



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

July 25, 2023

Mr. James Garner
RMRM Holdings LLC, DBA Tradesman XDR
129 Piccadilly Court
Goode, Virginia 24556
Email: james.garner@tradesmantrucking.us

Mr. George Davis
Davis Storage Properties LLC
1428 Goodyear Blvd.
Danville, Virginia 24541
Email: georgeiii@davisstorageinc.net

Mr. James Garner, Trustee in Liquidation
RMRM Holdings LLC, DBA Tradesman XDR
129 Piccadilly Court
Goode, Virginia 24556
Email: james.garner@tradesmantrucking.us

Mr. George Davis
Davis Storage Properties LLC
200 Learner Lane,
Blairs, Virginia 24527

United States Corporation Agents, Inc.
Registered Agent for RMRM Holdings LLC
4445 Corporation Lane, Suite 259
Virginia Beach, Virginia 23462

Mr. Robert Vaughan Jr., Registered Agent
Davis Storage Properties, LLC
776 Main Street
Danville, Virginia 24541

Mr. Norman W. and Mrs. Francine W. Ferguson
6110 Pleasant Valley Road
Lynchburg, Virginia 24504

Notice of Special Order Proceeding

DATE: September 18, 2023

TIME: 1:00 P.M.

CONFERENCE CALL INFORMATION:

CALL-IN NO.: +1 (872) 240-3212

ACCESS CODE: 327-485-429

In re: Mr. Garner; RMRM Holdings LLC; Davis Storage Properties LLC, Mr. and Mrs. Ferguson

Dear Mr. Garner, Mr. Davis, and Mr. and Mrs. Ferguson:

You are hereby notified that, pursuant to Virginia Code (“Va. Code”) §§ 2.2-4019 and 10.1-1186, a Special Order Proceeding will be held regarding the following sites:

- 1) 14398 Wards Road, Lynchburg, VA Campbell County Tax Parcel ID 22C-1-18 (“Site #1”)
- 2) 200 Learner Lane, Blairs, VA Pittsylvania County Tax Parcel ID 2420-75-0908 (“Site #2”)
- 3) 6110 Pleasant Valley Road, Lynchburg, VA Campbell County Tax Parcel ID 8-A-4D (Site #3)

The Special Order Proceeding will be held via conference call. At the scheduled time, dial (872) 240-3212, and enter the Access Code 327-485-429 when requested. If you have any difficulty accessing the conference call, please call Michelle R. Callahan at (804) 664-3893.

PURPOSE

The Special Order Proceeding will determine whether 1) Mr. James Garner and RMRM Holdings LLC have violated the Virginia Waste Management Act and regulations at Site #1, Site #2, and Site #3, 2) Davis Storage Properties LLC has violated the Virginia Waste Management Act and regulations at Site #2, and 3) Mr. and Mrs. Ferguson have violated the Virginia Waste Management Act and regulations at Site #3. The proceeding will also determine the appropriateness of injunctive relief and a civil penalty. The alleged violations are set forth in this Notice Letter. DEQ staff will be seeking a Special Order requiring Mr. James Garner, RMRM Holdings LLC, Davis Storage Properties LLC, and Mr. and Mrs. Ferguson to comply with the above statutes and regulations, and for Mr. James Garner and RMRM Holdings LLC to pay a \$10,000 civil penalty.

Va. Code § 10.1-1186 authorizes the Director of DEQ to issue a Special Order to any person to comply with the provisions of any law, any condition of a permit or certification, any regulation or case decision, as addressed therein. Va. Code § 10.1-1182 defines a Special Order as “an administrative order to any party that has a stated duration of not more than twelve months and that may include a civil penalty of not more than \$10,000.”

INFORMATION TO BE USED BY DEQ

This letter notifies you of information upon which DEQ staff may rely to request the issuance of a Special Order. In addition to the information enclosed with this Notice Letter and labeled as “DEQ Exhibit Book,” DEQ staff may also rely on other public documents in DEQ files. The enclosed information, the information in DEQ’s case file, and the information presented by witnesses will be relied upon to ascertain the facts in this matter.

DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. In addition to the laws and regulations cited in this Notice Letter, DEQ may rely on other authorities. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

ALLEGED VIOLATIONS AND LEGAL REQUIREMENTS

DEQ staff conducted compliance inspections of Site #1 on January 6, 2022, July 19, 2022, and February 16, 2023; Site #2 on July 26, 2022, and February 16, 2023; and Site #3 on

July 19, 2022, and February 16, 2023. The following alleged violations are based upon observations during those compliance inspections and the statements of Mr. Garner.

Alleged Violations:

- 1) At Site #1 and Site #2, Mr. Garner and RMRM Holdings LLC operated a facility for the disposal, treatment and/or storage of solid waste and have stored or disposed of more than 100 waste tires without a permit from DEQ.

Legal Requirements: Title 10.1, Chapter 14 of Virginia Waste Management Act, § 10.1-1408.1, states that no person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of nonhazardous waste without a permit from the Director.

9 VAC 20-81-40 requires a permit from the Director for the disposal, treatment, or storage of solid waste. Any person who violates this requirement shall immediately cease the activity and shall initiate removal and cleanup of the improperly managed waste.

Va. Code § 10.1-1418.2.B states that “It shall be unlawful for any person to store, dispose of, speculatively accumulate or otherwise place more than 100 waste tires on public or private property, without first having obtained a permit as required by § 10.1-1408.1 or in a manner inconsistent with any local ordinance. No person shall allow others to store, dispose of, speculatively accumulate or otherwise place on his property more than 100 waste tires, without first having obtained a permit as required by § 10.1-1408.1.”

- 2) At Site #2, Davis Storage Properties LLC allowed Mr. Garner and RMRM Holdings LLC to store or dispose of solid waste and more than 100 waste tires on Davis Storage Properties LLC's property without a permit from DEQ.

Legal Requirements: Va. Code § 10.1-1408.1(I) states, "No person shall allow waste to be disposed of on his property without a permit."

9 VAC 20-81-40(B) states, "No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with the Solid Waste Management Regulations".

- 3) At Site #3, Mr. and Mrs. Ferguson allowed Mr. Garner and RMRM Holdings LLC to store or dispose of solid waste on their residential property without a permit from DEQ.

Legal Requirements: Va. Code § 10.1-1408.1(I) states, "No person shall allow waste to be disposed of on his property without a permit."

9 VAC 20-81-40(B) states, "No person shall allow waste to be disposed of or otherwise managed on his property except in accordance with the Solid Waste Management Regulations".

DEQ has not issued a permit for the disposal, treatment, storage or shredding of waste tires at any of the three sites.

RECOMMENDED DECISION, RELIEF AND CIVIL PENALTY

DEQ staff will request a Special Order to compel Mr. Garner, RMRM Holdings LLC, Davis Storage Properties LLC, and Mr. and Mrs. Ferguson to comply with the Virginia Waste Management Act and the applicable regulations. Specifically, DEQ staff will request a Special Order requiring:

1. Mr. Garner and RMRM Holdings LLC shall immediately cease all unpermitted waste management activities at site #2, and site #3.
2. Within 90 days of the effective date of the Order, Mr. Garner, RMRM Holdings LLC, and Davis Storage Properties LLC shall complete the removal of waste materials from Site #2, and dispose of the materials in accordance with the Virginia Waste Management Act and the applicable regulations.
3. Within 90 days of the effective date of the Order, Mr. Garner, RMRM Holdings LLC, and Mr. and Mrs. Ferguson shall complete the removal of waste materials from the Site #3, and dispose of the materials in accordance with the Virginia Waste Management Act and the applicable regulations.
4. Within 90 days of the effective date of the Order, Mr. Garner, RMRM Holdings LLC, Davis Storage Properties LLC, and Mr. and Mrs. Ferguson, shall provide disposal receipts to DEQ from an appropriately permitted facility documenting disposal of the waste material.
5. Within 30 days of the effective date of the Order, Mr. Garner and RMRM Holdings LLC shall pay a civil penalty of \$10,000. Mr. Garner and RMRM Holdings LLC shall pay attorneys' fees of 30% of the amount outstanding should DEQ have to refer collection of the civil penalty to the Department of Law.

Compliance with Financial Assurance Regulations:

1. To ensure the full and final completion of the clean-up work at the waste tire sites, Mr. Garner and RMRM Holdings LLC shall, within 30 days of the effective date of the Special Order, establish and maintain a solid waste financial assurance mechanism in the amount of \$17,120 (the "Closure Cost Estimate") for the benefit of the Department; or for the benefit of any service provider the Department engages to perform the closure and corrective action. The financial assurance mechanism shall be in the form of one of the following mechanism: (a) a surety bond guaranteeing payment or performance of the work; (b) an irrevocable standby letter of credit payable to or at the direction of DEQ; (c) a certificate of deposit account assigning all rights, title and interest to the DEQ; (d) a trust fund established for the benefit of DEQ prepared in accordance with the Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9VAC20-70-10 et. seq. The Financial assurance mechanism shall consist of a financial assurance demonstration in the amount of the approved Closure Cost Estimate.
2. In the event of unsatisfactory completion of the activities required by this Special Order (as determined by the Department), or Mr. Garner and RMRM Holdings LLC's failure to meet the deadlines set by the Special Order, the Director may cash the financial assurance mechanism to perform the closure activities in accordance with 9VAC20-70-10 et. seq. Additionally, the financial assurance mechanism may be canceled by the issuing institution only if alternate financial assurance acceptable to the Director is substituted as specified in 9VAC20-70-10 et. seq. or if Mr. Garner and RMRM Holdings LLC are released by the Director from the requirements of this Order.

3. The Director shall release the original financial assurance mechanism to the issuing institution for termination when:
 - i. Mr. Garner and RMRM Holdings LLC substitute acceptable alternate financial assurance for the work; or
 - ii. The work is completed in accordance with the Special Order and the Director notifies Mr. Garner and RMRM Holdings LLC that it is no longer required to maintain financial assurance for closure.

PROCEDURES

You may participate in the conference call yourself or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, RMRM Holdings LLC, Davis Storage Properties LLC, and Mr. and Mrs. Ferguson will be able to present factual data, argument, or proof in connection with this case. DEQ staff may rely on the enclosed documents, other documents in its files, and statements of DEQ staff to substantiate the alleged violations. A presiding officer will hear the evidence in this case and prepare an independent Findings of Fact and Conclusions of Law and a draft Order for the Director's review. The Director will then issue a decision in this matter. If the Director issues a Special Order under Va. Code § 10.1-1186, it may include both injunctive relief and a civil penalty.

Be advised that if you fail to attend or appear without good cause at an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the presiding officer may issue a default order regarding the subject of this notice. If a default order is issued, the presiding officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

You will be notified of the results of the proceeding in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with Va. Code § 2.2-4026.

Michelle R. Callahan will represent DEQ at this proceeding. Please contact Michelle R. Callahan at 804-664-3893 or michelle.callahan@deq.virginia.gov within ten (10) calendar days of the receipt of this letter to indicate whether you will be represented at this Special Order Proceeding by counsel or if you are unable to appear at this time and place.

DEQ encourages settlement of this matter at any time if such settlement is consistent with the provision and objectives of the applicable laws and regulations. You may request a settlement conference with DEQ staff to discuss the allegations in the notice. A request for a settlement conference or the opportunity to submit documentation will not affect the scheduled proceeding unless the parties and the presiding officer otherwise agree. If you wish to arrange an informal settlement conference or discuss the opportunity to submit documentation, please call Michelle R. Callahan within ten (10) calendar days of receipt of this notice.

If you have any questions or require assistance, please contact Michelle R. Callahan at 804-664-3893 or michelle.callahan@deq.virginia.gov

Sincerely,

Notice of Special Order Proceeding
In re: RMRM Holdings LLC
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A handwritten signature in black ink that reads "Lee Crowell". The signature is written in a cursive style with a large, stylized "L" and "C".

Lee Crowell
Director, Division of Enforcement

Enclosure

cc: DEQ File