

ONIS "TREY" GLENN, III
DIRECTOR



Alabama Department of Environmental Management

adem.alabama.gov

1400 Coliseum Blvd. 36110-2059 ♦ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700
FAX (334) 271-7950

BOB RILEY
GOVERNOR



September 19, 2008

CERTIFIED MAIL 7007 0710 0001 6203 7939
RETURN RECEIPT REQUESTED

Mr. Jack Ceccarelli
Petrol USA, LLC
9519 Dr. Martin Luther King Blvd. #100
Tampa, Florida 33610

RE: Administrative Order No. 08-210-GW
Petrol USA #895
1238 Schillenger Road
Semmes, Mobile County, Alabama
UST Facility ID No. 21269-097-000134

Dear Mr. Ceccarelli:

Enclosed please find Administrative Order No. 08-210-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 September 19, 2008. **Payment of the civil penalty in the amount of \$9,000 is due on or before November 3, 2008** and should be submitted to the ADEM Office of General Counsel at the above Montgomery address.

This order requires you to permanently close all UST systems, provide a closure assessment report, and pay delinquent UST Regulatory fees in the amount of \$240.

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

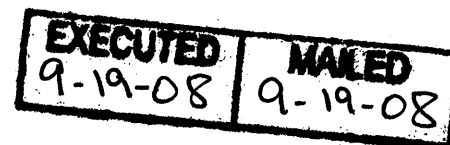
Sincerely,

Wm. Gerald Hardy, Chief
Land Division

WGH/SSM/MLD/rh

Enclosure

C: Mary-Frank Brown, Associate General Counsel, ADEM
Sonja Massey, Chief, Groundwater Branch, ADEM
Lee Davis, Chief, UST Compliance Unit, ADEM
000134 - ORDER



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:

Petrol USA, L.L.C.

Petrol USA #895

UST Facility ID No. 21269-097-000134

Semmes, Mobile County, Alabama

ADMINISTRATIVE ORDER

No. 08-210-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. Petrol USA, L.L.C. is the registered owner of a regulated underground storage tank (UST) facility located at Petrol USA #895, 1238 Schillinger Road, Semmes, Mobile County, Alabama, designated as ADEM Facility I.D. Number 21269-097-000134.

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 a March 3, 2008 inspection 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. Pursuant to ADEM Admin. Code r. 335-6-15-.18, owners of UST systems must conduct annual tests of the operation of automatic line leak detectors in accordance with the manufacturer's requirements.

9. The owner has failed to conduct annual tests of the automatic line leak detectors, in violation of ADEM Admin. Code r. 335-6-15-.18.

10. 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.

11. The owner has failed to properly operate and maintain continuous corrosion protection, in violation of ADEM Admin. Code r. 335-6-15-.10(a).

12. Pursuant to ADEM Admin. Code r. 335-6-15-.10(b)(1), 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.

13. The owner has failed to have the cathodic protection system inspected for proper operation by a qualified cathodic protection tester within 6 months of installation and at least every 3 years thereafter, in violation of ADEM Admin. Code r. 335-6-15-.10(b)(1).

14. A Notice of Delinquency (NOD) dated January 29 2008, was issued by the Department requiring the cathodic protection system to be repaired and retested and the release detection be maintained, with supporting documentation submitted to the Department.

15. 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.

16. The Owner has refused or otherwise failed to respond to the NOD dated January 29, 2008 and ADEM's requests for information, in violation of ADEM Admin. Code r. 335-6-15-.13.

17. Pursuant to ADEM Admin. Code r. 335-6-15-.42, owners of underground storage tanks shall pay an Underground Storage Tank Regulation Fee of \$30 per regulated tank per year.

18. The owner has failed to pay Underground Storage Tank Regulation Fees for 2007 through 2008, and is delinquent in the amount of Two Hundred Forty Dollars, in violation of ADEM Admin. Code r. 335-6-15-.42.

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 cathodic protection and leak 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 does not have 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 Nine 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 pay to the Department delinquent UST fees in the amount of Two Hundred Forty Dollars. Payment shall be made by Cashier's Check or Money Order, payable to the Alabama Department of Environmental Management at the above address.

C. That within ten days of issuance of this Administrative Order, the Owner shall notify ADEM of the Owner's intention to permanently close all UST systems by filing a Notice of Intent to Permanently Close Underground Storage Tanks, using ADEM Form #422.

D. That within forty-five days of issuance of this Administrative Order the owner shall complete permanent closure of all UST systems.

E. That the Owner shall submit a complete UST Closure Site Assessment Report within forty-five days of initiating permanent closure.

F. 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.

G. 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.

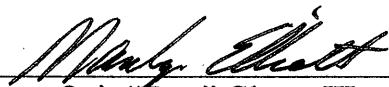
H. That, should any provisions of this Administrative Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law, and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

I. 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.

J. 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.

K. 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 19th day of September, 2008.



Onis "Trey" Glenn, III
Director

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:

Petrol USA, L.L.C.

Petrol USA #895

UST Facility ID No. 21269-097-000134

Semmes, Mobile County, Alabama

ADMINISTRATIVE ORDER

No. 08-210-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:



Notification of Intent to Permanently Close All UST Systems.

A Notice of Intent to Permanently Close Underground Storage Tanks (ADEM Form #422) has been submitted as required by ADEM Admin. Code r. 335-6-15-.34(1).

Date Completed: _____



UST Regulatory Fees.

All delinquent UST Regulatory Fees cited in this Administrative Order have been paid in full. Payment was submitted to ADEM on the date indicated.

Date Completed: _____



Permanent closure of all underground storage tanks.

Permanent closure of all underground storage tanks is complete and a UST Closure Site Assessment Report has been submitted to ADEM within 45 days of initiation of closure.

Date Completed: _____

DATED this _____ day of _____, 2008.

(Signature)

(Please Print Name and Title of Authorized Officer)

Petrol USA, L.L.C.

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U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com ®	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here
9/19
A.O.

Sent To <i>Jack Ceccarelli - Petrol USA #895</i> Street, Apt. No., or PO Box No. City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>J. Newman</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery <i>J. NEWMAN</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>Mr. Jack Ceccarelli Petrol USA, LLC 9519 Dr. Martin Luther King Blvd. #100 Tampa, Florida 33610</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) <i>7007 0710 0001 6203 7939</i></p>	