



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

November 5, 2020

Rodney A. Brock  
PO Box 308  
Malta, Ohio 43758

Jeffrey L. Brock  
PO Box 308  
Malta, Ohio 43758

Bruce L. Brock  
PO Box 308  
Malta, Ohio 43758

**Re: Brock's Automotive  
Director's Final Findings and Orders (DFFO)  
DFFO  
Scrap Tires  
Morgan County  
ST023495**

**Subject: Final Findings and Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for **Brock's Automotive**.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
30 E. Broad St., 4<sup>th</sup> Floor  
Columbus, Ohio 43215

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

Sincerely,

*Jeri Main*

Jeri Main  
Division of Materials & Waste Management

ec: Teri Finrock/Robin Nichols, DMWM, Legal  
Bruce McCoy/Carl Mussenden, DMWM, CO  
Joseph Giocochea/Rich Fox/, Dan Bergert, DMWM, SEDO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of

Rodney A. Brock : Director's Final Findings  
PO Box 308 : and Orders  
Malta, Ohio 43758 :

Jeffrey L. Brock :  
PO Box 308 :  
Malta, Ohio 43758 :

Bruce L. Brock :  
PO Box 308 :  
Malta, Ohio 43758 :

**Respondents**

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Rodney A. Brock, Jeffrey L. Brock, and Bruce L. Brock ("Respondents") dba Brocks Automotive pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3734.13 and 3734.85.

**II. PARTIES**

These Orders shall apply to and be binding upon Respondents, and their heirs and successors in interest liable under Ohio law. No change in ownership of the Property (as hereinafter defined) shall in any way alter Respondents' 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. Respondents own property identified by the Morgan County Auditor as Parcel Numbers 070-000-630-0, 070-000-640-0, 070-000-650-0, 070-000-660-0, 070-000-670-0, 070-000-690-0, 070-000-700-0, 070-000-710-0, 070-000-720-0, and

070-000-730-0 located at or about 3182 West State Route 37 in Malta, Ohio, (the "Property"). The Property encompasses acreage on both sides of State Route 37.

2. Respondents are each a "person" as that term is defined in ORC § 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
3. The Respondents operate Brocks Automotive at the Property, which includes a towing business and recycling drop off. A licensed junkyard was previously operated at the Property; however, Respondents do not maintain a current license to operate through the Morgan County Sheriff.
4. 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."
5. Scrap tires are included in the definition of "solid wastes" under ORC § 3734.01(E) and OAC Rule 3745-27-01(S)(22).
6. The Property is not registered, permitted, or licensed as a scrap tire collection facility, a scrap tire storage facility, a scrap tire recovery facility, a scrap tire monocell or monofill, or a solid waste disposal facility, nor has any application been submitted.
7. OAC Rule 3745-27-05(C) states, "No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code and shall submit verification that the solid waste has been properly managed."
8. On May 10, 2019, Ohio EPA received a complaint regarding Brocks Automotive. Among other things, the complaint alleged that there were numerous scrap tires at the Property.
9. Ohio EPA investigated the complaint, conducting inspections of the Property on May 16, 2019, October 11, 2019, and January 28, 2020. During those inspections, Ohio EPA observed at least seven (7) separate scrap tire piles on the Property, comprised of thousands of scrap tires and located on both the north and south sides of State Route 37. Ohio EPA also observed mosquito larvae within scrap tires. Ohio EPA documented the following violations in letters to Respondent Jeffrey Brock, dba Brocks Automotive, dated July 16, 2019, October 25, 2019, and March 13, 2020:
  - OAC Rule 3745-27-05(C) for open dumping, and
  - OAC Rule 3745-27-60(D) for failing to comply with mosquito control requirements (July 16, 2019 and March 13, 2020 letters only).

10. On August 7, 2020 notice of violation letters documenting the violations observed at the Property during the inspections on May 16, 2019, October 11, 2019, and January 28, 2020 and described in Finding No. 9 were sent to Respondents Rodney A. Brock and Bruce L. Brock. The letters also included copies of the July 16, 2019, October 25, 2019, and March 13, 2020 NOV's previously sent to Respondent Jeffrey Brock.
11. To date, neither Respondent Rodney A. Brock nor Respondent Bruce L. Brock have responded to the August 7, 2020 notice of violation letter.
12. To date, Respondents have neither implemented mosquito control measures at the Property nor removed and lawfully disposed of the scrap tires. There are currently an estimated 10,000 scrap tires open dumped on the Property.

## **V. ORDERS**

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

### ***Scrap Tire Removal***

1. Not later than seven (7) days after the effective date of these Orders, Respondents shall conduct and maintain mosquito control at the Property in accordance with OAC Rule 3745-27-60(D) until all scrap tires have been removed from the Property.
2. Not later than ten (10) days after the effective date of these Orders, Respondents shall properly store and maintain the storage of scrap tires such that the scrap tires always remain free of water, in accordance with OAC Rule 3745-27-60(C)(1)(b).
3. Not later than thirty (30) days after the effective date of these Orders and every thirty (30) days thereafter, Respondents shall remove and properly dispose of a minimum of two thousand five hundred (2,500) scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and all partially or completely buried scrap tires, and arrange for their transportation by a registered scrap tire transporter:
  - a. To a facility in Ohio or another state, operating in compliance with the laws of the state in which it is located, that is authorized to accept scrap tires; or
  - b. To any solid waste disposal facility in Ohio or another state that is operating in compliance with the laws of that state and is authorized to accept scrap tires.

4. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall have removed and properly disposed of all scrap tires from the Property.
5. Respondents shall obtain receipts from the registered scrap tire transporter and the facility receiving the scrap tires, indicating the weight, volume, and number of scrap tires received. Respondents shall forward such documentation to Ohio EPA Southeast District Office on a monthly basis by the 10<sup>th</sup> day of each month, until receipts documenting that all scrap tires have been removed from the Property in compliance with these Orders have been provided.

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrates to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

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

This certification shall be submitted by the Respondents to Ohio EPA and shall be signed by each Respondent.

## **VII. 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 the Respondents or the Property.

## **VIII. NOTICE**

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office,  
Division of Materials and Waste Management  
2195 E. Front St.  
Logan, Ohio 43138

Attn: Unit Supervisor, DMWM

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

#### **IX. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against the Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondents to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of the Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of the Respondents.

Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

#### **X. EFFECTIVE DATE**

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

**IT IS SO ORDERED:**



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Laurie A. Stevenson, Director