

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(4).
5. EPA has given the Commonwealth of Virginia Department of Environmental Quality (“VADEQ”) notice of the issuance of this Consent Agreement and Final Order in accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
11. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.

EPA’s FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

13. Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes EPA to assess civil penalties against any owner or operator of an underground storage tank (“UST”) who fails to comply with, *inter alia*, any requirement or standard of a State program that has been approved pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c for the violations alleged herein.
14. Effective October 28, 1998, pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, EPA approved the Commonwealth of Virginia to administer a state UST management program *in lieu* of the Federal UST management program established under RCRA Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. The provisions of the Virginia UST management program which EPA approved have become requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. Virginia’s authorized UST management 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.*¹
15. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been a Virginia corporation.
16. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been a “person” as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 9 VAC § 25-580-10.
17. At all times relevant to the alleged violations in this Consent Agreement and Final Order, Respondent has been the “owner” and/or “operator” as those terms are defined by Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 9 VAC § 25-580-10, of 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, at Respondent’s facility located at 12842 Berlin Pike, Lovettsville, VA (“the Facility”).
18. On September 25, 2019, under the authority of Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), an EPA inspector conducted an inspection at the Facility.
19. At the time of the September 25, 2019 inspection, and at all times relevant to the applicable violations alleged herein, four (4) USTs, as described below, each of which contained 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, were located at the Facility:

¹ Effective May 3, 2021, EPA approved revisions to the Commonwealth of Virginia’s Underground Storage Tank (UST) program. Since the alleged violations of this Consent Agreement and Final Order occurred prior to May 3, 2021, these newly approved revisions do not apply to this Agreement.

- a. One 8,000-gallon tank, installed in 1990, composed of cathodically protected steel tank that routinely contained gasoline, (hereinafter “UST 1”);
 - b. One 8,000-gallon tank, installed in 1990, composed of cathodically protected steel tank that routinely contained gasoline and which is manifolded to UST 1 (hereinafter “UST 2”);
 - c. One 8,000-gallon tank, installed in 1990, composed of cathodically protected steel tank that routinely contained gasoline (hereinafter “UST 3”); and
 - d. One 8,000-gallon tank, installed in 2002, composed of Act100-U epoxy coated steel tank that routinely contained diesel (hereinafter “UST 4”)
20. At all times relevant to the alleged violations in this Consent Agreement and Final Order, USTs 1 through 4 were new tank systems, as defined in 9 VAC 25-580-10, which states that a “new tank system” means a tank system used to contain an accumulation of regulated substances or for which installation has commenced after December 22, 1988.”
 21. USTs 1 through 4 utilized fiberglass-reinforced plastic piping that routinely contained regulated substances conveyed using a pressurized pumping system.
 22. USTs 1 through 4 used a Veeder Root TLS-300 automatic tank gauging monitoring system (“ATG system”) to detect leaks.
 23. At all times relevant to the alleged violations in this Consent Agreement and Final Order, USTs 1 through 4 and the respective underground piping associated with each UST, was a “petroleum UST system” and “new UST system” as these terms are defined in 9 VAC § 25-580-10.
 24. On August 10, 2021, the parties executed a Tolling Agreement to stay the tolling of the statute of limitation for the period from February 1, 2016 through January 30, 2020 (the “Tolling Period”) without altering the claims or defenses available to the parties through January 30, 2022. On November 23, 2021, the parties extended the Tolling Period of such claims and defenses until June 30, 2022, which was further extended to December 30, 2022 by agreement on June 2, 2022.

COUNT 1

Failure to test cathodic protection system on USTs Nos. 1, 2, and 3

25. Paragraphs 1 through 24 of this Consent Agreement are incorporated by reference as if fully set forth herein.

26. 9 VAC § 25-580-90.2.a. provides that all UST systems equipped with cathodic protection systems must be tested for proper operation within 6 months of installation and at least 3 years thereafter by a qualified cathodic protection tester.
27. USTs Nos. 1 through 3 are and were, at the time of the violations alleged herein, “metal [steel] UST systems with corrosion protection” and were used to store regulated substances within the meaning of 9 VAC § 25-580-90.
28. Respondent performed cathodic protection system testing for USTs 1 through 3 on December 6, 2015.
29. From at least December 7, 2018 until January 26, 2020, Respondent failed to conduct a test of the cathodic protection system as required by 9 VAC § 25-580-90.2.a. for the USTs Nos. 1 through 3 at the Facility.
30. Respondent’s failure to conduct a test of the cathodic protection system from at least December 7, 2018 until January 26, 2020, as alleged in Paragraph 29, above, constitutes violations by Respondent of 9 VAC § 25-580-90.2.a.
31. In failing to comply with 9 VAC § 25-580-90.2.a., Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

COUNT 2

**Failure to perform annual functionality testing of the
automatic line leak detectors on
USTs Nos. 1, 3 and 4**

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference.
33. 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.
34. 9 VAC § 25-580-140.2.a. provides, in pertinent part, that underground piping that conveys regulated substances under pressure must :
 - (1) Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170; and
 - (2) Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170.

35. 9 VAC § 25-580-170.1. provides, in pertinent part, that methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substance through piping or triggering an audible alarm or visual alarm may be used only if they detect leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.
36. Respondent conducted a test of the automatic line leak detectors for the piping associated with USTs Nos. 1, 3 and 4 only on November 15, 2015, and September 30, 2019.
37. From November 15, 2016, until September 29, 2019, the piping for USTs Nos. 1, 3 and 4 was underground and routinely conveyed regulated substances under pressure.
38. Respondent failed to perform an annual test of the automatic line leak detectors for the underground piping for USTs Nos. 1, 3 and 4 from November 15, 2016, until September 29, 2019, in accordance with 9 VAC § 25-580-140.2.a.(1) and 9 VAC § 25-580-170.1.
39. From at least September 25, 2019 to November 3, 2021, the automatic leak detector for the piping associated with UST No. 1 was not properly positioned to alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substance through a portion of the piping or triggering an audible alarm or visual alarm upon detection of leaks of three gallons per hour at 10 pounds per square inch line pressure within one hour in accordance with 9 VAC § 25-580-140.2.a.(1) and 9 VAC § 25-580-170.1. Respondent has since corrected this condition.
40. Respondent's acts and/or omissions as alleged in Paragraphs 38 and 39, above, constitute violations by Respondent of 9 VAC § 25-580-140.2.a.(1) and 9 VAC § 25-580-170.1.
41. In failing to comply with 9 VAC § 25-580-140.2.a.(1) and 9 VAC § 25-580-170.1, Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

COUNT 3

Failure to perform line tightness testing or monthly monitoring on piping for USTs Nos. 1, 3 and 4

42. The allegations of Paragraphs 1 through 41 of this Consent Agreement are incorporated herein by reference.
43. 9 VAC § 25-580-140.2.a. provides, in pertinent part, that underground piping that conveys regulated substances under pressure shall:

- (1) Be equipped with an automatic line leak detector conducted in accordance with subdivision 1 of 9 VAC § 25-580-170; and
 - (2) Have an annual line tightness test conducted in accordance with subdivision 2 of 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170.
44. Respondent conducted a testing of the piping associated with USTs Nos. 1, 3 and 4 only on November 15, 2015, and September 30, 2019.
 45. From November 15, 2016 until September 29, 2019, the piping for USTs Nos. 1, 3 and 4 was underground and routinely conveyed regulated substances under pressure.
 46. Respondent failed to perform annual line tightness testing in accordance with subdivision 2 of 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170 for the underground piping associated with USTs Nos. 1, 3 and 4 from November 15, 2016, until September 29, 2019.
 47. Respondent's failure to perform annual line tightness testing in accordance with subdivision 2 of 9 VAC § 25-580-170, or to have monthly monitoring conducted in accordance with subdivision 3 of 9 VAC § 25-580-170 for the underground piping associated with USTs Nos. 1, 3 and 4 from November 15, 2016, until September 29, 2019, as alleged in Paragraph 46, above, constitute violations by Respondent of 9 VAC § 25-580-140.2.a.(2).
 48. In failing to comply with 9 VAC § 25-580-140.2.a.(2), Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

COUNT 4

Failure to Provide Financial Assurance

49. The allegations in Paragraphs 1 through 48 of this Consent Agreement, above, are incorporated herein by reference.
50. 9 VAC § 25-590-40 provides, in pertinent part, that owners and operators of petroleum UST systems are required, with exceptions not relevant hereto, to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
51. Subject to the limitations set forth in 9 VAC § 25-590-40.A. and B., an owner or operator may demonstrate financial responsibility using any of the mechanisms set forth in 9 VAC § 25-590-60 through 9 VAC § 25-590-110.

52. From at least September 1, 2016, until September 30, 2019, Respondent's USTs were not exempt UST systems and Respondent did not demonstrate financial responsibility for USTs Nos. 1 through 4 for such period of time by any of the methods set forth in 9 VAC § 25-590-60 through 9 VAC § 25-590-110.
53. Respondent's failure to demonstrate financial responsibility for its USTs Nos. 1 through 4 from at least September 1, 2016, until September 30, 2019, as alleged in Paragraph 52, above, constitutes a violation by Respondent of 9 VAC § 25-590-40.
54. In failing to comply with 9 VAC § 25-590-40, Respondent is subject to the assessment of penalties under Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d).

COMPLIANCE ORDER

Pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e, Respondent is hereby ordered, and Respondent agrees, to:

55. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, conduct a test of the line leak detector for USTs Nos. 1, 3, and 4, and thereafter remain in compliance with line leak detector testing requirements of 9 VAC § 25-580-170.
56. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, conduct a line tightness testing in accordance with subdivision 2 of 9 VAC § 25-580-170 or have monthly monitoring conducted in accordance with 3 of 9 VAC § 25-580-170 for USTs Nos. 1, 3 and 4, and, thereafter, remain in compliance with line leak detection requirements of 9 VAC § 25-580-140.2.a.(2).

CIVIL PENALTY

57. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **Sixty Thousand Dollars (\$60,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.
58. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the Resource Conservation and Recovery Act ("RCRA"), Section 9006(c) and (e), 42 U.S.C. § 6991e(c) and (e), which include the seriousness of the violation, any good faith efforts to comply with the applicable requirements, the compliance history of the owner or operator and any other factors considered appropriate. In developing a proposed penalty for the violations alleged in this Consent Agreement, EPA took into account the particular facts and circumstances of this case with specific reference to EPA's November 1990 U.S. E.P.A. Penalty

Guidance for Violations of UST Regulations (“UST Penalty Policy”), the 2018 Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations (“Enforcement Penalty Policy”) (collectively the “UST Penalty Policies) the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.

- 59. The civil penalty is also based upon an analysis of Respondent’s ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent (Respondent’s U.S. Income Tax Return Forms 1120S from 2017 through 2021 and Respondent’s Financial Statement Ability to Pay Claim Form). Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 57, above, in settlement of the above-captioned action.
- 60. Complainant has relied upon the financial information provided by Respondent as identified in the preceding paragraph and, based on the information provided by Respondent, it is Complainant’s conclusion that the Respondent has established that it is unable to pay the full amount of the civil penalty identified and set forth in Paragraph 57, above, within thirty (30) days of the effective date of this Consent Agreement and that a payment plan of the nature and duration set forth below is necessary and appropriate.
- 61. Pursuant to the provisions of this Consent Agreement, Respondent will remit a total civil penalty (principal) of **Sixty Thousand Dollars** and interest (calculated at the rate of 1% per annum on the outstanding principal balance) in the amount of Six Hundred Dollars, in accordance with the installment payment schedule set forth in the chart, immediately below:

Payment No.	Principal Amount	Interest	Date Payment Due (From Effective Date of Consent Agreement)	Payment Amount Due
1	\$ 20,000.00	\$ -	<i>Within 30 Days</i>	\$ 20,000.00
2	\$ 20,000.00	\$ 400.00	<i>Within 365 Days</i>	\$ 20,400.00
3	\$ 20,000.00	\$ 200.00	<i>Within 730 Days</i>	\$ 20,200.00

- 62. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the installment payment schedule set forth in Paragraph 61, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, applicable interest, administrative handling charges and late payment penalty

charges as described in Paragraphs 65 through 69, below, in the event of any such failure or default.

63. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

64. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket Number RCRA-03-2023-0024;
- b. All checks shall be made payable to the "United States Treasury";
- c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

- d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Lou Ramalho.
Sr. Assistant Regional Counsel
ramalho.louis@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov

65. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest 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. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

66. Payment of the civil penalty is due and payable in accordance with the above terms and provisions upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
67. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties 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).
68. ADMINISTRATIVE COSTS: The costs of the EPA'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). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also 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.
69. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
70. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
71. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of the compliance tasks set forth in this Consent Agreement is restitution or required to come into compliance with the law.
72. The parties consent to service of the Final Order by e-mail at the following valid e-mail address: Ramalho.Louis@epa.gov (for Complainant), and cmartin@williamsmullen.com (for Respondent).

GENERAL SETTLEMENT CONDITIONS

73. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
74. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter, including information on ability to pay, was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

OTHER APPLICABLE LAWS

75. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Resource Conservation and Recovery Act ("RCRA"), Subtitle I, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

76. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including 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. 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, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under RCRA, Subtitle I, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

77. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

78. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

79. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Wheeler and Wheeler, Inc.

Date: 12-6-22

By: 
Ashley Wheeler, President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: _____

By: _____

Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: _____

Louis Ramalho
Sr. Assistant Regional Counsel
U.S. EPA – Region III

NOW, THEREFORE, PURSUANT TO Section 9006(d) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6991e(d), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SIXTY THOUSAND Dollars (\$60,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order 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 the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of RCRA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

Louis F. Ramalho
Senior Assistant Regional Counsel
U.S. EPA, Region III
Ramalho.Louis@epa.gov

Caitlin Stormont
RCRA Branch, Enforcement and Compliance Assurance Division
U.S. EPA, Region III
stormont.catlin@epa.gov

[Digital Signature and Date]

Bevin Esposito
Regional Hearing Clerk
U.S. EPA, Region III