

From: Walter Hang <walter@toxicstargeting.com>

Subject: Two Maps that Identify Contaminated Areas of the Proposed Stone Quarry Apartments Site Which Should be Remediated to Meet "Unrestricted Use" Requirements

7/29/2014 Email to Ithaca Mayor Svante Myrick

Dear Mr. Mayor:

As a follow up to my last letter, I am providing two maps that identify extensive contaminated areas at the proposed Stone Quarry Apartments site which should be remediated to meet the "unrestricted use" and other clean up requirements that I referenced.

This information was obtained from the two Phase II Site Assessment Reports that I obtained through Freedom of Information and posted for public review. See: <http://www.toxicstargeting.com/node/44902>

Figure One illustrates where chemical and petroleum odors, stained soils and/or Photoionization (PID) detections were reported in soil borings. Soil and groundwater contamination concentrations are also referenced.

Please note that the boring locations reveal wide areas of the site which were never sampled or analyzed for toxic chemical contamination. That is why a far more thorough site investigation is urgently needed.

The second figure delineates the area encompassed by boring locations that exhibited clear indications of soil contamination. The volume of dirt in that area from the land surface to the water table totals approximately 3,700 cubic yards.

As you can see, that delineated area underlies portions of all three proposed Apartment structures.

If WB-10 is included in the delineation, where high-level manganese contamination was reported in exceedance of state standards at the northern end of the site, the volume of contaminated dirt would have been even larger.

For all the reasons that I have detailed in writing, I believe it would be unconscionable to permit the proposed apartment project to receive final construction approval without first requiring the site to be investigated and remediated on a comprehensive basis in compliance with the most rigorous applicable requirements, including "unrestricted use" for contaminated soils.

Until that request has been fulfilled as referenced in the letter below, I reiterate my request that

final construction approval be withheld for the proposed project.

Please do not hesitate to contact me if I can answer questions that my requests might have raised.

Thank you for your consideration.

Very truly yours,

Walter Hang

Dear Mr. Mayor:

Thank you very much for your response to my two letters regarding the inadequate investigation and clean up of the proposed Stone Quarry Apartments site where extensive soil as well as groundwater contamination has been documented in exceedance of New York State remediation requirements.

With all respect, I write to clarify your first sentence referenced below. I appreciate that this is a highly complex and dynamic matter that could result in misunderstanding.

As I explained in considerable technical detail, I DO NOT SUPPORT a "thorough investigation and clean up of contaminants in the soil and groundwater found at the Stone Quarry Apartment project site to meet **residential standards** (emphasis added)."

On the contrary, I specifically requested that "the Stone Quarry Apartments project site be cleaned up to fulfill "**unrestricted use**" soil remediation requirements by utilizing "source removal" techniques.

As I documented in Table One of my 7/21/14 letter, "**unrestricted use**" soil clean up requirements are often orders of magnitude more protective of public health and the environment than "residential" soil clean up requirements.

See: http://www.toxictargeting.com/Ithaca/2014-07-21/Stone-Quarry-Apts_letter

Moreover, I specifically requested that the "proposed Stone Quarry Apartments Site be investigated and remediated on a comprehensive basis." I further emphasized that the site must "be required to be cleaned up to the most rigorous applicable standards available." That

would include the soil as well as groundwater requirements which I referenced in Table One of my letter.

Finally, with no disrespect intended, I believe that the mitigation effort you referenced is unacceptable because it clearly does not fulfill requirements applicable to the two spills at the proposed project site pursuant to the Department of Environmental Conservation's "CP-51 / Soil Cleanup Guidance:"

"The goal of the Petroleum Spill Response Program is to achieve pre-spill conditions [6 NYCRR 611.6(a)(4)]. Remedial activities under this program shall be undertaken relative to the petroleum contamination that was released along with any co-mingled contamination from other sources. **The remedial party shall achieve, to the extent feasible, the unrestricted** (emphasis added) SCOs (soil clean up objectives, not in the original) for petroleum-related contaminants listed in 6 NYCRR Table 375-6.8(a)."

In addition, DEC's guidance requires:

"This document is used in conjunction with the applicable statutes, regulations and guidance. Site-specific soil cleanup levels, determined in accordance with this guidance, are only applied after:

- the site, or area of concern, is fully investigated (emphasis added) to determine the nature and extent of contamination;
- all sources of contamination are addressed consistent with the hierarchy provided in 6 NYCRR 375-1.8(c) or consistent with the RCRA Corrective Action Program (as appropriate);
- groundwater, if contaminated, has been evaluated for appropriate remedial actions consistent with 6 NYCRR 375-1.8(d) or consistent with the RCRA Corrective Action Program (as appropriate); and
- impacts on adjacent residential properties, surface water, aquatic ecological resources are evaluated, as well as indoor air, soil vapor, vapor intrusion and other appropriate media.

See: http://www.dec.ny.gov/docs/remediation_hudson_pdf/cpsoil.pdf

Conclusion

I do not believe there can be any dispute that the stringent requirements referenced above have not been fulfilled in any meaningful way for the proposed Stone Quarry Apartments site, particularly with regard to investigating adjoining "residential properties" threatened by toxic soil vapor intrusion. Given that two on-site spills were reported nearly two years ago, those requirements should have been met long before now.

In conclusion, if the parties responsible for the proposed Stone Quarry Apartments site do

not agree to fulfill all of the above-referenced requirements for the reasons I have clearly explained, I will promptly take further action to require those applicable investigation and remediation obligations to be met under either the New York State spill remediation program, the Inactive Hazardous Waste Disposal Site program or one of the various Brownfields remediation programs.

Thank you, again, for your reply.

Always sincerely,

Walter Hang

On 7/28/2014 10:05 AM, Svante Myrick wrote:

Hello Walter,

I share your concern for thorough investigation and clean up of contaminants in the soil and groundwater found at the Stone Quarry Apartment project site to meet residential standards.

I fully support reopening of the case by DEC to scrutinize INHS's work plan to clean up contaminants and monitor results of implementing the work plan to ensure the site is safe for residential use and protects neighboring homes.

I understand INHS also prefers DEC to formally approve remediation of the site rather than have the case administratively closed.

It is fortunate that INHS completed a site investigation or these contaminants may not have been identified and earmarked for clean up. They conducted a Phase 1 Environmental Site Assessment which recommended on-site subsurface testing. They then completed on-site testing (Phase II report) and reported the findings to DEC, who has jurisdiction along with the DOH on environmental contamination issues.

This information was followed up with submission of a work plan to excavate and remove soils in two areas (approximately 10' x 10' and 5' x 5') where contaminants were found that exceeded the soil cleanup standard for residential use. INHS is prepared to remove subsurface contaminants and will utilize the services of a professional environmental engineer to design & oversee the site remediation and report outcomes to the DEC.

Additionally, INHS agrees to have their environmental engineer on-call during the site preparation, demolition and construction process to inspect and investigate any suspicious environmental conditions (e.g., odors or staining) identified by the contractor. Furthermore, INHS previously committed to install vapor barriers and depressurized sub-slab ventilation systems under each building to prevent any possibility of any soil gases from entering occupied spaces.

It is important to keep in perspective that all environmental information presented at the Planning & Development Board meeting was voluntarily collected by INHS and submitted to DEC. Prior to the meeting, INHS had already agreed to implement the work plan to address subsurface contamination.

I look forward to remediation of environmental contamination of this site as one more community benefit resulting from this project. Please let me know if you have further concerns about this matter.

Svante Myrick
Mayor, City of Ithaca

From: Walter Hang [walter@toxicstargeting.com]

Sent: Sunday, July 27, 2014 6:55 PM

To: HCRinfo@nyshcr.org; Svante Myrick

Cc: Joseph Murtagh; Cynthia Brock; Donna Fleming; Deb Mohlenhoff; Ellen McCollister; Graham Kerslick; George McGonigal; J.R. Clairborne; Josephine Martell; Stephen Smith; gov.cuomo@chamber.state.ny.us; Charles Pyott

Subject: Updated DEC Spills Information for Proposed Stone Quarry Apartments Site, Ithaca, NY

July 27, 2014

Honorable Svante L. Myrick

Mayor

City of Ithaca

108 East Green Street

Ithaca, NY 14850

Honorable Darryl C. Towns

Commissioner/CEO

New York State Homes and Community Renewal

Hampton Plaza

38-40 State Street

Albany, NY 12207

Re: Updated DEC Spills Information for Proposed Stone Quarry Apartments Site, Ithaca, NY

Greetings:

On 7/21/14, I wrote respectfully to request that you take immediate action to withhold final construction approval for the proposed Stone Quarry Apartments in Ithaca, NY pending comprehensive investigation and remediation of extensive toxic chemical contamination at the project site in exceedance of New York State clean up requirements. See copy of my letter below.

I referenced two spills that had been reported at the proposed project site. I write today to provide important new information about those spills.

Updated DEC Information for “Reopened” Spill Number 1210943.

According to the New York State Department of Environmental Conservation (DEC), Spill number 1210943 was reported on 11/14/2012 for a “VACANT LOT COMMERCIAL” at “330 OLD ELMIRA RD/BEHIND 400 SPENCER RD” in “ITHACA.”

That spill had been administratively closed on 11/21/13: “Tim Seeler to submit Phase 2 investigation for evaluation/recommendation by DEC.

11/21/2013- no data was ever submitted-closing spill.”

According to a newly released updated spill report:

“11/21/13-no data was ever submitted-closing spill. **See Spill No. 121561 for Phase II report** (emphasis added).”

“**7/23/14 This spill was reopened on 7/23/14. This spill will address contamination associated with spill 12-12561** (emphasis added).”

| This spill reportedly does not meet clean up standards.

| **Updated DEC Information for “Closed” Spill Number 1212561**

| Spill number 1212561 was reported on 11/26/2012 for a “COMMERCIAL PROPERTY” at “330 OLD ELMIRA ROAD (NYS ROUTE 13)” in “ITHACA.”

| 12/11/12 – “rec’d site assessment data. PCB’s [polychlorinated biphenyls, not in the original] present in sample.”

| That spill had been administratively active.

| According to a newly released updated spill report:

| **“07/23/14 was contacted by Susan Cummings (7/22/14) at Geologic who informed me that the address on this spill was entered incorrectly. The correct address is 400-406 Spencer Road. This spill is being closed and will be addressed under spill 12-10943 (emphasis added).”**

| This spill reportedly does not meet clean up standards.

| See complete letter at: <http://www.toxicstargeting.com/Ithaca/2014-07-25/Stone-Quarry-Apts-letter>