



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

February 12, 2019

Mr. Eric Williams  
9950 N. Morrison Road  
Dresden, Ohio 43821

Mrs. Karrie Williams  
9950 N. Morrison Road  
Dresden, Ohio 43821

**Re: NTEK Auto Sales  
Directors Final Findings & Orders  
DFFO  
Municipal Solid Waste Landfills  
Muskingum County  
MSWL022827**

**Subject: Director's Final Findings and Orders**

Dear Madam and Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Mr. Eric Williams & Mrs. Karrie Williams.

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

Mr. Eric Williams & Mrs. Karrie Williams, NTEK Auto Sales  
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If you have any questions, please contact Teri Finfrock at (614) 644-3037.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeri Main".

Jeri Main  
Division of Materials & Waste Management

Enclosure

Ec: Carl Mussenden, DMWM, CO  
Jeremy Carrol, DMWM, CO  
Joe Goicochea, DMWM, SEDO  
Richard Fox, DMWM, SEDO  
Kelly Jeter, DMWM, CO  
Bruce McCoy, DMWM, CO  
Troy Harter, Legal  
Teri Finfrock, Legal  
Richard Carleski, DMWM, CO

1. Respondents are the current owners of a parcel of land located on Hill Road in Dresden, Ohio identified by the Muskingum County Auditor as Parcel Identification Number 10-08-71-50-000.
2. Respondents are each 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. There are currently an estimated 1,000 scrap tires and 60 to 80 cubic yards of miscellaneous solid wastes open dumped on Respondent's Property.
4. 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).
5. 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."
6. Open dumping 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."
7. ORC Section 3734.01(I) defines "Open dumping" as "the depositing of solid wastes into a body or stream of water or into the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; 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. OAC Rule 3745-27-01(O)(4)(a) defines "open dumping" as "[t]he deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code."
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. The Property is neither licensed or permitted as a scrap tire facility or a solid waste disposal facility in accordance with ORC Chapter 3734 and OAC Chapter 3745-27, nor is the Property licensed as motor vehicle salvage facility, registered as a junk yard, or any type of legitimate recycling facility.

11. OAC Rule 3745-27-60(B)(1) 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" where "sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored."
12. OAC Rules 3745-27-60(C)(1) and (2) state, pertinent part, "Anyone storing scrap tires shall maintain mosquito control as follows:
  - (1) One or more of the following shall be done to control mosquitoes:
    - (a) Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.
    - (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.
    - (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.
  - (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.
  - (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."
13. 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.
14. Respondent Eric Williams has created an unpermitted, unlicensed "solid waste disposal facility" and "open dump", as those terms are defined in OAC Rules 3745-27-01(S)(25) and (O)(3), respectively, in violation of ORC Sections 3734.03 and 3734.05(A) and OAC Rule 3745-27-05(C).
15. Ohio EPA conducted multiple inspections of the Property between October 4, 2017 and August 7, 2018, and observed scrap tires and other miscellaneous solid waste open dumped on the ground and cited the following violation: ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of scrap tires and miscellaneous solid wastes;

16. These violations were documented in Notices of Violation from the Ohio EPA dated from October 25, 2017 to August 23, 2018.
17. Given that scrap tires constitute a breeding ground for mosquitos and considering the potential that a 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, 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, 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. 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."
19. ORC Section 3734.85(A) also provides in relevant part: "If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of 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. The director shall enter into contracts for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section."
20. 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**

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 implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(C)(1) and (C)(2). Respondents shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3) to Ohio EPA Southeast District Office within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. Upon the effective date of these Orders, Respondents shall cease acceptance and disposal of all solid wastes, including scrap tires, at the Property and shall comply with ORC Chapter 3734. and OAC Chapter 3745-27.
3. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall have removed or caused the removal all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter:
  - a. to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; or
  - b. to such a facility in another state operating in compliance with the laws of that state in which it is located; or
  - c. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
4. Scrap tire removal shall occur, at a minimum, in accordance with the following schedule:
  - a. Within thirty (30) days after the effective date of these Orders, Respondent shall remove, transport, and properly dispose of at least 250 scrap tires.
  - b. Within sixty (60) days after the effective date of these Orders, Respondent shall remove, transport, and properly dispose of at least 250 additional scrap tires.
  - c. Within ninety (90) days after the effective date of these Orders, Respondent shall remove, transport, and properly dispose of at least 250 additional scrap tires.
  - d. Within one hundred twenty (120) days after the effective date of these

Orders, Respondent shall remove, transport, and properly dispose of all remaining scrap tires.

5. Respondents shall obtain receipts from the registered scrap tire transporter and the facility, indicating weight, volume and number of scrap tires received. Respondent shall forward such documentation to Ohio EPA Southeast District Office monthly by the 10th day of each month, until receipts documenting that all scrap tires have been removed from the Property, lawfully transported, and disposed have been provided to Ohio EPA.
6. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of all solid waste, excluding scrap tires, from the Property and dispose of all solid waste, excluding scrap tires, at a licensed solid waste disposal facility. Respondents shall obtain disposal receipts from the licensed solid waste disposal facility indicating weight or volume of solid waste disposed of, excluding scrap tires. Respondent shall forward such documentation to Ohio EPA Southeast District Office monthly by the 10th day of each month until receipts documenting that all solid waste has been appropriately disposed have been provided to Ohio EPA.

## **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: "I/we 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 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, Respondents 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 Respondents or the Property.

### **IX. 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 Front Street  
Logan, Ohio 43138  
Attn: Unit Supervisor, DMWM

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

### **X. RESERVATION OF RIGHTS**

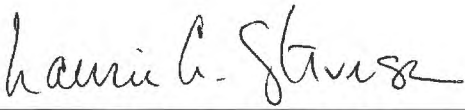
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance 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 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 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.

### **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:**

A handwritten signature in cursive script, reading "Laurie A. Stevenson". The signature is written in black ink and is positioned above a horizontal line.

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Laurie A. Stevenson, Director