



April 4, 2022

***Delivered Via Electronic Mail and
Certified Mail - Return Receipt Requested
No. 7016 3010 0000 6309 1425***

Hon. Mark Saliba, Mayor
City of Dothan
P.O. Box 2128
Dothan, AL 36302
mayor@dothan.org

Re: City of Dothan Sanitary Landfill

Dear Mayor Saliba:

As you no doubt are aware, on March 31, 2022, the Circuit Court of Montgomery County entered the attached order reversing the Environmental Management Commission's June 12, 2020 approval of the Alabama Department of Environmental Management's modification of Solid Waste Disposal Facility Permit No. 35-06 issued on May 6, 2019. This order leaves the City without a valid permit to continue the disposal of solid waste in the municipal solid waste landfill expansion portion of the City of Dothan Sanitary Landfill.

Ala. Code 1975 § 22-27-2(38) defines an "unauthorized dump" as including "[a]ny 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." Continued disposal of solid waste in the landfill expansion without a valid solid waste disposal facility permit creates an "unauthorized dump." The operation of an "unauthorized dump" is a public nuisance per se, a menace to public health, and a violation of law. Ala. Code 1975 § 22-27-10(b). "[A]ny 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." Id.

Please be advised that continued disposal of solid waste in the landfill expansion portion of the City of Dothan Sanitary Landfill without a valid permit is unlawful and may result in

litigation to require removal of the solid waste or final closure of the landfill expansion. In addition, continued disposal of solid waste in the landfill expansion portion of the City of Dothan Sanitary Landfill without a valid permit may constitute a crime. Ala. Code 1975 § 22-27-7.

Sincerely,

A handwritten signature in cursive script that reads "David A. Ludder".

David A. Ludder
Attorney for Bobby Lewis, David & Peggy Del
Vecchio, Michael Del Vecchio, and William P. &
Tara Novack

cc: F. Lenton White, City Attorney



AlaFile E-Notice

03-CV-2020-900877.00

Judge: BROOKE E REID

To: LUDDER DAVID ALAN
court.notices@enviro-lawyer.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

BOBBY LEWIS ET AL V. ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT ET
03-CV-2020-900877.00

The following matter was FILED on 3/31/2022 2:23:33 PM

Notice Date: 3/31/2022 2:23:33 PM

GINA J. ISHMAN
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL, 36104

334-832-1260



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

LEWIS BOBBY,)	
DEL VECCHIO MICHAEL,)	
DEL VECCHIO DAVID,)	
DEL VECCHIO PEGGY ET AL,)	
Plaintiffs,)	
)	
V.)	Case No.: CV-2020-900877.00
)	
ALABAMA DEPARTMENT OF)	
ENVIRONMENTAL MANAGEMENT,)	
LANCE R. LEFLEUR, DIRECTOR,)	
ENVIRONMENTAL MANAGEMENT)	
COMMISSION,)	
SAMUEL L. MILLER, CHAIR ET AL,)	
Defendants.)	

ORDER ON REMAND

This matter comes before the Court on the Court of Civil Appeals’ reversal and remand of this Court’s Final Order dated February 2, 2021 affirming the Order of the Environmental Management Commission of the Alabama Department of Environmental Management dated June 12, 2020 which approved the Department’s modification of Solid Waste Disposal Facility Permit No. 35-06 issued to the City of Dothan on May 6, 2019. The Court of Civil Appeals issued a decision and entered a judgment holding that the Commission acted beyond its statutory authority in approving the modification of the permit, and that the trial court erred in concluding otherwise. Accordingly, the Court of Civil Appeals reversed and remanded this Court’s Final Order and instructed this Court to conduct further proceedings consistent with its decision.

In accordance with Code of Alabama 1975, § 41-22-20(1), this Court concludes as follows:

The City of Dothan submitted an application to the Alabama Department of Environmental Management for modification of Solid Waste Disposal Facility Permit No. 35-06 on May 15, 2018;

Pursuant to Code of Alabama 1975, § 22-27-48, the Board of Commissioners of the City of Dothan failed to examine and approve the application submitted to the Alabama Department of Environmental Management for modification of Solid Waste Disposal Facility Permit No. 35-06;

The Alabama Department of Environmental Management considered the City of Dothan's 2018 application for modification of Solid Waste Disposal Facility Permit No. 35-06 and issued the requested permit modification on May 6, 2019 in violation of Code of Alabama 1975, § 22-27-48(b);

The Environmental Management Commission of the Alabama Department of Environmental Management acted beyond its statutory authority in approving the Department's modification of Solid Waste Disposal Facility Permit No. 35-06 on June 12, 2020;

The Environmental Management Commission of the Alabama Department of Environmental Management's June 12, 2020 approval of Solid Waste Disposal Facility Permit No. 35-06 is due to be set aside because the Commission acted beyond its statutory authority.

In accordance with the instructions of the Court of Civil Appeals on remand and Code of Alabama 1975, § 41-22-20(k), it is hereby ORDERED, ADJUDGED and DECREED that this Court's February 2, 2021 Final Order is hereby VACATED and that the June 12, 2020 Order of the Environmental Management Commission of the Alabama Department of Environmental Management approving the Department's modification of Solid Waste Disposal Facility Permit No. 35-06 issued on May 6, 2019 is hereby REVERSED.

DONE this 31st day of March, 2022.

/s/ BROOKE E REID
CIRCUIT JUDGE
