

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: \_\_\_\_\_ )

Stephanie Gann )  
Bremen, Cullman County, Alabama )

PROPOSED  
ADMINISTRATIVE  
ORDER NO: 25-XXX-AP/SW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22- 22A-17, *as amended*, the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§22-27-1 to 22-27-18, *as amended*, the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 to 22-28-23, *as amended*, the Alabama Department of Environmental Management (“Department” or “ADEM”) Administrative Code of Regulations (“ADEM Admin. Code r.”) promulgated pursuant thereto, and the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, *as amended*, the Department makes the following FINDINGS:

1. Stephanie Gann (Gann) owns real property (Parcel Identification Number 30-05-21-0-000-005.001) located at 4163 County Road 18 (the “Site”), in Bremen, Cullman County, Alabama.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, *as amended*.

**LAND DIVISION FINDINGS**

3. Pursuant to Ala. Code § 22-22A-4(n), *as amended*, and Ala. Code § 22-27-9(a), *as amended*, the Department is the state agency authorized to administer and enforce the provisions of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, *as amended*.

4. Pursuant to Ala. Code § 22-27-10(b), as amended, and ADEM Admin. Code r. 335-13-11-.03(2), any person who participates in the creation or operation of an unauthorized dump, or contributed to an unauthorized dump, shall be responsible for the removal of the waste or otherwise the closure of the unauthorized dump in accordance with this article and rules of the department. If those who created, operated, or contributed to an unauthorized dump do not remove or close the unauthorized dump, the landowner shall also be responsible for the removal or otherwise the closure of the unauthorized dump.
5. Pursuant to ADEM Admin. Code rs. 335-13-1-.13(1)(a) and (2), unauthorized dumps are prohibited and must be closed in a manner determined to be necessary by the Department.
6. On July 16, 2024, in response to a complaint, the Department conducted an inspection of the Site followed by a records review. The following was noted:
  - A. Approximately 30 cubic yards of regulated solid waste materials, consisting of construction and demolition waste, household wastes, were openly dumped on the Site.
  - B. The disposal area at the Site did not meet the technical standards for landfills set out in Chapter 335-13-4, and it had not been permitted as a land disposal facility by the Department as required under Chapter 335-13-5.
  - C. According to Cullman County property tax records, Brenda and Pamela L. Gann were the owners of the Site at the time of inspection.
  - D. An unauthorized dump refers to any collection of solid waste either dumped, caused to be dumped, or placed on any public or private property, without having a permit from the Department, regardless of whether the property is regularly used. Therefore, disposing of regulated solid waste on the Site without a solid waste disposal facility permit issued by the Department constitutes the creation of an unauthorized dump,

which violates rules 335-13-1-.13(1) and 335-13-1-.13(2), and for which Gann is responsible.

7. On August 13, 2024, the ADEM Land Division issued Gann a Notice of Violation (NOV) through the United States Postal Service (“USPS”) Certified Mail, requiring full abatement and closure of the UAD. According to the USPS online tracking system, the NOV was delivered on August 30, 2024.
8. To date the ADEM Land Division has not received a response to the aforementioned NOV.

#### **AIR DIVISION FINDINGS**

9. Pursuant to Ala. Code § 22-22A-4(n), *as amended*, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 to 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act (AAPCA), Ala. Code §§ 22-28-1 to 22-28-23, *as amended*.
10. ADEM Admin. Code r. 335-3-3-.01(1) prohibits open burning except for specific listed activities.
11. ADEM Admin. Code r. 335-3-3-.01(2)(a) authorizes open burning of vegetation and untreated wood if it is generated by clearing or maintaining land, or for certain listed purposes.
12. ADEM Admin Code r. 335-3-3-.01(2)(b) limits open burning as authorized by 335-3-3-.01(2)(a) to certain conditions, including:
  - a. Only vegetation and untreated wood may be burned. It is unauthorized to open burn heavy oils, asphalt products, plastics, vinyl materials, insulation, paper, cardboard,

natural or synthetic rubber, salvage or scrap materials, chemicals, garbage, treated or painted wood, or any trash [335-3-3-.01(2)(b)(4)];

13. On February 6, 2025, Department personnel conducted an inspection of the Site and observed evidence of a manufactured home that had been brought from offsite to the property and burned.
14. The open burning of materials at the Site on February 6, 2025, was not authorized by ADEM Admin. Code r. 335-3-3-.01(1) or 335-3-3-.01(2)(a) constituting a violation of ADEM Admin. Code r. 335-3-3-.01(1).
15. Pursuant to Ala. Code § 22-22A-5(18)c., *as amended*, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violations, 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 violations 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 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 constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:
  - A. SERIOUSNESS OF THE VIOLATION: The creation, contribution to, or operation of a UAD is inherently a public nuisance, a threat to public health, and a threat to the environment. The Department is not aware of any irreparable harm to the environment, or

any immediate threat to human health or the safety of the public as a result of the UAD's presence on the Site. Gann conducted open burning of regulated materials in violation of the Department's open burning regulations. The Department considers these violations to be serious.

- B. THE STANDARD OF CARE: There appeared to be no care taken by Gann to comply with the applicable requirements of the ADEM Admin. Code r. 335-3-3-.01, the AAPCA, or the SWRMMA. Gann failed to abide by requirements applicable to the lawful disposal of solid waste and failed to comply with directives from the Department regarding the proper abatement and closure of the UAD.
- C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: Gann has likely derived an economic benefit by burning the materials and not disposing of them in an approved landfill.
- D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There were no efforts by Gann to mitigate possible effects of these violations upon the environment at the time of the violations.
- E. HISTORY OF PREVIOUS VIOLATIONS: From November 21, 2017, to February 18, 2025, the Department has received 25 complaints regarding unauthorized open burning and inspected this site fourteen times. Warning Notices were left on site and with a resident on multiple inspections with verbal explanation of open burning regulations. A Warning Letter was issued on July 16, 2021, as well.
- F. THE ABILITY TO PAY: Gann has alleged an inability to pay the civil penalty.
- G. OTHER FACTORS: The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for



timely and effective enforcement, and has concluded that a civil penalty herein is appropriate (*See* "Attachment A", which is hereby incorporated into these Findings).

ORDER

Based upon the foregoing FINDINGS and pursuant to Ala. Code §§22-22A-5(10), 22-22A-5(12), 22-22-5(18), and 22-28-18, *as amended*, it is hereby ORDERED:

A. That, not later than forty-five days after the issuance of this Order, Gann shall pay the Department a civil penalty in the amount of \$12,000.00 for the violations cited herein. Said penalty shall be made payable to the Alabama Department of Environment Management by certified or cashier's check or any other method of payment acceptable to the Department and shall be remitted to:

Office of General Counsel  
Alabama Department of  
Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

- B. That, immediately upon receipt of this Order and continuing thereafter, Gann shall ensure immediate and future compliance with ADEM Admin. Code r. 335-3-3-.01 and the AAPCA, and shall cease and desist from creating, operating, or contributing to any UADs.
- C. That, within thirty days of issuance of this Order, Gann shall submit a site closure plan to the Department in accordance with ADEM Admin. Code r. 335-13-1-.13(2)(b)1. This plan shall include a schedule for site closure completion. Unless otherwise directed by the Department, Gann shall implement the site closure plan as presented, remove and properly dispose of or recycle all solid waste materials in a permitted landfill unit or at a registered

recycling facility, and comply with all applicable requirements of Division 335-13 of the ADEM Admin. Code.

- D. That, within fifteen days of completion of remediation activities, Gann shall provide the following information to the Department as proof that all closure actions have been completed:
- a. Period in which the remediation activities took place.
  - b. Total volume of regulated solid waste removed from the Site.
  - c. Documentation that all regulated solid waste, including surface and subsurface waste, was removed from the Site.
  - d. A copy of receipts documenting that all regulated waste was taken to an approved landfill or registered recycling facility.
  - e. Photographs of the solid waste disposal area(s) at the Site taken before and after remediation.
  - f. Documentation that the UAD was properly closed to prevent erosion on the Site, if applicable.
  - g. Documentation that the Site has been secured to prevent any future illegal dumping, if applicable.
- E. That, should any provision of this 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. Except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under federal, state or local law, and shall not

be construed to waive or relieve Gann of obligations to comply in the future with any permit or other written direction from the Department.

- G. That, issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Gann 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 Gann for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Jeffery W. Kitchens, Acting Director  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059  
(334) 271-7700



CERTIFICATE OF SERVICE

I, Aubrey H. White III, do hereby certify that I have served this Proposed Administrative Order upon the person(s) listed below by sending the same, postage paid, through the United States Mail **9489 0090 0027 6308 6354 69** with instructions to forward and return receipt, to:

Stephanie Gann  
730 County Road 68  
Bremen, Alabama 35033

DONE this the 14<sup>th</sup> day of APRIL, 2025.



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Aubrey H. White III  
Chief - Air Division  
Alabama Department of  
Environmental Management

# ATTACHMENT A

Stephanie Gann  
Bremen, Cullman County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Unauthorized Open Burning	1	\$4,500	\$2,250	\$5,000	
Creation of an Unauthorized Dump	1	\$2,500	\$500	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		<b>\$7,000</b>	<b>\$2,750</b>	<b>\$5,000</b>	<b>\$14,750</b>

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	
Ability to Pay (-)	-3,500
Other Factors (+/-)	
Total Adjustments (+/-) <i>Enter at Right</i>	-\$3,500

Economic Benefit (+)	\$750
Amount of Initial Penalty	\$15,500
Total Adjustments (+/-)	-\$3,500
<b>FINAL PENALTY</b>	<b>\$12,000.00</b>

## Footnotes

\* See the "Department's Findings" portion of the Order for a detailed description of each violation and the penalty factors.