

ADEM



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

POST OFFICE BOX 301463 36130-1463 ♦ 1400 COLISEUM BLVD. 36110-2059

MONTGOMERY, ALABAMA

WWW.ADEM.STATE.AL.US

(334) 271-7700

ONIS "TREY" GLENN, III, P.E.
DIRECTOR

BOB RILEY
GOVERNOR

May 18, 2007

**CERTIFIED MAIL (No. 7005-0390-0000-9282-4328)
RETURN RECEIPT REQUESTED**

Mr. Michael Vo
13982 Highway 98
Foley, AL 36535

RE: ADMINISTRATIVE ORDER NO. 07-112-CGW
Mini Market Food Store
13982 Highway 98, Magnolia Springs, Baldwin County
UST Facility ID: 15569-003-002303



Facsimiles: (334)

Administration: 271-7950
General Counsel: 394-4332
Communication: 394-4383
Air: 279-3044
Land: 279-3050
Water: 279-3051
Groundwater: 270-5631
Field Operations: 272-8131
Laboratory: 277-6718
Mining: 394-4326

Dear Mr. Vo:

Enclosed please find Administrative Order No. 07-112-CGW, which requires you to take certain actions in regard to alleged violations of the Alabama Underground Storage Tank (UST) and Wellhead Protection Act. This Order has been issued with your consent and is final and not appealable.

Please note the issuance date of May 18, 2007. Pursuant to the terms of the Consent Orders, all cited violations should now be corrected. If not, the UST systems should be placed in "temporary closure" until such time the violations are corrected. If you have questions of a technical nature or wish to discuss UST compliance issues, please contact Curt Johnson at (334) 271-7986.

Should you have questions regarding this Consent Order, please feel free to contact me at the ADEM Office of General Counsel in Montgomery at (334) 271-7855.

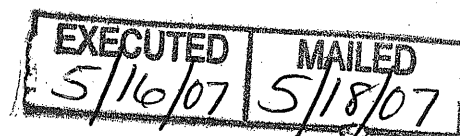
Sincerely,

Thomas L. Johnston
Associate General Counsel

TLJ/vj

Enclosure

cc: James McIndoe, Chief
ADEM Water Division



Birmingham Branch
110 Vulcan Road
Birmingham, Alabama 35209-4702
(205) 942-6188
(205) 941-1603 [Fax]

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, Alabama 35603-1333
(256) 353-1713
(256) 340-9359 [Fax]

Mobile Branch
2204 Perimeter Road
Mobile, Alabama 36615-1131
(251) 450-3400
(251) 479-2593 [Fax]

Mobile - Coastal
4171 Commanders Drive
Mobile, Alabama 36615-1421
(251) 432-6533
(251) 432-6598 [Fax]



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**ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)
)
Michael Vo)
Mini Market Food Store)
UST Facility ID No. 15569-003-002303)
Magnolia Springs, Baldwin County, Alabama)
_____)

CONSENT ORDER

No. 07-112-CGW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("ADEM") and Michael Vo ("the owner") pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 et.seq., Code of Alabama (1975), as amended; the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 et.seq., Code of Alabama (1975), as amended; and the ADEM Administrative Code of Regulations (ADEM Admin. Code R.) promulgated pursuant thereto.

STIPULATIONS

1. Michael Vo is the registered owner of a regulated underground storage tank (UST) facility located at Mini Market Food Store, (address), Magnolia Springs, Baldwin County, Alabama, designated as ADEM Facility I.D. Number 15569-003-002303.
2. ADEM is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 et.seq., Code of Alabama (1975), as amended.
3. Pursuant to § 22-22A-4(n), Code of Alabama (1975), as amended, ADEM is the State Environmental Control Agency for the purposes of federal Environmental Law, including 42 U.S.C. §6991, et. seq., as amended.
4. ADEM is authorized to administer and enforce the provisions of the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 et.seq., Code of Alabama (1975), as amended.

5. Pursuant to ADEM Admin. Code R. 335-6-15-.10, all owners and operators of steel UST systems with corrosion protection must comply with requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

6. Pursuant to ADEM Admin. Code R. 335-6-15-.10(a), all corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

7. Pursuant to ADEM Admin. Code R. 335-6-15-.10(b), all UST systems equipped with cathodic protection must be inspected and tested for proper operation by a qualified cathodic protection tester within 6 months of installation, and at least every 3 years thereafter.

8. Pursuant to ADEM Admin. Code R. 335-6-15-.10(c), UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is operating properly.

9. Pursuant to ADEM Admin. Code R. 335-6-15-.10(d), owners of UST systems using cathodic protection must maintain the following records: (1) The results of the last three inspections required in 335-6-15-.10(c); and (2) The results of testing from the last two inspections required in 335-6-15-.10 (b).

CONTENTIONS

10. Based upon a review of requested records of cathodic protection operation, maintenance, inspection and/or testing, the Department has documented the violations alleged herein.

11. On or about April 2, 2005, tests were performed on the owner's corrosion protection system. Upon review, the Department determined that the tests were improperly performed and/or reported.

12. The owner has failed to properly operate and maintain a method of corrosion protection by not properly testing the corrosion protection system, in violation of ADEM Admin. Code R. 335-6-15-.10.

13. Notice of Deficiency dated May 3, 2005, and a Notice of Violation dated September 23, 2005 were issued by the Department for the above violation.

14. The owner has refused or otherwise failed to respond to ADEM's requests for information, in violation of ADEM Admin. Code R. 335-6-15-.13.

15. The violations cited above are continuing violations, and each day such violation continues constitutes a separate violation pursuant to § 22-22-5(18)(c), Code of Alabama (1975), as amended.

16. The owner neither admits nor denies the allegations contained in this Consent Order. However, in an effort to cooperate with the Department and to resolve the alleged violations, the owner consents to this Consent Order and agrees to abide by the terms herein.

17. The Department agrees to this Consent Order upon a determination that the terms are in the best interests of the citizens of Alabama in resolving the allegations contained herein without the unwarranted expenditure of State resources in further enforcement actions.

ORDER

Whereas the parties desire to resolve and settle the compliance issues cited above, the Department and the owner consent to the terms and conditions of this Consent Order and agree as follows:

A. That, if the violations cited above are corrected on or before the effective date of this Consent Order, the owner shall execute and file with the Department the attached "Certification of Compliance" indicating the upgrade(s) performed on the UST system and the dates such upgrade(s) were completed. The "Certification of Compliance" will be subject to verification, and the Department may proceed with additional enforcement actions and the assessment of civil penalties if the cited violations have not been corrected.

B. That, if the violations cited above have not been corrected as of the effective date of this Consent Order, the owner immediately shall discontinue use of the substandard UST system in accordance with ADEM Admin. Code R. 335-6-15-36 ("Temporary Closure"), provide notification of temporary closure to the Department, and remain temporarily closed until

such time as the violations are corrected pursuant to sub-paragraph (1) below or the UST system is permanently closed:

(1) If the violations cited herein are corrected, the owner may reactivate the system upon executing and filing with the Department the attached "Certification of Compliance." The "Certification of Compliance" will be subject to verification, and the Department may proceed with additional enforcement actions and the assessment of civil penalties if the cited violations are not corrected.

C. That the owner agrees that it shall otherwise comply with all applicable requirements for each UST and shall continuously remain in compliance therewith each and every day thereafter until such time the UST is permanently removed from service pursuant to ADEM Admin. Code R. 335-6-15-.37.

D. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

E. That, subject to the terms contained herein and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations alleged in this Consent Order.

F. That the owner is not relieved from any liability upon the failure to comply with any provision of the Consent Order.

G. That, for purposes of this Consent Order only, the owner agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. The owner also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the owner shall be limited to the defenses of compliance with this Agreement, Force Majeure, and physical impossibility.

H. The Department and the owner agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein. Should additional facts

and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the owner shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order if such actions address new matters not raised in this Consent Order.

I. That this Consent Order shall not affect the owner's obligation to comply with any Federal, State, or local laws or regulations.

J. That, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

K. That any modifications of this Consent Order must be agreed to in writing signed by both parties.

L. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the owner does hereby waive any hearing on the terms and conditions of same.

(Signature)




(Please Print Name and Title of Authorized Officer)

MICHAEL VO

Michael Vo

Dated:

1/5/07



Onis "Trey" Glenn, III, Director
Alabama Department of
Environmental Management

Dated:

5-16-07

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:)

Michael Vo)
Mini Market Food Store)
UST Facility ID No. 15569-003-002303)
Magnolia Springs, Baldwin County, Alabama)

CONSENT ORDER

No. _____

CERTIFICATION OF COMPLIANCE

I certify under penalty of law that the UST violations cited in this Consent Order have been corrected as identified below, and were completed on the dates indicated:



Corrosion Protection System (Test).

Corrosion Protection system has been properly tested and is operating in accordance with ADEM Administrative Code R. 335-6-15-.10. New test results have been submitted to ADEM.

Date Completed: _____



Other.

Date Completed: _____

DATED this _____ day of _____, 2006.

(Signature)

(Please Print Name and Title of Authorized Officer)

Michael Vo