

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management
adem.alabama.gov

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Montgomery, Alabama 36130-1463
(334) 271-7700
FAX (334) 271-7950

BOB RILEY
GOVERNOR

May 1, 2008

CERTIFIED MAIL 7007 0710 0001 6203 4471
RETURN RECEIPT REQUESTED

Mr. Jimmy Brazelton
Cooks Pest Control
P.O. Box 669
Decatur, Alabama 35602

RE: Administrative Order No. 08-145-GW
Cooks Pest Control - Huntsville
335 West Park Loop
Huntsville, Madison County, Alabama
UST Facility ID No. 11238-089-014547

Dear Mr. Brazelton:

Enclosed please find Administrative Order No. 08-145-GW 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.


Please note the issuance date May 1, 2008. Payment of the civil penalty in the amount of **\$4,000 is due on or before June 16, 2008** and should be submitted to the ADEM Office of General Counsel at the above Montgomery address.

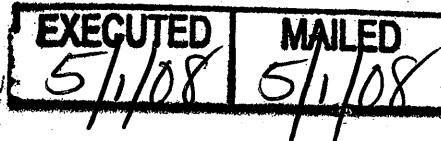
Pursuant to the terms of the consent order, all cited violations should now be corrected. If not, the UST systems should be placed in "temporary closure" until such time the violations are corrected.

This order required you to provide a method of leak detection.

If you have any questions please contact Lee Davis at (334) 271-7759.

Sincerely,


Wm. Gerald Hardy, Chief
Land Division



WGH/SSM/MLD/rh

Enclosure

C: Raymond Love, Decatur Field Office
Heather Byars, Chief, Facilities Unit, Decatur Field Office
Mary-Frank Brown, Associate General Counsel, ADEM
Sonja Massey, Chief, Groundwater Branch, ADEM
Lee Davis, Chief, UST Compliance Unit, ADEM

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (Fax)

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



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

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

**ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)
)

Cooks Pest Control)
Cooks Pest Control Huntsville)
UST Facility ID No. 11238-089-014547)
Huntsville, Madison County, Alabama)

ADMINISTRATIVE ORDER

No. 08-145-GW

PREAMBLE

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 to 22-22A-16, Ala. Code (2006 Rplc. Vol.); the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 to 22-36-10, Ala. Code (2006 Rplc. Vol.); and the ADEM Administrative Code of Regulations (hereinafter "ADEM Admin. Code r.") promulgated pursuant thereto, the Alabama Department of Environmental Management (hereinafter the "Department" or "ADEM") makes the following FINDINGS:

STIPULATIONS

1. Cooks Pest Control is the registered owner of a regulated underground storage tank (hereinafter "UST") facility located at Cooks Pest Control Huntsville, 335 West Park Loop, Huntsville, Madison County, Alabama, designated as ADEM Facility I.D. Number 11238-089-014547.

2. ADEM is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala. Code (2006 Rplc. Vol.).

3. Pursuant to § 22-22A-4(n), Ala. Code (2006 Rplc. Vol.), ADEM is the State Environmental Control Agency for the purposes of federal environmental law, including 42 U.S.C. §§ 6991 to 6991(m), 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 to 22-36-10, Ala. Code (2006 Rplc. Vol.).

5. Based upon an inspection dated November 15, 2007 of the UST facility and/or a review of facility records, the Department has documented the violations alleged herein.

6. Pursuant to ADEM Admin. Code r. 335-6-15-.14, owners of new and existing UST systems must provide a method or combination of methods of release detection.

7. The owner has failed to provide a method of release detection, in violation of ADEM Admin. Code r. 335-6-15-.14.

8. Notice of Delinquency (NOD) dated December 31, 2007, was issued by the Department for the release detection violation.

9. Pursuant to ADEM Admin. Code r. 335-6-15-.13, owners of UST systems must cooperate fully with inspections, monitoring and testing conducted by the Department as well as requests for document submission, submission of engineering or technical data, and testing and monitoring performed by the owner at the request of the Department.

10. The Owner has refused or otherwise failed to fully comply with the NOD dated December 31, 2007 and ADEM's requests for information, in violation of ADEM Admin. Code r. 335-6-15-.13.

CONTENTIONS

Pursuant to § 22-22A-5(18)(c), Ala. Code (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not be less than \$100.00 or exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the

Department shall not exceed \$250,000.00. Each day such violation continues shall be a separate violation.

In arriving at the civil penalty assessed in this matter, the Department has considered the following:

A. Seriousness of the Violation:

The Owner/Operator did not ensure that release detection requirements were fully implemented and/or maintained, thereby undermining preventive measures designed to avoid releases. The violations impede the Department's regulatory authority over USTs for threats to public health, safety and the environment.

B. Standard of Care:

The Owner/Operator did not exhibit a standard of care commensurate with applicable regulatory requirements.

C. Economic Benefit Which Delayed Compliance May Have Conferred:

The Department has been unable to ascertain if there has been a significant economic benefit conferred on the Owner/Operator.

D. Efforts to Minimize or Mitigate the Effects of the Violation Upon the Environment:

There are no known environmental effects as a result of the alleged violations.

E. History of Previous Violations:

The Owner/Operator has a history of previous violations.

F. Ability to Pay:

The Owner/Operator has not alleged an inability to pay the civil penalty.

ORDER

Based on the foregoing FINDINGS and pursuant to §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(12) and 22-22A-5(18), Ala. Code (2006 Rplc. Vol.), it is hereby ORDERED:

A. That, within forty-five days of the effective date of this Administrative Order, the Owner shall pay to the Department a civil penalty in the amount of Four Thousand Dollars for the violations cited herein. Failure to pay the civil penalty within forty-five days of the effective date of this Administrative Order shall constitute cause

for the Department to file a civil action in the Circuit Court of Montgomery County, Alabama. Payment shall be made by Cashier's Check or Money Order, payable to the Alabama Department of Environmental Management, and addressed as follows:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

B. That immediately upon issuance of this Administrative Order, the Owner shall discontinue use of the substandard UST system in accordance with ADEM Admin. Code r. 335-6-15-.33 ("Temporary Closure"), provide notification of temporary closure to the Department, and remain temporarily closed until such time as the violations are corrected pursuant to Paragraph C below or the UST system is permanently closed.

C. That, 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 additional civil penalties if the cited violations are not corrected.

D. That, the Owner 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-.34.

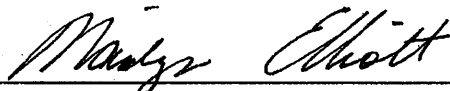
E. That, should any provisions of this Administrative Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law, and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

F. That, except as otherwise set forth herein, this Administrative Order is not and shall not be interpreted to be a permit or modification of a permit under Federal, State or local law, and shall not be construed to waive or relieve the Owner of the obligation to comply in the future with all applicable law.

G. That the issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Owner of the violations cited herein.

H. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Owner for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this the 1st day of May, 2008.

A handwritten signature in cursive script, appearing to read "Onis 'Trey' Glenn, III", written over a horizontal line.

Onis "Trey" Glenn, III
Director

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:

Cooks Pest Control

Cooks Pest Control Huntsville

UST Facility ID No. 11238-089-014547

Huntsville, Madison County, Alabama

ADMINISTRATIVE ORDER

No. 08-145-GW

CERTIFICATION OF COMPLIANCE

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



Release Detection.

UST system has been equipped with an approved method of release detection, in accordance with ADEM Administrative Code r. 335-6-15-.14.

Date Completed: _____

DATED this _____ day of _____, 2008.

(Signature)

(Please Print Name and Title of Authorized Officer)

Cooks Pest Control