



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Contaminated Site Remediation & Redevelopment

Bureau of Enforcement and Investigations

Mail Code 401-06U

P.O. Box 420

Trenton, New Jersey 08625-0420

Tel: (609)633-1480

PHILIP D. MURPHY  
*Governor*

TAHESHA L WAY  
*Lt. Governor*

SHAWN M. LATOURETTE  
*Commissioner*

AEN Urban Renewal LLC

Attn: Dr. Jonathan Lewin

177 North Dean Street

Suite 301

Englewood, NJ 07631

(via email: [drjdlewin@gmail.com](mailto:drjdlewin@gmail.com))

AUG 28 2024

Re: Administrative Consent Order  
Orange Automotive  
43-45 South Center Street, Orange City Township, Essex County  
PI #: 024050  
LSR 100001 Case #: 93-03-12-1005-00

Dear AEN Urban Renewal LLC:

Enclosed is a copy of the Administrative Consent Order fully executed by both AEN Urban Renewal LLC and the New Jersey Department of Environmental Protection regarding the above referenced Site. This Administrative Consent Order is now in effect and resolves all penalties associated with the failure to comply with the direct oversight provisions.

Should you have any questions please contact Gillian Schwert at (609) 940-4724 or email at [Gillian.Schwert@dep.nj.gov](mailto:Gillian.Schwert@dep.nj.gov).

Sincerely,

Ann H. Wolf, Assistant Director  
Enforcement and Information Support Element

Enclosure: Administrative Consent Order (1 Original)

C: Gillian Schwert, BEI (email only)  
Samuel Simon, DOL (email only)  
Michael DiFazio II, Esq. (email only)  
Karen Lacey, LSRP (email only)  
Jennifer MacLeod, RFS Unit (email only)



Reform Act requires the Department to undertake direct oversight of the remediation of the Site pursuant to the requirements in N.J.S.A. 58:10C-27c. See also N.J.A.C. 7:26C-14.2(b).

5. On April 11, 2024, AEN Urban Renewal LLC submitted to the Department an initial detailed cost review pursuant to N.J.A.C. 7:26C-14.2(b)2i.
6. On April 29, 2024, AEN Urban Renewal LLC submitted to the Department a proposed public participation plan, and on May 20, 2024, AEN Urban Renewal LLC submitted to the Department a revised public participation plan pursuant to N.J.A.C. 7:26C-14.2(b)2iii.
7. Based on AEN Urban Renewal LLC's demonstrated compliance referenced in Paragraphs 5 and 6 above, the Department finds that pursuant to N.J.A.C. 7:26C-14.4, it is in the public interest and protective of public health and safety and the environment to adjust certain direct oversight provisions as specifically outlined below, provided AEN Urban Renewal LLC remains in full compliance with this Administrative Consent Order.
8. The Department has agreed that AEN Urban Renewal LLC may utilize any type of remediation funding source, except a self-guarantee, specified in N.J.A.C. 7:26C-5.
9. On June 5, 2024, AEN Urban Renewal LLC established a Remediation Trust Fund in the amount of \$281,452.00 pursuant to N.J.A.C. 7:26C-5.
10. On June 14, 2024, AEN Urban Renewal LLC submitted the 1 percent annual remediation funding source surcharge in the amount of \$2,814.52 pursuant to N.J.A.C. 7:26C-14.2(b)5.
11. Without any admission of fact, fault, or liability, AEN Urban Renewal LLC agrees to remediate, pursuant to this Administrative Consent Order, all hazardous substances, hazardous wastes, and pollutants discharged at the Site.

**NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:**

**Remediation**

12. AEN Urban Renewal LLC shall remediate the Contaminated Site, including all discharges at the Site discovered during the remediation as the Department directs, pursuant to N.J.A.C. 7:26C-14.2(b)1, and according to this Administrative Consent Order, the Brownfield and Contaminated Site Remediation Act, N.J.S.A.58:10B-1 to -31, the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.
13. AEN Urban Renewal LLC shall maintain a licensed site remediation professional for the remediation of the Contaminated Site, pursuant to N.J.A.C. 7:26C-14.2(b)1.

14. AEN Urban Renewal LLC shall ensure that each licensed site remediation professional involved in the remediation of the Contaminated Site makes all submissions concerning the remediation required by the Department simultaneously to the Department and to AEN Urban Renewal LLC, pursuant to N.J.A.C. 7:26C-14.2(b)7.
15. On May 20, 2024, the Department approved the public participation plan. AEN Urban Renewal LLC shall implement the public participation plan according to the Department's approved schedule, pursuant to N.J.A.C. 7:26C-14.2(b)8.
16. By September 1, 2026, with no extensions, AEN Urban Renewal LLC shall submit to the Department a remedial investigation report, pursuant to N.J.A.C. 7:26E-4.9, based upon a remedial investigation of the Contaminated Site conducted pursuant to N.J.A.C. 7:26E-4.
17. If AEN Urban Renewal LLC has submitted the remedial investigation report in compliance with Paragraph 16, AEN Urban Renewal LLC may continue to comply with the following direct oversight adjustments otherwise specified at N.J.A.C. 7:26C-14.2(b):
  - a. Proceed with the remediation without prior Department approval;
  - b. Pay annual remediation fees pursuant to N.J.A.C. 7:26C-4.3(a), in lieu of the direct oversight costs;
  - c. AEN Urban Renewal LLC does not have to submit a feasibility study to the Department;
  - d. AEN Urban Renewal LLC does not have to submit a receptor evaluation pursuant to N.J.A.C. 7:26C-14.2(b)2iv;
  - e. AEN Urban Renewal LLC does not have to submit a direct oversight remediation summary report; and
  - f. AEN Urban Renewal LLC may select the protective remedial actions for the Contaminated Site pursuant to N.J.A.C. 7:26C and N.J.A.C. 7:26E.
18. However, if the Department determines, in its sole discretion, that AEN Urban Renewal LLC has failed to submit the remedial investigation report pursuant to Paragraph 16 or comply with any provision of this Administrative Consent Order, or the Department has determined that the remedial investigation is not complete, then the Department will provide written notice of its determination to AEN Urban Renewal LLC.
19. Upon AEN Urban Renewal LLC's receipt of the written notice from the Department described in Paragraph 18, shall proceed with the remediation as the Department directs, pursuant to N.J.A.C. 7:26C-14.2(b)1, and the following:

- a. AEN Urban Renewal LLC shall not make any disbursements from the remediation funding source without the Department's prior written approval, pursuant to N.J.A.C. 7:26C-14.2(b)6;
  - b. Within 60 days after receipt of the Department's written notice described in Paragraph 18, AEN Urban Renewal LLC shall submit to the Department a feasibility study of potential alternatives for each area of concern at the Site, as the Department directs and pursuant to N.J.A.C. 7:26C-14.2(b)3 and U.S. Environmental Protection Agency, "The Feasibility Study: Detailed Analysis of Remedial Action Alternatives," (March 1990) OSWER 9355.3-01FS4, NTIS: PB90-272675INX;
  - c. Within 60 days after receipt of the Department's written notice described in Paragraph 18, AEN Urban Renewal LLC shall submit to the Department a receptor evaluation, pursuant to N.J.A.C. 7:26C-14.2(b)iv;
  - d. Within 60 days after receipt of the Department's written notice described in Paragraph 18, AEN Urban Renewal LLC shall submit to the Department a direct oversight remediation summary report, pursuant to N.J.A.C. 7:26C-14.2(b)2v; and
  - e. AEN Urban Renewal LLC shall, as the Department directs, implement each remedial action at the Contaminated Site, pursuant to N.J.A.C. 7:26C-14.2(b)4.
20. By September 1, 2029, which considers the Department's February 1, 2021, Notice of Rule Waiver pursuant to Executive Order 103, with no extensions, AEN Urban Renewal LLC shall complete the implementation of all remedial actions and obtain all applicable remedial action permits for the Contaminated Site selected pursuant to either Paragraph 17. f. or Paragraph 19.e., as applicable.
21. By September 1, 2029, with no extensions, AEN Urban Renewal LLC shall submit to the Department a final remedial action report pursuant to N.J.A.C. 7:26E-5.8 and a Response Action Outcome, pursuant to N.J.A.C. 7:26C-6.2, based upon the implementation of remedial actions at the Contaminated Site in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E, selected pursuant to either Paragraph 17.f or Paragraph 19.e, as applicable.

**Annual Remediation Fees and Oversight Costs**

22. Within 30 days after the Effective Date of this Administrative Consent Order, AEN Urban Renewal LLC shall pay \$9,935.00 for all outstanding annual remediation fees and oversight costs due for this Site prior to the Effective Date of this Administrative Consent Order.
23. AEN Urban Renewal LLC shall pay, by the due date printed on any invoice, annual remediation and/or oversight costs, pursuant to N.J.A.C. 7:26C-4.9. Payment shall be made by mail to the address listed on the invoice.

**Remediation Funding Source and Annual Surcharge When in Full Compliance**

24. AEN Urban Renewal LLC shall submit annually to the Department, by June 5 of each year, a LSRP-certified detailed remediation cost review along with the Remediation Cost Review and RFS/FA form, pursuant to N.J.A.C. 7:26C-14.2(b)2iv and N.J.A.C. 7:26C-5.10.
25. Provided AEN Urban Renewal LLC has not received written notice pursuant to Paragraph 18, AEN Urban Renewal LLC shall maintain a remediation funding source in the form of a letter of credit, line of credit, surety bond, a remediation trust fund, or an environmental insurance policy pursuant to N.J.A.C. 7:26C-5 in an amount equal to the LSRP-certified detailed remediation cost review referenced in Paragraph 24.
26. AEN Urban Renewal LLC shall pay, by the due date printed on any invoice, the annual one percent remediation funding source surcharge, pursuant to N.J.A.C. 7:26C-14.2(b)5 and N.J.A.C. 7:26C-5.9. Payment shall be mailed to the address listed on the invoice.

**Stipulated Penalties and Other Enforcement**

27. AEN Urban Renewal LLC shall pay stipulated penalties in the amount of \$1,000 per day to the Department for failure to comply with any provision of this Administrative Consent Order.
28. Stipulated penalties shall begin to accrue on the first calendar day after the applicable due date or noncompliance, and not at the time the Department gives notice of the violation or non-compliance to AEN Urban Renewal LLC or issues a demand for stipulated penalties. Stipulated penalties shall continue to accrue through the final day of correction of the violation or non-compliance. The Department does not have to provide notice of the violation or non-compliance for the stipulated penalties to begin to accrue.
29. Within 30 days after AEN Urban Renewal LLC's receipt of a written demand from the Department for stipulated penalties, AEN Urban Renewal LLC shall submit a check made payable to "Treasurer, State of New Jersey," along with the applicable invoice enclosed with the demand, to the Division of Revenue and Enterprise Services at the address stated on the invoice. AEN Urban Renewal LLC shall also simultaneously mail a photocopy of the check and the payment invoice to the Department at the address: Assistant Director, Enforcement and Information Support Element, Contaminated Site Remediation & Redevelopment, New Jersey Department of Environmental Protection, Mail Code 401-06A, P.O. Box 420, Trenton, New Jersey 08625-0420.
30. The payment of stipulated penalties does not alter AEN Urban Renewal LLC's responsibility to complete all requirements of this Administrative Consent Order.
31. If AEN Urban Renewal LLC does not comply with any part of this Administrative Consent Order, including without limitation, does not pay stipulated penalties, the Department may take any action it is authorized to take, including without limitation,

issuing an administrative order, assessing a civil administrative penalty, filing of a summary action in the Superior Court of New Jersey pursuant to R. 4:67 and R. 4:70 to enforce this Administrative Consent Order as a final order, enforcing this Administrative Consent Order as an order issued by the Department pursuant to the Spill Act, and issuing a Spill Act directive, conducting the remediation itself and recovering three times the Department's costs, and taking any other action.

32. The Department's removal of any direct oversight adjustments in this Administrative Consent Order shall not limit the Department from taking any other action for AEN Urban Renewal LLC's violation or non-compliance with any provision of this Administrative Consent Order.

#### **Public Notice for Adjustments to Direct Oversight**

33. Pursuant to the Site Remediation Reform Act (SRRA) (N.J.S.A. 58:10C-27g(2)), the Department published written notice that the modifications to Direct Oversight are in the public interest and protective of public health and safety provided the Ordered Party complies with this Administrative Consent Order. This Public Notice was posted on the Department's website on June 27, 2024, for a 30-day public comment period. No public comment was received. The Department is executing this Administrative Consent Order a minimum of 60 days following public notice in accordance with SRRA.

#### **General Provisions**

34. AEN Urban Renewal LLC shall make all submissions required by this Administrative Consent Order to the Department at the address listed in N.J.A.C. 7:26C-1.6(a), except as otherwise indicated in this Administrative Consent Order.
35. In addition to the Department's statutory and regulatory rights to enter and inspect the Site, AEN Urban Renewal LLC agrees to allow the Department, and its authorized representatives access to the Site for the purpose of monitoring AEN Urban Renewal LLC's compliance with this Administrative Consent Order and for the Department to perform any remediation necessary to protect the public health and safety and the environment.
36. AEN Urban Renewal LLC agrees to stop conducting all or part of the remediation of the Site under this Administrative Consent Order upon receipt of written notice from the Department that the Department has decided to complete all or part of the remediation itself to protect public health and safety and the environment.
37. The Department reserves, and this Administrative Consent Order is without prejudice to, all rights against any entity, including AEN Urban Renewal LLC and its related entities, concerning all matters except the specific violation addressed in this Administrative Consent Order, including, without limitation, all rights and claims asserted against any parties, including AEN Urban Renewal LLC and its related entities, for injuries to natural

resources and natural resource damages from alleged MTBE contamination in the pending litigation, New Jersey Department of Environmental Protection v. Atlantic Richfield Company, 08 Civ. 00312 (SDNY) (VSB); In re: Methyl Tertiary Butyl Ether ("MTBE") Product Liability Litigation, MDL 1358 (SDNY) (VSB); New Jersey Department of Environmental Protection v. Amerada Hess, Civil Action No. 15-6468 (DNJ) (FLW).

38. The Department reserves and this Administrative Consent Order is without prejudice to, all rights against AEN Urban Renewal LLC concerning all other matters.
39. Nothing in this Administrative Consent Order shall be construed as precluding the Department from taking any action it deems necessary or appropriate to protect the public health and safety and the environment, and to enforce the environmental laws of the State of New Jersey.
40. Nothing in this Administrative Consent Order shall restrict the ability of the Department to raise or make the above findings in any other proceeding.
41. Nothing in this Administrative Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Administrative Consent Order.
42. AEN Urban Renewal LLC retains all rights they may have against any other responsible parties for the remediation of the Contaminated Site.
43. AEN Urban Renewal LLC consents to entry of this Administrative Consent Order and waives its right to request an administrative hearing concerning the terms of this Administrative Consent Order pursuant to N.J.A.C. 7:26C-9.10. AEN Urban Renewal LLC agrees it will not request an administrative hearing concerning stipulated penalties.
44. AEN Urban Renewal LLC agrees not to contest (a) the authority or jurisdiction of the Department to enter this Administrative Consent Order, and (b) the terms or conditions hereof, except that AEN Urban Renewal LLC does not waive its right to contest the interpretation or application of such terms and conditions in an action or proceeding brought by the Department to enforce this Administrative Consent Order.
45. This Administrative Consent Order shall be binding on AEN Urban Renewal LLC and any successor, assign, subsidiary, and any of the following appointed pursuant to a proceeding in law or equity: trustee in bankruptcy, or receiver.
46. By executing this Administrative Consent Order, the undersigned representative of AEN Urban Renewal LLC has the authority to prevent and correct a violation of this Administrative Consent Order.
47. Each undersigned representative of AEN Urban Renewal LLC and the Department certifies that he or she is authorized to enter this Administrative Consent Order, and to execute and legally bind each party to this Administrative Consent Order.



48. This Administrative Consent Order may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Administrative Consent Order.
49. The Effective Date of this Administrative Consent Order shall be the date that both AEN Urban Renewal LLC and the Department have executed this Administrative Consent Order.

**NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

DATE: \_\_\_\_\_

8/28/2024

By: \_\_\_\_\_

Ann H. Wolf  
Ann H. Wolf, Assistant Director  
Enforcement and Information Support Element

**AEN URBAN RENEWAL LLC**

DATE: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**RESPONSIBLE CORPORATE OFFICIAL,  
AEN URBAN RENEWAL LLC**

DATE: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

48. This Administrative Consent Order may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Administrative Consent Order.
49. The Effective Date of this Administrative Consent Order shall be the date that both AEN Urban Renewal LLC and the Department have executed this Administrative Consent Order.

DATE: \_\_\_\_\_

7/14/24

**NEW JERSEY DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

By: \_\_\_\_\_  
Ann H. Wolf, Assistant Director  
Enforcement and Information Support Element

DATE: \_\_\_\_\_

8/14/24

**AEN URBAN RENEWAL LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

DATE: \_\_\_\_\_

8/14/24

**RESPONSIBLE CORPORATE OFFICIAL,  
AEN URBAN RENEWAL LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_