

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: L. RANAUTO
Name of Contact person

9/24/12
Date

in the ORC
Office

at _____
Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS

Administrative Order/ Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt

This is a modification

Name of Person and/or Company/Municipality making the payment

Conny Oil, Inc.

The Total Dollar Amount of Receivable 30,445.00

(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number RCRA-03-2012-0216

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

- 1. U.S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-002)
Cincinnati, OH 45268
Attn: Heather Russell
- 2. Originating Office (ORC)
- 3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

- 1. Originating Office
- 2. Designated Program Office
- 3. Regional Hearing Clerk
- 3. Regional Counsel

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)

Conny Oil, Inc.)
d/b/a Roanoke Oil Distributors)
812 Missouri Avenue, NE)
Roanoke, VA 24012)

RESPONDENT,)

Conny Food Mart)
aka Boron Food Mart)
1102 Orange Avenue, NW)
Roanoke, VA 24012)
(Facility Id. No. 2011314))

Conny Food Mart)
Route 81, Exit 92)
Draper, VA)
(Facility Id. No. 2021328))

Route 24 Grocery)
1039 Sandy Level Road)
Goodview, VA 24095)
(Facility Id. No. 2004246))

Virginia Heights Travel Store)
1009 North 4th Street)
Wytheville, VA 24382)
(Facility Id. No. 1018656))

FACILITIES.)

U.S. EPA Docket Number
RCRA-03-2012-0216

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EPA REGION III, PHILA. PA

Proceeding Under Section 9006 of the
Resource Conservation and Recovery Act,
as amended, 42 U.S.C. Section 6991e

CONSENT AGREEMENT

This Consent Agreement ("CA") is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Conny Oil, Inc. a Virginia corporation doing business as Roanoke Oil Distributors ("Respondent"), pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3).

This CA and the Final Order (collectively "CAFO"), resolve alleged violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank ("UST") program by Respondent in connection with its underground storage tanks at Respondent's facilities located at 1102 Orange Avenue, Roanoke Virginia; Route 81 Exit 92, Draper, Virginia; 1039 Sandy Level Road, Goodview, Virginia, and 1009 North 4th Street, Wytheville, Virginia (the "Facilities").

Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Virginia was granted final authorization to administer a state UST management program *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991i. The provisions of the Virginia UST management program, through these final authorizations, have become requirements of Subtitle I of RCRA and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Virginia's authorized UST program regulations are set forth in the Virginia Administrative Code as Underground Storage Tanks: Technical Standards and Corrective Action Requirements ("VA UST Regulations"), 9 VAC § 25-580-10 *et seq.*

GENERAL PROVISIONS

1. For purposes of this proceeding only, Respondent admits to the jurisdictional allegations set forth in this CAFO.
2. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, above.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this Consent Agreement ("CA"), the issuance of the attached Final Order ("FO"), or the enforcement thereof.
4. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying FO.
5. Respondent consents to the issuance of this CAFO, and agrees to comply with its terms and conditions.

6. Respondent shall bear its own costs and attorney's fees.
7. As to RCRA, Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Virginia's federally authorized underground storage tank program set forth at 9 VAC § 25-580-10 *et seq.* allegedly violated as set forth in the Factual Allegations and Conclusions of Law, Respondents certify to EPA that, upon appropriate investigation, to the best of Respondent's knowledge and belief, Respondent is presently in compliance with all such relevant provisions and regulations.
8. This CAFO shall not relieve Respondent of its obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, or any regulations promulgated thereunder.
9. Complainant shall have the right to institute further actions to recover appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to EPA regarding matters at issue in the CAFO are false or, in any material respect, inaccurate. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability.
10. EPA has given the Commonwealth of Virginia prior notice of the issuance of this CAFO in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

FACTUAL ALLEGATIONS AND CONCLUSIONS OF LAW

- The United States Environmental Protection Agency - Region III ("EPA" or the "Region") and EPA's Office of Administrative Law Judges have jurisdiction over this matter pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, 40 C.F.R. Part 280 and 40 C.F.R. § 22.1(a)(4) and .4(c).
11. At all times relevant to this CAFO, Respondent, Conny Oil, Inc., a Virginia corporation doing business as Roanoke Oil Distributor, has been the "owner" and/or "operator," respectively, as those terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 9 VAC § 25-580-10, of the "underground storage tanks" ("USTs") and "UST systems" as those terms are defined in Section 9001(10) of RCRA, 42 U.S.C. § 6991(10), and 9 VAC § 25-580-10, located at the Facilities.
 12. On November 17, 2010, EPA performed a Compliance Evaluation Inspection ("CEI") at the Conny Food Mart Facility also known as Boron Food Mart. At the time of the November 17, 2010 CEI, and at all times relevant to the violations alleged herein, four (4)

USTs were located at the Boron Food Mart Facility as described in the following subparagraph:

- A. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1987, and that, at all times relevant hereto, routinely contained and was used to store mid-grade gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 1");
 - B. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1987, and that, at all times relevant hereto, routinely contained and was used to store regular gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 2");
 - C. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1987, and that, at all times relevant hereto, routinely contained and was used to store premium gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 3"); and
 - D. A one thousand (1,000) gallon fiberglass reinforced plastic tank that was installed in or about 1987, and that, at all times relevant hereto, routinely contained and was used to store kerosene fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 4").
13. At all times relevant to the applicable violations alleged in this CAFO, USTs Nos. 1 through 4 have been "petroleum UST systems" and "existing tank systems" as these terms are defined in 9 VAC § 25-580-10.
 14. USTs Nos. 1 through 4 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Conny Food mart Facility also known as Boron Food Mart, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and have not been "empty" as that term is defined at 9 VAC § 25-580-310.1.
 15. On July 20, 2011, EPA performed a Compliance Evaluation Inspection ("CEI") at the Conny Food Mart Facility. At the time of the July 20, 2011 CEI, and at all times relevant to the violations alleged herein, two (2) USTs were located at the Conny Food Mart Facility as described in the following subparagraph:
 - A. An eight thousand (8,000) gallon fiberglass reinforced plastic tank that was installed in or about 1980, and that, at all times relevant hereto, routinely

contained and was used to store premium gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 5");

B. A four thousand (4,000) gallon fiberglass reinforced plastic tank that was installed in or about 1980, and that, at all times relevant hereto, routinely contained and was used to store mid-grade gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 6");

16. At all times relevant to the applicable violations alleged in this CAFO, USTs Nos. 5 and 6 have been "petroleum UST systems" and "existing tank systems" as these terms are defined in 9 VAC § 25-580-10.

17. USTs Nos. 5 and 6 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Conny Food Mart Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and have not been "empty" as that term is defined at 9 VAC § 25-580-310.1.

18. On June 14, 2011, EPA performed a Compliance Evaluation Inspection ("CEI") at the Route 24 Grocery Facility. At the time of the June 14, 2011 CEI, and at all times relevant to the violations alleged herein, three (3) USTs were located at the Route 24 Grocery Facility as described in the following subparagraph:

A. A ten thousand (10,000) gallon fiberglass reinforced plastic tank that was installed in or about 1998, and that, at all times relevant hereto, routinely contained and was used to store gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 7");

B. A four thousand (4,000) gallon fiberglass reinforced plastic tank that was installed in or about 1998, and that, at all times relevant hereto, routinely contained and was used to store premium gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 8"); and

C. A three thousand (3,000) gallon cathodically protected steel tank that was installed in or about 1998, and that, at all times relevant hereto, routinely contained and was used to store premium diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 9").

19. At all times relevant to the applicable violations alleged in this CAFO, USTs Nos. 7 through 9 have been "petroleum UST systems" and "new tank systems" as these terms are defined in 9 VAC § 25-580-10.
20. USTs Nos. 7 through 9 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Route 24 Grocery Store Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and have not been "empty" as that term is defined at 9 VAC § 25-580-310.1.
21. On May 26, 2011, EPA performed a Compliance Evaluation Inspection ("CEI") at the Virginia Heights Travel Store Facility. At the time of the May 26, 2011 CEI, and at all times relevant to the violations alleged herein, seven (7) USTs were located at the Virginia Heights Travel Store Facility as described in the following subparagraph:
 - A. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store premium gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 10");
 - B. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store mid-grade gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 11");
 - C. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store regular gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 12");
 - D. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store regular gasoline fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 13");
 - E. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 14");

- F. A two thousand (2,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store off-road diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 15"); and
 - G. A six thousand (6,000) gallon fiberglass reinforced plastic tank that was installed in or about 1989, and that, at all times relevant hereto, routinely contained and was used to store diesel fuel, a "regulated substance" as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10 (hereinafter "UST No. 16").
- 22. At all times relevant to the applicable violations alleged in this CAFO, USTs Nos. 10 through 16 have been "petroleum UST systems" and "new tank systems" as these terms are defined in 9 VAC § 25-580-10.
 - 23. USTs Nos. 10 through 16 are and were, at all times relevant to the applicable violations alleged in this CAFO, used to store "regulated substance(s)" at Respondent's Virginia Heights Travel Store Facility, as defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 9 VAC § 25-580-10, and have not been "empty" as that term is defined at 9 VAC § 25-580-310.1.

COUNT 1

(Failure to provide corrosion protection on the metal/steel piping for USTs Nos. 1 through 4)

- 24. The allegations of Paragraphs 1 through 23 of this CA are incorporated herein by reference.
- 25. 9 VAC § 25-580-50 provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
- 26. 9 VAC § 25-580-50.2. provides, inter alia, that piping that routinely contains regulated substance and is in contact with the ground must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in 9 VAC § 25-580-50.2.a-c.
- 27. The requirements set forth at 9 VAC § 25-580-50.2., above, have been incorporated by reference into 9 VAC § 25-580-60.3., and are therefore applicable to existing UST systems as well as new UST systems.

28. The piping components for the USTs Nos. 1 through 4 are, and at all times relevant to the violations alleged herein, were made of metal/steel in contact with ground and used to store regulated substances.
29. From November 17, 2010 through February 7, 2011, Respondent failed to provide corrosion protection for the metal/steel piping components associated with USTs Nos. 1 through 4 as required by 9 VAC § 25-580-50.2.
30. Respondent's acts and/or omissions as alleged in Paragraph 29, above, constitute violations by Respondent of 9 VAC § 25-580-50.2.

COUNT 2

(Failure to provide corrosion protection on the metal/steel piping for USTs Nos. 5 and 6)

31. The allegations of Paragraphs 1 through 30 of this CA are incorporated herein by reference.
32. The piping components for the USTs Nos. 5 and 6 are, and at all times relevant to the violations alleged herein, were made of metal/steel in contact with ground and used to store regulated substances.
33. From July 20, 2011 through October 12, 2011, Respondent failed to provide corrosion protection for the metal/steel piping components associated with USTs Nos. 5 and 6 as required by 9 VAC § 25-580-50.2.
34. Respondent's acts and/or omissions as alleged in Paragraph 33, above, constitute violations by Respondent of 9 VAC § 25-580-50.2.

COUNT 3

(Failure to provide adequate overfill prevention
on UST No. 7)

35. The allegations of Paragraphs 1 through 34 of the CA are incorporated herein by reference.
36. 9 VAC § 25-580-50 provides, in pertinent part, that all owners and operators of new UST systems shall meet certain requirements in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.
37. 9 VAC § 25-580-50.3.a. provides that owners and operators of new UST systems shall use certain spill and overfill prevention equipment to prevent spilling and overfilling associated with product transfer to the UST system as follows:

- (1) Spill prevention equipment that will prevent release of product into the environment when the transfer hose is detached from the fill pipe - for example a spill catchment basin; and
 - (2) Overfill prevention equipment that will do one or more of the following:
 - (a) Automatically shut off flow into the tank when the tank is more than 95 percent full, or
 - (b) Alert the transfer operator when the tank is no more than 90 percent full by restricting the flow into the tank or triggering a high level alarm.
38. The requirements set forth at 9 VAC § 25-580-50.3.a., above, have been incorporated by reference into 9 VAC § 25-580-60.4., and are therefore applicable to existing UST systems as well as new UST systems.
39. From June 14, 2011 until November 9, 2011, Respondent failed to provide adequate overfill prevention for UST No. 7 as described in 9 VAC § 25-580-50.3.a., and such UST did not fall within the exception in 9 VAC § 25-580-50.3.b. and such UST was not in compliance with the closure requirements of 9 VAC § 25-580-320.
40. Respondent's acts and/or omissions as alleged in Paragraph 39, above, constitute violations by Respondent of 9 VAC § 25-580-50.3.a..

COUNT 4

(Failure to perform release detection on
USTs Nos. 1 through 4)

41. The allegations of Paragraphs 1 through 40 of this CA are incorporated herein by reference.
42. Pursuant to 9 VAC § 25-580-130.A. and C., owners and operators of new and existing UST systems must provide a method or combination of methods of release detection monitoring that meets the requirements described therein.
43. 9 VAC § 25-580-140.1. provides, in pertinent part, that USTs shall be monitored at least every 30 days for releases using one of the methods listed in 9 VAC § 25-580-160.4.-8., except that:
- (a) UST systems that meet the performance standards in subsections 1 through 5 of 9 VAC § 25-580-50 (Performance Standards for New UST Systems) or subsections 1 through 4 of 9 VAC § 25-580-60 (Upgrading of Existing UST Systems), and the monthly inventory control requirements in

subsections 1 or 2 of 9 VAC § 25-580-160 (Inventory Control or Manual Tank Gauging), and tank tightness testing, conducted in accordance with subsection 3 of 9 VAC § 25-580-160 (Tank Tightness Test), at least every 5 years until December 22, 1998, or until 10 years after the UST is installed or upgraded under subsection 2 of 9 VAC § 25-580-60 (Tank Upgrading Requirements); and

- (b) UST systems that do not meet the performance standards in 9 VAC § 25-580-50 (Performance Standards for New UST Systems) or 9 VAC § 25-580-60 (Upgrading of Existing UST Systems), may use monthly inventory controls, conducted in accordance with subsections 1 or 2 of 9 VAC § 25-580-160 (Inventory Control or Manual Tank Gauging) and annual tank tightness testing, conducted in accordance with subsection 3 of 9 VAC § 25-580-160 (Tank Tightness Test) until December 22, 1998, when the tank must be upgraded under 9 VAC § 25-580-60 (Tank Upgrading Requirements) or permanently closed under 9 VAC § 25-580-320; and
- (c) Tanks with a capacity of 550 gallons or less and not metered may use weekly tank gauging, conducted in accordance with subsection 2 of 9 VAC § 25-580-160.

- 44. From at least April 1, 2007 through January 31, 2011, the method of release detection selected by Respondent for the USTs Nos. 1 through 4 was automatic tank gauging in accordance with 9 VAC § 25-580-160.4.
- 45. From November 18, 2009 until January 9, 2012, from June 6, 2010 until August 7, 2010, and from October 26, 2010 until December 11, 2010, Respondent failed to perform automatic tank gauging for the UST No. 1 in accordance with 9 VAC § 25-580-160.4.
- 46. From October 1, 2008 until October 31, 2008, from March 8, 2009 until March 31, 2009, from October 1, 2009 until October 31, 2009, from February 3, 2010 until April 3, 2010, from June 9, 2010 until December 11, 2010, and from January 12, 2011 until January 31, 2011, Respondent failed to perform automatic tank gauging for the UST No. 2 in accordance with 9 VAC § 25-580-160.4.
- 47. From June 1, 2009 until June 30, 2009, from November 1, 2009 until January 2, 2010, from February 24, 2010 until April 3, 2010, and from June 9, 2010 until January 31, 2011, Respondent failed to perform automatic tank gauging for the UST No. 3 in accordance with 9 VAC § 25-580-160.4.

48. From April 1, 2007 until April 30, 2007, from June 1, 2007 until October 31, 2007, from April 1, 2008 until April 30, 2008, from June 1, 2008 until October 31, 2008, from April 1, 2009 until April 30, 2009, from June 1, 2009 until September 30, 2009, from April 7, 2010 until May 6, 2010, and from June 7, 2010 until November 20, 2010, Respondent failed to perform automatic tank gauging for the UST No. 4 in accordance with 9 VAC § 25-580-160.4.
49. During the periods of time indicated in Paragraphs 44 through 48, above, Respondent did not use any of the other release detection methods specified in 9 VAC § 25-580-140.1.a.-c. and/or 9 VAC § 25-580-160.4.-8. on USTs Nos. 1 through 4 located at the Facility.
50. Respondent's acts and/or omissions as alleged in Paragraphs 44 through 48, above, constitute violations by Respondents pursuant to 9 VAC § 25-580-130.A. and C. and 9 VAC § 25-580-140.1.

COUNT 5

(Failure to perform release detection on
USTs Nos. 10 through 12)

51. The allegations of Paragraphs 1 through 50 of this CA are incorporated herein by reference.
52. From at least December 1, 2010 through May 31, 2011, the method of release detection selected by Respondent for the USTs Nos. 10 through 12 was automatic tank gauging in accordance with 9 VAC § 25-580-160.4.
53. From December 1, 2010 until December 31, 2010, from January 1, 2011 until January 31, 2011, and from May 1, 2011 until May 31, 201, Respondent failed to perform automatic tank gauging for the USTs Nos. 10 through 12 in accordance with 9 VAC § 25-580-160.4.
54. During the periods of time indicated in Paragraphs 52 and 53, above, Respondent did not use any of the other release detection methods specified in 9 VAC § 25-580-140.1.a.-c. and/or 9 VAC § 25-580-160.4.-8. on USTs Nos. 10 through 12 located at the Facility.
55. Respondent's acts and/or omissions as alleged in Paragraphs 52 and 53, above, constitute violations by Respondent of pursuant to 9 VAC § 25-580-130.A. and C. and 9 VAC § 25-580-140.1.

CIVIL PENALTY

56. In settlement of EPA's claims for civil penalties for the violations alleged in the Complaint, Respondent agrees to pay a civil penalty in the amount of Thirty Thousand Four Hundred Forty Three Dollars (\$30,443.00), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this Consent Agreement and Final Order fully executed by all parties. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this Consent Agreement and Final Order, Respondent must pay the entire civil penalty no later than thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent.
57. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
58. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy of the CAFO is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
59. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
60. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

61. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondent's violations and any good faith efforts by Respondent to comply with all applicable requirements as provided in RCRA § 3008(a)(3) and (g), 42 U.S.C. § 6928(a)(3) and (g), with specific reference to EPA's *RCRA Civil Penalty Policy* (June 2003) ("*Penalty Policy*").

- a. All payments shall be payable to the "U.S. Treasury." All payments made by check and sent by U.S. Postal Service regular mail shall be addressed to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The customer service contact for this address may be reached at 513-487-2105

- b. All payments made by check and sent by UPS, FedEx, or overnight mail delivery service (except as noted in section c, below) shall be addressed to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The U.S. Bank customer service contact for overnight delivery is 314-418-1028.

- c. All payments made by check in any currency drawn on banks with no branches in the United States shall be addressed for delivery to the following address:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- d. All payments made by electronic funds transfer (“EFT”) shall be directed to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045

Field Tag 4200 of the Fedwire message should read “D 68010727 Environmental Protection Agency”

The Federal Reserve customer service contact may be reached at 212-720-5000.

- e. All electronic payments made through the Automated Clearinghouse (“ACH”), also known as Remittance Express (“REX”), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Customer service contact: John Schmid, at 202-874-7026, or REX at 1-866-234-5681

- f. On-line payment option

WWW.PAY.GOV

Enter “sfo 1.1” in the search field. Open and complete the form.

- g. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/payment_instructions.htm

All payments by Respondent shall include Respondent's full name and address and the EPA Docket Number of this Consent Agreement (RCRA-03-2012-0216).

At the time of payment, Respondent shall send a notice of such payment, including a copy of the check, EFT authorization or ACH authorization, as appropriate to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

62. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

VI. OTHER APPLICABLE LAWS

63. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. RESERVATION OF RIGHTS

64. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person, including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*. Further, EPA reserves any rights and

remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

VIII. FULL AND FINAL SATISFACTION

65. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this CA.

IX. PARTIES BOUND

66. This CA and the accompanying FO shall apply to and be binding upon the EPA, the Respondent, and Respondent's successors and assigns. By his or her signature below, the person signing this CA on behalf of Respondent acknowledges that he or she is fully authorized to enter into this CA and to bind the Respondent to the terms and conditions of this CA and the accompanying FO.

X. EFFECTIVE DATE

67. The effective date of this CAFO is the date on which the FO is filed with the Regional Hearing Clerk after signature by the Regional Administrator or his designee, the Regional Judicial Officer.

XI. ENTIRE AGREEMENT

68. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

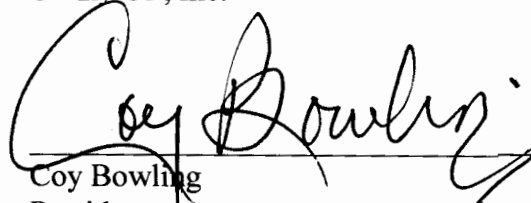
For Respondent:

Date:

8/16/12

Conny Oil, Inc.

By:



Coy Bowling
President

For Complainant:

United States Environmental Protection Agency, Region III

Date: 8/20/12

By:

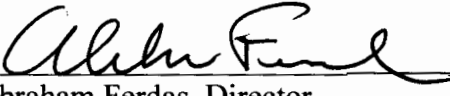


Louis F. Ramalho
Sr. Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Waste and Chemicals Management Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

8/22/12
Date

By:



Abraham Ferdas, Director
Land and Chemicals Division, EPA

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:)

Conny Oil, Inc.)
d/b/a Roanoke Oil Distributors)
812 Missouri Avenue, NE)
Roanoke, VA 24012)

RESPONDENT,)

Conny Food Mart)
aka Boron Food Mart)
1102 Orange Avenue, NW)
Roanoke, VA 24012)
(Facility Id. No. 2011314))

Conny Food Mart)
4086 Kirby Road)
Draper, VA 24324)
(Facility Id. No. 2021328))

Route 24 Grocery)
1039 Sandy Level Road)
Goodview, VA 24095)
(Facility Id. No. 2004246))

Virginia Heights Travel Store)
1009 North 4th Street)
Wytheville, VA 24382)
(Facility Id. No. 1018656)

FACILITIES.)

U.S. EPA Docket Number
RCRA-03-2012-0216

Proceeding Under Section 9006 of the
Resource Conservation and Recovery Act,
as amended, 42 U.S.C. Section 6991e

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Conny Oil, Inc. doing business as Roanoke Oil Distributors ("Respondent"), have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with 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 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW, THEREFORE, PURSUANT TO Section 22.18(b)(3) of the *Consolidated Rules of Practice* and Section 9006(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e(a) ("RCRA"), and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 9006(c), 42 U.S.C. § 6991e(c), **IT IS HEREBY ORDERED** that Respondent pay a civil penalty of Thirty Thousand Four Hundred Forty-Five Dollars (\$30,445.00) in accordance with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order, signed by the Regional Administrator of U.S. EPA Region III or the Regional Judicial Officer, is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

Date: 8/28/12


Renee Sarajian
Regional Judicial Officer
U.S. EPA, Region III


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date listed below, the original of the foregoing Consent Agreement and Final Order, Docket No. **RCRA-03-2012-0216**, was filed with the Regional Hearing Clerk, U.S. EPA - Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029, and that a true and correct copy was sent to the following parties:

Respondent's Legal Representative:

William B. Hopkins, Jr., Esq.
Martin, Hopkins & Lemon, P.C.
1000 Wachovia Tower
10 S. Jefferson Street
P.O. Box 13366
Roanoke, Virginia 24033

Date 8/20/12



Louis F. Ramalho
Sr. Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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