



RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Office of Compliance and Inspection 235 Promenade Street, Providence, RI 02908-5767
Telephone 401-222-1360 Fax 401-222-3811 TDD 401-222-4462

November 29, 2010

CERTIFIED MAIL

Vincent Coccoli
d/b/a Millville Associates, Inc.
10 Nemo Street
North Providence, RI 02911

RE: NOTICE OF VIOLATION
File No.: SR 08-001

Dear Mr. Coccoli:

Enclosed please find a Notice of Violation ("NOV") relating to site remediation violations at a facility/property located at 18 Thelma Avenue in the town of North Providence, Rhode Island.

PLEASE READ THIS DOCUMENT CAREFULLY. Pursuant to R.I. General Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35 each named Respondent is entitled to request an administrative hearing before the Director or his designee regarding the alleged violations, orders, and/or penalties set forth in this NOV. Further details regarding each Respondent's right to an administrative hearing are provided within the NOV.

If you wish to request an administrative hearing concerning this NOV, the request must **be made in writing and be received within twenty days of your receipt of this NOV.**

A written request for an administrative hearing must be submitted to:

Administrative Clerk
DEM-Administrative Adjudication Division ("AAD")
235 Promenade Street, 3rd Floor
Providence, RI 02908-5767

A copy of the request for an administrative hearing must also be forwarded to:

Richard M. Bianculli, Jr., Esquire
DEM - Office of Legal Services
235 Promenade Street, 4th Floor
Providence, Rhode Island 02908-5767

520
7/15/07

Page two

Name: Vincent Coccoli d/b/a Millville Associates, Inc.

RE: Notice of Violation

You may also wish to arrange for an informal meeting to discuss the NOV with representatives of the Office of Compliance & Inspection ("OC&I"). At that informal meeting, representatives of the OC&I will be prepared to discuss the facts set forth in the NOV, steps that may be necessary to comply with the orders contained therein, pertinent regulatory requirements, as well as issues related to the penalty assessed in this NOV. If agreement on resolution of the enforcement action can be reached, a Consent Agreement may be entered that both resolves the NOV and eliminates the need for an administrative hearing.

Representatives of the OC&I are prepared to discuss a resolution of this matter with you; however, please be advised that correspondence with the OC&I, including a request for an informal meeting to discuss this NOV, does not constitute a formal request for a hearing and will not protect your right to a formal hearing before AAD.

If you wish to arrange for an informal meeting to discuss this NOV, please contact:

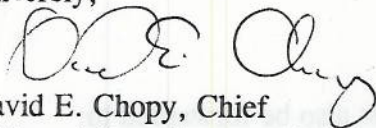
Tracey D'Amadio Tyrrell, Supervising Environmental Scientist
Office of Compliance and Inspection
235 Promenade Street, Room 220
Providence, Rhode Island 02908-5767
Telephone: (401) 222-1360, ext 7407

Or

Anna Maria Cole, Technical Staff Assistant
Telephone: (401) 222-1360, ext 7431

You have a right to be represented by legal counsel before AAD or in an informal meeting with the OC&I. You are not obligated to do so, but if you plan on having legal representation present at an informal meeting with the OC&I, please inform us at the time of the request for an informal meeting so that we can make arrangements to have legal counsel present.

Sincerely,



David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation

xc. Leo Hellested, Chief, DEM Office of Waste Management
Rich Piligian, Environmental Protection Agency, Region I



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November 29, 2010

CERTIFIED MAIL

Kevin O'Sullivan
139 Bishop Street
Pawtucket, RI 02860

RE: NOTICE OF VIOLATION
File No.: SR 08-001

Dear Mr. O'Sullivan:

Enclosed please find a Notice of Violation ("NOV") relating to site remediation violations at a facility/property located at 18 Thelma Avenue in the town of North Providence, Rhode Island.

PLEASE READ THIS DOCUMENT CAREFULLY. Pursuant to R.I. General Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35 each named Respondent is entitled to request an administrative hearing before the Director or his designee regarding the alleged violations, orders, and/or penalties set forth in this NOV. Further details regarding each Respondent's right to an administrative hearing are provided within the NOV.

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Page two

Name: Kevin O'Sullivan

RE: Notice of Violation

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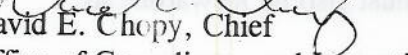
Tracey D'Amadio Tyrrell, Supervising Environmental Scientist
Office of Compliance and Inspection
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Sincerely,


David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation

xc. Leo Hellested, Chief, DEM Office of Waste Management
Rich Piligian, Environmental Protection Agency, Region I



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November 29, 2010

CERTIFIED MAIL

The Pearl Trust
c/o Patrick T. Conley, Trustee
1445 Wampanoag Trail
East Providence, RI 02915

RE: NOTICE OF VIOLATION
File No.: SR 08-001

Dear Mr. Conley:

Enclosed please find a Notice of Violation ("NOV") relating to site remediation violations at a facility/property located at 18 Thelma Avenue in the town of North Providence, Rhode Island.

PLEASE READ THIS DOCUMENT CAREFULLY. Pursuant to R.I. General Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35 each named Respondent is entitled to request an administrative hearing before the Director or his designee regarding the alleged violations, orders, and/or penalties set forth in this NOV. Further details regarding each Respondent's right to an administrative hearing are provided within the NOV.

If The Pearl Trust ("Pearl") wishes to request an administrative hearing concerning this NOV, the request must **be made in writing and be received within twenty days of your receipt of this NOV.** A written request for an administrative hearing must be submitted to:

Administrative Clerk
DEM-Administrative Adjudication Division ("AAD")
235 Promenade Street, 3rd Floor
Providence, RI 02908-5767

A copy of the request for an administrative hearing must also be forwarded to:

Richard M. Bianculli, Jr., Esquire
DEM - Office of Legal Services
235 Promenade Street, 4th Floor
Providence, Rhode Island 02908-5767

Page two

Name: The Pearl Trust

RE: Notice of Violation

Pearl may also wish to arrange for an informal meeting to discuss the NOV with representatives of the Office of Compliance & Inspection ("OC&I"). At that informal meeting, representatives of the OC&I will be prepared to discuss the facts set forth in the NOV, steps that may be necessary to comply with the orders contained therein, pertinent regulatory requirements, as well as issues related to the penalty assessed in this NOV. If agreement on resolution of the enforcement action can be reached, a Consent Agreement may be entered that both resolves the NOV and eliminates the need for an administrative hearing.

Representatives of the OC&I are prepared to discuss a resolution of this matter with Pearl; however, please be advised that correspondence with the OC&I, including a request for an informal meeting to discuss this NOV, does not constitute a formal request for a hearing and will not protect Pearl's right to a formal hearing before AAD.

If Pearl wishes to arrange for an informal meeting to discuss this NOV, please contact:

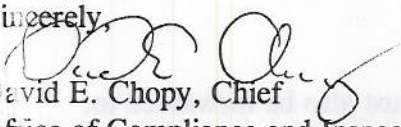
Tracey D'Amadio Tyrrell, Supervising Environmental Scientist
Office of Compliance and Inspection
235 Promenade Street, Room 220
Providence, Rhode Island 02908-5767
Telephone: (401) 222-1360, ext 7407

Or

Anna Maria Cole, Technical Staff Assistant
Telephone: (401) 222-1360, ext 7431

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Sincerely,


David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation

cc: Leo Hellested, Chief, DEM Office of Waste Management
Rich Piligian, Environmental Protection Agency, Region I



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DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Telephone 401-222-1360 Fax 401-222-3811 TDD 401-222-4462

November 29, 2010

CERTIFIED MAIL

Anthony and Deborah Antonelli
18 Thelma Avenue
North Providence, RI 02911

RE: NOTICE OF VIOLATION
File No.: SR 08-001

Dear Mr. and Mrs. Antonelli:

Enclosed please find a Notice of Violation ("NOV") relating to site remediation violations at your property located at 18 Thelma Avenue in the town of North Providence, Rhode Island.

The NOV was issued to Vincent Coccoli d/b/a Millville Associates, Inc., Kevin O'Sullivan, and The Pearl Trust (the "Responsible Parties").

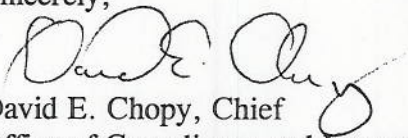
As explained in our March 6, 2009 letter to you, the NOV has been recorded in the Land Evidence Records against your property.

The Responsible Parties have an opportunity to request an administrative hearing concerning this NOV. If they do so, you have a right to be present at the hearing.

If you have any questions concerning the NOV or wish to be notified of the hearing date, please contact:

Tracey D'Amadio Tyrrell, Supervising Environmental Scientist
Office of Compliance and Inspection
235 Promenade Street, Room 220
Providence, Rhode Island 02908-5767
Telephone: (401) 222-1360, ext 7407

Sincerely,


David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation



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November 29, 2010

CERTIFIED MAIL

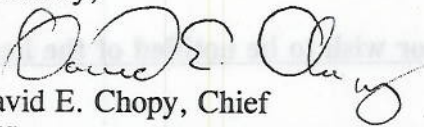
Mary Ann DeAngelus, Town Clerk
Town of North Providence
2000 Smith Street
North Providence, RI 02911

RE: Request for Recording - Notice of Violation
File Name: Vincent Cocolli d/b/a Millville Associates, Inc.,
Kevin O'Sullivan and The Pearl Trust
File Number: OC&I/SR 08-001

Dear Ms. DeAngelus:

Enclosed please find an original Notice of Violation to be recorded in the Land Evidence Records of your town. In accordance with Section 23-19.1-33 and Chapter 13-34 of the General Laws of the State of Rhode Island, **please record this Notice of Violation solely against Assessor's Plat Map 5, Lot 590** and return a copy to this Office. This copy should include the book and page under which it is recorded.

Sincerely,


David E. Chopy, Chief
Office of Compliance and Inspection

Enclosure: Notice of Violation

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF COMPLIANCE & INSPECTION

IN RE: Vincent Coccoli, d/b/a Millville Associates, Inc. FILE NO.: SR-08-001
Kevin O'Sullivan
The Pearl Trust

NOTICE OF VIOLATION

A. Introduction

Pursuant to *Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws* ("R.I.G.L."), as amended you are hereby notified that the Director of the Department of Environmental Management (the "Director" of "DEM") has reasonable grounds to believe that the above named parties ("Respondents") have violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. Facts

- (1) The subject property is located at 18 Thelma Avenue, Assessor's Plat Map 5 and Lot 590 in the town of North Providence, Rhode Island (the "Subject Property"). The Subject Property was formerly identified by the North Providence Tax Assessor as Plat 5, Lots 592, 593, 594, and 596.
- (2) The Subject Property is owned by Anthony R. Antonelli and Deborah M. Antonelli.
- (3) On January 5, 2005, DEM received a Notification of Release and a Site Assessment Report dated December 28, 2004 for the Subject Property that was prepared by LFR Levine-Fricke ("LFR") and submitted by LFR on behalf of Thelma Realty, LLC. The Notification of Release reported that concentrations of chlorinated volatile organic compounds were detected in groundwater samples collected from the Subject Property at concentrations exceeding the GB groundwater objectives in Rule 8.03B of the *DEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases* (the "Remediation Regulations"). The Notification of Release and the Site Assessment Report identified an abutting property, 135 Pearl Avenue, North Providence, Rhode Island (the "Pearl Property") as the likely source of the chlorinated volatile organic compounds released on the Subject Property.
- (4) According to the North Providence Tax Assessor, the Pearl Property was formerly identified as Plat 5, Lots 567, 568, 569, 570, and 571. Currently, the Pearl Property is identified by the North Providence Tax Assessor as

Plat 5, Lots 788, 789, 790, and 791 with physical addresses of 39, 33, 31 and 29 (respectively) Pearl Avenue, North Providence, Rhode Island. Said lots are currently owned by Kevin O'Sullivan.

(5) Review of DEM records revealed the following information concerning the Pearl Property:

(a) On October 25, 2002, DEM issued a Letter of Responsibility ("LOR") to The Pearl Trust, c/o Patrick T. Conley, Trustee requesting that The Pearl Trust conduct a site investigation of the Pearl Property to address a release of hazardous materials in the form of at least chlorinated volatile organic compounds. The LOR also identified The Pearl Trust as a Responsible Party as defined in the Remediation Regulations because, at this time, Pearl Trust was the owner of the Pearl Property.

(b) On December 18, 2002, the Jacques Whitford Company, Inc. ("JWC"), representing The Pearl Trust, sent a notification to Thelma Realty LLC that a site investigation was scheduled to be completed on the Pearl Property (which abuts and is located to the east of the Subject Property) to determine the extent to which historical activities on the Pearl Property may have resulted in exceedances of DEM's soil criteria and groundwater objectives.

(c) On May 6, 2003, DEM received a copy of a Site Investigation Report ("SIR") entitled "Former Cal's Jewelry Findings Company and Merit Printing, 135 Pearl Avenue, North Providence, Rhode Island, Project No. RIP02370" dated January 14, 2003, prepared by JWC for the Pearl Property, and submitted by JWC on behalf of Zurich, LLC. The report indicates that chlorinated volatile organic compounds were detected in samples collected from several groundwater monitoring wells on December 30, 2002, at concentrations exceeding the GB groundwater objectives in the Remediation Regulations. The following table contains a summary of a portion of the analytical test results contained in the SIR:

<u>Volatile Organic Compound</u> <u>Sample Location</u>	<u>Cis-1,2 Dichloroethene</u>	<u>1,1,1-Trichloroethane</u>	<u>Tetrachloroethene</u>	<u>Trichloroethene</u>
CW-1	0.0014	0.625 *	1.02*	0.00683
CW-2	ND	0.00859	0.0133	ND
CW-3	ND	0.00676	0.0141	ND
CW-4	NS	NS	NS	NS
ESS-1	ND	0.00953	0.00812	0.00113
ESS-2	ND	0.00105	0.00293	ND
ESS-3	0.0136	0.861*	0.409*	0.0109
ESS-4	0.139*	ND	1.130*	0.104*
DEM GB groundwater objective	2.4	3.1	0.15	0.54

All results and objectives listed above in mg/L = parts per million

ND = Non Detected

NS = Not Sampled

Bold = Exceedance of DEM GB groundwater objective

* = Result and Method Reporting Limit were based on 100x Dilution

- (d) On June 3, 2004, DEM received a copy of a Remedial Action Work Plan (the "2004 RAWP") entitled "Future Residential Property, Former Cal's Jewelry, 135 Pearl Avenue, North Providence, Rhode Island, Project No. RIP02370" dated May 17, 2004 prepared by JWC for the Pearl Property and submitted by JWC on behalf of The Pearl Trust. The 2004 RAWP proposed a method to reduce the concentration of the chlorinated volatile organic compounds contained in the soil and groundwater on the Pearl Property. The 2004 RAWP contained analytical test results for a sample collected from a groundwater monitoring well on March 31, 2004 located inside the building on the Pearl Property. Review of the analytical data contained in the 2004 RAWP revealed that chlorinated volatile organic compounds were detected in the sample collected from the groundwater monitoring well at concentrations exceeding the GB groundwater objectives in the Remediation Regulations. The following table contains a summary of a portion of the analytical test results contained in the 2004 RAWP.

<u>Volatile Organic Compound Sample Location</u>	<u>1,1-Dichloroethene</u>	<u>1,1,1-Trichloroethane</u>	<u>Tetrachloroethene</u>	<u>Trichloroethene</u>
B2	0.478	97.8	75.5	2.22
DEM GB groundwater objective	0.007	3.1	0.15	0.54

All results and objectives listed above in mg/L = parts per million

Bold = Exceedance of DEM GB groundwater objective

- (e) On July 26, 2004, DEM issued an Order of Approval to The Pearl Trust for the remedial work proposed in the 2004 RAWP. The Order of Approval required The Pearl Trust to implement the 2004 RAWP on or before August 15, 2004. Condition number 3 of the Order of Approval advised The Pearl Trust that Remediation Regulation 8.08 requires a Responsible Party to take affirmative steps to ensure that the concentration of any hazardous material in groundwater on property which is not under the control of the performing party not exceed GB groundwater objectives.
- (f) On October 1, 2004, DEM received an email from JWC stating that the remedial activity involving the injection of persulfate and steam into the soil at the Pearl Property resulted in an increase of concentrations of contaminants in the groundwater. JWC proposed

additional remedial actions to address the elevated levels of contaminants in the groundwater. The email included analytical data for samples collected at the Pearl Property on September 10, 2004. The following table contains a summary of a portion of the analytical test results contained in the email.

<u>Volatile Organic Compound Sample Location</u>	<u>1,1-Dichloroethene</u>	<u>1,1,1-Trichloroethane</u>	<u>Tetrachloroethene</u>	<u>Trichloroethene</u>
CW-1	0.0031	0.764	0.894	0.0105
CW-2	0.0015	0.0014	0.0143	BRL
CW-3	BRL	BRL	0.0057	BRL
CW-4	NS	NS	NS	NS
ESS-1	BRL	BRL	0.0026	BRL
ESS-2	0.0063	0.0023	0.0803	0.0036
ESS-3	0.367	5.01	3.99**	0.208
ESS-4	BRL	0.0758	2.11**	0.0745
DEM GB groundwater objective	0.007	3.1	0.15	0.54

All results and objectives listed above in mg/L = parts per million

BRL = Below Reporting Limit – Analyte not detected at or above the reporting limit

NS = Not Sampled

Bold = Exceedance of DEM GB groundwater objective

****** Concentration of contaminant increased since last sampling event (12/30/02)

(g) On October 14, 2004, DEM received a facsimile copy of a letter dated October 8, 2004 from JWC submitted on behalf of The Pearl Trust advising the DEM that during the demolition of a building on the Pearl Property a dry well was discovered under the floor of the building. JWC states in this letter that the former dry well was used for the disposal of electroplating waste and is the likely source of the release of the chlorinated volatile organic compounds on the Pearl Property.

(6) On February 2, 2005, DEM issued a LOR to Thelma Realty, LLC and Metro, Inc. requesting that the companies conduct a site investigation of the Subject Property. The LOR identified the companies as Responsible Parties as defined in the Remediation Regulations

(7) On March 18, 2005, DEM received a report entitled "Additional Site Investigation Activities" dated March 17, 2005 prepared by LFR and submitted by LFR on behalf of Thelma Realty LLC. The report indicated that the Pearl Property is the probable source of the chlorinated volatile organic compounds detected in the groundwater on the Subject Property at concentrations exceeding the GB groundwater objectives in the Remediation Regulations. The report contained analytical test results for samples collected on September 20, 2004 and February 28, 2005 from groundwater monitor wells located on the Subject Property. Review of the analytical test results contained in the report revealed that volatile

organic compounds were detected in the samples at concentrations exceeding the GB groundwater objectives in the Remediation Regulations. The following table contains a summary of a portion of the analytical test results contained in the report.

<u>Volatiles Organic Compound</u> <u>Sample Location</u>	<u>1,1-Dichloroethene</u>	<u>Cis-1,2-Dichloroethene</u>	<u>1,1,1-Trichloroethane</u>	<u>Tetra-chloroethene</u>	<u>Tri-chloroethene</u>
MW-1 (9/20/04)	ND	ND	ND	ND	ND
MW-2 (9/20/04)	0.17	5.63	8.18	6.11	2.14
MW-3 (9/20/04)	ND	ND	ND	ND	ND
MW-4 (2/28/05)	0.0075	0.023	0.337	0.0191	0.0041
MW-5 (2/28/05)	ND	ND	0.0044	0.0029	ND
MW-6 (2/28/05)	0.0307	0.0414	1.02	9.39	0.0898
MW-7 (2/28/05)	0.128	5.41	4.12	8.3	4.79
MW-8 (2/28/05)	NS	NS	NS	NS	NS
MW-9 (2/28/05)	ND	ND	0.0391	0.0202	ND
DEM GB groundwater objective	0.007	2.4	3.1	0.15	0.54

All results and objectives listed above in mg/L = parts per million

ND = Non Detected

NS=Not Sampled

Bold = Exceedance of DEM GB groundwater objective

Review of the site plan contained in the report revealed that groundwater monitoring well MW-2 is located near the boundary between the Pearl Property and the Subject Property.

- (8) On April 5, 2005, DEM issued a Program Letter to Thelma Realty, LLC and Metro, Inc. In the letter the DEM acknowledged the completion of the site investigation and concurred with the finding that the Pearl Property is the likely source of the chlorinated volatile organic compounds present in groundwater samples collected on the Subject Property.
- (9) On May 19, 2005, DEM issued a Remedial Decision Letter to Thelma Realty, LLC and Metro, Inc. concurring with the SIR and requiring the companies to provide access to the The Pearl Trust to remediate the groundwater contamination on the Subject Property.
- (10) On August 2, 2005 JWC submitted a letter to DEM notifying the DEM that Millville Associates, Inc. purchased the Pearl Property and had assumed all responsibility for the remediation of the Subject Property.
- (11) Review of the North Providence Tax Assessor's records revealed that the Pearl Property was purchased by Millville Associates, Inc. on August 17, 2005. Millville Associates, Inc. is not listed with the Secretary of State as either an active or inactive corporation. Upon information and belief,

Vincent Coccoli is conducting or doing business as (“d/b/a”) Millville Associates, Inc.

- (12) On September 27, 2005, DEM issued an Order of Approval to Millville Associates, Inc. for an amendment to the 2004 RAWP. Condition number 6 of the Order of Approval advised Millville Associates, Inc. that Remediation Regulation 8.08 requires a Responsible Party to take affirmative steps to ensure that the concentration of any hazardous material in groundwater on property which is not under the control of the performing party does not exceed GB groundwater objectives.
- (13) Review of the North Providence Tax Assessor’s records revealed that the Pearl Property was purchased by Kevin O’Sullivan on June 8, 2006.
- (14) On September 21, 2006, DEM received a report entitled “Monitoring Well Sampling Activities” dated September 18, 2006 prepared by LFR relating to the Subject Property. The report contained analytical test results for groundwater samples collected on August 21, 2006 from groundwater monitoring wells located on the Subject Property. Review of the analytical test results revealed that volatile organic compounds were detected in the samples at concentrations exceeding the GB groundwater objectives in the Remediation Regulations. The following table contains a summary of a portion of the analytical test results contained in the report.

<u>Volatile Organic Compound</u> <u>Sample Location</u>	<u>1,1-Dichloroethene</u>	<u>Cis-1,2-Dichloroethene</u>	<u>1,1,1-Trichloroethane</u>	<u>Tetra-chloroethene</u>	<u>Tri-chloroethene</u>
MW-1	ND	ND	ND	ND	ND
MW-2	0.023	4.94	4.19	7.57	3.59
MW-3	ND	ND	ND	ND	ND
MW-4	ND	0.001	0.159	0.0207	0.0033
MW-5	ND	ND	0.0095	0.0026	ND
MW-6	0.0027	0.0607	0.527	1.74	0.0756
MW-7	0.0248	3.05	5.52	13.1	2.89
MW-8	0.0075	0.063	0.908	1.27	0.202
MW-9	NS	NS	NS	NS	NS
DEM GB groundwater objective	0.007	2.4	3.1	0.15	0.54

All results and objectives listed above in mg/L = parts per million

ND = Non Detected; NS= Not Sampled

NS= Not Sampled

Bold = Exceedance of DEM GB groundwater objective

- (15) On October 10, 2006, DEM issued an Interim Letter of Compliance to Millville Associates, Inc. regarding the remediation of the Pearl Property. In the letter, DEM stated that the soils on the Pearl Property had been brought into compliance with the soil objectives in the Remediation Regulations. The letter required Millville Associates, Inc. to continue

sampling the groundwater on a quarterly basis and to submit test results to DEM. The letter also indicated that the groundwater contamination identified on the Subject Property remained unresolved.

- (16) On December 22, 2006, DEM issued a Letter of Non-Compliance ("LNC") to Millville Associates, Inc. for failure to address the groundwater and soil contamination on the Subject Property caused by the release of volatile organic compounds from the Pearl Property. The LNC required Millville Associates, Inc. to submit a remedial action work plan to DEM to address the contamination on the Subject Property by February 1, 2007.
- (17) On January 10, 2007, JWC submitted to DEM a Remedial Action Work Plan (the "2007 RAWP") on behalf of Millville Associates, Inc. in response to the LNC. The 2007 RAWP proposed the installation and operation of a Soil Vapor Extraction and Air Sparge ("SVE/AS") system on the Subject Property to remediate the groundwater and soil contamination. The 2007 RAWP indicated that the SVE/AS system would be installed on the Subject Property within two weeks of receiving approval from the DEM.
- (18) On January 23, 2007, DEM issued an Order of Approval (the "OA") to Millville Associates, Inc. for the 2007 RAWP. The OA required Millville Associates, Inc. to initiate the 2007 RAWP on or before February 28, 2007.
- (19) On February 9, 2007, JWC submitted a letter to DEM reporting that groundwater samples collected from the Pearl Property were analyzed for the presence of volatile organic compounds and the tests results indicated that said compounds were not detected in the samples.
- (20) On March 7, 2007, DEM received a letter from the attorney for Thelma Realty, LLC stating that there was no evidence that any remediation activities on the Subject Property required under the OA had taken place.
- (21) On March 8, 2007 DEM issued a Letter of Compliance to Millville Associates, Inc. and Kevin O'Sullivan stating that the Pearl Property was in compliance with the Remediation Regulations. DEM further stated that the letter did not relieve Millville Associates, Inc. or The Pearl Trust from their responsibilities to remediate groundwater contamination on the Subject Property pursuant to the OA.
- (22) On June 15, 2007, DEM issued a Notice of Intent to Enforce ("NIE") to Millville Associates, Inc. and The Pearl Trust for alleged violations associated with the release of hazardous materials on the Subject Property and for failing to comply with the OA. The NIE required Millville

Associates, Inc. and The Pearl Trust to notify DEM of their intent to comply with the requirements of the NIE and to commence the installation and operation of the approved remedial system on the Subject Property on or before July 15, 2007.

- (23) On March 6, 2009, DEM issued a letter to each Respondent advising the Respondent that DEM was considering issuing a Notice of Violation for the failure to complete the remediation of the Subject Property as required in the OA. The letter was sent via certified mail and was delivered to each Respondent.
- (24) Upon information and belief, the Respondents have failed to comply with the OA.
- (25) R.I. General Laws § 23-19.14-6 imposes strict, joint and several liability for any actual or threatened release of any hazardous material on the responsible parties defined therein.

C. Violations

Based on the forgoing facts, the Director has reasonable grounds to believe that you have violated the following statutes and/or regulations:

- (1) **Remediation Regulation 4.02**, requiring a party that is notified of a potential unpermitted disposal, release or presence of hazardous materials to initiate investigation and take action.
- (2) **Remediation Regulation 8.08**, requiring a performing party to take affirmative steps to eliminate migration of any hazardous materials (substances) originating from its property onto property which is not under the control of the performing party.

D. Order

Based upon the violations alleged above and pursuant to *R.I.G.L. §42-17.1-2(21)*, you are hereby **ORDERED** to:

- (1) **Within thirty (30) days of receipt of this Notice of Violation ("NOV")** commence the installation and operation of the approved remedial system on the Subject Property in accordance with OA and continue with the operation until DEM authorizes remedial actions to cease.

E. Assessment of Penalty

- (1) Pursuant to *R.I.G.L. §42-17.6-2*, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby **ASSESSED**, jointly and severally, against each named Respondent as follows:

Forty Five Thousand Dollars (\$45,000)

- (2) The proposed administrative penalty is calculated pursuant to the *DEM Rules and Regulations for Assessment of Administrative Penalties*, as amended, and must be paid to the Director within twenty (20) days of your receipt of the NOV. Payment shall be in the form of a certified check or money order made payable to the "General Treasury – Environmental Response Fund," and shall be forwarded to: DEM – Office of Compliance and Inspection, 235 Promenade Street, Suite 220, Providence, RI 02908-5767.
- (3) Penalties assessed against respondents in this NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if the Director determines that reasonable efforts have been made to comply promptly with this NOV.

F. Right to Administrative Hearing

- (1) Pursuant to *R.I.G.L. §§42-17.1-2(21)(i), 42-17.6-4 and Chapter 42-35*, each named Respondent is entitled to request a hearing before the Director or his designee regarding the allegations, orders and/or penalties set forth in Paragraphs B through E, above. **All requests for hearing MUST:**
- (a) Be in writing. *See R.I.G.L. §§42-17.1-2(21)(i) and 42-17.6-4(a)*;
- (b) Be **RECEIVED** by DEM's Administrative Adjudication Division within twenty (20) days of your receipt of this NOV. *See R.I.G.L. §§42-17.1-2(21) and 42-17.7-9*;

- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I.G.L. §42-17.6-4; AND
- (d) State clearly and concisely the specific issues that are in dispute, the facts in support thereof and the relief sought or involved, if any. See Rule 7.00(b) of the Administrative Rules of Practice and Procedure for the Administrative Adjudication Division of Environmental Matters.

(2) All written requests for hearing must be forwarded to:

Chief Hearing Officer
DEM – Administrative Adjudication Division
235 Promenade Street, Suite 310
Providence, RI 02908-5767

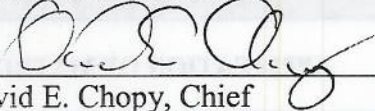
(3) A copy of each request for hearing must also be forwarded to:

Richard M. Bianculli Jr., Esq.
DEM – Office of Legal Services
235 Promenade Street, Suite 425
Providence, RI 02908-5767

- (4) Each named Respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (5) If any Respondent fails to request a hearing in the above-described time or manner with regard to any violation set forth herein, then this NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I.G.L. §§42-17.1-2(21)(i) and(v) and 42-17.6-4(b).
- (6) Failure to comply with this NOV may subject each Respondent to additional civil and/or criminal penalties.
- (7) An original signed copy of this NOV is being forwarded to the town of North Providence wherein the Subject Property is located to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 23-19.1-33, as amended.
- (8) This NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any questions, please contact Tracey Tyrrell of the Office of Compliance and Inspection at (401) 222-1360, ext. 7407.

FOR THE DIRECTOR



David E. Chopy, Chief
DEM – Office of Compliance & Inspection

Date: November 29, 2010


CERTIFICATION

I hereby certify that on the 29th day of November, 2010, the within NOV was forwarded via Certified Mail to:

Vincent Coccoli
d/b/a Millville Associates, Inc.
10 Nemo Street
North Providence, RI 02911

Kevin O'Sullivan
139 Bishop Street
Pawtucket, RI 02860

The Pearl Trust
c/o Mr. Patrick T. Conley, Trustee
1445 Wampanoag Trail
East Providence, RI 02915





ADMINISTRATIVE PENALTY SUMMARY

Program: Office of Compliance & Inspection-Site Remediation

File Number: SR-08-001

Respondents: Millville Associates, Inc., Kevin O'Sullivan, and The Pearl Trust

GRAVITY OF VIOLATION					
SEE "PENALTY MATRIX WORKSHEET(S)" ATTACHED					
VIOLATION NO. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	No. or Duration of Violations or Other Multiplier	
C(1) & C(2)- Failure to mitigate release of hazardous materials	Type I (\$1,000 Max. Penalty)*	Major	\$1,000	45 months	\$45,000
SUB-TOTAL					\$45,000

*Maximum Penalties represent the maximum penalty amounts per-day, per-violation

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$45,000

PENALTY MATRIX WORK SHEET

Citation: Failure to mitigate release of hazardous materials

Violation No.: C (1) and C (2)

TYPE

TYPE I

Directly related to the protection of the public health, safety, welfare or environment.

DEVIATION FROM THE STANDARD

THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.

FACTORS CONSIDERED: in accordance with Section 10 (a) (2) of the DEM Rules and Regulation for Assessment of Administrative Penalties:

- (A) **The extent to which the failure to act was out of compliance:** Respondents failed to take action to mitigate the release of hazardous materials to the groundwater. Respondents Millville and The Pearl Trust previously owned and Respondent O’Sullivan currently owns the Pearl Property which was determined to be the source of a release of hazardous materials. DEM notified Respondent Millville through an Order of Approval of its obligation to address the groundwater contamination on abutting properties that resulted from the release of hazardous materials on the Pearl Property.
- (B) **Environmental conditions:** The Subject Property is located in an area classified by the DEM as a GB groundwater resource.
- (D) **The toxicity or nature of the pollutant:** The chlorinated volatile organic compounds detected in the groundwater on the Subject Property include, but are not limited to, 1,1-Dichloroethene, cis-1,2-Dichloroethene, Tetrachloroethene, 1,1,1-Trichloroethane and Trichloroethene. These compounds have been identified as suspected human carcinogens and are currently under review by the Environmental Protection Agency.
- (E) **Duration of violation:** Respondents were obligated by the DEM Order of Approval to initiate the RAWP on or before February 28, 2007 to resolve groundwater contamination on the Subject Property caused by the release of hazardous materials.
- (G) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the non-compliance:** Respondents failed to take appropriate steps to mitigate the release of hazardous materials to the groundwater on the Subject Property. On December 22, 2006, DEM issued a Letter of Non-Compliance to Respondent Millville for failure to address the offsite groundwater and soil contamination by the release of volatile organic compounds from the Pearl Property. On January 23, 2007, DEM issued an Order of Approval (OA) to Respondent Millville for the RAWP dated January 10, 2007. The Order of Approval required Respondent Millville to initiate the RAWP on or before February 28, 2007. On June 15, 2007, DEM issued a Notice of Intent to Enforce to Respondent Millville for alleged violations associated with the release of hazardous materials on the Subject Property and for failing to comply with the requirements of the OA. DEM issued a letter to the Respondents on March 6, 2009 advising the Respondents that DEM was considering issuing a Notice of Violation for the failure to complete the remediation of the Subject Property as required in the OA.
- (I) **The degree of willfulness or negligence, including but not limited to, how much control the violator has over the occurrence of the violation and whether the violation was foreseeable:** Respondents had or have control over the occurrence of the violation and failed to take appropriate steps to address the offsite ground water contamination caused by the release of hazardous materials on the Pearl Property.

MAJOR

Penalty Matrix for Violations of Rhode Island General Laws as amended and Rules, Regulations, Permits, Licenses, and Orders adopted thereunder where the applicable statute provides for a civil penalty up to \$25,000.00.

		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$800 - \$1,000 \$1,000	\$600 - \$800	\$400 - \$600
	MODERATE	\$600 - \$800	\$400 - \$600	\$200 - \$400
	MINOR	\$400 - \$600	\$200 - \$400	\$100 - \$200

