IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER

IN THE MATTER OF: **VAN DIEST SUPPLY COMPANY** Webster City, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2014-AQ-21

TO: Van Diest Supply Company
Lee Trask, Vice President of Manufacturing
1434 220th Street
P.O. Box 610
Webster City, Iowa 50595

Jane McAllister
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100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231

I. SUMMARY

This administrative consent order is entered into between Van Diest Supply Company (Van Diest) and the Iowa Department of Natural Resources (DNR) for the sole purpose of creating a compliance schedule for correcting the specific violations noted in this administrative consent order so that DNR may, in accordance with the provisions of 567 Iowa Administrative Code (IAC) 22.3(1), consider the issuance of construction permits to Van Diest for its facility in Webster City, Iowa. Van Diest neither admits nor denies the Statement of Facts or Conclusions of Law stated herein, but agrees to be bound by the other provisions herein provided.

Any questions regarding this administrative consent order should be directed to:

Kelli Book
DNR – Legal Services
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
(515) 725-9572

II. JURISDICTION

The administrative consent order is issued 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 prevent a violation of Iowa Code Chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part.

III. STATEMENT OF FACTS

1. Van Diest is a distributor and formulator of agricultural chemicals. The SIC code for Van Diest lists the facility as a chemical manufacturer. Some of the emission sources at the facility include chemical reactors, storage tanks, mixing tanks, haul roads, boilers, and an incinerator. Van Diest has recently submitted construction permit applications to the DNR for the following projects: 13-423, 13-448, 13-484, 14-076, 14-168 and 14-184. The issuance of the construction permits for projects 13-423, 13-448, 13-484, 14-076, 14-168 and 14-184 would result in enforceable emission limits which would allow an increase in emissions from the facility.

2. Van Diest is a major source of air pollutants under the Prevention of Significant Deterioration (PSD) program. Van Diest has the potential to emit over 100 tons per year of particulate (PM), fine particulate (PM10), fine particulate matter with a diameter of 2.5 microns or smaller (PM2.5), volatile organic compounds (VOC), and Hazardous Air Pollutants (HAP). Van Diest is a major Title V facility.

3. On January 17, 2013, Van Diest submitted a notice to the DNR it intended to conduct a voluntary environmental self-audit (Audit) at its facility pursuant to Iowa Code Chapter 455K and 567 IAC Chapter 12. On March 15, 2013, Van Diest submitted an initial disclosure of violations arising from the Audit to the DNR. Van Diest stated that the facility may be in violation of 40 CFR Part 60, Subpart JJJJ; the facility may be a major source for the Title V; and the facility may be a major source for Hazardous Air Pollutants (HAP) emissions.

4. On June 28, 2013, from information arising from the Audit, Van Diest provided notice to the DNR that it was electing to pursue major source for HAP emissions status in an effort to expedite the project and to enable the issuance of a construction permit for Emission Unit SD #1.

5. On August 1, 2013, Van Diest submitted an additional disclosure of a violation arising from the Audit to the DNR. Van Diest stated it modified the water dispersible granular plant #3 (Construction Permit #86-A-117-S2) on two occasions without obtaining a modification to the construction permit.

6. On October 14, 2013, Van Diest submitted an additional disclosure of violations arising from the Audit to the DNR. The disclosure noted the following violations:

1) Modification without a permit. As previously disclosed on August 1, 2013, the water dispersible granular plant #3 was modified without obtaining a modification to the construction permit;

2) Failure to file the registration for the construction permit exemption for small engines;

3) Failure to maintain records. Records had not been kept as required by 40 CFR 60, Subpart JJJJ for a stationary spark ignition internal combustion engine;

4) Failure to obtain a Title V Operating Permit. The facility's potential to emit was above the Title V major source thresholds and the facility had not filed for a Title V permit. Van Diest became major for HAPs on June 28, 2013 and for settlement purposes of this administrative consent order only Van Diest and DNR state that the facility was major for Title V on June 28, 2013. The actual date Van Diest became major for Title V is unknown at this time. Van Diest stated it would submit a Title V Operating Permit application by June 28, 2014. The Title V Operating Permit application was received by June 28, 2014;

5) Failure to comply with the NESHAP, Subpart FFFF for Miscellaneous Organic Chemical Manufacturing (MON). The facility did not have federally enforceable limits in place to restrict HAP emissions below the major source threshold;

6) Failure to comply with the NESHAP, Subpart DDDDD for industrial, commercial and industrial boilers and process heaters. The facility did not have federally enforceable limits in place to restrict HAP emissions below the major source threshold.

7) Failure to obtain a construction permit. A variance dated March 19, 2013 required the submittal of a construction permit application for Area 46 by April 18, 2013; the deadline was later extended to October 25, 2013. On October 25, 2013, the application was submitted. DNR is currently working on the construction permit and the facility is constructing under the variance that expires September 13, 2014;

8) Modification without a construction permit. A third processing system was installed in Building 37 in 2007 without modifications to the construction permits for Building 37;

9) Modification without a construction permit. DF #4 was modified without obtaining a construction permit modification;

10) Modification without a construction permit. DF #8 was modified without obtaining construction permit modifications;

11) Modification without a construction permit. DF #9 was modified without obtaining construction permit modifications;

12) Modifications without a construction permit. The Formulation Test Plant was modified without obtaining construction permit modifications;

13) Failure to evaluate for Prevention of Significant Deterioration (PSD). The facility's potential emissions indicated the facility became a major source for PSD in 1985. At least ten major modifications were conducted without PSD review. The modifications included the following: 1) the installation of the south incinerator in 1987; 2) the modification of the test plant in 2004; 3) haul roads associated with Projects B21 through B39 between 1988 and 2005; 4) the installation of B40 and B42 bulk storage buildings in 2009 and 2010; 5) waste from several processes from 1989 through 2013 were not evaluated; 6) the installation of Building 37 in 2002; 7) the installation of south flowable and 4L processes in 1985 and 1986; 8) the installation of DF #4; 9) the installation of DF #8 in 1999 with modifications in 2001 and 2007; and 10) the installation of DF #9 in 2008 with a modification in 2013;

14) Incomplete minor source emissions inventory in 2010; and

15) Construction contrary to the construction permit. The following projects were not constructed in accordance with the construction permit or construction permit application: 1) emulsifiable concentrate formulation plant installed in 2002; 2) changes made to DF #2 in 1997 and 1989; 3) changes made to DF #6 packaging equipment in 2002; 4) all equipment was not included in 1998 when changes were made to DF #7; and 5) all equipment included in the 2012 permit application for the North Flowable Liquids Dry Process was not installed.

7. On November 5, 2013, Van Diest notified the DNR that the potential haul road emissions associated with bulk storage buildings B40 and B42 were below the 25 tons per year PSD significance level for PM. Van Diest performed silt load testing and performed calculations for the haul roads based on those values. The calculations showed the facility was minor for PSD for those two projects. However, the facility must still take enforceable emission limits in a permit to limit the potential to emit for the haul roads.

8. On November 14, 2013, Van Diest submitted a permit determination request for prior modifications to the emulsifiable concentration plant, DF #2, DF #6, DF #7 and North Flowable Liquids Dry Process. DNR assigned Project #13-448 to this submittal and several of the submitted processes may require permit modifications. The determinations are currently being reviewed by DNR.

9. On December 31, 2013, Van Diest submitted a construction permit application for Project #13-484 for the incinerator. The facility requested PM, PM10 and PM2.5 limits for the incinerator. The incinerator is used in numerous projects, so the emissions limits are needed to make the projects minor modifications for PSD.

10. On February 11, 2014, DNR Field Office 2 conducted an inspection at the Van Diest facility. During the inspection, the field office noted the following:

1) The final baghouses for EP DF3 and SD1 operated outside of the differential pressure drop range allowed in the construction permit. Records for SD1 must be made available.

2) Construction permits for DF3, DF10, EC44, NF and SD1 require control equipment to be operated and maintained according to the manufacturer's specifications. Van Diest was not aware of the manufacturer's specifications.

3) Construction permits for DF3, DF10, EC44, NF and SD1 require Van Diest to maintain record of all maintenance and repair. Facility stated maintenance and repair are being done, just not recorded.

4) Construction permits for emission points NF and EC44 require initial stack testing. Initial stack testing must take place within 60 days of reaching maximum production and no later than 180 days from the date the equipment begins operating. These emission points have exceeded the 180 day time frame and are therefore in violation of their construction permits.

5) The construction permit for emission point 37-4 (permit 02-A-729) requires that any of the liquids stored in the vessels associated with the permit have a maximum true vapor pressure that is less than 15.0 kPa. Van Diest must calculate the maximum true vapor pressure based on the highest monthly average temperature for the liquids stored in the vessels. Van Diest must record this information to demonstrate compliance.

6) As a result of the ongoing emissions audit, Van Diest has determined that they are a major source for HAPs. Therefore, the permit-by-rule can no longer be used for the spray booth as it is only available to

minor sources. A construction permit application determination must be made for this spray booth.

7) Van Diest has been operating under the permit-by-rule for the spray booth while the audit is taking place. Therefore, the facility was inspected based on the permit-by-rule requirements. Training records for the spray booth operator were not available. Records of training must immediately begin being kept.

8) Observed stack characteristics for emission points 37-1 (permit 02-A-726), 37-2 (permit 02-A-727), 37-3 (permit 02-A-728), 37-4, NF, and SD1 did not match the characteristics listed in the corresponding construction permits. These construction permits must be amended to show the correct stack characteristics.

On February 24, 2014, DNR Field Office 2 issued a Notice of Violation letter to Van Diest. On March 21, 2014, Van Diest responded to DNR Field Office 2 and has since completed compliance plans to address the violations discovered by DNR Field Office 2.

11. On April 28, 2014, Van Diest submitted construction permit applications for Project #14-168 to correct stack characteristics and pressure drop in Air Quality Construction Permit Numbers 12-A-496 and 13-A-314-S1.

12. On May 1, 2014, Van Diest submitted construction permit applications for Project #14-184 to correct many of the violations included in the October 14, 2013 disclosure from Van Diest.

13. On June 27, 2014, DNR received the Title V Operating Permit application from Van Diest. During the Title V review, Van Diest determined that potential emissions for EC W1 (Air Quality Construction Permit #02-A-235) and the North Flowable process (Air Quality Construction Permit #12-A-496) were above the PSD significance levels.

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. 567 IAC 22.3(1) provides that in no case shall a construction permit or conditional permit which results in an increase in emissions be issued to a facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and the schedule is contained

in an order or permit condition, the DNR may consider issuance of a construction permit or conditional permit. Van Diest has submitted construction permit applications for equipment that would increase emissions. The sole purpose of this administrative consent order is to create a compliance schedule for correcting the specific alleged violations cited herein so DNR may, according to the provision of 567 IAC 22.3(1), consider the issuance of construction permits to Van Diest.

3. 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. Van Diest disclosed several pieces of equipment, including but not limited to Building 37, DF #3, DF #4, DF #8, DF #9, and the Formulation Test Plant, were modified without being properly permitted. The above-stated facts show noncompliance with this provision.

4. 567 IAC 22.3(3) provides that a construction permit may be issued subject to conditions which shall be specified in writing. Van Diest disclosed several pieces of equipment, including but not limited to the Emulsifiable Concentrate Formulation Plant, a Paint Booth, DF #2, DF #6, SD1, DF #7 and DF #10, were not constructed as the equipment had been permitted. The above-stated facts show noncompliance with this provision.

5. 567 IAC 33.3(2)"b" states that no new major stationary source or major modification to which the requirements of subrule 33.3(10) through paragraph 33.3(18)"e" [PSD permitting requirements] apply shall begin actual construction without a permit that states that the major stationary or major modification will meet those requirements. 567 IAC 33.3(1) defines a "major stationary source," for purposes of the PSD program, as any stationary source of air contaminants that emits, or has the potential to emit greater than 250 tons per year or more of a regulated New Source Review (NSR) pollutant or if the facility is one of EPA's 28 major source category types, the threshold is 100 tons per year or more of any regulated pollutant. Van Diest is one of the 28 major source category types and has a major source threshold of 100 tons. 567 IAC 33.3(1) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source which would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from a major stationary source. 567 IAC 33.3(18)"c" states an owner or operator who constructs or operates a source or modification subject to the PSD regulations without applying for and receiving DNR approval shall be subject to an appropriate enforcement action. Van Diest disclosed several pieces of equipment, including but not limited to the south incinerator, the test plant, the haul roads associated with Projects B21-B39, B40 and B42 bulk storage buildings, waste from several processes, Building 37, DF #4, DF #8, DF #9 and the south flowable and 4L processes, were not evaluated for PSD. The above-stated facts show noncompliance with this provision.

6. 567 IAC 23.1(2) "zzz" adopts by reference 40 CFR 60, Subpart JJJJ that regulates stationary spark ignition internal combustion engines. Van Diest was

to keep records of all operations of its engine, including the date and time of operation of the engine. The records were not being kept. The above-stated facts demonstrate noncompliance with these provisions.

7. Iowa Code Chapter 455 K and 567 IAC Chapter 12 provides immunity from administrative penalties if a facility voluntarily self discloses environmental violations, takes actions to remedy the violations, and meets the other conditions of Iowa Code section 455K.8. Van Diest has self-disclosed the violations included in this administrative consent order. If Van Diest takes the proper steps to remedy the violations, DNR agrees not to impose a penalty for the disclosed violations pursuant to Iowa Code Chapter 455K. Pursuant to Iowa Code Chapter 455K and 567 IAC Chapter 12, if Van Diest received a substantial economic benefit from the violations, DNR may seek a penalty. Immunity does not apply to the violations that were discovered by DNR or any violations resulting from upcoming stack testing.

V. ORDER

THEREFORE, the DNR and Van Diest agree to the following:

1. Van Diest shall evaluate all physical changes or changes in operation between January 1, 2009 and September 1, 2014 that may have resulted in increased emissions of then regulated pollutants to determine PSD applicability. Van Diest shall also provide additional detail regarding previously submitted actual emissions associated with the Building 37 Project in 2002; if DNR determines further PSD review is required, Van Diest shall evaluate the 2002 construction project for Building 37. These reviews shall include calculation of potential and actual emissions from the facility's haul roads (including, but not limited to the recently acquired Estes Avenue) as they are related to different projects. This information shall be submitted to DNR within 90 days of the date the Director signs this administrative consent order;

2. Van Diest shall submit emission inventory fees associated with the past 5 years of emissions. The emission fees shall be calculated on a whole year basis by multiplying the applicable per ton fee for the subject year by the estimated emissions. The estimated emissions for each of the 5 years shall be based on the 2013 emissions inventory previously submitted by Van Diest. Future calculations shall not be tied to the methodology used to determine the last five years of emissions. Van Diest shall receive credit for fees previously paid. The emission inventory fees shall be submitted within 30 days of the date the Director signs this administrative consent order;

3. Van Diest shall conduct stack tests for the incinerator and boiler #4 within 60 days of the date the Director signs this administrative

consent order. The stack tests shall be conducted for PM, PM10, and PM2.5;

4. If during the construction permit review for projects 13-423, 13-448, 13-484, 14-076, 14-168 and 14-184 and all other projects related to this administrative consent order, DNR determines that any of the emission sources require a PSD permit, a pre-application meeting between DNR and Van Diest shall take place regarding the application within 60 days of the DNR's PSD determination;

5. If during the construction permit review for projects 13-423, 13-448, 13-484, 14-076, 14-168 and 14-184 and all other projects related to this administrative consent order, DNR determines that any of the emission sources require a PSD permit, all additional information requested by DNR, including a PSD application, must be supplied to the DNR according to the following schedule: one PSD permit application within 90 days, if multiple PSD permit applications are required, each PSD application will be due after an additional 30 days per PSD application;

6. For the projects already noted in this administrative consent order, all additional requested information must be supplied to the DNR within 30 days of the DNR's request for information or within a reasonable time agreed upon by DNR and Van Diest not to exceed 60 days;

7. Van Diest shall either supply the DNR with the construction permit applications or proof of exemptions for all bulk load out operations not previously submitted in an application within 30 days of the date the Director signs this administrative consent order;

8. Van Diest shall calculate the potential emissions from cleaning of process equipment including storage tanks and from the cleaning of tankers. The calculations shall be submitted within 30 days of the date the Director signs this administrative consent order;

9. Van Diest shall submit construction permit modification applications to limit potential emissions below PSD significance levels for the DF #10, Spray Dryer, and EC44 processes within 60 days of the date the Director signs this administrative consent order;

10. Van Diest shall submit construction permit modification applications to limit potential emissions below PSD significance levels for the ECW1 process within 60 days of the date the Director signs this administrative consent order;

11. Van Diest shall submit construction permit modification applications to limit potential emissions below PSD significance levels for the North Flowable process within 60 days of the date the Director signs this administrative consent order;

12. If within 90 days of the date the Director signs this administrative consent order it is determined that Van Diest is subject to further NSPS regulation, Van Diest shall propose a compliance schedule to DNR within 14 days of being notified; and

13. If within 90 days of the date the Director signs this administrative consent order it is determined that Van Diest is subject to further MACT regulation, Van Diest shall propose a compliance schedule to DNR within 14 days of being notified.

VI. RESERVATION OF RIGHTS

This administrative consent order is entered into for the sole purpose of creating a compliance schedule for correcting the specific alleged violations cited herein so that DNR may, according to the provisions of 567 IAC 22.3(1), consider the issuance of construction permits to Van Diest. DNR reserves the right to bring enforcement action or to pursue referral to the Attorney General, to obtain injunctive relief and penalties or fines, pursuant to Iowa Code section 455B.146 or 455B.146A, for violations not addressed in this administrative consent order which may have occurred at the Van Diest facility. DNR reserves the right to seek penalty if it is determined that Van Diest received substantial economic benefit from the violations. Nothing in this administrative consent order restricts or limits the administrative or judicial enforcement remedies available to the DNR or the State of Iowa for the violations not addressed in this administrative consent order. Additionally, DNR reserves the right to pursue enforcement for any violations discovered during the DNR Field Office 2 visit noted in this administrative consent order as well as for any other violations discovered by DNR, including but not limited to stack test violations, permitting violations and recordkeeping violations. Van Diest reserves the right to any and all defenses, including but not limited to claims of economic benefit.

VII. WAIVER OF APPEAL RIGHTS

This administrative consent order is entered into knowingly by and with the consent of Van Diest. For that reason, Van Diest waives the right to appeal this administrative consent order pursuant to the provisions of Iowa Code section 455B.138.

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.

IX. AMENDMENTS

This administrative consent order may be amended from time to time as necessary to accommodate changed circumstances. The signatures of authorized representatives from both the DNR and Van Diest approving of any amendments are required before the amendments may be deemed effective.

Chuck Gipp
CHUCK GIPP, Director
Iowa Department of Natural Resources

Dated this 9th day of September, 2014.

Lee Trask
VAN DIEST SUPPLY COMPANY

Dated this 5 day of September, 2014.

#40-01-011; DNR Field Office 2; Kelli Book; EPA; VII.A.1, VII.A.2, VII.B.1VII.C.

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