BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	DOCKET NO. CWA-10-2024-0048
VENOIL, LLC	**CONSENT AGREEMENT**
Anacortes, Washington	
Respondent.	Proceedings Under Section 311(b)(6) of the Clean Water Act, 33 U.S.C. § 1321(b)(6)

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 311(b)(6) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(6).

1.2. Pursuant to CWA Section 311(b)(6)(A), EPA is authorized to assess a civil penalty against any owner, operator, or person in charge of an onshore facility from which oil or a hazardous substance is discharged in violation of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3), and/or who fails or refuses to comply with any regulation issued under CWA Section 311(j), 33 U.S.C. § 1321(j).

1.3. CWA Section 311(b)(6)(B), 33 U.S.C. § 1321(b)(6)(B), authorizes the administrative assessment of Class II civil penalties in an amount not to exceed $10,000 per day for each day during which the violation continues, up to a maximum penalty of $125,000. Pursuant to the 2015 amendments to the Federal Civil Penalty Inflation Adjustment Act, 28 U.S.C. § 2461, and 40 C.F.R. Part 19, the administrative assessment of Class II civil penalties may not exceed $23,048 per day for each day during which the violation continues, up to a maximum penalty of $288,080. *See also* 87 Fed. Reg. 89,309 (December 27, 2023) (Civil Monetary Penalty Inflation Adjustment Rule).

1.4. Pursuant to CWA Section 311(b)(6)(A) and (b)(6)(B), 33 U.S.C. § 1321(b)(6)(A)

and (B), and in accordance with Section 22.18 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA issues, and Venoil, LLC ("Respondent") agrees to issuance of, the Final Order attached to this Consent Agreement.

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Administrator has delegated the authority to sign consent agreements between EPA and the party against whom a penalty is proposed to be assessed pursuant to CWA Section 311(b)(6), 33 U.S.C. § 1321(b)(6), to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA Region 10 ("Complainant").

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of the CWA together with the specific provisions of the CWA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

Statutory and Regulatory Framework

3.1. The objective of the CWA is "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a).

3.2. CWA Section 311(j), 33 U.S.C. § 1321(j), provides for the regulation of onshore facilities to prevent or contain discharges of oil. CWA Section 311(j)(l)(C), 33 U.S.C. § 1321(j)(l)(C), provides that the President shall issue regulations "establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil ... from onshore facilities ... and to contain such discharges . . .."

3.3. Initially by Executive Order 11548 (July 20, 1970), 35 Fed. Reg. 11677

(July 22, 1970), and most recently by Section 2(b)(l) of Executive Order 12777 (October 18, 1991), 56 Fed. Reg. 54757 (October 22, 1991), the President delegated to EPA his Section 311(j)(1)(C) authority to issue the regulations referenced in the preceding Paragraph for non-transportation related onshore facilities.

3.4. Pursuant to these delegated statutory authorities and pursuant to its authorities under the CWA, 33 U.S.C. § 1251 *et seq.*, to implement Section 31l(j) the EPA promulgated the Oil Pollution Prevention regulations in 40 C.F.R. Part 112, which set forth procedures, methods and equipment and other requirements to prevent the discharge of oil from non-transportation-related onshore facilities into or upon the navigable waters of the United States or adjoining shorelines, including requirements for preparation and implementation of a Spill Prevention Control and Countermeasure (SPCC) Plan.

3.5. The requirements of 40 C.F.R. Part 112 apply to owners and operators of non-transportation-related onshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products, which due to their location, could reasonably be expected to discharge oil in quantities that may be harmful into or upon the navigable waters of the United States or adjoining shorelines. 40 C.F.R. § 112.1.

3.6. The regulations define "onshore facility" to mean facility of any kind located in, on, or under, any land within the United States other than submerged lands. 40 C.F.R. § 112.2.

3.7. In the case of an onshore facility, the regulations define "owner or operator" to include any person owning or operating such onshore facility. 40 C.F.R. § 112.2.

3.8. The regulations define "person" to include any individual, firm, corporation, association, or partnership. 40 C.F.R. § 112.2.

3.9. "Non-transportation-related," as applied to an on-shore facility is defined to include oil storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage

systems used in the storage of oil, but excluding inline or breakout storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel. 40 C.F.R § 112 App. A.

3.10. The regulations define "oil" to mean oil of any kind or in any form, including, but not limited to, vegetable oils, petroleum, fuel oil, sludge, synthetic oils, oil refuse, and oil mixed with wastes other than dredged spoil. 40 C.F.R. § 112.2.

3.11. CWA § 502(7) defines "navigable waters" as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7).

3.12. Owners or operators of onshore facilities that have an aboveground storage capacity of more than 1,320 gallons of oil, and due to their location could reasonably be expected to discharge oil in harmful quantities into or upon the navigable waters of the United States or adjoining shorelines, must prepare an SPCC Plan in writing, certified by a licensed Professional Engineer, and in accordance with the requirements of 40 C.F.R. § 112.7. 40 C.F.R § 112.3.

General Allegations

3.13. Respondent is a limited liability company conducting business in the state of Washington, and a "person" under CWA Sections 311(a)(7), 33 U.S.C. § 1321(a)(7), and 40 C.F.R. § 112.2.

3.14. At all times relevant to this Consent Agreement, Respondent was the "owner or operator," within the meaning of 40 C.F.R. § 112.2 and Section 311(a)(6) of the CWA, 33 U.S.C. § 1321(a)(6), of a bulk used oil storage, transfer, and processing facility located at 9390 South March Point Road in Anacortes, Washington ("Facility").

3.15. The Facility is an "onshore facility" within the meaning of CWA Section 311(a)(10), 33 U.S.C. § 1321(a)(10), and 40 C.F.R. § 112.2.

3.16. The Facility is "non-transportation-related" within the meaning of 40 C.F.R.

§ 112.2.

3.17. On July 12, 2022, an authorized EPA representative inspected the Facility to determine compliance with Section 311(j) of the CWA and the requirements of 40 C.F.R. Part 112 ("Inspection").

3.18. At the time of the Inspection, Respondent was engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, using or consuming oil or oil products as described in 40 C.F.R. § 112.1(b).

3.19. At the time of the Inspection, the Facility had an aggregate, above-ground storage capacity greater than 1,320 gallons of oil in containers, each with a shell capacity of at least 55 gallons.

3.20. A drainage ditch borders the northern boundary of the Facility, which drains into road ditches running east to the Swinomish Channel and Padilla Bay. The Swinomish Channel is tidal and was and is used in interstate and foreign commerce. The Swinomish Channel is also a relatively permanent tributary of Padilla Bay. Padilla Bay is a tidal bay of Puget Sound that is and was used in interstate and foreign commerce. Puget Sound is a large inland estuary that is connected to the Pacific Ocean via the Strait of Juan de Fuca, is tidal, and was and is used in interstate and foreign commerce. The Swinomish Channel, Padilla Bay, and Puget Sound are a water of the United States and a navigable water within the meaning of CWA § 507(7), 33 U.S.C. § 1362(7).

3.21. Accordingly, the Facility is a non-transportation-related, onshore facility that, due to location, could reasonably have been expected, at the time of the Inspection, to discharge oil into or upon the navigable waters of the United States or adjoining shorelines in harmful quantities. The Facility is therefore subject to the regulations at 40 C.F.R. Part 112.

3.22. In accordance with 40 C.F.R. § 112.3, Respondent developed its SPCC Plan relevant to the alleged violations. The first relevant SPCC Plan was dated March 22, 2013

("2013 SPCC Plan") and was in effect until Respondent developed the SPCC Plan, dated April 5, 2022 ("2022 SPCC Plan") (together, "Plans").

Violations

Violation 1 – Failure to Perform Required Integrity Testing and Inspections

3.23. 40 C.F.R. § 112.8(c)(6) requires regular testing and inspection of each aboveground container for integrity on a regular schedule and whenever repairs are made. A bulk storage facility must determine, in accordance with industry standards, the appropriate qualifications for personnel performing tests and inspections, and the frequency and type of testing and inspections, which take into account container size, configuration, and design of the containers. 40 C.F.R. § 112.8(c)(6).

3.24. Section 1.7.2 of the 2022 SPCC Plan asserts that the Facility conforms to the American Petroleum Institute Standard 653 ("API 653"), which provides minimum requirements for maintaining the integrity of storage tanks and addresses inspection and repair. API 653 requires, in part, routine in-service inspections of tanks which, at minimum, must be monthly inspections.

3.25. The 2022 SPCC Plan and its Appendix F checklists provide for the applicable periodic in-service inspections, but at a quarterly and annual rate, which is not consistent with the routine in-service minimum monthly API 653 requirement. The 2022 SPCC Plan does not account for the deviation in frequency of formal integrity and testing inspections by explaining the reasons for the nonconformance and including an evaluation and Professional Engineer (PE)-certified determination that the reduced inspection program provides an environmental equivalency to conformance with the industry standard, violating 40 C.F.R. § 112.7(a)(2).

3.26. The quarterly checklist also does not include any provisions for routine periodic inspection and documentation for mobile and portable containers, in violation of 40 C.F.R. § 112.8(c)(6).

3.27. The 2022 SPCC Plan also does not contain a tank-specific, date-specific schedule for formal integrity and testing inspection, in violation of 40 C.F.R. § 112.8(c)(6).

3.28. At the time of the 2022 Inspection, the Facility did not provide any records of formal integrity testing and inspection, in violation of 40 C.F.R. § 112.8(c)(6).

3.29. 40 C.F.R. § 112.7(e) requires that facilities "[c]onduct inspections and tests required by this part in accordance with written procedures that you or the certifying engineer develop for the facility."

3.30. While Section 1.6.7 of the 2022 SPCC Plan indicates that the Facility has written inspection procedures, Respondent did not provide any at the time of the 2022 inspection beyond the forms and checklists in Appendix F of the 2022 SPCC Plan. The failure to have written inspection procedures is a violation of 40 C.F.R. § 112.7(e). Furthermore, the checklists that the Facility uses do not provide for the periodic inspection of mobile and portable oil storage containers, in violation of 40 C.F.R. § 112.7(e).

3.31. In accordance with 40 C.F.R. § 112.7, if the SPCC Plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, the owner must discuss these items in separate paragraphs, and must explain separately the details of installation and operational start-up.

3.32. At the time of the 2022 Inspection, Respondent was in the process of implementing procedures to empty and clean the tanks to prepare them for formal API 653 inspections. Although the procedures were not yet fully operational, the 2022 SPCC Plan failed to discuss the schedule and/or include any related explanatory narrative on how initial API 653 tank integrity testing and inspections would be accomplished, and what testing and inspection schedule is applicable after initial external/ internal inspections and testing are accomplished, violating 40 C.F.R. § 112.7.

Violation 2: Failure of Professional Engineer to Attest to Specific Procedures

3.33. 40 C.F.R. § 112.3(d) requires a licensed PE to review and certify the SPCC plan. "By means of this certification the Professional Engineer attests" that: (1) "he is familiar with the requirements" of 40 C.F.R. § 112; (2) "he or his agent has visited and examined the facility"; (3) "the Plan has been prepared in accordance with good engineering practice, including consideration of applicable industry standards and the requirements of" 40 C.F.R. § 112; (4) "procedures for *required* inspections and testing have been established"; and (5) "the Plan is adequate for the facility" (emphasis added).

3.34. The PE attestation in the 2022 SPCC Plan does not state that procedures for *required* inspections and testing have been established, in violation of 40 C.F.R. § 112.3(d).

Violation 3: Failure to Amend SPCC Plan

3.35. 40 C.F.R § 112.5(b) requires that facilities "complete a review and evaluation of the SPCC Plan at least once every five years." If, after review and evaluation, technology has been field proven to be more effective prevention and control technology at the time of review and will significantly reduce the likelihood of a discharge, facilities must amend the SPCC Plan within six months to include such technology. 40 C.F.R § 112.5(b). An amendment must be implemented as soon as possible, but not later than six months following the preparation of the amendment. 40 C.F.R § 112.5(b). Facilities must further document completion of the review and evaluation and sign a statement as to whether it will amend the SPCC Plan, either at the beginning or end of the SPCC Plan or in a log or an appendix to the SPCC Plan. The following words will suffice: "I have completed review and evaluation of the SPCC Plan for (name of facility) on (date) and will (will not) amend the Plan as a result."

3.36. The Facility does not have any documentation that it has conducted any five-year reviews of the 2013 SPCC Plan. EPA conducted an inspection in 2018 and subsequently provided Respondent with a list of plan deficiencies which should have resulted in Respondent

updating its SPCC Plan. Respondent's failure to review and evaluate the 2013 SPCC Plan, including following the 2018 EPA inspection is a violation of 40 C.F.R § 112.5(b).

Violation 4 – Failure to Identify Secondary Containment Structures

3.37. 40 C.F.R § 112.7(c) requires facilities to provide appropriate containment and/or diversionary structures or equipment to prevent a discharge as described in § 112.1(b), except as provided in § 112.7(k) for qualified oil-filled operational equipment. The entire containment system, including walls and floor, must be capable of containing oil and must be constructed so that any discharge from a primary containment system, such as a tank, will not escape the containment system before cleanup occurs. 40 C.F.R. § 112.7(c). In determining the method, design, and capacity for general secondary containment, facilities must address the typical failure mode and the most likely quantity of oil that would be discharged. 40 C.F.R. § 112.7(c).

3.38. The 2013 and 2022 SPCC Plans do not expressly describe the general secondary containment features for areas used to store mobile and portable oil containers. This deficiency is a violation of 40 C.F.R. § 112.7(c). The 2013 SPCC Plan also did not describe the secondary containment features for oil-filled manufacturing equipment, piping and related appurtenances, and transfer areas, in violation of 40 C.F.R. § 112.7(c). The 2013 SPCC Plan also did not discuss the typical failure mode and most likely quantity of oil discharged from transfer areas or the use of the west transfer area as an interim storage area for drums and totes, in violation of 40 C.F.R. § 112.7(c).

Violation 5 – Failure to Develop a Plan that Describes Facility's Physical Layout

3.39. 40 C.F.R. § 112.7(a)(3) requires that an SPCC Plan describe the physical layout of the facility, including a facility diagram which must mark the location and contents of each fixed oil storage container and storage area where mobile or portable containers are located. Further, the facility diagram must include "all transfer stations and connecting pipes, including intra-facility gathering lines that are otherwise exempted from the requirements of [40 C.F.R.

Part 112] under § 112.1(d)(11)."

3.40. The 2013 and 2022 SPCC Plans do not contain diagrams of connecting piping, and the 2022 SPCC Plan also does not identify locations for mobile and portable container storage, in violation of 40 C.F.R. § 112.7(a)(3).

Violation 6 – Failure to Develop a Plan that Addresses Disposal Methods

3.41. 40 C.F.R. § 112.7(a)(3)(v) requires an SPCC Plan to address the methods of disposal of recovered materials in accordance with applicable legal requirements.

3.42. Neither the 2013 SPCC Plan nor the 2022 SPCC Plan includes site specific information on disposal methods, in violation of 40 C.F.R. § 112.7(a)(3)(v).

Violation 7 – Failure of the Plans to Meet Requirements for Mobile and Portable Containers

3.43. 40 C.F.R. § 112.7(a)(3)(i) requires an SPCC Plan to identify existing mobile or portable containers and the type of oil and storage capacity for each, or an estimate of the potential number of mobile or portable containers, the types of oil, and anticipated storage capacities.

3.44. While the 2013 and 2022 SPCC Plans describe the likely contents of barrels and identify that drums with oil residues are stored in the east transfer areas, the 2013 and 2022 SPCC Plans do not identify the storage capacities of mobile and portable containers or estimate the total number of mobile and storage containers located at the Facility. Therefore, Respondent failed to meet the requirements of 40 C.F.R. § 112.7(a)(3)(i).

Violation 8 – Failure to Include Required Notification Elements

3.45. 40 C.F.R. § 112.7(a)(4) requires an SPCC Plan to include information and procedures that enable a person reporting a discharge to waters of the United States to relate information on the exact address or location and phone number of the facility; the date and time of the discharge; the type of material discharged; estimates of the total quantity discharged;

estimates of the quantity discharged into waters of the United States; the source of the discharge; a description of all affected media; the cause of the discharge; any damages or injuries caused by the discharge; actions being used to stop, remove, and mitigate the effects of the discharge; whether an evacuation may be needed; and, the names of individuals and/or organizations who have also been contacted.

3.46. The 2022 SPCC Plan, Appendix D, Spill Reporting Form does not include a space for estimates of the total quantity discharged and estimates of the quantity discharged to waters of the United States. By failing to include this information, Respondent violated 40 C.F.R. § 112.7(a)(4).

3.47. Further, 40 C.F.R. § 110.6 requires a person in charge of a facility to, as soon as he or she has knowledge of any discharge of oil, immediately notify the National Response Center.

3.48. The 2022 SPCC Plan, Section 1.4.3, defines "immediately" as, "as soon as a person is available to call the National Response Center without further endangering human life or environment; but in no event no longer than two hours after the release has taken place." Respondent violated 40 C.F.R. § 112.7(a)(4) by incorrectly identifying two hours as the time period during which notification can occur.

3.49. Additionally, the 2022 SPCC Plan, Section 1.4.3, states that "[r]eportable quantities for oil and petroleum products typically found at this facility would be 42 gallons." 40 C.F.R. § 110.6 requires notification for *any* reportable discharge of oil. Reportable discharges include oil discharges that, regardless of volume, cause either: (1) a violation of applicable water quality standards; or (2) a film, sheen upon, or discoloration of the surface of the water or adjoining shorelines; or (3) a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. 40 C.F.R. § 110.3.

Respondent violated 40 C.F.R. § 112.7(a)(4) by incorrectly identifying 42 gallons as the spill quantity that would require notification.

Violation 9 – Failure to Include a Prediction of Discharge Failure Analysis

3.50. 40 C.F.R. § 112.7(b) requires an SPCC Plan to include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each type of equipment failure that has reasonable potential to occur.

3.51. The 2022 SPCC Plan, Section 1.5.2, refers to the Facility's Appendix B facility diagram that shows the locations in the Facility where there is a reasonable potential for equipment failure. The diagram depicts the entire Facility but fails to identify each type of major equipment failure. Additionally, the 2022 SPCC Plan does not contain information required by 40 C.F.R. § 112.7(b) such as direction, rate of flow, and total quantity of oil which could be discharged from each piece of equipment. The 2013 SPCC Plan also failed to include the major equipment failure analysis information required by 40 C.F.R. § 112.7(b). Respondent's failure to include such information in its SPCC Plan is a violation of 40 C.F.R. § 112.7(b).

Violation 10 – Failure to Identify for Prompt Correction of Visible Discharges

3.52. SPCC Plans must discuss how the facility conforms to applicable 40 C.F.R. Part 112 requirements. 40 C.F.R. § 112.7(a)(1). 40 C.F.R. § 112.8(c)(10) requires facilities to promptly correct visible discharges which result in a loss of oil from the container, including but not limited to seams, gaskets, piping, pumps, valves, rivets, and bolts and to promptly remove any accumulations of oil in diked areas.

3.53. Respondent violated 40 C.F.R. § 112.7(a)(1) and 40 C.F.R. § 112.8(c)(10) by failing to include directions in the 2022 SPCC Plan to promptly identify, correct, and remove visible discharges and their related causes.

Violation 11 – Failure to Ensure Sufficient Secondary Containment for Mobile and Portable Containers

3.54. SPCC Plans must discuss how the facility conforms to applicable 40 C.F.R. Part 112 requirements. 40 C.F.R. §§ 112.7(a)(1), (j). 40 C.F.R. § 112.8(c)(11) requires facilities to position or locate mobile or portable oil storage containers to prevent discharge and to furnish a secondary means of containment, such as a dike or catchment basin, sufficient to contain the capacity of the largest single compartment or container with sufficient freeboard to contain precipitation.

3.55. The 2013 and 2022 SPCC Plans do not contain a narrative describing preventative measures to ensure mobile and portable containers are in adequate secondary containment. By failing to ensure that the secondary containment for mobile and portable containers is adequate, the Facility violated 40 C.F.R. §§ 112.7(a)(1), (j) and 40 C.F.R. § 112.8(c)(11).

Violation 12 – Failure to Include Brittle Fracture Evaluation in SPCC Plans

3.56. SPCC Plans must discuss how the facility conforms to applicable 40 C.F.R. Part 112 requirements. 40 C.F.R. §§ 112.7(a)(1), (j). 40 C.F.R. § 112.7(i) requires that if a field-constructed aboveground container undergoes a repair, alteration, reconstruction, or a change in service that might affect the risk of a discharge or failure due to brittle fracture or other catastrophe, the container be evaluated for the risk of discharge due to brittle fracture or other catastrophe, and appropriate action be taken as needed.

3.57. The 2013 and 2022 SPCC Plans failed to address the brittle fraction provision for three tanks (T3, T4, and T5), which were field-erected and constructed at another location and then purchased and transported to the Facility. Respondent violated 40 C.F.R. §§ 112.7(a)(1), (j) and 40 C.F.R. § 112.7(i) by failing to include a brittle fracture provision for Tanks T3, T4, and T5 in the 2013 and 2022 SPCC Plans.

Violation 13 – Failure to Address State Rules and Regulations

3.58. 40 C.F.R. § 112.7(j) requires that SPCC Plans include a discussion of conformance with applicable more stringent State rules, regulations, and guidelines, as well as other effective discharge prevention and containment procedures.

3.59. The 2013 and 2022 SPCC Plans are silent on Washington Department of Ecology's waste oil and applicable hazardous waste regulatory provisions related to the Facility's oil-related activities, which is a violation of 40 C.F.R. § 112.7(j).

Violation 14 – Failure to Use Proper Containers

3.60. 40 C.F.R. § 112.8(c)(1) requires that bulk storage containers' material and construction be compatible with material stored and conditions of storage such as pressure and temperature.

3.61. At the time of the 2022 Inspection, Respondent was storing bulk oil in multiple tanks with significant paint chipping and cracking, metal corrosion, and de-lamination of metal on the sides, which is a violation of 40 C.F.R. § 112.8(c)(1).

IV. TERMS OF SETTLEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by CWA Section 311(b)(8), 33 U.S.C. § 1321(b)(8), EPA has taken into account the seriousness of the alleged violations; Respondent's economic benefit of noncompliance; the degree of culpability involved; any other penalty for the same incident; any history of prior violations; the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge; the economic impact of the penalty on the violator; and any other matters as justice may require. After considering all of these factors, EPA has determined that an appropriate penalty to settle this action is $57,800 ("Assessed Penalty").

4.4. Respondent consents to the assessment of the Assessed Penalty set forth in Paragraph **Error! Reference source not found.** and agrees to pay the total Assessed Penalty within 30 days after the date of the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk ("Filing Date").

4.5. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

4.6. When making a payment, Respondent shall:

4.6.1. Identify every payment with Respondent's name and the docket number of this Agreement, CWA-10-2024-0048.

4.6.2. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of payment electronically to the following person(s):

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
R10_RHC@epa.gov

Rick Cool
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Cool.Richard@epa.gov

and

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

4.7. Interest, Charges, and Penalties on Late Payments. Pursuant to 33 U.S.C. § 1321(b)(6)(H), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts.

4.7.1. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until the unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Interest will be assessed at prevailing rates, per 33 U.S.C. § 1321(b)(6)(H). The rate of interest is the IRS standard underpayment rate.

4.7.2. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.

4.7.3. Late Payment Penalty. A twenty percent (20%) quarterly non-payment penalty.

4.8. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following.

4.8.1. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

4.8.2. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

4.8.3. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

4.8.4. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, pursuant to 33 U.S.C. § 1321(b)(6)(H). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.9. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

4.10. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

4.11. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA

reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with the law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

4.11.1. Respondent shall complete an IRS Form W-9 ("Request for Taxpayer Identification Number and Certification"), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf.

4.11.2. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

4.11.3. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at henderson.jessica@epa.gov within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

4.11.4. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

4.12. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind

Respondent to this document.

4.13. The undersigned representative of Respondent also certifies that, as of the date of Respondent's signature of this Consent Agreement, Respondent has corrected the violation(s) alleged in Part III above.

4.14. Except as described in Subparagraph **Error! Reference source not found.**, above, each party shall bear its own fees and costs in bringing or defending this action.

4.15. For the purposes of this proceeding, Respondent expressly waives any affirmative defenses and the right to contest the allegations contained in the Consent Agreement and to appeal the Final Order.

4.16. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

4.17. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED: FOR RESPONDENT:

_____ _____

SCOTT BRIGGS
Manager
Venoil, LLC

DATED: FOR COMPLAINANT:

_____ _____

EDWARD J. KOWALSKI
Director
Enforcement and Compliance Assurance Division
EPA Region 10