

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

Lisa Norris
6244 Old Three Notch Road UAD
Brantley, Crenshaw County, Alabama

Order No. 23 -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 (hereinafter "ADEM" or "the Department") Administrative Code of Regulations (hereinafter "ADEM Admin. Code r.") promulgated pursuant thereto, the Department makes the following FINDINGS:

1. Lisa Norris (hereinafter "Ms. Norris"), the owner of the real property identified as Parcel ID No. 24-21-09-29-0-000-013.005 located at 6244 Old Three Notch Road in Brantley, Crenshaw County, Alabama (hereinafter "the Site"), is responsible for the creation and operation of an unauthorized dump (hereinafter "UAD") on the Site, which is the subject of this Administrative Order.

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 § 22-27-10(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. On July 19, 2021, in response to a complaint, Department personnel inspected the Site and discovered an unpermitted disposal area consisting of approximately forty cubic yards of household waste. In the Crenshaw County property records, Ms. Norris was listed as the owner of the Site on which the UAD was located. The inspection and a review of Ms. Norris' compliance with certain requirements of Division 13 of the ADEM Admin. Code revealed the following:

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.

During the inspection, Department personnel discovered the above-mentioned regulated solid waste had been dumped on the Site without a Department-issued municipal solid waste disposal facility permit. As a result, the depositing of the above-mentioned regulated solid waste on the Site constituted the creation of an unauthorized dump for which Ms. Norris, as the property owner, was responsible.

6. On August 6, 2021, the Department issued to Ms. Norris a Notice of Violation (hereinafter "NOV") via the United States Postal Service Certified Mail.

7. The Department did not receive a response to the NOV, and the delivery of the August 6, 2021 NOV could not be verified.

8. On October 5, 2021, the NOV was shipped through FedEx with a signature required.

9. On October 7, 2021, FedEx delivered the NOV, and "L. Norris" signed for it.

10. The Department has not received a response to the NOV.

11. On February 9, 2022, Department personnel conducted a follow-up site inspection and found that the UAD was still present.

12. On June 1, 2022 and June 3, 2022, Department personnel conducted a second follow-up site inspection to document the UAD's condition and confirm that the UAD was situated entirely on Ms. Norris's property and that no waste had been dumped on any neighboring properties. The UAD was still present and appeared to be unabated. Department staff discovered that the UAD was only present on Ms. Norris' property after comparing GPS coordinates recorded during the inspection with the description of the Site in the Crenshaw County property records.

13. On August 9, 2022, Department personnel conducted a third follow-up site inspection and confirmed the UAD's ongoing existence. Furthermore, it was noted that the amount of regulated solid waste had increased to approximately fifty cubic yards of household waste. Ms. Norris was also given a copy of the NOV the Department had issued on August 6, 2021 by Department personnel during the inspection. In addition to refusing to sign the NOV's certificate of service, Ms. Norris stated that she had no intention of complying with the Department's enforcement action.

14. On November 1, 2022, Department personnel conducted a fourth follow-up site inspection and confirmed the UAD's ongoing existence. However, it was noted that the amount of regulated solid waste had decreased to approximately forty cubic yards of household waste.

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. The Department is unaware of any irreparable harm to the environment, or any immediate threat to human health and safety of the public as a result of this violation in reference to the UAD located on the Site.

B. THE STANDARD OF CARE: Ms. Norris failed to comply with both Departmental directives on the correct abatement and closing of the UAD as well as the regulations governing the disposal of solid waste after being informed of her obligations.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department was unable to establish whether Ms. Norris had received a significant financial 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 any efforts by Ms. Norris to mitigate any potential adverse effects of the UAD on the environment, human health, or public safety.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Ms. Norris does not have a documented history of prior violations of Division 13 of the ADEM Admin. Code.

F. THE ABILITY TO PAY: Ms. Norris has not provided the Department with any documentation demonstrating her financial 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, not later than forty-five days of issuance of this Order, Ms. Norris shall pay to the Department a civil penalty in the amount of \$3,000 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 Ms. Norris' 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, Ms. Norris shall cease and desist from operating any UADs.

C. That, within thirty days of issuance of this Order, Ms. Norris 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 schedule for site closure completion. Ms. Norris shall implement the site closure plan and transport the waste to a permitted municipal solid waste (MSW) landfill.

D. That, within thirty days of completion of remediation activities, Ms. Norris is required to report the following information to the Department in order to provide documentation of closure actions:

1. Time period in which the remediation activities took place.
2. Total volume of waste removed from the Site.

3. Documentation that all regulated solid waste, to include both surface and subsurface waste, was removed from the Site.
4. A copy of waste receipts documenting that all regulated waste was taken to a permitted MSW landfill.
5. Photographs of the solid waste disposal area(s) on the Site, before and after remediation.
6. Documentation that the Site was properly closed to prevent erosion, if applicable.
7. Documentation 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 Ms. Norris 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 Ms. Norris for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this ____ day of _____, 2022.

Lance R. LeFleur
Director

Attachment A

Ms. Lisa Norris
6244 Old Three Notch Road UAD
Brantley, Crenshaw County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creating an Unauthorized Dump	1	\$2,500	\$500	\$0	Total of Three Factors
TOTAL PER FACTOR		\$2,500	\$500	\$0	\$3,000

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

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$3,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$3,000

Footnotes

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