



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY

PHONE  
(302) 739-9000

**Secretary's Order to Cease and Desist**

Issued Pursuant to 7 Del. C. §6018

**ORDER NO. 2024-WH-0038**

***PERSONALLY SERVED BY  
AN ENVIRONMENTAL CRIMES  
UNIT OFFICER***

**Facility Owner**

Mike Davidson Enterprises, LLC  
3051 Willow Grove Road  
Camden, DE 19934

**Property Owner**

5500 Anderby Hall Road, LLC  
3051 Willow Grove Road,  
Camden Wyoming, DE 19934

**Facility Operator**

Mr. Michael P. Davidson  
2904 Willow Grove Road  
Camden, DE 19934

**Facility Operator**

Mike Davidson Excavating, LLC  
3051 Willow Grove Road  
Camden, DE 19934

**Facility Operator**

Mr. Michael P. Davidson  
3304 Mud Mill Road  
Camden, DE 19934

***SERVED VIA CERTIFIED MAIL, RETURN  
RECEIPT***

**Registered Agent for Mike Davidson  
Enterprises, LLC**

National Corporate Research, LTD  
615 S. DuPont Highway  
Dover, DE 19901

**Facility Operator**

Mr. Michael P. Davidson  
30720 Taylor Road  
Trappe, MD 21673

This is to notify Mr. Michael P. Davidson, Mike Davidson Enterprises, LLC, Mike Davidson Excavating, LLC and 5500 Anderby Hall Road, LLC ("Respondent") that the Secretary of the Delaware Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 *Del. C.* Chapter 60 and 7 *Del. Admin. Code* Section 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**

1. The Secretary of the Department is responsible for the protection of the public health and safety, and the health of organisms and the environment from the effects of the improper, inadequate, or unsound management of solid wastes, by establishing a program of regulation over the storage, transportation, handling and disposal of solid wastes, and to assure the safe and adequate management of solid wastes within the State of Delaware, pursuant to the authority set forth in 7 *Del. C.* Chapter 60.
2. Respondent owns, and formerly operated, a construction and demolition waste recycling facility (Resource Recovery Facility<sup>1</sup>) located at 3051 Willow Grove Road, Camden, Kent County, Delaware, Tax Parcel NM-00-11600-01-0600-00001 ("the Facility").
3. Activities associated with the Facility illegally expanded beyond the limits of Kent County, Delaware, Tax Parcel NM-00-11600-01-0600-00001 and onto Kent County, Delaware, Tax Parcel NM-00-11600-01-0700-00001 without first having obtained a permit modification from the Department. Kent County, Delaware, Tax Parcel NM-00-11600-01-0700-00001 has the same mailing address and owner name as the Facility.

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<sup>1</sup> "Resource Recovery Facility" means a facility that is either a Materials Recovery Facility or a Thermal Recovery Facility. A "Materials Recovery Facility" means a facility at which materials, other than source separated materials, are recovered from solid waste for recycling or for use as an energy source.

4. A Cease and Desist Order was issued by the Secretary and served on the Respondents on June 8, 2012. The Order required the Respondents to take immediate action with respect to contamination of the site by Arsenic and Chromium.
5. A Secretary's Order and Notice of Conciliation was issued by the Secretary and served on the Respondents on August 7, 2012. The Order directed the Respondents to cease distributing the contaminated mulch product to the public, to remove the contaminated mulch from the premises, and to provide assurance that the site was not contaminated by excessive levels of Arsenic, Chromium, or PCB's. The Respondents declined conciliation.
6. Respondents requested a hearing before the Environmental Appeals Board (EAB), which was held on November 27, 2012. In a decision issued on February 20, 2013, in case number 2012-06, the EAB found in favor of the Department and against Respondents.
7. A Notice of Intent to Suspend the Resource Recovery Permit, due to the ongoing violations and lack of response, was issued to Respondents on September 24, 2012. The Respondents, through counsel, requested a hearing, which took place on January 15, February 11, and February 12, 2013.
8. In an Order dated April 29, 2013, the Secretary adopted the findings of the Hearing Officer and upheld the suspension of the permit.<sup>2</sup> Respondents were given three months in which to bring the Facility into compliance with the terms of the permit and applicable law, with the suspension continuing until such time as the Solid and Hazardous Waste Management Section<sup>3</sup> could certify that such compliance had been achieved. Respondents were warned that failure to bring the Facility into full compliance within three months could result in substantial daily penalties and commencement of the process to designate Respondent business as a chronic violator.

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<sup>2</sup> An appeal to the Environmental Appeals Board on behalf of the Respondents was voluntarily dismissed on August 13, 2013.

<sup>3</sup> On or about July 2019 the "Solid and Hazardous Waste Management Section" was renamed the "Compliance and Permitting Section" and remains so to date.

9. Respondents sought relief in the Court of Chancery by filing a Motion for Temporary Restraining Order on May 13, 2013, in an effort to stay the effect of the Secretary's Order. Vice Chancellor Noble denied the Respondent's Motion after argument on May 17, 2013, and granted no relief.
10. On August 9, 2013, the Secretary revoked the Respondents' permit, due to their complete failure to comply with the aforementioned administrative enforcement actions. In particular, the Secretary cited Respondents' improper storage and failure to dispose of over 100,000 tons of waste; exceeding analytical parameters for Arsenic, Chromium, and PCBs; failure to submit periodic reports as required; storing large quantities of solid waste outside the permitted area; improper acceptance and storage of prohibited waste; and grossly inadequate financial assurance. The Secretary observed that approximately 70,000 tons of waste had been illegally added since the Notice of Violation in May of 2012, which detailed the existing violations and the actions required to correct them. "Respondent clearly chose to operate the facility as an unauthorized, mismanaged landfill, not the recycling facility that was intended."
11. On December 12, 2014, the Facility was placed on Delaware's Chronic Violator list.
12. In addition to the administrative enforcement actions detailed above, on June 27, 2012, a Complaint was filed in the Superior Court of Delaware. Default judgment was entered on behalf of the Department on October 24, 2014. In an Order dated March 27, 2015, the Superior Court ordered the Respondents to pay \$16,000,000 pursuant to 7 *Del. C.* §6005(c)(1), representing the estimated cost of cleanup of the permitted site, as well as a penalty in the amount of \$3,000,000 pursuant to 7 *Del. C.* 6005(b)(1).
13. The Facility remains a regulated facility pursuant to DRGSW. No closure activities, nor cleanup has been conducted to date.

14. The Department received correspondence on Monday, September 16, 2024, indicating that the Facility was advertising "U Pick Pumpkin Patch & Kids Activities" for Friday through Sunday 10:00 a.m. through 5:00 p.m.
  
15. Department personnel visited the Facility and confirmed the signage and advertisement, as well as evidence of farming activities. Further, Long Marsh Farms is advertising as "a new pumpkin patch with kids activities" on their Facebook page:  
<https://www.facebook.com/profile.php?id=61565904388988>

### **FINDINGS**

The Department has found the Respondent in violation of multiple provisions of 7 Del. Admin. Code 1301 (DRGSW), including but not limited to:

**Section 9.3.4.1.12 (Minimum Design Requirements) of DRGSW states:**

"A fence or other security system that will prevent access to the site<sup>4</sup> by unauthorized persons."

**Section 9.4.2.4 (Operational Access Requirements) of DRGSW states:**

"Access roads to the point of solid waste discharge shall be designed, constructed, and maintained so that traffic will flow smoothly and will not be interrupted by inclement weather. Access to the site shall be limited to those times when an attendant is on duty and to those persons authorized to deliver solid waste to the site. This section shall not be construed to limit right of pursuant to 7 Del.C. 6024."

**Section 9.5 (Closure Requirements) of DRGSW states:**

"9.5.1 General. When a resource recovery facility ceases accepting solid waste, all of the solid waste on site shall be removed and the facility shall be closed in a manner that will eliminate the need for further maintenance at the site.

9.5.2 Required submittals; notification

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<sup>4</sup> "Site" means the area of land or water within the property boundaries of a facility where one or more solid waste treatment, resource recovery, recycling, storage, or disposal areas are located.

9.5.2.1 An owner or operator of a resource recovery facility must submit a conceptual closure plan at the time of initial application for a Solid Waste Management Facility Permit.

9.5.2.2 At least 180 days prior to the projected date when solid waste will no longer be accepted at the facility, the owner or operator shall submit to the Department all of the items listed in Section 4.4.3. Closure activities shall not commence until the Department has given public notice regarding the closure activity and the opportunity for a public hearing as provided in 7 Del.C. Ch. 60, approved in writing an updated closure plan and closure schedule. For additional information on the public notice procedure see section 4.1.2 of these regulations.

9.5.2.3 A copy of the closure plan must be maintained at the facility or at some other location designated by the owner or operator until closure has been completed.

9.5.3 Closure plan contents. The closure plan for a resource recovery facility must include, as a minimum, the following:

9.5.3.1 A description of the methods, procedures, and processes that will be used to close the facility, including provisions that will be made for the proper disposal of all solid waste that is on the site when operations cease.

9.5.3.2 An estimate of the cost of closing the facility. This estimate shall be updated yearly and submitted to the Department as a part of the annual report described in Section 9.4.4.

9.5.3.3 A description of the planned post closure use of the property.

9.5.4 Minimum closure requirements

9.5.4.1 Closure shall be carried out in accordance with the approved closure plan.

9.5.4.2 Closure must be complete within one year after the date on which the Department issued the approved closure plan and closure schedule.

9.5.4.3 When closure is completed, the owner or operator must submit to the Department certification by a Professional Engineer registered in Delaware that the facility has been closed in accordance with the specifications in the approved closure plan.

9.5.4.4 When closure has been completed to the satisfaction of the Department, the Department will issue a letter indicating that closure has occurred in accordance with the closure plan.

9.5.4.5 After closure has been completed, the Department may require that the permittee conduct monitoring and/or maintenance activities at the site to prevent or detect and mitigate any adverse environmental or health impacts.”

Since at least 2012, the Department sought to return the Facility to a state of compliance via actions of the Department's Secretary and the Delaware Courts. To date, the Respondent failed to come into compliance with the now revoked solid waste permit or complete formal closure of the Facility in accordance with DRGSW. DRGSW closure requirements, in brief, require that all solid waste be removed, and that closure eliminate the need for further maintenance at the site. To date, there are numerous waste piles distributed amongst both Kent County Levy Court Parcels NM-00-11600-01-0600-00001 and NM-00-11600-01-0700-00001 that have been the subject of enforcement actions. The activity of inviting the public onto the property for any activity is allowing unfettered access by unauthorized persons to the Facility.

### **ORDER**

IT IS HEREBY ORDERED, based on the foregoing findings and pursuant to the authority vested in the Secretary by 7 *Del. C.* § 6018 that the Respondent shall:

1. Upon receipt of this Order, immediately cease and desist all activities in which unauthorized persons, in this case the public, are allowed to enter those lands associated with Kent County Levy Court Parcels NM-00-11600-01-0600-00001 and NM-00-11600-01-0700-00001.

The Department reserves the right to take additional enforcement actions regarding these and other violations at the facility, 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)(3) and §6005 (c)(1).

If you have any questions, please contact, or have your attorney contact, Kayli Spialter, Deputy Attorney General, at 302-395-2660.

Date: 09/19/2024



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For Shawn M. Garvin, Secretary  
Department of Natural Resources  
and Environmental Control

Cc: Kayli Spialter, Deputy Attorney General  
Timothy Ratsep, Division Director, WHS