

**ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)

Bowden Oil Company, Inc.)

Shop-N-Fill #15)

UST Facility ID No. 10642-037-017769)

Kellyton, Coosa County, Alabama)

CONSENT ORDER

No. 01-044-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; 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 hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS:

1. **Bowden Oil Company, Inc.** (hereinafter, "the owner"), is the owner of an underground storage tank facility located at Shop & Fill #15, Highway 280, Kellyton, Coosa County, Alabama, designated as ADEM Facility I.D. Number 10642-037-017769.

2. The Alabama Department of Environmental Management 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 Alabama Department of Environmental Management is the State Environmental Control Agency for the purposes of Federal Environmental Law, including 42 U.S.C. §6991, et.seq., as amended.

4. The Alabama Department of Environmental Management is authorized to administer and enforce the provisions of the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 through 22-36-10, Code of Alabama 1975, as amended.



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

6. During an inspection of the UST facility on January 25, 2000, Department personnel documented a missing sump sensor in one sump, in violation of ADEM Admin. Code R. 335-6-15-.14. Four (4) tanks with eight (8) sumps were documented to be in compliance, and the owner immediately corrected the cited deficiency.

7. The owner 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, the owner consents to the terms of this Order.

8. 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(18), and 22-36-3, Code of Alabama (1975), as amended, and with the consent of the owner, it is hereby ORDERED:

A. That there is hereby assessed a civil penalty against the owner in the amount of Five Hundred Dollars (\$500.00) to be paid to the Alabama Department of Environmental Management within thirty (30) days of issuance of this Order.

B. That the owner 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. 335-6-37.

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 of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violations cited in this Order.

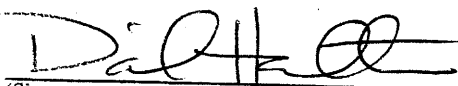
E. That the owner is not relieved from any liability upon the failure to comply with any provision of the Consent Order.

F. That 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.

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 the owner 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 or litigation initiated by the Department, or such other enforcement action as may be appropriated, and the owner 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 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.

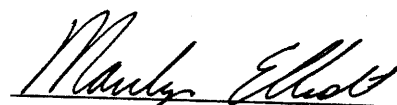
ORDERED and ISSUED this 24th day of Jan, 2001.


(Signature)

DAVID HAMILTON - GEN. MGR.
(Please Print Name and Title of Authorized Officer)

Bowden Oil Company, Inc.

Date Signed: 9/28/00



James W. Warr, Director
**Alabama Department of
Environmental Management**