

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:	)	
	)	
	)	
GUYCAN, LLC, Jeffrey F. Potter,	)	
and Clarence Marable	)	
0 Hare 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 Hare Street Tuskegee, which is further identified as Parcel ID Number 07 04 19 4 000 060.000, in Tuskegee, Macon County, Alabama (“the Site”). Jeffrey F. Potter (“Potter”) is Guycan’s owner and registered agent. Clarence Marable (“Marable”) is the owner of 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(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 7, 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 4,000 cubic yards of regulated solid waste were discovered openly dumped throughout the Site. This waste consisted of construction and demolition waste, household waste, and rubbish.

B. The disposal area at the Site was 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, Clarence Marable was the Site's owner at the time of the inspection. As per the City of Tuskegee's Finance Department, Potter was the owner of Guycan.

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

8. On July 1, 2024, the Department issued Marable a Notice of Violation (“NOV”) via the United States Postal Service (“USPS”) Certified Mail, requiring complete abatement and closure of the UAD. The USPS online tracking system indicated that the NOV was delivered on July 5, 2024.

9. On July 14, 2024, in response to the NOV, Mrs. Lula Whigham-Marable notified the Department that her husband, Clarence Marable, had died on September 19, 2014. In her response, she requested an extension to find a suitable person to assist in the remediation of the Site, along with a general cleanup plan for the Site.

10. On July 16, 2024, the Department sent correspondence to Mrs. Marable acknowledging receipt of her response to the NOV.

11. On August 1, 2024, personnel from the Department conducted a second inspection at the Site and noted the UAD had increased slightly to approximately 4,180 cubic yards of regulated solid waste.

11. On April 11, 2025, personnel from the Department conducted a third inspection at the Site and noted the continued presence of the UAD, which had increased significantly to approximately 11,921 cubic yards of regulated solid waste.

13. Based on a review of information provided by the City of Tuskegee’s Fire Department, the Department determined that Guycan was responsible for the disposal of regulated solid waste at the Site.

14. On June 18, 2025, the Department issued Guycan through its registered agent and owner, Potter, a NOV via the USPS Certified Mail, requiring the complete abatement and closure of the UAD. The USPS online tracking system showed that the NOV was unclaimed and was returned to the Department on July 25, 2025.

15. On July 28, 2025, the Department dispatched the June 18, 2025 NOV via Potter using FedEx. According to the FedEx online tracking system, the NOV was successfully delivered on July 30, 2025.

16. On January 16, 2026, Department personnel conducted a fourth inspection at the Site and discovered that the UAD had increased to approximately 12,070 cubic yards of regulated solid waste.

17. To date, neither Guycan, Potter, nor Marable have provided documentation or further communications that resolve the violations stated in the NOVs.

18. 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 on the Site.

B. THE STANDARD OF CARE: Upon evaluating the standard of care demonstrated by Guycan, Potter, and Marable, the Department noted that the violations referred to herein were non-technical and easily avoidable. As a result, neither Guycan, Potter, nor Marable has demonstrated a standard of care that

aligns with the relevant regulatory standards specified in ADEM Admin. Code div. 335-13 or the Department's directives concerning the appropriate disposal of regulated solid waste.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department contends that Guycan, Potter, and Marable 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 was estimated that they have achieved an economic benefit of approximately \$162,000 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 \$10,000 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, Potter, or Marable 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, neither Guycan, Potter, nor Marable 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, Potter's, or Marable's inability to pay the civil penalty assessed herein.

19. 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, Potter, or Marable shall pay the Department a civil penalty of \$100,000 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, Potter's, or Marable'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, Guycan, Potter, and Marable shall cease and desist from creating, operating, or contributing to any UADs.

C. That, within thirty days of receipt of this Order, Guycan, Potter, or Marable 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, Guycan, Potter, or Marable shall implement the site closure plan 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 remediation activities, Guycan, Potter, or Marable 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) 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 Guycan, Potter, or Marable 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 the Guycan, Potter,

or Marable 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, L.L.C., Jeffrey F. Potter, and Clarence Marable

0 Hare Street

Tuskegee, Macon County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	4	\$7,000	\$5,000	\$0	Total of Three Factors
TOTAL PER FACTOR		\$28,000	\$20,000	\$0	\$48,000

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

Economic Benefit (+) *	\$162,000
Amount of Initial Penalty	\$210,000
Total Adjustments (+/-)	(\$110,000)
FINAL PENALTY	\$100,000

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.