

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**



In the Matter of: :
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:
R.M. Roach & Sons, Inc. : **U.S. EPA Docket No. RCRA-03-2024-0015**
333 E John St :
:
Martinsburg, WV 25401 : **Proceeding under Section 9006 of the Resource**
: **Conservation and Recovery Act, 42 U.S.C.**
Respondent. : **Section 6991e**
:
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Mountaineer Mart ROCS 634 :
:
39 Kelly Island Road :
:
Martinsburg, WV 25401 :
:
and :
:
:
South End ROCS 622 :
:
1004 Winchester Avenue :
:
Martinsburg, WV 25401 :
:
Facilities. :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and R.M. Roach & Sons, Inc. (“Respondent”) (collectively the “Parties”), pursuant to Section 9006 of the Resource Conservation and Recovery Act, 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 of Practice”), 40 C.F.R. Part 22. Section 9006 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e, authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m (“RCRA” or the “Act”), for the violations alleged herein.

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 West Virginia Department of Environmental Protection (“WVDEP”) 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.

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. West Virginia is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Act, 42 U.S.C. §§ 6991-6991m. The program, as administered by WVDEP, was approved by EPA, pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the West Virginia underground storage tank (“UST”) program, set forth in the West Virginia Administrative Code of State Rules (“W. Va. Code R.”), Title 33, Series 30, “Underground Storage Tanks,” on

September 23, 1997, and approval of the West Virginia UST program became effective on February 10, 1998. A subsequent UST program revision application was approved by EPA on September 11, 2020 and became effective on November 10, 2020.

14. The federally approved West Virginia UST program is enforceable by EPA pursuant to Section 9006(a) of RCRA, 42 U.S.C. § 6991e(a).
15. Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d), authorizes the assessment of civil penalties against any owner or operator of an 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.
16. The West Virginia UST program regulates USTs used to contain “regulated substances,” as that term is defined in Section 9001(7) of RCRA, 42 U.S.C. § 6991(7), and 40 C.F.R. § 280.12, which W. Va. Code R. § 33-30-2 incorporates by reference.
17. At all times relevant to this Consent Agreement, Respondent is, and has been, a “person,” as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and 40 C.F.R. § 280.12, which W. Va. Code R. § 33-30-2 incorporates by reference.
18. At all times relevant to this Consent Agreement, Respondent is, and has been, the “operator” and/or “owner” of “USTs,” as those terms are defined by Section 9001(3), (4), and (10) of RCRA, 42 U.S.C. § 6991(3),(4), and (10), and 40 C.F.R. § 280.12, which W. Va. Code R. § 33-30-2 incorporates by reference, at Respondent’s UST facilities located at 39 Kelly Island Road, Martinsburg, WV 25401 (the “Mountaineer Facility”) and at 1004 Winchester Avenue, Martinsburg, WV 25401 (the “South End Facility”) (collectively, the “Facilities”).
19. At all times relevant to this Consent Agreement, there are, and there have been, the following three USTs at the Mountaineer Facility, each of which contains a regulated substance.
 - a. An 8,000-gallon tank that contains premium gasoline and was installed in or about March 1998 (“M-Tank 1”). M-Tank 1 is a double-walled ACT-100 tank equipped with pressurized double-walled flex piping. M-Tank 1 uses a Veeder-Root TLS-450 automatic tank gauging (“ATG”) monitoring system to perform 0.20 gallon per hour tightness testing.
 - b. A 12,000-gallon tank that contains regular gasoline and was installed in or about March 1998 (“M-Tank 2”). M-Tank 2 is a double-walled ACT-100 tank equipped with pressurized double-walled flex piping. M-Tank 2 uses a Veeder-Root TLS-450 ATG monitoring system to perform 0.20 gallon per hour tightness testing.
 - c. A 12,000-gallon tank that is compartmentalized into an 8,000-gallon tank for on-road ultra-low sulfur diesel (“M-Tank 3a”) and a 4,000-gallon tank for off-road diesel (“M-Tank 3b”) and was installed in or about March 1998. M-Tanks 3a and

3b are double-walled ACT-100 tanks equipped with pressurized double-walled flex piping. M-Tanks 3a and 3b use a Veeder-Root TLS-450 ATG monitoring system to perform 0.2 gallon per hour tightness testing.

20. At all times relevant to this Consent Agreement, there are, and there have been, the following two USTs at the South End Facility, each of which contains a regulated substance.
 - a. A 10,000-gallon tank that contains regular gasoline and was installed in or about May 1994 (“SE-Tank 1”). SE-Tank 1 is constructed of double-walled fiberglass-reinforced plastic and equipped with pressurized double-walled fiberglass-reinforced plastic piping. SE-Tank 1 uses a Veeder-Root TLS-350 ATG monitoring system to perform 0.20 gallon per hour tightness testing.
 - b. A 10,000-gallon tank that contains premium gasoline and was installed in or about May 1994 (“SE-Tank 2”). SE-Tank 2 is constructed of double-walled fiberglass-reinforced plastic and equipped with pressurized double-walled fiberglass-reinforced plastic piping. SE-Tank 2 uses a Veeder-Root TLS-350 ATG monitoring system to perform 0.20 gallon per hour tightness testing.
21. On June 13, 2022, EPA conducted an inspection of the South End Facility (the “South End Inspection”), and on June 14, 2022, EPA conducted an inspection of the Mountaineer Facility (the “Mountaineer Inspection”) (collectively, the “Inspections”) to determine Respondent’s compliance with RCRA Subtitle I and W. Va. Code R. EPA received responses and documentation from Respondent on June 9, 2022, and August 26, 2022.

Count I

Failure to Report a Suspected Release by M-Tank 1 to WVDEP Within 24 Hours

22. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
23. Section 280.50(c) of Title 40 of the C.F.R., which W. Va. Code R. § 33-30-2 incorporates by reference, requires owners and operators of USTs to “report to the implementing agency within 24 hours...and follow the procedures in [40 C.F.R.] § 280.52” when “monitoring results, including investigation of an alarm, from a release detection method required under [40 C.F.R.] §§ 280.41 and 280.42...indicate a release may have occurred” with exceptions not applicable here. Under W. Va. Code R. § 33-30-2.1.a, “implementing agency” refers to WVDEP.
24. Release detection methods required under 40 C.F.R. § 280.41 must use one of the methods listed in § 280.43(d) through (i), with exceptions that do not apply here. Under 40 C.F.R. § 280.43(d), one of the listed methods is ATG monitoring systems. The Facilities’ ATG systems meet the qualifications specified in 40 C.F.R. § 280.43(d).

25. At the time of the Mountaineer Inspection, EPA inspectors discovered that M-Tank 1's Veeder-Root TLS-450 ATG system had an active "Periodic Test Fail" alarm presenting on the system's display. Tapes from the Veeder-Root, acquired at the Mountaineer Inspection, showed that the alarm had been active since at least June 6, 2022.
26. On August 26, 2022, in correspondence following the Inspections, Respondent sent EPA documentation that WVDEP was notified of M-Tank 1's "Periodic Test Fail" alarm going off on June 23, 2022, which was seventeen days after the first known incidence of the alarm according to the Veeder-Root tapes.
27. From at least June 7, 2022, to June 23, 2022, Respondent failed to report to WVDEP within 24 hours, or another reasonable period specified by WVDEP, that an alarm on M-Tank 1's Veeder-Root TLS-450 ATG system indicated a release may have occurred.
28. From at least June 7, 2022, to June 23, 2022, Respondent violated 40 C.F.R. § 280.50(c), which W. Va. Code R. § 33-30-2 incorporates by reference, by failing to report to WVDEP within 24 hours, or another reasonable period specified by WVDEP, that an alarm on M-Tank 1's Veeder-Root TLS-450 ATG system indicated a release may have occurred.
29. In failing to comply with 40 C.F.R. § 280.50(c), which W. Va. Code R. § 33-30-2 incorporates by reference, Respondent is subject to the assessment of penalties under 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

Count II

Failure to Immediately Investigate and Confirm a Suspected Release Within 7 days

30. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
31. Section 280.52 of Title 40 of the C.F.R., which W. Va. Code R. § 33-30-2 incorporates by reference, requires owners and operators of USTs to "immediately investigate and confirm all suspected releases of regulated substances requiring reporting under [40 C.F.R.] § 280.50 within 7 days" using steps specified in § 280.52 or another procedure approved by the implementing agency unless corrective action has already been initiated in accordance with 40 C.F.R. Part 280, Subpart F. Under W. Va. Code R. § 33-30-2.1.a, "implementing agency" refers to WVDEP.
32. At the time of the Mountaineer Inspection, EPA inspectors discovered that M-Tank 1's Veeder-Root TLS-450 ATG system had an active "Periodic Test Fail" alarm presenting on the system's display. Tapes from the Veeder-Root, acquired at the Mountaineer Inspection, showed that the alarm had been active since at least June 6, 2022.
33. On August 26, 2022, in correspondence following the Inspections, Respondent sent EPA documentation of a request by Respondent to its contractor on June 14, 2022, for investigation of M-Tank 1's "Periodic Test Fail" alarm going off. The exchange between

Respondent and its contractor further showed that the investigation was not resolved until June 22, 2022, or sixteen days after the first known incidence of the alarm according to the Veeder-Root tapes.

34. From at least June 14, 2022, to June 22, 2022, Respondent failed to immediately investigate and confirm an alarm on M-Tank 1's Veeder-Root TLS-450 ATG system for a suspected release of a regulated substance within 7 days, or another reasonable time period specified by WVDEP.
35. From at least June 14, 2022, to June 22, 2022, Respondent violated 40 C.F.R. § 280.52, which W. Va. Code R. § 33-30-2 incorporates by reference, by failing to immediately investigate and confirm a suspected release of a regulated substance within 7 days, or another reasonable time period specified by WVDEP.
36. In failing to comply with 40 C.F.R. § 280.52, which W. Va. Code R. § 33-30-2 incorporates by reference, Respondent is subject to the assessment of penalties under 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

Count III
Failure to Use Adequate Spill Prevention Equipment for SE-Tank 1
and SE-Tank 2

37. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
38. Section 280.20(c)(1)(i) of Title 40 of the C.F.R., which W. Va. Code R. § 33-30-2 incorporates by reference, requires owners and operators of USTs to use spill prevention equipment "to prevent spilling...associated with product transfer to the UST" including "[s]pill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin)."
39. At the South End Inspection, EPA inspectors observed SE-Tank 1 and SE-Tank 2 equipped with spill prevention equipment (i.e., spill buckets).
40. On June 7, 2022, prior to the Inspections, EPA asked Respondent to provide documentation of any spill bucket tightness testing conducted within the last year at the South End Facility. On June 9, 2022, Respondent provided documentation showing that SE-Tank 1 and SE-Tank 2 failed spill bucket tightness testing on August 5, 2020, and documentation showing that SE-Tank 1 passed spill bucket tightness testing on February 24, 2021, and SE-Tank 2 passed spill bucket tightness testing on March 5, 2021.
41. Based on the documentation provided, it took Respondent about seven months to repair and/or replace the spill buckets for SE-Tank 1 and SE-Tank 2.

42. From at least August 5, 2020, to February 24, 2021, Respondent failed to use spill prevention equipment for SE-Tank 1 that would prevent release of product to the environment.
43. From at least August 5, 2020, to February 24, 2021, Respondent violated 40 C.F.R. § 280.20(c)(1)(i), which W. Va. Code R. § 33-30-2 incorporates by reference, by failing to use spill prevention equipment for SE-Tank 1 that would prevent release of product to the environment.
44. From at least August 5, 2020, to March 5, 2021, Respondent failed to use spill prevention equipment for SE-Tank 2 that would prevent release of product to the environment.
45. From at least August 5, 2020, to March 5, 2021, Respondent violated 40 C.F.R. § 280.20(c)(1)(i), which W. Va. Code R. § 33-30-2 incorporates by reference, by failing to use spill prevention equipment SE-Tank 2 that would prevent release of product to the environment.
46. In failing to comply with 40 C.F.R. § 280.20(c)(1)(i), which W. Va. Code R. § 33-30-2 incorporates by reference, Respondent is subject to the assessment of penalties under 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2).

CIVIL PENALTY

47. 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 TEN THOUSAND, FOUR HUNDRED NINETY NINE dollars (\$10,499), which Respondent shall be liable to pay in accordance with the terms set forth below.
48. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e), including, the following: the seriousness of the violation, any good faith efforts to comply with the applicable requirements, and any other factors considered appropriate, including Respondent's agreement to settle in order to resolve disputed facts and legal conclusions. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October 5, 2018, *Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot* and November 1990 *U.S. EPA Penalty Guidance for Violations of UST Regulations* which reflect the statutory penalty criteria and factors set forth at Section 9006(c) and (e) of RCRA, 42 U.S.C. § 6991e(c) and (e); 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.
49. 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.*, RCRA-03-2024-0015;
- 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 979078
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:

Promy Tabassum
Assistant Regional Counsel
tabassum.promy@epa.gov

and

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

- 50. 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.
- 51. Payment of the civil penalty is due and payable immediately 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).

52. **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).
53. **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.
54. **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).
55. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
56. **The Parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: tabassum.promv@epa.gov (for Complainant), and gkennedy@rmroach.com (for Respondent).**

GENERAL SETTLEMENT CONDITIONS

57. 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.
58. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter 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.

CERTIFICATION OF COMPLIANCE

59. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

60. 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 RCRA Subtitle I, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

61. 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

62. 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

63. 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 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

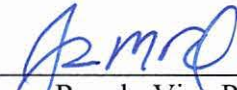
64. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed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

In the Matter of: R.M. Roach & Sons, Inc.

EPA Docket No. RCRA-03-2024-0015

For Respondent: R.M. ROACH & SONS, INC.

Date: 10/5/23

By: 
Jason Roach, Vice President
R.M. Roach & Sons, Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & 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 designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Promy Tabassum
Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103



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Respondent. : Section 6991e
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FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, R.M. Roach & Sons, Inc., 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 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October 5, 2018, *Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank (UST) Regulations and Revised Field Citation Program and ESA Pilot* and November 1990 *U.S. EPA Penalty Guidance for Violations of UST Regulations*; the statutory factors set forth in Section 9006(c) and (e) of the Resource Conservation and Recovery Act (“RCRA” or the “Act”), 42 U.S.C. § 6991e(c) and (e); 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.

NOW, THEREFORE, PURSUANT TO Section 9006(d) of 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 **TEN THOUSAND, FOUR**

HUNDRED NINETY-NINE DOLLARS (\$10,499.00), 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 Subtitle I 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.

By: _____
[Digital Signature and Date]
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA – Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**

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1004 Winchester Avenue	:
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	:
	:
Facilities.	:

CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Nathan Cosner, Director of Operations
R.M. Roach & Sons, Inc.
333 E John St
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