

# ADEM



## ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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MONTGOMERY, ALABAMA

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(334) 271-7700

ONIS "TREY" GLENN, III, P.E.  
DIRECTOR

BOB RILEY  
GOVERNOR

May 18, 2007

Facsimiles: (334)

Administration: 271-7950  
General Counsel: 394-4332  
Communication: 394-4383  
Air: 279-3044  
Land: 279-3050  
Water: 279-3051  
Groundwater: 270-5631  
Field Operations: 272-8131  
Laboratory: 277-6718  
Mining: 394-4326

**CERTIFIED MAIL (No. 7005-0390-0000-9282-4366)**  
**RETURN RECEIPT REQUESTED**

Can Van Tran  
210 Hidden Glen Way  
Dothan, Alabama 36303



RE: ADMINISTRATIVE ORDER NO. 07-116-CGW  
Trans Food Mart  
Hwy 134 Kelly Ave, Midland City, Dale County, Alabama  
UST Facility I.D. # 19945-045-010109

Dear Can Van Tran:

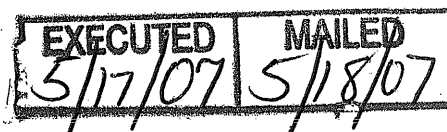
Enclosed please find Administrative Order No. 07-116-CGW, which requires you to take certain actions in regard to alleged violations of the Alabama Underground Storage Tank (UST) and Wellhead Protection Act. This Order has been issued with your consent and is final and not appealable.

Please note the issuance date of May 18, 2007. Pursuant to the terms of the Consent Orders, all cited violations should now be corrected. If not, the UST systems should be placed in "temporary closure" until such time the violations are corrected. If you have questions of a technical nature or wish to discuss UST compliance issues, please contact Lee Davis at (334) 271-7759.

Should you have questions regarding this Consent Order, please feel free to contact me at the ADEM Office of General Counsel in Montgomery at (334) 271-7855.

Sincerely;

Thomas L. Johnston  
Associate General Counsel



TLJ/vj

Enclosure

cc: James McIndoe, Chief  
ADEM Water Division

Birmingham Branch  
110 Vulcan Road  
Birmingham, Alabama 35209-4702  
(205) 942-6168  
(205) 941-1603 [Fax]

Decatur Branch  
2715 Sandlin Road, S.W.  
Decatur, Alabama 35603-1333  
(256) 353-1713  
(256) 340-9359 [Fax]

Mobile Branch  
2204 Perimeter Road  
Mobile, Alabama 36615-1131  
(251) 450-3400  
(251) 479-2593 [Fax]

Mobile - Coastal  
4171 Commanders Drive  
Mobile, Alabama 36615-1421  
(251) 432-6533  
(251) 432-6596 [Fax]



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**ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT**

\_\_\_\_\_  
In The Matter Of: )  
 )  
**Can Van Tran** )  
Trans Food Mart )  
UST Facility ID No. 19945-045-010109 )  
Midland City, Dale County, Alabama )  
\_\_\_\_\_ )

**CONSENT ORDER**

No. 07-116-CGW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("ADEM") and Can Van Tran ("the owner") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (1997 Rpl.Vol. & Cum.Supp. 2005); the Alabama Underground Storage Tank and Wellhead Protection Act, Ala. Code §§ 22-36-1 to 22-36-10 (1997 Rpl.Vol. & Cum.Supp. 2005); and the ADEM Administrative Code of Regulations (ADEM Admin. Code r.) promulgated pursuant thereto.

**STIPULATIONS**

1. Can Van Tran is the registered owner of a regulated underground storage tank (UST) facility located at Trans Food Mart, Hwy 134 & Kelly Avenue, Midland City, Dale County, Alabama, designated as ADEM Facility I.D. Number 19945-045-010109.
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 August 10, 2006, 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. Owners are required to submit to the Department a description of the type of release detection method used at each UST site.

7. The owner has failed to provide a method of release detection, in violation of ADEM Admin. Code R. 335-6-15-.14.

8. A Notice of Delinquency (NOD) dated September 12, 2006, was issued by the Department for the above violations.

9. The owner has refused or otherwise failed to respond to the Notice of Delinquency and ADEM's requests for information, in violation of ADEM Admin. Code r. 335-6-15-.13.

10. 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.

11. 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 the unwarranted expenditure of State resources in further enforcement actions.

### 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 contained herein 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.

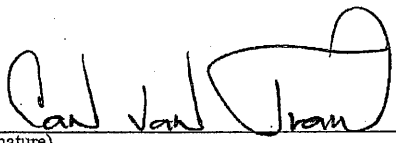
H. The Department and the owner agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed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

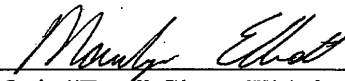
J. That, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

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)  
CAN VAN TRAN  
(Please Print Name and Title of Authorized Officer)  
Can Van Tran

Dated: 03-27-07

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

Dated: 5-17-07

**ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of: \_\_\_\_\_ )

**Can Van Tran** )

Trans Food Mart )

UST Facility ID No. 19945-045-010109 )

Midland City, Dale 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:



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., and notice has been submitted to ADEM

Date Completed: \_\_\_\_\_



Other.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Completed: \_\_\_\_\_

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
(Signature)

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

**Can Van Tran**