



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

November 12, 2024

Mr. Rameez Kaba
RK Enterprises-RVA, LLC
523 South Washington Highway
Ashland, VA 23005
Via Email: rkaba804@gmail.com

RK Enterprise-RVA LLC
10217 Navarre Court
Henrico, VA 23238

Mr. J. Christopher Gilman (Registered Agent)
Gilman Investments LTD. (Property Owner)
102 North Taylor Street
Post Office Box 1660
Ashland, VA 23005

Financial Consulting Group, Inc
Register Agent for
RK Enterprises-RVA, LLC
601 Turner Road
North Chesterfield, VA 23238

Notice of Delivery Prohibition Proceeding and Special Order Proceeding

DATE: December 16, 2024

TIME: 10:30 a.m.

CONFERENCE CALL INFORMATION:

CALL-IN NO.: 434-230-0065

ACCESS CODE: 494761751

In re: **RK Enterprise-RVA, LLC and Gilman Investments LTD**
Facility ID#4022246, 523 South Washington Highway, Ashland, VA

Dear Mr. Kaba and Mr. Gilman:

You are hereby notified that a Delivery Prohibition Proceeding and a Special Order Proceeding will be held on **December 16, 2024 at 10:30 a.m.** regarding the Underground Storage Tanks located at 523 South Washington Highway, Ashland, Virginia (the "Facility"). **The Delivery Prohibition Proceeding and Special Order Proceeding will be held via conference call.** At the scheduled time, dial **434-230-0065**, and enter the Access Code **494761751** when requested. If you have any difficulty accessing the conference call, please call Michelle Callahan at 804-664-3893.

PURPOSE

The Delivery Prohibition Proceeding will determine whether the underground storage tank(s) (“USTs”) located at the Facility and listed in this Notice are ineligible for delivery, deposit, or acceptance of a regulated substance based on violation(s) of the Underground Storage Tanks: Technical Standards and Corrective Action Requirements Regulation and Petroleum Underground Storage Tank Financial Responsibility Requirements Regulation. The Delivery Prohibition Proceeding will be an informal fact finding proceeding conducted pursuant to Va. Code § 2.2-4019.

The Special Order Proceeding will determine whether RK Enterprise-RVA, LLC and Gilman Investments LTD has violated certain provisions of VA. Code §62.1-44.34:12(A) and 9 VAC 25-50-590-40(A) and will determine the appropriateness of injunctive relief and a civil penalty. DEQ staff will be seeking a Special Order requiring RK Enterprise-RVA, LLC and Gilman Investments LTD to comply with the above statutes and regulations at the Facility and pay the maximum civil penalty permitted under the law. The Special Order Proceeding will be an informal fact finding proceeding conducted pursuant to Va. Code §§ 2.2-4019 and 10.1-1186.

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.”

The alleged violations for the Delivery Prohibition Proceeding and Special Order Proceeding are set forth in this Notice Letter.

INFORMATION TO BE USED BY DEQ

This letter notifies you of information upon which DEQ staff may rely to (1) make a case decision following the Delivery Prohibition Proceeding and (2) request the issuance of a Special Order following the Special Order Proceeding. 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

Alleged Violation	Observations and Legal Requirements
☒	Failed to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. 9VAC25-590-40: Amount and Scope of Financial Responsibility Requirement 9VAC25-590-50: Allowable Mechanisms
☒	Failed to maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility. 9VAC25-590-160: Recordkeeping

RECOMMENDED DECISION, RELIEF AND CIVIL PENALTY

DEQ staff will request that the Presiding Officer find that the referenced UST(s) at the Facility are in violation of the Regulation and ineligible for delivery, deposit, or acceptance of a regulated substance based on 9 VAC 25-580-370 of the Regulation.¹

DEQ staff will also request a Special Order to compel RK Enterprise-RVA, LLC and Gilman Investments LTD to comply with the VA. Code §62.1-44.34:12(A) and 9 VAC 25-50-590-40(A). Specifically, DEQ staff will request a Special Order requiring RK Enterprise-RVA, LLC and Gilman Investments LTD to:

Requested	Required Action	UST No(s).	Due Date
☒	Submit documentation demonstrating financial responsibility in accordance with 9VAC25-590-10 <i>et seq.</i>	1,2,3,4,5	01/01/2025
☒	Pay the maximum civil penalty permitted under the law. Pay attorneys' fees of 30% of the amount outstanding should DEQ have to refer collection of the civil penalty to the Department of Law	1,2,3,4,5	01/01/2025

PROCEDURES

¹ You may request to be heard on the Emergency, Rural or Remote Exemption. 9 VAC 25-580-370(I) provides that if the Presiding Officer, acting on behalf of the Board, determines that a delivery prohibition violation exists, he or she can consider whether the threat posed by the violation is outweighed by the need for fuel from the UST(s) to meet an emergency situation or to meet the needs of a rural and remote area. If it is determined that such a condition outweighs the immediate risk of the violation, the Presiding Officer may defer imposition of delivery prohibition for up to 180 days. In every such case, the director shall consider (i) issuing a special order under the authority of subdivision 10 of § 10.1-1186 of the Code of Virginia prescribing a prompt schedule for abating the violation and (ii) imposing a civil penalty.

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, RK Enterprise-RVA, LLC and Gilman Investments LTD 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 a case decision to resolve the issues presented in the Delivery Prohibition Proceeding. With respect to the Special Order Proceeding, the presiding officer will prepare an independent Findings of Fact and Conclusions of Law and a draft Order for the Director's review. Then the Director may issue a Special Order to resolve the issues presented in the Special Order Proceeding. If the Director issues a Special Order under Va. Code § 10.1-1186, the Special Order may include both injunctive relief and a civil penalty.

Be advised that if you fail to attend or appear without good cause to 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 Delivery Prohibition Proceeding and Special Order 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 Callahan will represent DEQ at this proceeding. Please contact Michelle 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 Delivery Prohibition Proceeding and Special Order Proceeding by counsel or if you are unable to participate by conference call at the scheduled time.

RESOLUTION

DEQ encourages settlement of these matters 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 proceedings 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 Callahan within ten (10) calendar days of receipt of this notice.

DEQ will not go forward with the Delivery Prohibition Proceeding if DEQ verifies that you have taken all necessary corrective actions to return the Facility to compliance prior to the date of the proceedings. If you complete the necessary work to correct the alleged violations prior to the date of the proceedings, contact Michelle Callahan immediately so that compliance can be

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In re: RK Enterprise-RVA, LLC and Gilman Investments LTD

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verified. You must provide a written report and appropriate documentation demonstrating that compliance has been achieved three business days prior to the Proceeding. If compliance is verified, the Delivery Prohibition Proceeding will be cancelled, and the UST(s) will be eligible for receipt of a regulated substance. However, the Special Order Proceeding will go forward as scheduled unless the parties and the presiding officer otherwise agree. If compliance is not verified, both the Delivery Prohibition Proceeding and the Special Order Proceeding will go forward as scheduled.

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

Sincerely,

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
1111 E. Main Street
Richmond VA 23219

Attachments