

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

Troy Whatley
12914 Muriel Drive STS
Vance, Tuscaloosa County, Alabama

Order No. 26-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 (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. Troy Whatley (hereinafter referred to as "Whatley") is the owner of real property situated at the intersection of 12914 Muriel Drive and Pongee Drive, which is further designated as Parcel ID Number 632409290004002000, located in Vance, Tuscaloosa County, Alabama (hereinafter referred to as "the Site").

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. 335-4-1-.02(ww), a scrap tire site ("STS") is defined as a site or location where scrap tires or tire pieces are illegally stored or accumulated and is not in compliance with the ASTEQA or Division 335-4 of the ADEM Administrative Code ("ADEM Admin. Code").

5. 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.

6. 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.

7. On March 13, 2024, in response to a complaint, Department personnel conducted an investigation that included a site inspection, followed by a review of pertinent records. The following was noted during the investigation:

A. There was an accumulation of approximately 180 scrap tires present on the Site. Additionally, the scrap tires appeared to have been exposed to the elements for more than thirty days.

B. A review of Departmental records revealed that no individuals or persons legally associated with the Site had registered with the Department as required under ADEM Admin. Code r. 335-4-3-.01(2), nor had they obtained a scrap tire processor or SWDF permit from the Department before accumulating or storing the scrap tires on the Site, thereby violating ADEM-Admin Code r. 335-4-4-.01(1). As a result, the accumulation of the aforementioned scrap tires on the Site constitutes the creation of an illegal scrap tire site or STS, for which Whatley, as the landowner, is responsible.

C. As per the Tuscaloosa County property tax records, Whatley was identified as the owner of the Site at the time of the inspection.

8. On March 25, 2024, the Department issued Whatley a Notice of Violation (NOV) by the United States Postal Service ("USPS") Certified Mail, requiring complete abatement and closure of the STS. The delivery of the NOV could not be verified through the USPS online tracking system.

9. On August 9, 2024, Department personnel conducted a follow-up inspection at the Site and observed that the STS was still present and appeared to be unabated.

10. On October 1, 2024, the Department resent the March 25, 2024NOV to Whatley via FedEx. According to the FedEx online tracking system, the NOV was delivered and signed for by a person named "T. Whatley" on October 8, 2024.

11. On October 7, 2025, Department personnel conducted a second follow-up inspection at the Site and observed the continued presence of the STS, with no noticeable indications of any remediation activities.

12. To date the Department has yet to receive a written response to the NOV from Whatley.

13. 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 Department has considered the general nature and magnitude of the violation and determined the violation constituted a significant deviation from the regulations governing the management of scrap tires. The Department is not aware of any irreparable harm to the

environment; however, the STS may pose a threat to human health or the safety of the public due to the possible presence of disease vectors.

B. THE STANDARD OF CARE: In considering the standard of care manifested by Whatley, the Department noted that the violation described above was non-technical and easily avoidable. Consequently, Whatley failed to exhibit a standard of care commensurate with the regulatory standards that apply to the management of scrap tires..

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that Whatley gained an economic advantage by postponing the expenses associated with the proper disposal of scrap tires collected on the Site. The estimated economic benefit from this delayed compliance amounts to \$900 and is detailed in Attachment A under "Other Factors."

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is not aware of any actions taken by Whatley to address potential negative impacts on the environment, human health, or public safety that could have arisen from the STS.

E. HISTORY OF PREVIOUS VIOLATIONS: After reviewing the Department's records, it appears that Whatley does not have a documented history of violating the requirements in ADEM Admin. Code div. 335-4.

F. THE ABILITY TO PAY: The Department has no evidence indicating Whatley'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 that may be assessed. Due to this statutory requirement, the Department has adjusted the civil penalty as reflected in Attachment A.

14. 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 receipt of this Order, Whatley shall pay the Department a civil penalty in the amount of \$3,900 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 Whatley's name and address and the ADEM Administrative Order number of this action.

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

C. That, within thirty days of receipt of this Order, Whatley shall submit a written description of the work to be performed to remediate the STS, the disposition of

the scrap tires and other solid waste removed from the Site, and the restoration of the Site, if applicable, in accordance with ADEM Admin. Code r. 335-4-2-.01(6) to the Department. A schedule for completing all remediation activities must be included in this submission. Unless otherwise directed by the Department, Whatley shall implement the cleanup plan as presented, remove all scrap tires and scrap tire material, as well as all other regulated solid waste from the Site, and transport it to a permitted processor, solid waste transfer station, or an approved solid waste disposal facility (SWDF).

D. That, should Whatley choose to personally remove scrap tires or scrap tire materials from the Site and transport them to a permitted scrap tire processor or SWDF, Whatley must obtain a limited-use scrap tire transporter permit, as defined in ADEM Admin. Code r. 335-4-1-.02, from the Department.

E. That, within fifteen days of completion of all remediation activities, Whatley shall provide the following information to the Department as proof that all remediation or cleanup activities 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.
3. Documentation confirming that all scrap tires, scrap tire materials, and all other regulated solid waste, including both surface and subsurface waste, have been 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 confirming that the STS was properly closed to prevent erosion on the Site, if applicable.
7. Documentation confirming that the Site has been secured to prevent any future illegal dumping, if applicable.

F. 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.

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

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

ORDERED and ISSUED this ____ day of _____, 2025.

Edward Poolos

Director

Attachment A

Troy Whatley

12914 Muriel Drive

Vance, 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 (+/-)	\$900
	\$900

Economic Benefit (+) *	\$0
Amount of Initial Penalty	\$3000
Total Adjustments (+/-)	\$900
FINAL PENALTY	\$3900

Footnotes

¹ Additive fine of five dollars (\$5) per tire as required by the Code of Alabama § 22-40A-19(e).

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