearing at IAC 567-22.1(1)(455B) state that “...no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit.” The regulation goes on to state that “(a) permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.”

37. As a part of the September 2024 inspection, EPA received information stating that the construction of Building 55 began on November 1, 2023.

38. According to the Iowa Department of Natural Resources’ permitting documentation for Project No. 23-376, the Van Diest Supply Company submitted an application for a construction permit for the Building 55 construction project on December 4, 2023, and most recently amended it on July 12, 2024. The construction permits for the project were issued on July 15, 2024, approximately eight months after the Van Diest Supply Company had initiated construction of Building 55.

39. Respondent’s failure to obtain a construction permit prior to the construction, installation, reconstruction or alteration of any equipment for Building 55 as required by IAC 567-22.1(1)(455B) and incorporated by reference into 40 C.F.R. § 52.820(c), is a violation of a State Implementation Plan approved pursuant to Section 110 of the CAA, 42 U.S.C. § 7410.

Count 3

40. The facts stated in Paragraphs 24 through 28 above are herein incorporated.

41. The regulations appearing at IAC 567-22.1(1)(455B) state that “...no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit.” The regulation goes on to state that “(a) permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.”

42. According to the information obtained from Van Diest Supply Company on August 25, 2025, the construction of Building 36 Loadout 4 began on April 11, 2024.

43. According to Iowa Department of Natural Resources’ permitting documentation for Project No. 25-065, the Van Diest Supply Company submitted an application for a construction permit for the Building 36 Loadout 4 on March 3, 2025, and most recently amended it on May 7, 2025. The construction permits for the project were issued on July 9, 2025, approximately fifteen months after the Van Diest Supply Company had initiated construction of Building 36 Loadout 4.

44. Respondent’s failure to obtain a construction permit prior to the construction, installation, reconstruction or alteration of any equipment for Building 36, Loadout 4 as required by IAC 567-22.1(1)(455B) and incorporated by reference into 40 C.F.R. § 52.820(c), is a violation of a State Implementation Plan approved pursuant to Section 110 of the CAA, 42 U.S.C. § 7410.

CONSENT AGREEMENT

45. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

46. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

47. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

48. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

49. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: meyer.jonathan@epa.gov (for Complainant) and jake.vandiest@vdsc.com (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

Penalty Payment

50. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of two hundred one thousand seven hundred thirty-five dollars (\$201,735), as set forth below.

51. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be made using any payment method provided at <http://www.epa.gov/financial/makepayment>.

52. Confirmation of payment shall simultaneously be sent to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Jonathan Meyer, Attorney
meyer.jonathan@epa.gov.

53. Respondent understands that its failure to timely pay any portion of the civil penalty may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge on a per year, compounded annually basis will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

54. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements) that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Respondent’s failure to provide IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, Respondent herein agrees that:

- (a) Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- (b) Respondent shall certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- (c) Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Division at *sherrer.dana@epa.gov* within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- (d) In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA’s Cincinnati Finance Division with Respondent’s TIN, via email, within five (5) days of Respondent’s receipt of a TIN issued by the IRS.

Effect of Settlement and Reservation of Rights

55. Full payment of the penalty proposed in this Consent Agreement shall only resolve Respondent’s liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

56. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent’s representations to the EPA, as memorialized in the paragraph directly below.

57. Respondent certifies by the signing of this Consent Agreement that it is presently in compliance with all requirements of the CAA and its implementing regulations.

58. Full payment of the penalty proposed in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

59. The allegations in this Consent Agreement and Final Order constitute "prior violations" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "history of noncompliance" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

60. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

61. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and have the legal capacity to bind the party they represent to this Consent Agreement.

62. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

63. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, or local taxes.

64. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

RESPONDENT:
VAN DIEST SUPPLY COMPANY

Date: December 22, 2025

Bob Van Diest
Signature

Bob Van Diest
Name

Chairman & CEO
Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

David Cozad
Director
Enforcement and Compliance Assurance Division

Jonathan Meyer
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

CERTIFICATE OF SERVICE
(to be completed by EPA)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Jonathan Meyer
Office of Regional Council
meyer.jonathan@epa.gov

Christopher Appier
Enforcement and Compliance Assurance Division
appier.christopher@epa.gov

Carrie Venerable | NEW Solutions
EPA Office of Regional Council
venerable.carrie@epa.gov

Copy via E-mail to Respondent:

Jake Van Diest, President
Van Diest Supply Company
jake.vandiest@vdsc.com

Robert Vincze
Attorney for Van Diest Supply Company
vinczelaw@att.net

Copy via email to the State of Iowa:

Brian Hutchins
Iowa Department of Natural Resources
brian.hutchins@dnr.iowa.gov

Copy via Certified Mail, Return Receipt Requested to Respondent:

Jake Van Diest, President
Van Diest Supply Company
1434 220th St.
Webster City, IA 50595

Dated this _____ day of _____

Signed