

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:	)	
	)	
	)	
Jeffrey F. Potter, GUYCAN, LLC,	)	
and Andrea Potter	)	
0 Nancy Street UAD	)	Order No. XX-XXX-SW
Tuskegee, Macon County, Alabama	)	
	)	

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, LLC (“Guycan”) operates a business on the real property located off 0 Nancy Street, which is further identified as Parcel ID Numbers 07 04 20 0 003 016.015 and 07 04 20 0 003 016.000, in Tuskegee, Macon County, Alabama (“the Site”). Jeffrey F. Potter (“J F Potter”) is Guycan’s registered agent and owner. Andrea G. Potter (“A G Potter”) is the owner of both parcels on the Site.

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(142), 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 relevant records. During the investigation, the following was noted:

A. On June 14, 2024, approximately 500 cubic yards of regulated solid waste were discovered improperly disposed of at the Site. This waste consisted of construction and demolition waste, household waste, and rubbish.

B. The disposal areas at the Site were not permitted as a land disposal facility by the Department, as required under ADEM Admin. Code ch. 335-13-5.

C. According to Macon County property tax records, A G Potter, the spouse of J F Potter, was the owner of the Site at the time of the inspection. As per City of Tuskegee's Finance Department, J F 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 Guycan, J F Potter, and A G Potter are jointly and severally responsible.

8. On July 1, 2024, the Department issued A G Potter a Notice of Violation (NOV) via Certified Mail from the United States Postal Service ("USPS"), requiring complete abatement and closure of the UAD. The USPS online tracking system indicated that the NOV was unclaimed and returned to the Department.

9. On August 1, 2024, personnel from the Department hand-delivered a copy of the NOV to A G Potter's residence, which was accepted by A G Potter.

10. On April 11, 2025, personnel from the Department conducted a second inspection at the Site and noted that the UAD was still present, having increased to approximately 2,741 cubic yards of regulated solid waste. Based on the information provided by the City of Tuskegee's Fire Department, the Department determined that Guycan was responsible for the disposal of regulated solid waste found at the Site.

12. On June 11, 2025, the Department issued Guycan a NOV via FedEx. The FedEx online tracking system showed that the NOV was not delivered. At the same day, the Department sent A G Potter a Notice of Enforcement ("NOE"), notifying her that enforcement actions were being initiated against another entity for unlawful disposal of regulated solid waste on the Site. The NOE was successfully delivered to A G Potter's residence on June 21, 2025.

13. On January 16, 2026, personnel from the Department conducted a third inspection at the Site and noted that the UAD was still present, having increased to approximately 2,970 cubic yards of regulated solid waste.

14. To date, neither Guycan, A G Potter, nor J F Potter has submitted any documents or further communication that responds the violations mentioned in the NOV's.

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 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, including the creating of a fire hazard, vector attraction, air or water pollution, or other contamination. However, 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 due to the UAD's presence at the Site.

B. THE STANDARD OF CARE: Upon evaluating the standard of care demonstrated by Guycan, A G Potter, and J F Potter, the Department noted that the violations referenced herein were non-technical and easily avoidable. As a result, Guycan, A G Potter, and J F Potter have not demonstrated a standard of care that aligns with the relevant regulatory standards specified in ADEM Admin. Code div. 335-13 and the Department's directives concerning the appropriate disposal of regulated solid wastes.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department contends that Guycan, A G Potter, and J F Potter 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 \$40,000 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 efforts by Guycan, A G Potter, or J F Potter 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: A review of Department records revealed that neither Guycan, A G Potter, nor J F Potter 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 Guycan's, A G Potter's, or J F Potter's inability to pay the civil penalty assessed herein.

16. 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, Guycan, A G Potter, or J F Potter 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 Guycan's, A G Potter's, or J F Potter's name(s) and address(es) and the ADEM Administrative Order number of this action.

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

C. That, within thirty days of receipt of this Order, Guycan, A G Potter, or J F Potter 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 activities. Unless otherwise directed by the Department, the site closure plan shall be implemented as presented, as well as adhere to 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, Guycan, A G Potter, or J F Potter shall provide the following information to the Department as proof that all remediation and closure actions 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) at 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 Guycan, A G Potter, or J F Potter 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 Guycan, A G Potter, or J F Potter 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

Guycan, A G Potter, and J F Potter

0 Nancy Street

Tuskegee, Macon County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	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 (+) *	\$40,000
Amount of Initial Penalty	\$76,000
Total Adjustments (+/-)	(\$1,000)
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.