ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

In The Matter Of:	)	
	)	*PROPOSED*
Copeland Oil & Gas Company, Inc.	)	**ADMINISTRATIVE ORDER**
C Pak	)	
UST Facility ID No. 11247-097-007140	)	
Grand Bay, Mobile County, Alabama	)	No._____
	)	

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 to 22-22A-16, Ala.Code (2006 Rpl.Vol.); the Alabama Underground Storage Tank and Wellhead Protection Act, §§ 22-36-1 to 22-36-10, Ala.Code (2006 Rpl.Vol.); and the ADEM Administrative Code of Regulations (ADEM Admin. Code r.) promulgated pursuant thereto, the Alabama Department of Environmental Management (the "Department") makes the following FINDINGS:

1. Copeland Oil & Gas Company, Inc. is the registered owner of a regulated underground storage tank (UST) facility located at C Pak, 8755 Grand Bay Wilmer Road, Grand Bay, Mobile County, Alabama, designated as ADEM Facility I.D. Number 11247-097-007140.

2. ADEM is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala.Code (2006 Rpl.Vol.).

3. Pursuant to § 22-22A-4(n), Ala.Code (2006 Rpl.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 Rpl.Vol.).

5. Based upon 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. 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. Pursuant to ADEM Admin. Code r. 335-6-15-.17(h), the Department has approved Statistical Inventory Reconciliation (SIR) as an accepted method of leak detection to satisfy the leak detection requirements of ADEM Admin. Code r. 335-6-15-.14.

9. Pursuant to ADEM Admin. Code r. 335-6-15-17(h)(2), as a condition of SIR approval, ADEM requires UST facilities to submit an annual SIR report by January 31st of each year. If any monthly SIR report indicates a "fail" or "inconclusive," the owner is required to investigate and submit the results of the investigation.

10. The owner has failed to investigate a "fail" and/or "inconclusive" monthly SIR report, in violation of ADEM Admin. Code r. 335-6-15-17(h)(2).

11. The violations cited above are continuing violations, and each day such violation continues constitutes a separate violation pursuant to §22-22-5(18)(c), Ala.Code (2006 Rpl.Vol.).

12. Pursuant to § 22-22A-5(18)(c), Ala.Code (2006 Rpl.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.

13. In arriving at the civil penalty assessed in this matter, the Department has considered the following:

(a) Seriousness of the Violation:

The Owner did not ensure that Leak Detection requirements were fully implemented or maintained, thereby undermining preventive measures designed to facilitate a quick response in the event of a release. 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 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.

(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 has been cited for similar violations in the past.

(f) Ability to Pay:

The Permittee 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 Rpl.Vol.), it is hereby ORDERED:

A. That, within forty-five days of the issuance of this Administrative Order, the Owner shall pay to the Department a civil penalty in the amount of $10,000.00 for the violations cited herein. Failure to pay the civil penalty within forty-five days after the issuance 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, within thirty days of the issuance of this Administrative Order, the Owner shall conduct tank tightness testing on all USTs at the facility and shall submit the results to the Department.

C. That within sixty days of the issuance of this Administrative Order, the Owner shall install and have operational, leak detection which meets the requirements of 335-6-15-.17(d).

D. That the Owner otherwise 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-.34.

E. That, should any provision 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.

F. 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.

G. 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 for the violations cited herein.

H. 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 _____ day of _____, 2010.

_____

Lance R. LeFleur, Director
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2059
(334) 271-7700

ATTACHMENT A

Penalty Calculation Worksheet

Copeland Oil & Gas Co. - C Pak
327 Hwy. 43
Saraland, AL 36571

Violation*	Number of Violations*	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
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.	1	$4,000	$2,000	$4,000
Totals:	1	$4,000	$2,000	$4,000

Economic Benefit*:	$0
Mitigating Factors:	$0
Ability to Pay*:	$0
Other Factors:	$0

Total Civil Penalty: $10,000

Footnotes

* See the "Findings" of the Order for a detailed description of each violation and the penalty factors