



February 10, 2025

Transmitted via FedEx and Electronic Mail

William Neuman
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Matthew Carroll, P.E.
Tenen Environmental
121 West 27th Street, Suite 702
New York, NY 10001
mcarroll@tenen-env.com

NOTICE OF VIOLATION

Re: 36-08 Review Avenue
Site No: C241218
Long Island City, Queens County

Dear William Neuman and Matthew Carroll,

As you know, The Rabenstein Family (the Applicant) and the New York State Department of Environmental Conservation ("NYSDEC") executed a Brownfield Cleanup Agreement (Index # C241218-06-19), (the "Agreement"), relative to the 36-08 Review Avenue (the Site) on August 6, 2019.

This letter is sent to notify the Applicant that the following actions and omissions at the Site constitute violations of the New York State Environmental Conservation Law ("ECL") and the regulations promulgated thereto, potentially subjecting the Property Owner to enforcement by the NYSDEC. These actions and omissions are detailed below:

- A Remedial Investigation Report (RIR) was submitted by Tenen Environmental (the "Consultant") on behalf of the Applicant on May 14, 2021 that included elevated contaminant levels present in indoor air in two occupied structures located on the site. Specifically, chlorinated volatile organic compounds (CVOCs) 1,1,1-trichloroethane, carbon tetrachloride, and trichloroethene were detected at concentrations in sub slab vapor and indoor air at levels requiring mitigation to minimize current or potential exposures associated with soil vapor

intrusion, when compared to the New York State Department of Health (NYSDOH) Soil Vapor/Indoor Air Decision Matrices (May 2017).

- On November 3, 2022, NYSDEC requested an update on the occupancy status of the on-site structures from the Consultant. The Consultant responded that five of the six on-site buildings were occupied, and the tenants had all been given notice to vacate by the owner and had begun moving their things out with all buildings expected to be vacant by the end of November 2022. NYSDEC conveyed this information to the NYSDOH.
- On November 23, 2022, the site was determined to represent a significant threat to public health based on the high CVOCs present at the site, as detailed in the May 2021 RIR, and the exposure for current occupants at the site.
- November 2022, December 2022 and January 2023 Monthly Reports referenced an ongoing asbestos survey of the site buildings, “after which demolition of the Site buildings will begin *once all tenants have been vacated.*” The February 2023 Monthly Report noted, “The asbestos survey of the Site buildings will continue, after which demolition of the Site buildings will begin,” and made no longer made any reference to tenants.
- On April 12, 2024 NYSDEC issued an Opportunity to Cure letter objecting to pace and lack of progress of the Remedial Program at the Site. In response to and as required by the letter, the Consultant submitted a revised RAWP on June 25, 2024 that noted Building 1 was occupied. The NYSDEC project manager contacted the Consultant on July 11, 2024 to confirm the occupancy status, which the Consultant confirmed as occupied. The continued occupancy of Building 1, without mitigation, has resulted in an ongoing human health exposure.

Violations

1. The Applicant violated 6 NYCRR 375-1.11(b)(2)(ii) by engaging in activities that were reasonably foreseeable to expose the public health or the environment to a significantly increased threat of harm or damage at the Site. The Consultant misrepresented site conditions that resulted in an ongoing human health exposure in Building 1.

Pursuant to ECL § 71-2705, any person who violates any of the provisions of, or who fails to perform any duty imposed by Article 27, Title 13 or any rule or regulation promulgated thereto, may be liable for penalties of up to \$37,500 per day per violation.

In addition, pursuant to 6 NYCRR 375-3.5(c) the Department may seek to terminate the Agreement for failure to comply with the terms thereof.

AN ADMINISTRATIVE SETTLEMENT CONFERENCE has been set for Tuesday March 4, 2025 at 10:00 AM via Webex. The log in information for the settlement conference is attached hereto. If you do not attend the settlement conference, the Department's Office of General Counsel staff may institute a formal civil or administrative enforcement proceeding. You will be meeting with an attorney from the Department to discuss settlement and you may bring your own attorney to the settlement conference.

BE ON NOTICE THAT the correction of violations at the Site in no way affects the rights of the NYSDEC to seek penalties and other relief in accordance the New York State Environmental Conservation Law and the rules and regulations promulgated pursuant thereto.

Please provide confirmation of your attendance at the administrative conference described above to Michael Murphy, Office of General Counsel at michael.murphy1@dec.ny.gov within ten (10) days of the date of this letter. If you have any technical questions regarding this matter, please contact the NYSDEC project manager, Daniel Nierenberg at daniel.nierenberg@dec.ny.gov.

Sincerely,



Sarah Quandt, PE
Chief, Remedial Section C
Remedial Bureau B
Division of Environmental Remediation

ec: A. Guglielmi, NYSDEC
J. Brown, NYSDEC
M. Murphy, NYSDEC
L. Schmidt, NYSDEC
J. O'Connell, NYSDEC Region 2
S. Deyette, NYSDEC
D. Nierenberg, NYSDEC
S. McLaughlin, NYSDOH
S. Wagh, NYSDOH
James Periconi, Periconi, LLC, jpericoni@periconi.com

Webex Log In Information

ADMINISTRATIVE SETTLEMENT CONFERENCE - 36-08 Review Avenue (C241218)

Meeting link:

<https://meetny-gov.webex.com/meetny-gov/j.php?MTID=m6f245e781a6785cbacd871e525edb051>

Tuesday, March 4, 2025 10:00 AM | 1 hour |

Meeting number:

2821 531 1183

Join from a video or application

Dial 28215311183@meetny-gov.webex.com

You can also dial 207.182.190.20 and enter your meeting number.

Join by phone

+1-929-251-9612 Toll

+1-415-527-5035 Toll

Access code: 28215311183