



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

January 11, 2019

Mr. William Baumann  
Baumann Enterprises, Inc.  
Baumann Properties, Ltd.  
Baumann's Recycling Center  
4801 Chaincraft Rd  
Garfield, Ohio 44125

**Re: Baumann's Recycling Center  
Director's Final Findings and Orders (DFFO)  
DFFO  
Construction & Demolition Debris  
Cuyahoga County**

**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 Baumann Enterprises, Inc., Baumann Properties, Ltd., Baumann's Recycling Center.

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 East Broad Street, 4<sup>th</sup> Floor  
Columbus, Ohio 43215

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

Sincerely,

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

Enclosure

cc: Carl Musselman, DMWM, CO  
Bruce McCoy, DMWM, CO  
Robin Nichols, Legal  
Terri Finrock, Legal  
Lynn Sowers, DMWM, NEDO  
William Baumann, [info@baumannenterprises.com](mailto:info@baumannenterprises.com)

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Baumann Enterprises, Inc.	:	
Baumann Properties, Ltd.	:	<u>Director's Final Findings</u>
Baumann's Recycling Center	:	<u>and Orders</u>
4801 Chaincraft Rd	:	
Garfield Heights, Ohio 44125	:	

**Respondents**

**I. JURISDICTION**

Ohio EPA JAN11 '19  
Entered Directors Journal

These Director's Final Findings and Orders ("Orders") are issued to Baumann Enterprises, Inc., Baumann Properties, Ltd., and Baumann's Recycling Center ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3714.12 and 3734.13.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of a Respondent or of the Facility 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 Chapters 3714 and 3734 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent Baumann Properties, Ltd. is a domestic limited liability company registered with the Ohio Secretary of State.

2. Respondent Baumann Enterprises, Inc. is a corporation organized under the laws of the state of Ohio.
3. Respondents are each a person as that term is defined in ORC sections 3734.01 and 3714.01.
4. Respondent Baumann Enterprises, Inc. conducts a construction and demolition debris recycling operation located at 4801 Chaincraft Road, Garfield Heights, Cuyahoga County, Ohio (the "Facility").
5. Respondent Baumann Properties, Ltd. is the owner of the real property upon which the Facility is located.
6. The Facility is neither licensed nor permitted as a construction and demolition debris ("C&DD") disposal facility or a solid waste disposal facility.
7. ORC Section 3714.01(C) states, "Construction and demolition debris' means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any physical structure that is built by humans, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. 'Construction and demolition debris' includes particles and dust created during demolition activities. 'Construction and demolition debris' does not include materials identified or listed as solid wastes or hazardous waste pursuant to Chapter 3734. of the Revised Code and rules adopted under it; materials from mining operations, nontoxic fly ash, spent nontoxic foundry sand, and slag; or reinforced or nonreinforced concrete, asphalt, building or paving brick, or building or paving stone that is stored for a period of less than two years for recycling into a usable construction material."
8. OAC Rule 3745-400-04(B) provides that "[n]o person shall conduct or allow illegal disposal of construction and demolition debris."
9. OAC Rule 3745-400-01(I)(2) defines illegal disposal as "the disposal of construction and demolition debris at any place other than a construction and demolition debris facility operated in accordance with Chapter 3714. of the Revised Code, this chapter, and Chapter 3745-37 of the Administrative Code, a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code, and licensed in accordance with Chapter 3745-37 of the Administrative Code, or as otherwise authorized by this chapter."
10. OAC Rule 3745-400-01(D)(3) defines disposal as "the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and



demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner."

11. 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."
12. ORC Section 3734.01(I) 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 . . . ."
13. ORC Section 3734.03 and OAC Rule 3745-27-05(C) prohibit the open dumping of solid waste.
14. On or about January 3, 2019 the City of Garfield Heights issued a stop work order to the Facility.
15. On January 9, 2019, Ohio EPA conducted a site visit at the Facility. At the time of the visit, Ohio EPA observed the illegal disposal of C&DD and the open dumping of solid waste, including scrap tires, at the Facility in violation of ORC Section 3734.03 and OAC Rules 3745-27-05(C) and 3745-400-04(B).

By notice of violation letter dated January 11, 2019, Ohio EPA notified Respondents of these violations.

## **V. ORDERS**

Respondents shall achieve compliance with ORC Chapters 3714 and 3734 and the rules promulgated thereunder in accordance with the following:

1. Upon the effective date of these Orders, Respondents shall cease acceptance of C&DD and solid waste at the Facility unless otherwise authorized by Ohio EPA in writing.
2. Upon the effective date of the Orders and until all C&DD is removed from the Facility, Respondents shall implement all of the following:

- a. Cease processing of all C&DD material at the Facility until authorized by Ohio EPA in accordance with Section VI. of the Orders.
  - b. Ensure that at least one individual is present at the Facility for not less than twelve hours per day each day of the week. The individual(s) shall do all of the following:
    - i. Observe/inspect the Facility for indicators of fire, including at a minimum flames, smoke, and pile settlement;
    - ii. Maintain a written record documenting whether any indicators of fire were observed and, if so, a general description of which indicators were seen and where they were observed;
    - iii. Immediately report any indications of fire observed to Ohio EPA, the Cuyahoga County Board of Health, and the local fire department.
  - c. Monitor the temperature, total volatile organic compounds, and carbon monoxide at various points throughout the Facility twice daily, including at a minimum at each point identified by Ohio EPA, the Cuyahoga County Board of Health, or the local fire department. Respondents may monitor alternate locations upon Ohio EPA's concurrence. The first reading shall be taken between 1 am and 8 am each morning and the second reading shall be taken between 1 pm and 3 pm each day;
  - d. Report the results of the monitoring conducted to Ohio EPA, the Cuyahoga County Board of Health, and the local fire department not later than 4 pm each day.
3. Upon the effective date of these Orders, Respondents shall cooperate with the appropriate gas, electric, water, and sewer providers to ensure that combustible material is a minimum safe distance from utilities, water lines, sewers, and related structures.
4. Upon the effective date of these Orders, Respondents shall commence the removal and lawful disposal of all C&DD and solid waste from Pile 1 in Attachment A such that the entire pile is lawfully disposed not later than January 28, 2019. Respondents shall ensure that not less than an average of 1,500 cubic yards of material are removed from Pile 1 each day, not fewer than five days a week, and transported to a licensed disposal facility until all material is removed from Pile 1.

Respondents shall obtain receipts from the licensed disposal facility, indicating the weight or volume received as a result of this Order. Upon request, Respondents shall forward such documentation to Ohio EPA's Northeast District Office, at the address found in Section IX of these Orders.
5. Not later than two (2) days after the effective date of these Orders, Respondents shall do all of the following:

- a. Establish access to a water source for fire suppression and response purposes through one or more of the following:
    - i. Establishing unobstructed access to all functional on-site fire hydrants;
    - ii. Obtaining and maintaining equipment to allow Mill Creek to be utilized as a water source; or
    - iii. Other means concurred with by Ohio EPA or the local fire department.
  - b. Establish and implement a plan for water management at the Facility, including at a minimum all of the following:
    - i. Locating all culverts, drainage ditches, and sewers on or adjacent to the Facility;
    - ii. Ensuring all culverts, drainage ditches, and sewers on the Facility are functional and available for use;
    - iii. Ensuring run-off is diverted or contained to prevent impacts to Mill Creek.
  - c. Maintain at the Facility no fewer than two (2) excavators and at least one (1) front-end loader or dozer for removal and emergency response purposes and ensure that personnel are on-call 24 hours a day to operate the equipment.
6. Beginning on January 16, 2019 and continuing daily thereafter, Respondents shall conduct ambient air sampling at the fence line near the locations identified in Attachment B. Respondents shall determine the exact locations in consultation with Ohio EPA's Division of Air Pollution Control, and those locations must be approved by Ohio EPA. Respondents shall collect continuous samples over a 24-hour period using a laboratory certified-clean SUMMA® canister and regulator. Respondents shall submit samples to an approved laboratory for analysis of volatile organic compounds by EPA Method TO-15. Respondents shall ensure that the requested laboratory turnaround time is three (3) business days and shall submit all data to Ohio EPA's Division of Air Pollution Control within one day of receipt. Respondents may cease ambient air sampling in accordance with this Order upon receipt of Ohio EPA approval.
7. Not later than January 18, 2019, Respondents shall submit to Ohio EPA's Northeast District Office, the Cuyahoga County Board of Health, and the local fire department a copy of the aerial survey conducted in accordance with the stop work order described in Finding 14.
8. Beginning January 29, 2019, Respondents shall commence the removal and lawful disposal of all C&DD and solid waste from Pile 2 identified in Attachment A.

Respondents shall ensure that not less than an average of 1,500 cubic yards of material are removed from Pile 2 each day, not fewer than five days a week, and transported to a licensed disposal facility until all material is removed from Pile 2.

Respondents shall obtain receipts from the licensed disposal facility, indicating the weight or volume received as a result of this Order. Upon request, Respondents shall forward such documentation to Ohio EPA's Northeast District Office, at the address found in Section X of these Orders.

9. Upon compliance with Order No. 8, Respondents shall commence the removal and lawful disposal of Pile 3 identified in Attachment A. Respondents shall ensure that not less than an average of 1,500 cubic yards of material are removed from the Pile each day, not fewer than five days a week, and transported to a licensed disposal facility until all material is removed from Pile 3.

Respondents shall obtain receipts from the licensed disposal facility, indicating the weight or volume received as a result of this Order. Upon request, Respondents shall forward such documentation to Ohio EPA's Northeast District Office, at the address found in Section IX of these Orders.

10. Not later than seven (7) days after the effective date of these Orders, Respondents shall remove or cause the removal of all scrap tires open dumped at the Facility and shall arrange for their transportation, by a registered 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 in Ohio, to such a facility in another state operating in compliance with the laws of the state in which it is located, or
  - b. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.

Respondents shall obtain receipts from the registered scrap tire transporter and the disposal facility, indicating the weight, volume, or number of scrap tires received as a result of the scrap tire removal required by this Order. Not later than fourteen days after the effective date of these orders, Respondents shall forward such documentation to Ohio EPA's Northeast District Office, at the address found in Section IX of these Orders.

## **VI. PROCESSING**

Respondents may submit to Ohio EPA a written request to resume processing C&DD at the Facility. A request to resume processing shall at a minimum include the following:



1. A map of the Facility identifying where processing will occur and where the material removed from the C&DD during processing will be stored prior to disposal;
2. A description of the process Respondents will utilize for managing and removing the byproducts produced during the processing.

Upon written concurrence of Ohio EPA, Respondents may commence C&DD processing.

## **VII. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondents has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Material 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: "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 a responsible official of Respondents. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president, or the duly authorized representative, if such representative is responsible for the overall operation of the Facility.

## **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 Respondents.

## **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 Respondents pursuant 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

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

#### **XI. 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 3714 or 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.

#### **XII. EFFECTIVE DATE**

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

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**



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Director's Final Findings and Orders  
Baumann Properties, Ltd., Baumann Enterprises, Inc.  
& Baumann's Recycling Center  
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Craig Butler  
Director

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ATTACHMENT B

Ambient Air Monitoring Sampling Locations

