

ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

CREW DISTRIBUTING CO.

RE: Brunson's Texaco

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CONSENT ORDER
NO. 96-044-CGW

FINDINGS

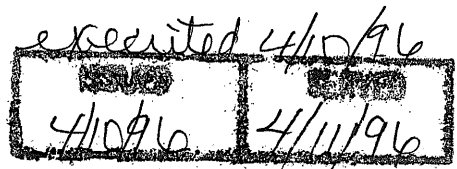
Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended, the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 through 22-36-10, Code of Alabama 1975, as amended, and the administrative regulations promulgated pursuant thereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. The Alabama Department of Environmental Management is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.

2. Crew Distributing Co. (hereinafter, "the owner"), is the registered owner of an underground storage tank system, located at Highway 84 and Highway 189, Elba, Alabama. The UST system was registered by the owner on May 6, 1986, identified as ADEM Facility I.D. No. 11295-031-011795.

3. Pursuant to § 22-36-3, Code of Alabama 1975, as amended, the Department is the state agency responsible for the promulgation and enforcement of rules and regulations governing underground storage tanks.

4. Registration forms submitted by the owner indicate the age of the subject tanks to be approximately 23 years.



5. Pursuant to ADEM Admin. Code R. 335-6-15-.15 owner(s) of UST systems must provide leak detection for tanks as provided in ADEM Admin. Code R. 335-6-15-.15(a) and (b).

6. An inspection by the Department of department records reveals that the owner/operator has not notified the Department of the leak detection method it has employed in accordance with ADEM Admin. Code R. 335-6-15-.17.

7. By Notice of Violation dated August 7, 1992, the Department notified the owner of the regulations for leak detection and required responsive action within 10 days the owner failed to respond to the August 7, 1992 Notice of Violation.

8. The owner has denied the Findings presented in this Consent Order. Nevertheless, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Underground Storage Tank and Wellhead Protection Act, the owner has agreed to the terms of this Consent Order.

ORDER

Based on the foregoing FINDINGS and pursuant to §§ 22-22A-5(10), 22-36-7 and 22-36-9, Code of Alabama 1975, as amended, it is hereby ORDERED:

A. That not later than April 30, 1996, the owner shall provide to the Department written notice of its compliance with leak detection requirements for its underground storage tank system(s), as required by ADEM Admin. Code R. 335-6-15-.15 and register with the Department the underground storage tank system, as required by ADEM Admin. Code R. 335-6-15-.05. In addition, the owner is required to achieve a passing grade of at least 80% on a test administered by the Department which covers the responsibilities of an owner/operator of a UST System no later than December 31, 1996.

B. That within thirty (30) days of notice of receipt of this Order, the owner and/or operator shall pay to the Department a civil penalty in the amount TWO (\$2000.00) THOUSAND DOLLARS. However, in the event that the owner complies with the

requirements of paragraph A the civil penalty is hereby waived and the owner shall not be required to pay same.

C. That in the event that the requirements of Paragraph A are not complied with, the UST owner shall immediately cease the operation and use of all USTs registered to said owner. Said UST(s) shall not be operated or used thereafter nor shall additional product be introduced into the USTs until such time all requirements of this Order are satisfied.

D. That the UST owner forthwith shall 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.

E. That pursuant to ADEM Admin. Code R. 335-6-16-.05, the UST owner is ineligible for benefits under the Tank Trust Fund for any release prior to the date the UST owner fully complies with the provisions of this Order.

F. 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.

G. 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 which are cited in this Order.

H. That the owner is not relieved from any liability if it fails to comply with any provision of this Consent Order.


I. For purposes of this 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 Force Majeure, compliance with this Agreement and physical impossibility.

J. The sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Order, then such future violations shall 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 Order if future Orders, litigation or other enforcement action address new matters not raised in this Order.

K. By agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent does hereby waive any hearing on the terms and conditions.


CREW DISTRIBUTING, COMPANY


ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

DATE: APRIL 4, 1996

DATE: 10 APRIL 96