



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

OHIO E.P.A.  
DEC 29 2015

ENTERED DIRECTOR'S JOURNAL

December 29, 2015

Mary E. Woodring  
3608 State Route 534  
Windsor, Ohio 44090

**Re: Super Tread Tire Service  
Director's Final Findings and Orders (DFFO)  
DFFO  
Scrap Tires  
Ashland County  
ST019511**

**Subject:** Final Findings and Orders of the Director

Dear Ms. Woodring:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Mary E. Woodring.

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

Sincerely,

A handwritten signature in black ink that reads "D. Crumiell-Hagens". The signature is written in a cursive style.

Demitria Crumiell-Hagens, Administrative Professional II  
Division of Materials & Waste Management

Enclosure

cc: Melinda Berry, DMWM, CO  
Kelly Jeter, DMWM, CO  
Troy Harter, Legal  
Bruce McCoy, DMWM, CO  
Colum McKenna, DMWM, NEDO  
Jarnal Singh, DMWM, NEDO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Mary E. Woodring	:	<u>Director's Final Findings</u>
6308 SR 534	:	<u>and Orders</u>
Windsor, Ohio 44090	:	

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Mary E. Woodring ("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 her 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 makes the following findings:

1. Respondent is the owner of a 0.25 acre tract of land identified by the Ashtabula County Auditor's Office as parcel number 121110007300 and recorded in the Ashtabula County Recorder's Office book 486, pages 1682 and 1683 by Quit-Claim Deed, on December 9, 2010. The parcel is located at 346 Buffalo Street, Conneaut (Ashtabula County), Ohio and has a tax mailing address of 6308 State Route 534, Windsor Township, Ashtabula County, Windsor, Ohio (the "Property").

2. 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).
3. Respondent is an "owner" as that term is defined in OAC Section 3745-27-01(O)(7).
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. There are currently approximately 1,000 passenger tire equivalents ("PTEs) consisting of scrap tires, tire halves, and tire shreds, plus rubber inner tubes and rubber belting open dumped on the ground on the Property.
6. There are also approximately 10,000 scrap tires illegally stored inside the building on the Property.
7. OAC Rule 3745-27-60(B) provides that the storage of scrap tires in any amount is deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the scrap tires are stored in accordance with the specific standards set forth in OAC Rule 3745-27-60(B)(1) – (B)(11).
8. 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.
9. On January 30, 2013, May 1, 2013, June 24, 2013, July 20, 2013, September 6, 2013, December 13, 2013, April 10, 2014, July 17, 2014, and July 1, 2015, Ohio EPA inspected the Property and observed the following violations of Ohio's solid waste laws and rules:
  - a) ORC Section 3734.03 and OAC Rule 3745-27-05(C) – open dumping;
    - i) OAC Rule 3745-27-05(C) – 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.
    - ii) OAC Rule 3745-27-01(O)(4)(b) defines "open dumping" as "the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised

Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.”

- b) OAC Rule 3745-27-60(B)(7) - the following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure:
  - i) OAC Rule 3745-27-60(B)(7)(a) - Individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code. Scrap tire storage piles shall include any area where scrap tires are stored in racks. The two thousand five hundred square feet basal area shall apply to multiple racks and small scrap tire piles not separated from other racks, piles, or structures by a fire break at least fifty-six feet wide. The basal area of the scrap tire storage pile shall include the area of the tire piles, racks, and the area of any walkway or other open areas that do not meet the definition of a fire break as defined in rule 3745-27-01 of the Administrative Code.
  - ii) OAC Rule 3745-27-60(B)(7)(b) - Scrap tire storage piles shall not exceed eight feet in height.
  - iii) OAC Rule 3745-27-60(B)(7)(c) – Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles.
  - iv) OAC Rule 3745-27-60(B)(7)(d) – Scrap tire storage piles of more than five hundred scrap tires including single or multiple racks containing a total of more than five hundred scrap tires shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code.
  - v) OAC Rule 3745-27-60(B)(7)(e) - Sufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around, and between the scrap tire storage piles and areas.
- c) OAC Rule 3745-27-60(B)(8) – The following requirements apply to the storage of scrap tires in a building or covered structure:

- i) OAC Rule 3745-27-60(B)(8)(a) – Individual scrap tire storage piles shall not exceed two thousand five hundred feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code. Scrap tire storage piles shall include any area where scrap tires are stored in racks, stacks, or piles. The two thousand five hundred square feet basal area shall apply to multiple racks not separated from other racks, piles, or structures by at least eight feet.
  - ii) OAC Rule 3745-27-60(B)(8)(b) - The width of aisles between scrap tire storage piles shall be at least eight feet.
  - iii) OAC Rule 3745-27-60(B)(8)(c) - The clearance from the top of scrap tire storage piles to sprinkler deflectors shall be at least three feet.
  - iv) OAC Rule 3745-27-60(B)(8)(d) - Clearances in all directions from the top of scrap tire storage piles to roof structures shall be at least three feet.
  - v) OAC Rule 3745-27-60(B)(8)(e) - Clearances from the top of scrap tire storage piles to unit heaters, radiant space heaters, duct furnaces, and flues shall be at least three feet in all directions, and shall be in accordance with the clearance distances recommended by the equipment manufacturer.
- d) OAC Rule 3745-27-60(C)(1) - One or more of the following shall be done to control mosquitoes:
- i) OAC Rule 3745-27-60(C)(1)(a) - Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.
  - ii) OAC Rule 3745-27-60(C)(1)(b) - Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.
  - iii) OAC Rule 3745-27-60(C)(1)(c) - Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.
- e) OAC Rule 3745-27-60(C)(2) - Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.

- f) OAC Rule 3745-27-60(C)(3) - Maintain mosquito control records at the premises 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. The property owner or the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years.

Ohio EPA has documented violations of these rules in notice of violation ("NOV") letters which were sent to Respondent on May 13, 2013, July 2, 2013, September 27, 2013, January 6, 2014, June 13, 2014, August 15, 2014, and July 14, 2015.

10. To date, conditions at the Property remain unchanged and Respondent remains in violation of Ohio's solid waste laws and rules for failing to properly remove and dispose of the scrap tires from the Property.
11. Given the potential harm caused by the approximately 1,000 scrap tires tire halves, and tire shreds open dumped outside in a residential neighborhood that have not been treated with applications of pesticide or larvicide, and given the potential for a tire fire in a residential neighborhood 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.
13. 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."

## **V. ORDERS**

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

1. By entry into these Orders, Respondent expressly agrees to waive her right to remove the tires herself within 120 days and grants access to Ohio EPA, its

representatives and contractors to the Property prior to the 120 days specified in ORC Section 3734.85, for the purpose of removing and disposing of all scrap tires and associated solid waste from the Property.

2. Respondent hereby agrees to hold the Director, his representatives and contractors harmless for all activities associated with removing and disposing all scrap tires and associated solid waste from the Property.

#### **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  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087-1924

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 rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders. Ohio EPA specifically reserves all rights to recover the public funds 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.

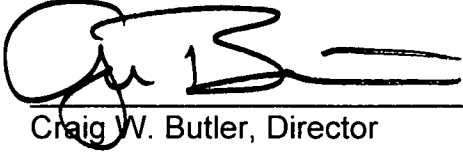
#### **XIV. SIGNATORY AUTHORITY**

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**

A handwritten signature in black ink, appearing to read "C. Butler", is written over a horizontal line. The signature is stylized and cursive.

Craig W. Butler, Director

**AGREED:**

**Mary E. Woodring**

Mary E. Woodring  
Signature

11-24-15  
Date

Mary E. Woodring  
Printed or Typed Name

Executor  
Title

Before me, a notary public, in and for said county and state, personally appeared, Mary E. Woodring, who did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 24 day of November, 2015.

**PAT BILLET**  
Notary Public, State of Ohio  
My Commission Expires Sept. 25, 2016

Pat Billet  
Notary Public

**AUTHORIZATION AND CONSENT FOR  
ACCESS TO PROPERTY**

The undersigned, Mary E. Woodring (the "Owner"), represents that she holds title to a parcel of real estate located at 346 Buffalo Street, Conneaut (Ashtabula County), Ohio, identified in the Ashtabula County Auditor's Official Records as Parcel ID Number 121110007300 (the "Property"). The Owner is a "person" as that term is defined in Ohio Revised Code ("ORC") Section 3734.01(G) and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3). Owner also represents that she is unable to remove scrap tires accumulated on the Property, and has expressed an interest in a removal conducted by Ohio EPA.

ORC Section 3734.85(A) authorizes the Director of Ohio EPA or Ohio EPA's employees or contractors to enter upon the land on which an accumulation of scrap tires is located and remove and transport the scrap tires to a scrap tire recovery, storage or disposal facility. Pursuant to ORC Section 3745.01(C), the Director has authority to enter into such contracts and agreements as are necessary to further the purposes of ORC Chapter 3734.

ORC § 3734.85 further provides, "If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation."

WHEREFORE, the Owner hereby gives authorization and consent to Ohio EPA, its contractors, and its authorized representatives to access and enter upon the Property for the purpose of taking the necessary and appropriate preventive and/or corrective action, including but not limited to removing, processing, treating, and disposing of scrap tires, and other such actions as are necessary to remove scrap tires and other associated solid wastes, if any, from the Property. The authorization and consent shall remain in full force and effect until all necessary and appropriate preventive and/or corrective action has been completed at the Property by Ohio EPA, its contractors, and its authorized representatives.

By giving consent, the Owner does not waive or otherwise compromise the Owner's rights and responsibilities under law, with the exception of those rights waived in giving this consent.

The Owner hereby relinquishes any claim of an ownership interest in any scrap tires or solid wastes that are removed from the Property or in any proceeds from their sale.

The Owner 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 located on the Property. At the conclusion of the clean up of all the scrap tires from the Property, all improvements shall become the property of the Owner.

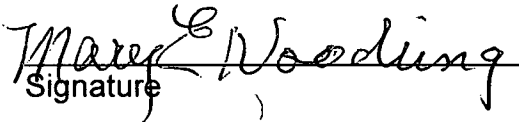
The Owner hereby agrees to waive any claims which may arise against Ohio EPA or its officers, employees, authorized representatives, or contractors in the course of performing the actions described above. The Owner hereby also agrees to hold harmless Ohio EPA and its officers, employees, authorized representatives, and/or contractors utilized by Ohio EPA to effect the removal of the scrap tires for any damage to the Property incurred during the course of action under this Authorization and Consent for Access to Property.

The Owner agrees to provide any assistance requested by Ohio EPA or its officers, employees, authorized representatives, and/or contractors in locating scrap tires on the Property or making arrangements to facilitate their removal.

The Owner certifies that this Authorization and Consent for Access to Property is entered into voluntarily and without coercion and that the authorizations contained herein are not granted in consideration of any claims that Ohio EPA may have against the Owner.

Ohio EPA specifically reserves all rights to recover the public funds expended to address conditions related to the Property by placing a lien on the Property in accordance with ORC Section 3734.85.

Mary E. Woodring


  
Signature

11-24-15  
Date

Before me, a notary public, in and for said county and state, personally appeared, Mary E. Woodring, who did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 24 day of November 20 15.

**PAT BILLETT**  
Notary Public, State of Ohio  
My Commission Expires Sept. 25, 2016

  
\_\_\_\_\_  
Notary Public