

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)

MARINE TANK TERMINAL)

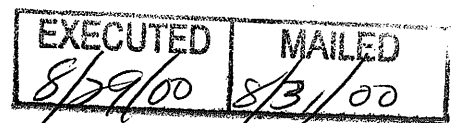
MOBILE COUNTY,)
ALABAMA)

) CONSENT ORDER NO. 00-194-CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended, and the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama 1975, as amended, and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Alabama Department of Environmental Management (hereinafter, the "Department") makes the following FINDINGS:

1. Marine Tank Terminal Inc. (hereinafter, "Marine Tank") is the owner and/or operator of Marine Tank's Mobile terminal (hereinafter, "facility") located in Mobile, Mobile County, Alabama.
2. The Department is a duly constituted agency of the State of Alabama pursuant to §§22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.
3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended.
4. Pursuant to ADEM Admin. Code R. 335-3-6-.04(4), no owner or operator of an affected source specified in ADEM Admin. Code R. Chapter 335-3-6-.04(2) shall permit the use of such source unless the source meets the requirements specified in ADEM Admin. Code R. Chapter 335-3-6.04(a), or (b), and (c), (d), (e), and (f).



5. On May 9, 2000, the Department issued a Notice of Violation to Marine Tank for storing volatile organic compounds in a stationary storage vessel without a vapor loss control device. In addition, the facility accepted and stored the volatile organic compound without receiving ADEM approval.

6. On May 23, 2000, the Department received the Marine Tank response to the May 9, 2000, Notice of Violation.

7. Department records indicate that Marine Tank stored the volatile organic compound (naphtha) for the period beginning on March 31, 2000, and continuing through May 17, 2000.

8. Marine Tank neither admits nor denies the Findings contained in this Consent Order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, Marine Tank consents to the terms of this Order.

9. 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 alleged violations cited hereinabove.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama 1975, as amended, and with the consent of each party, it is hereby ORDERED:

A. That, not later than 30 days after the issuance of this Order, Marine Tank shall pay to the Department a civil penalty in the amount of seventy-five hundred dollars (\$7,500.00) for the violations cited herein.

B. That, immediately upon receipt of this Order and continuing thereafter, Marine Tank shall comply with ADEM Admin. Code R. 335-3-6-.04 by storing any volatile organic compound only in a stationary storage vessel(s) with the proper vapor loss control device(s) and receive ADEM approval prior to accepting and storing volatile organic compounds.

C. 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.

D. 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 cited hereinabove.

E. That Marine Tank is not relieved from any liability if it fails to comply with any provision of this Consent Order.

F. That for purposes of this Order only, Marine Tank 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. Marine Tank further agrees that in any action brought by the Department to compel compliance with the terms of this Order, Marine Tank shall be limited to the defenses of Force Majeure, compliance with this Agreement, and physical impossibility.

G. That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning Marine Tank which would constitute possible violations not addressed in this Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Marine Tank shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

H. That, by agreement of the parties, this Order shall be considered final and effective immediately upon execution by both parties. This Consent Order shall not be appealable, and Marine Tank does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 29th day of August, 2000.

(Signature)

Scott A. Cleveland President

(Name and Title of Authorized Officer) (Please Print)

Marine Tank Terminal Inc.

Date: 8/14/00

James Warr

James Warr

Director

Alabama Department of Environmental
Management

Date: 21 AUG 2000