



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866

DEC 11 2019

EXPRESS OVERNIGHT and  
CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

TechCity Properties, Inc.  
c/o Mr. Alan L. Ginsberg, President  
300 Enterprise Drive  
Kingston, NY 12401

Mr. Alan L. Ginsberg  
61 Locust Grove Road  
Rhinebeck, NY 12572-1306

AG Properties of Kingston, LLC  
c/o Mr. Alan L. Ginsberg, President  
300 Enterprise Drive  
Kingston, NY 12401

Ms. Stephanie Laskin  
104 Hy Vue Court  
Newburgh, NY 12550

Mr. Alan L. Ginsberg  
c/o TechCity Properties, Inc.  
300 Enterprise Drive  
Kingston, NY 12401

A2 Environmental Solutions, LLC  
c/o Ms. Stephanie Laskin  
104 Hy Vue Court  
Newburgh, NY 12550

Re: Notice of Potential Liability and Request to Perform Response Action Under  
Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C.  
§§ 9601-9675, TechCity Superfund Site, Town of Ulster, Ulster County, New York

Dear Sirs and Madam:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants, and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675 ("CERCLA" also known as the Superfund law). For your information, a copy of the Superfund law may be found at [www.epa.gov/superfund/action/law/index.htm](http://www.epa.gov/superfund/action/law/index.htm).

EPA has documented the release or threatened release of asbestos, a CERCLA hazardous substance, into the environment at the TechCity Superfund Site ("Site") located at 300 Enterprise Drive, Town of Ulster, Ulster County, New York. EPA has spent and continues to spend public funds in connection with the Site.

## Notice of Potential Liability

Under CERCLA, responsible parties may be required to perform cleanup actions and/or may be held liable for costs incurred by the federal government in taking response actions at and around sites where there has been a release or a threatened release of a hazardous substance. This can include costs incurred performing investigative, planning, removal, and enforcement activities. Responsible parties may be held jointly, severally, and strictly liable for all of EPA's response costs. Responsible parties under CERCLA include: 1) the current owner or operator of a facility; 2) any person who owned or operated the facility at the time of disposal of a hazardous substance; 3) any person who by contract arranged for disposal or treatment of a hazardous substance; or 4) anyone who accepted a hazardous substance for transport.

By this letter, we notify you that based on information presently available to EPA, EPA has determined that each of you are potentially responsible parties ("PRPs") for the Site and thus are responsible under CERCLA for cleanup of the Site and costs EPA has incurred or may incur in addressing the release or threatened release of asbestos at the Site within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

## Asbestos Hazards at the Site

In May 2017, EPA was contacted by Ulster County ("County") officials requesting assistance in addressing potential public health threats associated with friable asbestos at three buildings at the Site: buildings 1, 2 and former building 34. In response to the County's request, EPA, in coordination with County officials, the New York State Department of Labor ("NYSDOL") and representatives of TechCity Properties, Inc. ("TechCity"), performed an inspection of the buildings and evaluated the asbestos concerns identified by the County. During discussions with the parties present at the inspection, it was revealed that NYSDOL had issued a stop work notification on August 1, 2016, to A2 Environmental Solutions, LLC ("A2 Environmental"), an asbestos abatement company that had been working in the buildings, because of violations of NYSDOL Industrial Code Rule 56, which pertains to asbestos handling. A2 Environmental, which had been retained by TechCity to perform the work, exited the Site leaving a 40-foot-long trailer containing 100s of bags of friable asbestos. In addition, the company left building 1 with open and unsecured windows/doors, and asbestos containment curtains in disrepair. Building 2 was left partially demolished and with openings in the roof where friable asbestos pipe covering was visible from the outside. Also observed during the inspection were three debris piles generated from the demolition of building 25, which had occurred at the same time as the work on the buildings noted above.

Starting in May 2017, EPA encouraged TechCity to immediately, voluntarily address the asbestos concerns associated with buildings 1, 2, and 34, but not the building 25 debris piles, which at that time, reportedly contained non-friable asbestos-containing material ("ACM") in the form of vinyl flooring.

In October 2017, under EPA oversight, TechCity removed for off-Site disposal the bagged friable asbestos waste in the abandoned trailer, boarded up building windows and doors, and secured some containment curtains onto buildings 1 and 2. The County, which had obtained title

to the building 1 property through tax foreclosure, re-sealed the loading dock bay doors on building 1 after TechCity's boarding of the same had deteriorated.

In November and December 2017, EPA sampled exposed walls and the collapsing roof of building 2. Of the ten samples collected from the building, five samples contained friable asbestos. In December 2017, with EPA oversight, TechCity voluntarily sprayed areas of concern on building 2 with a temporary encapsulant to prevent the release of asbestos fibers. During this time, non-friable asbestos vinyl flooring observed adjacent to former building 34 was addressed. EPA advised TechCity that such actions were interim measures designed to protect public health until the asbestos concerns were permanently addressed.

In April 2018, NYSDOL recategorized the three building 25 debris piles as friable regulated asbestos-containing material ("RACM"). At EPA's and NYSDOL's urging, TechCity covered the piles with tarps, installed hay bale barriers, and posted warning signs. The tarps lasted less than two months and had to be replaced by TechCity again in June 2018. Since that time, the tarps have had to be replaced or the piles recovered approximately five times. These RACM piles are in close proximity to athletic fields adjacent to the TechCity facility that are used by a local children's soccer league.

Currently, the temporary encapsulant applied by TechCity in December 2017 to the exterior of building 2 is no longer effective after two winters. The re-boarded-up access points to building 1 are also deteriorating, again creating threatened or current releases of asbestos from building 1.

EPA has attempted to have TechCity address the conditions at the Site and urged that permanent solutions be implemented as the temporary measures are clearly not adequate. Efforts to reach TechCity's legal representative have been unavailing since November 25, 2019.

#### Request to Perform Work/Scope of Work

By this letter, EPA wishes to determine if you are willing to voluntarily finance and/or perform the work necessary to both temporarily and permanently address the release or threat of release of asbestos in buildings 1, 2 and the RACM piles at the Site.

As an initial measure, the RACM piles must be re-tarped within seven (7) business days of your receipt of this letter, pending obtaining more durable interim tarping as per prior discussions with EPA. Based on a December 10, 2019 email from Ryan McGrath of McGrath Management on behalf of TechCity, EPA, DOL and Mr. McGrath have scheduled an on-Site meeting to discuss work on the piles in the coming days.

Following re-tarping the RACM piles, in order to permanently mitigate the threats posed by the Site, EPA requires the following response actions be taken:

1. Establish and maintain critical barriers on building 1, to limit the release or threatened release of asbestos;
2. Demolish the remainder of building 2 to address the release or threat of release of friable ACM there; and,

3. Remove all asbestos at building 2 and the building 25 friable RACM piles for off-Site disposal in compliance with the EPA Off-Site Rule, 40 C.F.R. § 300.440.

Such actions must be preceded by all appropriate notifications to local, state, and federal agencies and must ensure all actions are conducted by appropriate personnel that meet all local, state, and federal requirements for working in a contaminated environment.

Any agreement by you to undertake the necessary work with respect to buildings 1, 2 and the building 25 RACM piles would need to be memorialized in an administrative settlement agreement and order on consent (“AOC”). If you are interested in fully financing or performing such work, you must notify EPA in writing on or before December 30, 2019.

You notice must contain the following elements:

1. A statement of your willingness to finance or perform the work;
2. A demonstration of your technical capability to carry out the work, including the identification of the firm(s) that may conduct the work or a description of the process you will use to select the firm(s);
3. A demonstration of your ability to finance the work; and
4. The name, address, and phone number of the individual(s) who will represent you in negotiations.

If you believe that you lack the ability to pay for the performance of the work, please so indicate and EPA will then supply you with a list of documentation that you will need to submit to EPA.

If EPA receives notice that you are prepared to consent to perform the work on or before December 30, 2019, then negotiations will proceed with memorializing the obligation to implement the work in an AOC. An AOC must be finalized so that field work may begin in late January 2020, weather permitting.

Should you decline to provide the notice above by December 30, 2019, EPA may thereafter take enforcement action under Section 106(a) of CERCLA, 42 U.S.C. §9606(a), to require you to perform the work and/or EPA may take federally-funded response action at the Site to implement some or all of this work, the costs of which you may be held to be liable for under CERCLA.

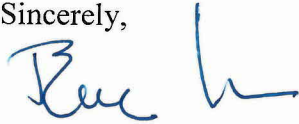
Your response to this notice letter should be sent to:

Marla E. Wieder  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 17th Floor  
New York, NY 10007-1866  
[wieder.marla@epa.gov](mailto:wieder.marla@epa.gov)

If you have any questions regarding this letter, or would like to discuss this matter with EPA, please have your attorney contact Ms. Wieder at (212) 637-3184.

We appreciate and look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric J. Wilson". The signature is fluid and cursive, with a prominent "E" and "W".

Eric J. Wilson  
Deputy Director for Enforcement &  
Homeland Security  
Superfund & Emergency Management Division

cc: K. Young, Young/Sommer, LLC (electronic copy)  
P. Ernenwein, Catania, Mahon, Milligram & Rider, PLLC (electronic copy)  
J. Pensabene, NYSDOL-ACB (electronic copy)

