

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)
Darius Trumer)
11439 Lake Drive STS) Order No. 25-XXX-ST
McCalla, Tuscaloosa County, Alabama)

)

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 (ASTEQA), 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. Darius Trumer ("Trumer") owns real property located at 11439 Lake Drive, which is further identified as Parcel ID Numbers 63-27-02-09-0-001-009.000, 63-27-02-09-0-001-008.000, 63-27-02-09-0-001-007.000, 63-27-02-09-0-001-006.000, and 63-27-02-09-0-001-004.000, 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 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.

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 that included a site inspection on December 13, 2022, followed by a records review. During the investigation, the following was noted:

A. Approximately 200 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 indicated that no one linked to 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 Trumer is responsible.

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

7. On December 13, 2023, the Department sent Trumer an Information Request Letter ("IRL") via the United States Postal Service ("USPS") Certified Mail, inquiring whether he was responsible for the tires located on the Site. According to the USPS online tracking system, the IRL was delivered on December 23, 2023.

8. On January 3, 2023, the Department received a response to the IRL from Trumer, who stated he was responsible for the tires and would remove them from the Site.

9. A follow-up inspection on January 24, 2023, found that no scrap tires appeared to have been removed from the Site for disposal or recycling; instead, they were incorporated into the Woodland Lake dam.

10. On February 9, 2023, the Department issued Trumer 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 delivered on February 15, 2023.

11. In an email received on March 1, 2023, Trumer informed the Department that he was using tires to build a barrier to keep water off his property. He stated the tires had been stacked and filled with gravel. He explained that he planned to fill a hole on his property with gravel and dirt, and then plant grass. However, according to Trumer, heavy rain filled the hole with water again, so he could not finish. Additionally, Trumer stated that Marcos Hernandez at PA Tire Shop in Bessemer, AL had given him the tires. Upon realizing that the tires could be considered a dump site, he [Trumer] returned the unused tires to PA Tire Shop.

12. On August 8, 2024, Department personnel conducted a follow-up and observed approximately 200 scrap tires used as a retaining wall extending about 50 yards, supporting an area that was backfilled with sand.

13. To date, the Department has not received any further communications from Trumer.

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 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 STS's presence on the Site.

B. THE STANDARD OF CARE: Trumer failed to abide by requirements applicable to the lawful disposal of solid wastes 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 if Trumer 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 Trumer 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, Trumer 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 Trumer's inability to pay the civil penalty assessed herein.

G. OTHER FACTORS: Pursuant to Ala. Code § 22-40A-19(e), as amended, the Department is assessing a fine of five dollars per tire against Trumer for accumulating scrap tires in violation of ADEM Admin. Code div. 335-4. This fee is in addition to all other fines or penalties assessed.

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, Trumer shall pay the Department a civil penalty of \$4,000 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 Trumer'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, Trumer shall cease and desist from creating, operating, or contributing to any STSSs.

C. That, within thirty days of issuance of this Order, Trumer shall submit a site cleanup plan to the Department in accordance with ADEM Admin. Code r. 335-4-2-

.01(6). This plan shall include a general description of work to be performed, the disposition of the scrap tires and other solid waste removed from the site, and restoration of the Site, if needed, as well as a schedule for site cleanup completion. Unless otherwise directed or approved by the Department, Trumer shall implement the site cleanup plan as presented. This includes removing all scrap tires from the Site and transporting them to a permitted scrap tire processor, solid waste transfer station or an approved solid waste disposal facility. Verification of removal and transport to an authorized facility shall be provided to ADEM. All other regulated solid waste at the Site shall be removed in the same manner..

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

1. Period in which the site cleanup actions 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 Trumer 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 Trumer 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

Darius Trumer
11439 Lake 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	\$2,500	\$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 (+/-)	\$1000
	\$0

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$3000
Total Adjustments (+/-)	\$1000
FINAL PENALTY	\$4000

Footnotes

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

as required by Ala. Code §22-40A-19(e).

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