

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Charles S. Hudson  
1058 County Road 530 STS-UAD  
Hanceville, Cullman County, Alabama**

Order No. 25-XXX-SW/ST

**FINDINGS**

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended; the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18, as amended; the Alabama Scrap Tire Environmental Quality Act (ASTEQA), Ala. Code §§ 22-40A-1 to 22-40A-24, as amended; and the Alabama Department of Environmental Management's ("ADEM" or "Department") Administrative Code of Regulations ("ADEM Admin. Code r.") promulgated pursuant thereto, the Department makes the following FINDINGS:

1. Charles S. Hudson ("Hudson") owns and resides on real property located at 1058 County Road 530, Parcel ID Number 23-08-34-0-000-012.000, in Hanceville, Cullman County, Alabama ("the Site"), where an unpermitted accumulation of scrap tires and an unauthorized dump were discovered.

2. Pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Department is a duly constituted department of the State of Alabama.

3. Pursuant to Ala. Code § 22-22A-4(n), as amended, and Ala. Code § 22-27-9(a), as amended, the Department is the state agency authorized to administer and enforce the provisions of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, as amended.

4. Pursuant to Ala. Code § 22-40A-11, as amended, the Department is the state agency authorized to administer and enforce the provisions of the ASTEQA, Ala. Code §§ 22-40A-1 to 22-40A-24, as amended.

5. Pursuant to Ala. Code § 22-27-10(b), as amended, and ADEM Admin. Code r. 335-13-11-.03(2), any person who participates in the creation or operation of an

unauthorized dump, or contributed to an unauthorized dump, shall be responsible for the removal of the waste or otherwise the closure of the unauthorized dump in accordance with this article and rules of the department. If those who created, operated, or contributed to an unauthorized dump do not remove or close the unauthorized dump, the landowner shall also be responsible for the removal or otherwise the closure of the unauthorized dump.

6. Pursuant to ADEM Admin. Code r. 335-4-4-.01(1), no person may accumulate more than 100 scrap tires, except a permitted processor, a person who registers as required in ADEM Admin. Code r. 335-4-3-.01(2), or a permitted SWDF [Solid Waste Disposal Facility]. No person may expose scrap tires to the elements for more than thirty days.

7. Pursuant to Ala. Code § 22-40A-5(a), as amended, and ADEM Admin. Code r. 335-4-2-.01(2), the responsible party for a scrap tire site shall be responsible for the remediation of the site. If the responsible party is not determined, the landowner shall be responsible for remediation of the site.

8. Pursuant to ADEM Admin. Code rs. 335-13-1-.13(1)(a) and (2), unauthorized dumps are prohibited and must be closed in a manner determined to be necessary by the Department.

9. In response to a complaint, the Department conducted an investigation, including a site inspection on April 13, 2023, followed by a records review. The following was noted:

A. Approximately 300 scrap tires were discovered accumulating or being stored outdoors on the Site.

B. A review of departmental records indicated that no one linked to the Site had registered with the Department as a scrap tire receiver or had obtained a scrap tire processor or solid waste disposal facility from the Department before accumulating or storing the scrap tires on the Site in violation of ADEM Admin. Code r. 335-4-4-.01(1).

C. The accumulation of more than 100 scrap tires on the Site not in compliance with the ASTEQA or ADEM Administrative Code Division 335-4 constituted the creation of an illegal scrap tire site (STS) for which Hudson is responsible. .

D. Hudson was confirmed as the owner of the Site, according to Cullman County property tax records.

10. On May 9, 2023, the Department issued Hudson a Notice of Violation (“NOV”), via the United States Postal Service (“USPS”) Certified Mail, requiring the full abatement and closure of the STS. According to the USPS online tracking system, the NOV was returned to the Department as unclaimed.

11. On June 23, 2023, the Department resent the NOV to Hudson via FedEx. According to the FedEx online tracking system, the NOV was delivered on July 10, 2023, and signed by C. Hudson.

12. On June 13, 2024, Department personnel conducted a follow-up inspection at the Site and discovered that the number of scrap tires present on the Site had been reduced to approximately 110 tires. In addition to the scrap tires, Department personnel observed approximately 10 cubic yards of construction and demolition waste that had been openly dumped on the Site. This dumping of regulated solid waste without a permit from the Department constitutes the creation of an unauthorized dump (UAD), for which Hudson is responsible.

13. To date, the Department has not received a written response to the May 9, 2023, NOV.

14. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person’s efforts to minimize or mitigate the effects of such

violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: The creation, contribution to, or operation of an STS and UAD is inherently a public nuisance, a threat to public health, and a threat to the environment. The Department is not aware of any irreparable harm to the environment or any immediate threat to human health or the safety of the public as a result of the STS-UAD presence on the Site. However, due to the likely existence of disease vectors, the STS-UAD may represent a threat to human health or public safety.

B. THE STANDARD OF CARE: Hudson failed to abide by requirements applicable to the lawful disposal of solid wastes and scrap tires, and failed to comply with directives from the Department regarding the proper abatement and closure of the STS and UAD.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to establish if Hudson has realized a significant economic benefit as a result of the violations cited herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of efforts by Hudson to mitigate any potential adverse effects upon the environment, human health, or public safety that may have been caused as a result of the STS and UAD.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Hudson does not appear to have a documented history of violations of the applicable requirements of ADEM Admin. Code div. 335-4 or 335-13.

F. THE ABILITY TO PAY: The Department has no evidence indicating Hudson's inability to pay the civil penalty assessed herein.

G. OTHER FACTORS: Pursuant to Ala. Code §22-40A-19(e), as amended, a fine of five dollars (\$5) per tire shall be assessed against any party who accumulates, transfers, transports, processes, or engages in unauthorized disposal of scrap tires. This fee shall be in addition to all other fines or penalties assessed. In consideration of the aforementioned statutory requirement, the Department has enhanced the civil penalty accordingly.

15. The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c, as amended, as well as other factors, and has concluded that a civil penalty is appropriate for the violation cited herein (see Attachment A, which is made a part of the Department's FINDINGS).

#### **ORDER**

Based on the foregoing FINDINGS and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-4(b), 22-27-7, 22-27-11, 22-40A-4(a), 22-40A-4(b), and 22-40A-5(a), as amended, it is hereby ORDERED:

A. That, not later than forty-five days of issuance of this Order, Hudson shall pay to the Department a civil penalty of \$7,550 for the violations cited herein. The penalty shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or any other method of payment acceptable to the Department and shall be remitted to:

Office of General Counsel

Alabama Department of Environmental Management

P.O. Box 301463

Montgomery, Alabama 36130-1463

All payments shall reference Hudson's name and address and the ADEM Administrative Order number of this action.

B. That, immediately upon issuance of this Order and continuing each and every day thereafter, Hudson shall cease and desist from creating, operating, or contributing to any STSs or UADs.

C. That, within thirty days of issuance of this Order, Hudson shall submit a site closure plan to the Department in accordance with ADEM Admin. Code r. 335-13-1-.13(2)(b)(1) and ADEM Admin. Code r. 335-4-2-.01(6). This plan shall include a schedule for site closure completion. Unless otherwise directed by the Department, Hudson shall implement the site closure plan as presented, remove and properly dispose of or recycle all scrap tires and solid waste materials in a permitted landfill unit or at a legitimate recycling facility, and comply with all applicable requirements of Divisions 335-4 and 335-13 of the ADEM Admin. Code.

D. That, within fifteen days of completion of remediation activities, Hudson shall provide the following information to the Department as proof that all closure actions have been completed:

1. Period in which the remediation activities took place.
2. Total volume of regulated solid waste, scrap tires, and scrap tire materials removed from the Site.
3. Documentation that all regulated solid waste, to include both surface and subsurface waste, was removed from the Site.
4. A copy of receipts documenting that all regulated waste and scrap tires were taken to a permitted landfill or registered recycling facility.
5. Photographs of the scrap tires and solid waste disposal area(s) on the Site, before and after remediation.
6. Documentation that the STS and UAD were properly closed to prevent erosion on the Site, if applicable.
7. Documentation that the Site has been secured to prevent any future illegal dumping, if applicable.

E. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

F. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Hudson for the violation cited herein.

G. That failure to comply with the provisions of the Order shall constitute cause for commencement of legal action by the Department against Hudson for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this \_\_\_\_ day of \_\_\_\_\_, 2024.

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Lance R. LeFleur

Director

**Attachment A**

Charles S. Hudson

1058 County Road 530

Hanceville, Cullman County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of a UAD	1	\$3,000	\$500	\$0	Total of Three Factors
Creation of an Illegal STS	1	\$3,000	\$500	\$0	
TOTAL PER FACTOR		\$6,000	\$1,000	\$0	\$7,000

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	+\$550
	+\$550

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$7,000
Total Adjustments (+/-)	+\$550
<b>FINAL PENALTY</b>	<b>\$7,550</b>

Footnotes

1. Additive fine of five dollars (\$5) per tire

*\* See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors.*