

October 9, 2025

William & Tanya Kelley
31705 Norris Road
Tippecanoe, OH 44699

**Re: Baxter – Norris Road Open Dump
Director's Final Findings and Orders (DFFO)
DFFO
Scrap Tires
Harrison County
ST025805**

**Subject: Baxter – Norris Road Open Dump, Harrison County
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 regarding **Baxter – Norris Road Open Dump**.

You are hereby notified that this action of the director of Environmental Protection (director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Ohio Revised Code Section 3745.04. 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 East Broad Street, 4th Floor
Columbus, Ohio 43215

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If you have any questions, please contact Janine Maney at 9614) 644-3037.

Sincerely,

Jeri Main

Jeri Main

Administrative Professional III

Division of Materials and Waste Management, Ohio EPA

Enclosure

ec: Kelly Jeter, Aaron Shear, DMWM

Sara Anderson, Michael Carper, DMWM

Robin Nichols, Janine Maney, DMWM

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

Ohio EPA 10/09/2025

Entered Director's Journal

In the Matter Of:

William S. Kelley
31705 Norris Road
Tippecanoe, Ohio 44699

Director's Final Findings
and Orders

Tanya L. Kelley
31705 Norris Road
Tippecanoe, Ohio 44699

Respondents

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mr. William S. Kelley and Ms. Tanya L. Kelley ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3734.85.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and 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 defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondents are owners of an approximately 26.5-acre parcel of land identified in the records of the Harrison County Auditor's Office as Parcel Number 07-0000011.004 and located at 31705 Norris Road in Tippecanoe, Harrison County, Ohio (the "Property").
2. Respondents are each a "person" as that term is defined in ORC Section 3734.01(G) and Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).

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3. There are currently an estimated 20,000 scrap tires open dumped on the Property.
4. The Property is neither licensed nor permitted as a scrap tire facility nor a solid waste facility in accordance with ORC Chapter 3734 and OAC Chapter 3745-580.
5. OAC Rules 3745-27-01(S)(6) and 3745-580-02(S)(1) define "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."
6. The open dumping of scrap tires is a violation of ORC Section 3734.03, which states that "[n]o person shall dispose of solid wastes by open burning or open dumping," and OAC Rule 3745-27-05(D), which provides that "[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person responsible for the open dumping, the owner of the property, or the person 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."
7. OAC Rule 3745-27-01(O)(4)(b) defines "open dumping" as the deposition of scrap tires on or into waters of the state or 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 specified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), (C)(9), 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..."
8. In response to a complaint received, Ohio EPA inspected the Property on May 22 and July 17, 2025, and issued two Notices of Violation (NOV) dated June 20 and August 25, 2025, to Respondents documenting the violation of OAC Rule 3745-27-05(D) for the open dumping of scrap tires.
9. To date, Respondents have not removed and properly disposed of the scrap tires located on the Property.
10. 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.
11. Mosquitoes carrying West Nile Virus have been found in Harrison County this calendar year.

12. The Property is located within 200 feet of Hefling Run and one mile of Coleman Run and within two miles of Muskingum Watershed Conservancy District –Tappan Lake Park.
13. In light of the confirmed presence of West Nile Virus in the County, and in consideration of the adverse impact that a tire fire could have on Hefling Run and Coleman Run, the Director has determined that the unlawful accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
14. ORC Section 3734.85(A) provides that, "the director of environmental protection may take action under this section to abate accumulations of scrap tires. If the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, the director 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 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. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner."
15. ORC Section 3734.85(A) also provides in relevant part: "If the recipient of an order issued under this division fails to comply with each milestone established in the order within the period of time specified in the order or, if the time for compliance with the order was so 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."
16. ORC Section 3734.85(A) states in relevant part: "Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order."

17. ORC Section 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. The costs incurred include the storage, transportation, processing, or disposal of the scrap tires or any additional solid wastes or construction and demolition debris removed in accordance with this division, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director may record the costs at the office of the county recorder of the county in which the accumulation of scrap tires, additional solid wastes, and construction and demolition debris were located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires, additional solid wastes, and construction and demolition debris were located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs for which the person is liable under this division. Any money so received or recovered shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code."
18. ORC Section 3734.85(A) also provides that "[i]f, in a civil action brought under this division, an owner of real property is ordered to pay to the director the costs of a removal action that removed an accumulation of scrap tires from the person's land or if a lien is placed on the person's land for the costs of such a removal action, and, in either case, if the landowner was not the person responsible for causing the accumulation of scrap tires so removed, the landowner may bring a civil action against the person who was responsible for causing the accumulation to recover the amount of the removal costs that the court ordered the landowner to pay to the director or the amount of the removal costs certified to the county recorder as a lien on the landowner's property, whichever is applicable. If the landowner prevails in the civil action against the person who was responsible for causing the accumulation of scrap tires, the court, as it considers appropriate, may award to the landowner the reasonable attorney's fees incurred by the landowner for bringing the action, court costs, and other reasonable expenses incurred by the landowner in connection with the civil action. A landowner shall bring such a civil action within two years after making the final payment of the removal costs to the director pursuant to the judgment rendered against the landowner in the civil action brought under this division upon the director's request or within two years after the director certified the costs of the removal action to the county recorder, as appropriate. A person who, at the time that a removal action was conducted under this division, owned the land on which the removal action was performed may bring an action under this division to recover the costs of the removal action from the person responsible for causing the accumulation of scrap tires so removed regardless of whether the person owns the land at the time of bringing the action."

V. ORDERS

Respondents 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, Respondents shall cease disposal of all solid waste, including scrap tires, at the Property and shall comply with ORC Chapter 3734 and OAC Chapters 3745-27 and 3745-580.
2. Not later than seven (7) days after the effective date of these Orders, Respondents shall employ one of the following mosquito control measures:
 - a. Remove any liquids from scrap tires and ensure at all times that the scrap tires are free of water to prevent mosquitoes and mosquito larvae habitat; or
 - b. Apply a pesticide registered with the United States Environmental Protection Agency and the Ohio Department of Agriculture to all scrap tires open dumped at the Property in accordance with the product label specifications.
3. Respondents shall provide documentation to Ohio EPA at the addresses in **Section VIII.** of these Orders demonstrating compliance with Order No. 2, above, as follows:
 - a. To document compliance with Order No. 2.a., above, not later than fourteen (14) days after the effective date of these Orders, Respondents shall provide photographs demonstrating compliance;
 - b. To document compliance with Order No. 2.b., above, Respondents shall provide copies of the following pesticide application records not later than ten (10) days after each application of the registered pesticide:
 - i. The name of the pesticide and the United States environmental protection agency registration number;
 - ii. The date and time of application;
 - iii. The name of the person who applied the pesticide; and
 - iv. The amount of pesticide used per tire or another measurable quantity listed on the label.
4. Respondents shall either remove or cause the removal of the accumulation of scrap tires from the Property including, but not limited to, all scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation to a licensed scrap tire facility in accordance with Order No. 5 in accordance with the

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following schedule:

- a. Not later than thirty (30) days after the effective date of these Orders, a minimum of five thousand (5,000) scrap tires;
- b. Not later than sixty (60) days after the effective date of these Orders, a minimum of five thousand (5,000) additional scrap tires (for a total of not less than ten thousand (10,000) scrap tires);
- c. Not later than ninety (90) days after the effective date of these Orders, a minimum of five thousand (5,000) additional scrap tires (for a total of not less than fifteen thousand (15,000) scrap tires);
- d. Not later than one hundred twenty (120) days after the effective date of these Orders, all remaining scrap tires such that no open dumped scrap tires remain at the Property.

5. Respondents shall, for all scrap tires being removed in accordance with Order No. 4 above, arrange for them to be transported by a registered Ohio scrap tire transporter to one or a combination of the following:
 - a. A scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81;
 - b. A scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with the laws of that state in which it is located; or
 - c. Any other facility in another state that is operating in compliance with the laws of that state.
6. Respondents shall, for all scrap tires being removed in accordance with Order No. 4 above, obtain receipts from each registered scrap tire transporter removing scrap tires from the Property and from each facility receiving scrap tires removed from the Property, indicating the weight, volume, or number of scrap tires received. Respondents shall forward such documentation to Ohio EPA at the addresses in **Section VIII.** of these Orders not later than ten (10) days after each removal conducted pursuant to these Orders.
7. Respondents may request an extension of the timeframes for compliance set forth in these Orders by submitting a written request to the addresses in **Section VIII.** of these Orders prior to the expiration of the timeframe(s) for which an extension is being sought, which Ohio EPA at its discretion may approve in writing. Such a request shall include all of the following:
 - a. The timeframe(s) for compliance Respondents wish to extend;

- b. The new timeframe(s) for compliance being requested; and
- c. A narrative describing the good faith efforts Respondents have made to comply with each timeframe for which an extension is sought.

Any extension or extensions granted in writing by Ohio EPA pursuant to this Order shall be effective upon such written approval and fully incorporated herein, and the obligations in these Orders shall apply to such timeframe(s) as if fully written herein.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate 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 from Respondents: "I certify that the information contained in or accompanying this certification is true, accurate, and complete."

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

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 federal, state, and local laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents or the Property.

VIII. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be submitted to the following secure file sharing site:

https://fileshare.epa.ohio.gov/filedrop/sedo_dmwm_submittals

and

Ohio Environmental Protection Agency
Division of Materials and Waste Management

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2195 Front Street
Logan, Ohio 43138

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 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 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 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 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:

Ohio Environmental Protection Agency



John Logue, Director

Entered into the Director's Journal

10/9/2025

Date