COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Valley Regional Office

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER ISSUED BY CONSENT TO
ANDERSON OIL COMPANY

UST Facility at 315 Main Street, Scottsville, Albemarle County, VA
Facility Identification No. 6014863

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code §§ 62.1-44.15 (8a) and (8d) between the State Water Control Board and Anderson Oil Company to resolve certain violations of the State Water Control Law and regulations at Anderson Oil Company's Underground Storage Tank Facility located at 315 Main Street, Scottsville, Albemarle County, Virginia.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 62.1-44.7.

2. "Code" means the Code of Virginia (1950), as amended.

3. "UST" means underground storage tank as further defined in 9 VAC 25-580 10 and Virginia Code § 62.1-44.34:8.

4. "Anderson" means Anderson Oil Company, the UST owner within the meaning of Virginia Code § 62.1-44.34:8.

5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality.

7. AFacility≅ means the retail gasoline station and USTs owned and operated by Anderson located at 315 Main Street, Scottsville, Albemarle County, Virginia. The Facility=s USTs are further identified by UST numbers: 1, 2, 3, 4, 5, 6 & 7.

Tank number	**1**	**2**	**3**	**4**	**5**	**6**	**7**
Capacity	8000	4000	4000	1000	20000	20000	1000
Contents	gasoline	gasoline	gasoline	gasoline	diesel	diesel	diesel
Installed	6/1/92	6/1/92	6/1/92	1/1/75	1/1/75	1/1/75	6/1/92

8. AOrder≅ means this document, also known as a Consent Special Order.

9. ARegional Office≅ means the Valley Regional Office of the Department.

10. ARegulation≅ means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to upgrading of existing UST systems, registration of tanks, closure of non-compliant tanks, and release detection requirements.

11. "STI-P3 tank" means a UST certified by the Steel Tank Institute to have three different methods of corrosion protection.

12. "Form 7530" means the UST notification form used by the DEQ to register and track USTs for proper operation, closure and ownership purposes. See 9 VAC 25-580-70.

SECTION C: Findings of Fact and Conclusions of Law

1. The Regulation, at 9 VAC 25-580-10 *et seq.*, requires that the USTs at the Facility meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.

2. Anderson is the owner of the USTs at this Facility within the meaning of Virginia Code э 62.1-44.34:8.

3. On February 8, 2001, DEQ staff conducted a formal inspection of the Facility. The following deficiencies were noted:

   - Incorrect and incomplete information had been submitted on the Form 7530, registering the USTs with the DEQ. Specifically, the current release detection methods and the

status of USTs number 4 & 7 were incorrectly registered in apparent violation of 9 VAC 25-580-70.

- Testing and inspection of the cathodic protection (CP) system installed on the USTs and on the piping associated with USTs number 5 & 6, had not been performed in apparent violation of 9 VAC 25-580-90 ¶2.

- Compliance records were not available for review in apparent violation of 9 VAC 25-580-120.

- Release Detection was not being performed on USTs number 5 & 6 and their associated piping in apparent violation of 9 VAC 25-580-160 and 9 VAC 25-580–170.

- Financial Responsibility documentation was not available for review in apparent violation of 9 VAC 25-590-10 *et seq.*

Tank number / **Violation**	**1** 8000	**2** 4000	**3** 4000	**4** 1000	**5** 20000	**6** 20000	**7** 1000
9 VAC 25-580-70. A Notification information				**X**			**X**
9 VAC 25-580-90 Corrosion protection					**X**	**X**	
9 VAC 25-580-120 Compliance records					**X**	**X**	**X**
9 VAC 25-580-140(1) Release detection for tanks and/or piping					**X**	**X**	
9 VAC 25-590-10 et seq. Financial Responsibility	**X**	**X**	**X**	**X**	**X**	**X**	**X**

As a result of this formal inspection, DEQ staff sent a Warning Letter (No. 01-12-VRO-5) to Anderson on December 7, 2001, for these apparent violations of the Regulations. The letter requested that Anderson respond in writing by December 17, 2001, and included a copy of the formal inspection results, detailing the apparent violations noted above. It also requested that Anderson contact DEQ to discuss resolution of noncompliance by way of a Letter of Agreement.

4. DEQ Staff communicated with Anderson numerous times between December 2001 and June 2002 about the apparent violations.

5. Having received no written response to the Warning Letter, DEQ staff contacted Anderson by telephone and faxed a summary of the previously noted violations to them on June 26, 2002.

6. On October 7, 2003, Anderson entered into a Letter of Agreement (dated September 24, 2003) with the DEQ, agreeing to resolve all noted violations at the Facility by December 24, 2003.

7. On November 6, 2003, DEQ staff received a copy of the results of tests performed April 26, 2000, on the cathodic protection system for USTs number 1, 2, 3, 5, 6 & 7. The test results indicated a passing reading for all the tanks tested. The test report also confirmed that all of the USTs were past due for testing of their cathodic protection systems by seven months. The cathodic protection systems are required to be tested every three years pursuant to 9 VAC 25-580-90.

8. On November 18, 2003, DEQ staff received copies of passing release detection results for USTs number 1, 2, 3 & 7 for the months of May, June, July and August 2003. Anderson also submitted a copy of the cathodic protection system inspection log for the years 2000 through 2003.

9. On December 2, 2003, DEQ staff received copies of the results of tests performed November 21, 2003, on the cathodic protection system for the USTs. The test results indicated a passing reading for USTs number 2, 3, 5 & 6. The readings taken for one of the gasoline tanks, identified as the Regular unleaded gasoline tank, UST number 1, and UST number 7 indicate that they are not being adequately protected from corrosion.

10. On December 16, 2003, Anderson requested, in writing, an extension of the December 24, 2003, compliance deadline agreed to in the September 23, 2003, Letter of Agreement (see paragraph 6). DEQ denied the request.

11. On March 9, 2004, DEQ staff issued NOV No. 04-03-VRO-2 to Anderson, for the apparent continuing violation of the Regulation on USTs number 1, 4, 5, 6 & 7. The NOV requested that Anderson respond to the Department by March 19, 2004. The violations noted in the NOV are as follows:

Tank number / **Violation**	**1** 8000	**2** 4000	**3** 4000	**4** 1000	**5** 20000	**6** 20000	**7** 1000
9 VAC 25-580-70. A Notification information				**X**			**X**
9 VAC 25-580-90 Corrosion protection	**X**						**X**
9 VAC 25-580-120 no Compliance records					**X**	**X**	**X**
9 VAC 25-580-140(1) Release detection for tanks and/or piping					**X**	**X**	
9 VAC 25-580-320, -330 Closure Requirements				**X**			

12. On April 8, 2004, DEQ staff met with Anderson to discuss possible remedies to the situation including a corrective action plan and the settlement of past violations. During the meeting, DEQ staff received copies of the results of tests performed February 17, 2004, on the cathodic protection system for USTs 1, 2, 3, 5, 6, & 7 at the facility. The test results indicate a passing reading for all the USTs tested.

13. Tank number 4 was installed in 1975 and registered as a cathodically protected steel tank with fiberglass piping. However, neither DEQ staff nor the owner was able to locate the tank during the February 8, 2001 inspection. UST number 4 was discovered during the closure and removal of UST #7 on April 23, 2004. It had been improperly closed for an unknown number of years.

14. Anderson contacted DEQ staff on April 27, 2004, to inform it of the closure and removal of tanks number 4 & 7. Subsequently, Anderson submitted closure documentation from the removal of tank number 4 which included analytical test results confirming a release of petroleum in the tank excavation. As a result, pollution complaint case number 2004-6151 was opened by the DEQ.

15. In a letter dated June 16, 2004, DEQ staff requested that Anderson submit an initial abatement report (IAR) by July 15, 2004, to determine the extent of the petroleum release, and a site characterization report (SCR) by September 15, 2004, to assess a course of action for any remediation.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code ∋∋ 62.1-44.15 (8a) and (8d), orders Anderson and Anderson agrees that:

1. To remedy the violations described above and bring the Facility into compliance with the Regulation, Anderson shall perform the actions described in Appendix A to the Order.

2. Anderson shall pay a civil charge of $6,500.00, within 30 days of the effective date of the Order. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of the Commonwealth of Virginia≅ and delivered to:

   Receipts Control
   Department of Environmental Quality
   Post Office Box 10150
   Richmond, Virginia 23240

3. Anderson shall also include its Federal Identification Number with the civil charge payment and shall note on the payment that it is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Anderson, for good cause shown by Anderson, or on its own motion after notice and opportunity to be heard.

2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.

3. For purposes of this Order and subsequent actions with respect to this Order, Anderson admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.

4. Anderson consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Anderson declares it has received fair and due process under the Virginia Administrative Process Act, Code ɜɜ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Anderson to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Anderson shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Anderson must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Anderson shall notify the Director of the Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:

   a. The reasons for the delay or noncompliance;

   b. The projected duration of such delay or noncompliance;

   c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Director of the Regional Office in writing within 10 days of learning of any condition listed above, which Anderson intends to assert will result in

the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Anderson Notwithstanding the foregoing, Anderson agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until:

    a. Anderson petitions the Regional Director to terminate the Order after it has completed all requirements of the Order and the Director or his designee approves the termination of the Order; or

    b. The Director or the Board terminates this Order in his or its whole discretion upon 30 days written notice to Anderson

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Anderson from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Anderson voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 9 day of Dec, 2004.

Bradley Chewning
Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Anderson Oil Company:

Date: 3 AUG 04

By: Mark Anderson
Mark Anderson
Title: President

Commonwealth of Virginia, City/County of Spotsylvania

The foregoing instrument was acknowledged before me this 3 day of Aug, 2004, by

Mark Anderson (name) of Anderson, a President (title), on behalf of the corporation.

8-3-04
Date

Christine L. Sulkiner
Notary Public

My commission expires: 7-31-03

Appendix A
Anderson Oil Company
UST Facility at 315 Main Street, Scottsville, VA

For all USTs, Anderson shall:

A. By August 30, 2004:
   1. Submit copies of line tightness tests performed on the product lines for USTs number 5 & 6 to complete the requirements for release detection.
   2. Submit a complete, accurate and current Form 7530 for all remaining USTs at the facility.
   3. Submit copies of signed contracts for the performance of release detection (statistical inventory reconciliation) and the installation of volume meters on the product lines for USTs number 5 & 6.

B. For PC 2004-6151, implement the approved CAP to address remediation and monitoring of the confirmed release of petroleum on site and provide CAP monitoring reports as specified by DEQ.

C. By September 30, 2004, install volume meters on the product lines for USTs number 5 & 6.

D. By November 15, 2004, submit copies of release detection results for USTs number 5 & 6 for the month of October 2004.

E. By December 15, 2004, submit copies of release detection results for USTs number 5 & 6 for the month of November 2004.

F. By January 15, 2005, submit copies of release detection results for USTs number 5 & 6 for the month of December 2004.