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July 30th, 2025

New York State Department of Environmental Conservation

Division of Environmental Remediation

RE: Response to Record of Decision (714 Baldwin Street, Site No. 808041) and Demand for Bona Fide Purchaser Certification

To Whom It May Concern,

I write as the owner of the property located at **714 Baldwin Street, Elmira, NY**, to formally respond to the **July 21, 2025 Record of Decision (ROD)** regarding the proposed remediation. I must express serious concern with the process and conclusions of the DEC's decision, which appear to be both inconsistent with the facts presented at the **recent public meeting** and in contradiction with the scientific and environmental evidence.

1. Misrepresentation of Public Involvement

The ROD claims that public input played a role in the decision to proceed with the selected remedy. However, as someone who attended the public meeting in person—alongside only three other members of the public, one being my son—I can attest that:

- No material public commentary was offered in support of the \$640,375 remedial plan.
- The meeting made clear that the decision had already been made.
- The DEC provided no reasonable opportunity for input to influence the final outcome, making the meeting essentially a **post hoc formality**, not a genuine consultation.

This contradicts the ROD's claim that "comments on the remedy received during the comment period were considered by NYSDEC in selecting a remedy" (Section 2, p. 6). If this decision was based on community engagement, where is the record of such support?

2. Contradictions Between the ROD and DEC Meeting Statements

During the public meeting, DEC officials **clearly and repeatedly stated** that:

- **There is no immediate or current threat to public health or the surrounding community.**

- **No hazardous vapors were detected off-site** in either soil vapor or indoor air.
- **PCE and TCE were only marginally present indoors at levels below any health hazard threshold**, and that a sub-slab depressurization system was effective.
- **Wildlife thrives on and beneath the property**, indicating minimal to no ecological harm.

Yet, the ROD now asserts that “the disposal of hazardous wastes at the site has resulted in threats to public health and the environment” (Section 1, p. 6) and justifies an intrusive and costly remedy under that pretext.

This inconsistency **calls into question the scientific objectivity** of the conclusions in the ROD. If the DEC admitted no health threat during the public meeting, how can it now claim the site presents significant danger requiring excavation and chemical injection?

3. Ignored Cost Discrepancy and Lack of Justification

The selected remedy (Alternative 5) is estimated to cost **\$640,375**, despite:

- Past consideration of **no action** or minimal measures (sub-slab system, costed at ~\$48,000).
- Clear public skepticism expressed at the meeting regarding the jump in cost.
- The fact that the selected remedy removes approximately **100 cubic yards of soil**—a scope entirely out of proportion with the expense and alleged public health need.

The ROD justifies this plan by citing the desire to reach “pre-release conditions” and eliminate any hypothetical future risk. However, DEC representatives **openly acknowledged** during the public meeting that the site has posed **no active risk for years**, and that prior soil disturbances did not result in any detectable spread or exposure.

4. Conflict of Interest and Lack of Independent Oversight

The presence of a private consultant at the public meeting—whose company stands to benefit from a lucrative state contract—raises significant ethical concerns. There was no transparency as to how the cost estimates were derived or whether independent cost-benefit analysis was ever performed.

5. Continued Refusal to Grant Bona Fide Purchaser (BFP) Status

I have cooperated extensively with the DEC throughout its investigations. Upon purchase of the property, I voluntarily permitted internal inspections and offered full transparency, with the understanding that I would be eligible for protection as a **Bona Fide Prospective Purchaser (BFPP)**.

Despite this, the DEC continues to:

- List me as a **Potentially Responsible Party (PRP)** in the ROD (Section 5, p. 8).
- **Ignore my multiple petitions for BFP status**, contrary to the cooperative spirit of state and federal Superfund programs.

This is a clear violation of due process and undermines the incentives provided under the law to assist the State in identifying and investigating contaminated sites.

6. Constitutional Concerns: Future Access Without Probable Cause

As the property owner, I hereby notify the DEC that:

- **No further access to the property will be granted without a showing of probable cause**, consistent with the Fourth Amendment of the United States Constitution.
- As DEC officials publicly admitted that **no current danger exists**, there can be no valid basis for warrantless or compelled entry.
- Should the DEC proceed with unauthorized remediation or attempt enforcement without properly resolving my status as a BFPP, legal action will follow.

7. Formal Requests

Accordingly, I demand:

1. **Immediate issuance of a Bona Fide Purchaser Determination** under state and federal law.
 2. **Suspension of all remedial activities** until the matter of ownership liability is fully resolved.
 3. **Production of the complete public comment record** used to justify the final ROD decision.
 4. A **formal reconsideration** of Alternative 2 or no-action plan, given the absence of active threat, cost-benefit imbalance, and stated public skepticism.
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Conclusion

The DEC's current plan appears to lack a factual, scientific, or legal foundation, as it contradicts the very data and testimony presented by its own experts at the public meeting. To proceed under these circumstances would be unjust, and I reserve all rights to challenge this decision in a court of law, before a jury, and in the public sphere.

I remain willing to engage in further dialogue should DEC wish to resolve these matters equitably and in accordance with the law.

Sincerely,

A handwritten signature in black ink, appearing to read "Julian Raven". The signature is stylized with a large, prominent "J" and "R".

Julian Raven