

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
STATE SUPERFUND PROGRAM  
ECL §27-1301 *et seq.*

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In the Matter of a Remedial Program for

**ORDER ON CONSENT AND  
ADMINISTRATIVE  
SETTLEMENT**

**DEC Site Name: National Rubber Adhesives**

**DEC Site No.: 241028**

**Site Address: 38-31 9th Street (also referred to  
as 38-25/51 9th Street in the Queens County Tax  
Map),**

**Long Island City, New York**

**Index No. CO 2-20181003-356**

Hereinafter referred to as "Site"

by: **9th Street LIC LLC**

Hereinafter referred to as "Respondent"

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1. A. The New York State Department of Environmental Conservation ("Department") is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR") and may issue orders consistent with the authority granted to the Commissioner by such statute.

B. The Department is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

C. This Order is issued pursuant to the Department's authority under, *inter alia*, ECL Article 27, Title 13 and ECL 3-0301, and resolves Respondent's liability to the State as provided at 6 NYCRR 375-1.5(b)(5).

2. 9<sup>th</sup> Street LIC LLC (the "Respondent") is the current owner of an approximately 0.75-acre property located at 38-31 9<sup>th</sup> Street (also referred to as 38-25/51 9<sup>th</sup> Street in the Queens County Tax Map), Hamlet of Long Island City, County of Queens, New York and is currently identified on the Queens County Tax Map as Block 475, Lot 19 (the "Property").

3. The National Rubber Adhesives site is an approximately 0.69-acre portion of the Property and is listed in the Registry of Inactive Hazardous Waste Disposal Sites in

New York State as Site Number 241028 with a Classification of 02 pursuant to ECL 27-1305 (the "Site"). Exhibit "A" of this Order is a map of the Site showing its general location.

4. Corastor Holding Company, Inc. ("Corastor") acquired title and control of the Site on August 5, 2003, and on the same day conveyed its title to such premises to Hamil Stratten Properties, LLC ("Hamil"), an entity related to Corastor. Hamil and Corastor executed an Order on Consent for the development and implementation of a Remedial Program for the Site dated January 11, 2013, Index No. W2-1156-11-04 (the "Original Order"). The Original Order is attached as Exhibit "D".

5. In August 2016, J&N Development, LLC ("J&N"), a New York State limited liability company, acquired title and control to the portion of the Site at that time identified on a bargain and sale deed for such portion of the Site dated August 11, 2016 as New York City Tax Map, Queens: block 475, Lot 23. A building referred to as Building 1 or the Marble shop is situated on this portion of the Site.

6. Hamil, Corastor, J&N and the Department executed a Modification to the Order dated June 1, 2017, Index No. W2-1196-16-11 (the "Modification Order"). The Modification Order is attached as Exhibit "E".

7. In or about June 8, 2018, the Respondent acquired title to, and control of, solely the portion of the Site identified at that time to consist of Queens: Block 475 Lots 19 and 14. The Respondent requested, and the Department agreed to add Respondent to the Original Order to complete the remedial program requirements for the portion of the Site at that time comprising of lots 19 and 14. Accordingly, Respondent, Hamil, Corastor, J&N and the Department executed a second Modification to the Original Order dated August 20, 2018, Index No. CO 2-20180509-142 (the "2<sup>nd</sup> Modification Order"). The 2<sup>nd</sup> Modification Order is attached as Exhibit "F".

8. In or about July 26, 2018, Respondent acquired from J&N title to, and control of, the portion of the Site identified at that time to consist of Queens: Block 475 Lot 23.

9. On October 2, 2018, Respondent informed the Department that in order to facilitate hotel construction at the Site, Block 475 Lots 14 and 19 were merged into Lot 19. The Department's records indicate that Block 475, Lot 23 and Block 475 Lot 25, an off-Site approximately 25 foot-wide lot, were merged into Lot 19 on or about December 4, 2018.

10. The Department and the Respondent agreed to execute an omnibus Order to enable Respondent to complete the remedial program requirements for the Site.

11. Respondent consents to the issuance of this Order without (i) an admission or finding of liability, fault, wrongdoing, or violation of any law, regulation, permit, order, requirement, or standard of care of any kind whatsoever; (ii) an acknowledgment that there has been a release or threatened release of hazardous waste at or from the Site; and/or (iii) an acknowledgment that a release or threatened release of hazardous waste at or from the Site constitutes a significant threat to the public health or environment.

12. Solely with regard to the matters set forth below, Respondent hereby waives any right to a hearing as may be provided by law, consents to the issuance and entry of this Order, and agrees to be bound by its terms. Respondent consents to and agrees not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agrees not to contest the validity of this Order or its terms or the validity of data submitted to the Department by Respondent pursuant to this Order.

**NOW**, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

I. Scope of this Order

This Order supersedes and replaces the fully executed 2nd Modification Order for the Site (Index No. CO 220180509-142) dated August 20, 2018 with respect to the Respondent's obligations thereunder. The Respondent shall develop and implement the Work Plan(s) under this Order to address both on-Site and off-Site conditions. Notwithstanding the provisions of Subparagraph IV this Order-Appendix A, nothing in this Order limits the authority or ability of the Department to require that Hamil and Corastor implement the Original Order (Index No. W2-1156-11-04) dated January 11, 2013 with respect to Hamil and Corastor's obligations thereunder and J&N implement the Modification Order (Index No. W2-1196-16-11) dated June 1, 2017 with respect to J&N's obligations thereunder, should the Respondent fail to comply with any terms of this Order.

II. Real Property

The Site subject to this Order is a portion of the Property that is identified as Queens: Block 475 Lots 19. The Site consists of approximately 0.69 acres, and is as follows:

Subject Property Description (A Map of the Site is attached as Exhibit "A")

Tax Map/Parcel No.: Queens: Block 475 Lot 19 (excluding the area of former Lot 25 an off-Site approximately 25 foot-wide lot)  
Address: 38-31 9th Street (also referred to as 38-25/519th Street in the Queens County Tax Map), Hamlet of Long Island City, County of Queens, New York.  
Owner: 9<sup>th</sup> Street LIC, LLC

III. Development, Performance, and Reporting of Work Plans

All activities at the Site that comprise any element of an Inactive Hazardous Waste Disposal Site Remedial Program shall be conducted pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans") and this Order and all activities shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, as required under CERCLA, 42 U.S.C. § 9600 *et seq.* The Work Plan(s) under this Order shall address both on-Site and off-Site conditions and shall be developed and implemented in accordance with 6 NYCRR § 375-1.6(a), 375-3.6, and 375-6. All Department-approved Work Plans shall be

incorporated into and become enforceable parts of this Order. Upon approval of a Work Plan by the Department, Respondent shall implement such Work Plan in accordance with the schedule contained therein. Nothing in this Subparagraph shall mandate that any particular Work Plan be submitted.

The Work Plans and Final Reports shall be captioned as follows:

1. Site Characterization ("SC") Work Plan: A Work Plan which provides for the identification of the presence of any hazardous waste disposal at the Site;
2. Remedial Investigation/Feasibility Study ("RI/FS") Work Plan: A Work Plan which provides for the investigation of the nature and extent of contamination within the boundaries of the Site and emanating from such Site and a study of remedial alternatives to address such on-site and off-site contamination;
3. Additional Supplemental Remedial Investigation ("ASRI") Work Plan: A Work Plan that addresses data gaps that may exist following completion of the Pre-Design Investigation/Interim Remedial Measures ("PDI/IRM") Work Plan for the Site dated August 22, 2018 that was implemented by the Respondent in August 2018;
4. ASRI Work Plan for Building 1 (Marble Shop): A Work Plan that addresses data gaps that may exist following completion of the PDI/IRM Work Plan for Building 1 on the Site;
5. "IRM Work Plan" if the Work Plan provides for an interim remedial measure;
6. Updated Feasibility Study ("UFS") Work Plan: A Work Plan, whose objective is to provide for a final remedy for the Site and replaces: the October 21, 2016 FS, which was conditionally accepted by the Department on December 19, 2016 and a revised FS dated March 10, 2017, which was submitted to address issues laid out in the Department's December 19, 2016 letter;
7. Remedial Design/Remedial Action ("RD/RA") Work Plan: A Work Plan which provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in the ROD;
8. "Site Management Plan" if the Work Plan provides for the identification and implementation of institutional and/or engineering controls as well as any necessary monitoring and/or operation and maintenance of the remedy;
9. PDI/IRM Construction Completion Report ("PDI/IRM CCR"): A report pursuant to 6 NYCRR 375-1.6(b) for the PDI/IRM Work Plan for the Site dated August 22, 2018 that includes proper documentation of underground storage tank (UST) registration, removal, soil disposal manifests, post-excavation soil endpoint sampling and delineation sampling results. The PDI/IRM CCR shall also include the as-built drawings of the vapor barrier system and the SSD system constructed under the new Site building (former NRA building nos. 2, 3, and 4) slab;



10. Additional Supplemental Remedial Investigation Report ("ASRI Report"): A report pursuant to 6 NYCRR 375-1.6(b) that documents in accordance with 6 NYCRR 375-1.6(b) the activities performed under the ASRI Work plan;

11. ASRI Report for Building 1 (Marble Shop): A report pursuant to 6 NYCRR 375-1.6(b) that documents in accordance with 6 NYCRR 375-1.6(b) the activities performed under the ASRI Work Plan for Building 1; and

12. "Supplemental" if additional work plans other than those set forth in III.1-7 are required to be prepared and implemented.

#### IV. Initial Submittal/Work Plan

A PDI/IRM Work Plan for the portion of the Site that is referred to as Building 1 as shown in Exhibit "A-1", which includes the assessment of soil, groundwater, soil vapor, and the excavation and proper off-site disposal of USTs and associated contaminated soil as proposed in the October 21, 2016 and March 10, 2017 FS. The PDI/IRM Work Plan for Building 1 shall be submitted to the Department by the Respondent within thirty (30) days after the effective date of this Order (the "PDI/IRM Work Plan for Building 1").

The Respondent shall continue to implement the Department-approved Work Plan for the Site titled "Interim Remedial Measure (UST Removal, Soil Removal, and SSDS installation) Work Plan", dated August 2018 (the "PDI/IRM Work Plan").

The PDI/IRM CCR shall be submitted to the Department within sixty (60) days after the completion of the respective field efforts set forth in the PDI/IRM Work Plan but no later than September 29, 2020.

#### V. Payment of State Costs

Invoices shall be sent to Respondent at the following address(es):

9th Street LIC LLC  
420 Great Neck Road  
Great Neck, New York 11021  
Attention: Brian G. Wrynn, Esq.

Respondent's obligations for payment of State Costs under this Order shall be for work performed pursuant to this Order in relation to the Site in accordance with 6 NYCRR 375-1.5(b)(3) charged to a task code the Department created for the 2<sup>nd</sup> Modification Order.

#### VI. Communications

A. All written communications required by this Consent Order shall be transmitted by United States Postal Service, by private courier service, by hand delivery, or by electronic mail.

1. Communication from Respondent shall be sent to:

Kyle Forster (electronic copy)  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, N.Y. 12233  
[kyle.forster@dec.ny.gov](mailto:kyle.forster@dec.ny.gov)

Christine Vooris (electronic copy only)  
New York State Department of Health  
Bureau of Environmental Exposure Investigation  
Empire State Plaza  
Corning Tower Room 1787  
Albany, N.Y. 12237  
[christine.vooris@health.ny.gov](mailto:christine.vooris@health.ny.gov)

Alali M. Tamuno, Esq. (correspondence only)  
New York State Department of Environmental Conservation  
Office of General Counsel  
100 Hillside Avenue, Suite 1W  
White Plains, N.Y. 10603  
[alali.tamuno@dec.ny.gov](mailto:alali.tamuno@dec.ny.gov)

2. Communication from the Department to Respondent shall be sent to:

9th Street LIC LLC  
420 Great Neck Road  
Great Neck, New York 11021  
Attention: Brian G. Wrynn, Esq.  
[bwrynn@mcsamhotel.com](mailto:bwrynn@mcsamhotel.com)

George C. D. Duke, Esq., P.G.  
BROWN DUKE & FOGEL, P.C.  
350 5<sup>th</sup> Avenue, Suite 4640  
New York, New York 10118  
[gduke@bdflegal.com](mailto:gduke@bdflegal.com)

Mark E. Robbins, P.G.  
Tarek Z. Khouri, P.E.  
Hydro Tech Environmental Engineering and Geology, DPC  
77 Arkay Drive, Suite K  
Hauppauge, NY 11788  
[mrobbins@hydrotechenvironmental.com](mailto:mrobbins@hydrotechenvironmental.com)

tkhouri@hydrotechenvironmental.com

B. The Department and Respondent reserve the right to designate additional or different addressees for communication on written notice to the other. Additionally, the Department reserves the right to request that the Respondent provide more than one paper copy of any work plan or report.

C. Each party shall notify the other within ninety (90) days after any change in the addresses listed in this paragraph or in Paragraph I.

VII. Miscellaneous

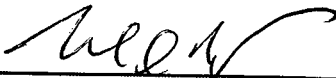
A. Appendix A - "Standard Clauses for All New York State, State Superfund Orders" is attached to and hereby made a part of this Order as if set forth fully herein.

B. In the event of a conflict between the main body of this Order (including any and all attachments thereto and amendments thereof) and the terms of Appendix A, the main body of this Order shall control.

C. The effective date of this Order is the 10th day after it is signed by the Commissioner or the Commissioner's designee.

DATED: APR 17 2020

BASIL SEGGOS  
COMMISSIONER  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By:   
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Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

