

New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-9519

Telephone: (716) 226-2466

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

December 27, 1993

Mr. Dan Demosthenes  
Speedy's Cleaners  
50 Scio Street  
Rochester, New York 14604

Dear Mr. Demosthenes:

RE: **Speedy's Cleaners**  
**190 Court Street, Rochester, New York**

*file*

Is your RETURN ADDRESS completed on the reverse side?	<b>SENDER:</b> • Complete items 1 and/or 2 for additional services. • Complete items 3, and 4a & b. • Print your name and address on the reverse of this form so that we can return this card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.	I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
	3. Article Addressed to: Mr. Dan Demosthenes Speedy's Cleaners <i>190 Court St</i> <del>50 Scio Street</del> Rochester, NY 14604	4a. Article Number P 386 016 198
	5. Signature (Addressee)	4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
	6. Signature (Agent) <i>Tillman A Speedy</i>	7. Date of Delivery <i>1-6-94</i> 8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 \*U.S. GPO: 1992-323-402

DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

The New York State Department of Environmental Conservation (NYSDEC) is conducting an investigation pertaining to soils contamination which has been found on and adjacent to the Speedy's Cleaners located at 190 Court Street.

Pursuant to Title 13, Sections 27-1307 and 27-1309 of the Environmental Conservation Law (ECL), I am requesting all of the information concerning any environmental investigations performed at the referenced site within the past ten years. This Department requires this information to complete our investigation of this site with regards to the possible listing in the Registry of Inactive Hazardous Waste Sites in New York State. A written response is requested within 10 days of your receipt of this letter. Failure to respond is a violation of the ECL and may result in fines and/or penalties from this Department.

If you have any questions, please contact me at 716/226-2466.

Sincerely,

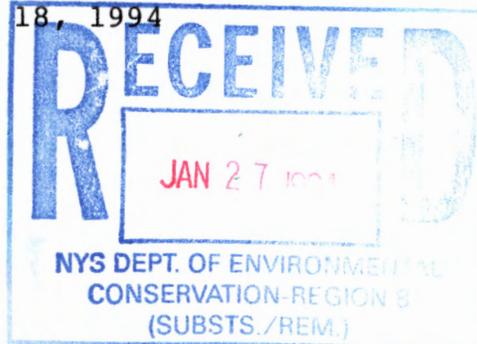
Todd M. Caffoe  
Environmental Engineer I  
Division of Hazardous  
Waste Remediation

c: M.J. Peachey  
G. Bailey  
R. Elliott  
D. Napier

**WILLIAMS & WILLIAMS**  
ATTORNEYS AT LAW  
900 FIRST FEDERAL PLAZA  
ROCHESTER, NEW YORK 14614

TEL: (716) 232-6551  
FAX: (716) 232-2381

January 18, 1994



New York State  
Department of Environmental Conservation  
6274 East Avon-Lima Road  
Avon, New York 14414-9519

Attn: Todd M. Caffoe

RE: Speedy Cleaners, Inc.

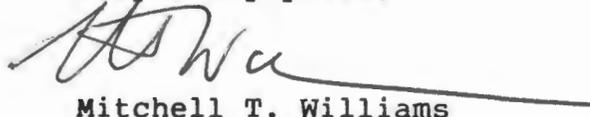
Dear Mr. Caffoe:

We represent Speedy Cleaners, Inc. to whom you wrote on December 27, 1993 requesting information concerning any environmental investigations performed on the above site within the prior 10 years.

At the request of our client, the enclosed Monroe Monitoring & Analysis, Inc. reports of March 15, 1993 and August 5, 1993 were performed with respect to 190 Court Street.

I understand that the City of Rochester has performed an environmental investigation on this site through LaBella Associates. I have been advised that Mark Gregor, of the City of Rochester Environmental Division, has furnished you with a copy of the LaBella Phase I report.

Very truly yours,

  
Mitchell T. Williams

MTW:cs

Enclosure

cc Dan Speedy  
Michael Hunzek  
Evan Clark

file



New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-9519

Telephone: (716) 226-2466

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

February 8, 1994

Mr. Dan Speedy  
Speedy's Cleaners  
50 Scio Street  
Rochester, New York 14604

Dear Mr. Speedy:

RE: Speedy Cleaners, Inc.  
190 Court Street, Rochester, New York

*Is your RETURN ADDRESS completed on the reverse side?*

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
Mr. Dan Speedy  
Speedy's Cleaners  
~~50 Scio Street~~ 190 COURT ST  
Rochester, NY 14604

4a. Article Number  
P 386 016 205

4b. Service Type  
 Registered     Insured  
 Certified     COD  
 Express Mail     Return Receipt for Merchandise

7. Date of Delivery  
2-10-94

8. Addressee's Address (Only if requested and fee is paid)

5. Signature (Addressee)

6. Signature (Agent)  
Dan Speedy

PS Form 3811, December 1991 \*U.S. GPO: 1992-323-402

**DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

The Department is in receipt of the Phase II Environmental Investigation report and the Asbestos Survey report for the referenced property. Thank you for your timely submission.

The January 18, 1994 letter from Mr. Mitchell Williams did not indicate whether the two reports were a complete submittal of all environmental investigation reports for the 190 Court Street facility. As Mr. Mitchell's letter indicated, the City of Rochester submitted a Phase I report prepared by Labella. The Phase II Environmental Investigation Report references a Phase I Environmental Audit Report prepared by Monroe Monitoring & Analysis, Inc. (MM&A). Pursuant to Title 13, Sections 27-1307 and 27-1309 of the Environmental Conservation Law (ECL), I am requesting a copy of the Phase I Environmental Audit by MM&A and any other environmental investigation reports which may exist for the 190 Court Street facility.

Please send a written response within 10 days of your receipt. If you have any questions, I can be contacted at (716) 226-2466.

Sincerely,

Todd M. Caffoe  
Environmental Engineer I  
Division of Hazardous  
Waste Remediation

- M.J. Peachey - R/8
- J. Hazel - DEE, Buffalo
- M. Williams - Williams & Williams
- R. Elliott - MCHD
- D. Napler - NYSDOH



City of Rochester

*Todd file*

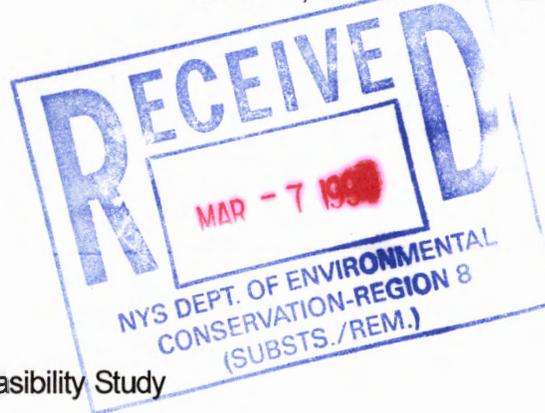
FAX (716) 428-6010  
TDD/Voice 232-3260

Department of  
Environmental Services

Office of the Commissioner  
City Hall, Room 300-B  
30 Church Street  
Rochester, New York 14614-1290

March 3, 1994

Rick Elliott, Principal Health Engineer  
Monroe County Department of Health  
111 Westfall Road  
Rochester, New York 14620



Re: Court Street Parking Garage/Soil Remediation Feasibility Study

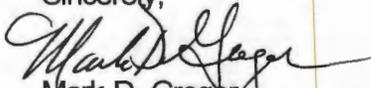
Dear Mr. Elliott:

Enclosed is the draft Court Street Parking Garage Soil Remediation Feasibility Study prepared by Seeler Associates. The feasibility study was completed in order to determine the most appropriate means of remediating soils in and around Speedy Cleaners. The study was delivered to Mary Jane Peachey and Todd Caffoe on 3/1/94.

We previously provided you with the Investigation Report and Soil Removal Work Plan for the Court Street Parking Garage project. The work plan described the procedures for managing and disposing of soils that will be excavated for the garage. The feasibility study evaluates alternatives and includes a recommendation for the areas of soil contamination that would not be excavated for the garage construction. Because of scheduling constraints involving a Rochester Gas & Electric 115kv transmission line installation in late April, the City must begin Phase I of the soil removal effort recommended in the feasibility study by Tuesday March 15th. We will attempt to incorporate any comments made before that time. In addition, we would be happy to meet with you or visit the site to review the planned activities.

If you have any questions, or need further information please let me know.

Sincerely,

  
Mark D. Gregor  
Environmental Specialist

xc: Mary Jane Peachey, NYS-DEC  
Dave Napier, NYS-DOH

MDG:ct  
cortstpk.let

EEO Employer/Handicapped





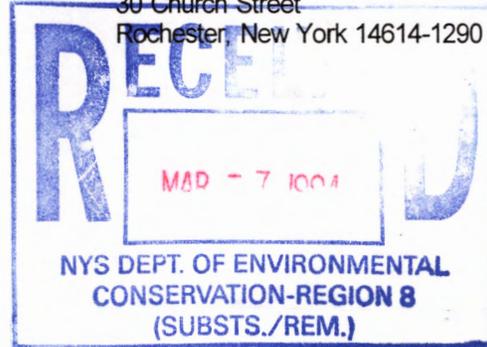
City of Rochester

*Todd file*

FAX (716) 428-6010  
TDD/Voice 232-3260

Department of  
Environmental Services

Office of the Commissioner  
City Hall, Room 300-B  
30 Church Street  
Rochester, New York 14614-1290



March 3, 1994

Dave Napier  
Regional Toxics Coordinator  
NYS-DOH  
42 South Washington Street  
Rochester, New York 14604

Re: Court Street Parking Garage/Soil Remediation Feasibility Study

Dear Mr. Napier:

Enclosed is the draft Court Street Parking Garage Soil Remediation Feasibility Study prepared by Seeler Associates. The feasibility study was completed in order to determine the most appropriate means of remediating soils in and around Speddy Cleaners. The study was delivered to Mary Jane Peachey and Todd Caffoe on 3/1/94.

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If you have any questions, or need further information please let me know.

Sincerely,

  
Mark D. Gregor  
Environmental Specialist

xc: Mary Jane Peachey, NYS-DEC  
Rick Elliott, MC-DOH

MDG:ct  
cortstpk.let

EEO Employer/Handicapped

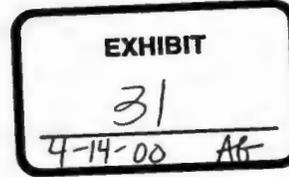


New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-9519  
Telephone: (716)226-2468

*file*



Langdon Marsh  
Acting  
Commissioner



March 9, 1994

**CORRECTED COPY**

Mr. Edward Doherty, Commissioner  
Department of Environmental Services  
City of Rochester  
30 Church Street - Room 300B  
Rochester, NY 14614-1290

Dear Mr. Doherty:

**Re: Court Street Parking Garage  
Rochester (C), Monroe (C)**

This office has reviewed the (1) City of Rochester Investigation Report and Soil Removal Work Plan and (2) the City of Rochester Soil Remediation Feasibility Study. Both documents are dated February 1994.

The Department considers the two City of Rochester reports to represent an interim remedial measure (IRM) for soil removal in depicted areas near the proposed Court Street Parking Garage. This is consistent with the draft consent order currently under negotiation with the City of Rochester and this Department. Consequently, the comments provided in this letter are based on an evaluation of the reports as an IRM work plan.

As an initial matter, the Department does not require that an IRM work plan include a "feasibility study". Further, the document identified by the City as a "feasibility study" does not satisfy the requirements of a "feasibility study" as that term is normally understood. These requirements include, but are not limited to: an evaluation of remedial technologies; development, screening, and detailed analysis of alternatives; and final remedy selection. Therefore, to avoid confusion, the Department recommends that the title of the document currently identified as a "feasibility study" be changed to "Analysis of Soil Remediation Removal Alternatives."

The following comments were discussed with Mark Gregor of your office on March 8, 1994 and must be addressed prior to acceptance of the IRM work plan:

0011573



1. A health and safety plan which addresses both on-site workers and the community must be included as part of the IRM work plan;
2. There is an inconsistency between the two reports; one has a screening volatile organic compound concentration of 10 ppm and the other report has 20 ppm. The criteria for contaminated soil and debris excavation shall include (1) any visibly contaminated soil and debris and (2) soil and debris which exhibit 10 ppm or greater of total volatile organics as detected by an HNu photoionization detector;
3. For all phases of the IRM soil removal, confirmatory soil samples must be taken in accordance with Appendix K of the Soil Removal Work Plan. The results of the soils analyses shall be compared to the cleanup criteria stated in the Spill Technology and Remediation Series (STARS) Memo #1. If the contaminant levels in the remaining soils exceed the cleanup criteria, then excavation must continue until the cleanup levels are achieved;
4. Since there will likely be residual soil contamination, a soil venting system must be installed to minimize any impacts to the proposed parking garage, tunnel and tower areas. The IRM work plan must specify the type and design of the venting system that will be installed to address residual contamination;
5. All soil samples should be placed in wide-mouthed glass jars instead of 40 ml glass bottles. The excess handling of the samples associated with 40 ml glass bottles can bias analytical results;
6. The procedures used for soil excavation, staging and disposal, waste transportation and disposal and decontamination should be specified for the Phase I and Phase II removal actions identified in the Soil Remediation Feasibility Study document. This will avoid confusion in the future. The procedures specified in section 4 of the Soil Removal Work Plan would be acceptable; and
7. A report must be prepared which certifies completion of the IRM in accordance with the accepted work plan. The report must be stamped by a NYS Professional Engineer and include, but not be limited to, the following items: deviations to the approved work plan; the

0011574



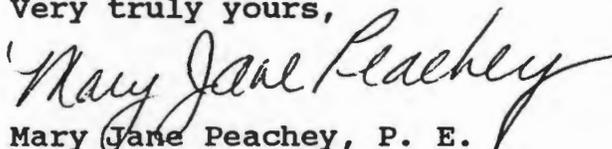
March 9, 1994

extent and quantify of soil removed; all analytical data; all waste disposal documentation; and record drawings of the soil venting system.

Finally, the Department has attempted to provide a prompt review of the documents submitted by the City of Rochester for this development project. Consequently, verbal comments were obtained from the New York State Department of Health on your feasibility study only and have been incorporated into this letter. Every effort will be made to continue this cooperation.

If you have any questions, please contact me at 226-2466. Thank you for your continued cooperation.

Very truly yours,



Mary Jane Peachey, P. E.  
Regional Hazardous Waste  
Remediation Engineer  
Division of Hazardous  
Waste Remediation

db

cc: J. Brennan  
R. Elliott  
J. Hazel  
D. Napier

0011575



New York State Department of Environmental Conservation  
6274 East Avon-Lima Road, Avon, NY 14414



Langdon Marsh  
Acting Commissioner

**IMMEDIATE ATTENTION**

TO: Edward Doherty

FROM: Mary Jane Peachey, NYSDEC, Region 8

DATE: March 11, 1994

NUMBER OF PAGES: 3 (PLUS COVER)

MESSAGE:

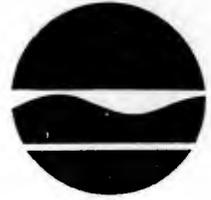
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Our operator's telephone number is (716)226-2466, Extension 340.

0011576



New York State Department of Environmental Conservation  
6274 East Avon-Lima Road, Avon, NY 14414



Thomas C. Jorling  
Commissioner

**IMMEDIATE ATTENTION**

TO: Jim Hazel - DEE

FROM: Mary Jane Plachey - Region 8

DATE: March 10, 1994

NUMBER OF PAGES: \_\_\_\_\_ (PLUS COVER)

MESSAGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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0011577



New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-9519  
Telephone: (716)226-2466



March 15, 1994

Mr. Edward J. Doherty  
Commissioner, Dept. of Environmental Services  
City Hall, Room 300-B  
30 Church Street  
Rochester, NY 14614-1290

Dear Mr. Doherty:

**RE: Court Street Parking Garage IRM  
Rochester (C), Monroe (C)**

The following comments are offered in response to your March 14, 1994 letter and have generally been discussed with Mark Gregor of your office:

1. Comment #1 in your March 14, 1994 letter should include a reference to the worker health and safety plan;
2. The criteria for excavating soil or debris are if either is visibly contaminated or exhibits 10 ppm or greater of total volatile organics as detected by an HNu photonization detector. Therefore, the "and/" should be eliminated from your comment #2 and the words "or excavation debris" should be added after the word soil;
3. The word "stoddard" should be eliminated from comment #3. Contamination may not be limited to or defined as stoddard solvent but may still warrant excavation;
4. As stated in your letter, the layout and design of the gas ventilation system will be amended into the IRM plan. This office will coordinate comments on this layout and design with the NYS Department of Health and Monroe County Health Department;
5. The Department has no comments on numbers 5 and 6 in your March 14, 1994 letter; and

March 15, 1994

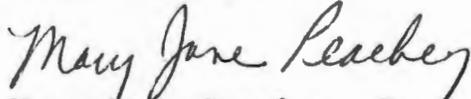
6. The report discussed in comment #7 of your March 14, 1994 letter will be prepared after completion of this interim remedial measure (IRM).

Finally, I have discussed the health and safety plans with both the Monroe County Health Department and the NYS Department of Health. The contractor health and safety plan discussed on page 3 of your March 14, 1994 letter discusses PPE and contaminant levels that will trigger changes in the required level of protection. It will be necessary to include specific action levels in this health and safety plan. If, as these levels are being developed, you have any questions, please contact Dave Napier, NYSDOH, directly.

It is my understanding that the IRM plan, including the layout and design of the gas ventilation system, will be submitted for review on March 16, 1994. This office will make every effort to respond by close of business on March 18, 1994 .

If you have any questions, please call me at (716)226-2466.

Very truly yours,



Mary Jane Peachey, P. E.  
Regional Hazardous Waste  
Remediation Engineer  
Division of Hazardous  
Waste Remediation

db

cc: J. Brennan  
R. Elliott  
J. Hazel w/incoming  
D. Napier

bcc: F. Ricotta/P. Bush  
M. O'Toole

New York State Department of Environmental Conservation  
74 East Avon-Lima Road, Avon, NY 14414



Langdon Marsh  
Acting Commissioner

**IMMEDIATE ATTENTION**

TO: Dave Napier, NYSDOH - Rochester

FROM: Mary Jane Peachey, P. E., NYSDEC - Avon

DATE: March 15, 1994

NUMBER OF PAGES: 2 (PLUS COVER)

MESSAGE:

Our telecopier number is (716)226-2466, Extension 335.

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New York State Department of Environmental Conservation  
74 East Avon-Lima Road, Avon, NY 14414



Langdon Marsh  
Acting Commissioner

**IMMEDIATE ATTENTION**

TO: J. Hazel, DEE - Buffalo Field Unit

FROM: Mary Jane Peachey, P. E., NYSDEC - Avon

DATE: March 15, 1994

NUMBER OF PAGES: 2 (PLUS COVER)

MESSAGE:

Our telecopier number is (716)226-2466, Extension 335.

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New York State Department of Environmental Conservation  
74 East Avon-Lima Road, Avon, NY 14414



Langdon Marsh  
Acting Commissioner

**IMMEDIATE ATTENTION**

TO: Edward Doherty - City of Rochester

FROM: Mary Jane Peachey, P. E., NYSDEC, Avon

DATE: March 15, 1994

NUMBER OF PAGES: 2 (PLUS COVER)

MESSAGE:

Our telecopier number is (716)226-2466, Extension 335.

Our operator's telephone number is (716)226-2466, Extension 340.



City of Rochester

*Todd (extra)*

FAX (716) 428-6010  
TDD/Voice 232-3260

Department of  
Environmental Services

Office of the Commissioner  
City Hall, Room 300-B  
30 Church Street  
Rochester, New York 14614-1290

March 16, 1994

Mary Jane Peachey, P.E.  
Regional Hazardous Waste Remediation Engineer  
New York State Department of Environmental Conservation  
6274 E. Avon-Lima Road  
Avon, New York 11414

Re: Court Street Parking Garage IRM Work Plan

Dear Ms. Peachey:

Attached please find two copies of the Investigation Report and IRM Work Plan for the Court Street Parking Garage site. We have attempted to address the comments from your March 9 and March 15 letters and those of the health departments with this submittal. We had hoped to transmit the Worker and Community Health and Safety Plan with the Work Plan. However some of the additions requested in the comments that we received have not yet been completed by MARCOR. We will deliver the Health and Safety Plan as soon as we receive it.

Please let me know if you have any questions. If there is any additional information needed for you to approve the plans we will attempt to meet your concerns as soon as possible. Any work that we need to complete before you are able to provide written approval will be conducted in accordance with the plans and comments that have been received.

Sincerely,

*Mark D. Gregor*

Mark D. Gregor  
Environmental Specialist

Enc.  
xc. R.Elliott  
D.Napier  
T.Caffoe  
E.Dohery  
J.Brennan  
N.Burton  
S.Feurerstein  
D.Zariczny  
A.Klumpp  
T.Seeler



**ew York State Department of Environmental Conservation**

**ision of Environmental Remediation, Region 8**

4 East Avon-Lima Road, Avon, New York 14414-9519

Phone: (716) 226-5353 • FAX: (716) 226-8696

Website: www.dec.state.ny.us



John P. Cahill  
Commissioner

January 16, 2001

Mr. Frank Pavia  
Boylan, Brown, Code, Vigdor & Wilson, LLP  
2400 Chase Square  
Rochester, NY 14604

Dear Mr. Pavia:

Re: The City of Rochester v. Speedy Cleaners, et al.

In response to your December 27, 2000 letter requesting copies of two documents on the above-referenced subject, Department staff have reviewed its file and did not find document #1. A copy of document #2 is attached.

Pursuant to our telephone conversation of January 16, 2001, I have also attached a copy of a report entitled "Investigative Report and Interim Remedial Measure Work Plan" dated March 1994. As you can see from the subsequent correspondence (A March 23, 1994 work plan addendum by the City of Rochester to NYSDEC, A March 21, 1994 letter from NYSDEC to the City of Rochester, and A March 31, 1994 letter from NYSDEC to the City of Rochester), the March 1994 work plan and subsequent correspondence represents the NYSDEC approvable document. Copies of the correspondence noted above are also included.

If you have any questions, please feel free to contact me at (716)226-5349.

Very Truly Yours,

Mary Jane Peachey, P.E.

Regional Hazardous Waste Remediation Engineer

cc: Karen Kamholz, City of Rochester, w/attachments  
Jane Cameron, AG Office-Buffalo, w/attachments

**New York State Department of Environmental Conservation**

**Division of Hazardous Waste Remediation**

**274 East Avon-Lima Road, Avon, New York 14414-9519**

**Telephone: (716) 226-2466**



**Langdon Marsh  
Acting  
Commissioner**

March 21, 1994

Mr. Mark Gregor  
City of Rochester  
Department of Environmental Services  
30 Church Street - Room 300B  
Rochester, New York 14614-1290

Dear Mr. Gregor:

**RE: Court Street Parking Garage  
Interim Remedial Measure (IRM) Work Plan (March 1994)**

This office has reviewed the referenced work plan, and the following comments must be addressed prior to Department approval of the work plan. Verbal comments were transmitted to me from the New York State Health Department and the Monroe County Health Department and are included below.

1. Page 4-16 - Please elaborate upon what criteria will be used to install additional sections to the ventilation system. As we discussed in our March 17, 1994 telephone conversation, the ventilation system should be expanded into areas where contaminated soils remain above the cleanup criteria. In order to actively remediate any remaining contaminated soils, the piping should be within the contaminated soils. The final configuration of the ventilation system must be presented in the IRM completion report.
2. The design of the gravel pack for the slotted ventilation pipes should include a filter fabric wrap to prevent fine grained material from clogging the screens and the gravel pack.
3. Prior to installation of the ventilation pipes, it should be determined whether a blower can be adequately sized to extract soil vapor from the piping system. It may be necessary to modify the design of the piping system to account for pressure losses or "dead areas" within the ventilation system.
4. Section 6.0, Worker Health and Safety Plan - The plan must specify the action levels and types of Personal Protection Equipment (PPE). For example, there must be action levels to upgrade PPE to level C or level B. Also, the type of PPE associated with each level of protection must be specified. Please consult with Mr. David Napier of the New York State Department of Health for further details.
5. It must be documented that all workers in the exclusion zone meet the OSHA requirements in 29CFR 1910.120.

Please provide a written response to these comments as an addendum to the Work Plan and Health and Safety Plan. Thank you for your continued cooperation.

Sincerely,

Todd M. Caffoe  
Environmental Engineer I  
Division of Hazardous  
Waste Remediation



**New York State Department of Environmental Conservation**  
**Division of Hazardous Waste Remediation**  
6274 East Avon-Lima Road, Avon, New York 14414-9519

Telephone: (716) 226-2466

*file*



Langdon Marsh  
Acting  
Commissioner

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

March 31, 1994

Mr. Dan Demosthenes  
Speedy Cleaners  
50 Scio Street  
Rochester, New York 14604

Dear Mr. Demosthenes:

**RE: Former Speedy Cleaners, Inc.**  
**190 Court Street, Rochester, New York**

The Department is in receipt of the environmental investigation report prepared by Sear-Brown. Thank you for the additional information. As per my December 27, 1993 letter, I requested all available environmental data pertaining to the referenced site for the last ten years. Does the submission of the Sear-Brown report constitute all of the available data?

Please send a written response within 10 days of your receipt. If you have any questions, I can be contacted at 716/226-2466. Thank you for your continued cooperation.

Sincerely,

Todd M. Caffoe  
Environmental Engineer I  
Division of Hazardous  
Waste Remediation

c: M.J. Peachey - R/8  
J. Hazel - DEE, Buffalo  
R. Elliott - MCHD  
D. Napier - NYSDOH

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

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- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Dan Demosthenes  
Speedy Cleaners  
50 Scio Street  
Rochester, NY 14604

4a. Article Number  
P 386 016 212

- 4b. Service Type
- Registered  Insured
  - Certified  COD
  - Express Mail  Return Receipt for Merchandise

7. Date of Delivery  
4-1-94

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

P 386 016 212

NYSDEC - DORIS



**Receipt for Certified Mail**

No Insurance Coverage Provided  
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Sent to	
Demosthenes - Spddyds	
Street and No.	
50 Scio Street	
P.O., State and ZIP Code	
Rochester, NY 14604	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark of Date	

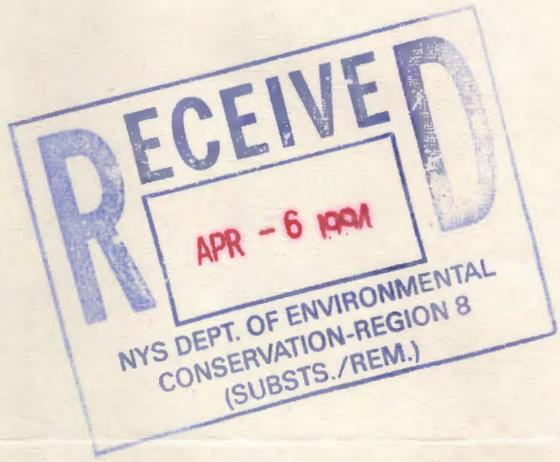
PS Form 3800, June 1991





**THE SEAR-BROWN GROUP**  
**FULL-SERVICE DESIGN PROFESSIONALS**

85 METRO PARK  
ROCHESTER, NEW YORK 14623-2674  
716-475-1440 FAX: 716-272-1814



April 5, 1994

Mr. Todd M. Caffoe  
New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
5274 East Avon-Lima Road  
Avon, New York 14414-9519

RE: Speedy Cleaners, Inc.  
190 Court Street  
Rochester, N.Y.

13132

Dear Mr. Caffoe:

In a letter dated March 25, 1994, I forwarded to you the results of an environmental investigation conducted by Sear-Brown on the Speedy Cleaners, Inc. property. In that report, I mistakenly referred to the property owner as Mr. Dan Demosthenes. The correct legal name is Mr. Demosthenes Speedy. Mr. Speedy is better known by his nick name, Mr. Dan Speedy.

Should you have any questions, please feel free to call.

Very truly yours,

*Evan B. Clark*  
Evan B. Clark, P.E.  
Environmental Engineering Manager

EBC:cet:13132.13

cc: Mitchell Williams

M.J. Reahey



**New York State Department of Environmental Conservation**

Region 8 Office  
174 East Avon-Lima Road, Avon, NY 14414-9519  
Telephone: 716-226-2466 Fax: 716-226-9485

**Michael D. Zagata**  
Commissioner

December 10, 1996

**BY FAX and MAIL**

Mitchell T. Williams, Esq.  
Williams & Williams  
600 First Federal Plaza  
Rochester, New York 14614



*file Court ST*

Dear Mr. Williams:

Re: City of Rochester/Speedy Cleaners, Inc.

This will confirm our conversation of December 9, 1996 relative to your Notice of Motion dated November 14, 1996, in which you seek a court order requiring this Department to produce certain documents more particularly described at page 4 of the Notice. As we discussed, with respect to the Department's involvement on the property formerly owned by Speedy Cleaners, Inc., the Department's file has been put together and is available. With respect to any other parcels within the "Washington Square Urban Renewal District," I advised you that we would appreciate a more definite statement with respect to street addresses and/or current or former property owners. This will enhance our ability to search our files, and insure that your request can be addressed without running the risk of having missed a property. You agreed to provide the street addresses of the parcels in the district which are of concern to you, and I in turn agreed that we would process your request to review file information expeditiously after receipt of the same.

Further, since I am currently unaware of what documents may exist in those (yet to be identified) files, I write this without waiving any claim of privilege that the Department may have in those file materials. Finally, I am advising the City of Rochester as well as the Attorney General's office by copy of this letter of our discussion. I request that you make its contents known to the court during your appearance on December 11, 1996. I have advised Ms. Davison at the Attorney

Mitchell T. Williams, Esq.

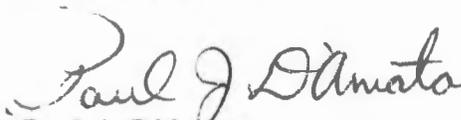
- 2 -

December 10, 1996

General's office that based on our discussion and the likelihood of the exchange of documents being made without contest that I did not feel there needed to be an appearance tomorrow on behalf of this Department.

If anything in this letter is contrary to your understanding of our discussion, please so advise. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Paul J. D'Amato".

Paul J. D'Amato  
Regional Attorney

PJD:ks

cc: R. Davison, Esq. (by fax)  
S. Hauser, Esq. (by fax)  
M.J. Peachey

unidentified department heads did not want removed from their offices. The Asst. Corporation Counsel has informed your affiant that copies would be made; to date the Asst. Corporation Counsel has not identified which documents still remain with various department heads and copies thereof have not been furnished to your affiant.

6. The aforesaid Order of the Court of August 1, 1996 (Exh. 1) also provides that the Condemnor answer the Claimants' First Request for Interrogatories. To date no such answer has been furnished by the Condemnor.

7. On October 14, 1996 your affiant prepared and served Corporation Counsel's office with a Second Request for Interrogatories (Exh. 3). To date no objection or response to the Second Request for Interrogatories has been made by the Corporation Counsel.

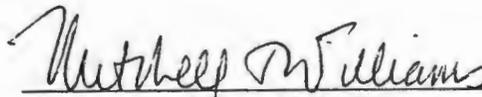
8. As a result of your affiant's review of the documents which were produced by Corporation Counsel, your affiant has determined that he needs certain documents which your affiant believes are in the possession of the New York State Department of Environmental Conservation (NYDEC) at the Avon office which documents are identified below. The Court will recall that the property which is the subject matter of the above proceeding is only one parcel of many parcels within the Washington Square Urban Renewal District. It is necessary and relevant for the Claimants to determine what, if any, contaminants were present in other properties in the Washington Square Urban Renewal District (District). The NYDEC monitored the testing of all of the properties in the District for contaminants and entered into IRM Order on Consent with respect to one or more of the properties in the District. The IRM (Interim Remedial Action) Order on Consent identified any possible contaminants in the District and the proposed remediations thereof by the Condemnor. The Court will recall the Condemnor's

position that there are contaminants in the property which is the subject matter of this proceeding. Claimants seek an order compelling the DEC to produce the following documents with respect to each parcel situated in the District:

1. Any IRM Orders of Consent;
2. Any Declaration of Covenants and Restrictions affecting same;
3. All documents, correspondence, memoranda between the DEC and the Condemnor and/or any employee of any department of the Condemnor;
4. Site maps delineating areas of known or assumed contamination;
5. Interim Remedial Action work plans, with any formal or informal amendments;
6. Site health and safety plans.

7. The Claimants cannot fully prepare for the hearing with respect to the value of the property acquired by the Condemnor unless the Condemnor is required to forthwith comply with this Court's Order of August 1, 1996 by furnishing all the documents referred to above and is further required to serve its answer to the Claimants' First and Second Request for Interrogatories. It has been more than one year (November 10, 1995) since the Claimants made its initial discovery demands and more than three months since this Court's Order of August 1, 1996. The Condemnor is dilatory in furnishing the required documents and responses.

Dated: November 14, 1996

  
\_\_\_\_\_  
Mitchell T. Williams

WILLIAMS  
AT LAW  
RAL PLAZA  
I.Y. 14614



## City of Rochester

FAX (716) 428-6010  
TDD/Voice 232-3260

Department of  
Environmental Services

Office of the Commissioner  
Division of Environmental Quality  
30 Church Street, Rm. 300B  
Rochester, New York 14614-1278  
Tel#: (716) 428-6011



June 7, 1996

Todd Caffoe, P.E.  
Division of Hazardous Waste Remediation  
New York State Department of Environmental Conservation  
6274 East Avon-Lima Road  
Avon, New York 14414

Re: Court Street Parking Garage IRM Report Addendum - Response IRM Report Comments

Dear Mr. Caffoe:

We have reviewed your April 24, 1996 letter regarding the City's draft Interim Remedial Measures Report and made changes to the report that we believe address your concerns. We propose that this letter and attachments serve as an addendum to the report and, if acceptable, constitute completion of the IRM report.

We have prepared a response to each comment and, where appropriate, attached replacement pages or drawings. We are also including changes to correct errors and omissions identified in the draft which you received in February. Finally we are also providing a project photograph appendix to the report.

We have the following responses to the comments in your April 24 letter:

**Comment 1.** Page 2-7 - Was the dense phase liquid bubble ~~collected for~~ other compounds perchloroethylene (PCE)?

Response: A modified Method 8010 for PCE only was run on the dense phase liquid. The method has been modified to clarify this issue.

**Comment 2.** Pages E-5 and 2-30 - It should be noted in the text that "form oil" was being liberally sprayed on the concrete forms in the area.

Response: Changes have been made in the text on E-5 and 2-30 to indicate that petroleum-based form oil was sprayed on wooden concrete forms in the excavation area.

**Comment 3.** It was difficult to get an accurate summary of the confirmatory sample results. It would be less confusing if all of the verification samples were on one figure. Samples which exceeded the spill technology and remediation series (STARS) Memo #1 criteria should have the sample results posted on the figure with a notation why they were left in place (i.e. proximity to building).

Response: As requested, a new drawing, Sheet 11 - Summary of Verification Sample Results, is enclosed which presents the verification sample data for the entire site.

*Comment 4. Please include "as-built" drawings for the soil vapor extraction (SVE) system and update the text of Section 3 to reflect that the system is installed.*

Response: As-built drawings of the SVE system are enclosed, and pages 3-3 and 5 have been modified to reflect that the system is in place.

*Comment 5. Please provide a revised remediation air emission permit application for the SVE system with an original signature.*

Response: A revised, signed air emission permit application for the SVE system was mailed to Todd Caffoe on May 10, 1996.

*Comment 6. Operation & Maintenance - Please include an operations & maintenance plan for the SVE system. At a minimum, the plan should include inspection frequencies, sampling frequencies, reporting frequencies, inspection forms, and reporting of equipment malfunctions.*

Response: With our May 1, 1996 permit application we attached an operations and maintenance manual for the equipment installed by the contractor. Marcor of New York will be developing an operations and maintenance manual for complete system operations and maintenance including inspections and sampling for the City. This manual will be provided to the NYSDEC as soon as it is prepared. We will update the manual as we gain experience operating the system.

*Comment 7. Conclusions - Not all of the contamination soils are being addressed by the SVE system. Data from Bausch & Lomb (B&L) suggest there is residual contamination beneath the winter garden portion of the B&L building. At a minimum, a groundwater investigation should be conducted to determine if there is a contaminant plume.*

Response: After discussing this issue with you, we made modifications to Section 4.0 of the report. These changes were made to reflect that the ventilation system did not extend beyond the project limits to other areas such as the winter garden. However, we do believe that the IRM and recent construction have effectively eliminated all significant site exposure risks.

Based on observations during construction it appears that the water table is not within the overburden in the vicinity of the site. We believe that rather than attempting to install bedrock wells through the newly constructed Wintergarden site, it would be less disruptive to monitor the foundation drainage system which is located near or at the bedrock surface and closer to the original contaminant source. If this is acceptable, we are prepared to establish a sampling and monitoring plan for the foundation drainage system as recommended in Section 4.3 of the report.

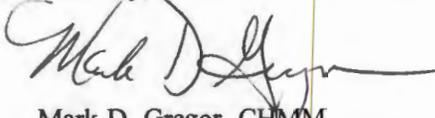


June 7, 1996 letter  
Page 3

In addition to the changes made to address your comments, we are also providing a new Appendix 8 which presents project photographs in chronological sequence. A revised Table of Contents is included to reflect the addition of Appendix 8. Finally, the consent order also requires that we provide you with a copy of the IRM report on computer readable magnetic media copy in ASCII format. Let me know if you have any special requirements such as a software preference.

We would like to meet in the near future to discuss the status of the site. Please feel free to contact me at 428-5978 or Anne Klumpp at 428-7474 should you have any questions. Once again thank you for your cooperation and responsiveness on this project.

Sincerely,



Mark D. Gregor, CHMM  
Manager, Environmental Quality Division

Enclosure

c: R. Elliott, MCDOH w/enc  
D. Napier, NYSDOH w/enc  
James Hazel, NYSDEC w/enc  
E. Doherty  
J. Brennan w/enc  
S. Hauser  
P. Comerford  
A. Klumpp  
T. Seeler

c:\courtst\irmrepor



**Seeler Associates**  
ENVIRONMENTAL CONSULTANTS

February 20, 1996

Mr. Mark Gregor  
Environmental Specialist  
Department of Environmental Services  
30 Church Street  
City Hall, Room 300B  
Rochester, NY 14614-1278

Re: Court Street Parking Garage  
IRM Report

File: 002.03

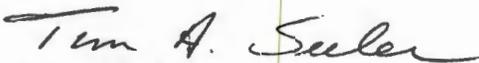
Dear Mr. Gregor:

The attached IRM report, prepared by Seeler Associates, is submitted in accordance with the requirements of the New York State Department of Environmental Conservation (NYSDEC) IRM Order-On-Consent for the Court Street Parking Garage Site dated August 19, 1994.

I certify that this IRM Report was prepared in accordance with the Order-On-Consent.

Very truly yours,

SEELER ASSOCIATES



Tim A. Seeler, P.E.  
President

1896PVS  
Enclosures



RECEIVED

DEC 14 2000

DER/HAZ. WASTE REMED  
REGION 8

December 13, 2000

Mary Jane Peachey, P.E.  
New York State  
Department of Environmental Conservation  
6274 East-Avon Road  
Avon, New York 14414

Jane Cameron, Esq.  
New York State Attorney General's Office  
107 Delaware Avenue  
Buffalo, New York 14202

Re: The City of Rochester v. Speedy Cleaners, Inc., et al.  
Civil Action No. 98-CV-6221T

Dear Mss. Peachey and Cameron:

Enclosed are copies of Deposition Exhibit Nos. "23", "31" and "86" to be used at Ms. Peachey's deposition scheduled for December 21, 2000, commencing at 11:00 a.m. Contrary to my previous correspondence, during the telephonic deposition, the court reporter will be present at Ms. Peachey's office as required by the Federal Rules of Civil Procedure.

I urge Ms. Peachey to review the exhibits prior to December 21<sup>st</sup> in order to expedite her deposition. If you have any questions, please feel free to contact me.

Very truly yours,

BOYLAN, BROWN, CODE,  
VIGDOR & WILSON, LLP

A handwritten signature in blue ink, appearing to read 'Frank C. Pavia'.

Frank C. Pavia

FCP/dw  
Enclosures

cc: Karen M. Kammholz, Esq. (w/out enclosures)

400 Chase Square  
Rochester, New York 14604

16-232-5300  
AX: 716-232-3528  
<http://www.boylanbrown.com>



RECEIVED

DEC 15 2000

DER/HAZ. WASTE REMED  
REGION 8

December 14, 2000

Mary Jane Peachey, P.E.  
New York State  
Department of Environmental Conservation  
6274 East-Avon Road  
Avon, New York 14414

Jane Cameron, Esq.  
New York State Attorney General's Office  
107 Delaware Avenue  
Buffalo, New York 14202

Re: The City of Rochester v. Speedy Cleaners, Inc., et al.  
Civil Action No. 98-CV-6221T

Dear Mses. Peachey and Cameron:

Enclosed is a copy of Deposition Exhibit No. "32" which will also be utilized at Ms. Peachey's telephonic deposition on December 21, 2000.

I apologize for failing to include this in my previous correspondence. If you have any questions, please feel free to contact me.

Very truly yours,

BOYLAN, BROWN, CODE,  
VIGDOR & WILSON, LLP

A handwritten signature in blue ink, appearing to read 'Frank C. Pavia', written over the typed name.

Frank C. Pavia

FCP/dw  
Enclosure

cc: Karen M. Kammholz, Esq. (w/out enclosure)

100 Chase Square  
Rochester, New York 14604

6-232-5300  
Fax: 716-232-3528  
http://www.boylanbrown.com

New York State Department of Environmental Conservation  
174 East Avon-Lima Road, Avon, NY 14414



Thomas G. Jorling  
Commissioner

EXHIBIT  
32  
4-14-00 AG

**IMMEDIATE ATTENTION**

TO: Edward Doherty, Commissioner, Department of Environmental Services

FROM: Mary Jane Peachey, P.E., Region 8, Avon

DATE: March 9, 1994

NUMBER OF PAGES: 2 (PLUS COVER)

MESSAGE:

Our telecopier number is (716)226-2466, Extension 335.  
Our operator's telephone number is (716)226-2466, Extension 340.

New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-8519  
Telephone: (716)226-2466



Langdon Marsh  
Acting  
Commissioner

March 9, 1994

Mr. Edward Doherty, Commissioner  
Department of Environmental Services  
City of Rochester  
30 Church Street - Room 300B  
Rochester, NY 14614-1290

Dear Mr. Doherty:

Re: **Court Street Parking Garage  
Rochester (C), Monroe (C)**

This office has reviewed the (1) City of Rochester Investigation Report and Soil Removal Work Plan and (2) the City of Rochester Soil Remediation Feasibility Study. Both documents are dated February 1994.

The following comments were discussed with Mark Gregor of your office on March 8, 1994 and must be addressed prior to acceptance of the IRM work plan:

- ✓ 1. A health and safety plan which addresses both on-site workers and the community must be included as part of the IRM work plan;
- ✓ 2. There is an inconsistency between the two reports; one has a screening volatile organic compound concentration of 10 ppm and the other report has 20 ppm. The criteria for contaminated soil and debris excavation shall include (1) any visibly contaminated soil and debris and (2) soil and debris which exhibit 10 ppm or greater of total volatile organics as detected by an HNU photoionization detector;
3. For all phases of the IRM soil removal, confirmatory soil samples must be taken in accordance with Appendixk of the Soil Removal Work Plan. The results of the soils analyses shall be compared to the cleanup criteria stated in the Spill Technology and Remediation Series (STARS) Memo #1. If the contaminant levels in the remaining soils exceed the cleanup criteria, then excavation must continue until the cleanup levels are achieved;

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Mr. Doherty

2

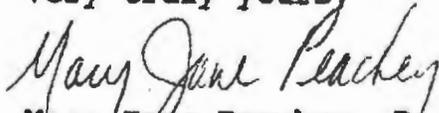
March 9, 1994

4. Since there will likely be residual soil contamination, a soil venting system must be installed to minimize any impacts to the proposed parking garage, tunnel and tower areas. The IRM work plan must specify the type and design of the venting system that will be installed to address residual contamination;
5. All soil samples should be placed in wide-mouthed glass jars instead of 40 ml glass bottles. The excess handling of the samples associated with 40 ml glass bottles can bias analytical results;
6. The procedures used for soil excavation, staging and disposal, waste transportation and disposal and decontamination should be specified for the Phase I and Phase II removal actions identified in the Soil Remediation Feasibility Study document. This will avoid confusion in the future. The procedures specified in section 4 of the Soil Removal Work Plan would be acceptable; and
7. A report must be prepared which certifies completion of the IRM in accordance with the accepted work plan. The report must be stamped by a NYS Professional Engineer and include, but not be limited to, the following items: deviations to the approved work plan; the extent and quantify of soil removed; all analytical data; all waste disposal documentation; and record drawings of the soil venting system.

Finally, the Department has attempted to provide a prompt review of the documents submitted by the City of Rochester for this development project. Consequently, verbal comments were obtained from the New York State Department of Health on your feasibility study only and have been incorporated into this letter. Every effort will be made to continue this cooperation.

If you have any questions, please contact me at 226-2466. Thank you for your continued cooperation.

Very truly yours,



Mary Jane Peachey, P. E.  
Regional Hazardous Waste  
Remediation Engineer  
Division of Hazardous  
Waste Remediation

db

cc: J. Brennan  
R. Elliott  
J. Hazel

0009847



**BOYLAN, BROWN,  
CODE, VIGDOR & WILSON, LLP**  
ATTORNEYS AT LAW

December 27, 2000

Regional Director  
New York State Department of  
Environmental Conservation  
6274 East-Avon Road  
Avon, New York 14414

Re: The City of Rochester v. Speedy Cleaners, et al.

Dear Sir:

Pursuant to the enclosed copy of the Subpoena Duces Tecum previously served upon you on October 5, 2000 in the above-referenced matter, we request that you forward copies of the following documents described in the attached letter by Mary Jane Peachey, P.E. dated March 9, 1994:

1. The City of Rochester Investigation Report and Soil Removal Work Plan dated February 1994; and
2. The City of Rochester Soil Remediation and Feasibility Study dated February 1994.

Should you have any question regarding this request, please do not hesitate to contact me. Thank you in advance for your anticipated cooperation.

Very truly yours,

Frank C. Pavia

Enclosure

cc: Jane Cameron, Esq.  
Karen M. Kammholz, Esq.

2400 Chase Square  
Rochester, New York 14604

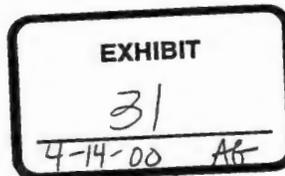
716-232-5300  
FAX: 716-232-3528  
<http://www.boylanbrown.com>

New York State Department of Environmental Conservation  
Division of Hazardous Waste Remediation  
6274 East Avon-Lima Road, Avon, New York 14414-9519  
Telephone: (716)226-2466

*file*



Langdon Marsh  
Acting  
Commissioner



March 9, 1994

CORRECTED COPY

Mr. Edward Doherty, Commissioner  
Department of Environmental Services  
City of Rochester  
30 Church Street - Room 300B  
Rochester, NY 14614-1290

Dear Mr. Doherty:

Re: **Court Street Parking Garage  
Rochester (C), Monroe (C)**

This office has reviewed the (1) City of Rochester Investigation Report and Soil Removal Work Plan and (2) the City of Rochester Soil Remediation Feasibility Study. Both documents are dated February 1994.

The Department considers the two City of Rochester reports to represent an interim remedial measure (IRM) for soil removal in depicted areas near the proposed Court Street Parking Garage. This is consistent with the draft consent order currently under negotiation with the City of Rochester and this Department. Consequently, the comments provided in this letter are based on an evaluation of the reports as an IRM work plan.

As an initial matter, the Department does not require that an IRM work plan include a "feasibility study". Further, the document identified by the City as a "feasibility study" does not satisfy the requirements of a "feasibility study" as that term is normally understood. These requirements include, but are not limited to: an evaluation of remedial technologies; development, screening, and detailed analysis of alternatives; and final remedy selection. Therefore, to avoid confusion, the Department recommends that the title of the document currently identified as a "feasibility study" be changed to "Analysis of Soil Remediation Removal Alternatives."

The following comments were discussed with Mark Gregor of your office on March 8, 1994 and must be addressed prior to acceptance of the IRM work plan:

0011573



1. A health and safety plan which addresses both on-site workers and the community must be included as part of the IRM work plan;
2. There is an inconsistency between the two reports; one has a screening volatile organic compound concentration of 10 ppm and the other report has 20 ppm. The criteria for contaminated soil and debris excavation shall include (1) any visibly contaminated soil and debris and (2) soil and debris which exhibit 10 ppm or greater of total volatile organics as detected by an HNu photoionization detector;
3. For all phases of the IRM soil removal, confirmatory soil samples must be taken in accordance with AppendixK of the Soil Removal Work Plan. The results of the soils analyses shall be compared to the cleanup criteria stated in the Spill Technology and Remediation Series (STARS) Memo #1. If the contaminant levels in the remaining soils exceed the cleanup criteria, then excavation must continue until the cleanup levels are achieved;
4. Since there will likely be residual soil contamination, a soil venting system must be installed to minimize any impacts to the proposed parking garage, tunnel and tower areas. The IRM work plan must specify the type and design of the venting system that will be installed to address residual contamination;
5. All soil samples should be placed in wide-mouthed glass jars instead of 40 ml glass bottles. The excess handling of the samples associated with 40 ml glass bottles can bias analytical results;
6. The procedures used for soil excavation, staging and disposal, waste transportation and disposal and decontamination should be specified for the Phase I and Phase II removal actions identified in the Soil Remediation Feasibility Study document. This will avoid confusion in the future. The procedures specified in section 4 of the Soil Removal Work Plan would be acceptable; and
7. A report must be prepared which certifies completion of the IRM in accordance with the accepted work plan. The report must be stamped by a NYS Professional Engineer and include, but not be limited to, the following items: deviations to the approved work plan; the

Mr. Doherty

3

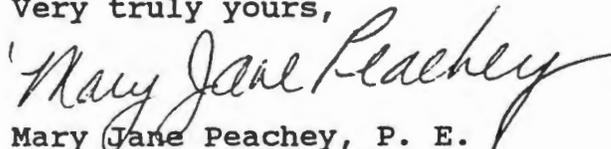
March 9, 1994

extent and quantify of soil removed; all analytical data; all waste disposal documentation; and record drawings of the soil venting system.

Finally, the Department has attempted to provide a prompt review of the documents submitted by the City of Rochester for this development project. Consequently, verbal comments were obtained from the New York State Department of Health on your feasibility study only and have been incorporated into this letter. Every effort will be made to continue this cooperation.

If you have any questions, please contact me at 226-2466. Thank you for your continued cooperation.

Very truly yours,



Mary Jane Peachey, P. E.  
Regional Hazardous Waste  
Remediation Engineer  
Division of Hazardous  
Waste Remediation

db

cc: J. Brennan  
R. Elliott  
J. Hazel  
D. Napier

0011575



New York State Department of Environmental Conservation  
274 East Avon-Lima Road, Avon, NY 14414



Langdon Marsh  
Acting Commissioner

**IMMEDIATE ATTENTION**

TO: Edward Doherty

FROM: Mary Jane Peachey, NYSDEC, Region 8

DATE: March 11, 1994

NUMBER OF PAGES: 3 (PLUS COVER)

MESSAGE:

Our telecopier number is (716)226-2466, Extension 335.

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0011576



New York State Department of Environmental Conservation  
274 East Avon-Lima Road, Avon, NY 14414



Thomas C. Jorling  
Commissioner

**IMMEDIATE ATTENTION**

TO: Jim Hazel - DEE

FROM: Mary Jane Plachey - Region 8

DATE: March 10, 1994

NUMBER OF PAGES: \_\_\_\_\_ (PLUS COVER)

MESSAGE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Our operator's telephone number is (716)226-2466, Extension 340.

0011577



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEWYORK

---

THE CITY OF ROCHESTER,

Plaintiff,

v.

CIVIL ACTION NO. 98-CV-6221T

**SUBPOENA DUCES TECUM  
IN A CIVIL CASE**

SPEEDY CLEANERS, INC.,  
DEMOSTHENES SPEEDY, in his  
Capacity as Officer and Individually,  
LILLIAN SPEEDY, in her  
Capacity as Officer and Individually, and  
B.A. SPEEDY REALTY, INC.,

Defendants.

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**TO: REGIONAL DIRECTOR  
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION  
6274 East-Avon Road  
Avon, New York 14414**

**YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects set forth on the Attached List of Requested Documents on the 25th day of October, 2000, at 10:00 o'clock in the forenoon of that day, at the offices of Boylan, Brown, Code, Vigdor & Wilson, LLP, 2400 Chase Square, Rochester, New York 14604.**

In accordance with Rule 45 of the Federal Rules of Civil Procedure, you are hereby notified of your rights with respect to this subpoena as listed below:

- (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 and copying of designated 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 and copying 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 inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy 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. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying 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, or
  - (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

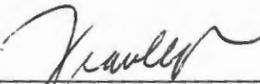
- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at 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 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.
- (2) 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.

Dated: October 4, 2000

BOYLAN, BROWN, CODE,  
VIGDOR & WILSON, LLP

By:   
Frank C. Pavia, Esq., of Counsel  
Attorneys for Defendants  
Office and P.O. Address  
2400 Chase Square  
Rochester, New York 14604  
Telephone: (716) 232-5300

**TO:** Regional Director  
New York State Department of  
Environmental Conservation  
6274 East Avon-Lima Road  
Avon, New York 14414

Karen M. Kammholz, Esq.  
City of Rochester Corporation Counsel  
Attorneys for Plaintiff  
The City of Rochester  
30 Church Street  
City Hall, Room 400A  
Rochester, New York 14614  
(716) 428-6758

## ATTACHED LIST OF REQUESTED DOCUMENTS

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, you are commanded to produce and permit inspection and copying of the following documents or objects at the place, date and time specified in the subpoena in accordance with the following instructions and definitions on or before October 25, 2000.

### I. DEFINITIONS

1. The "Site" means the real property and improvements currently and/or previously located at 190 Court Street and 196-200 Court Street, City of Rochester, State of New York.

2. The terms "Relating To" or "Related To" a certain subject mean constituting, referring to, discussing, analyzing, comprising, embodying, recording, evidencing, effecting, or containing any information which pertains to a specified subject.

3. (i) The terms "and" as well as "or" shall be construed conjunctively or disjunctively, as necessary to effectuate the broadest interpretation of the scope of any paragraph.

(ii) The use of a verb in any tense shall be construed as the use of the verb in all tenses.

(iii) The use of the singular shall be construed as the use of the plural and vice versa.

(iv) "Any" includes "All" and "All" includes "Any."

4. The terms "Document" or "Documents" have the meaning provided in Fed. R. Evid. 1001 for "writings" and "recording." The term includes "photocopies,"

“originals” and “duplicates” as defined in such Rule and includes audio or video recordings, storage on computer disk or other magnetic media, or similar recordings.

## II. INSTRUCTIONS

1. When asked to identify and describe a document, provide the following with regard to each document:

- a. The nature of the document (*e.g.*, letter or memorandum);
- b. The document’s date, subject matter and number of pages including exhibits, attachments or appendices;
- c. The identity of the document’s author;
- d. All addressees of the document, and all indicated or blind copies;
- e. A description of the subject matter of the document;
- f. If the document was destroyed or discarded, the date of destruction or discard of the document, manner of destruction or discard, the reason for destruction or discard, and the persons authorizing and/or carrying out such destruction or discard; and
- g. If the document was not destroyed, lost or discarded, but is no longer in your custody or control, the present custodian of the document.

2. In asserting any privilege in response to these Requests to Produce:

- a. Specify the type of privilege asserted;
- b. Specify the basis for the assertion of privilege;
- c. Identify the document as to which the privilege is asserted; and
- d. Identify the persons or entities with information related to the document.

### **III. REQUEST FOR PRODUCTION OF DOCUMENTS**

1. All correspondence between the City of Rochester and the New York State Department of Environmental Conservation relating to the Site.
2. All correspondence between Monroe Monitoring & Analysis, Inc., The Sear-Brown Group, LaBella Associates, P.C., Seeler Associates and the New York State Department of Environmental Conservation relating to the Site.
3. All correspondence between the New York State Department of Environmental Conservation and any other environmental consultants or environmental engineers relating to the Site.
4. All reports, summaries, analysis or other documents developed by the New York State Department of Environmental Conservation or any other environmental consultant or engineer relating to the Site.
5. All reports, summaries, analysis or other documents describing or summarizing the remedial or removal activities at the Site.
6. All diagrams, maps, figures or surveys depicting the Site, any improvements on the Site, any investigation activities at the Site, or any other conditions at the Site.
7. All work plans, scopes of work, work proposals or other documents relating to environmental investigation activities and/or environmental or removal remediation activities at the Site.
8. All documents relating to any efforts by the New York State Department of Environmental Conservation, the City of Rochester or any other environmental

consultant or environmental engineer to determine the age of any contamination and/or the date of releases at the Site.

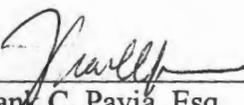
9. All documents relating to the City of Rochester's alleged compliance with the National Contingency Plan in its effort to investigate and/or remove contamination at the Site.

10. All documents which relate to sampling results at the Site or sampling results related to the soil vapor extraction system.

11. All permits, consent orders, draft consent orders, monitoring reports, meeting minutes, internal memoranda, and notes relating to the Site.

Dated: October 4, 2000

**BOYLAN, BROWN, CODE,  
VIGDOR & WILSON, LLP**  
Attorneys for Defendants

  
\_\_\_\_\_  
Frank C. Pavia, Esq.  
2400 Chase Square  
Rochester, New York 14604  
(716) 232-5300

**TO:** Regional Director  
New York State Department of Environmental Conservation  
6274 East Avon-Lima Road  
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