



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

June 16, 2016

REPLY TO THE ATTENTION OF:

SE-5J

**GENERAL NOTICE LETTER  
URGENT LEGAL MATTER  
CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Trex Properties, LLC  
C/O Paul F. Bohn  
Fausone Bohn, LLP  
41700 West Six Mile Road, Suite 101  
Northville, Michigan 48168

Re: General Notice Letter for the Trex Properties Grand Rapids Site in Grand Rapids, Michigan

Dear Mr. Bohn:

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the EPA is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment – that is, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. The EPA has documented that such a release has occurred at the Trex Properties Grand Rapids Site (Site). The EPA has spent, or is considering spending, public funds to investigate and control releases of hazardous substances or potential releases of hazardous substances at the site. Based on information presently available to the EPA, the EPA has determined that Trex Properties, LLC may be responsible under CERCLA for cleanup of the site or costs the EPA has incurred in cleaning up the Site.

**Explanation of Potential Liability**

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the site, unless the PRP can demonstrate divisibility or assert one of the statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the Site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that Trex Properties, LLC may be liable under Section 107(a) of CERCLA with respect to the Trex Properties Grand Rapids Site, as an owner and/or operator of the site.

To date, the EPA has taken response actions at the site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site.

- Developed and implemented a Health and Safety Plan (HASP)
- Collected and analyzed indoor air samples
- Collected water samples from a nearby storm sewer and outfall to the Grand River
- Performed air monitoring and screening of the indoor air
- Conducted site documentation

### **Proposed Work**

On June 14, 2016, Trex Properties, LLC agreed to install a vapor mitigation system at 312 Ellsworth Avenue SW, which was ordered evacuated by the Kent County Health Department. Additional proposed work is as follows:

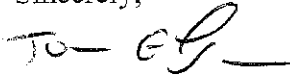
- Develop and implement a Site Specific Health and Safety Plan
- Develop and implement a Site Specific Work Plan
- Investigate and characterize the extent of TCE and other associated contamination in the soil both on and off-site
- Investigate and characterize the extent of TCE and other associated contamination in the groundwater both on and off-site
- Investigate storm sewers and outfalls for TCE and other associated contamination
- Perform removal of the TCE source soils and contaminated groundwater
- Perform sub-slab soil vapor sampling at other off-site potentially impacted buildings
- Install vapor mitigation systems at on and off-site impacted properties with elevated sub-slab and/or indoor air levels of TCE and other associated contamination
- Perform indoor air sampling at buildings with sub-slab levels of TCE and other associated contamination

### **Information to Assist You**

The EPA will establish an Administrative Record that contains documents that serve as the basis for the EPA's selection of a cleanup action for the site. Once completed, the Administrative Record will be located at the Grand Rapids Public Library located at 111 Library St. NE, Grand Rapids, MI 49503. It will be available to you and the public for inspection and comment. The Administrative Record will also be available for inspection and comment at the Superfund Records Center, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please give these matters your immediate attention and consider consulting with an attorney. If you have any questions regarding this letter, please contact Jeff Lippert at (734) 308-1695 or for legal matters contact Mark Koller of the EPA Office of Regional Counsel at (312) 353-2591 or by e-mail at [Koller.Mark@epa.gov](mailto:Koller.Mark@epa.gov) . Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason El-Zein", with a horizontal line extending to the right.

Jason El-Zein  
Chief Emergency Response Branch #1

Attachments

cc: Mark Koller, ORC (C-14J)



## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### Small Business Programs

[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness) EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

### EPA's Asbestos Small Business Ombudsman

[www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888  
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

### EPA's Compliance Assistance Homepage

[www2.epa.gov/compliance](http://www2.epa.gov/compliance) This page is a gateway industry and statute-specific environmental resources, from extensive webbased information to hotlines and compliance assistance specialists.

**EPA's Compliance Assistance Centers** [www.assistancecenters.net](http://www.assistancecenters.net)  
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

### Agriculture

[www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org) **Automotive Service and Repair**  
[ccar-greenlink.org/](http://ccar-greenlink.org/) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org) or 1-734-9954911

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Metal Finishing

[www.nmfrc.org](http://www.nmfrc.org)

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### Transportation

[www.tercenter.org](http://www.tercenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines, Helplines and Clearinghouses

[www2.epa.gov/home/epahotline](http://www2.epa.gov/home/epahotline)  
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-5410800

### Superfund, TRI, EPCRA, RMP and Oil Information Center

[www.epa.gov/superfund/contacts/infocenter/index.htm](http://www.epa.gov/superfund/contacts/infocenter/index.htm) or 1-800-4249346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-8587378

### National Response Center

**Hotline** to report oil and hazardous substance spills - [www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC) -

[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799

### Safe Drinking Water Hotline -

[www.epa.gov/drink/hotline/index.cfm](http://www.epa.gov/drink/hotline/index.cfm) or 1-800-426-4791

### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone/comments.htm](http://www.epa.gov/ozone/comments.htm) or 1-800-296-1996

### Toxic Substances Control Act (TSCA) Hotline

[tsc hotline@epa.gov](mailto:tsc hotline@epa.gov) or 1-202-554-1404

### Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html> EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

### Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

### State Resource Locators

[www.envcap.org/statetools](http://www.envcap.org/statetools)

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

### State Small Business Environmental Assistance

**Programs (SBEAPs)** [www.epa.gov/sbo/507program.htm](http://www.epa.gov/sbo/507program.htm)  
State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

### EPA's Tribal Portal

[www.epa.gov/tribalportal/](http://www.epa.gov/tribalportal/)

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

### EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

### EPA's Small Business Compliance Policy

[www2.epa.gov/enforcement/small-businesses-and-enforcement](http://www2.epa.gov/enforcement/small-businesses-and-enforcement) This Policy offers small businesses special incentives to come into compliance voluntarily.

### EPA's Audit Policy

May 2015

[www2.epa.gov/compliance/epas-audit-policy](http://www2.epa.gov/compliance/epas-audit-policy) The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

### Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

*EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.*