

Notice of Rights of Affected Third Parties

The following Persons have filed an application pursuant to M.G.L. c. 21E, § 3A(j)(3) & 940 CMR 23.00, to enter into a Brownfields Covenant Not to Sue Agreement for the Site listed below. Third parties who may have claims with regard to this Site are hereby notified that: 1) the execution of the requested Agreement may affect such claims, and 2) third parties whose rights will be affected may seek to join the Agreement. Parties who wish to do so must make such request to the Attorney General in writing and must either deliver such request to the Office of the Attorney General, Attn. Brownfields Unit, Environmental Protection Division, 1 Ashburton Place, Boston, MA 02108, by August 1, 2007 or mail such request to the same address by first-class mail postmarked by that date.

Name of Applicant: McElfatrick, LLC and Reginald, LLC.

Description of the Site:

A parcel of land approximately .96 of an acre located at 109 South Street, currently known as the Colonial Theatre Annex, on the east side of South Street and to the north and adjacent to the Colonial Theatre (which is located at 111 South Street), as more particularly described in a deed recorded in the Berkshire Middle District Registry of Deeds in Book 3013, Page 320.

Description of the Release(s) at issue:

December 2004—Release Tracking Number 1-0015607 (as documented in Class B-1 Response Action Outcome (the “RAO”) filed with DEP on or about April 25, 2005) associated with a release of hydraulic oil beneath the building floor slab from several hydraulic lifts and associated tanks and piping

December 2004—release of #2 heating oil associated with an underground storage tank at the northwest corner of the building. The remedial activities associated with this release was conducted as a Limited Removal Action under the direction of an LSP and is also described in the RAO.

Summary of the terms of the application.

The Applicants are seeking relief against third parties pursuant to M.G.L. c. 21E, §3A(j) and 940 CMR 23.08(2); namely for any third-party response action costs or contributions for any contamination at the property affected by the Agreement that was not caused by McElfatrick, LLC.

Copies of the Applicant's application may be obtained by contacting Michael E. MacDonald, Esquire at c/o The Colonial Theatre, 111 South Street, Pittsfield, MA 01201, (413) 448-8084, mike.macdonald@petricca.com.