

# New York Fines Legoland \$346,000 Just Weeks Before They Open

*Stormwater contamination and underground storage tank spills are*

*among dozens of environmental violations committed by theme park developers. by Lynda Kever*

ISLIP, NEW YORK, UNITED STATES, May 19, 2021 /EINPresswire.com/ -- Three dozen

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*Richard A. Fogel, New York Insurance Litigation Attorney*

environmental violations resulted in an agreement between Legoland and New York State that Legoland must pay a fine of \$346,000.

The Department of Environmental Conservation (DEC) has cited Legoland repeatedly over the past three years for letting muddy stormwater pour from the Goshen construction area into Otterkill Creek during heavy rains. This current fine is the third and largest the DEC has imposed on Legoland to date.

Three days after Legoland’s most recent violation notice about the stream running muddy again, both sides agreed

to the consent order.

The Director of the DEC’s regional office, Kelly Turturro, issued a statement that said her department is “committed to holding Legoland accountable for violations of State environmental laws and regulations,” and that this consent order is part of its “active and ongoing efforts to monitor the construction project and enforce compliance.”

Matt Besterman, spokesman for Legoland, said that the company signed the order to resolve concerns about stormwater control. “We are moving forward in compliance with all applicable requirements and look forward to opening as planned.”

Legoland must, under the agreement, contribute at least \$50,000 for an “environmental benefit project” for the area and allow a third-party inspector to monitor the site daily until construction is finished. Legoland can disturb no more than 15 acres of soil at any one time going forward.

The previous consent order was signed nearly two years ago. Since then, the DEC has cited

Legoland 36 times. The citations were for two violations of insufficient erosion and sediment control, four petroleum bulk storage conditions, and 30 water turbidity violations. There have been 63 total environmental violations since construction began in 2018.

Not only are there runoff incidents, but the new consent order includes violations involving two oil spills that happened in 2018 when workers took out seven underground storage tanks that had been buried on the property.

[New York environmental litigation attorney Richard A. Fogel](#) explains that petroleum spill liability in New York is covered under Article 12 of the Navigation Law and is similar in many ways to the federal Comprehensive

Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. These laws can make an owner, operator, discharger or other party responsible for the spill strictly liable for cleanup and remediation costs, consequential damages and attorney fees.

Legoland has had to pay fines twice before, totaling \$265,550. This latest one brings the total to \$611,550.

Concerned Citizens for the Hudson Valley president Chris Miele said that the DEC should prevent Legoland from opening until the runoff problems and spills are completely cured. She also questioned whether the fine was big enough to even be felt by a company as big as Merlin Entertainments, which is the British company that built Legoland. Miele called it “a slap on the wrist, monetarily.”

Legoland New York is valued at \$500 million.

Regulations included in subsection (c) of Section 1526 of the Energy Policy Act of 2005 require that states “maintain, update, and make available to the public a record of releases from underground storage tanks (USTs) regulated under Subtitle 1.” The DEC website includes a search feature for the purpose of discovering what spills were reported and from which company.



Richard A. Fogel, New York Insurance Litigation Attorney

As far as the storm runoff goes, attorney Fogel explains that for non-petroleum cases, the standard of liability should be basic negligence rather than the strict liability standard for Superfund or Navigation Law cases. In a negligence case, the property owner might have a defense if it can show compliance with all applicable laws. But when strict liability applies, “the statutes make it clear that the liability is regardless of fault,” Fogel explains. “The goal is to find money from the most responsible party,” says Fogel, “and in many cases, the party at fault is judgment proof.” Fogel continues, “the statutes make sure that property owners or generators of waste are highly motivated to make sure that the environment is protected from whomever they are doing business with.”

New York allowed outdoor amusement parks to open at 33 percent capacity and with COVID-19 precautions on April 9.

Although rumored to be opening as early as April 9, the theme park is not open yet. Besterman said the company will reveal its opening date “in the coming weeks.” As of the date of this writing, the Legoland website promises an opening in Summer 2021.

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