

**ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of: )

**Copeland Oil & Gas Company** )

Zippy Mart )

UST Facility ID No. 11247-097-014113 )

Mobile, Mobile County, Alabama )

**CONSENT ORDER**

No. 06-054-CGW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("ADEM") and Copeland Oil & Gas Company ("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. Copeland Oil & Gas Company is the owner of a regulated underground storage tank (UST) facility located at Zippy Mart, 4752 Three Notch Road, Mobile, Mobile County, Alabama, designated as ADEM Facility I.D. Number 11247-097-014113.

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.

## CONTENTIONS

5. During an inspection of the UST facility on February 10, 2005, Department personnel 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. 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.

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 allegations contained herein without further expenditure of State resources.

## 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-.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 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-.34.

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 of these presents 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.

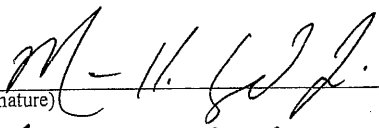
H. The Department and the owner agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed 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.

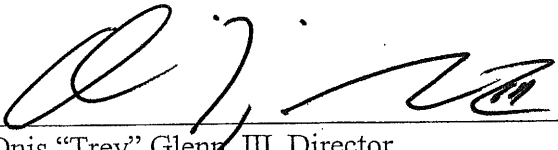
K. That any modifications of this Consent Order must be agreed to in writing signed by both parties.

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)  
Marvin K. Copeland Sr.  
(Please Print Name and Title of Authorized Officer)

Copeland Oil & Gas Company

Dated: 3-17-06

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

Dated: 4/21/06

ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

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UST Facility ID No. 11247-097-014113 )

Mobile, Mobile 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 and the upgrades identified below were completed on the dates indicated (check all that apply):



Release Detection.

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

Date Completed: 3-17-06



Spill Prevention.

UST system has been upgraded with an approved method of spill prevention in accordance with ADEM Administrative Code R. 335-6-15-.07.

Date Completed: 3-17-06



Overfill Prevention.

UST system has been upgraded with an approved method of overfill prevention in accordance with ADEM Administrative Code R. 335-6-15-.07.

Date Completed: 3-17-06



Corrosion Protection.

UST system has been upgraded with an approved method of corrosion protection in accordance with ADEM Administrative Code R. 335-6-15-.07.

Date Completed: 2-20-06

DATED this 17<sup>th</sup> day of March, 2006.

(Signature)

Marvin H. Copeland SR.  
(Please Print Name and Title of Authorized Officer)

Copeland Oil & Gas Company