

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

Ricky Mitchell
5301 Porters Lane UAD
Eight Mile, Mobile 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. Ricky Mitchell ("Mitchell") owns real property located at 5301 Porters Lane, which is further identified as Parcel ID Number 2306232000020.000, in Eight Mile, Mobile County, Alabama ("the Site"), where an unauthorized dump of regulated solid waste 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 § 22-27-2(38), as amended, and ADEM Admin. Code r. 335-13-1-.03(142), an unauthorized dump ("UAD") 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.

4. 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.

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.

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. In response to a complaint, the Department conducted an investigation that included a site inspection on October 5, 2023, followed by a records review. During the investigation, the following was noted:

A. Approximately 1,000 cubic yards of regulated solid waste were discovered openly dumped at the Site. The waste included construction/demolition waste, household waste, appliances, rubbish, scrap metal, and one scrap tire..

B. The disposal area at the Site did not meet the technical standards for landfills outlined in ADEM Admin. Code ch. 335-13-4. Furthermore, the disposal area had not been permitted as a land disposal facility by the Department as required under ADEM Admin. Code ch. 335-13-5.

C. According to Mobile County property tax records, Mitchell was the Site's owner at the time of the inspection. Mitchell was not residing on the Site at the time of the inspection.

D. The disposal of approximately 1,000 cubic yards of 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 Mitchell is responsible.

7. On November 3, 2023, the Department issued Mitchell a Notice of Violation (“NOV”) via the United States Postal Service (“USPS”) Certified Mail, requiring full abatement and closure of the UAD. The USPS online tracking system, the NOV was returned to the Department on December 12, 2023, as unclaimed.

8. On August 12, 2024, Department personnel conducted a follow-up inspection at the Site and discovered that the UAD was still present. However, the amount of regulated solid waste had been reduced to approximately 20 cubic yards. The remaining waste included construction/demolition waste, household waste, appliances, rubbish, and 12 scrap tires. Department personnel observed signs indicating that waste had been buried on the site.

9. On August 16, 2024, the Department resent the NOV via FedEx. According to FedEx’s online tracking system, the NOV was delivered on August 20, 2024.

10. On May 28, 2025, Department personnel conducted a second follow-up inspection to assess the status of the UAD. The UAD was still present, and the amount of solid waste had increased to 30 cubic yards. Additionally, the number of scrap tires had decreased from 12 to 10.

11. To date, the Department has not received a response to the NOV from Mitchell.

12. 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 exhibited by Mitchell, the Department observed that the violation mentioned above was non-technical and easily avoidable. Mitchell did not exhibit a standard of care commensurate with applicable regulatory standards 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: The Department has been unable to ascertain if Mitchell has 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 Mitchell 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, Mitchell does 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 Mitchell's inability to pay the civil penalty assessed herein.

13. 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 issuance of this Order, Mitchell shall pay the Department a civil penalty of \$6,000 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 Mitchell'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, Mitchell shall cease and desist from creating, operating, or contributing to any UADs.

C. That, within thirty days of issuance of this Order, Mitchell 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 Ledbetter intends to take to remove all regulated solid waste from the Site and deposit it in an approved landfill unit or at a registered recycling facility. Additionally, the plan must include a timeline for the completion of all remediation and closure activities. Unless otherwise directed by the Department, Mitchell shall implement the site closure plan as presented and 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 activities, Mitchell 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 activities took place.
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. A copy 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 affirming that the UAD was properly closed to prevent erosion on the Site, if applicable.
7. Documentation affirming 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 Mitchell 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 Mitchell 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

Attachment A

Ricky Mitchell

5301 Porters Lane

Eight Mile, Mobile County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	1	\$5,000	\$1,000	\$0	Total of Three Factors
TOTAL PER FACTOR		\$5,000	\$1,000	\$0	\$6,000

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

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$6,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$6,000

Footnotes

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