

ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )

MR. MIKE METCHNIK )  
105 CAMP GROUND ROAD )  
BROWNSBORO, AL 35741 )

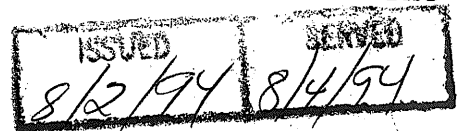
ORDER NO. 94-251-SW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16 (1990 Rplc. Vol. & 1991 Supp.), and the Solid Waste Disposal Act, Code of Alabama 1975, §§ 22-27-1 through 22-27-7 (1990 Rplc. Vol. & 1992 Supp.), the Alabama Department of Environmental Management (hereinafter or "the Department") makes the following FINDINGS:

1. Section 22-27-2(6), Code of Alabama 1975, defines an "unauthorized dump" as, among other things, "any solid waste disposal site which does not meet the regulatory provisions of this article.

2. On April 5, 1994, personnel from the Department observed that wood waste, wood pallets, brush, sludge, and construction/demolition debris, had been disposed of on a site located adjacent to Highway 431 S, between mile markers 330 and 331 in Owens Crossroads, Alabama and operated by Mike Metchnik, (hereinafter "the Operator"). Mike Metchnik also operates an air curtain burner at this same location. Operation of the air curtain burner was approved by the ADEM Air Division. The



burner has not been in operation in excess of six months and there is evidence of recent burial of solid waste on the site, including sewage treatment sludge, in violation of ADEM Administrative Code R. 335-13-5-.01 which requires that all solid waste be disposed of in a disposal facility permitted by the Department.

On April 28, 1994, a Notice of Violation was sent to Mike Metchnik for the violations at this site. No response to the Notice has been received. Mr. Metchnik previously closed an unauthorized solid waste dump at this site in 1990 following Department enforcement action.

3. Section 22-27-5(c), Code of Alabama 1975, requires all solid waste disposal sites to have a permit from the Department. To date, the Operator still has not applied for nor obtained a permit for the disposal site or properly closed said site in accordance with applicable regulations.

4. Section 22-27-4(b), Code of Alabama 1975, declares unauthorized dumps to be a public nuisance per se, a menace to public health, and a violation of the article.

5. The Operator owns and operates, or has operated, an unpermitted solid waste disposal site located adjacent to Highway 431 South, between mile markers 330 and 331, in Owens Crossroad, Alabama in violation of ADEM Administrative Code R. 335-13-5-.01.

6. The assessment of civil penalties for violations of the Department's Rules and Regulations, and for violations of any

order, permit conditions, license, certification, or variance issued by the Department is authorized by § 22-22A-5(18), Code of Alabama 1975, as amended. The statute also authorizes that the penalty amount may range from \$100.00 to \$25,000.00 for each violation, so long as the penalty amount does not exceed \$250,000.00 in any given order. Each day a violation continues constitutes a separate violation. In addition to the foregoing "Findings of Fact", the Department has considered the factors detailed in the aforementioned statute in determining the appropriate penalty amount in this particular instance. Those factors are listed as follows:

(a) The seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public;

(b) The standard of care manifested by the operator;

(c) The economic benefit which delayed compliance may confer upon Mike Metchnik;

(d) The nature, extent and degree of success of Mike Metchnik's efforts to minimize or mitigate the effects of such violation upon the environment;

(e) Mike Metchnik's history of previous violations;

(f) Mike Metchnik's ability to pay the assessed penalty.

#### ORDER

Based on the foregoing FINDINGS and pursuant to §§ 22-22A-1 to 22-22A-16, and 22-27-1 to 22-27-7 Code of

Alabama 1975, (1990 Rplc. Vol. and 1992 Supp.), it is hereby ORDERED:

A. That within 30 days from the date of receipt of notice of this Order, the Operator will pay to the Department a civil penalty in the amount of Six Hundred Dollars (\$600.00).

B. That the Operator will upon receipt of notice of this Order, immediately and continuing thereafter cease and desist from the unpermitted disposal of solid wastes.

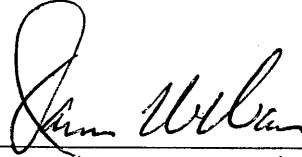
C. That within 30 days of the date of receipt of notice of this Order, pursuant to the requirements of ADEM Administrative Code R. 335-13-1-.13, the Operator will submit for the Department's review a plan for closure of the above unpermitted solid waste disposal site.

D. That within 30 days from the completion of the Department's review and acceptance of the plan referenced in paragraph C., above, the Operator will complete implementation of the accepted plan for closure of the above-referenced site.

E. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Operator for the violations cited herein.

F. That failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against the Operator for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 2<sup>nd</sup> day of August, 1994.

A handwritten signature in dark ink, appearing to read "James W. Warr", written over a horizontal line.

James W. Warr, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W. L. Dickinson Drive  
Montgomery, Alabama 36130  
(205) 271-7700

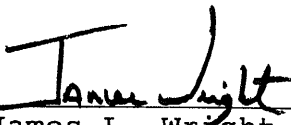
CERTIFICATE OF SERVICE

I, James L. Wright, hereby certify that I have served Administrative Order No. 94-251-SW upon Mike Metchnik by sending the same postage paid, through the U.S. Mail, as Certified Mail, with instructions to forward and return receipt requested to:

CERTIFIED MAIL NO. (P 841 248 875)

Mr. Mike Metchnik  
105 Camp Ground Road  
Brownsboro, AL 35741

DONE this 2<sup>nd</sup> day of August, 1994.

  
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James L. Wright