

IN THE SUPERIOR COURT OF DELAWARE

IN RE: 512 MAIN STREET,)
STANTON, DE 19804) **N25M-04-017 DJB**
)

Date Submitted: January 5, 2026
Date Decided: February 16, 2026

**ORDER ON THE TRUST’S MOTION FOR REARGUMENT – GRANTED.
AMENDED ORDER GRANTING ACCESS TO 512 MAIN STREET,
STANTON, DE 19804**

1. This matter involves an area of contaminated soil located at 512 Main Street, in Stanton, Delaware (hereinafter “the Property”).¹ The Property is owned by the Ralph V. Estep Family Trust (hereinafter “the Trust”).²

2. The State of Delaware’s Department of Natural Resources and Environmental Control (hereinafter “DNREC”) filed a Petition seeking access to the Property to address the contamination that resulted when an Underground Storage Tank (hereinafter “UST”) released petroleum.

3. The Trust filed a Motion to Dismiss the Petition.³ A two-part hearing was held on the Petition on August 14 and 25, 2025.⁴ Ultimately, the Petition to

¹ *IN RE: 512 MAIN ST, STANTON, DE 19804*, N25M-04-017 DJB, Superior Court Civil Docket Item (hereinafter “D.I.”) 1.

² D.I. 1, ¶ 5. The Trust is not the sole owner of the Property.

³ D.I. 4.

⁴ D.I. 19, 24.

Access the Property was granted upon a finding that the UST contamination created a public safety hazard and is in need of remediation.⁵

4. Following that Order, the Trust moved for reargument.⁶ In response, DNREC proposed a new, amended Order to satisfy the objections raised in the Trust's Motion.⁷ The Trust responded to DNREC's proposal on January 5, 2026, maintaining its opposition to the Petition, but acknowledging that DNREC's modifications address its Motion.⁸

5. A motion for reargument is governed by Superior Court Civil Rule of Procedure 59(e). Reargument is not permitted when the motion simply seeks to rehash the original arguments made and previously presented to the Court.⁹ Unless the Court has overlooked controlling precedent, a legal principle, or misapprehended the law or the facts in a way that has affected the outcome of the decision, such a motion will not be granted.¹⁰

6. In its initial Motion to Dismiss DNREC's Petition, the Trust argued DNREC violated the procedural requirements enumerated in 7 *Del. C.* §7408(e), that "the summary hearing procedure afforded by §7408 does not afford due process

⁵ D.I. 29.

⁶ D.I. 30.

⁷ D.I. 32, 33.

⁸ D.I. 35.

⁹ *Kennedy v. Invacare Corp.*, 2006 WL 488590, *1 (Del. Super. Jan. 31, 2006).

¹⁰ *Id.*

necessary to enter the Property and make the substantial changes DNREC proposes,” and that DNREC’s cause of action should have been pursued under Title 7, Chapter 60.¹¹

7. Following the two-day hearing and after considering the parties’ respective legal submissions, the Motion to Dismiss the Petition was denied. The Order granting DNREC’s Petition, and thus denying the Motion to Dismiss, found that Section 7408(e) of Chapter 7 duly afforded due process to the Trust, that good cause existed to grant DNREC access to this property and that DNREC was proceeded under the proper avenue. Specifically, the Order read:

Public safety concerns mandate DNREC’s access to the Property and access will be allowed in accordance with the supplemental proposed Order. Due process has been afforded to the Trust. Even under a review of this motion pursuant to Superior Court Civil Rule of Procedure 12(b), the Motion is without merit.¹²

An Order permitting entry onto the Property followed, with specific conditions and allowances.¹³

8. The Trust now contends that the Order entered improperly imposes restrictions on the neighboring property located at 608-510 Main Street, Newport, which was beyond the scope of the hearing. The Trust argues that the Court does not have authority to impose obligations on a property other than the one listed in

¹¹ *Id.*

¹² D.I. 29.

¹³ *Id.*

the original Petition and upon which a hearing was held and reiterates the limitations of an *in rem* proceeding.¹⁴

9. DNREC's response seemingly acknowledges the Trusts concerns and proposed a modified Order limiting the access to the Property itself for the necessary remediation.¹⁵

10. The Trust's reply to DNREC's proposed amended Order and Response acknowledged that the proposed Amendments satisfy the issues raised in the Motion for Reargument. However, the Trust preserved its objections made to the initial Petition for purpose of appellate review.¹⁶

11. Accordingly, the Motion for Reargument is **GRANTED** as unopposed, and the original Order entered on October 24, 2026, is **MODIFIED**, in recognition that good cause exists to permit entry onto the Property, that significant public safety concerns remain present on the Property and remediation is necessary, but further balancing the inevitable inconvenience to affected parties.

12. Therefore, the **ORDER** permitting entry will be modified as follows:¹⁷

[ORDER CONTINUES ON NEXT PAGE]

¹⁴ D.I. 30.

¹⁵ D.I. 32-33.

¹⁶ D.I. 34.

¹⁷ Additional restrictions imposed have been underlined for easier review by the Parties. Portions of the original Order were stricken without notation, however.

On this 16th day of February, 2026, upon review and consideration of Petitioner Delaware Department of Natural Resources and Environmental Control's ("DNREC") Petition for Access, the Trust's Response in Opposition/Motion to Dismiss, the Trust's Motion for Reargument and DNREC's Response, as well as the hearing on the initial Petition and all legal memorandum submitted before the Court;

IT IS HEREBY ORDERED that DNREC and/or its contractor(s) may access the Property as follows:

1. DNREC and/or its contractor(s) may access the property for two (2) days for the purpose of taking soil borings and soil samples to characterize the soil to be disposed in the over excavation process.

2. DNREC and/or its contractor(s) may access the Property daily, for thirty (30) continuous days, between the hours of 8 A.M. and 6 P.M., to perform an over excavation of the release. Those thirty (30) continuous days shall commence when DNREC and/or its contractor(s) commence the over excavation process.

a. The over excavation will be performed pursuant to a workplan that DNREC shall share with the Property owner and shall submit to the Court.

b. The workplan shall incorporate reasonable efforts to minimize the disruption to the Property owner's tenants, but such efforts will not include any actions inconsistent with workplace and public safety considerations, and with the

effective removal of contamination from the soil and groundwater at and under the Property.

c. Two weeks prior to commencement of the over excavation, DNREC and/or its contractor(s) shall meet, in person or virtually, with the Property owner and any tenants interested in attending. The purpose of the meeting shall be to explain the workplan, the efforts that will be taken to minimize disruption, routes of access to the parcel by customers, and the schedule of remedial activities on the Property.

d. During over excavation operations, DNREC and/or its contractors, using their professional judgment, shall have the right to make the final determination about all over excavation operations, and all workplace and public safety measures, at the site so long as it is limited to the Property.

e. At least two days prior to the commencement of over excavation operations, the Property owner shall remove, or cause its tenants to remove, any storage units or other objects that may interfere with the excavation area, as set forth in the workplan. This obligation may also extend to the onsite taco truck if the workplan determines that moving the taco truck is necessary. The Property owner, or its tenant, shall, if necessary, at least two days prior to commencement of over excavation operations, relocate any obstructions on the property that would frustrate the purpose of this remediation to an area away from the area of over excavation as reflected in the workplan.

3. At the conclusion of the over excavation, and during the thirty (30) continuous day access period referenced in paragraph 2, above, DNREC and/or its contractor(s) shall fill the over excavation area with appropriate backfill material and shall repair any damage to the asphalt parking area surface caused by the over excavation process. All efforts shall be made to restore the parking area, as closely as possible, to its original condition prior to the over excavation process.

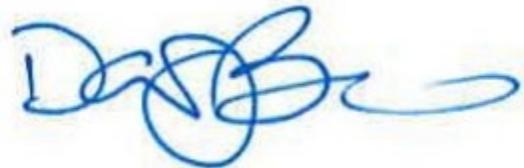
4. Within thirty (30) days after the conclusion of the over excavation, DNREC and/or its contractor(s) may access the Property for a period of one (1) calendar week to install groundwater monitoring wells, however, notice of this entry must be provided to the Property owner and entrance should be limited in nature and in the least disruptive means possible to the Property owner and/or any tenants.

5. After the groundwater monitoring wells are installed, DNREC and/or its contractor(s) may then access the Property for the purpose of taking quarterly samples from all installed monitoring wells, and to make any repairs to monitoring wells as necessary, to ensure that all of the remediations performed were successful and no longer pose a public safety concern. Neither the Property owner nor its tenants shall take any actions to interfere with the operation of these monitoring wells. Access by DNREC and/or its contractor(s), shall be permitted for a period of two (2) years from the date of the initial installation of the monitoring wells, for purposes of quarterly monitoring and for monitoring well maintenance and repair.

6. This Court shall retain jurisdiction over this matter until the conclusion of the two (2)-year monitoring period as set forth in paragraph 5, above. DNREC shall, at the conclusion of the two (2)-year monitoring period, and as soon as the report is reasonably available, provide to the Court and to the Property owner a report on the status of the remedial action at the Property.

7. Should DNREC conclude, at any point after over excavation, that additional remediation to the Property is necessary, DNREC shall submit a new Petition explaining in detail any proposed additional remediation, and a further hearing may be held to evaluate the impacts on the Property of such proposed further remediation.

IT IS SO ORDERED.



Danielle J. Brennan, Judge

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