

**Issued by the
UNITED STATES DISTRICT COURT**

EASTERN

DISTRICT OF

NEW YORK

Town of Oyster Bay,

V.

SUBPOENA IN A CIVIL CASE

Northrop Grumman Systems Corporation, the United States Navy and the United States of America.

Case Number:¹ 05-CV-1945 (TCP)(AKT)

TO: Steven M. Scharf, P.E.
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway, Albany, New York 12233

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Rivkin Radler, LLP, 926 Reckson Plaza, West Tower Uniondale, New York 11556	DATE AND TIME 2/27/2007 9:30 am
--	------------------------------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):


See attached list of documents to be furnished to:

PLACE Rivkin Radler, LLP, 926 Reckson Plaza, West Tower Uniondale, New York 11556. Attn.: Janice M. Greenberg	DATE AND TIME 2/23/2007 5:00 am
--	------------------------------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) 	DATE 2/16/2007
---	-------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Janice M. Greenberg, Rivkin Radler, LLP, 926 Reckson Plaza, Uniondale, New York 11556, (516) 357-3160

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
TOWN OF OYSTER BAY,

Plaintiff,

Case No. CV-05 1945

-against-

NORTHROP GRUMMAN SYSTEMS CORPORATION
(f/k/a Northrop Grumman Corporation), THE UNITED
STATES NAVY and THE UNITED STATES OF
AMERICA,

Defendants.

-----X

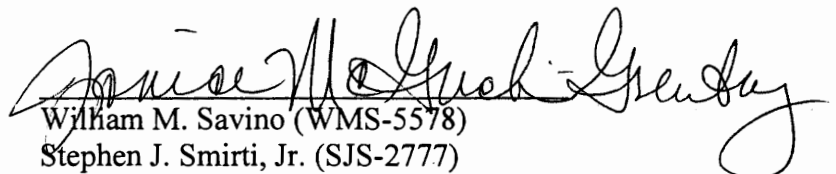
NOTICE OF DEPOSITION AND PRODUCTION OF DOCUMENTS

To All Counsel of Record:

PLEASE TAKE NOTICE that pursuant to Rule 45 of the Federal Rules of Civil Procedure, Plaintiff Town of Oyster Bay has issued the subpoena attached herewith directing the production of documents referenced in Attachment A and the deposition upon oral examination of Steven M. Scharf, P.E. concerning his knowledge about the New York State Department of Environmental Conservation's involvement at the sites referenced in Attachment A before a notary public or some other officer duly authorized to administer oaths pursuant to the laws and rules of this Court at the offices of Rivkin Radler, LLP, 926 EAB Plaza, West Tower, Uniondale, New York 11556 on February 27, 2007 at 9:30 A.M. The deposition will continue from day to day until complete, and will be stenographically recorded for all purposes.

Dated: February 16, 2007

By:



William M. Savino (WMS-5578)
Stephen J. Smirti, Jr. (SJS-2777)
Janice McGuckin-Greenberg (JM-3389)

ATTACHMENT A

- All documents and/or materials concerning or relating to communications between the New York State Department of Environmental Conservation (“DEC”) and any individual, entity or organization in connection with the property known as the Bethpage Community Park, Bethpage, New York. This request includes any communications upon which the DEC was copied or otherwise.
- All documents and/or materials concerning or relating to communications between the DEC and any individual, entity or organization in connection with the property currently or formerly known as the Naval Weapons Industrial Reserve Plant, South Oyster Bay Road, Bethpage, New York (Site No.: 130003B; EPA ID No.: NYD602047967). This request includes any communications upon which the DEC was copied or otherwise.
- All documents and/or materials concerning or relating to communications between the DEC and any individual, entity or organization in connection with the property currently or formerly known as the Grumman Aerospace – Bethpage Facility, 830 South Oyster Bay Road, Bethpage, New York (Site No.: 130003A; EPA ID No.: NYD002047967). This request includes any communications upon which the DEC was copied or otherwise.
- All documents and/or materials concerning or relating to communications between the DEC and any individual, entity or organization in connection with any other property currently or formerly owned or operated by Northrop Grumman Systems Corporation, its predecessors or affiliates located adjacent to or near any of the sites referred to above. This request includes any communications upon which the DEC was copied or otherwise.
- All documents and/or materials concerning or relating to communications between the DEC and any individual, entity or organization in connection with the property formerly known as the Naval Weapons Industrial Reserve Plant, Calverton, New York (EPA ID No.: NYD003995198). This request includes any communications upon which the DEC was copied or otherwise.
- All files or other internal materials maintained by Steven Scharf or the DEC (including any employee thereof) concerning any of the above-referenced sites (excluding those that would typically be furnished in connection with a Freedom of Information Act request).

CERTIFICATE OF SERVICE

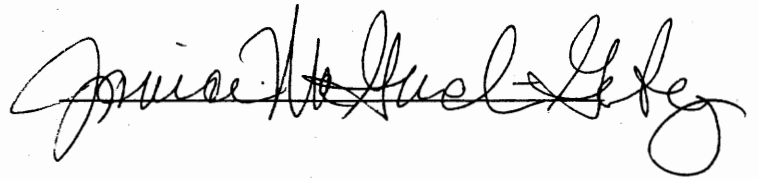
Janice McGuckin-Greenberg, an attorney duly admitted to the practice of law before the Courts of this State and the U.S. District Court for the Eastern District of New York hereby certifies that, on February 16, 2007, I served a copy of the foregoing Notice of Deposition via Federal Express to the following persons at the last known addresses:

Allan J. Topol, Esq.
Thomas E. Hogan
Covington & Burling
1201 Pennsylvania Avenue NW
Washington, DC 20004-2401

Robert B. Kambic, Esq.
Roslynn R. Mauskopf, Esq.
United States Attorney's Office
Eastern District of New York
610 Federal Plaza - 5th Floor
Central Islip, New York 11722

Steven M. Scharf, P.E.
Division of Environmental Remediation
Remedial Action Bureau, A, 11th Floor
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7015

Dated: February 16, 2007

A handwritten signature in cursive script, appearing to read "Janice McGuckin-Greenberg". The signature is written in black ink and is positioned in the lower right quadrant of the document.