



Transmitted via FedEx and Email

November 14, 2025

Kathleen Bradshaw, Esq.
Whitlock Point LLC
Whitlock Point Services LLC
5959 Broadway, Suite 3
Bronx, NY 10463
kbradshaw@stagggroup.com

Linda Shaw, Esq.
Knauf Shaw LLP
2600 Innovation Square
100 South Clinton Avenue
Rochester, NY 14604
lshaw@nyenvlaw.com

Fuad Dahan, P.E.
SESI Consulting Engineers
949 Route 46E, Floor 3, Suite 300
Parsippany, NY 07054
fd@sesi.org

**Re: Opportunity to Cure and Notice of COC Revocation
Sonero Metro City Auto Site, Site No. C203148
Bronx, NY, Bronx County**

Dear Kathleen Bradshaw, Linda Shaw, and Fuad Dahan,

As you know, Whitlock Point LLC and Whitlock Point Services LLC (the Volunteers) and the New York State Department of Environmental Conservation (NYSDEC) executed a Brownfield Cleanup Agreement (Index # C203148-09-21, the Agreement), relative to Sonero Metro City Auto Site (the Site) on October 21, 2021. A Certificate of Completion (COC) was issued on December 26, 2023. The COC is predicated on compliance with the NYSDEC-approved Site Management Plan (SMP).

A 2023-2025 Periodic Review Report (PRR) was submitted by the remedial consultants and Engineer-of-Record, SESI Consulting Engineers (SESI), on August 14, 2025. After reviewing the document, the NYSDEC and the New York State Department of Health (NYSDOH) are rejecting the PRR based on the details provided below:

- The soil vapor extraction system (SVES) was not operating for 18-months following COC issuance, thereby failing to prevent potential off-site migration of vapor-phase contamination during this period,

- The 2023-2025 PRR does not meet the requirements of DER-10, and
- The 2023-2025 PRR fails to demonstrate that the recently activated SVES is adequately operating to prevent potential off-site migration of vapor phase contamination.

The NYSDEC considers the progress of the remedial program for the Site, or lack thereof, to be unsatisfactory and non-confirming to the approved schedule, and the delay to be in violation of the requirements of the COC. Relevant facts in this matter include, but are not limited to:

- On March 3, 2023, a Decision Document was signed for the site that required implementation of an SVES along the western site boundary to remove volatile organic compounds (VOCs) from the subsurface and prevent off-site migration. The DD also included a soil vapor Remedial Action Objective (RAO) for Public Health Protection to mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at the site.
- On **December 26, 2023** a COC was issued for the Site, commencing Site Management.
- **On January 23, 2025**, the NYSDEC contacted SESI and requested an update on the soil vapor extraction system (“SVES”); the Engineer-of-Record indicated the SVE was not operational, as the “area of the SVES [was] not complete yet.”
- **On March 11, 2025**, a periodic review report (“PRR”) reminder notice letter and Institutional Control/Engineering Control Certification were sent via email to the Volunteers and remedial consultant. The PRR was due May 26, 2025.
- **On June 2, 2025**, the NYSDEC sent an email to the Volunteers requesting a status of the outstanding PRR, due to the NYSDEC not receiving the PRR that was due May 26th. SESI responded by phone and via email on June 2nd indicating that the SVES was not operational and that the SVES area had not been sealed (i.e., paved) until recently. SESI indicated that (1) they now had the ability to collect data from the SVES; (2) inspection and sampling of EC would occur within the next month (i.e., July 2025); and (3) SVI sampling within the on-site building would also occur during SVES inspection and sampling activities.
- **On June 3, 2025**, SESI requested a PRR submission extension to allow for implementation of site management activities, soil vapor intrusion (“SVI”) sampling, and preparation of a PRR. NYSDEC indicated over the phone that SVI sampling couldn’t be conducted outside of the standard heating season but wasn’t necessary for the PRR, since SVI sampling must be performed during

the heating season. On June 10, 2025, the NYSDEC granted a 60-day extension, making the PRR now due on August 4, 2025.

- **On August 5, 2025**, the NYSDEC sent an email to the Volunteers and SESI requesting a status of the outstanding PRR, due to the NYSDEC not receiving the PRR by August 4th. SESI responded via email on August 5th that field delays were encountered and that the PRR would not be submitted for another week.
- **On August 6, 2025**, SESI requested an additional copy of the March 11, 2025 PRR reminder notice. NYSDEC sent a copy the same day.
- **On August 7, 2025**, SESI informed the NYSDEC via email that issues were encountered during SVI sampling and asked if the NYSDEC wanted SESI to hold off on submitting the PRR for an unspecified amount of time to allow for the SVI sampling activities, despite NYSDEC telling SESI on June 3, 2025 that SVI could not be conducted outside of the heating season and was not necessary for the PRR submittal.
- **On August 8, 2025**, NYSDEC responded that submission of the PRR should not be delayed further, since **the NYSDEC and NYSDOH had not yet received any site-related data over the last 20 months of site management**.
- **On August 14, 2025**, SESI submitted a 2023-2025 PRR; however, it (1) does not comply with the requirements of DER-10; (2) includes data that indicates the SVES was not operating for 18-months; (3) does not show that potential off-site migration of soil vapor contamination was being prevented, via adequate SVES operation, as required by the March 2023 Decision Document.

This letter serves to put the Volunteers on notice of NYSDEC's objection to the pace and progress of the remedial program at the Site and to provide an opportunity for the Volunteers to remain in the Brownfield Cleanup Program, provided that you:

1. Submit a revised 2023-2025 PRR to the NYSDEC and the NYSDOH for review ***within 30 days of this notice***. The revised PRR must address all issues identified in this letter. The revised 2023-2025 PRR must meet the requirements of DER-10, must conform with the procedures described in the SMP, and must demonstrate IC/ECs were functioning adequately during the certification period.

A Technical Addendum with examples of the most notable issues that must be addressed has been attached as a supplement to this letter, to aid in the effort of receiving an acceptable PRR. Please revise the PRR in accordance with comments provided in the Technical Addendum

2. The location of the influent sample port must be relocated so SVES influent samples are collected before extracted air passes through the blower **within 30 days of this notice**.
3. The following updates must be made to the SMP and submitted for NYSDEC/NYSDOH review **within 30 days of this notice**:
 - SVES design criteria must be clearly identified in the SMP, including how design criteria data will be collected during routine inspection events to verify proper system operation, i.e., radius of influence (ROI) confirmation, blower airflow rates, SVE well flow rates, SVE well vacuum readings, vacuum monitoring point readings, etc.
 - The results of site inspections, including site inspection forms, must be provided to the NYSDEC/NYSDOH within 30 days from the date of the inspection.
 - A preliminary results summary for quarterly SVES samples must be submitted to the NYSDEC/NYSDOH within 14 days of receipt from the laboratory.
4. Site inspections must be performed monthly for at least three months following issuance of this letter. Only after three consecutive inspections and at the discretion of the NYSDEC/NYSDOH will the inspection schedule shift to quarterly inspections.
5. Prepare and submit a formal Remedial System Optimization (RSO) Report, in accordance with DER-10 and Section 6.3 of the December 2023 SMP, to the NYSDEC/NYSDOH for review and approval **within 60 days of this notice**.

If the Volunteers does not respond within the time frames above, the NYSDEC will proceed with revocation of the COC, in accordance with the provisions in the COC. Be advised that certain obligations of the Volunteers survive the revocation of the COC, as stated in 6 NYCRR § 375-3.5(d).

Nothing contained herein constitutes a waiver by the NYSDEC or the State of New York of any rights held pursuant to any applicable state and/or federal law, the Agreement, or the COC or a release of the Volunteers from any obligations held under those same laws, the Agreement, or the COC.

Please be aware that the December 2023 COC states that a Conditional Track 1 Unrestricted Use cleanup was achieved for the site, provided that the remedial goals for soil vapor intrusion are achieved within five years of the date of the COC. If the goals are not achieved within five years of original COC issuance (by December 26, 2028), the COC shall be modified to a Track 2 Residential Cleanup.

Any questions regarding this matter should be directed to the project manager, Daniel Nierenberg, at 518-402-9554 or daniel.nierenberg@dec.ny.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Sarah Quandt', written in a cursive style.

Sarah Quandt, P.E.
Section Chief, Remedial Bureau B
Division of Environmental Remediation

Attached: Technical Addendum

ec: NYSDEC – A. Guglielmi, J. Brown, L. Schmidt, S. Deyette, J. O'Connell, D. Nierenberg, M. Murphy
NYSDOH – J. Deming, A. Martin
Mark Stagg, Whitlock Point LLC and Whitelock Point Services LLC,
mstagg@stagggroup.com
Daniel Martin, HP Whitlock Housing Development Fund Company, Inc.,
dmartin@housingpartnership.com

TECHNICAL ADDENDUM

A thorough review of the 2023-2025 PRR submittal will not be conducted by the NYSDEC and the NYSDOH until a revised PRR has been received. The NYSDEC offers the following examples of the most notable issues that must be addressed:

1. The 2023-2025 PRR states inspection and monitoring activities were conducted in compliance with the December 2023 SMP; however, this is not true. For example, the December 2023 SMP specifies that SVES inspections are to occur monthly, then transition to quarterly after 3 months; however, only one inspection event has occurred since December 2023. Additionally, no site inspection forms were included in the 2023-2025 PRR that demonstrate the SVES was performing adequately to prevent potential off-site migration of vapor phase contamination.
2. Laboratory analytical results for SVES samples collected in July 2025 reported concentrations of chlorinated volatile organic compounds (CVOCs) within the influent air stream, which indicates CVOCs are present on-site and have likely been migrating off-site during the 18-month period that the SVES was not operating.
3. There are engineering controls employed at the site that require Professional Engineer (P.E.) certification; however, the 2023-2025 PRR was certified by a qualified environmental professional (QEP). DER-10, Section 6.3(c)(1)(i) states that an engineering evaluation of monitoring or operational data is necessary to certify the effectiveness of an engineering control; hence a P.E. certification is required.
4. The 2025 PRR Reminder Notice, dated March 11, 2025, indicated site-related data, i.e., laboratory analytical reports, must be submitted as electronic data deliverables (EDD) format; however, no data has been submitted via EDD format for this project. DER-10, Section 6.3(b)(9) states the results of all analyses, copies of all laboratory data sheets and the required laboratory data deliverables, pursuant to sections 2.2 and 2.3 and Appendix 2B, must be submitted electronically upon the request of DER.