



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

Office of the
Secretary

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SECRETARY'S ORDER TO CEASE AND DESIST

Pursuant to 7 Del. C. § 6018

Order No. 2024-WH-0018

Issued To:

Personally Served

Facility Operator:

Santos Martinez
SPM Tire Service, LLC
2615 Pulaski Highway
Newark, Delaware 19702

Served Via Certified Mail, Return Receipt

Facility Operator Registered Agent:

Corporate Service Center, Inc.
300 Delaware Avenue
Suite 210
Wilmington, Delaware 19801-6601

Served Via Certified Mail, Return Receipt

Property Owner:

David S. Willis, Jr.
LDMA Holdings LLC
225 E. Main Street
Elkton, Maryland 21921

Served Via Certified Mail, Return Receipt

Property Owner Registered Agent:

David S. Willis, Jr.
225 East Main Street
Elkton, Maryland 21921

Served Via Certified Mail, Return Receipt

Property Owner:

RECAP Capital Holdings, LLC
710 Wheatland Street
Suite 101
Phoenixville, Pennsylvania 19460

Dear Mr. Martinez and Mr. Willis:

This is to notify SPM Tire Service, LLC, RECAP Capital Holdings, LLC, and LDMA Holdings, LLC (collectively “Respondents”) that the Secretary of the Delaware Department of Natural Resources and Environmental Control (“Department”) has found Respondents in violation of 7 *Del. C.* Chapter 60 and 7 *Del. Admin. C.* § 1301, Delaware’s *Regulations Governing Solid Waste* (“DRGSW”). Accordingly, the Department is issuing this Secretary’s Order to Cease and Desist, pursuant to 7 *Del. C.* § 6018.

BACKGROUND

On May 24, 2024, the Department conducted a scrap tire site visit at 2615 Pulaski Highway, Newark, Delaware 19702 (hereinafter referred to as “Pulaski Highway facility”). The purpose of the site visit was to evaluate the scrap tires present on the Pulaski Highway facility associated with an ongoing legal matter with the former property owner¹. It was observed that SPM Tire Service, LLC operates a business at the Pulaski Highway facility. Representatives of SPM Tire Service, LLC stated that they had been operating at the Pulaski Highway facility since September 2023. Representatives of SPM Tire Service, LLC further stated that lease payments have been made to LDMA Holdings, LLC monthly since September 2023 despite there being no written lease agreement.

Upon the Department’s information and belief, Respondents are storing scrap tires at the Pulaski Highway facility without a permit. During the site visit, Respondents were found to be operating a qualifying business and storing over 99 scrap tires not associated with the ongoing legal matter with the former owner. Accumulating 100 or more scrap tires or passenger tire equivalents subjects the site to the scrap tire facility management standards in DRGSW. The Department estimates it observed approximately 550 scrap tires associated with SPM Tire Service, LLC activities during the scrap tire site visit.

¹ On May 14, 2024, the property located at 2615 Pulaski Highway was sold during a New Castle County Sheriff Sale. The Defendant in the matter was James C Barnes Jr and Sara Barnes and the Plaintiff was RECAP Capital Holdings LLC mark to the use of LDMA Holdings LLC.

APPLICABLE REGULATORY CITATIONS

1. Section 3 of DRGSW, specifically the definition of “Scrap Tire:”

...means a tire that is no longer prudent or practical for vehicular use; or a tire that has not been used on a vehicle for more than 6 months after the last date it was used on a vehicle; or a tire that is six years or older from the date of manufacture.

2. Section 3 of DRGSW, specifically the definition of “Prudent and Practical:”

...means

a) Tread depth shall not be less than 2/32 of an inch deep;

b) Free from chunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials; and

c) Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts or abrasions on the tire are probed

3. Section 3 of DRGSW, specifically the definition of “Scrap Tire Facility:”

...means an accumulation of 100 or more scrap tires wherein each scrap tire weighs 25 pounds or less; or 100 or more scrap passenger tire equivalents; or any combination thereof that, upon conversion, results in 100 or more passenger tire equivalents, in the same general vicinity that is not enclosed by a building, including, but not limited to, open fields, woodlots, pavement, dumpsters or rolloffs, trailers, and fenced areas. For scrap tires weighing more than 200 pounds each, the first 10 scrap tires are exempt from the accumulation amount.

4. Section 3 of DRGSW, specifically the definition of “Enclosed by a Building:”

...means a permanent fixed structure surrounded on all sides by four solid walls, a structurally sound roof, and an impermeable floor, with no permanent openings.

5. Section 3 of DRGSW, specifically the definition of “Passenger Tire Equivalent” or “PTE”:

...means a conversion measurement using the assumption that one passenger car tire is equal to 25 pounds. A tire weighing more than 25 pounds shall be evaluated by dividing its total weight by 25 pounds to equal the number of PTEs.

6. Section 12.1.1 of DRGSW, Scrap Tire Facility Applicability:

This section applies to new and existing areas established for scrap tires that are associated with a qualifying business. A qualifying business is a business that generates and accumulates scrap tires but whose primary purpose is not to accumulate scrap tires. Examples of qualifying businesses may include but are not limited to: tire retreading businesses; automobile graveyards or junkyards; local and state governmental agencies and/or facilities such as county maintenance, police, and fire; military institutions and/or facilities; farmers; and other automotive businesses. This section does not apply to owner/operators who have a current and valid resource recovery facility permit (or other approval issued pursuant to these regulations) that addresses scrap tire management. This section also does not apply to persons who are registered with, and actively participating in, the Scrap Tire Management Program, administered by the Department. All transporters of solid waste, including scrap tires, must comply with any applicable provisions in Section 7.0. All scrap tire facilities whose primary purpose is to accumulate scrap tires must comply with any applicable provisions in Sections 9.0 and 10.0, as applicable.

FINDINGS

The Department has concluded Respondents are in violation of 7 Del. C. Chapter 60 and DRGSW, including, but not limited to:

1. **DRGSW Section 12.3.2:**

Each scrap tire facility created after the effective date of these regulations must: ...

12.3.2.1 For Groups 1 and 2, prior to commencing operation, the scrap tire facility must comply with subsection 4.1.1.3 of these regulations...

DRGSW Section 4.1.1.3:

No person that is subject to the requirements of Section 12.0 of these regulations shall construct or operate a scrap tire facility without first having obtained a permit from the Department.

Section 6003(a)(4) of Title 7:

(a) No person shall, without first having obtained a permit from the Secretary, undertake any activity:...

(4) In a way which may cause or contribute to the collection, transportation, storage, processing, or disposal of solid wastes, regardless of the geographic origin or source of such solid wastes...

During the site visit, Department representatives observed approximately 550 scrap tires at Respondents' Pulaski Highway facility associated with SPM Tire Service, LLC activities. As Respondents stored 100 or more scrap tires outdoors at its site, Respondents are subject to DRGSW Section 12.3.2, which requires scrap tire facilities to obtain a permit in accordance with DRGSW Section 4.1.1.3. Failing to obtain the required permit is a violation of 7 Del. C. § 6003(a)(4) and DRGSW Section 4.1.1.3.

2. DRGSW Section 12.2.1:

All scrap tire facilities must either fall into one of three groups, as defined below. A property may have only one scrap tire facility. All other scrap tires facilities are prohibited.

At the time of the site visit, Respondents had scrap tires stored in multiple locations on its Pulaski Highway facility associated with SPM Tire Service, LLC activities, including but not limited to: (1) approximately 310 scrap tires on the ground immediately to the west of the billboard sign; and (2) approximately 240 scrap tires to the north of the welded storage containers parallel to westbound Pulaski Highway. Having more than one scrap tire facility is a violation of DRGSW Section 12.2.1.

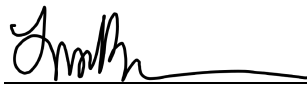
ORDER

IT IS HERBY ORDERED, based on the foregoing findings and pursuant to the authority vested in the Secretary by *7 Del. C. § 6018*, that Respondents cease and desist in generating or accumulating scrap tires until compliance is achieved at the Pulaski Highway facility.

The Department reserves the right to take additional enforcement actions regarding these or other violations at the site, including but not limited to one or more of the following: an action under *7 Del. C. § 6005(b)(1)*, seeking penalties for past violations; an action under *7 Del. C. § 6005(b)(2)*, seeking penalties for continuing violations; an action in the Court of Chancery pursuant to *7 Del. C. § 6005(b)(2)*, seeking a temporary restraining order or an injunction; and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to *7 Del. C. §§ 6005(b)(3) and (c)(1)*.

If you have any questions, please contact, or have your attorney contact Devera B. Scott, Deputy Attorney General, at 302-257-3218.

Date: May 28, 2024



For Shawn M. Garvin, Secretary

cc: Devera B. Scott, Deputy Attorney General