

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

James A. Brady
4559 County Road 43 UAD-ST
Newton, Dale County, Alabama

Order No. 26-XX-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. James A. Brady ("Brady") owns property located at 4559 County Road 43, which is further identified as Parcel ID Numbers 26 14 07 35 0 000 005.000 and 26 14 07 35 0 000 005.001, in Newton, Dale County, Alabama ("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 § 22-22A-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 § 22-27-2(38), *as amended*, and ADEM Admin. Code r. 335-13-1-.03(146), an unauthorized dump ("UAD") is defined as any collection of solid

wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the Department.

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

7. 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, unless the landowner qualifies as an innocent landowner as defined in 335-13-1-.03.

8. 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 ADEM Admin. Code div. 335-4, the Scrap Tire Program Regulations.

9. Pursuant to Ala. Code § 22-40A-4(a)-(b), *as amended*, and 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.

10. 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, unless the landowner qualifies as an innocent landowner as defined in 335-4-1-.02.

11. On May 1, 2025, in response to a complaint, personnel from the Department commenced an investigation that involved a site inspection and a review of relevant records. During the investigation, the following was noted:

A. Personnel from the Department observed approximately twenty-five cubic yards of regulated solid waste that had been improperly disposed of along the tree line and behind a wooden fence situated on the eastern edge of the Site. This waste included household waste and rubbish. Additionally, there was an accumulation of approximately 885 uncovered and weathered scrap tires at the Site.

B. The disposal areas at the Site have not been permitted as a land disposal facility by the Department, as mandated by Chapter 335-13-5.

C. The disposal of approximately twenty-five cubic yards of regulated solid waste at the Site, without a valid solid waste disposal facility permit issued by the Department, constitutes the creation of a UAD, which violates rules 335-13-1-.13(1) and 335-13-1-.13(2), for which Brady is responsible.

D. A review of departmental records indicated that neither the landowner nor any other persons legally associated with the Site had registered with the Department as required by ADEM Admin. Code r. 335-4-3-.01(2), nor had they obtained a scrap tire processor, a SWDF, or a transporter permit from the Department.

E. The accumulation and transportation of approximately 885 scrap tires not in compliance with the ASTEQA or ADEM Admin. Code div. 335-4 resulted in the creation of an STS and the unlawful transportation of scrap tires, for which Brady is responsible.

F. As per the property tax records of Dale County, Brady was identified as the owner of the Site at the time of inspection.

12. On May 29, 2025, the Department issued Brady a Notice of Violation (“NOV”) through the United States Postal Service (“USPS”) Certified Mail, requiring the

complete abatement and closure of the UAD-STs. The USPS was unable to deliver the NOV to Brady, and it was returned to the Department on June 30, 2025.

13. On June 16, 2025, the Department sent Brady the NOV utilizing FedEx direct signature required. According to the FedEx online tracking system, the NOV was delivered June 18, 2025.

14. On February 11, 2026, personnel from the Department conducted a follow-up inspection at the Site and noted the ongoing presence of the UAD-STs. During the inspection, personnel from the Department observed approximately twelve cubic yards of regulated solid waste and approximately 400 scrap tires.

15. To date, the Department has yet to receive a response to the NOV from Brady.

16. 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 UAD and STS is inherently a public nuisance, a threat to public health, and a threat to the environment. However, 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 UAD-STs presence on the Site.

Nevertheless, due to the likely existence of disease vectors, the UAD-STS may represent a threat to human health or public safety.

B. THE STANDARD OF CARE: Brady failed to comply with the requirements for the lawful disposal of regulated solid waste and the proper management of scrap tire accumulations. Additionally, Brady did not follow the directives from the Department regarding the appropriate abatement and closure of the UAD-STS.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to establish if Brady 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 Brady to mitigate any potential adverse effects upon the environment, human health, or public safety that may have been caused as a result of the UAD-STS.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Brady 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 Brady'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.

17. 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 violations 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 the receipt of this Order, Brady shall pay the Department a civil penalty of \$8,270 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 Brady'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, Brady shall cease and desist from creating, operating, or contributing to any UADs or STSs.

C. That, within thirty days of receipt of this Order, Brady 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, Brady shall

implement the site closure plan as presented, remove and properly dispose of or recycle all regulated solid waste, scrap tires, and scrap tire materials in an approved landfill unit or at a registered recycling facility, and comply with all applicable requirements of Divisions 335-4 and 335-13 of the ADEM Admin. Code.

D. That, if Brady chooses to personally remove the scrap tires or scrap tire materials from the Site and transport them to a permitted scrap tire processor or SWDF, Brady must obtain a limited-use 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 and closure actions, Brady shall provide the following information to the Department as proof that all remediation and closure actions have been completed:

1. Period during which the remediation and closure actions took place.
2. Total number or volume of scrap tires, scrap tire materials, and all regulated solid wastes removed from the Site.
3. Documentation confirming that all scrap tires, scrap tire materials, and all other regulated solid wastes, including both surface and subsurface waste, have been removed from the Site.
4. Copies of receipts showing that all regulated solid waste, scrap tires, and scrap tire materials were taken to an authorized facility.
5. Photographs of the solid waste disposal and scrap tire accumulation areas at the Site taken before and after remediation.
6. Documentation that the UAD-STC was properly closed to prevent erosion on the Site, if applicable.
7. Documentation that the Site has been secured to prevent any future unauthorized dumping of regulated solid waste or illegal accumulations of scrap tires, 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 Brady 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 Brady for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this ____ day of _____, 2026.

Edward F. Poolos

Director

Attachment A

James A. Brady

4559 County Road 43

Newton, Dale County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of an Unauthorized Dump	1	\$2,000	\$500	\$0	
Creation of an illegal Scrap Tire Site	1	\$2,000	\$500	\$0	
Transporting scrap tires without a Valid Permit	1	\$845	\$425	\$0	Total of Three Factors
TOTAL PER FACTOR		\$4,845	\$1,425	\$0	\$6,270
Adjustments to Amount of Initial Penalty*			Economic Benefit (+) *		\$0
Mitigating Factors (-)	\$0		Amount of Initial Penalty		\$6,270
Ability to Pay (-)	\$0		Total Adjustments (+/-)		\$2,000 ¹
Other Factors (+/-)	+\$2,000 ¹		FINAL PENALTY		\$8,270
	\$2,000				

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.