



Environmental Commission to decide Dothan Landfill expansion challenge

Press Advisory
June 1, 2020

On Friday, June 12, the [Alabama Environmental Management Commission](#) will consider a [Hearing Officer's Report](#) that recommends that the Commission disapprove a permit modification issued by ADEM to the City of Dothan for construction and operation of a landfill expansion. See [Meeting Agenda](#).

On May 6, 2019, ADEM issued a [permit modification](#) to the City authorizing the landfill expansion. This permit modification follows two previous modifications granted for the landfill expansion in 2016 and 2017 that were rescinded by ADEM after residents exposed errors in the notifications provided by ADEM to adjacent landowners.

[Rescission of 2016 permit modification](#)

[ADEM revokes permit to expand Dothan landfill \(Dothan Eagle, June 13, 2016\)](#)

[Rescission of 2017 permit modification](#)

Several residents living near the landfill filed a [request for a hearing](#) before the Commission to present evidence of multiple errors alleged to have been made by ADEM. The Commission appointed a hearing officer to take evidence and make a recommendation to approve, disapprove, or modify the permit. After eight days of hearing in August and September 2019 involving the testimony of twenty-four witnesses and over 100 exhibits, the case was submitted to the hearing officer for consideration.

On May 20, 2020, the hearing officer submitted his report to the Commission. His report identified two errors committed by ADEM that, in his opinion, warrant disapproval of the permit.

First, the hearing officer concluded that ADEM had misinterpreted the law requiring the City to obtain approval of the permit application by the local governing body. The law directs ADEM not to issue a permit unless the permit applicant has obtained approval of the permit application by the local governing body. In this case, the hearing officer determined that the local governing body approved an expansion of the landfill facility boundary but did not approve the permit application which was not developed until several months later.

Second, the hearing officer concluded that ADEM granted the permit modification in disregard of a rule that required the City to determine the highest groundwater elevation beneath the proposed landfill expansion based on a minimum of two measurements taken during each of the three consecutive months of February, March and April with no two measurements taken within any twelve-day period. In this case, the evidence indicated that the groundwater elevation measurements did not comply with the rule.

The Environmental Management Commission will meet on June 12 to decide whether to accept or reject the hearing officer's recommendation to disapprove the permit modification. It is rare for a hearing officer to recommend disapproval of an ADEM permit and rare for the Commission to disapprove an ADEM permit. The hearing officer explained that he "can not recommend that the Commission approve actions that do not comply with ADEM's regulations."

If the Commission accepts the hearing officer's recommendation, the City will have to cease construction of the landfill expansion. The City is currently sending its solid waste to another [landfill in Florida at considerable expense and loss of revenue](#).

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