

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Thomas McNamee**  
**23209 East Ridge Drive STS**  
**McCalla, Tuscaloosa County, Alabama**

Order No. 25-XXX-ST

**FINDINGS**

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

1. Thomas McNamee ("McNamee") owns real property located at 23209 East Ridge Drive, Parcel ID Number 63-25-08-28-0-001-027.000, in McCalla, Tuscaloosa County, Alabama ("the Site"), where an illegal accumulation of scrap tires was 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 § 22-40A-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.

4. 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 rs. 335-4-3-.01(2) or 335-4-3-.01(3), or a permitted SWDF [Solid Waste Disposal Facility]. No person may expose accumulated scrap tires to the elements for more than thirty (30) days.

5. 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 the remediation of the site.

6. In response to a complaint, Department personnel conducted an investigation, including a site inspection on July 19, 2022, followed by a records review. The following was noted during the investigation:

A. Approximately 175 scrap tires had been accumulated on the Site. Furthermore, the scrap tires appeared to have been exposed to the elements for more than 30 days.

B. A review of departmental records revealed that no individuals associated with the Site had registered with the Department as required under ADEM Admin. Code rs. 335-4-3-.01(2) or had obtained a scrap tire processor or SWDF permit 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). As a result, the accumulation of scrap tires at the Site constitutes the creation of an illegal STS, for which McNamee is responsible.

C. According to Tuscaloosa County property tax records, McNamee was the owner of the Site at the time of the inspection.

7. On August 8, 2022, the Department issued McNamee a Notice of Violation (“NOV”), via the United States Postal Service (“USPS”) Certified Mail, requiring the full abatement and closure of the STS. However, delivery of the NOV could not be confirmed through the USPS online tracking system.

8. On October 7, 2022, the Department resent the NOV via FedEx. According to FedEx's online tracking system, the NOV was delivered and signed for by “McNamee.”

9. On May 4, 2023, Department personnel conducted a follow-up inspection and discovered that the STS was still present and appeared to be unabated.

10. On July 19, 2024, Department personnel conducted a second follow-up inspection and discovered that the STS remained present and unaddressed, along with an additional three cubic yards of rubbish.

11. To date, the Department has not received a response to the NOV from McNamee.

12. 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 a STS 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 presence of the STS on the Site. However, due to the likely existence of disease vectors, the STS may represent a threat to human health or public safety

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

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

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of efforts by McNamee 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.

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

F. THE ABILITY TO PAY: The Department has no evidence indicating McNamee'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 increased the civil penalty as shown in Attachment A.

13. 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, McNamee shall pay the Department a civil penalty of \$3,875.00 for the violation 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 McNamee'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, McNamee shall cease and desist from creating, operating, or contributing to any STSs.

C. That, within thirty days of issuance of this Order, McNamee shall submit a site closure plan to the Department in accordance with ADEM Admin. Code r. 335-4-2-.01(5). This plan shall include a schedule for site remediation and closure completion. Unless otherwise directed by the Department, McNamee shall implement the site closure plan as presented, remove all scrap tires, scrap tire materials, and all other regulated solid waste from the Site, and transport them to an authorized facility (i.e., a permitted scrap tire processor, a solid waste transfer station, or a SWDF), and comply with all applicable requirements of Division 335-4 of the ADEM Admin. Code.

D. That, within fifteen days of completion of remediation/closure activities, McNamee 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 number or volume of scrap tires, scrap tire materials, and all other regulated solid waste removed from the Site.
4. A copy of receipts documenting that all scrap tires, scrap tire materials, and all other regulated solid waste were taken to an authorized facility.

5. Photographs of the areas where scrap tires were accumulated and other regulated solid waste was discarded or disposed of, before and after remediation.

6. Documentation that the STS was 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 McNamee 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 McNamee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Lance R. LeFleur

Director

**Attachment A**

Thomas McNamee

23209 East Ridge Drive

McCalla, Tuscaloosa County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Scrap Tire Site	1	\$2500	\$500	\$0	Total of Three Factors
TOTAL PER FACTOR		\$2500	\$500	\$0	\$3000

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$875
	\$0

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$3000
Total Adjustments (+/-)	\$875
<b>FINAL PENALTY</b>	<b>\$3875</b>

Footnotes

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