



**Alabama Department of Environmental Management**  
[adem.alabama.gov](http://adem.alabama.gov)

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700 ■ FAX (334) 271-7950

February 27, 2019

**CERTIFIED MAIL NO.** 91 7199 9991 7038 0606 4053  
**RETURN RECEIPT REQUESTED**

Peter Knox  
195 Hickory Drive  
Eclectic, Alabama 36024

Dear Mr. Knox:

RE: Order No. 19-041-SW

Please find enclosed ADEM Order No. 19-041-SW, which requires you to take certain actions in response to alleged violations of applicable requirements of Division 13 of the ADEM Administrative Code. This Unilateral Order underwent a thirty-day public notice and no comments were received by the Department. Please note that the assessed civil penalty is due within 45 days, and an abatement plan is due within 30 days of the issuance date of the Order.

Pursuant to Code of Alabama 1975, §22-22A-7(c)(1), as amended, this Order may be appealed by filing a request for a hearing before the Environmental Management Commission which should comply with the requirements of ADEM Admin. Code Chap. 335-2-1.

If you have any questions regarding this matter, please contact Mr. Matthew Boggan at (334) 271-7978 or by email at [rmboggan@adem.alabama.gov](mailto:rmboggan@adem.alabama.gov).

Sincerely,

Stephen A. Cobb, Chief  
Land Division

**Issued: 02-27-2019**

**Served: 06-27-2019**

SAC/tlw

Enclosure

CC via email: A. Todd Carter, Office of General Counsel, ADEM  
Jerome Hand, Office of External Affairs, ADEM



**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Peter Knox**  
**Hickory Drive UAD**  
**Eclectic, Elmore County, Alabama**

Order No. 19 -041 -SW

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, 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. Peter Knox (hereinafter "Mr. Knox") is responsible for an unauthorized solid waste dump (hereinafter "UAD") located at 195 Hickory Drive (parcel numbers 0705213003035000 and 0705213003036000) in Eclectic, Elmore County, Alabama (hereinafter "the Site"), which is the subject of this Administrative Order.

2. Pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, 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. On October 26, 2017, Department personnel conducted an initial site inspection and observed the presence of a UAD on the Site. A review of Elmore County property records revealed Mr. Knox as the owner the aforementioned property. In addition, Mr. Knox was residing on the property at the time of inspection. The inspection and a review of Mr. Knox's compliance with certain requirements of Division 13 of the ADEM Admin. Code revealed the following:

Pursuant to ADEM Admin. Code r. 335-13-11-.03(2), the person(s) responsible for the creation, contribution to, and/or operation of an unauthorized dump site is responsible for the remediation of the site. If the responsible person(s) is not determined, the landowner is responsible for remediation of the site, unless the landowner qualifies as an innocent landowner. Pursuant to ADEM Admin. Code r. 335-13-1-.13(1)(a), unauthorized dumps are prohibited. ADEM Admin. Code r. 335-13-5-.01 requires all solid waste to be disposed in a permitted landfill unit.

As noted during the inspection, regulated solid waste was observed as being disposed on the Site without a permit from the Department, constituting an UAD. The UAD consisted of approximately 250 cubic yards of household waste, construction and demolition waste, and appliances.

5. On March 23, 2018, the Department issued to Mr. Knox a Notice of Violation (hereinafter "NOV"), requiring the abatement and closure of the UAD.

6. On April 17, 2018, the NOV was returned to the Department "unclaimed."

7. On May 31, 2018, the Department re-issued to Mr. Knox the same NOV via FedEx.

8. On June 4, 2018, the NOV was delivered to the residence of Mr. Knox.

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

10. 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 a public nuisance per se and a menace to public health. With regards to the Site, the Department is unaware of any irreparable harm to the environment, any immediate threat to human health, or the safety of the public as a result of this violation.

B. THE STANDARD OF CARE: Mr. Knox failed to abide by requirements applicable to the disposal of solid wastes 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 Mr. Knox 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 any efforts by Mr. Knox to mitigate any potential effects upon the environment and human health that may have been caused as a result of the UAD.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Mr. Knox does not have a documented history of violations of the applicable requirements of Division 13 of the ADEM Admin. Code.

F. THE ABILITY TO PAY: The Department does not have any evidence indicating that Mr. Knox is unable to pay the civil penalty.

11. 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, Mr. Knox shall pay to the Department a civil penalty in the amount of \$13,000 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 checks shall reference Mr. Knox'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, Mr. Knox shall cease and desist from operating a UAD.

C. That, within thirty days of issuance of this Order, Mr. Knox shall submit a site closure plan to the Department in accordance with ADEM Admin. Code div. 335-13-1-.13(2)(b)1. This plan shall include a schedule for site closure completion. Mr. Knox shall implement the site closure plan and remove the wastes onsite to an approved landfill unit.

D. That, within thirty days of completion of remediation activities, Mr. Knox shall document closure activities by submitting the following information to the Department:

1. Time period in which the remediation activities occurred.
2. Total volume of waste removed from the property.

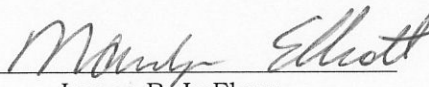
3. Documentation that all regulated waste, to include both surface and subsurface waste, was removed from the property.
4. A copy of waste receipts documenting that all regulated waste was taken to a permitted landfill.
5. Photographs of the site, before and after remediation.
6. Documentation that the site was properly closed to prevent erosion.
7. Documentation that the site has been secured to prevent any future illegal dumping.

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 Mr. Knox 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 Mr. Knox for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 27<sup>th</sup> day of February, 2019.

  
\_\_\_\_\_  
Lance R. LeFleur  
Director

**Attachment A**

Peter Knox  
Unauthorized Solid Waste Dump (Hickory Drive)  
Eclectic, Elmore County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	1	\$11,000	\$2,000		Total of Three Factors
<i>TOTAL PER FACTOR</i>		<i>\$11,000</i>	<i>\$2,000</i>	<i>\$0</i>	<i>\$13,000</i>

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

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$13,000
Total Adjustments (+/-)	\$0
<b>FINAL PENALTY</b>	<b>\$13,000</b>

Footnotes

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




## ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, Stephen A. Cobb, do hereby certify that I have served the executed Administrative Order Number 198-041-SW upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt # 91 7199 9991 7038 0606 4053, with the instructions to forward and return receipt to:

Mr. Peter Knox  
195 Hickory Drive  
Eclectic, AL 36024

Done this 27<sup>th</sup> day of February, 2019.

A handwritten signature in black ink, appearing to read 'Stephen A. Cobb', is written over a horizontal line.

Stephen A. Cobb, Chief  
Land Division  
Alabama Department of Environmental Management



Track Another Package +

Tracking Number: 9171999991703806064053

Remove X

Expected Delivery on

THURSDAY  
21 MARCH 2019 ⓘ by 8:00pm ⓘ

✓ Delivered

March 21, 2019 at 8:48 am  
Delivered, To Original Sender  
MONTGOMERY, AL 36130

Get Updates ▼

Feedback

Text & Email Updates



Return Receipt Electronic



Tracking History



March 21, 2019, 8:48 am

Delivered, To Original Sender  
MONTGOMERY, AL 36130

Your item has been delivered to the original sender at 8:48 am on March 21, 2019 in MONTGOMERY, AL 36130.

March 21, 2019, 5:33 am

Arrived at Unit  
MONTGOMERY, AL 36119

**March 20, 2019, 7:22 am**

Arrived at USPS Regional Facility  
MONTGOMERY AL DISTRIBUTION CENTER

**March 19, 2019, 3:48 pm**

Arrived at USPS Regional Facility  
BIRMINGHAM AL DISTRIBUTION CENTER

**March 18, 2019, 11:15 am**

Unclaimed/Being Returned to Sender  
ECLECTIC, AL 36024

Reminder to Schedule Redelivery of your item

**March 1, 2019, 9:17 am**

Notice Left (No Authorized Recipient Available)  
ECLECTIC, AL 36024

**February 28, 2019, 10:19 pm**

Departed USPS Regional Facility  
MONTGOMERY AL DISTRIBUTION CENTER

**February 28, 2019, 7:33 pm**

Arrived at USPS Regional Facility  
MONTGOMERY AL DISTRIBUTION CENTER

**February 28, 2019, 6:18 pm**

Accepted at USPS Origin Facility  
MONTGOMERY, AL 36104

Feedback


**Product Information**



See Less ^

**Can't find what you're looking for?**

**ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE**

I, , hereby certify that I have served the

Administrative Order upon the person listed below by hand delivery:

Mr. Peter Knox  
195 Hickory Drive  
Eclectic, Alabama 36024

DONE this 27 day of June, 2019.

Name

Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, Alabama 36110-2059  
(334) 271-7855

I Robert Matthew Bossen hand delivered Administrative Order NO. - 19-0413W  
to 195 Hickory Drive, Eclectic Alabama 36024. The order was left in the  
door of the residence.

