



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

**OFFICE OF THE
SECRETARY**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE
(302) 739-9000

NOTICE OF AMENDED SECRETARY'S ORDER

Pursuant to 7 Del. C. §9109

Order No. 2026-WH-0015

Issued To:

Via Personal Service:

Robert Aerenson
WKA Fairfax 2, LLC
2213 Concord Pike
Wilmington, DE 19803

Registered Agent:

Via Personal Service:

WKA Fairfax, LLC
2213 Concord Pike
Wilmington, DE 19803

Dear Mr. Aerenson:

This Notice of Amended Secretary's Order ("Amended Order") serves to notify WKA Fairfax 2, LLC ("Respondent") that the Secretary of the Department of Natural Resources and Environmental Control ("DNREC" or "Department") has found Respondent to be in violation of Delaware's Hazardous Substance Cleanup Act, 7 Del. C. Chapter 91 ("HSCA"), and of 7 DE Admin. Code 1375, Delaware's Regulations Governing Hazardous Substance Cleanup ("Regulations"). Accordingly, the Department is issuing this Amended Order pursuant to 7 Del. C. § 9109(a)(3). Upon the Secretary's signature, this Amended Order will supersede and withdraw Notice of Secretary's Order No. 25-WH-0017, signed on June 1, 2025.

BACKGROUND

WKA Fairfax 2, LLC is the owner of the Fairfax Shopping Center. That shopping center includes a parcel of real property located at 3 Fairfax Boulevard, Wilmington, DE 19803 that contains the Fairfax Valet Cleaners (the "Property"), one of WKA Fairfax 2, LLC's tenants. The Department has designated the release associated with the Property as Site No. DE-1283 (the "Site" or "Facility").

A Facility Evaluation (FE) was conducted in November 2002 in connection with the release associated with the Property. The Facility Evaluation Report was submitted to and reviewed by the Department. Based on the FE, the Department found that groundwater and subsurface soil were contaminated with volatile organic compounds (VOCs),¹ including tetrachloroethylene (PCE)² at concentrations above regulatory standards. The Department issued a letter on December 23, 2002,³ requiring a remedial investigation to be performed to determine the extent of the groundwater contaminant plume.⁴ It would also determine if vapor intrusion was a health concern based on contamination in groundwater, subsurface soil, basement conditions, and soil types.

Mr. Aerenson was issued a letter on October 3, 2006,⁵ requesting that he join the Voluntary Cleanup Program (VCP).⁶

¹ Volatile Organic Compounds (VOCs) are chemicals that evaporate easily into the air. Exposure to volatile organic compounds through direct contact or ingestion of soil or groundwater or inhalation of vapors may be a health hazard or environmental pollutant.

² Tetrachloroethylene (PCE), also known as perchloroethylene (PERC), is used for dry cleaning and degreasing metals. EPA has classified PCE as likely to be carcinogenic to humans.

³ This letter was addressed to Jenna Connelly, an Environmental Analyst for WIK Associates, Inc., but title to the Facility was held by Weiner, Kristol, Aerenson Joint Venture LLC at this time.

⁴ A body of contaminated groundwater that spreads through an aquifer.

⁵ At the time this letter was sent it was addressed to Mr. Aerenson's Wilmington Real Estate business, which held the same address that WKA Fairfax, LLC and WKA Fairfax 2, LLC now occupy. Title to the Facility was still held by Weiner, Kristol, Aerenson Joint Venture LLC.

⁶ VCP means the remedial process established by the Department under 7 *Del. C. Ch. 91*, into which a party voluntarily enters into, provided the application is approved by the Department, for the purpose of conducting a remedy at a facility.

A formal Notice of Liability (NOL) was issued to Mr. Aeronson on October 27, 2008.⁷ The Department notified him of his liability pursuant to Section 9105 of the DE Hazardous Substance Cleanup Act (HSCA), 7 *Del. C.* Chapter 91, and of the requirement that he, as a potential responsible party (PRP), take action with respect to the Site.

On June 7, 2010, a Limited Soil Gas and Groundwater Assessment Report was submitted to the Department. The report indicated that chlorinated solvents⁸ were detected in groundwater beneath both the Property and adjacent properties at concentrations exceeding Uniform Risk-Based Remediation Standards (URS Values) applicable at that time as well as current HSCA Screening Levels (SL).

The Department issued a Conditional No Further Action (CNFA) letter on October 15, 2012,⁹ based on a Limited Indoor Air Quality and Groundwater Modeling Report dated July 2012. The CNFA was issued with the condition that sampling of groundwater was required by December 2013 to confirm the model results. Respondent failed to timely complete the required groundwater sampling by December 2013, and, therefore, by failing to meet that condition, voided the CNFA.

On December 10, 2019, an Indoor Air Investigation Summary for units adjacent to the dry cleaner business was submitted to DNREC on behalf of WKA Fairfax. This investigation was prepared based on the sub-slab concentrations detected by AEI Consultants. The report recommended indoor air sampling in the Fairfax Valet Cleaners and the two adjacent units (Peter Kate and M&T Bank) to evaluate whether installation of a vapor mitigation system was necessary. After the Indoor Air Investigation, BrightFields (WKA Fairfax consultant) recommended to perform another round of indoor air sampling during the heating season in Fairfax Dry Cleaners, Peter Kate, and M&T Bank to evaluate indoor air concentrations while the heating system is operating.

⁷ Similar to the October 3, 2006, letter, this was addressed to Mr. Aeronson at Wilmington Real Estate; title was still held by Weiner, Kristol, Aeronson Joint Venture LLC.

⁸ Chlorinated solvents are a group of organic compounds that contain chlorine, highly toxic, can cause vapor intrusion, used in a dry-cleaning process, and take years or decades to degrade.

⁹ This letter was sent to Mr. Aeronson at Weiner, Kristol, Aeronson Joint Venture LLC, although records indicate that at this time title to the Facility was now held by WKA Fairfax, LLC. The address listed for Weiner, Kristol, Aeronson Joint Venture LLC is the same as that currently occupied by WKA Fairfax, LLC and WKA Fairfax 2, LLC.

Bedrock Mapping was performed in July of 2020 to identify the soil/bedrock or soil/weathered bedrock interface – specifically, the depth to bedrock and the bedrock dip. The Bedrock Mapping Report and Drilling Plan is dated December 2021.

On August 23, 2022, DNREC had a meeting with the owner and BrightFields discussing completed items from the previous year's agenda, VI sampling, MIP work, and signing the Voluntary Cleanup Program (VCP) agreement. A \$5,000.00 deposit was submitted to DNREC after the meeting.

On November 15, 2022, DNREC issued comments to the Draft Bedrock Mapping Report and Drilling Plan and Draft Indoor Air Investigation Report.

In March 2023, BrightFields, on behalf of WKA Fairfax, submitted a Sampling and Analysis Plan – Vapor Intrusion Investigation to DNREC for sub-slab and indoor air samples to be collected in the Dry Cleaner, M&T Bank, Peter Kate, and apartment buildings #5 and #6 Fairfax Blvd. On March 24, 2023, DNREC issued an Approval of the Supplemental Vapor Intrusion Sampling and Analyses Plan. On April 4, 2023, DNREC was notified that the owner stopped implementation of approved VI sampling plan and requested a meeting.

On April 24, 2023, the Department emailed Mr. Aerenson and his environmental consultant, BrightFields, requesting that by no later than May 16, 2023, provide the Department with a written path forward for completion of the proposed Membrane Interface Probe (MIP) investigation and delineation of the hazardous substance release at the Site.

On May 11, 2023, Mr. Aerenson responded to the Department advising that, “due to cost, timing, and logistical issues” they will be conducting a MIP investigation at the locations on the map (and not beyond the Property).

On June 1, 2023,¹⁰ the Department sent a letter to Mr. Aerenson requesting submission of a Sampling and Analysis Plan (SAP) for investigation of the Property. The

¹⁰ According to the New Castle County parcel search, title to the Facility shifted to WKA Fairfax 2, LLC, on December 26, 2019; and such title is still held by WKA Fairfax 2, LLC today. The letter was addressed to Mr. Aerenson as a Managing Member of the LLC.

Department stated that the approved SAP for the investigation of the Property was to be implemented by September 15, 2023, and that no later than December 15, 2023, a report documenting the investigation, including the results, conclusions, recommendations, and implementation, was to be submitted to the Department.

In that same June 1, 2023 letter, the Department required implementation of the previously approved Supplemental Vapor Intrusion Sampling and Analysis Plan (VI SAP) no later than October 31, 2023. The Department also required that, no later than March 2024, Respondent submit a draft SAP for the next phase of investigation, including soil, groundwater and vapor intrusion, and including areas where hazardous substances had migrated beyond the Property. The Department required that the approved plan be implemented no later than June 2024.

On July 10, 2023, Respondent submitted to the Department a SAP to perform MIP and soil sampling. The SAP was limited to investigation of the Property and did not include investigation of the areas beyond the Property where contamination had previously been documented. The SAP was approved by the Department on July 11, 2023, as an initial phase of the investigation.

MIP drilling and soil sampling of the MIP soil borings on the Property was completed in September 2023. On January 9, 2024, Respondent submitted the On-Site Membrane Interface Probe/Hydraulic Profiling Tool (MIHPT)¹¹ and soil sampling investigation summary report to the Department.

In January 2024, sub-slab vapor and indoor air samples were collected on the Property and within adjacent businesses. Vapor Intrusion sampling was not performed beyond the Property to the east within the apartment buildings located at #5 and #6 Fairfax Blvd.

On July 30, 2024,¹² the Department issued comments on the On-Site MIHPT and soil sampling investigation summary report. Those comments required delineation and

¹¹ MIP is a high-resolution tool that produces qualitative vertical profiles of detector responses to VOCs and hydro stratigraphy.

¹² This letter was also addressed to Mr. Aerenson as a Managing Member of WKA Fairfax 2, LLC.

removal of the PCE contaminated soil, removal of an underground storage tank (UST), and completion of the next phase of investigation, including soil, groundwater, vapor intrusion, and preferential pathway investigations¹³ necessary to determine the vertical and horizontal extent of the release throughout the Site, including areas where contamination had migrated beyond the subject Property.

A Waste Manifest was generated during the MIP investigation and was submitted to the Department on October 22, 2024. The investigative residual soil in the manifest was described as hazardous.

As of May 1, 2025, the groundwater investigation necessary to characterize the extent of the release throughout the Site had still not been completed. Groundwater flow direction had not been determined, groundwater contamination had not been fully delineated, and additional samples are necessary to evaluate the vapor intrusion pathway in areas where contamination had migrated beyond the Property. Moreover, a confirmation of the groundwater model had not been performed, no groundwater plume delineation and no soil delineation on the Property had been completed, no UST removal, and no excavation of contaminated soil had been performed.

FINDINGS AND REASONS

The December 2002 Facility Evaluation (FE) indicated PCE in soil on the Property and in groundwater beneath both the Property and adjacent properties at concentrations significantly higher than URS Values applicable at that time as well as current HSCA SL. The June 7, 2010, Limited Soil Gas and Groundwater Assessment Report showed PCE in groundwater beneath the Property at concentrations lower than those reported in 2002 but still significantly higher than URS Values applicable at that time as well as current HSCA SL. It should be noted that a lower concentration of PCE in the 2010 report may

¹³ Preferential pathway investigation is conducted through site characterization, including analysis of site geology, existing infrastructure, utilities, previous soil disturbances, concentrating on features that could facilitate contaminant transport.

be attributed to the inconsistency with monitoring well installation at the different depths. Trichloroethene (TCE), which is a more toxic PCE degradation byproduct, was also detected in 2002 and 2009 in groundwater beneath both the Property and adjacent properties at concentrations significantly above URS Values applicable at that time and current HSCA SL.

The soil gas data from the 2010 Limited Soil Gas and Groundwater Assessment Report indicated that there is an elevated risk associated with vapor intrusion due to release of PCE at the Site. The soil gas risk assessment identified a risk which was driven primarily by the contaminant concentration in soil gas samples collected at the eastern boundary line of the Property. In addition, the January 2024 On-Site Membrane Interface Probe/Hydraulic Profiling Tool (MIHPT) & Soil Sampling Investigation Summary Report indicated the presence of PCE in soil at concentrations significantly higher than HSCA SL.

The Department has determined that additional groundwater and soil sampling, as well as vapor intrusion investigation, must be performed to comply with HSCA, 7 DE Admin. Code 1375, Section 9.4.1.1 which requires "Characterizing the nature and extent of the release or the potential release of hazardous substances." The investigations and sampling performed thus far have not characterized the nature and extent of the release in all impacted media such as soil, soil gas, and groundwater, including areas where hazardous substances have migrated beyond the subject Property. Accordingly, a comprehensive Remedial Investigation is needed to fully delineate the horizontal and vertical extent of contamination and to perform a Risk Assessment followed by the completion of a Feasibility Study in accordance with the HSCA Regulations. After review of the completed investigation and Feasibility Study, a determination will be made by the Department regarding the necessary remedial actions to protect public health, welfare, and the environment.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent is a HSCA potentially responsible party and is hereby ordered to:

1. Within sixty (60) days of receipt of this Order, Respondent shall submit a Remedial Investigation Work Plan ("RIWP") to the Department for review, to include a conceptual site model and sampling and analysis plan to characterize the nature and extent (vertical and horizontal) of the hazardous substance release at the Site.¹⁴ At a minimum the RIWP should include:
 - a. a description of all media proposed to be sampled and monitored to determine the nature and extent of the release;
 - b. a description of the methods and procedures proposed to obtain samples of media for the purposes of determining the nature and extent of the release;
 - c. a description of hazardous substances proposed to be sampled, analyzed, and monitored to assess the nature and extent of the release
 - d. identification of all current and future exposure pathways and receptors in which hazardous substances are currently or have the potential to migrate.
2. Upon submittal of the RIWP, the Department will issue a determination about whether the RIWP is approved as submitted or is technically deficient. The Respondent will have thirty (30) days to correct deficiencies in the RIWP.
3. Within ninety (90) days of approval of the RIWP by the Department, Respondent shall implement the RIWP.
4. Within thirty (30) days of identifying a vapor intrusion risk in habitable structures, Respondent shall notify the Department and submit an interim action work plan to address such risk. An interim action shall be performed within sixty (60) days to

¹⁴ If adjacent parcels are implicated due to migration of contaminants, Respondent shall perform additional investigation, consistent with available access and pursuant to the DNREC-Remediation Section Guidance and Standard Operating Procedures, as reasonably practical to characterize the nature and extent of the contamination. Respondent shall use good faith efforts to obtain access to any private property within the delineated plume, including any habitable structure, necessary to characterize the nature and extent of the contamination that may pose a potential risk to human health.

mitigate threats to public health or welfare or the environment subject to property owner permission and access.

5. Within three hundred sixty (360) days of approval of the RIWP, Respondent shall submit a comprehensive Remedial Investigation Report (RIR) that characterizes the full nature and extent of the hazardous substance release including a Risk Assessment per the HSCA Regulations.
6. Upon submittal of the RIR, the Department will issue a determination about whether the RIR is approved as submitted or is technically deficient. The Respondent will have sixty (60) days to correct deficiencies in the RIR.
7. Within forty-five (45) days of approval of the RIR, Respondent shall submit a Feasibility Study (FS) for Department review, evaluating potential remedies to address each contaminated medium identified in the remedial investigation or risk assessment.
8. Upon submittal of the FS, the Department will issue a determination about whether the FS is approved as submitted or is technically deficient. The Respondent will have sixty (60) days to correct deficiencies in the FS.
9. Nothing in this Amended Order authorizes or requires the Respondent to enter private property without lawful permission or other legal authority. If at any time, despite good-faith efforts, Respondent or its agents are unable to gain access to any private property, including any habitable structure, necessary to conduct any remedial action, including any investigations or other work required under this Amended Order, Respondent shall promptly notify DNREC and provide documentation of its efforts. Upon receipt of such notice, DNREC may then assist in obtaining access to that property on behalf of Respondent or determine the appropriate next steps.
10. Failure to comply with the above may result in penalties assessed against you in an amount up to \$40,000.00 per day. Additionally, you may be liable for any remedial costs incurred by the State resulting from your non-compliance. Liability for such

remedial costs will be in an amount at least equal to, but not greater than three (3) times the amount of those remedial costs incurred.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Secretary's Order. Respondent may also, pursuant to 7 *Del. C.* § 6005(b)(3), request a public hearing on the Secretary's Order within **30 days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C.* § 6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. C. § 105.

If you have any questions, please contact, or have your attorney contact Travis Groski, Esq., Deputy Attorney General at 302-395-2500.

July 2, 2026

Date



Gregory Patterson, Secretary

cc: Timothy Ratsep, Division Director
Travis Groski, Esq., Deputy Attorney General
Lucinda Cucuzzella, Esq., Deputy Attorney General