EDWARD F. POOLOS
DIRECTOR

JEFFERY W. KITCHENS
DEPUTY DIRECTOR

ADEM

KAY IVEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov
1400 Coliseum Blvd. 36110-2400 ▪ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ▪ FAX (334) 271-7950

CERTIFIED MAIL NO.: 9589 0710 5270 3736 8755 74
RETURN RECEIPT REQUESTED

October 13, 2026

Mr. Bradley Potter
Engineering Manager
Scottsboro Electric Power Board
404 East Willow Street
Scottsboro, AL 35768

Re: Proposed Consent Order
Facility No. 705-0052

Dear Mr. Potter:

Please be advised that, based upon Scottsboro Electric Power Board's failure to comply with the permitted generator annual hours of operation, the Department has determined that the above-named facility is in violation of the Alabama Air Pollution Control Act, *Code of Alabama* (1975), §§ 22-28-1 through 22-28-23, as amended, and the ADEM Administrative Code of Regulations promulgated pursuant thereto. The Department has made a preliminary determination that the alleged violations warrant an enforcement action with a civil penalty.

However, the Department has also determined that the alleged violations are appropriate for resolution by Consent Order, a mechanism by which you may agree to certain terms and conditions to resolve the violations without the need for more aggressive enforcement and litigation. We have enclosed two copies of a proposed Consent Order containing terms and conditions acceptable to the Department as resolution of the cited violations. If you are agreeable to the entry of this Consent Order, please execute both copies of the document where indicated and return them to the Department in the enclosed envelope within 10 days of the date of receipt of this letter.

All proposed Orders assessing a civil penalty are subject to a 30-day public notice and comment period and may be the subject of a public hearing if significant comments are received. If changes are made to the proposed Consent Order in response to public comments, those changes will be sent to you for your further review and signature. Upon completion of the public notice process, the Department will enter the final order, assign the "effective date," and return a signed original to you. Payment of civil penalties is due within 45 days of the Order's effective date.

Birmingham Office
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Office
2715 Sandlin Road, S.W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)

Coastal Office
1615 South Broad Street
Mobile, AL 36605
(251) 450-3400
(251) 479-2593 (FAX)

If you do not agree and reject this expedited enforcement approach, the Department may institute a more formal administrative enforcement action seeking an enhanced civil penalty commensurate with the additional expenditure of agency resources or proceed with litigation in circuit court. Any administrative enforcement action would be subject to the same public notice and comment requirements as a Consent Order.

If you wish to discuss this proposal, please do not hesitate to contact us. If you would like an informal conference with our staff to discuss the alleged violations, we will be glad to schedule such a meeting. Should a meeting be scheduled, we ask that you provide a reply stating your specific concerns, the subjects to be addressed, and a list of attendees, in writing, at least five days prior to the meeting. However, you must respond to this letter within 10 days of receipt. If we do not receive a response from you within this time frame, the Department will pursue another enforcement alternative with enhanced penalties.

Should you have any questions concerning this matter, please contact Paul Contorno at paul.contorno@adem.alabama.gov or (334) 271-7761.

Sincerely,

Aubrey H. White III, Chief
Air Division

AHW/PMC:pmc

Enclosures

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF:	)	
	)	
Scottsboro Electric Power Board	)	
Scottsboro, Jackson County, Alabama	)	CONSENT ORDER NO. XX-XXX-CAP
	)	
ADEM Air Facility ID No. 705-0052	)	

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management ("Department" or "ADEM") and Scottsboro Electric Power Board ("Permittee") pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 through 22-22A-17, *as amended,* the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through- 22-28-23, *as amended,* and the regulations promulgated pursuant thereto.

STIPULATIONS

1. The Permittee operates an electricity generation and distribution facility, Air Division Facility No. 705-0052 ("Facility"), located at 7526 Roy Owens Blvd., Scottsboro, Jackson County, Alabama.

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

3. Pursuant to Ala. Code §§ 22-22A-4(n), *as amended,* the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. §7401 et seq., *as amended.* In addition, the Department is authorized to administer and enforce the

provisions of the Alabama Air Pollution Control Act, Ala. Code §§ 22-28-1 through 22-28-23, *as amended.*

4. The Department issued the current Air Permit No. 705-0052-X001 ("Permit") to the Permittee on January 29, 2008.

5. Permit Proviso No. 15 states: *"The total number of hours of operation for all five generators shall not exceed 416 hours per year. The facility shall maintain records of the number of hours operated for each generator."*

DEPARTMENT'S CONTENTIONS

6. On April 20, 2026, the Permittee submitted a spreadsheet of generator run times for the period of January 2025 through March 2026 to the Department. The report disclosed the following twelve-month totals in violation of Proviso No. 15:

Twelve-month Operating Period	**Total Run Time of Generators (Hours)**
February 2025 through January 2026	461
March 2025 through February 2026	422
April 2025 through March 2026	424

7. On August 6, 2026, the Permittee submitted an updated spreadsheet of generator run times to the Department. The report disclosed the following twelve-month totals in violation of Proviso 15:

Twelve-month Operating Period	**Total Run Time of Generators (Hours)**
May 2025 through April 2026	429
June 2025 through May 2026	429

8. 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 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 $25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed $250,000.00. Each day such 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 Department considers the Permittee's failure to comply with the permitted hours of operation to be serious violations.

B. THE STANDARD OF CARE: The Permittee continued operation of the generators while in exceedance of the permitted hours of operation. Therefore, the Permittee did not exhibit the requisite standard of care to comply with the requirements of the Permit and applicable regulatory standards.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Permittee may have gained an economic benefit as a result of the violations referenced herein, but the Department is unable to quantify the amount.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIROMENT: Subsequent to the violations, the Permittee

implemented an adequate effort to minimize the effects of the violation by reducing generator runtime.

E. HISTORY OF PREVIOUS VIOLATIONS: The Permittee has no known previous violations.

F. THE ABILITY TO PAY: The Permittee has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty to resolve this matter amicably without incurring the unwarranted expense of litigation.

9. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended*, as well as the need for timely and effective enforcement and, based upon the foregoing and attached contentions, has concluded that the civil penalty is appropriate (*See* "Attachment A", which is hereby made a part of Department's Contentions).

10. The Department neither admits nor denies Permittee's Contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without unwarranted expenditure of State resources in prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

PERMITTEE'S CONTENTIONS

11. The Permittee neither admits nor denies the Department's contentions. The Permittee consents to abide by the terms of this Consent Order and pay the civil penalty assessed herein.

ORDER

THEREFORE, the Permittee, along with the Department, desires to resolve and settle the compliance issues cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., *as amended,* as well as the need for timely and effective enforcement and has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and the Permittee agree to enter into this Consent Order with the following terms and conditions:

A. The Permittee agrees to pay to the Department a civil penalty in the amount of $26,000.00 in settlement of the violations alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. The Permittee agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

Or, in the alternative, payment of the civil penalties assessed herein shall be made in the form of a wire transfer payable to the Alabama Department of Environmental Management pursuant to the wire transfer instructions to be provided to the Permittee by the Department.

C. The Permittee agrees to submit an application for a revised Air Permit to accurately reflect the Permittee's subjectivity to 40 CFR Part 63 Subpart ZZZZ to the Department within forty-five days from the effective date of this Consent Order if the Permittee has not already done so.

D. The Permittee agrees to comply with all other requirements of ADEM Administrative Code Div. 335-3 and the Permit immediately upon the effective date of this Order and continuing every day thereafter.

E. The parties agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

F. The parties agree that, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

G. The Permittee agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. For purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County. The Permittee also agrees that in

any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of *Force Majeure*, compliance with this Agreement and physical impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of the Permittee, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to have been beyond the reasonable control of the Permittee) and which delays or prevents performance by a date required by the Consent Order. Events such as unanticipated or increase costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state, or local permits shall not constitute *Force Majeure.* Any request for a modification of a deadline must be accompanied by the reasons (including documentation) for each extension and the proposed extension time. This information shall be submitted to the Department a minimum of ten working days prior to the original anticipated completion date. If the Department, after review of the extension request, finds the work was delayed because of conditions beyond the control and without the fault of the Permittee, the Department may extend the time as justified by the circumstances. The Department may also grant any other additional time extension as justified by the circumstances, but it is not obligated to do so.

I. The Department and the Permittee agree that the purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances reference herein. Should additional facts and circumstances be discovered concerning current allegations and contentions which would constitute violations not addressed in this Consent Order, then such violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be

appropriate. The Permittee shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order.

J. The Department and the Permittee agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Permittee does hereby waive any hearing on the terms and conditions of the same.

K. The Department and the Permittee agree that this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

L. The Department and the Permittee agree that final approval and entry into this Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public has, at a minimum, a thirty-day comment period for the proposed Order.

M. The Department and the Permittee agree 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.

N. The Department and the Permittee agree that any modifications of this Order must be agreed to in writing signed by both parties. Any modification would require an additional public notice and comment period.

O. The Department and the Permittee agree that, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

P. The Department and Permittee agree that compliance with Section described as "Order" of this consent order, including payment of any stipulated penalties, constitutes full satisfaction of all requirements pertaining to the specific violations described in the Section titled "Department's Contentions" of this consent order.

Executed in duplicate, with each part being an original.

SCOTTSBORO ELECTRIC POWER BOARD	ENVIRONMENTAL MANAGEMENT
Stacy Radon	
(Signature of Authorized Representative)	Edward F. Poolos Director
Stacy Radon	
(Printed Name)	
General Manager	
(Printed Title)	
10-22-2026	
(Date)	(Date Executed)

Attachment A

Scottsboro Electric Power Board
Facility ID No. 705-0052
Scottsboro, Jackson County

Violation[1]	Number of Violations	Seriousness of Violation[1]	Standard of Care[1]	History of Previous Violations[1]	Total of Three Factors[2]
Exceedance of twelve-month rolling total hours of operation (per month)	5	$ 17,000	$ 9,000	$ -	$ 26,000
				SUBTOTAL	$ 26,000

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

Economic Benefit	$ -
Amount of Initial Penalty	$ 26,000
Total Adjustments (+/-)	$ -
Adjustment for Statutory Cap[3]	$ -
FINAL PENALTY	**$ 26,000**

[1] *See the "Department's Contentions" portion of the Order for a detailed description of each violation and the penalty factors.*

[2] *Pursuant to Ala. Code §22-22A-5(18)c., as amended, the penalty for each individual violation is limited to $25,000.00.*

[3] *Pursuant to Ala. Code §22-22A-5(18)c., as amended, the total assessed penalty is limited to $250,000.00.*