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**U.S. EPA REGION 7
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219

In the Matter of:

Winfield Solutions, LLC d/b/a Winfield
United,

Respondent

Docket No. RCRA-07-2024-0101

CONSENT AGREEMENT AND FINAL ORDER

PRELIMINARY STATEMENT

The U.S. Environmental Protection Agency (EPA), Region 7 (“Complainant”) and Winfield Solutions, LLC d/b/a Winfield United (“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 (“Consolidated Rules of Practice”), 40 Code of Federal Regulations (“C.F.R.”) §§ 22.13(b) and 22.18(b)(2).

ALLEGATIONS

Jurisdiction

1. This administrative action is being conducted pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”), and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6928(a), and in accordance with the Consolidated Rules of Practice.

Parties

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

3. Respondent is Winfield Solutions, LLC d/b/a Winfield United, a Delaware company authorized to operate under the laws of Iowa.

Statutory and Regulatory Framework

4. RCRA was enacted to address the volumes of municipal and industrial solid waste generated nationwide in order to protect human health and the environment from potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner.

5. RCRA provides guidelines for a waste management program and provides EPA with the authorities found in Sections 2002, 3001, 3002, 3003, 3004, 3005, 3007 and 3010 of RCRA, 42 U.S.C. §§ 6912, 6921, 6922, 6923, 6924, 6925, 6927, and 6930 to develop and promulgate specific requirements in order to implement the waste management program. Pursuant to these authorities, EPA promulgated the waste management regulations found at 40 C.F.R. Part 239 through Part 282.

6. Section 3002 of RCRA, 42 U.S.C. § 6922, requires the Administrator to promulgate regulations establishing such standards applicable to generators of hazardous waste identified or listed under this subchapter, as may be necessary to protect human health and the environment.

7. Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), defines “person” as an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body and shall include each department, agency, and instrumentality of the United States.

8. The regulation at 40 C.F.R. § 260.10 defines “facility” to include all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage or disposal operational units (e.g. one or more landfills, surface impoundments, or combinations of them).

9. The regulation at 40 C.F.R. § 260.10 defines “storage” as the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

10. “Solid waste” is defined at 40 C.F.R. § 261.2.

11. “Hazardous waste” is defined at 40 C.F.R. § 261.3.

12. The regulation at 40 C.F.R. § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation.

13. The regulation at 40 C.F.R. § 260.10 defines “large quantity generator” as a generator who generates greater than or equal to 1,000 kilograms (2,200 pounds) of non-acute

hazardous waste or greater than 1 kilogram (2.2 pounds) of acute hazardous waste listed in 40 C.F.R. §§ 261.31 or 261.33(e).

14. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), whenever on the basis of any information the EPA determines that any person has violated or is in violation of any requirement of RCRA, the EPA may issue an order assessing a civil penalty for any past or current violation and/or require immediate compliance or compliance within a specified time period.

15. Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), authorizes a civil penalty of not more than \$25,000 per day for each violation. 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 \$37,500 for violations that occurred before November 2, 2015, and to \$121,275 for violations that occur after November 2, 2015, and for which penalties are assessed on or after December 27, 2023. In assessing any such penalty, EPA must take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. Based upon the facts alleged in this Consent Agreement and Final Order, and upon those factors which Complainant must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), Complainant and Respondent agree to the payment of a civil penalty pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and to take the actions required by the Final Order, for the violations of RCRA alleged in this Consent Agreement and Final Order.

General Factual Background

16. Respondent is a Delaware company and authorized to conduct business within the State of Iowa. Respondent is a “person” as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

17. Respondent owns and operates a facility is located at 30473 260th Street in Eldora, Iowa (“facility”). The facility is a storage terminal, warehouse and distribution center, and bulk repackaging center for agricultural chemicals and products such as herbicides, pesticides, nutrients/treatments, and seed products. Respondent employs approximately 20 to 25 people.

18. On or before February 19, 2008, Respondent notified to EPA of its regulated waste activity as a Large Quantity Generator (LQG) and obtained the following RCRA ID number: IAD022154322.

19. On or about May 10, 2023, on behalf of EPA, inspectors conducted a RCRA Compliance Evaluation Inspection (hereinafter “the inspection”) of the hazardous waste management practices at Respondent’s facility. Based on a review of the inspection report and the information provided during the inspection by facility personnel, it was determined that Respondent was operating, at the time of the inspection, as a Large Quantity Generator of hazardous waste and a small quantity handler of universal waste.

20. At the time of the inspection, a 275-gallon container containing D016 hazardous wash water was present at the facility. The wash water is generated when tanks, equipment, or container exteriors that held 2,4-D are rinsed. 2,4-D is a solid and hazardous wastes as defined at 40 C.F.R. § 261.2 and 261.3.

21. At the time of the inspection, two fiberboard containers of universal waste lamps were also present.

Violations

22. Complainant hereby states and alleges that Respondent has violated RCRA and the federal regulations promulgated thereunder, as follows:

Count 1

Operating as a Treatment, Storage or Disposal Facility Without a RCRA Permit or RCRA Interim Status

23. Complainant hereby incorporates the allegations contained in the Paragraphs above, as if fully set forth herein.

24. Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations at 40 C.F.R. Part 270 require each person owning or operating a facility for the treatment, storage, or disposal of hazardous wastes identified or listed under Subchapter C of RCRA to have a permit or interim status for such activities.

25. At the time of the inspection, Respondent did not have a permit or interim status.

Generator Requirements

26. The regulation at 40 C.F.R. § 262.17(a) states that a large quantity generator may accumulate hazardous waste on-site for no more than ninety (90) days without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270, or the notification requirements of sections 3010 of RCRA provided all the conditions for exemption set forth at 40 C.F.R. § 262.17 are met. If a generator fails to comply with any of these conditions, the generator is not allowed to accumulate hazardous waste at its facility for any length of time. Respondent failed to comply with the following conditions:

Accumulation

27. Pursuant to 40 C.F.R. § 262.17(a), an LQG may accumulate hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in 40 C.F.R. §§ 262.17(b) through (e).

28. At the time of the inspection, no accumulation extensions or exemptions were in effect.

29. At the time of the inspection, the inspector observed a 275-gallon container of hazardous wash water that Respondent began accumulating on January 18, 2022, and was still present at the facility. Therefore, at the time of the inspection, this hazardous waste had been stored for over 90 days.

30. By storing hazardous waste on-site for greater than 90 days, Respondent was operating as a hazardous waste storage facility and subjected itself to the requirements of 40 C.F.R. Parts 264, 265, and the permit requirements of 40 C.F.R. Part 270.

Labeling and marking of containers

31. The regulation at 40 C.F.R. § 262.17(a)(5) states that a LQG must mark or label its containers with:

- a. The words "Hazardous Waste";
- b. An indication of the hazards of the contents; hazard communication consistent with Department of Transportation requirements; a hazard statement or pictogram consistent with Occupational Safety and Health Administration Hazard Communication Standard; or a chemical hazard label consistent with the National Fire Protection Association; and
- c. The date upon which each period of accumulation begins clearly visible for inspection on each container.

32. At the time of the inspection, a 275-gallon container of hazardous wash water was not marked with the words "Hazardous Waste," nor the indication of the hazards of the contents, nor the accumulation start date.

Weekly Inspections

33. The regulation at 40 C.F.R. § 262.17(a)(1)(v) states that the LQG must conduct weekly inspections of its central accumulation areas. The LQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors.

34. At the time of the inspection, it was revealed that Respondent had not been conducting weekly inspections of the hazardous waste central accumulation area in which a 275-gallon container of hazardous wash water was located.

Emergency Procedures

35. The regulation at 40 C.F.R. § 262.17(a)(6) states that the LQG must comply with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators. The following subpart M standards were not met:

Emergency Procedures-Contingency Plan and Quick Reference Guide

36. Pursuant to 40 C.F.R. § 262.17(a)(6), referencing 40 C.F.R. § 262.262(a), a copy of the contingency plan and all revisions to the plan must be maintained at the LQG and the LQG must submit a copy of the contingency plan and all revisions to all emergency responders (i.e., police departments, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services).

37. At the time of the inspection, Respondent had failed to submit a revised copy of its Contingency Plan to local emergency responders.

38. Pursuant to 40 C.F.R. § 262.17(a)(6), referencing 40 C.F.R. § 262.262(b), whenever the LQG becomes subject to these provisions, or when the LQG is otherwise amending its contingency plan, it must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in the immediately preceding Paragraph. The quick guide must meet the standards set forth at 40 C.F.R. § 262.262(b)(1)-(8).

39. Pursuant to 40 C.F.R. § 262.262(b)(5), the quick reference guide must include a street map of the facility in relation to surrounding business, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers.

40. At the time of the inspection, Respondent's quick reference guide did not include the required street map of the facility.

Hazardous Waste Training

41. Pursuant to 40 C.F.R. § 262.17(a)(7)(iv)(C), an LQG must maintain written description of the type and amount of both introductory and continuing hazardous waste management training for personnel who manage hazardous waste.

42. At the time of the inspection, Respondent did not maintain a written description of the type and amount of both introductory and continuing hazardous waste management training for personnel who manage hazardous waste.

43. Because Respondent failed to comply with the generator requirements as set forth in Paragraphs 22 through 42 above, Respondent was not authorized to accumulate hazardous waste at its facility for any length of time, and therefore was operating a hazardous waste storage facility without a permit in violation of Section 3005 of RCRA, 42 U.S.C. § 6925.

Count 2

Failure to Comply with Universal Waste Management Requirements

44. Complainant hereby incorporates the allegations contained in the Paragraphs above, as if fully set forth herein.

Failure to date universal waste containers

45. The regulations at 40 C.F.R. § 273.15(c) require small quantity handlers of universal waste to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

46. At the time of the inspection, Respondent failed to demonstrate the length of time that two fiberboard containers of universal waste lamps had been accumulated.

47. Respondent's failure to demonstrate the length of time that two fiberboard containers of universal waste lamps had been accumulated is a violation of 40 C.F.R. § 273.15(c).

CONSENT AGREEMENT

48. For the purpose 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.

49. 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.

50. 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 and performance of any compliance actions described below.

51. Respondent and EPA agree to the terms of this Consent Agreement and Final

Order and Respondent agrees to comply with the terms specified herein.

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

Penalty Payment

53. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of Forty-Eight Thousand Four Hundred Fourteen Dollars (\$48,414), as set forth below.

54. 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 by certified or cashier's check made payable to the "United States Treasury" and sent to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, Missouri 63197-9000

or by alternate payment method described at <http://www.epa.gov/financial/makepayment>.

55. A copy of the check or other information confirming payment shall simultaneously be emailed to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Britt Bieri, Attorney
bieri.britt@epa.gov.

56. 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. 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 of six (6) percent per year compounded annually 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).

57. 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). Failure to comply with providing 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, EPA herein requires, and 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 Center at weidner.lori@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 has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding sub-paragraph, shall notify EPA of this fact within 30 days after the Effective Date of this Consent Agreement and Final Order, and email EPA with Respondent's TIN within 5 days of Respondent's issuance and receipt of the TIN.

Effect of Settlement and Reservation of Rights

58. 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 RCRA or any other applicable law.

59. 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 Paragraph directly below.

60. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, it is presently in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.*, its implementing regulations, and any permit issued pursuant to RCRA.

61. 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 RCRA and regulations promulgated thereunder.

62. Notwithstanding any other provision of this Consent Agreement and Final Order, EPA reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed Seventy Three Thousand Forty-Five Dollars (\$73,045) per day, per violation, pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of this Consent Agreement and Final Order, or to seek any other remedy allowed by law.

63. Except as expressly provided herein, nothing in this Consent Agreement and Final Order shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's facility.

64. Notwithstanding any other provisions of the Consent Agreement and Final Order, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

65. Nothing contained in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations and applicable permits.

General Provisions

66. 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 has the legal capacity to bind the party they represent to this Consent Agreement.

67. 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 filing 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.

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

69. 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.

70. The headings in this Consent Agreement and Final Order are for convenience of reference only and shall not affect interpretation of this Consent Agreement and Final Order.

71. Respondent consents to receiving an electronic copy of the filed Consent Agreement and Final Order at the following email address: *CBVonFeldt@landolakes.com*. Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

DAVID COZAD Digitally signed by DAVID COZAD
Date: 2025.04.08 15:20:42 -05'00'

David Cozad
Director
Enforcement and Compliance Assurance Division

Date

Britt Bieri
Office of Regional Counsel

Date

RESPONDENT:

Winfield United Solutions, LLC d/b/a Winfield United

CVF
Signature

4-4-2025
Date

Charles Vanfeldt
Printed Name

General Counsel and Secretary
Title

FINAL ORDER

Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), 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

Date

CERTIFICATE OF SERVICE

I certify 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 Email to Complainant:

Britt Bieri
Office of Regional Counsel
bieri.britt@epa.gov

Koba Butkovich
Enforcement and Compliance Assurance Division
butkovich.koba@epa.gov

Carrie Venerable
Office of Regional Counsel - New Horizon's Workforce
Venerable.carrie@epa.gov

Copy via Email to Respondent's counsel:

Charles Von Feldt Winfield United
30473 260th Street
Eldora, Iowa 50627
CB VonFeldt@landolakes.com

Copy via Email to the State of Iowa:

Ed Tormey, Acting Administrator (e-copy)
Environmental Services Division Iowa
Department of Natural Resources
Ed.tormey@dnr.iowpa.gov

Mike Sullivan, Chief (e-copy)
Contaminated Sites Section
Iowa Department of Natural Resources
Michael.Sullivan@dnr.Iowa.gov

Dated this _____ day of _____, _____.

Signed