

CERTIFIED

May 8, 2013

Hercules Group, LLC
c/o ACFB, Incorporated
2300 BP America Bldg., 200 Public Sq,
Cleveland, OH 44114-2378

Ashtabula Salvage, LLC
c/o ACFB, Incorporated
2300 BP America Bldg., 200 Public Sq,
Cleveland, OH 44114-2378

Ashtabula Iron & Metal, Co, LLC
c/o Brett Muckle
215 Manorbroom Drive
Chagrin Falls, OH 44022

Ashtabula Iron & Metal, Co., LLC
c/o statutory agent, James McSherry
172 East Washington Street
Chagrin Falls, OH 44022

Re: Director's Final Findings & Orders

Dear Sirs and/or Madams:

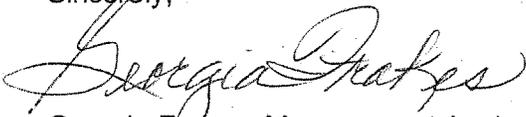
Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

You are hereby notified that this action of the Director of Environmental Protection (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Hercules Group, LLC
Ashtabula Salvage, LLC
Ashtabula Iron & Metal, Co., LLC
Page 2

Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, OH 43215

Sincerely,

A handwritten signature in cursive script that reads "Georgia Frakes".

Georgia Frakes, Management Analyst
Division of Materials and Waste Management

Enclosure

cc: Matt Boyer, DMWM, CO
Kelly Jeter, DMWM, CO
Janine Maney, Legal
Colum McKenna, DMWM, NEDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY - 8 2013
ENTERED DIRECTOR'S JOURNAL

In the Matter Of

Hercules Group LLC
c/o ACFB, Incorporated
2300 BP America Building
200 Public Square
Cleveland OH 44114-2378

Director's Final Findings
and Orders

Ashtabula Salvage LLC
c/o ACFB, Incorporated
2300 BP America Building
200 Public Square
Cleveland OH 44114-2378

Ashtabula Iron & Metal, Co., LLC
c/o Brett Muckle
215 Manorbrook Drive
Chagrin Falls, OH 44022

I certify this to be a true and accurate copy of the
official documents as filed in the records of the Ohio
Environmental Protection Agency.

By: *[Signature]* Date: 5-8-13

Ashtabula Iron & Metal, Co., LLC
c/o statutory agent, James McSherry
172 East Washington St.
Chagrin Falls, Ohio 44022

Respondents

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hercules Group LLC, Ashtabula Salvage LLC, and Ashtabula Iron & Metal, Co. LLC (collectively the "Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13 and 3734.85.

II. PARTIES

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of Respondents or the Property (as hereinafter defined) shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent Hercules Group LLC (Hereinafter "Respondent Hercules") is the current owner of parcels of land, located at 1015 West 30th St. and 2710 West Avenue, Ashtabula, Ohio, identified by the Ashtabula County Auditor as Parcel Numbers 053200001100, 053200001500 and 053200001501 (the "Property").
2. Respondent Ashtabula Salvage LLC (Hereinafter "Respondent Ashtabula Salvage") operated a scrap yard/recycling/ open dump on the Property.
3. Respondent Ashtabula Iron and Metal Co., LLC (Hereinafter "Respondent AIM") operated a scrap yard/recycling/ open dump on the Property.
4. Respondent Hercules, Respondent Ashtabula Salvage, and Respondent AIM (collectively "Respondents") are each a "person" as that term is defined in ORC Section 3734.01(G), and in Ohio Administrative Code ("OAC") Rule 3745-27-01(P)(3).
5. The Property is not licensed as a scrap tire collection facility, a solid waste disposal facility, or any type of legitimate recycling facility.
6. There are currently estimated more than 120,000 scrap tires illegally disposed on the Property, as well as other solid wastes.
7. Pursuant to ORC Section 3734.85, Respondents are responsible for the accumulation of scrap tires on the Property.
8. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(23).
9. OAC Rule 3745-27-01(S)(6) defines "scrap tire" as "a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use."
10. The open dumping of scrap tires is a violation of ORC § 3734.03 which states that "[n]o person shall dispose of solid wastes by open burning or open dumping," and OAC Rule 3745-27-05(C) which states that "[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734, of the Revised Code, and shall submit verification that the solid waste has been properly managed."

11. OAC Rule 3745-27-01(O)(4)(b) defines open dumping as, "[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code."
12. OAC Rule 3745-27-60(B) provides that "[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with" the standards set forth with in OAC Rule 3745-27-60(B)(1) - (11).
13. OAC Rule 3745-27-60(C) provides that "Anyone storing scrap tires shall maintain mosquito control as" set forth with in OAC Rule 3745-27-60(C)(1) - (3).
14. Scrap tires, if not properly managed, may become a breeding ground for mosquitoes. Mosquitoes are a common disease vector for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus and Dengue Fever.
15. On April 27, 2012 and April 28, 2012, Ohio EPA conducted an inspection of the Property and observed the following violations:
 - a) ORC Section 3734.03 for open dumping of scrap tires, observing an estimate of at least 121,950 scrap tires dumped on the Property.
 - b) ORC Sections 3734.02(C) and 3745.05(A)(1) for establishing and operating a solid waste facility without a permit or license.
 - c) OAC 3745-27-60(B)(7) for not maintaining adequate fire lanes and fire breaks, observing several massive, large and small scrap tires scattered around the property.
 - d) OAC 3745-27-60(B)(8) for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area, and for failure to comply with scrap tire storage requirements.
 - e) OAC Rule 3745-27-60(C)(1) for failure to obtain a scrap tire facility registration prior to operation.

These violations were documented in a Notice of Violation letter ("NOV") from the Ohio EPA to Respondents dated June 28, 2012.

16. On February 1, 2013, Ohio EPA conducted an inspection of the Property and observed the following violations:
- a) ORC Section 3734.03 for open dumping of scrap tires, observing an estimate of at least 121,950 scrap tires dumped on the Property.
 - b) ORC Sections 3734.02(C) and 3745.05(A)(1) for establishing and operating a solid waste facility without a permit or license.
 - c) OAC 3745-27-60(B)(7) for not maintaining adequate fire lanes and fire breaks, observing several massive, large and small scrap tires scattered around the property.
 - d) OAC 3745-27-60(B)(8) for maintaining a scrap storage pile that exceeds 2,500 square feet in basal area, and for failure to comply with scrap tire storage requirements.
 - e) OAC Rule 3745-27-60(C)(1) for failure to obtain a scrap tire facility registration prior to operation.

These violations were documented in a Notice of Violation letter ("NOV") from the Ohio EPA to Respondents dated March 4, 2013.

17. On October 18, 2012, the Ohio Department of Health reported two human cases of West Nile Virus in Ashtabula County.
18. The Property is located within approximately a mile of a hospital, day care centers, and schools.
19. Given the confirmed human cases of West Nile Virus in the County in October of 2012 and the proximity of the scrap tires located on the Property to sensitive sub-populations, the Director has determined that the accumulation of scrap tires on the Property constitutes a danger to the public health or safety or to the environment.
20. ORC Section 3734.85 provides that "[i]f the director determines that an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, the director shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner."

21. ORC Section 3734.85 further provides, "If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation."
22. To date, Respondents have failed to remove the scrap tires from the Property.

V. ORDERS

Respondents shall achieve compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondents shall implement mosquito control measures at the Property in accordance with the provisions of OAC Rule 3745-27-60(C). Respondents shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3), to Ohio EPA Northeast District Office within ten (10) days after each application of the registered pesticide, larvicide, or adulticide.
2. Within thirty (30) days after the effective date of these Orders, Respondents shall establish storage piles and fire breaks at the Property in accordance with OAC Rules 3745-27-60(B)(7) and 3745-27-60(B)(8).
3. Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter:
 - a. to a scrap tire storage, monofill, monocell, or recovery facility licensed under ORC Section 3734.81; or
 - b. to such a facility in another state operating in compliance with the laws of that state in which it is located; or
 - c. to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.
4. Respondents shall obtain receipts from the registered transporter and the facility, indicating weight, volume or number of scrap tires received. Respondents shall forward all such documentation and receipts for transportation and disposal to

Ohio EPA Northeast District Office within ten (10) days after completion of Order No. 3.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by (a) responsible official(s) of Respondents.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, Respondents or the Property.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondents or the Property.

IX. NOTICE

All documents required to be submitted by Respondents under these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 East Aurora Road
Ashtabula, Ohio 4405-2450
Attn: Colum McKenna, DMWM

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

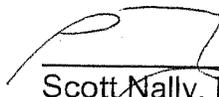
X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities pursuant to ORC Chapter 3734, or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. EFFECTIVE DATE

The effective date of the Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

IT IS SO ORDERED:



Scott Nally, Director

