



# December 2021 Bulletin

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## ASSOCIATION CONTEST

**CONGRATULATIONS TO THE NOVEMBER 2021 CONTEST WINNER C&A AUTO SERVICE, INC. OF MAHOPAC, NY.** Please read through this bulletin for your chance to win!!! Call the office with the correct answer to the trivia question and you will be entered in the monthly drawing for a chance to receive a free month's dues; a value of \$45.00.

## ATTORNEY'S CORNER

### BUYING AND SELLING "OLD" GAS STATION PROPERTY

More often than not, "old" gas stations that were on the outskirts of a community, suddenly find themselves smack in the middle of downtown and attract many investors who are interested in developing the property. I have been involved in many projects to either redevelop an "old" gas station or even rehabbing and refreshing an "old" station from the 20's, 30' and even 40's.

Finding phantom tanks [usually 500 gallons] is not uncommon, some with product still in them even though the tanks had holes in them - over the years the soil accretions sealed the holes, but the contamination damage was done. One of my recent projects involved the discovery of 4 phantom tanks from the 1920's. And of course, there was massive contamination since the smallest hole has a 6-inch diameter.

In 1980, the Comprehensive Environmental Response, Compensation, and Liability Act—otherwise known as CERCLA or Superfund came into existence. Through the act, the Environmental Protection Agency (EPA) was granted power to seek out those parties responsible for any release of contaminants require their "cooperation" in the cleanup. Courts have applied a strict liability standard under CERCLA. Liability is imposed regardless of fault and can be imposed retroactively. The liability is also joint and several, meaning that liability for contaminants can be imposed regardless of relative contribution, including merely purchasing a property.

There are three types of environmental risks associated with gas stations: subsurface contamination, regulatory compliance, and business legacy.

### **SUBSURFACE CONTAMINATION**

Subsurface contamination may result from current or past releases of gasoline or petroleum products from storage tank systems, hydraulic lifts, car washes, service bays, etc. They may also include releases from historic operations at the property that are unrelated to the current facility. Environmental issues may also exist from former operations at adjacent properties. These types of spills may have caused soil, groundwater, and soil vapor contamination. The liabilities associated with petroleum products pose hazards in the form of impacted water supplies, contaminated surface water bodies, and explosive or toxic vapors.

### **REGULATORY COMPLIANCE**

Regulatory compliance issues, such as compliance with tank regulations, permits, and Notices of Violation (NOVs), may require substantial capital expenditures for equipment upgrades necessary to meet current regulatory standards. Upgrade requirements may include tanks, spill containment devices, tank monitoring equipment, testing, registration, and operator training.

### **BUSINESS LEGACY**

Business legacy issues are related to properties formerly associated with a business entity. Depending upon the legal setting, these risks may include broader liabilities carried by the business that may not be site-specific (e.g., environmental issues associated with previously owned properties, disposition of hazardous and non-hazardous waste, waste disposal facilities, third-party legal action, etc.)

In short, if you are buying or selling, consult us since liabilities can far exceed the value of the purchased property. I was representing a Texas environmental insurance company regarding a spill of 8,000 gallons of home heating oil. Spilled oil was recovered, however, the residual oil in the ground was, to say the least, a real problem. Since the spill was in a relatively rural area, I suggested buying the property, dropping the existing building on the property and I would secure a permit to burn the dirt on site. After cleanup, fill the hole back in and donate the property to the municipality as a park or whatever the municipality wanted to do with it. No said the Claims VP, "We can do this for \$500,000". Well, \$2,500,000 later, the same VP said to me, "We should have listened to you!"

As said above, if you are buying or selling, consult us since liabilities can far exceed the value of the purchased property. The vast majority of attorneys are not familiar with EPA, NYSDEC and Environmental Law nor what works and what doesn't work.

Vincent P. Nesci, Esq. Association General Counsel

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## DAIMLER, STELLANTIS ENTER AGREEMENT WITH BATTERY MAKER FACTORIAL ENERGY

U.S. based Factorial Energy said on November 30, 2021 it had entered into agreements with Daimler AG owned Mercedes-Benz and Stellantis NV, in a bid to commercialize its battery technology.

Under the partnerships, both Daimler and Stellantis will make a strategic investment in the solid-state battery maker, Factorial Energy said in a statement, without providing any financial details.

As transition towards greener mobility gets more traction, demand for EVs is expected to surge, more so after Daimler and five other car manufacturers committed to a pledge earlier this month to phase out fossil-fuel vehicles by 2040.

These partnerships follow the Stellantis deal with lithium developer Vulcan Energy Resources and Daimler's investment in electric vehicle charging venture Ioniq's latest funding round.

"With our new partners we can develop batteries that not only enable safer and longer driving range vehicles, but that are also compatible with conventional lithium-ion battery manufacturing environments," Factorial Energy Chief Executive Officer Siyu Huang said

Hyundai Motor Co and Kia Corp have also signed a joint partnership with Factorial Energy, which Forbes reported.

*As reported on [Automotiveneews.com](https://www.automotiveneews.com)*

### REFERRALS

If you know of a station that needs our services and is interested in becoming a member, refer them to us and upon signing you will receive a \$50.00 Amazon gift card. If you know of someone interested, please contact our Sales Representative Bill Griese at 914-227-0144.



## HISTORIC INFRASTRUCTURE BILL

On November 5<sup>th</sup>, the House of Representatives passed the “**Infrastructure Investment and Jobs Act (IIJA)**” with a bipartisan vote of 228 to 206. This bill was signed into law by President Joe Biden on November 15<sup>th</sup>. After tumultuous months of negotiation, and procedural and political debates Congress has passed this vitally important bill that will make historic investments in roads and bridges, improve roadway safety, and make our roads more reliable and dependable for all highway users. SSDA-AT is very thankful to all our members who engaged to get this bill across the finish line.

The IIJA will provide **\$550 billion in spending above budget baseline over five years** and includes the text of **S. 1931**, the Senate Environment and Public Works Committee surface transportation reauthorization bill that passed the Committee in May, which SSDA-AT strongly supported.

The bipartisan infrastructure legislation includes increases for highway funding via formula, increases roadway safety investment, important streamlining provisions, significant bridge investments, and preserves flexibility to invest in both new capacity and improvements to existing roadways.

The IIJA also includes the **Surface Transportation Investment Act**, passed by the Senate Committee on Commerce, Science, and Transportation with bipartisan support, as well as the Senate-passed Drinking Water and Wastewater Infrastructure Act and the Energy Infrastructure Act, which received bipartisan support in the Senate Committee on Energy and Natural Resources.

### **Key Funding Highlights:**

- **Highways** - \$351 billion for highways over five years from the Highway Trust Fund (HTF) and General Fund (\$307 billion or 90% provided as formula apportionments to states.) This is a 34% increase in highway elements from the Highway Trust Fund over funding levels in the Fixing America's Surface Transportation Act (FAST Act).
- **Transit** - \$91 billion
- **Highway Safety (NHTSA/FMCSA)** - \$12 billion.

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- **Passenger Rail** - \$66 billion
- **Bridge Investment Program** - Provides **\$12.5 billion over five years** for a new Bridge Investment Program that funds competitive grants to address the nationwide backlog of bridge repair and rehabilitation projects.
- **Bridge Formula Program** - Appropriates **\$27.5 billion for a new bridge formula program** to provide funding to States and Tribal governments to repair and rebuild bridges.
- **INFRA Funding** - Provides **\$8 billion** over five years for the National Significant Freight and Highway Projects Program, known as “INFRA.” INFRA provides competitive grants for highway, bridge, and multimodal freight projects of national and regional significance.
- **Safe Streets and Road for All** - Provides \$5 billion and establishes a new grant program for metropolitan planning organizations, local governments, and Tribal governments to develop and carry out comprehensive safety plans to prevent death and injury on roads and streets, commonly known as “Vision Zero” or “Toward Zero Deaths” initiatives.
- **Electric Vehicle Charging** - \$5 billion over five years for a state formula program for EV charging infrastructure deployment.
- **Port Truck Emissions Reduction Program** - Provides **\$400 million** to reduce air emissions from trucks idling at port facilities.
- **Healthy Streets** - Authorizes a new Healthy Streets Program for eligible projects, including projects that mitigate urban heat islands, improve air quality, and reduce stormwater runoff.
- **Resilience and Adaptation Centers of Excellence** - Authorizes the creation of new Resilience and Adaptation Centers of Excellence, which will advance research to help make surface transportation infrastructure more resilient to natural disasters and extreme weather.

## Climate Change and Resilience:

- **Reducing Carbon Emissions from Transportation** – The IIJA establishes a new Carbon Reduction Program that will distribute approximately **\$6.4 billion over five years** to States by formula to invest in projects that support a reduction in transportation emissions. Eligible projects include transportation electrification and EV charging, public transportation, including Bus Rapid Transit, infrastructure for bicycling and walking, intelligent transportation systems (ITS) improvements, infrastructure to support congestion pricing, diesel engine retrofits, and port electrification.
- **PROTECT Resilience Grants** - Creates a new Promoting Resilient Operations for Transformative, Efficient, and Cost saving Transportation (PROTECT) grant program, which provides formula funding to States and competitive grants to eligible entities to make our surface transportation infrastructure more resilient, including through the use of natural infrastructure, to the effects of extreme weather and natural disasters. Provides **\$7.3 billion** in formula funding and **\$1.4 billion** in competitive grants over five years funded from the HTF.
- **Enhancing Safety and Equity for All Road Users**
  - **Reconnecting Communities Pilot Program** - Provides \$1 billion over five years for a new pilot program that provides competitive grants for planning and projects to remove, retrofit, or mitigate existing highways that were built through neighborhoods and created a barrier to mobility and economic development.
  - **Highway Safety Improvement Program (\$15.6 billion over 5 years)** - Provides States with the ability to flex 10% of their HSIP funds to behavioral projects and includes a new special rule to provide targeted funding to address the safety needs of vulnerable road users under certain circumstances. If vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of their HSIP funds for the following fiscal year for projects to address the safety of vulnerable road users. This section also directs the Secretary to update the study on high-risk rural roads. And sets aside \$1.3 billion over five years for the Railway-Highway Crossing Program.
  - **Transportation Alternatives** - The bill increases funding for the Transportation Alternatives Program (TAP), which funds bicycle and pedestrian projects among other projects, through a 10 percent set-aside of the STBGP.

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- **Safe Routes to School** - Codifies the existing Safe Routes to School Program, which encourages children to safely walk or bike to school and amends it to apply the program through 12th grade.
- **Complete Streets** – Requires State and metropolitan planning organizations to spend a minimum amount of funding for either the adoption of complete streets standards and policies, development of a complete streets prioritization plan, active and mass transportation planning, regional and megaregional planning to address travel demand through alternatives to highway travel.
- **Reducing Wildlife-Vehicle Collisions** - Authorizes \$350 million over five years for a new pilot program that provides competitive grants for projects that reduce wildlife-vehicle collisions.
- **Exempts cement and cementitious materials, aggregates such as stone, sand, or gravel or aggregate binding agents or additives** from the definition of construction materials.
- **Safety Contingency Funds:** Provides the opportunity for contingency funds that can be used to improve safety in work zones prior to, or during construction. Allows for a Federal share payable of up to 100% for these funds. *Note: SSDA-AT supported this effort.*
- **Vulnerable Roadway Users** - Drives policy changes in the bill to protect vulnerable road users such as pedestrians, bicyclists, and people with disabilities.
- **MUTCD** - Requires updates to the Manual on Uniform Traffic Control Devices within 18 months of enacting the bill and then no less than every three years thereafter. It also expands the focus to cover vulnerable road users, the safe testing of automated vehicle technology, and minimum retro reflectivity of traffic control devices and pavement markings. And allows local jurisdictions to utilize their own design guide if accepted by the FHWA.

## Streamlining Provisions:

- **Codifies One Federal Decision policy**, which establishes a two-year goal for completion of environmental reviews for infrastructure projects. Also seeks to ensure environmental review documents remain under 200 pages.
- **Improving Federal Agency Coordination** - Allows federal land management agencies to use an environmental document previously prepared by the Federal Highway Administration (FHWA) for a project addressing the same action and allows for a federal land management agency to use the categorical exclusions listed in the implementing regulations of FHWA.

## Other Provisions of Note:

- **Clean School Buses and Ferries—\$7.5 billion**-The bill includes a historic amount of funding, \$5 billion, for the replacement of existing school buses with clean school buses, with a priority on low-income, rural, and Tribal schools. \$2.5 billion of this funding will be for zero-emission school buses and \$2.5 billion will be for zero-emission school buses and other buses that run on alternative fuels.
- **Buy America**-Expands Buy America to construction materials, which must be “produced in the USA.” Requires review of general waivers to the program.

**Highway Trust Fund: Includes a \$118 billion general fund transfer to the Highway Trust Fund. \$90 billion will be deposited into the Highway Account and \$28 billion will be deposited into the Mass Transit Account. This transfer was expected as a Highway Trust Fund fix remains elusive.**



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Facebook page  
@ SSDGNY



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## CLASSIFIEDS

**For Sale:** Powersports Dealership for sale, Motorcycles, ATVS, UTVS, Snowmobiles, Generators/power washers. Parts / Service dept. 8500 sq. ft. building on 8 acres. Rent or buy. Kawasaki and Arctic Cat, Kymco, Generac generators. We are located on the Newburgh/Marlboro NY, RT 9w. High traffic road. Check our website [bigboyztoysny.com](http://bigboyztoysny.com) Call Tony 845-781-3082 cell.

**For Sale:** West. Cty NYS Insp. Mach.& Lic. including window tint meter. asking \$20,000 obo. Auto repair shop of over 30 years closing. All equipment & tools for sale call Ed at 914-659-0453.

**For Sale:** Auto body repair shop in Town of Clarkstown, Rockland County. In business over 50 years. State of the art spray booth able to service small trucks and school buses, mobile spray booth, new diagnostic scanning system, wheel alignment machine, solvent and water-based paint system, brand new lift. Too many new items to list. Serious inquiries only. 845-548-7064, text or leave message. Will get back to you asap.

**For Sale:** Family owned and operated repair shop for 75 years on City Island, Bronx. Est. client base – Corner lot 65ft. X 100ft. with 2 bays. Property, Building, Inspection License & Equip. Please, serious inquiries only. Call Dave Carman 646-408-4246.

**For Sale:** Est. shop that specializes in trailer repair, snowplow and salter sales, repair and parts. We also offer vehicle up-fitting. We sell and install dump bodies and hitches. The shop is geared towards landscapers and contractor's needs. We have the ability to make hydraulic hoses that we make on site. A fully stocked showroom of inventory. The shop can fit 4 vehicles inside. Equip. includes: 2 post lifts, torches, welder, tire changer, balancer, band saw, drill press, work benches & more. There is also a private office. We are very busy with pre-season plow work and sales of snowplows. Motivated to sell immediately due to relocating out of the area. Great opportunity to get in now before the snow season. Please call 845-590-5800 for more info.

**For Sale:** Various ½ “ & ¾” Drive Socket Sets, extensions, 1 Lincoln Grease Gun Cartridge (**BATTERY POWER**), Miscellaneous Shop Tools and Supplies, 1 Ammco Combo Brake Lathe, Rotors and Drum and all adaptors, 1 Ammco Little Giant Brake Drum Lathe, 1 MGO Pump for Drum, 1 Elect Parts Washer, Portable Engine Crane, Engine Stand, 1 Hoppy Laser Headlight Aimer, Various Jack Stands Different Tonnage, 4 Floor Jacks Various Tonnage, 1 Snap-On EVAP Smoke Machine (**BRAND NEW**), 2012 Honda Rancher ES ATV with plow & Craftsman Ride On Lawn Mower.

**Contact: Tony Zeppieri at 914-494-8338 for pricing.**

## NEW OXFORD HEALTH NSURANCE RATES

The Oxford Plans are renewing on January 1<sup>st</sup>. If you are already in the Oxford plan and want to switch between plans you must do so before December 20, 2021. If you want to stay with the plan you currently have there is no need to submit a new election form, however you **MUST** submit the NYS-45. Please see the new rates on the next page.

## RAFFLE TICKETS

This is your last chance to enter the raffle drawing and the \$1,000.00 scholarship raffle. The donation for a raffle ticket is \$25.00, and the prizes are as follows: First Prize \$2,500.00; Second Prize \$1,000.00 and Third Prize \$500.00. If you would like to purchase a raffle ticket, call the office asap! Good luck to all who have entered.

## WELCOME NEW MEMBERS

SEMA Auto Repair  
Bronx, NY

Hond-A Medic II, Inc.  
New City, NY

## TRIVIA QUESTION

When do the Oxford Health plans renew? Call the office with the correct answer for a chance to win a free month's dues.

Service Station Dealers &  
Automotive Services wishes you all  
A Merry Christmas and a Happy New Year!

Regards,  
*Carla Obalde*  
Operations Manager

