

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Douglas E. and Amy Hicks  
US Highway 11 UAD  
Valley Head, DeKalb County, Alabama**

Order No. XX-XXX-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; and the Alabama Department of Environmental Management's ("ADEM" or "Department") Administrative Code of Regulations ("ADEM Admin. Code r.") promulgated pursuant thereto, the Department makes the following FINDINGS:

1. Douglas E. and Amy Hicks ("the Hicks") own real property located at US Highway 11, which is further identified as Parcel ID Number 10-03-08-0-000-005.000, in Valley Head, DeKalb County, Alabama ("the Site"), where an unauthorized dump was discovered.

2. Pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Department is a duly constituted department of the State of Alabama.

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 § 22-27-2(38) and ADEM Admin. Code r. 335-13-1-.03(146), an unauthorized dump ("UAD") refers to any collection of solid wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the Department.

5. 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.

6. Pursuant to ADEM Admin. Code rr. 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.

7. In response to a complaint, the Department conducted an investigation that included a site inspection on March 8, 2022, followed by a review of pertinent records. During the investigation, the following was noted:

A. Approximately 100 cubic yards of regulated solid waste were discovered openly dumped at the Site. The waste included construction and demolition waste, household waste, and scrap tires.

B. The disposal area at the Site did not meet the technical standards for landfills outlined in Chapter 335-13-4. Additionally, the disposal area at the Site has not been permitted as a land disposal facility by the Department as required under Chapter 335-13-5.

C. According to DeKalb County property tax records, the Hicks were the owners of the Site at the time of the inspection.

D. The disposal of the above-mentioned regulated solid waste at the Site, without a valid solid waste disposal facility permit issued by the Department, constitutes the creation of a UAD, which violates rules 335-13-1-.13(1) and 335-13-1-.13(2), for which the Hicks are responsible.

8. On April 15, 2022, the Department issued the Hicks a Notice of Violation (NOV) via 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 April 21, 2022.

8. On February 7, 2023, Department personnel conducted a follow-up inspection at the Site and noted the ongoing presence of the UAD, which appeared to be unabated.

9. On May 9, 2024, Department personnel conducted a second follow-up inspection and observed that the UAD had increased to 150 cubic yards of regulated waste and forty scrap tires.

10. To date, the Department has not received a response to the NOV from the Hicks.

11. 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 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 exceed \$25,000 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. Each day such a 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.

B. THE STANDARD OF CARE: In evaluating the standard of care demonstrated by the Hicks, the Department observed that the aforementioned violation was non-technical and easily preventable. As a result, the Hicks did not display a standard of care that aligns with the relevant regulatory standards regarding the lawful and proper disposal of regulated solid wastes.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to establish if the Hicks have realized a significant economic benefit as a result of the violation cited herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of efforts by the Hicks to mitigate any potential adverse effects upon the environment, human health, or public safety that may have been caused as a result of the UAD.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, the Hicks do not appear to have a documented history of violations of the applicable requirements of ADEM Admin. Code div. 335-13.

F. THE ABILITY TO PAY: The Department has no evidence indicating the Hicks' inability to pay the civil penalty assessed herein.

12. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c, as amended, as well as other factors, and has concluded that a civil penalty is appropriate for the violation cited herein (see Attachment A, which is made a part of the Department's FINDINGS).

## **ORDER**

Based on the foregoing FINDINGS and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-4(b), 22-27-7, and 22-27-11, as amended, it is hereby ORDERED:

A. That, not later than forty-five days of issuance of this Order, Hicks shall pay the Department a civil penalty of \$3,000 for the violation cited herein. The penalty shall be made payable to the Alabama Department of Environmental 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

All payments shall reference Hicks's name and address and the ADEM Administrative Order number of this action.

B. That, immediately upon issuance of this Order and continuing each and every day thereafter, the Hicks shall cease and desist from creating, operating, or contributing to any UADs.

C. That, within thirty days of issuance of this Order, Hicks 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, the Hicks shall implement the site closure plan as presented, remove and properly dispose of or recycle all regulated solid waste in an approved landfill unit or at a registered recycling facility, and comply with all other applicable requirements of Division 335-13 of the ADEM Admin. Code.

D. That, within fifteen days of completion of remediation activities, the Hicks shall provide the following information to the Department as proof that all closure actions have been completed:

1. The period during which the remediation activities took place.
2. Total volume of regulated solid waste removed from the Site.
3. Documentation that all regulated solid waste, including surface and subsurface waste, was removed from the Site.
4. A copy of receipts documenting that all regulated waste was taken to an approved landfill or registered recycling facility.
5. Photographs of the solid waste disposal area(s) on the Site taken before and after remediation.
6. Documentation that the UAD was properly closed to prevent erosion on the Site, if applicable.
7. 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. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Hicks for the violation cited herein.

G. That failure to comply with the provisions of the Order shall constitute cause for commencement of legal action by the Department against Hicks for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this \_\_\_\_ day of \_\_\_\_\_, 2026.

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Edward Poolos

Director

**Attachment A**

Douglas E. and Amy Hicks

US Highway 11

Valley Head, DeKalb County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	1	\$2500	\$500	\$0	Total of Three Factors
TOTAL PER FACTOR		\$2500	\$500	\$0	\$3000

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$0
	\$0

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$3000
Total Adjustments (+/-)	\$0
<b>FINAL PENALTY</b>	<b>\$3000</b>

Footnotes

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