

**SUPREME COURT OF THE STATE OF NEW YORK**

COUNTY OF CHEMUNG

JULIAN RAVEN,  
Petitioner,

v.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.,  
Respondents.

Index No. 2025-1215

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

**NOTICE OF MOTION**

Petitioner Julian Raven respectfully moves this Court, pursuant to CPLR §§ 6301 and 7805, for a temporary restraining order preserving the status quo and preventing unilateral physical or financial action by Respondents pending the January, 6th 2026, 1:15 pm hearing previously ordered by this Court OSC order Judge Baker. This new date, formerly November 19th, 9:30 am, 2025 is a revised date at Respondents' request, granted by the court on November 5th, 2025.

**RELIEF REQUESTED**

Petitioner seeks a TRO restraining Respondents from:

1. Entering upon, disturbing, drilling, excavating, sampling, or conducting any intrusive activity at 714 Baldwin Street;
2. Initiating or pursuing cost-recovery, liens, levies, or financial enforcement relating to Site No. 808041; and
3. Authorizing or directing contractors to begin physical work under ECL §§ 27-1309 or 27-1313.
4. And that respondents be prohibited from altering, expanding, or disseminating any record, notice, or data concerning the property's classification or environmental condition while this proceeding is pending;
5. That respondents be compelled to maintain and preserve all records, correspondence, and data relevant to this matter in their current form until the Court's final judgment;
6. That the Court grant such other, further, or different relief as it deems just, proper, and equitable to protect petitioner's rights and to preserve the integrity of judicial review in this proceeding.

This TRO does not restrict Respondents' ability to prepare their legal response.

## **FACTUAL BACKGROUND AND IMMINENT THREAT**

On September 5, 2025, Respondents issued a formal "Order on Consent" demand letter asserting alleged hazardous substance release and classifying 714 Baldwin Street as a Class-2 site. The letter:

- Threatened forced site entry under ECL §§ 27-1309 and 27-1313;
- Demanded execution of an administrative Consent Order;
- Asserted Petitioner's liability for remedial costs under CERCLA, ECL, and State Finance Law § 97-b;
- Stated that failure to sign within 30 days may result in DEC proceeding without further notice;
- Warned that costs may be referred to the Attorney General for collection.

Petitioner did not sign the Consent Order.

The 30-day period has expired, and DEC now claims authority to:

- Enter the property without consent,
- Conduct intrusive operations,
- Commit and expend State funds, and
- Impose cost-recovery liability.

The Court has already found the Article 78 petition meritorious enough to issue an OSC order by Judge Baker.

Absent a TRO, DEC may act immediately, creating an irreversible fait accompli.

## **NECESSITY OF IMMEDIATE INJUNCTIVE RELIEF**

The Court's recent order granting respondents an extension of time underscores the absence of any "significant threat" to public health or the environment. If the site at issue truly presented a substantial danger, the Department of Environmental Conservation ("DEC") could not responsibly request, nor the Court prudently grant, a two-month delay in addressing it. The very fact that the State sought and obtained such an extension demonstrates that no significant threat exists—except the one imposed upon Petitioner, whose property, livelihood, and rights remain under active statutory threat.

During this extended interval, respondents retain unfettered capacity to act on the challenged misclassification, conduct invasive operations, or alter site conditions in a manner that would "tend to render the judgment ineffectual," precisely the circumstance CPLR § 6301 was designed to prevent. The State's procedural advantage now creates a renewed and intensified risk of irreparable harm to Petitioner alone.

Pursuant to CPLR § 7805, this Court possesses explicit authority to stay further action by the agency whose determination is under review. Petitioner therefore respectfully moves for an order restraining the DEC and all associated contractors or agents from conducting any classification-related activity, site disturbance, sampling, enforcement, or publication concerning the subject property until final determination of this proceeding.

Granting such interim relief will preserve the integrity of the Court's ultimate judgment, maintain the status quo, and protect Petitioner from continued harm during the extended response period now granted to respondents. The State's own request for time confirms

the absence of urgency on its part; only the Petitioner remains exposed to ongoing statutory jeopardy. The equities therefore weigh entirely in favor of restraint.

Respondents' delay of the OSC hearing, granted by the court, effectively arms respondents with another month and 18 days with which to 'prepare' for their answer before the court, on top of the remaining two weeks from November 6th-19th for a total of over two months of extended uncertainty for Petitioner.

Experience demonstrates the necessity of immediate injunctive relief. New York courts have previously had to restrain the DEC when it continued or attempted to continue unilateral action despite active litigation challenging its authority. In *Matter of Adirondack Wild: Friends of the Forest Preserve v. N.Y.S. Dept. of Env'tl. Conservation* (Represented by Nicholas Buttino/Susan L. Taylor), 2019 NY Slip Op 29384 (Sup Ct, Albany County 2019), the court was compelled to issue injunctive relief after the Department pressed ahead with construction activity notwithstanding pending judicial review. That episode reflects a pattern wherein the agency, once set upon a course of action, may proceed irrespective of jurisdictional challenge until the judiciary affirmatively intervenes.

The same institutional posture is present here; without immediate restraint, Petitioner faces real and imminent harm from continued unlawful state action. A temporary restraining order is therefore essential to preserve the status quo, protect Petitioner's constitutional and property rights, and prevent further ultra vires conduct while this Court determines a judgment.

## LEGAL BASIS

Irreparable harm: physical land disturbance and financial enforcement cannot be undone.

**Matter of John P. v. Whalen, 54 N.Y.2d 89 (1981);**

**Matter of Doe v. Axelrod, 71 N.Y.2d 484 (1988).**

Preservation of status quo & jurisdiction: CPLR §§ 6301, 7805.

Pattern requiring judicial restraint: *Adirondack Wild*, supra.

Likelihood of success: OSC already issued, confirming substantial legal questions under CPLR § 7803(2)-(3).

Prior denial for notice only: initial interim request was denied *only for lack of notice*; NYSCEF service now satisfies 22 NYCRR 202.7(f).

## CONCLUSION

For all the foregoing reasons, immediate judicial intervention is both warranted and essential. The Court's scheduling accommodation to respondents, while within its discretion, has inadvertently extended the period during which the Department of Environmental Conservation may continue or escalate the very conduct under review. That same extension, however, conclusively demonstrates that no significant environmental hazard exists — only a continuing and compounding threat to the petitioner's constitutional, property, and due-process rights.

Accordingly, petitioner respectfully requests that this Court, pursuant to CPLR §§ 6301 and 7805, issue a Temporary Restraining Order and stay restraining respondents, their officers, employees, contractors, and agents from taking any further action of any kind relating to the classification, enforcement, remediation, or public characterization of petitioner's property, pending final determination of this proceeding.

Granting this limited interim relief will preserve the status quo, prevent irreparable harm, and protect the integrity of this Court's eventual judgment.

**WHEREFORE,**

Petitioner Julian Raven respectfully prays that this Honorable Court issue the following relief:

1. Pursuant to CPLR §§ 6301 and 7805, a Temporary Restraining Order and stay immediately restraining and enjoining the New York State Department of Environmental Conservation ("DEC"), its officers, employees, representatives, contractors, and agents, from conducting, directing, or authorizing any classification, remediation, enforcement, excavation, sampling, access, inspection, communication, or publication of any kind relating to petitioner's property at 714 Baldwin Street, Elmira, New York, pending final determination of this proceeding;

2. That respondents be prohibited from altering, expanding, or disseminating any record, notice, or data concerning the property's classification or environmental condition while this proceeding is pending;
3. That respondents be compelled to maintain and preserve all records, correspondence, and data relevant to this matter in their current form until the Court's final judgment;
4. That the Court grant such other, further, or different relief as it deems just, proper, and equitable to protect petitioner's rights and to preserve the integrity of judicial review in this proceeding.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

Julian Raven  
Petitioner, Pro Se  
714 Baldwin Street  
Elmira, NY 14901  
julianmarcusraven@gmail.com

Dated: Elmira, New York  
November 6, 2025



## **[PROPOSED] TEMPORARY RESTRAINING ORDER**

Upon the verified petition and affirmation of **Julian Raven**, dated November 6, 2025, and upon all prior papers and proceedings had herein, it is hereby

**ORDERED**, that pending the hearing and determination of this proceeding, respondents — the New York State Department of Environmental Conservation (“DEC”) and all of its officers, employees, representatives, contractors, and agents — are **temporarily restrained and enjoined** from:

1. Entering upon, disturbing, drilling, excavating, sampling, or conducting any intrusive or physical activity of any kind at the property located at **714 Baldwin Street, Elmira, New York**;
2. Initiating or pursuing any **cost-recovery, lien, levy, or financial enforcement** action or proceeding relating to **DEC Site No. 808041**;
3. Authorizing or directing any contractors or third parties to commence or perform any physical work under **ECL §§ 27-1309 or 27-1313**, or any analogous provision of law;

and it is further

**ORDERED**, that respondents are **prohibited from altering, expanding, modifying, or disseminating** any record, notice, publication, or data concerning the property’s environmental classification or condition while this proceeding remains pending;

and it is further

**ORDERED**, that respondents shall **maintain and preserve all records, correspondence, reports, and data** relevant to this matter in their existing form until entry of the Court’s final judgment;

and it is further

**ORDERED**, that service of a copy of this Order, together with the petition and supporting papers, upon the Office of the Attorney General and upon the Department of Environmental Conservation on or before \_\_\_\_\_, 2025, shall be deemed good and sufficient service thereof;

and it is further

**ORDERED**, that respondents shall show cause before this Court at the Chemung County Courthouse, Hazlett Building, 203-205 Lake Street, Elmira, New York, on \_\_\_\_\_, 2025 at \_\_\_\_ a.m./p.m., or as soon thereafter as counsel may be heard,

why the foregoing restraints should not be continued pending final determination of this proceeding and why petitioner should not be granted the further relief demanded in the petition;

and it is further

**ORDERED**, that the foregoing Temporary Restraining Order shall remain in full force and effect pending the hearing and determination of this motion or until further order of the Court.

**ENTER:** \_\_\_\_\_

Hon. Christopher P. Baker  
Justice of the Supreme Court

Dated: Elmira, New York

\_\_\_\_\_, 2025

## EXHIBITS

- OSC Order (Oct. 17, 2025)
- DEC Order-on-Consent Letter (Sept. 5, 2025)
- Petitioner Affidavit
- Proof of NYSCEF service



**Department of  
Environmental  
Conservation**

**KATHY HOCHUL**  
Governor

**AMANDA LEFTON**  
Commissioner

**Sent via 1<sup>st</sup> Class Mail**

September 5, 2025

Julian Raven  
714 Baldwin St.  
Elmira, NY 14901

Re:    Site Name:                    714 Baldwin Street  
       Site No.:                     808041  
       Site Address:                714 Baldwin Street, Elmira, New York  
       Property County:            Chemung  
       Tax Map/Parcel No.:        89.11-3-15

Hereinafter referred to as "Site"

Dear Sir/Madam:

The New York State Department of Environmental Conservation (the "Department") has documented a release of "hazardous substances" as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601, *et seq.*, (CERCLA) and the presence of "hazardous wastes" as defined in the New York State Environmental Conservation Law (the "ECL") at or near property identified as the 714 Baldwin Street Site, consisting of approximately 0.75 acres, which is more fully described as follows:

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

Tax Map/Parcel No.: 89.11-3-15  
                              714 Baldwin Street  
                              Elmira, New York 14901

Owner:                    Julian Raven

In response to the documented release and the threat of future releases of hazardous waste at the Site, the Department determined the Site poses a "significant threat" to public health or the environment as that condition is defined pursuant to the ECL, and the Site was classified as a Class "2" site and placed on the Registry of Inactive Hazardous Waste Disposal Sites (the "Registry"). The Department anticipates spending public funds to remediate the contamination pursuant to ECL Article 27, Titles 13 and 71, and the New York State Finance Law § 97-b (the "SFL").

The Department has determined that you, as the past or present owner, arranger, generator, transporter, supplier, or operator of the Site, including successors and assigns of these same entities, are potentially responsible for the Site's contamination.

Be advised, responsible parties are liable for the reimbursement of funds expended by the State of New York (the "State") in taking response actions at sites where hazardous substances and/or wastes have been released, including investigative, planning, removal and remedial work.

Accordingly, in furtherance of ECL and the SFL, the Department hereby requests that you implement or finance a remedial program in connection with the contamination at or emanating from the Site. The agreement to undertake or finance a remedial program at the Site must be memorialized in an administrative consent order (a "Consent Order") with the Department.

If you do not enter into a Consent Order, the State may use funds from the Hazardous Waste Remedial Fund established pursuant to the SFL, and in accordance with the ECL and the rules and regulations promulgated thereto, to undertake the investigation and/or remediation of contamination at and/or emanating from the Site. The State's costs incurred relative to such Site contamination, as well as any past costs and interest, will be recoverable by the State from the responsible parties as provided by 42 USC § 9607, the ECL, the SFL, and any other applicable provision of state and/or federal law.

In the event you do not enter into a Consent Order within 120 days of the date of this letter, the Department may authorize a contractor to proceed with implementing work plans to perform the investigation and/or remediation of contamination at or emanating from the Site.

Additionally, ECL Sections 27-1309(3), 27-1309(4) and 27-1313(8) authorize the Department (including its authorized agents) to enter upon any site, area(s) near such site, or any area(s) on which it has reason to believe that contaminants were disposed or discharged. The Department may enter any of these site(s) and/or areas for purposes of inspection, sampling and testing, implementing a remedial program, long-term site management and temporary occupancy. This letter notifies you of the Department's intent, pursuant to the previously cited statutory authority, to exercise its right, and the right of its authorized agents, to access the above-referenced property(ies), site(s), any area(s) near such site or area, and any area(s) on which it has reason to believe contaminants were disposed or discharged.

Please contact Kira Bruno, the Project Manager for the site, at (518) 402-8068 or [kira.bruno@dec.ny.gov](mailto:kira.bruno@dec.ny.gov), with any technical questions. If you have retained legal counsel in regards to this matter, please have your counsel contact me, the Project Attorney, at (585) 226-5368 or [dudley.loew@dec.ny.gov](mailto:dudley.loew@dec.ny.gov) with any legal questions or concerns.

**You or your attorney must contact the Department's Project Manager or Project Attorney by 30 days from date of the letter** to discuss whether you intend to enter into a Consent Order to implement a remedial program for the Site, or whether you intend to remain liable for costs incurred by NYSDEC for the remedial program and selected remedy. If you do not contact the Department, you may not receive any further notice. The Department may start accruing costs, which are potentially your responsibility and these costs may be referred to the Attorney General's office for collection.

Nothing contained herein constitutes a waiver by the Department and/or the State of New York of any rights held pursuant to any applicable state and/or federal law or a release for any party from any obligations accrued pursuant to those same laws.

Sincerely,



Dudley Loew  
Regional Attorney

ec: J. Raven (julianmarcusraven@gmail.com)  
K. Bruno  
M. Cruden, Bureau Director  
P. Long, Section Chief  
A. Guglielmi, Division Director DER  
D. Loew, Office of General Counsel  
D. Pratt, RHWRE

**PRESENT: HON. CHRISTOPHER P. BAKER  
SUPREME COURT JUSTICE**

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF CHEMUNG

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JULIAN RAVEN,

Petitioner,

**ORDER TO SHOW CAUSE**

vs.

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NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION,  
KATHY HOCHUL, in her Official Capacity  
as Governor of the State of New York,  
AMANDA LEFTON, in her Official Capacity  
as Commissioner of the Department of  
Environmental Conservation,  
DUDLEY LOEW, in his Official Capacity, and  
KIRA BRUNO, in her Official Capacity,

Respondents.

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Upon the Verified Petition and Affidavit of Julian Raven, together with the accompanying Memorandum of Law and Exhibits, it is hereby

**ORDERED**, that the Respondents show cause before this Court at the **Hazlett Building, 203 Lake Street, Elmira, New York**, on the **19<sup>th</sup> day of November, 2025, at 9:30 a.m.**, or as soon thereafter as the parties can be heard, why an Order should not be made as follows:

1. Annulling the New York State Department of Conservation's classification of Site No. 808041 as Class 2 and directing reclassification to Class 3 under 6 NYCRR §375-2.7;
2. Declaring the Class 2 decision arbitrary/capricious and affected by error of law;
3. Permanently enjoining intrusive/destructive remedial work absent lawful adjudication under 6 NYCRR §375-2.7; and
4. Granting other just relief.

and it is further

**ORDERED**, that petitioner's request for temporary/interim relief is hereby **denied** as notice was not provided pursuant to 22 NYCRR 202.7(f); and it is further

**ORDERED**, that service of a copy of this Order, together with the papers upon which it is granted, upon the Respondents on or before **November 10, 2025**, with such service being effectuated in accordance with the Civil Practice Law and Rules or any other applicable statute or court rule, shall be deemed sufficient service.

ENTER

Dated: October 17, 2025.

A handwritten signature in black ink, appearing to read 'Christopher P. Baker', is written over a horizontal line.

Hon. Christopher P. Baker  
Supreme Court Justice