



NEESON-CLARK ASSOCIATES, INC.  
TECHNICAL AND ENVIRONMENTAL SERVICES

■ FIRST TIER BANK BLDG. ■ 129 NORTH UNION ST. ■ OLEAN, NY 14760 ■ PH 716.373.3067 ■ FAX 716.372.5298

January 3, 2001

Mr. Ronald Viele  
59 Swan Street  
Batavia, New York 14020

Dear Mr. Viele:

Please find enclosed the Phase I Site Assessment for property known as the Former Top Notch Company located at 17 -23 Evans Street, New York 14020.

It is our opinion that a Phase II Site Assessment not be performed for this property.

There is approximately 145 linear feet of asbestos containing pipe insulating material located in the basement of the grain elevator. This insulating material is in a poor friable condition and should be removed. An approximate fee for this removal would not exceed \$3,700.

A portion of the subject site is part of the old NYC Rail Line and trolley repair round house property. As with any rail road property a certain amount of surface staining from the oils, greases, and lubricants should be expected. In our opinion the property is suitable for commercial or industrial development.

A subsurface investigation for this report did not occur.

Thank - you for your time and consideration in this matter.

Sincerely,

John F. Neeson P.E.  
NEESON - CLARK ASSOCIATES, INC.  
JFN/lkd



NEESON-CLARK ASSOCIATES, INC.  
TECHNICAL AND ENVIRONMENTAL SERVICES

■ FIRST TIER BANK BLDG. ■ 129 NORTH UNION ST. ■ OLEAN, NY 14760 ■ PH 716.373.3067 ■ FAX 716.372.5298

January 3, 2001

Invoice No. 1-03-01

Mr. Roanld Viele  
59 Swan Street  
Batavia, New York 14020

PAYABLE TO: JOHN F. NEESON  
129 NORTH UNION STREET  
OLEAN, NEW YORK 14760

PROFESSIONAL SERVICES:

Environmental Services

Phase I Site Assessment \$ 900.00  
17 - 23 Evans Street  
Batavia, New York 14020

Total Amount Due .....\$ 900.00

John F. Neeson  
NEESON - CLARK ASSOCIATES, INC.

Phase I Environmental Audit - Narrative  
FORMERLY THE TOP NOTCH COMPANY  
17 - 23 Evans Street, Batavia, New York 14020

A. Scope

The scope of this assessment is limited to the visual observations of the inspecting specialist in accordance to ASTM (American Society for Testing and Materials) standards. Normally, no sampling or analysis is part of a Phase I Environmental Audit. The assessment procedure consists of a review of available documents, interviews and a walk - through of the entire property to determine the following:

1. presence of chemical use and storage
2. probable presence of Polychlorinated Bipheynls (PCB's)
3. probable presence of asbestos
4. probable presence of other potentially hazardous substances
5. probable presence of hazardous wastes and other waste streams
6. probable presence of hazardous gases and air emissions
7. probable presence of underground and aboveground storage tanks
8. compliance with OSHA, SARA and other environmental regulations
9. presence of wetlands

B. Property Location

Subject property (Formerly the Top Notch Company: grain and seed distributor) is located at 17 - 23 Evans Street, Batavia, New York 14020. The property is bordered on the north by Commercial Property; the south by Vacant Property (formerly the NYC Rail Line); on the west by Evans Street, and on the east by Commercial Property. The property is not located in the 100 year flood plain. There are no County Health Department permits required for this facility.

There is no known archaeological nor historic interest in the property. The property is not on the EPA National Priorities List nor the New York State - Department of Environmental Conservations list of potentially contaminated sites.

C. Site History and Description

The site is rectangular in nature and is approximately 1.20 acres. An interview was conducted with Mr. Peter Della Penna local businessman and life - long resident of the area. An additional interview was conducted with Mr. Anthony Mancuso, local businessman and real estate broker in the Batavia area. Messrs Mancuso and Della Penna stated that the subject property was undeveloped land until approximately 1900. Original development of the subject site was that of the existing grain elevator and dry storage facility. The second structure located on site is a dry storage building. This building was utilized as a round house that repaired trolleys in the early part of the 20th century. The original construction / development of the two structures has not changed in over 80 years. The site has remained commercial in nature from that time to the present. The surrounding area to the north of the subject sites buildings was once the former NYC rail line. There was a spur that lead from the main line to the grain storage facility as well as a spur that lead to the round house building. As with any former railroad property a certain amount of surface petroleum contamination may exist due to the nature of rail cars. Oils, greases, and lubricants frequently drip from wheels , gear boxes and alike. The subject property was a through line and a break

of bulk point and not a train make-up track, therefore, mitigating against spills and major leaks that would normally be associated with a train yard. Additionally, the materials being delivered were grain and seeds, a benign product. The round house was utilized to repair trolley cars. The common practice of repairing trolley cars was to maintain an orderly, clean, and efficient shop due to the very tight quarters in which the mechanics were working. It is very unlikely that the mechanics would "dump" in the round house or the round house area.

Commercial / industrial development of the area started prior to the development of this parcel of land. Aerial photographs taken by the Department of Agriculture dated 1939 confirm the existence of this commercial development. No heavy manufacturing took place on site.

#### D. Site Inspection

Site inspection was conducted on December 4, 2000. There are two main structures on site. The first structure is approximately 17,088 sq/ft: the grain elevator, the second structure is approximately 2,500 sq/ft: the round house. Visual inspection revealed no chlorinated chemicals or petroleum products stored in or at this facility. Fill has been brought on site to elevate the area. Visual inspection of the area revealed no signs of contamination.

The utilities associated with this facility are electric, natural gas, municipal water and sewage. All utilities are separately metered, including water. The site was originally developed approximately 100+ years ago.

There have been alterations (addition) to the original structure as well as the usual repairs and maintenance associated with any commercial structure. This normal maintenance to the structure are of no environmental concern. Storm water is discharged via natural runoff.

Two floor drains are located within the building. These floor drains appear to be connected to the municipal sanitary system. No dye testing was performed for this assessment.

The subject property primarily consists of the commercial storage buildings, stone and paved parking area. There is little or no vegetation on the site other than grass / brush and no signs of discoloration or damage other than that is normally expected in any open area. The lot is free of any accumulated refuse and the property appears to be well maintained. There are no rock outcroppings or unique land formations on site.

There are no wetlands associated with the subject site. Approximate ground water depth is eight to twenty-four feet. Site utilities include electric, natural gas and municipal water. There are no capped wells on site or disassociated vent stacks indicating unaccounted for underground storage tanks. There is no record with the State of New York indicating that the subject property has had underground / aboveground storage tanks removed and there are no violations on record against the site. The subject site and contiguous properties are on a municipal sanitary sewer system. All utilities are located aboveground. There were no sources of forced air interchange associated with subject site.

No lead base paint was detected. There are no transformers on site. All transformers are located at pole side outside of the building and are owned and maintained by the local power authority.

There are no chlorinated chemicals or lead plumbing on premises. Solid (non-hazardous) waste is disposed by a private contractor. This solid non-hazardous waste is taken off-site to a sanitary landfill. There is no history of underground storage tanks associated with the subject site.

Approximately 150 linear feet of asbestos pipe insulating material was observed in the basement of the granary. This asbestos containing material is in a poor / friable condition and should be removed.

#### E. Summary and Recommendations

We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 of (17 - 23 Evans Street, Batavia, New York 14020) the property. Any exceptions to, or deletions from, this practice are described in Section (D.) of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property. In our opinion the subject site is free of any serious environmental, health or safety concerns exempting the aforementioned asbestos containing material located in the basement of the granary. A Phase II Environmental Audit is not recommended for this property. There has been no activity in the past or in the current situation that would alter this conclusion. A comprehensive subsurface investigation did not occur for this report.

#### F. Limitations

This work has been performed in accordance with generally accepted environmental science practices. No other warranty, expressed or implied, is made. Our conclusions and recommendations are based on our observations at the site, review of available documents and our previous experience in this discipline. Documents and information obtained from interviews were accepted at face value. The conclusions and recommendations do not reflect variations in site conditions not visually apparent to the inspectors or which may exist outside sample locations. Should such variations become apparent during development, it would be appropriate to reevaluate conditions as they present themselves.



1.0 BUSINESS AND PROPERTY INFORMATION

1.1 Business Name FORMERLY THE TOP NOTCH COMPANY SIC Code

1.2 Location/Address 17 - 23 EVANS STREET  
BATAVIA, NEW YORK 14020

1.3 Site Contacts MR. PETER DELLA PENNA (LOCAL BUSINESSMAN)  
STATE / LOCAL / COUNTY OFFICIALS

1.4 Site History

a. Current use of the property and facility

- 1) TWO DRY STORAGE FACILITIES
- 2) PARKING AREA
- 3)

b. Number of years at this location 100+ YEARS

c. Information concerning the operations of previous  
owners or tenants

- 1) FARMLAND
- 2) VACANT PROPERTY
- 3)
- 4)

1.5 Prior locations of this operation N/A

1.6 Are there other locations where this business has employees,  
land or facilities YES or  
stores materials, supplies or vehicles N/A

1.7 Briefly describe the site

- a. Size of property (acres) ~ 1.20 ACRES
- b. Area developed (buildings, paved) 50%
- c. Area and description of undeveloped property  
GRASS AREA

1.8 Site Utilities

- a. Electric YES
- b. Gas YES
- c. Water (indicate supply) YES (MUNICIPAL)
- d. Sewer YES
- e. Other

1.9 Make appropriate inquiry to determine whether the drinking  
water used on site contains any lead. If test results are  
not available, test the drinking water for lead, and report  
the result NO TEST TAKEN (MUNICIPAL SUPPLY)

1.10 Make appropriate inquiry to determine whether the owner or operator is involved in any clean ups or has been asked to participate in any clean ups. If so, describe NONE

1.11 Is the site located along a waterway NO

## 2.0 SITING AND FACILITY INFORMATION

2.1 Location is urban or rural URBAN

2.2 Area is industrial, commercial or residential

COMMERCIAL

2.3 Surface water within 500 ft. NO (SEE 1.11)

2.4 Groundwater information

a. Depth to groundwater 8 - 24 ft

b. Known uses of ground water N/A

c. Are there any ground water wells which the facility  
does or can monitor. Has contamination been detected  
NONE

2.5 Does the site use well water NO

a. Well depth N/A

b. Well delivery rate N/A

c. Well water use N/A

d. Were any wells capped within the last five years. If  
so, explain why NO

2.6 Has any major demolition occurred on the site NO

2.7 Are site maps, drawings or aerial photos available (obtain)  
SITE MAPS / AERIAL PHOTOS

2.8 Do neighbors or authorities complain about odors, discharges  
or noise from this facility NO

2.9 a. Does runoff from the site flow onto or into

- 1) other property NO
- 2) surface water YES
- 3) storm drainage systems NO

b. Does runoff from neighboring properties impact this  
facility NO

2.10 Is this facility in the 25-year or 100 year flood plain  
NO

2.11 Has this facility ever been flooded NO

2.12 Describe the surrounding land use COMMERCIAL

### 2.13 PCB Information

- a. Is any PCB electrical equipment located on the premises  
(transformers, capacitors, fluorescent light ballast)  
NONE OBSERVED
- b. Did the PCB equipment ever leak NO
- c. Is any of the PCB equipment inside a building  
NO Identify the building and  
its use N/A
- d. Is the PCB equipment marked, well maintained and secure  
N/A
- e. Have there been any spills or fires involving PCB  
equipment NO
- f. Does the facility own, store or has the facility  
disposed of PCBs NO

### 2.14 Building Information

- a. Number of buildings GRANARY & ROUND HOUSE
- b. Square footage ~ 17,088 & 2,500
- c. Age of buildings 100 YEARS
- d. Construction of buildings MASONRY CONSTRUCTION

- e. Do any buildings have asbestos insulation or construction     YES, OBSERVED IN THE GRANARY:  
   APPROXIMATELY 150 LINEAR FEET OF INSULATING MATERIAL
- f. Do any buildings have urea formaldehyde foam insulation  
   NONE OBSERVED
- g. Do any buildings have peeling lead paint within five feet of floor     NONE OBSERVED

2.15 Environmental, Health and Safety

- a. Does the facility have an IH program     N/A
- b. Does the facility use or manufacture OSHA hazardous chemicals (e.g., lead)     N/A
- c. Does the facility have a hazardous material inventory  
   N/A
- d. Does the facility have a Hazard Communication Program (e.g., Employee or Community Right-to-Know)     N/A
- e. Does the facility store more than the threshold planning quantities of hazardous substances listed in 40 CFR 355, Appendix A & B     N/A

- f. List all notices, violations and fines against the facility for alleged violations. Ask for any documentation NO VIOLATIONS
- g. Has the facility released a RQ or an amount of oil or hazardous substances. Ask whether it was reported  
NO
- h. Are there any waste disposal areas on the premises  
NO WASTE DISPOSAL AREAS ON SITE:
- i. Did any operation at the facility use petroleum solvents or its derivatives, or any chlorinated solvents. If so, describe YES, IN ROUND HOUSE OPERATIONS.
- j. Ask whether the facility is currently in compliance with all permits YES

#### 2.16 Radon

- a. Ask whether there is any concern in the local area with elevated levels of radon YES
- b. Has the facility performed any test for radon on site or in the building YES If so, what were the results 3.51 pCi/Liters (SAFE LIMIT)



- c. Is the facility located on or near sites which were used for phosphate extraction or uranium, thorium or radium processing NO

### 3.0 HANDLING AND STORAGE OF RAW MATERIALS AND PRODUCTS

3.1 List in Table 1 the hazardous substances, fuel and other substances posing a significant environmental hazard and risk used at this location NONE

3.2 For the hazardous substances listed in Table 1, are these materials stored or processed in: a,b or c (list total inventory) below

- a. Aboveground tanks NO
- b. Belowground tanks (and sumps) NO
- c. Containers NO

#### 3.3 Tank Information

a. List inventory of tanks or containers in Table 2

N/A

b. Underground tanks 0

1) Have underground tanks been leak tested N/A

2) Did test indicate leaks N/A

3) Are underground tank contents routinely inventoried N/A

4) Has inventory analysis indicated material loss

N/A

3.4 Describe the containment and location of:

- a. Aboveground tanks N/A
- b. Underground tanks N/A
- c. Container storage N/A
- d. Process and transfer areas N/A
- e. Does the facility have a SPCC Plan N/A

3.5 Describe any signs of environmental contamination at the

areas described in section 3.4 NONE OBSERVED, SUBSURFACE  
CONTAMINATION MAY EXIST IN ROUND HOUSE AREA DUE TO PAST  
REPAIR PRACTICES. THE ROUNDHOUSE WAS UTILIZED TO REPAIR  
TROLLEYS.

3.6 Have tanks been abandoned or removed from this location NO

Were the tanks decommissioned according to sound engineering  
practices N/A

3.7 Have underground tank notifications been made to designated  
agencies N/A

3.8 Describe any spills or releases of hazardous substances

- a. Material release NONE
- b. Amount NONE
- c. Notification made NONE
- d. Cleanup efforts NONE

#### 4.0 WASTE STREAM INFORMATION

##### 4.1 Waste Streams

- a. Are hazardous wastes generated, stored, burned or disposed on-site NO
- b. Are solid wastes generated, stored, burned or disposed on-site NO
- c. Is used oil generated, stored, burned or disposed on-site NO
- d. List all waste streams in Table 3 N/A

##### 4.2 Hazardous Wastes

- a. Volume generated/month N/A
- b. Is hazardous waste mixed with solid waste or waste oil N/A
- c. If volume is greater than 100 kg N/A
  - 1) RCRA Plans (contingency)
  - 2) Manifests (3 years)
  - 3) Notification of hazardous waste activity
  - 4) Volume of hazardous waste now on-site
- d. Are hazardous wastes recycled or recovered on-site NO
- e. Are hazardous wastes treated, burned or disposed on-site NO

1) Part A or Part B filed

f. Does the facility store or dispose of hazardous waste  
in

- |                           |           |
|---------------------------|-----------|
| 1) surface impoundments   | <u>NO</u> |
| 2) waste piles            | <u>NO</u> |
| 3) deep wells             | <u>NO</u> |
| 4) dry wells              | <u>NO</u> |
| 5) septic systems         | <u>NO</u> |
| 6) sewer                  | <u>NO</u> |
| 7) incinerators, furnaces | <u>NO</u> |
| 8) landfills              | <u>NO</u> |
| 9) land treatment         | <u>NO</u> |

g. Does the facility use hazardous waste as a fuel or raw  
material NO

h. Has the facility ever disposed of hazardous waste on-  
site NO

i. Ask whether the facility has disposed of hazardous  
waste off-site NO

## 5.0 WASTE WATER DISCHARGES

5.1 List the facility discharges of process wastes in Table 4  
N/A

5.2 Provide permit information on discharges

- a. Surface water - NPDES # N/A  
Expiration Date
- b. Municipal sewer - Permit # N/A  
Expiration Date
- c. Describe any discharge monitoring N/A
  - 1) parameters N/A
  - 2) frequency of analysis N/A

5.3 Is waste water stored in a pond, pit or lagoon NO

- a. Size, depth of lagoon N/A
- b. Design of lagoon N/A
- c. Sludge disposal method N/A

5.4 Are there any floor drains or catch basins in facility that could discharge spills, leaks or process water from storage or process areas NO

5.5 How is runoff from roofs, and outdoor facility storage or process areas discharged

- a. Municipal sewer
- b. Storm drain
- c. Surface water X
- d. Storage basin

5.6 Has the facility received any notices of violation for discharges NO

5.7 Is the facility under any order NO

5.8 Does the facility utilize a septic or drain system or a leach field NO



## 6.0 AIR EMISSIONS

	Yes	No	N/A
6.1 List each permitted source in Table 5 or attach a list of permitted sources	_____	_____	X
6.2 Are there any air emission sources	_____	X	_____
a. Process stacks, boiler stacks	_____	_____	_____
b. Vents, exhaust ports	_____	_____	_____
c. Fans	_____	_____	_____
d. Open processes, evaporative	_____	_____	_____
e. Process equipment (driers, mixers, spray booths)	_____	_____	_____
f. Fugitive emission sources	_____	_____	_____
g. Bulk loading, unloading areas	_____	_____	_____
6.3 Are any of the sources identified above without permits or have permits expired	_____	_____	X

6.4	Are any emissions vented through control devices	_____	_____	X
a.	Fans, vents, stacks	_____	_____	X
b.	Scrubbers, filters	_____	_____	X
c.	Baghouses, cyclones, precipitators	_____	_____	X
d.	Vapor recovery systems	_____	_____	X
e.	Combustion or oxidation units	_____	_____	X
f.	Flares	_____	_____	X
6.5	Are control devices monitored for operational parameters (check to see if in compliance with permit)	_____	_____	X
6.6	Is any control device malfunctioning	_____	_____	X
6.7	Are any control devices tested, if so describe testing procedures	_____	_____	X
6.8	Are odors, fumes or dust observed from the facility	_____	_____	X

TABLE 1. HAZARDOUS MATERIALS

Item	Chemical Name	Hazard	Quantities

TABLE 2. TANK AND CONTAINER INFORMATION

Container or Tank Volume	Type	Construction	Hazardous Material Stored	Age
-----------------------------	------	--------------	---------------------------------	-----

EXHIBIT H

CERTIFICATION FOR SITE ASSESSMENT AND ENVIRONMENTAL AUDIT

I hereby report that on December 4, 2000 , I made an investigation of the premises commonly known as 17 -23 Evans St. Former Granary, Batavia, N.Y. 14020 in the course of preparing the Site Assessment and Environmental Audit. I examined the property, improvements and facilities with respect to the following items, and report the existence of the following (if none, state "none"):

1. Hazardous substances, as defined under the federal and state environmental laws NONE OBSERVED

2. Petroleums, petroleum products and derivatives, and hydrocarbons NONE OBSERVED

3. Landfills, land disposal areas, open dumps or waste piles NONE OBSERVED

4. Construction debris, discarded drums or barrels, or discarded containers NONE OBSERVED

5. Denuded or stressed vegetation NONE OBSERVED

6. Discolored or stained soils, blackened soils or ash

NONE OBSERVED

7. Lagoons, ponds or surface impoundments NONE

8. Underground storage tanks NONE OBSERVED

9. Asbestos or urea formaldehyde YES, OBSERVED IN  
GRANARY, APPROXIMATELY 150 LINEAR FEET.

10. Equipment containing polychlorinated biphenyls (PCB's)  
NONE OBSERVED

Dated: December 28, 2000



Registered Professional Engineer

John F. Neeson  
NYS License # 058396-1