



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

December 21, 2016

Bruce R. Martin
213 Lakeview Dr.
Celina, OH 45882

**Re: Bruce Martin Dump
Director's Final Findings and Orders (DFFO)
DFFO
Scrap Tires
Auglaize County
ST021039**

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 Bruce R. Martin.

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

Sincerely,

A handwritten signature in black 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: Melinda Berry, DMWM, CO
Kelly Jeter, DMWM, CO
Bruce McCoy, DMWM, CO
Janice Church, DMWM, CO
Teri Finfrock, Legal
Janine Maney, Legal
Mike Reiser, DMWM, NWDO
Kristin Tillison, DMWM, NWDO

RECEIVED
OHIO EPA

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

2016 DEC 21 AM 10:06

In the Matter of:

LEGAL OFFICE

Bruce R. Martin
213 Lakeview Drive
Celina, Ohio 45822

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Director's Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bruce R. Martin ("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 and 3734.85.

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 property located at 12712 Aqueduct Road, St. Marys, Auglaize County, Ohio, consisting of a 2.69 acre parcel of property, identified by the Auglaize County Auditor's Office as parcel number K3101101200, and a 1.72 acre parcel of property, identified by the Auglaize County Auditor's Office as parcel number K3101101201 (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. 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).
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 an estimated 2,667 scrap tires deposited on the ground at the Property.
6. The Property is neither licensed nor permitted as a scrap tire collection facility, a scrap tire storage facility, a scrap tire recovery facility, a scrap tire monocell or monofill, a solid waste disposal facility, a junk yard, or any type of legitimate recycling facility.
7. ORC Section 3734.01(l) defines "open dumping" of scrap tires as the depositing of scrap tires "into a body or stream of water or onto the surface of the ground at a site that is not licensed . . . as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code" or "the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5) (7), or (10) of section 3734.85 of the Revised Code"
8. 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(C) which states 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(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."
9. OAC Rule 3745-27-01(O)(4)(b) defines open dumping as, "[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means 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."

10. OAC Rule 3745-27-60(B) provides that "[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with..." OAC Rule 3745-27-60(B)(1) through (B)(11).
11. OAC Rule 3745-27-60(C) provides requirements for mosquito control when scrap tires are stored outdoors, including application of a pesticide or larvicide and/or prevention of the accumulation of liquid inside the scrap tires.
12. On May 21, 2015, Ohio EPA, NWDO-DMWM inspected Respondent's Property to determine compliance with ORC Chapter 3734 and OAC Chapter 3745-27 as they pertain to scrap tires. The inspector observed a scrap tire pile approximately 50' x 18' x 8' in volume and comprised of an estimated 2,667 scrap tires that were not covered, in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires. On June 3, 2015, Ohio EPA documented these violations in a notice of violation ("NOV") letter to Respondent.
13. On October 6, 2015, Ohio EPA, NWDO-DMWM inspected Respondent's Property to determine compliance with ORC Chapter 3734 and OAC Chapter 3745-27 as they pertain to scrap tires. The inspector observed approximately 1,350 scrap tires stacked on the Property, and approximately 1,300 scrap tires in a separate pile on the back northeast corner of the Property, in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires. On October 19, 2015, Ohio EPA documented these violations in a NOV letter to Respondent.
14. On April 13, 2016, Ohio EPA sent correspondence to Respondent, reiterating violations of ORC Section 3734.03 and OAC Rule 3745-27-05(C) documented in letters to Respondent dated October 19, 2015 and June 3, 2015, noting that Ohio EPA observed approximately 2,667 scrap tires on the Property, and outlining regulations pertaining to maintaining mosquito control in accordance with OAC Rule 3745-27-60(C)(1), (C)(2), and (C)(3).
15. On September 7, 2016, Ohio EPA DMWM-NWDO re-visited the Property to follow up on the status of the scrap tires on the Property. Ohio EPA observed scrap tires remaining. At that time, Respondent confirmed that conditions at the Property had not changed and no progress had been made in removing the scrap tires.
16. 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, Zika Virus, and Dengue Fever.

17. As of September 27, 2016, 452 mosquitoes tested positive in 2016 for West Nile Virus in Ohio. As of November 2, 2016 Auglaize County reported 2 blood donors asymptomatic for West Nile Virus. Given that scrap tires constitute a breeding ground for mosquitoes, and given the potential that a scrap tire fire could occur, 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.
18. 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."
19. 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, 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."

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 cease open dumping scrap tires on the Property and shall comply with ORC Chapter 3734 and OAC Chapter 3745-27.
2. Not later than thirty (30) days after the effective date of these Orders, Respondent shall maintain mosquito control in accordance with the provisions of OAC Rule 3745-27-60(C)(2) by keeping all scrap tires dry or by 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.

3. Upon the effective date of these Orders, Respondent shall maintain mosquito control records at the Property in accordance with the provisions of OAC Rule 3745-27-60(C)(3) 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.
4. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground, partially buried and buried scrap tires, and shall transport them 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. Scrap tire removal shall be, at a minimum, in accordance with the following schedule:
 - a. Within sixty (60) days after the effective date of these Orders, Respondents shall remove, transport, and dispose of approximately 1,300 scrap tires in accordance with the above.
 - b. Within one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove, transport, and dispose of all scrap tires located on the Property.
5. Respondent shall obtain and forward to Ohio EPA Northwest District Office at the address found in these Orders under Section IX., Notice, receipts from the registered transporter and the disposal facility, indicating weight, volume or number of scrap tires received, within fourteen days after each round of scrap tire removal according to Order No. 4, above.

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. 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
Attn: DMWM Supervisor

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

X. 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 Respondent 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 Respondent to

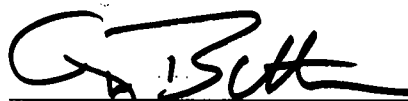
perform additional activities pursuant to ORC Chapters 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. 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:

Environmental Protection Agency

A handwritten signature in black ink, appearing to read "C. Butler", written over a horizontal line.

Craig W. Butler, Director