

Pener, Sarah

From: Ward, Chris
Sent: Thursday, September 25, 2003 9:50 AM
To: DEP EMAIL USERS
Subject: Preservation of World Trade Center Related Documents

I had written you earlier this year requesting that any documents relating to the destruction of the World Trade Center and the clean-up activities in Lower Manhattan be retained. I have been asked again by the City of New York's Corporation Counsel to reiterate the requirement that all DEP employees who were involved in the relief and clean-up of Lower Manhattan following September 11, 2001 retain any and all written and electronic records relating to this effort. The City is currently defending more than two thousand claims arising from the September 11, 2001 terrorist attacks on the World Trade Center and there is the potential for additional claims to be filed in the future. As a result of this litigation, the City must preserve and protect all documents concerning the attacks and their aftermath, including data in electronic form.

DEP has also been directed to retain any and all records and data that may have been collected concerning the condition of the environment in the areas of Lower Manhattan surrounding the World Trade Center, immediately before and in the months after the events of September 11. This would include records and data relating to the condition of the air, water system and sewer system, as well as records and data relating to sewer discharges to the surrounding receiving waters and records relating to any sampling done in such waters.

This means you may not delete, erase or otherwise destroy any data relating to any aspect of the attacks or the City's response from your computers, PDAs, agency electronic data systems and any personal electronic equipment that you use in conjunction with your work. If you have any doubt about preservation, you must preserve the data. Specifically,

- Do not delete any e-mails or any documents from your personal computer concerning any aspect of the events of September 11, 2001, or their aftermath.
- Contact Robert Cucinotta, Assistant Commissioner, Information Technology, at (718) 595-7805 before discarding or salvaging any computers or hardware.
- Do not recycle or re-use computer tapes or re-writable disks. Use a new disk if necessary and preserve your older disks with any information already on them.

It is vital that all employees comply with this directive immediately. If you have any questions, please contact Mark Hoffer, DEP's General Counsel at (718) 595-6528. Thank you for your cooperation.

Very truly yours,
Chris Ward
Commissioner



**THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007**

World Trade Center Files Retention Slip Sheet

Please use this slip sheet as a divider between the documents already collected by the Law Department and the new documents that you add to this file/folder. The documents behind the divider were collected and duplicated by the WTC Unit of the New York City Law Department. *Please add any new documents ahead of this divider.*

WORKSITE # 65400



**THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007**

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WORKSITE # 65400

Pener, Sarah

From: Schiano, Frank
Sent: Thursday, December 16, 2004 3:04 PM
To: Pener, Sarah
Subject: FW: Fax Number

-----Original Message-----

From: Pecunies, Russ
Sent: Thursday, December 16, 2004 12:32 PM
To: Schiano, Frank
Subject: RE: Fax Number

Frank-
 I think I forwarded it to Sarah.
 Russ

-----Original Message-----

From: Schiano, Frank
Sent: Thursday, December 16, 2004 12:07 PM
To: Pecunies, Russ
Cc: Pener, Sarah
Subject: FW: Fax Number

Can you please fax a copy of the notice of claim to Brian.

-----Original Message-----

From: Lieberman, Brian [mailto:BLieberm@law.nyc.gov]
Sent: Wednesday, December 15, 2004 4:36 PM
To: 'fschiano@dep.nyc.gov'
Subject: Fax Number

Frank-You might remember that yesterday I mentioned I misplaced the notice of claim for Greenberg v. DEP that Russ gave me a copy of last week. Could you tell him to fax it to 212-676-2597. Thanks,
 Brian

1/14/2005

EVIDENCE RETURN ACKNOWLEDGEMENT FORM

Source SARAH PENER	Custodian SARAH PENER	Agency DEP	Date of Return 1/13/2005
Document Capture Team Members Present CLAUDIA CHERNOFF		Address and Location of Documents in the Building. 59-17 JUNCTION BLVD. 19TH FL. QUEENS, NY	
Number of Boxes 1	Control ID Numbers DEP 00211	Other Comments ALL DOCUMENTS CONTAINED IN ONE REDWELD	

NYC Law Person CLAUDIA CHERNOFF (Print Name)

Claudia Chernoff (Sign Name)

1/13/2005 (Date)

Agency Source/Custodian SARAH PENER (Print Name)

Sarah Pener (Sign Name)

1/13/2005 (Date)



THE CITY OF NEW YORK
LAW DEPARTMENT
 100 CHURCH STREET
 NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

JESSE LEVINE
Assistant Chief WTC Unit
 212 341 3713

RE: World Trade Center Files Retention

Dear NYC Employee:

The World Trade Center-related materials returned with this letter were collected from you and have been processed by the New York City Law Department. If these are original records, you are legally obligated to keep these materials. They may be needed as evidence in WTC-related legal actions against the City. If what we have returned are copies of your original materials, then, you must handle them in accordance with your agency's document retention policy.

All of the documents are now inside Law Department redwelds/boxes. These redwelds/boxes also contain slip sheets printed on colored paper. We ask that you use the slip sheets as dividers to separate any new documents you may add to these files once they have been returned to you.

If you would like to dispose of any of these items, please contact me directly at the New York City Law Department at (212) 341-3713. If I am not available, please contact Brian Lieberman at (212) 788-1678. If appropriate, the Law Department will arrange for the pick up of any materials that you no longer need and are ready to store.

Also, in the event you are planning to leave your current position, please email me at jlevine@law.nyc.gov to inform me of the identity of the new custodian of these documents.

Please sign below and acknowledge return of your files, acceptance of the slip sheets and the procedure regarding their use.

Sincerely,

Jesse Levine, Esq.

Acknowledged on Jan. 13th, 2005

By: Sarah E. Perner

Print Name: SARAH PENER

WORKSITE # 157457



**ace westchester
specialty group**

Claims
500 Colonial Center Parkway
Suite 200
Roswell, GA 30076

678-795-4037 tel
678-795-4081 fax
www.ace-ina.com

Elijah D. Guest
Chief Claims Specialist

September 1, 2004

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

7003 3110 0002 8400 2823

Silverstein Properties, Inc.

530 5th Ave.

New York, NY 10036

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

7003 3110 0002 8400 2854

Karl R. Lunan

Manager, Claims Administration

The Port Authority of NY & NJ

225 Park Ave. South

New York, NY 10003

Re: Lawrence Ford, Patrick Arcese v. Port Authority
Our File: 233L272987
Date of Loss: 9/01-10/01

Dear Sirs:

We are handling this matter on behalf of Illinois Union Insurance Company ("Illinois Union") Westchester Fire Insurance Company ("Westchester Fire") and Westchester Surplus Lines Company ("WSLIC"), arising from a tender by The Port Authority of New York and New Jersey ("Port Authority") with reference to the above noted claim.

The Illinois Union, Westchester Fire and WSLIC umbrella policies discussed below do not provide coverage for claims occurring at the World Trade Center. Also, the Port Authority is not an additional insured on the aforementioned policies. Accordingly, as detailed below, Illinois Union, Westchester Fire and WSLIC deny any obligation to provide coverage to the Port Authority for the Ford and Arcese suit.

Although Silverstein Properties, Inc. is named as a defendant in the above noted suit, the tender does not appear to have been made on their behalf. Nonetheless, this letter advises Silverstein that it is also not entitled to coverage under the Illinois Union, Westchester Fire or WSLIC policies for this claim.

The suit alleges that from September 11, 2001 through February, 2002, Mr. Ford and Mr. Arcese were employed at the World Trade Center clean up site and at Fresh Kills Landfill performing

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2004 SEP 1 11 09 AM
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE



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cleanup work from the September 11th disaster. They allege that while so employed, they were exposed to toxic and hazardous materials and were not provided with the proper protection to prevent the inhalation of toxic substances. They allege that they sustained injuries arising from the exposure to the hazardous substances at the work site. The suit names, as defendants, the Port Authority and Silverstein, among numerous other defendants.

The claim was tendered under policies CUN689250 issued by Westchester Surplus Lines Insurance Company, effective December 10, 2001 to December 10, 2002, and CUN716348, issued by Illinois Insurance Company, effective December 10, 2002 to December 10, 2003. Each policy was issued as excess to a primary policy issued by Admiral Insurance Company ("Admiral"), which had limits of \$1 million per occurrence, \$2 million in the aggregate. The WSLIC and Illinois Union policies name "Silverstein Properties" as the named insured.

Due to the significance of the claims, an investigation was undertaken to locate other policies. The only other policy that was located was policy CUN689986, issued by Westchester Fire Insurance Company, effective May 20, 2002 to November 20, 2005, with limits of \$10 million, excess of a primary policy issued by National Union in the amount of \$2 million per occurrence with a \$4 million aggregate. This policy names as the named insured "7 World Trade Center Wrap Up, c/o Silverstein Properties".¹

1. Policy CUN 689986, effective May 20, 2002 to November 20, 2005

As noted above, policy CUN 689986 is an umbrella policy which names, as the named insured, "7 World Trade Center Wrap Up c/o Silverstein Properties". The policy is a wrap up policy, limited to the construction project at 7 World Trade Center, via the following endorsement:

Wrap Up Coverage Endorsement

It is hereby agreed that Contractors Limitation Endorsement (M06 10-90), Section I., Item B is deleted.

It is further agreed the coverage afforded by this policy for liability arising out of any project insured under a wrap up or similar plan shall apply as excess coverage of any

¹ Westchester Fire high excess policy HXS648098 (7/15/01-02) issued to Silverstein Properties was also located. This policy provided limits of \$25 million excess \$75 million and follows the terms and conditions of the policy to which it follows form. The policy does not contain a defense obligation. Westchester Fire reserves its rights to deny coverage under this policy, upon receipt of the underlying policy to which it follows form.



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valid and collectible "underlying insurance" as shown in the Schedule of Underlying Policies. In addition, this coverage shall also apply in excess of any valid and collectible liability insurance provided for the "named insured" under any wrap up or similar plan.

The coverage provided by this endorsement shall only apply to the liability arising out of the operations of our "named insured" and only for the project listed below.

This policy is limited to the coverage provided by the "underlying insurance". If coverage is not provided by the "underlying insurance", coverage is excluded by this policy.

Covered Wrap Ups

The Construction of 7 World Trade Center

Because the accident occurred during the clean up of the former World Trade Center site, rather than the construction of 7 World Trade Center, this policy is inapplicable. Moreover, this policy did not incept until May 20, 2002. Inasmuch as the claimed damage occurred before this policy incepted, this policy is not implicated. Thus, Westchester Fire denies any obligation to provide coverage to any entity for the Ford and Arcese suit under this policy.

2. WSLIC Policy CUN689250, effective December 10, 2001 to December 10, 2002
and
3. Illinois Union Policy CUN716348, effective December 10, 2002 to December 10, 2003

These policies contain the following a list of Named Insureds:

Silverstein Development Corp., Stamford Ridgeway Associates, Limited Partnership, Bernard H. Mendik, 529 Fifth Co., 570 Seventh Ave. Co., 530 Fifth Ave. RPF III Assoc., 120 Wall Co., LLC, 120 Broadway Properties, LLC, MSDW 140 Broadway Property, LLC, A.N.Y. General Partnership, George S. Kaufman, Kaufman Realty Corp., River Place I, LLC, River Place II, LLC, Silverstein Maintenance Corp., Silverstein & Mendik Co., Larry Silverstein, Larry A. Silverstein, Klara Silverstein, Bernard H. Mendik, 530 Fifth Ave. Holdings, LLC.

Clearly, the Port Authority is not named on this list. Thus, the Port Authority is not a Named Insured on this WSLIC policy.

Both the WSLIC and Illinois Union policies also noted additional insureds as follows:

2. The term "Insured" as used herein means the "Named Insured" and:



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- a. Any person, organization, trustee or estate that has obligated you by written contract to provide the insurance that is afforded by this policy, but only with respect to liability arising out of "your work" or "your product" and to property owned or used by you;
- b. At your option and subject to the terms of this policy, any person organization, trustee or estate (other than the "Named Insured") included as an additional insured in the "Underlying Insurance" but only with respect to liability arising out of "your work", "your product" or property owned or used by you;

In early July, 2004, we received a copy of a letter authored by Admiral Insurance Company, which as noted above, was the primary carrier that issued the policy under which both the WSLIC and Illinois policies attached. Admiral's denial of coverage, issued with respect to a similar claim, addressed only the December 10, 2001 to December 10, 2002 policy year. We understand, however, that the Admiral policy for December 10, 2002 to December 10, 2003 contained the same policy terms and conditions as the prior policy year.

Admiral's denial asserted that its policy did not identify the Port Authority as an additional insured. Moreover, Admiral noted that it was not provided with a lease or any other contract that might implicate additional insured coverage for the Port Authority. Thus, Admiral denied coverage to the Port Authority.

For the same reasons, WSLIC and Illinois Union deny additional insured coverage to the Port Authority. First, since the Port Authority is not an additional insured on the Admiral policy, Section (2)(b) is not implicated. In addition, since no contract has been provided to Admiral, Illinois Union, or WSLIC requiring additional insured coverage for the Port Authority for the World Trade Center clean up site or the Fresh Kills landfill, Section (2)(a) is not implicated. Accordingly, because the Port Authority is not entitled to named or additional insured status on the Illinois Union and WSLIC policies, Illinois Union and WSLIC deny any obligation to defend or indemnify the Port Authority in the Ford and Arcese suit.

In addition, the Illinois Union and WSLIC policies contain the following coverage limitation:

Designated Premises Limitation

Except with Respect to Coverage which may be provided under the automobile limitation endorsement (L40) or the Employer's Liability endorsement (108), the coverage provided by this policy is limited to bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the ownership, maintenance or use of the premises shown below and operations necessary or incidental to those premises:



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570 7th Avenue, New York NY 10018
530 5th Avenue, New York, NY 10086
120 Wall St., New York, NY 10048
529 5th Ave., New York, NY 10017
620-640 W. 42nd St., New York, NY 10036
601 West 41st St., New York, NY
120 Broadway, New York City, NY
140 Broadway, New York City, NY
530 5th Ave., New York City, NY

If coverage for a premises is not provided by the “underlying insurance”, coverage is excluded from this policy.

Those policies also contained the following exclusion:

Designated Location Exclusion

This policy does not apply to “bodily injury”, “property damage”, “personal injury” or “advertising injury” arising out of the ownership, maintenance or use of the following designated location(s):

Designated Location(s):

7 World Trade Company, LLP and any owned entity affiliated with the property formerly known as the World Trade Center.

As noted above, we did not receive any information about the Admiral policy, which is “underlying insurance”, until early July, 2004. From a review of the Admiral policy, it is clear that Admiral issued similar endorsements.

Based on these provisions, neither the Illinois Union nor WSLIC policies provide coverage for any claims arising out of the World Trade Center clean up, whether at the World Trade Center site or at the Fresh Kills Landfill. Therefore, WSLIC and Illinois Union deny any obligation to provide coverage to either Silverstein or the Port Authority for the Ford and Arcese suit.

We also point out that the WSLIC policy did not inception until December 10, 2001 and the Illinois Union policy expired on December 10, 2003. Any damages that occurred either before the inception date of the WSLIC policy or after the expiration of the Illinois Union policy would not be insured due to the following insuring clause:



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INSURING AGREEMENTS

I. COVERAGE

We will pay on behalf of the "Insured" those sums in excess of the "Retained Limit" which the "Insured" by reason of liability imposed by law, or assumed by the "Insured" under contract prior to the "Occurrence", shall become legally obligated to pay as damages for:

- (A) "Bodily Injury" or "Property Damage" occurring during the policy period stated in Item 2 of the Declarations ("policy period") and caused by an "occurrence";

IV. DEFINITIONS

- C. "Bodily Injury" means bodily injury, sickness, disease, disability, shock, mental anguish, mental injury and humiliation, including resulting death.

- G. "Occurrence" means:

- (1) An accident, including continuous or repeated exposure to substantially the same general harmful conditions, that results in "Bodily Injury" or "Property Damage" that is not expected or not intended by the "Insured".

All damages that arise from continuous or repeated exposure to substantially the same general conditions are considered to arise from one "Occurrence".

Based on this language, the WSLIC and Illinois Union policies only cover bodily injury that occurs during the policy period. WSLIC and Illinois Union therefore deny coverage for damage that occurred before December 10, 2001 and/or after December 10, 2003.

The WSLIC and Illinois Union policies also contain the following provisions which may apply to preclude coverage and upon which WSLIC and Illinois Union reserve the right to deny coverage:

Total Pollution Exclusion – Umbrella Policy

1. "Bodily Injury" or "Property Damage" which would not have occurred in whole or part for the action, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
2. Any loss, cost or expense arising out of any:



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- a. Request, demand or order that any "Insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
- b. "Claim" or Suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effect of pollutants.

Pollutants mean any solid, liquid, gaseous, or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

Absolute Asbestos Exclusion

1. This policy does not apply to "Bodily Injury", "Property Damage", "Personal Injury", or "Advertising Injury", "Abatement Costs", in any way or to any extent arising out of or involving asbestos, asbestos fibers, or any product containing asbestos or asbestos fibers.
2. This policy does not apply to "Economic Loss", "diminution of Property", "Abatement Costs", or any other loss, cost, or expense including "Equitable Relief", in any way or to any extent arising out of or involving asbestos, asbestos fibers, or any product containing asbestos or asbestos fibers.
3. This policy provides no coverage for any fees, costs, or expenses of any nature whatsoever in the investigation or defense of any "Claim" or "Suit" arising out of or involving asbestos, asbestos fibers, or any product containing asbestos or asbestos fibers.

For the purpose of this exclusion only, the following additional terms are defined:

"Abatement Costs" means any actual or potential damages, costs, fees, or expenses, including the costs of inspection, removal, or replacement.

"Diminution of Property" means the diminishing or lessening in value of property.

"Economic Loss" means any actual or potential damages, costs, fees, expenses, or lost profits arising out of or involving the manufacture or utilization of a good or product.



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"Equitable Relief" means any remedy or relief, including restitution or injunctive relief, sought in a court with equitable powers.

First, the WSLIC and Illinois Union policies exclude coverage for injuries arising out of exposure to pollutants. If it is eventually determined that the alleged toxic substance was a "pollutant", the WSLIC and Illinois Union policies do not provide coverage.

In addition, the policies do not provide coverage for exposure to asbestos. Thus, if it is eventually determined that the alleged toxic substance was asbestos, the WSLIC and Illinois Union policies do not provide coverage.

Finally, due to the limited information provided, Illinois Union and WSLIC reserve their rights to deny coverage to the Port Authority and any other entity that might tender a request for coverage based on information not yet available.

Summary:

In sum, Illinois Union, Westchester Fire and Westchester Surplus deny coverage to the Port Authority and Silverstein for the Ford and Arcese suit under the umbrella policies noted above. Should you have any information that you wish us to consider in connection with this denial, kindly forward same to the undersigned.

Please be advised that neither the issuance of this letter nor any conduct or contact should be construed as a waiver of any coverage defenses discussed above, or of any other coverage defenses the companies have and of which they are unaware. Thus, Illinois Union, Westchester Fire and WSLIC continue to reserve any and all rights that they may have under or pursuant to the policies not mentioned above.

Very truly yours,

Elijah D. Guest



**ace westchester
specialty group**

c:

Thomas Foster, Claims Superintendent
Admiral Ins. Co.
1255 Caldwell Rd., PO Box 5725
Cherry Hill, NJ 08034

Bruce A. Pichette
Regional Casualty Claim Supervisor
Chubb & Son, Inc.
12 Vreeland Road
PO Box 975
Florham Park, NJ 07932

Ryan S. Goldstein
40 Exchange Place, Suite 1205
New York, NY 10005

The City of New York ✓
100 Church St.
New York, NY 10007

Department of Environmental Protection
59-17 Junction Blvd.
Corona, NY 11368

Mazzoocchi Wrecking
32 Williams Parkway
East Hanover, NJ 07936

Scalamandre
942 Third Ave.
New York, NY 10022

Phillips & Jordan
6621 Wilbanks Road
Knoxville, TN 37912

Bovis Lend Lease, Inc.
200 Park Ave.
New York, NY 10166

Page 9/9

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EVIDENCE RETURN ACKNOWLEDGEMENT FORM

Source SARAH PENER	Custodian SARAH PENER	Agency DEP	Date of Return 02/09/05
Document Capture Team Members Present CLAUDIA CHERNOFF		Address and Location of Documents in the Building. DEP 59-17 JUNCTION BLVD. 19TH FL QUEENS, NY	
Number of Boxes 1	Control ID Numbers DEP 00260	Other Comments ALL DOCUMENTS CONTAINED IN ONE REDWEL	

NYC Law Person CLAUDIA CHERNOFF (Print Name)

Agency Source/Custodian SARAH PENER (Print Name)

Claudia Chernoff (Sign Name)

Sarah Pener (Sign Name)

02/09/2005 (Date)

02/09/05 (Date)



MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

JESSE LEVINE
Assistant Chief WTC Unit
212 341 3713

RE: World Trade Center Files Retention

Dear NYC Employee:

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If you would like to dispose of any of these items, please contact me directly at the New York City Law Department at (212) 341-3713. If I am not available, please contact Brian Lieberman at (212) 788-1678. If appropriate, the Law Department will arrange for the pick up of any materials that you no longer need and are ready to store.

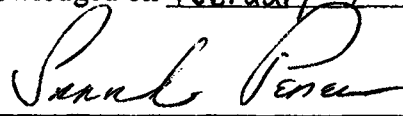
Also, in the event you are planning to leave your current position, please email me at jlevine@law.nyc.gov to inform me of the identity of the new custodian of these documents.

Please sign below and acknowledge return of your files, acceptance of the slip sheets and the procedure regarding their use.

Sincerely,

Jesse Levine, Esq.

Acknowledged on February 9, 2005

By: 

Print Name: Sarah Peneer

WORKSITE # 157457



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1888**



March 15, 2002

**Honorable John Doherty
Commissioner
Department of Sanitation
City of New York
125 Worth Street
New York, N.Y. 10013**

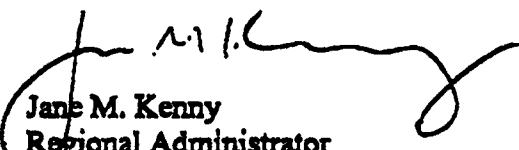
www.epa.gov/ezhire

Dear Commissioner Doherty:

This letter is to request that you suspend the planned release from the Fresh Kills Landfill of motor vehicles that were affected by dust from the collapse of the World Trade Center (WTC), and which have been stored at the landfill since shortly after September 11.

We request that you suspend release of any such vehicles until we can discuss their appropriate disposition. We will be available to initiate such discussions early next week.

Sincerely yours,


**Jane M. Kenny
Regional Administrator**

JUDICIARY COMMITTEE

SUBCOMMITTEES:
RANKING MEMBER
CONSTITUTION
COMMERCIAL AND
ADMINISTRATIVE LAW

**TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE**

SUBCOMMITTEES:
HIGHWAYS AND TRANSIT
RAILROADS
REGIONAL WHIP



Congress of the United States
House of Representatives
Washington, DC 20515
March 14, 2002

JERROLD NADLER
8TH DISTRICT, NEW YORK

REPLY TO:

- WASHINGTON OFFICE:
2334 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-8835
- DISTRICT OFFICE:
281 VARICK STREET
SUITE 808
NEW YORK, NY 10014
(212) 367-7350
- DISTRICT OFFICE:
443 NEPTUNE AVENUE
COMMUNITY ROOM 3C
BROOKLYN, NY 11224
(718) 373-3198

E-mail: jerrold.nadler@mail.house.gov
Web: <http://www.house.gov/nadler/>

Christine Todd Whitman
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator Whitman:

It has been brought to my attention that on March 18, 2002, the City of New York is preparing to return hundreds of vehicles from the World Trade Center to their owners that are presently stored and/or disposed of at the Fresh Kills landfill in Staten Island, NY. A recent *New York Daily News* article, which I have enclosed for your review, documented that these vehicles are contaminated with dust from the World Trade Center, and that tests on some of the cars show dangerous levels of asbestos. Remediation of these vehicles will be incumbent on the owners and insurance companies, and the only guidance from the government is a "tip sheet" from New York City Department of Health (NYC DOH) telling people how to remove asbestos-laden dust.

Requiring average citizens to clean their own cars of asbestos, and possibly other hazardous materials, is reckless and irresponsible, and presents a threat to public health. Therefore, I urge you to exercise your authority under the Resource Conservation and Recovery Act (RCRA) to prevent the return of these cars by New York City. As you know, 42 USC 6973(a) of the RCRA statute authorizes the EPA Administrator to take action necessary, including the issuance of administrative orders, or filing suit in the appropriate district court, when hazardous waste presents an "imminent and substantial endangerment to health."

Clearly, the burden should not be on the vehicle owners to make their cars safe, particularly when the remediation of hazardous materials and waste must be conducted by properly trained personnel and must follow all applicable government regulations. I respectfully request that you exercise your authority to:

1. File an emergency injunction, or follow the appropriate administrative procedures, to stop the return of these vehicles to their owners on March 18, 2002; and
2. Direct EPA's On-Scene Coordinators to remediate the cars for hazardous waste contamination before returning them to their owners; or
3. Request that the Federal Emergency Management Agency (FEMA) reimburse people for these vehicles if EPA determines it is unable to remediate them, or that these cars cannot be safely upgraded.

I understand this request is time-sensitive, but I believe this action by the City of New York presents an "imminent and substantial" threat to the health of owners, passengers, or any other individual who may encounter these contaminated cars, and requires an immediate response. Thank you for your prompt attention to this matter.

Sincerely,


Jerrold Nadler
Member of Congress

cc: Mayor Michael Bloomberg
Governor George Pataki
NYC Dept. of Health Commissioner Frieden
NYC Dept. of Sanitation Commissioner Doherty

Enclosure

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Last 6 Days

From: News and Views | City Beat |
Monday, March 18, 2002

Return of WTC Cars Hits EPA Roadblock

By GREG GITTRICH
Daily News Staff Writer

Concerns about asbestos-tainted dust have slammed the brakes on the city's plan to return hundreds of cars towed from streets around the World Trade Center to their owners.

The city planned to start giving back the dust-covered vehicles today. But a Daily News report about the dangerous coating of asbestos on the cars prompted federal environmental officials to step in.

"No cars will be released [today]," Kathy Dawkins, a spokeswoman for the city Sanitation Department, said yesterday.

Instead, Environmental Protection Agency and city officials will meet this week to discuss what to do with the cars, parked at Fresh Kills landfill on Staten Island.

"We are going to review all the procedures," Dawkins said.

In a March 8 article, The News revealed that tests on the vehicles show that as much as 3% of the dust is asbestos, more than three times the level that triggers federal cleanup rules.

Many of the cars have little body damage — and nothing would stop scheming owners from rinsing them off and selling them to unwitting buyers.

DAILY NE
Classified (



real est



automob



Watts NEWS

**During Ground
Zero cleanup last
month, a car is
hoisted from the
B2 level of the
underground
garage at 6 World
Trade Center.**