

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

BINGHAMTON DIVISION

JULIAN MARCUS RAVEN,
Plaintiff,

v.

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 NYS DEC;
DUDLEY LOEW, in his official capacity;
KIRA BRUNO, in her official capacity;
LETITIA JAMES, in her official capacity as Attorney General of the State of New York;
NICHOLAS BUTTINO, in his official capacity as Assistant Attorney General;
Defendants.

Civil Action No. _____

PLAINTIFF'S COMBINED EMERGENCY FILING

TABLE OF CONTENTS

Filing Component	Page
Complaint	1
Exhibit Index	21
Emergency Motion for Temporary Restraining Order	22
Verification / Sworn Statement	25
Proposed Temporary Restraining Order	26
Exhibits	27–61
Motion for Electronic filing	62

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
BINGHAMTON DIVISION

JULIAN MARCUS RAVEN,
Plaintiff, Pro se

v.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION;
GOVERNOR KATHY HOCHUL, DEC COMMISSIONER AMANDA LEFTON,
PROJECT ATTORNEY DUDLEY LOEW, PROJECT MANAGER KIRA BRUNO, in their
official capacities, **LETITIA JAMES**, Attorney General of the State of New York, in her
official capacity **ASSISTANT ATTORNEY NICHOLAS BUTTINO** in his official capacity.
Defendants.

Civil Action No. _____

COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND CONSTITUTIONAL RELIEF

(42 U.S.C. § 1983; First and Fourteenth Amendments; Declaratory Judgment Act)

INTRODUCTION

1. Plaintiff **Julian Marcus Raven** brings this civil rights action under **42 U.S.C. § 1983** to remedy ongoing constitutional violations committed by the New York State Department of Environmental Conservation (“DEC”), the New York State Attorney General’s Office (“OAG”), and state officials acting in their official capacities.

2. This case arises from DEC's **unlawful, arbitrary, misidentified, and unsupported 2017 designation** of Plaintiff's property at **714 Baldwin Street, Elmira, NY** as the "Former Perfecto Dry Cleaners"(Exhibit A) located in Greece, New York a "Class 2 Significant Threat" site, despite the absence of due process, and the absence of any lawful administrative record.
3. The illicit March 6, 2017 Order on Consent was issued in bad faith, with reckless disregard to due process and the facts causing a **catastrophic administrative error**. The DEC internally **conflated Plaintiff's Elmira warehouse property with the "Former Perfecto Dry Cleaners" site in Greece, New York**, a completely unrelated site located **130 miles away**, during simultaneous administrative actions in March 2017.(Exhibit B)
4. DEC has **never produced a single document**, factual basis, environmental finding, or legal determination supporting the classification; nor has DEC ever rebutted **any factual assertion** made by Plaintiff.
5. After Plaintiff filed FOIL Request W155434-102625, DEC produced only **13 trivial emails**, while unlawfully withholding **148 internal communications**, effectively concealing the administrative record.(Exhibit C)
6. On **November 14, 2025**, during a TRO hearing, Assistant Attorney General ("AAG") **Nicholas Buttino** delivered a **knowingly false, reckless, and unconstitutional statement**, falsely asserting an imaginary "2009 classification"(Exhibit D) of Plaintiff's property, aimed at undermining all of the facts by backdating the missing "classification" due process and fabricating it into

existence having already misclassified plaintiff as a “responsible party,” in his response brief.(Exhibit E)

7. These state actions collectively violate Plaintiff’s **Fourteenth Amendment** right to due process, **First Amendment** right to petition and access the courts, and federal protections against **arbitrary and capricious state action**.
8. Plaintiff seeks declaratory and injunctive relief to restore his constitutional rights and end the ongoing harm caused by Defendants’ misconduct.

JURISDICTION AND VENUE

9. Jurisdiction is proper under **28 U.S.C. §§ 1331, 1343, and 2201–2202**.
10. Venue is proper under **28 U.S.C. § 1391(b)** because substantial events occurred in this District, including FOIL oversight, administrative supervision, and OAG conduct affecting Plaintiff.

PARTIES

11. Plaintiff **JULIAN MARCUS RAVEN** is an Elmira resident and property owner.
12. Defendant **DEC** is a New York State agency responsible for environmental regulation.
13. **GOVERNOR KATHY HOCHUL** in her official capacity as named head and thus ultimately responsible party, over the DEC’s actions in all DEC correspondence.

14. **DEC COMMISSIONER AMANDA LEFTON**, in her official capacity as head official over the DEC and final authority for all orders, decisions and conclusions made by DEC officials.
15. **PROJECT ATTORNEY DUDLEY LOEW**, in his official capacity as principal responsible party for due process violations and the false classification of Plaintiff's property on March 6 of 2017 and the illicit Orders on Consent from 2017 and 2025.
16. **PROJECT MANAGER KIRA BRUNO**, in her official capacity for due process violations, admitted failure to notice Plaintiff.
17. **DEFENDANT LETITIA JAMES**, Attorney General of New York, is sued in her **official capacity** for supervising attorneys who committed constitutional violations.
18. **ASSISTANT ATTORNEY NICHOLAS BUTTINO** in his official capacity for false classification of Plaintiff's legal status contradicting the DEC and due process violations.

FACTUAL ALLEGATIONS

A. The 2017 Misclassification: No Process, No Appeal, No Record, Reckless and Catastrophic Administrative Error in Fact, and No Lawful Basis

19. On **March 6, 2017**, DEC executed an **Order on Consent(Exhibit A)** that unlawfully misclassified Plaintiff's property as part of a "Class 2 Significant Threat" contaminated site—without mandated 15 day certified notice by mail, due process including opportunity to appeal factual findings and environmental data, and lack of any administrative record.
20. Evidence demonstrates that this classification resulted from a **fatal administrative conflation** with the **Perfect Dry Cleaners site in Greece, NY**, (Exhibit B)130 miles away, which DEC was processing simultaneously in March 2017.
21. In its internal systems and documentation, DEC improperly **imported attributes** from the Perfect Dry Cleaners site into Plaintiff's file, including:
 22. the Class 2 designation: - Never lawfully determined for 714 Baldwin Street.
 23. dry-cleaner operational history: - 714 Baldwin St. never a dry cleaner.
 24. site acreage, Of .059 acres: - 714 Baldwin Street is 0.725 acre (Exhibit F)
 25. contamination-source assumptions: 714 Baldwin St. remained inconclusive
DEC's 2013 MACTEC Report (Exhibit G)
 26. and remediation narratives and same project attorney Loew (Exhibit B,page 3).

27. Plaintiff's property has **never** been a dry cleaners, and has **no historical or factual connection** to chlorinated solvents such as PCE or TCE.(Exhibit I)
28. DEC's own environmental records—from **2008 and 2013**—confirm that Plaintiff's property is a **downgradient receptor**, with residual vapors tied to the long-remediated **Diamond Dry Cleaners** 300 feet away.(Exhibit H)
29. The **2013 MACTEC Report** identified critical investigative steps needed to determine contamination origins, including plume delineation, downgradient sampling, and sub-slab evaluations.(Exhibit G)
30. DEC **never conducted** these required tests.
31. Instead, DEC issued the **March 6, 2017 Class 2 classification** without:
32. Conclusive environmental testing and findings,
33. due process required by **ECL §27-1313(3)(a), (4)**,
34. or compliance with **6 NYCRR §375-2.7(b)(1)–(6)**.
35. The misclassification was therefore:
- unlawful**
- unsupported**
- factually incorrect**
- procedurally void**
- and constitutionally infirm.**
36. For eight years, the State has exercised coercive power over Plaintiff's life and property based entirely on this **false and misattributed classification**.

**B. 2023 REQUEST FOR PUBLIC MEETING NOTICE AND
PARTICIPATION DENIED - LIBELOUS PUBLICATION IN THE PRESS 2025**

37. In September of 2023, prior to temporarily departing the United States to care for his critically ill mother in Spain, Plaintiff formally requested that DEC provide him with advance notice of any determinations, conclusions, or public communications concerning his property.(Exhibit J)
38. DEC acknowledged this request and affirmatively represented that Plaintiff would be notified (Exhibit J) before any public action or disclosure, particularly in light of Plaintiff's absence and the presence of a commercial tenant whose interests would be directly affected.
39. Contrary to that assurance, on March 13, 2025, Plaintiff learned through a friend who called him while in Spain, that his property was on the local news.
40. No notice had been provided, no opportunity to respond had been afforded, and no hearing had taken place. DEC later attempted to excuse this failure by claiming that a newly assigned, trainee-level project manager had "made a mistake." (Exhibit J) In the interim, local media outlets broadcast DEC's one-sided narrative without Plaintiff's input or rebuttal, resulting in public alarm, reputational stigma, and economic harm that persisted for months until Plaintiff was able to return to the United States and begin correcting the record.(Exhibit J)

**C. DEC's FOIL Misconduct, Concealment of 148 Internal Emails, and its
Startling Fatal Confession of No Final Determination**

41. Plaintiff submitted FOIL Request W155434-102625 seeking the internal administrative record for the 2017 action, including all documents that would reflect how DEC reached the "Class 2 Significant Threat" classification against Plaintiff's clean property.(Exhibit C)
42. After initial denial and appeal, DEC produced merely 13 trivial emails, while withholding 148 internal emails—the very communications that would reveal what actually occurred inside the agency in 2016 and 2017.
43. DEC claimed that these 148 emails were all withheld because they were "deliberative" and supposedly "not final."
44. In making this claim, DEC inadvertently made a fatal confession:
Between January 1, 2016 and December 31, 2017, the period in which the March 6, 2017 classification was allegedly made, there was *no final determination* of classification.
45. That means that by DEC's own admission, no final determination existed at the time the agency publicly portrayed Plaintiff's property as a Class 2 site, no final determination existed when DEC posted the classification publicly, no final determination existed when DEC internally recorded the classification, and no final determination existed when DEC imposed the legal burdens of a "Significant Threat" designation on Plaintiff.
46. Instead of producing a final determination—because none existed—DEC withheld nearly all emails, claiming they were predecisional and deliberative.

That admission reveals there was no lawful basis for the March 6, 2017 classification and Order on Consent and no procedural compliance with state law.

47. This confession is legally devastating because New York law strictly prohibits DEC from issuing or publicizing a Class 2 classification unless and until:

48. Under ECL § 27-1313(3)(a) and 4: DEC must first make a preliminary determination and any issuance of subsequent orders “**ONLY AFTER**”,

49. notice to the property owner,

50. and allow the owner a right to request a hearing, appeal or administrative review.

51. Under 6 NYCRR § 375-2.7(b)(1)–(6):

52. DEC must follow specific procedural steps, including:

- a. creating a written factual basis,
- b. documenting environmental findings,
- c. preparing a site characterization,
- d. issuing a formal determination,
- e. notifying affected property owners,
- f. and affording 15 days' notice by certified mail, the right to appeal before any classification can be finalized or publicized.

53. DEC bypassed every single one of these mandatory steps.

54. DEC never sent Plaintiff notice, never issued a determination, never provided a right to appeal, never created a record, and never made any factual findings.

55. Instead, while admitting there was no final determination, DEC ran to the press and the internet, publicly branding Plaintiff's property as a “Class 2 Significant

Threat”—a designation that is severe, defamatory, economically harmful, and legally binding under state environmental law.

56. DEC’s misconduct is made even more egregious by the fact that Plaintiff had **explicitly requested advance notice** of any DEC determinations or public releases, because at the time Plaintiff was in **Spain caring for his critically ill mother** and needed to ensure proper communications with his tenant, who occupied the warehouse at 714 Baldwin Street.

57. Plaintiff made this request **directly to DEC**, and DEC **affirmatively agreed** that Plaintiff would receive notice prior to any classification action or public disclosure, particularly because of the tenant situation and the need to avoid unnecessary disruption, confusion, or harm.(Exhibit J)

58. Despite this explicit promise, DEC **broke its word** and violated both its statutory obligations and Plaintiff’s constitutional rights by going **public** before providing any notice whatsoever to Plaintiff.

59. In **March 2025**, without warning and without legal authority, DEC **released the classification to the press and posted it online**, publicly labeling Plaintiff’s property as a **Class 2 “Significant Threat” hazardous waste site**—even though it now admits no final determination was ever made.

60. Plaintiff’s tenant learned about the “significant threat” classification **from the news**, not from DEC or Plaintiff. Within **two weeks** of the media release, the tenant gave notice that he was **terminating his agreement to purchase** and vacating the premises, causing immediate and substantial economic harm.

61. When Plaintiff confronted DEC, the assigned Project Manager, **Defendant Bruno**, apologized for the public release, admitting that he was **new on the job**, a **trainee**, and had made “a mistake.” This confession establishes decisively that DEC acted recklessly, without supervision, and without any lawful basis to publicly label Plaintiff’s property as contaminated. (Exhibit J)
62. The public dissemination of this unlawful classification caused widespread fear, confusion, and reputational damage in the Elmira community. Social media posts, local commentary, and community responses demonstrate that residents believed Plaintiff’s property was a source of hazardous contamination, resulting in reputational harm and stigma to Plaintiff and his business.
63. DEC’s decision to label Plaintiff’s property a “Significant Threat Class 2 Hazardous Waste Site” **without first issuing notice, without providing an opportunity for Plaintiff to appeal, and before any administrative determination was final** is a direct violation of:
64. **ECL § 27-1313(3)(a)** (requiring preliminary notice and a right to challenge),
65. **ECL § 27-1313(4)** (requiring a final determination *after* notice and opportunity to be heard),
66. **6 NYCRR § 375-2.7(b)(1)–(6)** (requiring documented findings, procedural steps, and owner notice),
67. and the **Fourteenth Amendment** requirement of notice and an opportunity to be heard **before** the State deprives a person of property, liberty, reputation, or economic interests.

68. To compound the issue, the DEC forged ahead after their public meeting in which they admitted there was no harm to the neighbors, no presence of any vapors in adjacent properties, no presence of any recorded VOCs in the air. And subsequently issued another order on consent,(Exhibit K) exercising their illicitly seized statutory authority to again attempt to coerce Plaintiff into signing an unlawful state instrument which Plaintiff refused to sign.
69. The order came with a 30 day return, after which the DEC effectively has retained unlawful statutory authority over the property and can force entry, seizure and occupancy at any time.
70. Plaintiff subsequently filed an Order to Show and multiple TROs at the state Supreme Court in Elmira, New York. All of which have been denied by the court, pending the January 6th OSC hearing. The state court refused to consider ongoing irreparable harm under the 4th, 5th and 14th amendments, hence Plaintiff's arrival at the federal court where Plaintiff's constitutional rights can be vindicated.
71. Thus, the DEC publicly defamed, economically harmed, and stigmatized Plaintiff ***while admitting that no final determination existed***—a legally catastrophic confession that proves:
72. (1) DEC violated state law,
- (2) DEC violated its constitutional obligations,
- (3) the 2017 “classification” was not final,
- (4) the 2025 publication was unlawful, and

(5) the resulting harm to Plaintiff was caused solely by DEC's reckless, arbitrary, and unconstitutional conduct.

73. DEC's conduct therefore inflicted years of reputational and economic injury on Plaintiff based on a classification that was:

74. **never** finalized,

75. **never** lawfully determined,

76. **never** supported by conclusive environmental data,

77. **never** noticed,

78. **never** subject to due process,

79. **never** appealable,

80. and **never** lawfully enforceable.

81. DEC's own justification for withholding the 148 emails—because they were “deliberative” and “not final”—proves that the agency had no lawful authority to issue or announce the 2017 classification in the first place.

82. This is a direct violation of Plaintiff's Fourteenth Amendment right to due process, as DEC deprived Plaintiff of liberty and property interests based on a purported classification that was procedurally invalid, substantively unsupported, and publicly disseminated without notice or a hearing, contrary to state statutory requirements and constitutional guarantees.

83. The withholding of the administrative record, the concealment of 148 emails, and the confession that no final determination existed collectively deprive Plaintiff of meaningful judicial review, compounding the underlying constitutional injury.

D. AAG Nicholas Buttino's False Statement and Legal Misclassification with Due Process

84. In written submissions, AAG Buttino falsely labeled Plaintiff a “**responsible party**”—a legal designation requiring due process and evidence that never occurred.(Exhibit E)

85. This contradicts DEC's own file, which—although also unlawful—lists Plaintiff merely as a **PRP (potentially responsible party)** without factual support.
(Exhibit K)

86. DEC has never produced any evidence connecting Plaintiff to contamination. No source, No notice, No adjudication, or liability process ever occurred.

87. AAG Buttino also made another **massive false factual claim** in open court: that DEC had “classified the property in **2009**.”(Exhibit D)

88. This is **patently false**:

89. **NO** 2009 classification exists, **NO** notice was ever issued, **NO** administrative record exists, and **NO** evidence was presented to support this invented claim. These cumulative misrepresentations were made in **bad faith**, and materially obstructed Plaintiff's constitutional rights to: due process, meaningful judicial review, fair proceedings, access to courts, truthful government representations, and freedom from fabricated evidence.

CAUSES OF ACTION

COUNT V – STIGMA-PLUS CONSTITUTIONAL TORT

90. (*Fourteenth Amendment* – 42 U.S.C. § 1983)

91. Defendants publicly labeled Plaintiff's property a "Class 2 Significant Threat" hazardous waste site without notice, without a final determination, and without lawful authority, thereby stigmatizing Plaintiff in the community and among business counterparts.

92. Under *Paul v. Davis*, 424 U.S. 693 (1976), reputational injury alone does not violate the Constitution, but when governmental defamation is coupled with the alteration of a legal right or tangible interest, a constitutional claim arises.

93. Federal courts have consistently recognized this "**stigma-plus**" doctrine. See *Valmonte v. Bane*, 18 F.3d 992, 999–1002 (2d Cir. 1994) (governmental dissemination of defamatory information coupled with a statutory disability constitutes a due process violation); *Sadallah v. City of Utica*, 383 F.3d 34, 38–40 (2d Cir. 2004).

94. Here, the stigma was accompanied by tangible and measurable harm, including loss of Plaintiff's commercial tenant, interference with business opportunities, reputational damage in the community, and diminution of property value.

95. Defendants' actions therefore constitute a violation of Plaintiff's liberty interest protected by the Due Process Clause of the Fourteenth Amendment.

COUNT VI – ULTRA VIRES STATE ACTION (VOID AB INITIO)

96. (*Ex parte Young / Larson Doctrine* – 42 U.S.C. § 1983)

97. Defendants acted without statutory authority when they issued, publicized, and defended a “Class 2 Significant Threat” designation absent the procedural and substantive prerequisites mandated by **ECL § 27-1313(3)–(4)** and **6 NYCRR Part 375 2.7 (b) 1-6**.

98. When state officials act in excess of their statutory authority, those acts are deemed **ultra vires** and treated as personal acts, not sovereign acts. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689 (1949).

99. State officials acting ultra vires are not shielded by sovereign immunity (ECL §27-1313-1 c) and may be enjoined in federal court. *Ex parte Young*, 209 U.S. 123, 159–60 (1908).

100. Because DEC never issued a lawful final determination and admitted that no such determination existed, the purported classification was **void ab initio**, conferring no legal rights and imposing no lawful obligations. *Norton v. Shelby County*, 118 U.S. 425, 442 (1886) (“An unconstitutional act is not a law; it... is in legal contemplation as inoperative as though it had never been passed.”).

101. The Attorney General’s Office lacks authority to defend an act that never existed in law, and its continued defense of ultra vires action constitutes a further violation of Plaintiff’s constitutional rights.

**102. COUNT VII – SUBSTANTIVE DUE PROCESS (ARBITRARY AND
OPPRESSIVE STATE ACTION)**

103. (*Fourteenth Amendment* – 42 U.S.C. § 1983)

104. Substantive due process protects citizens from governmental action that is arbitrary, conscience-shocking, and oppressive. *County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

105. Government conduct that involves deliberate indifference, knowing falsification, or reckless disregard for the law violates substantive due process. *Rochin v. California*, 342 U.S. 165, 172–73 (1952); *Lombardi v. Whitman*, 485 F.3d 73, 79–81 (2d Cir. 2007).

106. Defendants’ conduct was not a good-faith mistake but a pattern of knowing misrepresentation, concealment of evidence, refusal to correct known errors, fabrication of factual claims, and deliberate bypassing of statutory procedures.

107. This conduct “shocks the conscience” and violates Plaintiff’s substantive due process rights.

**COUNT VIII – PROCEDURAL DUE PROCESS (NOTICE AND OPPORTUNITY
TO BE HEARD)**

108. (*Fourteenth Amendment* – 42 U.S.C. § 1983)

109. The Due Process Clause requires notice and an opportunity to be heard before the government deprives a person of liberty or property. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).
110. State officials violate due process when they have available procedures but intentionally fail to follow them. *Zinerman v. Burch*, 494 U.S. 113, 125–28 (1990).
111. Under New York law, DEC is expressly required to provide notice, an opportunity to contest, and a final determination before issuing a Class 2 classification. **ECL § 27-1313; 6 NYCRR § 375-2.7.**
112. DEC failed to provide: notice, an opportunity to respond, an administrative hearing, or a final determination before publicizing the classification.
113. This failure deprived Plaintiff of constitutionally protected property and liberty interests without due process of law.

COUNT IX – DENIAL OF ACCESS TO THE COURTS

114. (*First and Fourteenth Amendments – 42 U.S.C. § 1983*)
115. The right of access to the courts is protected by the First and Fourteenth Amendments. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972); *Bounds v. Smith*, 430 U.S. 817, 821 (1977).
116. Government officials violate this right when they deliberately conceal facts, destroy evidence, or file knowingly false statements that undermine judicial proceedings. *Christopher v. Harbury*, 536 U.S. 403, 413–15 (2002).

117. By withholding 148 internal emails, misrepresenting facts to the court, Defendants obstructed Plaintiff's ability to fairly present his claims.

COUNT X – FALSE GOVERNMENT STATEMENTS

(Due Process – 42 U.S.C. § 1983)

71. The knowing fabrication, falsification, or presentation of false evidence by government officials violates due process. *Mooney v. Holohan*, 294 U.S. 103, 112 (1935); *Napue v. Illinois*, 360 U.S. 264, 269 (1959).

72. Although most frequently applied in criminal cases, federal courts recognize this doctrine in civil constitutional contexts when governmental falsehoods corrupt the adjudicative process. *Ricciuti v. N.Y.C. Transit Auth.*, 124 F.3d 123, 130 (2d Cir. 1997).

73. Defendants fabricated factual assertions including:

- a. That Plaintiff was a “responsible party”;
- B. That DEC had issued a 2009 classification.

74. These fabrications were material, prejudicial, and violated Plaintiff's constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests:

- A. A declaration that Defendants violated Plaintiff's constitutional rights;
- B. An injunction prohibiting enforcement of the unlawful 2017 classification;
- C. An order compelling production of the 148 withheld emails and full administrative record;
- D. A declaration condemning AAG Buttino's false statements;
- E. Protection against further retaliation;
- F. Any other relief the Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

Julian Marcus Raven

Pro Se Plaintiff

EXHIBIT LIST

Exhibit A - March 6, 2017 order on Consent - Former Perfecto Dry Cleaners

Exhibit B - Former Perfecto Dry Cleaners record from DEC in March of 2017 demonstrating confused data, identical timeframe, classification and participating attorney Defendant Loew.

Exhibit C - FOIL Appeal determination -Letter concealing 148 emails out of 161

Exhibit D - November 14, TRO hearing transcript - 2009 false statement (Transcripts still in production will be appended as soon as available)

Exhibit E - AG Buttino response to Motion for TRO

Exhibit F - 714 Baldwin St. site map

Exhibit G -DEC's 2013 MACTEC report 'inconclusive'

Exhibit H - 2013 MACTEC Report Diamond Dry Cleaners site upgradient from 714 Baldwin St. (former ATRS site.)

Exhibit I - Obrien and Gere Engineering Report from DEC's 2008 Report

Exhibit J - Email chain regarding notice/public meetings and tenant, media reports and social media post

Exhibit K - September 5, 2025 order on consent - page 2

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO
SHOW CAUSE**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JULIAN MARCUS RAVEN,
Plaintiff,

v.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION;
LETITIA JAMES, in her official capacity as Attorney General of the State of New York;
NICHOLAS BUTTINO, Assistant Attorney General,
Defendants.

Civil Action No. _____

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO
SHOW CAUSE**

Plaintiff, **Julian Marcus Raven**, respectfully moves this Court pursuant to **Federal Rule of Civil Procedure 65** for an **Emergency Temporary Restraining Order (“TRO”)** and **Order to Show Cause** why a Preliminary Injunction should not issue.

This motion seeks immediate relief to prevent ongoing constitutional violations, irreparable reputational and economic harm, and unlawful exercise of state power based on actions that are **ultra vires, void ab initio, and unsupported by any lawful determination.**

REQUESTED RELIEF

Plaintiff respectfully requests that this Court:

1. **Enjoin Defendants** from enforcing, relying upon, or disseminating any “Class 2 – Significant Threat” designation regarding Plaintiff’s property;
2. **Order immediate removal** of such designation from public databases, websites, and communications;
3. **Compel preservation** of all DEC and AG communications, including the withheld 148 internal emails;
4. **Prohibit further defamatory or false statements** about Plaintiff pending adjudication.

MEMORANDUM OF LAW IN SUPPORT OF TRO

Standard for Emergency Relief

A TRO is warranted where the movant demonstrates:

1. Likelihood of success on the merits;
2. Irreparable harm;
3. Balance of equities in the movant’s favor;
4. Public interest supports relief.

Winter v. NRDC, 555 U.S. 7 (2008); *Citigroup Global Markets, Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30 (2d Cir. 2010).

A. Likelihood of Success

Plaintiff has shown strong likelihood of success because:

- Defendants acted without statutory authority (*ultra vires*). See *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Ex parte Young*, 209 U.S. 123 (1908).
- Due process was denied. *Mathews v. Eldridge*, 424 U.S. 319 (1976).
- False statements by officials violate due process. *Mooney v. Holohan*, 294 U.S. 103 (1935); *Napue v. Illinois*, 360 U.S. 264 (1959).

B. Irreparable Harm

Plaintiff faces irreparable harm from:

- Loss of tenancy and business opportunities;
- Reputational stigma;
- Ongoing public dissemination of false information;
- Inability to vindicate constitutional rights.

Constitutional injury alone constitutes irreparable harm. *Elrod v. Burns*, 427 U.S. 347 (1976).

C. Balance of Equities

The equities favor Plaintiff because:

- Plaintiff seeks only to stop unlawful and unconstitutional acts;
- Defendants suffer no legitimate harm from compliance with the law.

D. Public Interest

The public interest favors halting unconstitutional government action and protecting due process. *Nken v. Holder*, 556 U.S. 418 (2009).

VERIFICATION / SWORN STATEMENT

(28 U.S.C. § 1746)

I, **Julian Marcus Raven**, declare as follows:

1. I am the Plaintiff in this action and make this statement based upon personal knowledge.
2. I am the owner of the real property located at **714 Baldwin Street, Elmira, New York**.
3. The factual statements set forth in the Complaint and in the Motion for Temporary Restraining Order are true and correct to the best of my knowledge, information, and belief.
4. The New York State Department of Environmental Conservation publicly labeled my property a "Class 2 Significant Threat" site without providing me notice, without a hearing, and without any final administrative determination.
5. The DEC has admitted, through its own FOIL response, that no final determination of classification existed during the 2016–2017 period when it claimed to have classified my property.
6. The harm to my reputation, my business, and my constitutional rights is ongoing and irreparable.
7. Immediate court intervention is necessary to prevent further harm and to preserve evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 20th day of November, 2025.

At 714 Baldwin Street, Elmira, New York, 14901.

Julian Marcus Raven

Plaintiff, Pro Se

714 Baldwin St. Elmira, New York, 14901

julianmarcusraven@gmail.com

706-426-0029

[PROPOSED] TEMPORARY RESTRAINING ORDER

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

It is hereby **ORDERED** that Defendants, their agents, servants, employees, and all persons acting in concert with them are hereby **TEMPORARILY RESTRAINED** from:

1. Enforcing or disseminating any “Class 2 – Significant Threat” designation as to Plaintiff’s property;
2. Publishing or circulating defamatory statements regarding Plaintiff;
3. Destroying, altering, or withholding records relevant to this action.

This TRO shall remain in effect until further Order of the Court.

SO ORDERED.

United States District Judge

Dated: _____

EXHIBIT A

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
P: (585) 226-5311 F: (585) 226-9485
www.dec.ny.gov

March 6, 2017

Certified Mail, Return Receipt Requested

Julian Raven
2524 County Route 60
Elmira, New York 14901

Re: Site Name: Associated Textile Rental Services
Site No.: 808041
Site Address: 714 Baldwin Street, Elmira, New York 14901
Property County: Chemung
Tax Map/Parcel No.: Section 89 Subsection 11 Block 03 Lot 15

Hereinafter referred to as "Site"

Dear Mr. Raven:

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 Former Perfecto Dry Cleaners Site, consisting of approximately 0.59 acres, is more fully described as follows:

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

Tax Map/Parcel No.: Section 89 Subsection 11 Block 03 Lot 15
714 Baldwin Street
Elmira, New York 14901
Owner: Julian Raven

In response to the documented release and the threat of future releases, the Department determined the Site posed a "significant threat" as that condition is defined pursuant to the ECL and, the Site was placed on the Registry of Inactive Hazardous Waste Disposal Sites (the "Registry") and classified as a Class "2" site on 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").

NEW YORK
STATE OF
OPPORTUNITY
Department of
Environmental
Conservation

*Distribution
Warehouse*

*By
who?*

Never told

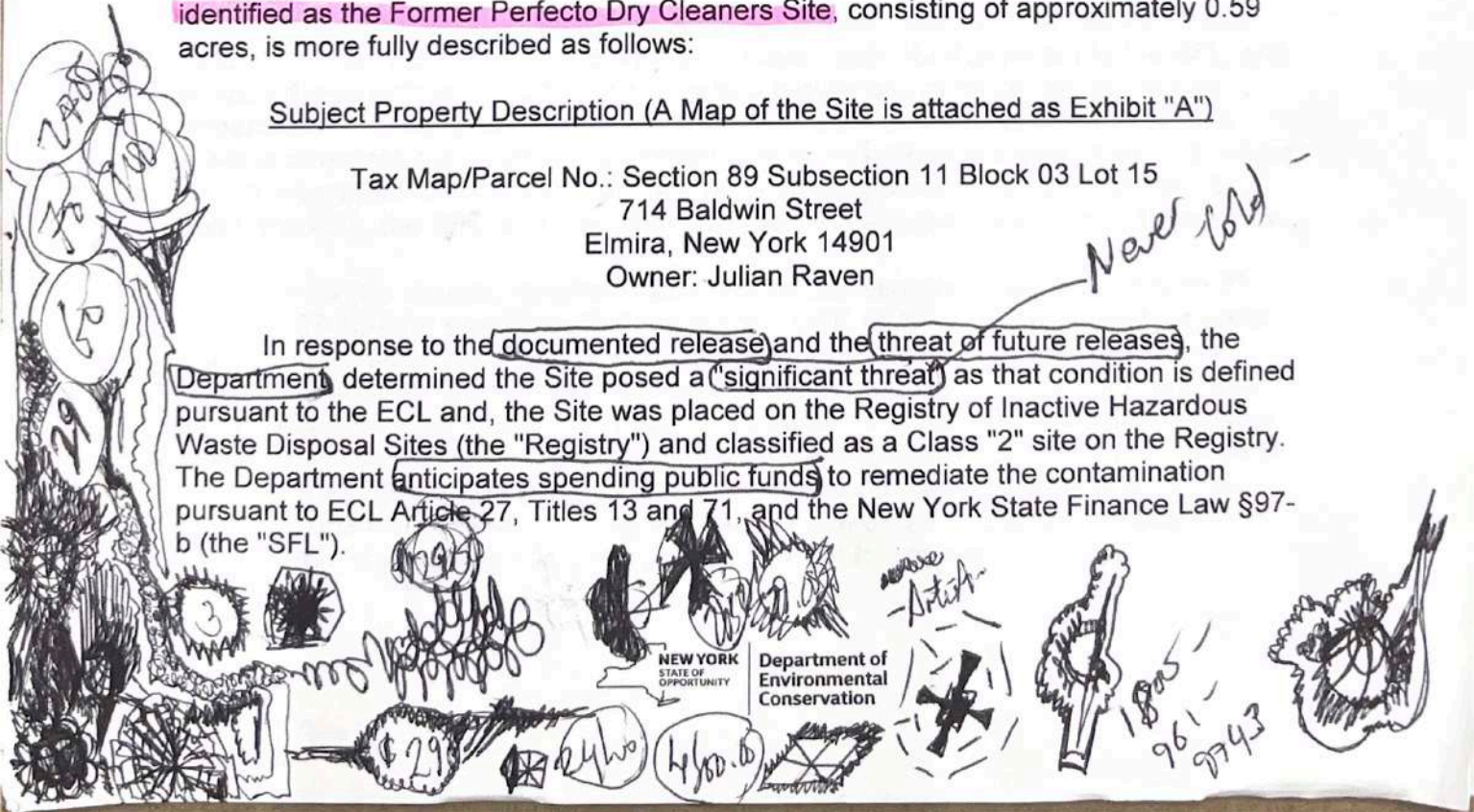


EXHIBIT B

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

In the Matter a Remedial Program for

**ORDER ON CONSENT AND
ADMINISTRATIVE
SETTLEMENT**

DEC Site Name: Former Perfecto Dry Cleaners
DEC Site No.: 828155
Site Address: 3797 Dewey Avenue
Greece, New York 14616
Monroe County

Index No. R8-20170118-7

Hereinafter referred to as "Site"

by: **G & B Brothers, LLC**

Hereinafter referred to as "Respondent"

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. The Site is currently listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 828155 with a Classification of 02 pursuant to ECL 27-1305.

3. 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.

4. 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. Real Property

The Site subject to this Order has been assigned number 828155, consists of approximately 0.59 acres, and is as follows:

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

Tax Map/Parcel No.: 060.40-1-14
3797 Dewey Avenue
Greece, New York 14616
Owner: G & B Brothers, LLC

II. Initial Work Plan

The Remedial Investigation/Feasibility Study shall be submitted to the Department within thirty (30) days after the effective date of this Order.

III. Payment of State Costs

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

G & B Brothers, LLC
c/o Law Office of Anthony A. Dinitto, L.L.C.
2250 West Ridge Road, Suite 300
Rochester, New York 14626

In addition to the requirement to pay future state costs as set forth in Appendix "A", within forty-five (45) Days after the effective date of this Consent Order, Respondent shall pay to the Department the sum set forth on Exhibit "C", which shall represent reimbursement for past State Costs incurred prior to the effective date of this Consent Order. Respondent acknowledges that all past State Costs are not itemized on the cost summary and that additional charges may be billed at a later date for State Costs incurred prior to the effective date of this Consent Order.

IV. 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:

Matthew Dunham (1 hard copy (unbound for work plans) & 1 electronic copy)
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, New York 12233
matthew.dunham@dec.ny.gov

Krista Anders (electronic copy only)
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza
Corning Tower Room 1787
Albany, New York 12237
krista.anders@health.ny.gov

Dudley D. Loew (correspondence only)
New York State Department of Environmental Conservation
Office of General Counsel
6274 East Avon Lima Road
Avon, New York 14414
dudley.loew@dec.ny.gov

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

G & B Brothers, LLC
c/o Law Office of Anthony A. Dinitto, L.L.C.
2250 West Ridge Road, Suite 300
Rochester, New York 14626

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.

V. 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: MARCH 28 2017

BASIL SEGGOS
COMMISSIONER
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By: 

Robert W. Schick, P.E., Director
Division of Environmental Remediation

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Consent Order, waives Respondent's right to a hearing herein as provided by law, and agrees to be bound by this Consent Order.

G & B Brothers, LLC

By: 

Title: Owner Operator

Date: 3/10/17

STATE OF NEW YORK)
) ss:
COUNTY OF Monroe)

On the 10 day of March in the year 2017, before me, the undersigned, personally appeared Linda Rinaldo (full name) personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Acknowledgment by a corporation, in New York State:

On the 10 day of March in the year 2017, before me, the undersigned, personally appeared LINDA RINALDO (full name) personally known to me who, being duly sworn, did depose and say that he/she/they reside at Rochester NY (full mailing address) and that he/she/they is (are) the owner - operator (president or other officer or director or attorney in fact duly appointed) of the G & B Brothers LLC (full legal name of corporation), the corporation described in and which executed the above instrument, and that he/she/they signed his/her/their name(s) thereto by the authority of the board of directors of said corporation.


Notary Public, State of New York

AYSE Y. TIRNOVA
Notary Public, State of New York
No. 01TI5028308
Qualified in Monroe County
My Commission Expires May 31, 2018



November 13, 2025

Sent via email to: julianmarcusraven@gmail.com

Julian Raven
714 Baldwin St
Elmira, NY 14901

RE: Freedom of Information Law Appeal- W155434-102625

Julian Raven:

This is in response to your FOIL appeal, received October 29, 2025, stating you were unlawfully denied access to records. Your initial request sought the following:

*Pursuant to Article 6 of the New York Public Officers Law, I hereby request access to and copies of **all electronic communications (including but not limited to emails, attachments, and internal memoranda) to or from NYS DEC attorney Mr. Dudley Loew, dated between January 1, 2016 and December 31, 2017, that contain or reference any of the following search terms or related subjects:***

- “714 Baldwin Street”
- “Class 2” or “Classification”
- “Julian Raven”
- “Complaint”
- “Banner”
- “Trump”
- “Artist”
- “Elmira”
- Loew, Dudley D (DEC) dudley.loew@dec.ny.gov

*This request relates to the matter now docketed as **Raven v. New York State Department of Environmental Conservation et al., Index No. 2025-1215(See attached OSC Order)**, pending before the Chemung County Supreme Court.*

The Records Access Office acknowledged your request on October 26, 2025, the same day it was received by the Department. On October 29, 2025, you were advised that responsive records had been uploaded to GovQA for your review. In addition, DEC withheld or redacted certain records pursuant to the following provisions of the Public Officers Law (POL):

- POL 87.2(g). Inter-agency or intra-agency materials
- CPLR 4503 Records protected from disclosure because of attorney-client privilege

On appeal, I reviewed the responsive records and am upholding Department staff's withholding of 148 records pursuant to POL 87.2(g) and/or CPLR 4503. These records are deliberative, non-final, intra-agency emails and attorney-client communications. In addition, a pdf file is being released on appeal and is available for review in GovQA. The pdf file mainly contains records that were already released, along with a few newly identified releasable records.

Public Officers Law §87.2(g) allows the Department to redact/withhold records that contain deliberative material or dialogue between DEC staff, which is considered intra-agency materials which are not statistical or factual tabulations, instructions to staff that affect the public, final agency actions or determinations, or external audits. Intra-agency materials are exempted from disclosure "to protect the deliberative process of the government by ensuring that persons in an advisory role will be able to express their opinions freely to agency decision makers." (*Matter of Gould v. New York City Police Dept.*, 89 N.Y.2d 267, 276; *Matter of Xerox Corp. v. Town of Webster*, 65 N.Y.2d 131, 132 (1985); and *Matter of Stein v New York State Dept. of Transp.*, 25 AD3d 846, 847- 848 (2006)). "Consistent with this limited aim to safeguard internal government consultations and deliberations, the exemption does not apply when the requested material consists of statistical or factual tabulations or data. Factual data,

therefore, simply means objective information, in contrast to opinions, ideas, or advice exchanged as part of the consultative or deliberative process of government decision making.” (see *Matter of Johnson Newspaper Corp. v Stainkamp*, 94 AD2d 825, 827; *Matter of Miracle Mile Assocs. v. Yudelson*, 68 AD2d 176,181).

It has long been upheld that the attorney-client privilege at New York Civil Practice Laws and Rules (CPLR) §4503 applies to communications between state attorneys and their agencies. Advisory Opinion 17494 from the Committee on Open Government states “...[f]or more than a century, the courts have found that legal advice given by a municipal attorney to his or her clients, municipal officials, is privileged when it is prepared in conjunction with an attorney-client relationship [see e.g., People ex rel. Updyke v. Gilon, 9 NYS 243, 244 (1889); Pennock v. Lane, 231 NYS 2d 897, 898, (1962); Bernkrant v. City Rent and Rehabilitation Administration, 242 NYS 2d 752 (1963), *aff'd* 17 App. Div. 2d 392].” The same logic would hold true for a State Department, such as DEC, since both a state and municipal department fall under the definition of “agency” at POL §86(3)- “any state or municipal department, board, bureau, division, commission, committee, public authority, public corporation, council, office or other governmental entity performing a governmental or proprietary function for the state or any one or more municipalities thereof, except the judiciary or the state legislature.”

Your incoming letter seeks to appeal the fact that the Department did not provide a full explanation or reasoning for withholding or redacting records. Pursuant to 6 NYCRR 616.8(a), “[d]enial of access shall be in writing, stating the reasons therefor pursuant to the exceptions set forth in Public Officers Law, section 87(2) and advising the person denied access of the right to appeal to the FOIL Appeals Officer.” The Records Access Office provided a sufficient response on October 29, 2025, by citing the applicable exceptions in Public Officers Law and advising you of your right to appeal.

Public Officers Law (POL) §89(4)(a) provides an appeal process when a requestor is denied access to a record(s). An itemized list of records that were withheld or redacted

is not a record possessed or maintained by the Department. As stated in POL §89(3)(a), "...[n]othing in this article shall be construed to require an entity to prepare any record not possessed or maintained by such entity except the records specified in subdivision three of section eighty-seven and subdivision three of section eighty-eight of this article."

The Department is not required to provide an itemized list of records that were redacted or withheld. Although federal agencies may be required to prepare or maintain a "Vaughn Index" identifying each record that has been withheld, along with a justification, under the federal Freedom of Information Act, no such requirement exists under New York State Freedom of Information Law. At the administrative level, an agency is only required to provide a written description of the withheld documents and reasons for denying access if a CPLR Article 78 action is commenced. "In the context of a CPLR article 78 proceeding challenging an agency's denial of access, the burden is on the agency to demonstrate that the withheld material 'falls squarely within a FOIL exemption by articulating a particularized and specific justification for denying access.'" (See *Bass Pro Inc v Megna*, 69 A.D.3d 1040 (2010) and cases cited therein).

Although advisory in nature, the Department's position is supported by the New York State Committee on Open Government. The Committee stated: "...with respect to an index of documents within a file or index of those withheld, there is nothing in the Freedom of Information Law or judicial decision construing that statute that would require that a denial at the agency level identify every record withheld or include a description of the reason for withholding each document. Such a requirement has been imposed under the federal Freedom of Information Act, which may involve the preparation of a so-called "Vaughn index" [see *Vaughn v. Rosen*, 484 F.2D 820 (1973)]. Such an index provides an analysis of documents withheld by an agency as a means of justifying a denial and insuring that the burden of proof remains on the agency. Again, I am unaware of any decision involving the New York Freedom of Information Law that requires the preparation of a similar index." (AO-14311, October 27, 2003)

This determination is a final agency action. To the extent you believe you have been denied access to any records, you may obtain judicial review of this determination in accordance with Public Officers Law §89.4(b) by bringing a proceeding in court pursuant to Article 78 of the New York Civil Practice Laws and Rules.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Denué". The signature is written in a cursive style with a large, looped initial "R".

Rebecca Denué, Esq.
FOIL Appeals Officer

ecc: Committee on Open Government
 Steven Auletta, Records Access Officer

Exhibit D

Placeholder while transcripts are produced



EXHIBIT E

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERALLETITIA JAMES
ATTORNEY GENERALDIVISION OF SOCIAL JUSTICE
ENVIRONMENTAL PROTECTION BUREAU

November 7, 2025

Hon. Christopher P. Baker
Hazlett Building
203-205 Lake Street
Elmira, NY 14901

Re: *Raven v. DEC* (2025-1215); Opposition to Petitioner's
Request for a Temporary Restraining Order.

Dear Judge Baker:

The State opposes petitioner's temporary restraining order (TRO) request as unnecessary and improper.¹ Petitioner acknowledged in his November 7, 2025 affidavit that there is no immediate harm (see [NYSCEF Doc No. 8](#), Petitioner's Aff., at 1). He then attempts to reverse the burden and ask for an overly broad TRO based on the lack of an imminent harm. Accordingly, the Court should deny petitioner's request.

The Department has no plans to conduct a remedial action on the site (808041) before January 6, 2026 and is willing to stipulate that it will not enter the site to conduct remedial work or sampling without first giving ten days' notice specified in [ECL 27-1309\(4\)](#) and [27-1313\(8\)](#). Any such notice would afford petitioner ample time to seek a temporary restraining order and moots the need for this motion.

Even if the Department had not assured the Court and petitioner that it will comply with the statutory notice requirements, which would give petitioner sufficient time to seek the Court's assistance, he is still not entitled to the restraint he seeks.

¹ Petitioner's notice of motion and accompanying documents seek a TRO; however, he improperly argues factors that are relevant to the preliminary injunction request that is set for argument on January 6, 2026. The State reserves its right to brief the preliminary injunction and merits in full according to the Court's scheduling order, and limits its response here to the request for a TRO. Petitioner also violated [22 NYCRR 202.8\(c\)](#), by filing an affidavit apart from his notice of motion. Further, the State respondents do not waive personal jurisdiction to this proceeding/action.

Under [CPLR 6301](#), “[a] temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears that immediate and irreparable injury, loss or damage will result unless the defendant is restrained before the hearing can be had.” Temporary restraining orders are drastic remedies that should be used sparingly (see [Rick J. Jarvis, Assoc. Inc. v Stotler](#), 216 AD2d 649, 650 [3d Dept 1995]; [Silvestre v De Loaiza](#), 12 Misc 3d 492, 493 [Sup Ct, NY County 2006]). The party seeking a TRO “must be certain as to the law and the facts and the burden of establishing such an undisputed right rests upon the plaintiff” ([Town of Southeast v Gonnella](#), 26 AD2d 550, 550 [2d Dept 1966]).

There is no imminent threat of an irreparable harm because any remedial action the Department might take requires several preliminary steps. If a responsible party declines to remediate a contaminated site, and the Department wishes to proceed, the Department prepares a workplan under [DER-10](#), 5.2 and gives ten days’ notice before taking remedial action under [ECL 27-1313](#)(8). Neither of those things has happened yet for this site. Petitioner’s fear—that the Department will remediate the site before January 6, 2026—is unfounded.

Nor has petitioner demonstrated irreparable harm—a fundamental requirement for an immediate restraint. Petitioner appears to be afraid that the Department will hire contractors to remediate his contaminated property, thereby making it safer for both him and the community. Petitioner cannot claim that remediation would somehow harm him. Further, any financial loss is not an irreparable injury (see [DiFabio v Omnipoint Communications, Inc.](#), 66 AD3d 635, 637 [2d Dept 2009]).

Petitioner’s requested relief is also inappropriate because a restraint may not stop the State from conducting its statutory duties ([CPLR 6313](#)[a] [“No temporary restraining order may be granted. . . against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties.”]). The Department has statutory authority to remediate contaminated sites (see [ECL 27-1309](#), [1313](#)[8]). The Department also has a statutory right to seek cost recovery under [ECL 27-1327](#)(1) and [42 USC 9607](#). If the Department seeks cost recovery against petitioner, petitioner could present defenses to a court. Petitioner’s demand is also overbroad. He asks that the Department “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,” which would deprive the State respondents of their ability to conduct statutory duties and to defend themselves in this proceeding. While the State maintains documents related to ongoing litigation, there is no need for a court order and disclosure is typically not warranted in article 78 proceedings.

The Department is willing to stipulate that, until January 6, 2026, it will not enter the site (808041) at issue in this proceeding to conduct remedial work or

sampling, as authorized by [ECL 27-1309\(4\)](#) and [27-1313\(8\)](#), without first giving the ten days' notice specified by those statutes. Any further relief is unnecessary and improper.

Respectfully submitted,

/s/ Nicholas C. Buttino

Nicholas C. Buttino

Assistant Attorney General

Environmental Protection Bureau

The Capitol

Albany, New York 12224

(518) 776-2406

Nicholas.Buttino@ag.ny.gov

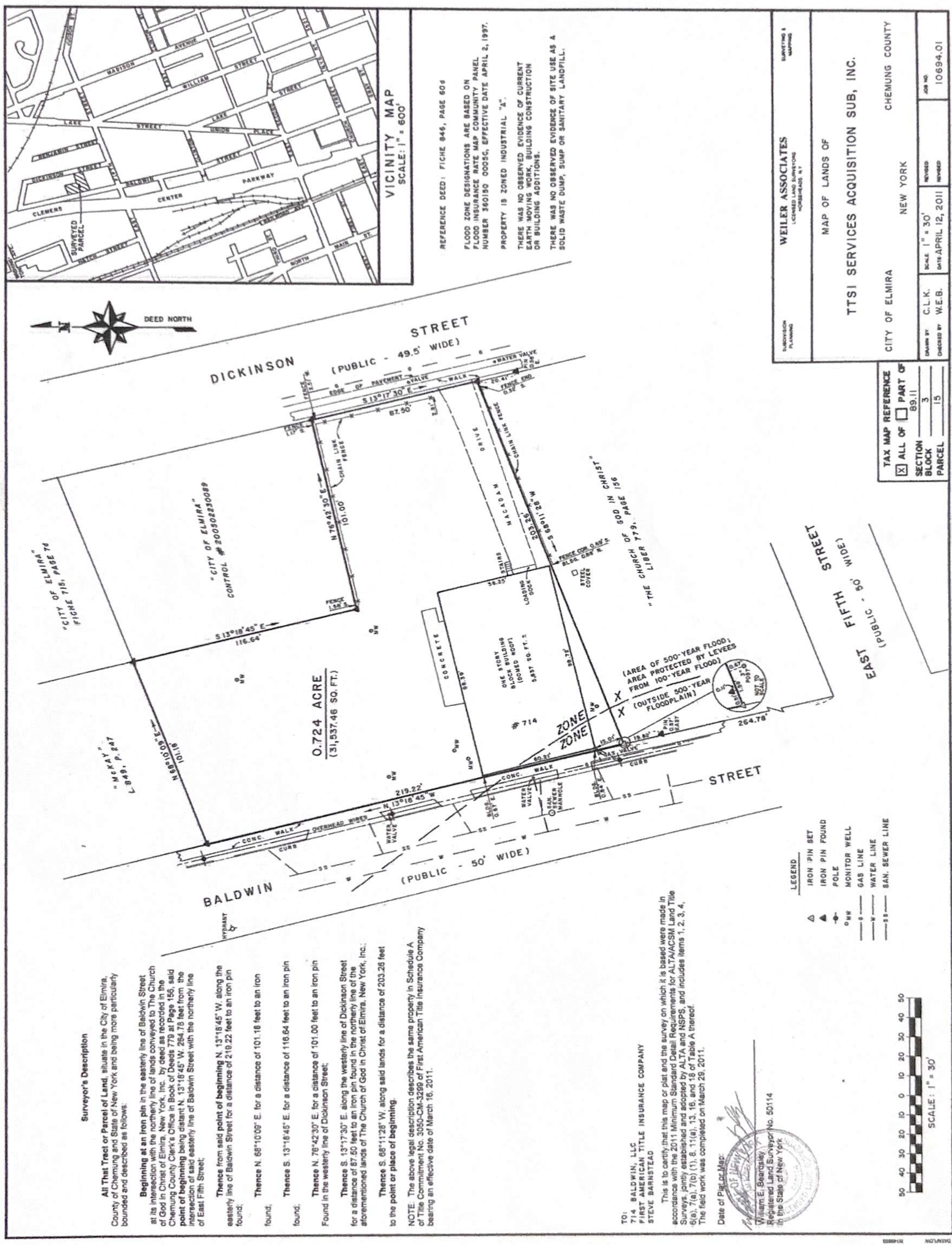
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The Department is willing to stipulate that, until January 6, 2026, it will not enter the site (808041) at issue in this proceeding to conduct remedial work or



Surveyor's Description

All That Tract or Parcel of Land, situate in the City of Elmira, County of Chemung and State of New York and being more particularly bounded and described as follows:

Beginning at an iron pin in the easterly line of Baldwin Street at its intersection with the northerly line of lands conveyed to The Church of God in Christ of Elmira, New York, Inc. by deed as recorded in the Chemung County Clerk's Office in Book of Deeds 779 at Page 156, said point of beginning being distant N. 13°18'45" W. 264.78 feet from the intersection of said easterly line of Baldwin Street with the northerly line of East Fifth Street;

Thence from said point of beginning N. 13°18'45" W. along the easterly line of Baldwin Street for a distance of 219.22 feet to an iron pin found;

Thence N. 68°10'09" E. for a distance of 101.18 feet to an iron pin found;

Thence S. 13°18'45" E. for a distance of 116.64 feet to an iron pin found;

Thence N. 76°42'30" E. for a distance of 101.00 feet to an iron pin found in the westerly line of Dickinson Street;

Thence S. 13°17'30" E. along the westerly line of Dickinson Street for a distance of 87.50 feet to an iron pin found in the northerly line of the aforementioned lands of The Church of God in Christ of Elmira, New York, Inc.;

Thence S. 68°11'28" W. along said lands for a distance of 203.25 feet to the point or place of beginning.

NOTE: The above legal description describes the same property in Schedule A of Title Commitment No. 3050-CM-3299 of First American Title Insurance Company bearing an effective date of March 16, 2011.

TO: 714 BALDWIN, LLC
FIRST AMERICAN TITLE INSURANCE COMPANY
STEVE BARNSTEAD

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 7(a), 7(b), 11(a), 13, 16, and 18 of Table A thereof. The field work was completed on March 29, 2011.

Date of Plat or Map:

William E. Beardsley
Registered Land Surveyor No. 50114
in the State of New York

- LEGEND
- IRON PIN SET
 - IRON PIN FOUND
 - POLE
 - MONITOR WELL
 - GAS LINE
 - WATER LINE
 - SAN. SEWER LINE



SCALE: 1" = 30'

VICINITY MAP
SCALE: 1" = 600'

REFERENCE DEED: FICHE 846, PAGE 606
FLOOD ZONE DESIGNATIONS ARE BASED ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 360150 0005C, EFFECTIVE DATE APRIL 2, 1997.
PROPERTY IS ZONED INDUSTRIAL "A".
THERE WAS NO OBSERVED EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
THERE WAS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

WEILER ASSOCIATES
LICENSED LAND SURVEYORS
ROCHESTER, NY

MAP OF LANDS OF
TTSI SERVICES ACQUISITION SUB, INC.

CITY OF ELMIRA
NEW YORK
CHEMUNG COUNTY

DRAWN BY: C.L.K.
CHECKED BY: W.E.B.

SCALE: 1" = 30'
DATE: APRIL 12, 2011

REVISIONS
JOB NO. 10694.01

TAX MAP REFERENCE
☒ ALL OF ☐ PART OF
SECTION 89.11
BLOCK 3
PARCEL 15

August 2013
 Draft

VOCs, including PCE, TCE, cis-1,2-DCE and vinyl chloride exceeded NYS GA Standards at several locations;

- Results from groundwater samples collected at GW-002, MW-001, MW-007, MW-020 and MW-021 at the DC Site generally show an improvement in groundwater quality in the area of remedial action, possibly a result of the recent remedial action at the DC Site. Concentrations of PCE, TCE and cis-1,2-DCE are generally reported at levels lower than those from previous sampling events.

ATRS Site

- Groundwater samples were collected from 10 groundwater monitoring wells associated with the ATRS Sites to evaluate concentrations of VOC compounds in shallow groundwater. Concentrations of chlorinated solvents and fuel related compounds exceeded NYS GA Standards at six (6) locations;
- To better understand contaminant distribution south and east of the ATRS Site building, 11 soil samples and five groundwater samples were obtained from 5 exploration locations and analyzed for VOCs. Site related COCs, including PCE, were detected in each soil sample; no VOCs were reported above NYS criteria. Chlorinated solvents and fuel related VOCs were detected in each of the five groundwater samples obtained at the ATRS direct push locations; VOC compounds were reported above NYS GA Standards for each of the five groundwater samples.

Recommendations

Based on findings from the May 2013 soil and groundwater sampling program conducted at the DC and ATRS Sites, AMEC has the following recommendations for further investigation at one or both of the Sites:

- 1) No apparent boundary of groundwater contamination has been established along the southern end of the plume in the area of the DC and ATRS Sites. Additional sampling and proposed well installation is recommended in the area to the south of the ATRS building to determine the lateral extent of the plume.

NO
BOUNDARY

- 2) Soil data obtained previously during the Region 8 Site characterization at the ATRS Site (MACTEC, 2008) indicate that shallow soil contamination was encountered in borings east of the ATRS Site building. This, combined with the results from the May 2013 soil borings, suggests the contamination reported to date is residual and that the source area has not been identified. Additional soil borings along the east and south sides of the building are recommended to define the limits – and possibly a source – of soil contamination in this area.

RESIDUAL

- 3) Based on previous soil vapor data reported in the 2008 Site Characterization report for the ATRS Site (MACTEC, 2008), there is the potential for soil contamination (and potentially the source) to be located under the ATRS building. Additional soil vapor sampling and potential interior soil borings (if possible) are recommended to potentially identify a

August 2013
Draft

contaminant source underlying the ATRS building, as well as confirm previously reported soil vapor results obtained during the 2008 Site characterization (MACTEC, 2008).

- 4) Based on concentrations of fuel related compounds (benzene, ethyl benzene, isopropyl benzene, toluene and xylenes) reported in groundwater samples collected at ATMW-001, ATMW-001R, ATMW-002 and ATMW-004, further investigation to better characterize evidence of benzene and its derivatives noted during previous sampling at ATRS Site is recommended.
- 5) The OU-2 ROD for the DC Site (NYSDEC, 2010) recommended soil vapor sampling at the DC Site to monitor the effectiveness of the remedial action. Sampling vapor sampling at both the DC site and the ATRS site is recommended to determine if there are vapor intrusion concerns.
- 6) While concentrations of chlorinated solvents have shown a recent decrease at sample locations in close proximity to the area of remedial action, continued monitoring of groundwater quality is recommended to evaluate the effectiveness of the remedy over time.

DECREASE

We appreciate the opportunity to present this report. If you have any questions or concerns please call Mark Stelmack at 207-828-3592 or Lucas Benedict at 207-828-3599.

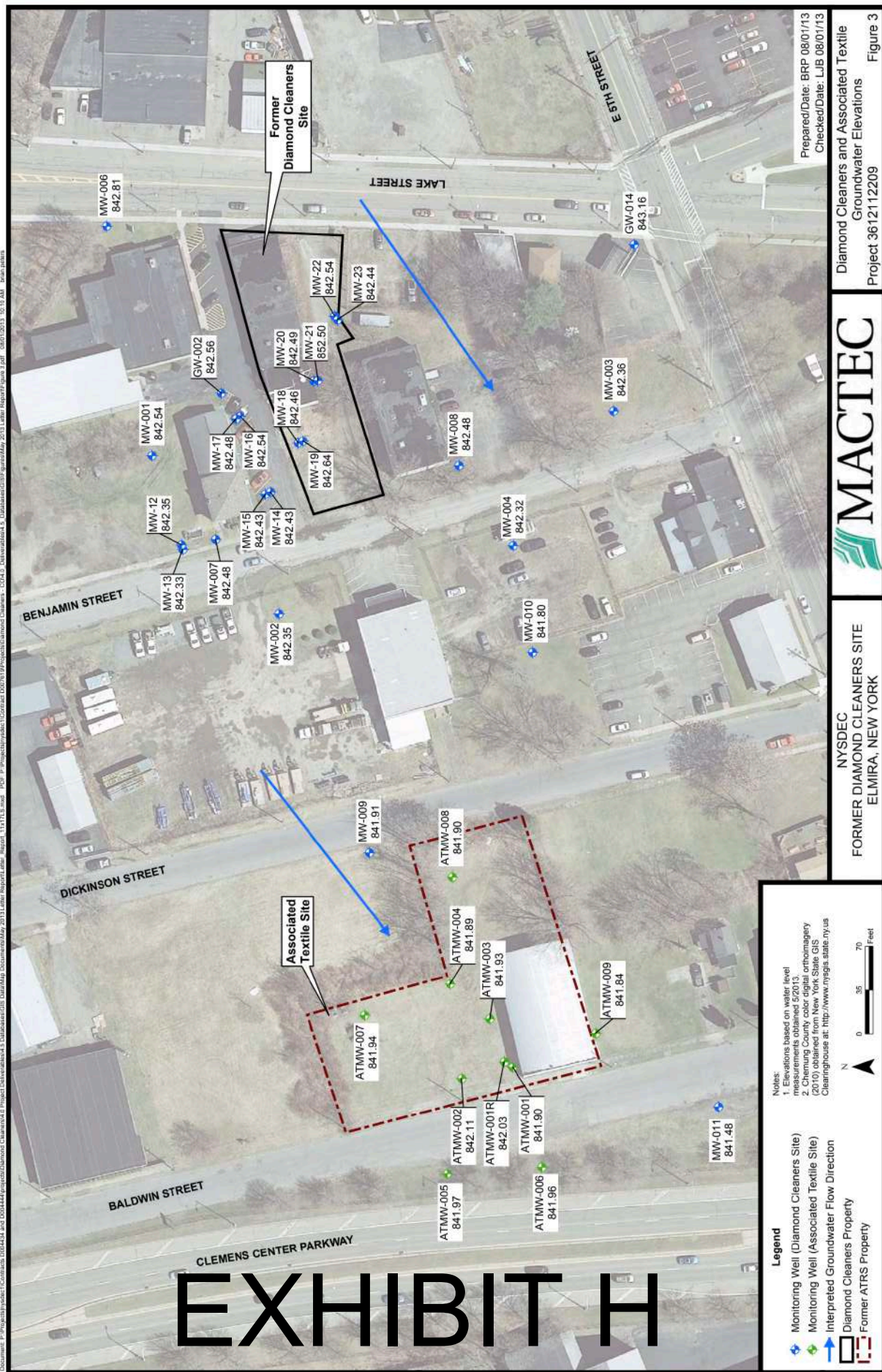
Sincerely,
MACTEC Engineering and Consulting, P.C.

~~MONS~~

Mark J. Stelmack, PE
Project Manager

Lucas J. Benedict
Project Scientist

Enclosures (2)



**O'BRIEN & GERE**

April 10, 2006

EXHIBIT I

Mr. Chad M. Kehoe
 NYSDEC - Region 8
 Division of Environmental Remediation
 276 Sing Sing Road
 Horseheads, NY 14845

Re: Spill #9210608

File: 4735/36922

Dear Mr. Kehoe:

Enclosed are the analytical results from the February 28, 2006 sampling of the ground water monitoring wells located 714 Baldwin Street, Elmira, New York (subject property). I have also attached copies of a summary table of the results (Attachment 1), and a ground water flow map based on the re-survey we had performed of the monitoring wells (Attachment 2). The analytical reports are included in Attachment 3. A review of this data indicates the following:

1. In general, volatile organic compounds (VOCs) typically associated with gasoline were found in most of the wells, but with no well-defined pattern. Chlorinated solvents were also detected in scattered wells.
2. Methyl tert-butyl ether (MTBE) was detected in four of the nine wells, but in scattered locations. The presence of MTBE indicates that there is a source of gasoline contamination in the area other than the historical uses of the property, since historical uses of gasoline well-predicate the use of MTBE.
3. The ground water flow pattern in the area is relatively flat, but appears to flow towards the southeast. This pattern is consistent with previous findings. It should be noted that underground utilities in the area may influence local ground water flow patterns. Based on the ground water flow map included in Attachment 2, ground water appears to be slightly mounded near the area of MW-2 (see discussion below).
4. The highest concentrations of VOCs were found in MW-2. The sampling log for this well indicates that leaves, grass clippings, and other debris were also present in the well when it was sampled. The presence of these materials in the well indicates that MW-2 may have been impacted by surface run-off. The ground water mounding near MW-2 (see #3 above) also indicates that surface run-off may have entered the well. Since the subject property is located in an urban setting, surface run-off may have contributed to the elevated concentrations of VOCs in MW-2.
5. A search of historical Sanborn fire insurance maps show that the area has been under industrial use since at least the late 1800s and may have impacted regional ground water in the general area. The 1898 map shows the ATRS site as being occupied by houses and a Feed & Cider Mill. The property now occupied by Clements Parkway was occupied by numerous railroad tracks and a Locomotive House with an associated turntable. Locomotive houses were often used for

Mr. Chad M. Kehoe
April 10, 2006
Page 2

maintenance and repair work. The area across the railroad tracks from ATRS was occupied by Elmira Iron and Steel Works. More recent land uses have included the following:

C. F. Evans Company. The C.F. Evans site is located across Clements Parkway from ATRS and appears, based on the EPS ground water flow maps, to be upgradient from ATRS. The Evans site was formerly an Elmira DPW garage. In December 1994, C.F. Evans removed two underground storage tanks (USTs). The diesel UST was reported to be in good condition, but the gasoline UST had two large holes and underlying soils were heavily contaminated down to ground water. This spill incident was reported and assigned NYSDEC Spill #9412530. A vapor extraction system was installed and operated until 1996, and this spill is reportedly being closed. However, it is not clear how long releases occurred from this site, or whether it may have impacted ground water quality at the subject property. As a result, this may be a potential source of MTBE and other VOCs to the subject property.

Shulman Site. The Shulman property is located northwest (and upgradient) of the subject property. Since the late 1960s or early 1970s, the property has been operated as a metal salvaging business, including the salvaging of auto parts and the crushing of vehicles. In the 1980s, an initial site investigation was conducted and a work plan for a Remedial Investigation/Feasibility Study (RI/FS) was prepared. However, Shulman challenged the RI/FS work plan, and it was not implemented. NYSDEC files state that the property needs to be re-assessed as part of a Preliminary Site Assessment. Historical data indicate the presence of PCBs and low concentrations of VOCs, although investigative activities do not appear to have been extensive.

NYSDEC files also note that several Spill Reports have been filed for the property, with five of the incidents being classified as closed. The NYSDEC Spill Report Form for Spill #0485472 is included in Attachment 4 and indicates that on January 23, 2005 a caller observed "dumping of waste oil, gasoline, hydraulic oil and antifreeze onto the ground" and that "liquids are not drained and collected." The Spill Incidents Database Search report for this spill on the NYSDEC web site lists the spilled material as being gasoline. NYSDEC personnel visited the site several times since the report of the incident. On July 14, 2005, a Shulman representative told NYSDEC that samples had been collected. At the time of O'Brien & Gere's file review, (August 19, 2005), the last action on the spill report indicated that on August 2, 2005, NYSDEC called the site and results had not been received from the laboratory. It is not clear whether potential impacts to ground water have been assessed from this site. The Shulman site is approximately 1,000 feet from the ATRS property in an upgradient location. As a result, this may be a potential source of MBTE and other VOCs to the subject property.

717-727 Dickinson Street Brownfield Site. The City of Elmira currently owns this site, and has applied to NYSDEC under the Environmental Restoration Program (Brownfield) to address on-site contamination. The basis for the request is that the site was operated as an automotive junkyard for approximately 50 years. However, there appears to be a discrepancy in the site description with regards to site history. The brownfield site is broken into two parcels. Both parcels are noted as having been operated as an automotive junkyard from 1931-1988. However, Sanborn Fire Insurance maps indicate that 727 Dickinson Street was part of a larger parcel extending to Baldwin Street, including the property immediately north of ATRS, and that this combined parcel was operated as a junk yard during the previously stated period. The 717 Dickinson parcel is noted as residential homes until 1950. On the 1988 map, the area of 717

Mr. Chad M. Kehoe

April 10, 2006

Page 3

parcel appears to have been vacant but still noted as four smaller lots. The 717 Dickinson Street parcel is located adjacent to the ATRS site to the east.

This historic information appears to be confirmed by test pits and soil samples from the site. Test pits on the 727 parcel showed evidence of black stained soil, car parts, ash, and a green/white crystalline material. Soil samples that were collected in these areas contained low concentrations of PCBs and semivolatile organic compounds (SVOCs). Only one soil sample was analyzed for volatile organic compounds (VOCs), with no detectable concentrations being found. The five test pits from the 717 parcel showed ash, brick and wood. Ground water samples were not collected at either parcel.

In summary, although the City of Elmira's 717-727 Dickinson Street Brownfield Site does not include the parcel located immediately north and upgradient of the subject property, this parcel was also historically used as a junkyard and is therefore likely contaminated. However, apparently no data has been generated regarding this parcel. Ownership of this parcel has not been determined by O'Brien & Gere.


Summary and Conclusions

VOCs were detected at various concentrations across the site, with no apparent pattern indicating an on-site contaminant source. The highest concentrations of VOCs were detected in MW-2; however, this well also contained leaves and grass clippings, indicating that it has been impacted from surface run-off. This potential impact is also supported by the ground water contour map that indicates a slight mounding of ground water in the area around MW-2. Based on the current and previous assessments of ground water flow direction, MW-2 is located on the upgradient side of the property. Ground water monitoring wells located downgradient from MW-2 indicate much lower concentrations of VOCs. A search of historical fire insurance maps and NYSDEC files also indicate that areas upgradient of the subject property have been under various industrial uses for over 100 years, and that releases of VOCs have been documented at several locations in the area.

It is clear that the diversity of historical land uses in the area of the subject property may have impacted the regional ground water quality. Due to the complexity of the issues concerning ground water in the area, ATRS would like to meet with NYSDEC to discuss these factors and their impact on how to proceed. Please contact me after you've had a chance to review this information so we can discuss how to proceed on this matter.

Very truly yours,

O'BRIEN & GERE ENGINEERS, INC.



David K. Meixell, P.E.

Senior Project Engineer

cc: Mr. Robert Evans - Associated Textile Rental Services, Inc.
Louis Ablove, Esq.
Judy Drabicki, Esq.



Julian Raven <julianmarcusraven@gmail.com>

Update

7 messages

Wed, Sep 6, 2023 at 12:55 PM

Julian Raven <julianmarcusraven@gmail.com>
To: "D. Loew Dudley (dudley.loew@dec.ny.gov)" <dudley.loew@dec.ny.gov>, "David (DEC)" <david.pratt@dec.ny.gov>, "Kruegler, James W (DEC)" <James.Kruegler@dec.ny.gov>, Mark Wright <mark.wright@hrpassociates.com>, "Michael (DEC)" <michael.cruden@dec.ny.gov>, "Sarah K (DEC)" <Sarah.Saucier@dec.ny.gov>, "Scharf, Brianna L (DEC)" <Brianna.Scharf@dec.ny.gov>

Dear James,

I hope you are well. Please can you give me a remediation plan status update on 714 Baldwin St.

I have a tenant I would like to keep updated and I also need to know any upcoming dates for any public meetings or anything I may need to be personally present for. I will be out of the country from mid Nov to mid January for personal family matters.

Sincerely,

Julian Raven
434-221-1676

<michael.cruden@dec.ny.gov>; Saucier, Sarah K (DEC) <Sarah.Saucier@dec.ny.gov>; Scharf, Brianna L (DEC) <Brianna.Scharf@dec.ny.gov>

Subject: Update

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

[Quoted text hidden]

Thu, Sep 7, 2023 at 7:24 AM

Julian Raven <julianmarcusraven@gmail.com>

Draft To: "Scharf, Brianna L (DEC)" <Brianna.Scharf@dec.ny.gov>

Cc: "Cruden, Michael (DEC)" <michael.cruden@dec.ny.gov>, "Kruegler, James W (DEC)" <James.Kruegler@dec.ny.gov>, "Loew, Dudley D (DEC)" <dudley.loew@dec.ny.gov>, "Pratt, David (DEC)" <david.pratt@dec.ny.gov>, "Saucier, Sarah K (DEC)" <Sarah.Saucier@dec.ny.gov>, "mark.wright@hrpassociates.com" <mark.wright@hrpassociates.com>

Thank you for getting back to me!

[Quoted text hidden]

Thu, Sep 7, 2023 at 6:02 PM

Kruegler, James W (DEC) <James.Kruegler@dec.ny.gov>

To: Julian Raven <julianmarcusraven@gmail.com>, "Loew, Dudley D (DEC)" <dudley.loew@dec.ny.gov>, "Pratt, David (DEC)" <david.pratt@dec.ny.gov>, "mark.wright@hrpassociates.com" <mark.wright@hrpassociates.com>, "Cruden, Michael (DEC)" <michael.cruden@dec.ny.gov>, "Saucier, Sarah K (DEC)" <Sarah.Saucier@dec.ny.gov>, "Scharf, Brianna L (DEC)" <Brianna.Scharf@dec.ny.gov>

Dear Mr. Raven,

Since my update to you in May, it was determined that some additional sampling of soil and groundwater was necessary to confirm the nature and extent of site contamination. That sampling was performed by our engineering consultants at HRP on August 30th and we are now waiting on analytical results. Because of this delay, the Proposed Remedial Action Plan is likely to be released closer to the end of this year and we will not proceed with designing the remedy until later into next year.

In the meantime, I can keep you updated on the dates of public comment periods and public meetings as they are decided.

Best,

James

James Kruegler

(he/him/his)

Project Manager



Department of
Environmental
Conservation

FACT SHEET

State Superfund Program

714 Baldwin Street
Elmira, Chemung
County

SITE No. 808041
NYSDEC REGION 8

March 2025

Where to Find Information

Access project documents through the DECinfo Locator and at these location(s):

Steele Memorial Library
101 East Church Street
Elmira, New York 14901
(607) 733-9173

DECinfo Locator:

<https://gisservices.dec.ny.gov/gis/dil/index.html?rs=808041>

Who to Contact:

Comments and questions are welcome and should be directed as follows:

Project-Related Questions
Kira Bruno, Project Manager
NYSDEC
625 Broadway Albany, NY 12233
(518) 402-8068
kira.bruno@dec.ny.gov

Project-Related Health Questions
Harolyn Hood
NYSDOH
ESP Corning Tower, Room 1787
Albany, NY 12237
(518) 473-4780
beei@health.ny.gov

For more information about New York's State Superfund Program, visit:

<https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/state-superfund-sites>

Remedy Proposed for State Superfund Site; Public Comment Period and Public Meeting Announced

Public Meeting, Thursday 04/10/25 at 5:00 PM
Steele Memorial Library, 101 E Church St, Elmira, NY 14901
NYSDEC invites you to a public meeting to discuss the remedy proposed for the site. You are encouraged to provide comments at the meeting, and during the 30-day comment period described in this fact sheet.

DEC will provide interpreter services for hearing impaired persons and language interpreter services for individuals with difficulty understanding or reading English at no charge upon written request submitted no later than March 27th, 2025.

The public is invited to comment on a remedy being proposed by the New York State Department of Environmental Conservation (NYSDEC) in consultation with the New York State Department of Health (NYSDOH) to address contamination related to the former Associated Textile Rental Services site ("site") located at 714 Baldwin Street, Elmira in Chemung County. Please see the map for the site location. The estimated cost to implement the remedy is \$640,375.

How to Comment: NYSDEC is accepting written comments about the proposed plan, called a Proposed Remedial Action Plan (PRAP) from March 12th through April 24th, 2025.

- Access the PRAP and other project documents online through the DECinfo Locator:
<https://extapps.dec.ny.gov/data/DecDocs/808041/>
- Documents also are available at the location(s) identified at left under "Where to Find Information."
- Please submit comments to the NYSDEC project manager listed under Project-Related Questions in the "Who to Contact" area at left.

The site is listed as a Class "2" site in the State Registry of Inactive Hazardous Waste Sites (list of State Superfund sites). A Class 2 site represents a significant threat to public health or the environment; action is required. NYSDEC is proposing the following remedy to address these threats:

NYDEC looks for input on Elmira Superfund site

By Benjamin C. Klein Apr 4, 2025



NYDEC looks for input on Elmira Superfund site

Mar 12, 2025



4/4 UPDATE: The DEC has announced that the new date for the meeting on plans for the Superfund site at 714 Baldwin St. in Elmira is now May 29th, 5 p.m., at Steele Memorial Library in Elmira. Public comment will be accepted online until June 12th. The current owner of the property said he was unaware of the first meeting, and asked the DEC to reschedule for when he will be back in the area.

For more information please visit [here](#).

4/2 UPDATE: According to the DEC, this meeting scheduled for April 10 has been canceled. It will be rescheduled for a later date. No reason was given.

MARCH
12, 2025

ELMIRA, N.Y. (WENY) -- The New York Department of Environmental Conservation announced on Wednesday, March 12th the state is looking for local public input on a Superfund site in Elmira. Specifically, the state is looking for comments on efforts to address contamination related to the site located at 714 Baldwin Street.

The property was previously a uniform and linen distribution center for years until the late 1990s. It was also host to above ground gasoline storage tanks. A public meeting is set for April 10th at 5 p.m. at Steele Memorial Library to give the public a chance to have their voices heard.

According to the DEC, the site is listed as Class-2, which means the site represents a significant threat to the public and/or the environment. The action plan currently proposed by the DEC to remediate the site includes soil removal and water treatment.



Julian Raven <julianmarcusraven@gmail.com>

714 Baldwin St.

2 messages

Julian Raven <julianmarcusraven@gmail.com>

Thu, Mar 13, 2025 at 9:56 AM

To: "Scharf, Brianna L (DEC)" <Brianna.Scharf@dec.ny.gov>, "Sarah K (DEC)" <Sarah.Saucier@dec.ny.gov>, "Kruegler, James W (DEC)" <James.Kruegler@dec.ny.gov>, "David (DEC)" <david.pratt@dec.ny.gov>, "Michael (DEC)" <michael.cruden@dec.ny.gov>

Dear DEC,

Friends of mine in Elmira informed me that 714 Baldwin St. was in the news.

I have not heard anything from the DEC.

Is there an update I am missing?

Sincerely,

Julian Raven

from Spain.



Julian Raven <julianmarcusraven@gmail.com>

714 Baldwin PRAP

3 messages

Thu, Mar 13, 2025 at 11:23 AM

Bruno, Kira L (DEC) <kira.bruno@dec.ny.gov>

To: "julianmarcusraven@gmail.com" <julianmarcusraven@gmail.com>

Cc: "Cruden, Michael (DEC)" <michael.cruden@dec.ny.gov>, "Long, Payson D (DEC)" <payson.long@dec.ny.gov>

Hi Julian,

We apologize, this was an oversight on my end as I'm new to DEC. For your convenience, the final Proposed Remedial Action Plan is attached to this email, as well as the factsheet.

Please let me know if you have any comments or questions.

Warmly,

Kira

Kira Bruno (*she/her/hers*)

Environmental Program Specialist Trainee 1

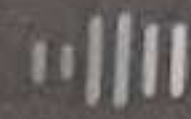
New York State Department of Environmental Conservation

Division of Environmental Remediation | Bureau E Section B

625 Broadway, Albany, NY 12233-4500

w: (518) 402-8068 | kira.bruno@dec.ny.govdec.ny.gov | @NYSDEC on Social Media | PodcastDepartment of
Environmental
Conservation

7:32



32



Marty >

Thu, Mar 27 at 11:17 AM

I hope all is well. I wanted to give you ample notice that I will no longer need to rent the building. I will have all my contents out by May 1st. I can't tell you how much I appreciated your allowing me to rent your space. We will make the April payment and that should do it. Please let me know where I can mail the keys. Thanks again. Be well. Marty

Thu, Mar 27 at 2:07 PM

Hi Marty, thanks for letting me know. I will collect the keys from you on the 7th of May. I'll touch base closer to the day so we can meet up.

Tue, May 6 at 12:21 PM

Hi Marty, can I find you somewhere to pick up the keys today?

Tue, May 6 at 3:33 PM

I just saw your message. You can come by our office at United



Text Message • SMS



2025
Marty Farrell
UNITED INC.
walked away
was under
contract
to purchase.



Department of
Environmental
Conservation

Where to Find Information

Access project documents through the DECinfo Locator and at these location(s):

Steele Memorial Library
101 East Church Street
Elmira, New York 14901
(607) 733-9173

DECinfo Locator:
<https://gisservices.dec.ny.gov/gis/dil/index.html?rs=808041>

Who to Contact:

Comments and questions are welcome and should be directed as follows:

Project-Related Questions
Kira Bruno, Project Manager
NYSDEC
625 Broadway Albany, NY 12233
(518) 402-8068
kira.bruno@dec.ny.gov

Project-Related Health Questions
Harolyn Hood
NYSDOH
ESP Corning Tower, Room 1787
Albany, NY 12237
(518) 473-4780
beei@health.ny.gov

For more information about New York's State Superfund Program, visit:

<https://dec.ny.gov/environmental-protection/site-cleanup/brownfield-and-state-superfund-programs/state-superfund-sites>

FACT SHEET

State Superfund Program

714 Baldwin Street
Elmira, Chemung
County

April 2025

SITE No. 808041
NYSDEC REGION 8

Remedy Proposed for State Superfund Site; **NEW** Public Comment Period and **NEW** Public Meeting Announced

The 04/10/25 Public Meeting Date is CANCELLED

This factsheet notifies you of the ****NEW Public Meeting Date****
set for **Thursday 05/29/25 at 5:00 PM**
Steele Memorial Library, 101 E Church St, Elmira, NY 14901

NYSDEC invites you to this new public meeting date to discuss the remedy proposed for the site. You are encouraged to provide comments at the meeting.

DEC will provide interpreter services for hearing impaired persons and language interpreter services for individuals with difficulty understanding or reading English at no charge upon written request submitted no later than May 15th, 2025.

The public is invited to comment on a remedy being proposed by the New York State Department of Environmental Conservation (NYSDEC) in consultation with the New York State Department of Health (NYSDOH) to address contamination related to the former Associated Textile Rental Services site ("site") located at 714 Baldwin Street, Elmira in Chemung County. Please see the map for the site location. The estimated cost to implement the remedy is \$640,375.

How to Comment: NYSDEC is accepting written comments about the proposed plan, called a Proposed Remedial Action Plan (PRAP) from **March 12th through June 12th, 2025.**

- Access the PRAP and other project documents online through the DECinfo Locator:
<https://extapps.dec.ny.gov/data/DecDocs/808041/>
- Documents also are available at the location(s) identified at left under "Where to Find Information."
- Please submit comments to the NYSDEC project manager listed under Project-Related Questions in the "Who to Contact" area at left.

The site is listed as a Class "2" site in the State Registry of Inactive Hazardous Waste Sites (list of State Superfund sites). A Class 2 site represents a significant threat to public health or the environment; action is required. NYSDEC is proposing the following remedy to address these threats:

10:12



25

< 6000 sq ft warehouse storage cold-...



6000 sq ft warehouse storage col...
\$3,995 ...

Mark as sold

Boost listing

Comments

Chats



Scott Bolster

Aug 11

Um...

From your listing in **Craigslist Elmira-Corning**



Brandon Steinhauer

Aug 11

Joshua Daniel Herman: Brandon Stei...

From your listing in **Craigslist Elmira-Corning**



AdrienneSerena Liberty

Aug 11

Nice place I've been in it. When it w...

From your listing in **Craigslist Elmira-Corning**



Damon Smith

Aug 10

Isn't this place extremely polluted?

From your listing in **Craigslist Elmira-Corning**



Home



Friends



Reels



Marketplace



Notifications



Menu



Sent via 1st Class Mail

September 5, 2025

Julian Raven
714 Baldwin St.
Elmira, NY 14901

EXHIBIT K

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, 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 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

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

BINGHAMTON DIVISION

JULIAN MARCUS RAVEN,
Plaintiff,

v.

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

Civil Action No. _____

MOTION FOR LEAVE TO FILE ELECTRONICALLY

Plaintiff, **Julian Marcus Raven**, respectfully moves this Court for an Order granting him permission to file documents electronically through the Court's **CM/ECF system**, pursuant to the Court's Local Rules and General Order governing electronic filing by pro se litigants.

In support of this motion, Plaintiff states as follows:

1. Plaintiff is the pro se litigant in this action and has filed this case in good faith.
2. Plaintiff has reliable access to the internet, email, and a computer capable of preparing and submitting filings in PDF format.
3. Plaintiff understands that participation in the CM/ECF system requires compliance with all Federal Rules of Civil Procedure, Local Rules of the Northern District of New York, and CM/ECF Technical Requirements.
4. Electronic filing would materially assist Plaintiff in complying with deadlines, serving filings efficiently, and avoiding unnecessary delays, particularly in light of the time-sensitive constitutional and injunctive relief requested in this action.
5. Plaintiff agrees to receive service of documents electronically and to maintain a current email address on file with the Court.

WHEREFORE, Plaintiff respectfully requests that the Court grant him leave to file documents electronically through the Court's CM/ECF system.

DECLARATION

I, **Julian Marcus Raven**, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 20th day of November, 2025.

Julian Marcus Raven
Plaintiff, Pro Se
714 Baldwin Street
Elmira, New York
14901
julianmarcusraven@gmail.com
607-426-0029

[PROPOSED] ORDER

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

Upon consideration of Plaintiff's Motion for Leave to File Electronically, it is hereby:

ORDERED that the motion is **GRANTED**, and Plaintiff is authorized to file documents electronically using the Court's CM/ECF system.

SO ORDERED.

Dated: _____