



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

April 18, 2019

Bob's Tire Services, LLC
3316 Blairmont Ave
Toledo, OH 43614

**Re: Bob's Tire Services LLC
Director's Final Findings and Orders (DFFO)
DFFO
Scrap Tires
Lucas County
ST019820**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Bob's Tire Services LLC

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3037.

Sincerely,

A handwritten signature in blue ink that reads "Greg Nichols". The signature is written in a cursive, flowing style.

Greg Nichols, Administrative Processing Unit
Division of Materials & Waste Management

Enclosure

ec:

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Bob's Tire Services, LLC	:	<u>Director's Final Findings</u>
3316 Blairmont Avenue	:	<u>and Orders</u>
Toledo, Ohio 43614	:	

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bob's Tire Services, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, 3734.85, and 3745.01.

Ohio EPA APR 18 '19
Entered Directors Journal

II. PARTIES

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent is a registered scrap tire transporter at property located at 23034 West OH-51, Genoa, Ottawa County, Ohio and identified by the Ottawa County Auditor's Office as parcel number 0100219703414000 ("the Property").
2. Respondent operates a business at the Property, where it collects scrap tires and transports the scrap tires back to the Property, processes the scrap tires for load consolidation, and transports the scrap tires offsite for disposal. Respondent leases the Property from Donald K. Dipman, the property owner.

3. Respondent is a "person" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
4. Respondent is an "operator" as that term is defined in OAC Section 3745-27-01(O)(5).
5. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and "solid waste" in OAC Rule 3745-27-01(S)(23).
6. OAC Rule 3745-27-01(S)(6) defines "scrap tire" as "a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use."
7. OAC Rule 3745-27-56(C)(3)(a) prohibits a scrap tire transporter from leaving scrap tires outside of a covered trailer or vehicle beyond the end of the current work shift.
8. Currently, Respondent estimates that there are approximately 22,000 scrap tires on the ground outside at the Property.
9. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus, and Dengue Fever.
10. In response to a complaint, on July 16, 2018, Ohio EPA's Northwest District Office, Division of Materials and Waste Management ("NWDO-DMWM") inspected the Property to determine compliance with the scrap tire provisions of ORC Chapter 3734 and OAC Chapter 3745-27. At the time of inspection, NWDO-DMWM observed a large number of scrap tires at the Property outside of a covered trailer or vehicle beyond the end of the current work shift in violation of OAC Rule 3745-27-56(C)(3)(a).

On August 7, 2018, Ohio EPA documented this violation in a notice of violation letter to Respondent.

11. On November 6, 2018, NWDO-DMWM re-inspected the Property and observed little to no progress made with removal and disposal of scrap tires from the Property. NWDO-DMWM discussed the violation and scrap tire disposal offsite with Respondent at that time. Respondent explained that scrap tire removal had backed up because Respondent's local scrap tire facility to which Respondent transports the scrap tires to had raised their disposal rates and it had to now transport the scrap tires out-of-state to a landfill in Michigan.

12. On January 2, 2019, NWDO-DMWM re-inspected the Property and observed little to no progress made with removal and disposal of scrap tires from the Property.
13. To date, Respondent remains in violation of Ohio's solid waste laws and rule for failing to properly remove and dispose of scrap tires from the Property.
14. Given the potential for a tire fire that could cause adverse health effects, the Director has determined that the accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
15. ORC Section 3734.85 provides that "[i]f the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, he shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state."
16. In accordance with ORC Section 3734.85, a person who receives an order under ORC Section 3734.85 may request an extension of the time for compliance with the order. To request an extension, the recipient of the order must submit a written request demonstrating that the recipient has acted in good faith to comply with the order.
17. If the recipient of an order issued under ORC Section 3734.85(A) fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was extended, within that time, the director shall take such actions as the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

V. ORDERS

Respondent shall achieve compliance with ORC Chapter 3734 and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall ensure that applications of pesticide/larvicide are applied in accordance with OAC Rule 3745-27-60(C)(2).
2. Upon the effective date of these Orders, Respondent shall maintain mosquito control records at the Property indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. Respondent shall make the mosquito control records available for inspection by Ohio EPA during normal operating hours and retain copies of the records for a minimum period of three years pursuant to OAC Rule 3745-27-60(C)(3).
3. Not later than two hundred and twenty-five (225) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires stored in an unsecured, uncovered, and outside location on the Property such that no tires remain in an unsecured, uncovered, and outside location at the Property beyond the end of the current work shift. Respondent shall arrange for transportation of the tires by a registered scrap tire transporter, to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81 in Ohio, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. Removal of the scrap tires stored in an unsecured, uncovered, and outside location on the Property shall be, at a minimum, in accordance with the following schedule:
 - a. Not later than seventy-five (75) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of a minimum of 200 more tires than are brought onto the Property for processing, resulting in a net decrease of 200 scrap tires from the Property.
 - b. Not later than one hundred and five (105) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of a minimum of 300 more tires than are brought onto the Property for processing, resulting in a net decrease of 500 scrap tires from the Property.
 - c. Not later than one hundred and thirty-five (135) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of a minimum of 500 more tires than are brought onto the Property for

- processing, resulting in a net decrease of 1000 scrap tires from the Property.
- d. Not later than one hundred sixty-five (165) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of a minimum of 500 more tires than are brought onto the Property for processing, resulting in net decrease of 1500 scrap tires from the Property.
 - e. Not later than one hundred ninety-five (195) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of a minimum of 500 more tires than are brought onto the Property for processing resulting in a net decrease of 2000 scrap tires from the Property.
 - f. Not later than two hundred twenty-five (225) days after the effective date of these Orders, Respondent shall remove, transport, and dispose of all remaining scrap tires stored in an unsecured, uncovered, and outside location on the Property.
4. Respondent may make a written request to extend the time for compliance in accordance with ORC Section 3734.85(A). In order for an extension of the time for compliance to be granted, the request must demonstrate Respondent has acted in good faith to comply with these Orders and be sent to:
- Ohio EPA
Chief, Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
5. Upon the effective date of these Orders, Respondent shall obtain receipts from the registered transporter and the disposal facility, indicating weight, volume or number of scrap tires received as part of the scrap tire removal pursuant to Order No. 3 and maintain a daily log which documents daily all incoming and outgoing scrap tires. These documents shall be kept on the Property and made available to Ohio EPA for review upon request,
6. By entry into these Orders, Respondent agrees to grant access to Ohio EPA, its representatives and contractors for the purpose of removing and disposing of all excess scrap tires in an unsecured, uncovered, and outdoor location from the Property and spraying for mosquitoes in the event that Respondent fails to comply with these Orders. This authorization and consent shall remain in full force and effect until all necessary and appropriate preventative and/or corrective action has been completed at the Property by either the owner or by Ohio EPA, its contractors, and its authorized representatives.

7. Respondent hereby agrees to relinquish any claim of ownership interest in any scrap tires that are removed from the Property.
8. Respondent hereby grants to Ohio EPA temporary rights-of-way and the right to improve existing, or build necessary roads on, over, and across the Property for the purpose of removal of scrap tires disposed outside at the Property.
9. Respondent hereby agrees to hold the Director, her representatives and contractors harmless for all activities associated with removal and disposal of scrap tires from the Property if Respondent fails to comply with these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Chief, Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation from Respondent: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted to Ohio EPA by Respondent seeking termination in accordance with this section and shall be signed by Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, Respondent or the Property.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent or the Property.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent under to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Materials and Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders. Ohio EPA specifically reserves all rights to recover public funds, if expended to address conditions related to the Property by placing a lien on the Property in accordance with ORC Section 3734.85.

XII. WAIVER

Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

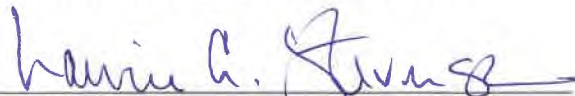
The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Environmental Protection Agency


Laurie A. Stevenson, Director


AGREED:

Bob's Tire Services, LLC


Signature


Date


Printed or Typed Name


Title
