



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

July 29, 2019

Sam Bass
dba CB Tire
416 Kentucky Avenue
Mansfield, Ohio 44905

Re: CB Tire
Director's Final Findings and Orders (DFFO)
DFFO
Scrap Tires
Richland County
ST019902

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 Sam Bass dba CB Tire.

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

Sincerely,

A handwritten signature in black ink that reads "Jeri Main". The signature is written in a cursive, flowing style.

Jeri Main, Administrative Professional Unit
Division of Materials & Waste Management

Enclosure

ec: Kelly Jeter, DMWM, CO
 Carl Mussenden, DMWM, CO
 Mike Reiser, DMWM, NWDO
 Susan Hardy, DMWM, NWDO
 Troy Harter, Legal
 Teri Finfrock, Legal

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OHIO E.P.A.
N.W.D.O.

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Samuel Bass
dba CB Tire
416 Kentucky Avenue
Mansfield, Ohio 44905

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:
:
:
:
Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

Ohio EPA JUL 29 '19
Entered Directors Journal

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Samuel Bass ("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.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and his heirs 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 has determined the following findings:

1. Respondent is the owner of approximately 1 acre of land identified by the Richland County Auditor's Office as parcel number 0250904915000, located at 95 South Illinois Avenue, Richland County, Ohio ("the Property").
2. Respondent operates a tire retail business at the Property.
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 "owner" as that term is defined in OAC Section 3745-27-01(O)(7).
5. On April 28, 2017, the Director issued Final Findings and Orders ("April 2017 Orders") to the Respondent. The Respondent consensually signed the April 2017 Orders and agreed to, in pertinent part:
 - a. The proper removal of all scrap tires existing on the Property as of April 28, 2017 at the rate of at least 500 tires every 30 days over a period of eighteen (18) months (ending on October 28, 2018);
 - b. The legal transport of all scrap tires removed from the Property according to the 18 month cleanup schedule to an authorized facility;
 - c. The storage of no more than 1000 scrap tires generated in the normal course of Respondent's business after April 28, 2017 in the following manner:
 - i. For 100 or fewer scrap tires, storage in a segregated area and in a manner and in accordance with OAC Rule 3745-27-60(B);
 - ii. For more than 100 but fewer than 1000 scrap tires, storage in a secured and covered area until completion of the removal of all scrap tires existing on the Property as of April 28, 2017.
6. On October 30, 2018, Ohio EPA conducted an inspection of the Property and observed the following violations of the April 2017 Orders, which were documented in a Notice of Violation sent on November 30, 2018:
 - a. OAC Rule 3745-27-60(C) and Orders 2 and 3 for not applying pesticide or larvicide to scrap tires stored outside during October 2018;
 - b. Order 4 for failing to remove all scrap tires that existed on the Property as of April 28, 2017 within the eighteen month schedule specified in the April 2017 Orders;
 - c. Order 6 for failing to designate an area for scrap tires generated on the Property after April 28, 2017, and for storing more than 1000 scrap tires outdoors in uncovered piles and in staged semi trailers.
7. By letter dated December 4, 2018, counsel for the Respondent communicated to Ohio EPA that Respondent has been removing tires at the rate of 500 scrap tires every 30 days and provided receipts, and intends to continue to do so. However, Respondent, through his attorney, requested further discussion with the Agency regarding ongoing clean up activities.

V. ORDERS

The Director's Final Findings and Orders issued to Respondent on April 28, 2017 are hereby modified as follows:

1. Section V of the April 2017 Orders is hereby modified to replace Order #4 with the following:

"4 Not later than six (6) months after the effective date of the Orders, Respondent shall remove or cause the removal of all scrap tires from the Property, except for up to one thousand (1,000) scrap tires generated in the normal course of Respondent's retail business. Scrap tires to be removed shall include but are not limited to, scrap tires dumped onto the ground, buried or partially buried, and scrap tires stored in trailers. Respondent shall transport the tires or cause them to be transported, 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.

Should Respondent cease to operate as a scrap tire retail business at the Property, Respondent shall notify Ohio EPA in writing and remove or cause the removal of all scrap tires from the Property within thirty (30) days of ceasing to operate.

2. Section V of the April 2017 Orders is hereby modified to replace Order # 5 with the following:

"5. Within 30 days of the effective date of these Orders and every 30 days thereafter, Respondent shall obtain receipts from the registered transporter and the disposal facility, indicating weight, volume, or number of scrap tires received. Respondent shall forward such documentation to Ohio EPA's NWDO-DMWM office, at the address found in these Orders under Section IX. Notice, by the 10th day of each month until the total number of scrap tires at the Property is reduced to 1,000 or fewer."

3. Section V of the April 2017 Orders is hereby modified to replace Order #6 with the following:

"6. Upon the effective date of these Orders, Respondent shall designate a secured and covered area for storage of scrap tires generated in the normal course of Respondent's retail business during the removal process described in Order #4. The total number of scrap tires in this secured and

covered area shall not exceed 1,000 tires at any point during the removal process described in Order #4.

4. Section V of the April 2017 Orders is hereby modified to add new Order #10 which reads as follows:

- "10. Should Respondent fail to comply with any provision of Order 4 or 6, Respondent shall, upon written notification by Ohio EPA, pay the amount of two thousand five hundred dollars (\$2,500) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3734 and which will be deposited into the environmental remediation fund established pursuant to ORC 3734.281. Payment to Ohio EPA shall be made by an official check made payable to Treasurer, State of Ohio for two thousand five hundred dollars (\$2,500). The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents and the Facility. A copy of the check shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.

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 pursuant 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

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

XI. RESERVATION OF RIGHTS

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 seek legal and equitable relief to enforce the terms and conditions of these Orders and the unmodified portions of the April 2017 Orders, including the right 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. Ohio EPA also expressly and specifically reserves the right to take any action and pursue any claim pursuant to any available legal authority to address violations of law which are not specifically cited in these Orders or the April 2017 Orders.

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:



Samuel Bass

6 26 19
Date