

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Jeffrey Potter and GUYCAN, L.L.C
0 Auburn Street UAD
Tuskegee, Macon 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. Guycan, L.L.C. ("Guycan") operates a business on the real property located off 0 Auburn Street, which is further identified as Parcel ID Numbers 07 04 19 4 000 061.000 and 07 09 29 2 000 022.000, in Tuskegee, Macon County, Alabama ("the Site"). Guycan is the listed owner of Parcel ID No. 07 04 19 4 000 061.000, while Jeffrey F. Potter ("Potter") is the owner of Parcel ID No. 07 09 29 2 000 022.000. Additionally, Potter is Guycan's registered agent and owner.

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), *as amended*, and ADEM Admin. Code r. 335-13-1-.03(146), an unauthorized dump ("UAD") is defined as 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 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. 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, unless the landowner qualifies as an innocent landowner.

7. On June 14, 2024, in response to a complaint, personnel from the Department commenced an investigation that included a site inspection and a review of pertinent records. During the investigation, the following was noted:

A. On June 14, 2024, approximately 9,000 cubic yards of regulated solid waste were discovered improperly disposed of at the Site. This waste consisted of construction and demolition waste, household waste, rubbish, and fifteen scrap tires.

B. The disposal area at the Site has not been permitted as a land disposal facility by the Department, as mandated under Chapter 335-13-5.

C. As per the property tax records of Macon County, during the time of the inspection, Guycan, L.L.C. was identified as the owner of Parcel ID No. 07 04 19 4 000 061.000, while Jeffrey F. Potter held ownership of Parcel ID No. 07 09 29 2 000 022.000. As per the Ccity of Tuskegee's Finance Department, Potter is the owner of Guycan.

D. The disposal of the aforementioned 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 ADEM Admin. Code rs. 335-13-1-.13(1) and 335-13-1-.13(2), for which Potter and Guycan are responsible.

8. On July 3, 2024, the Department issued a Notice of Violation (“NOV”) to Guycan via Certified Mail through the United States Postal Service (“USPS”). This NOV mandated the complete abatement and closure of the UAD, along with the submission of documentation confirming the complete remediation of the UAD and the appropriate disposal of all regulated solid waste. As per the USPS online tracking system, the NOV was returned to the Department as unclaimed on August 8, 2024.

9. On September 12, 2024, personnel from the Department resent the NOV to Guycan, utilizing FedEx delivery. The FedEx online tracking system indicates that the NOV was successfully delivered on September 20, 2024.

10. On April 11, 2025, personnel from the Department conducted a second inspection at the Site and discovered that the UAD remained present. Furthermore, it was observed that the volume of waste had increased to approximately 20,029 cubic yards.

11. On January 16, 2026, personnel from the Department conducted a third inspection at the Site and noted the presence of approximately 20,460 cubic yards of regulated solid waste.

12. To date, neither Potter nor Guycan has provided any documents or additional communication that addresses the violation mentioned in the NOV.

13. 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. However, the Department has not identified any irreparable harm to the environment, or any immediate threat to human health or the safety of the public stemming from the presence of the UAD at the Site.

B. THE STANDARD OF CARE: Upon evaluating the standard of care exhibited by Potter and Guycan, the Department noted that the violations mentioned herein were non-technical in nature and easily avoidable. Consequently, Potter and Guycan failed to demonstrate a standard of care that is consistent with the relevant regulatory standards outlined in ADEM Admin. Code div. 335-13, as well as the Department's directives regarding the proper disposal of regulated solid wastes.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department contends that Potter and Guycan have obtained a significant economic benefit by avoiding the expenses associated with disposing of the aforementioned regulated solid waste in an approved landfill unit. It is estimated that they have achieved an economic benefit of approximately \$264,000 by not disposing of the regulated solid waste at the closest Municipal Solid Waste Landfill. However, because of the legal limitation that the maximum civil penalty imposed cannot exceed \$25,000 for each violation, only \$39,000 of the estimated avoided cost has been assessed in this case.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any initiatives undertaken by Potter or Guycan to minimize or mitigate any potential adverse effects on the environment, human health, or public safety that may have arisen as a result of the presence of the UAD.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of departmental records, Potter and Guycan 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 Potter's or Guycan's inability to pay the civil penalty assessed herein.

14. 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, no later than forty-five days of the receipt of this Order, Potter and/or Guycan shall pay the Department a civil penalty of \$75,000 for the violations 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 Potter's and/or Guycan's names and addresses and the ADEM Administrative Order number of this action.

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

C. That, within thirty days of receipt of this Order, Potter and/or Guycan 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 description of the actions that will be undertaken to remove all regulated solid waste from the Site and deposit it in an approved landfill unit or at a registered recycling facility. The plan shall include a timeline for the completion of all remediation and closure actions. Unless otherwise directed by the Department, Potter and/or Guycan shall implement the site closure plan as presented and comply with all applicable requirements of Division 335-13 of the ADEM Admin. Code.

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

1. The period during which the remediation and closure actions took place at the Site.
2. Total volume of regulated solid waste removed from the Site.
3. Documentation confirming that all regulated solid waste, including both surface and subsurface waste, was removed from the Site.
4. Copies of receipts showing 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 confirming that the UAD was properly closed to prevent erosion on the Site, if applicable.

7. Documentation confirming 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 Potter and/or Guycan for the violations 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 Potter and/or Guycan for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this ____ day of _____, 2026.

Edward F. Poolos

Director

Attachment A

Jeffrey Potter and Guycan, L.L.C.

0 Auburn Street

Tuskegee, Macon County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of and contribution to a UAD	3	\$7,000	\$5,000	\$0	Total of Three Factors
TOTAL PER FACTOR		\$21,000	\$15,000	\$0	\$36,000

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

Economic Benefit (+) *	\$264,000
Amount of Initial Penalty	\$300,000
Total Adjustments (+/-)	(\$264,000 ¹)
FINAL PENALTY	\$75,000

Footnotes

¹ The civil penalty was adjusted so that assessed penalty for each violation did not exceed \$25,000.

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