

ASBESTOS PROJECT MONITOR AND AIR SAMPLING CONTRACT

DRAFT (5/17/02)

EPA Cleanup Recommendations for the World Trade Center Catastrophe by
Joel R Kupferman, Esq., Executive Director of the New York Environmental Law &
Justice Project, Kimberly Flynn, Policy Analyst, Dan Halper, Legal Intern

This outline was done at last minute. Various points probably have been left out.

"Enforcement, Enforcement, Enforcement"

1. All federal regulations should apply for the debris removal disposal
2. All debris must be tested with Transmission Electron Microscopy (TEM)
3. EPA must completely accept responsibility and culpability for the environmental disaster that occurred due to the coverup and inaction.
4. An appropriate medical registry must be created for the health and well-being of all affected
5. Remediation zone must include areas that have been exposed (north of Canal, Brooklyn, NJ, etc)
6. All violations should be referred to the Assistant Chief of the Environmental Enforcement Section at DOJ
7. What the EPA must do
 - a. EPA should be doing the cleanup not NYC DEP
 - i. EPA has ultimate jurisdiction, enforcement, and authority on this matter
 - ii. Although some NYC & State agencies have administrative penalties, the authority, many times actions were taken without assessment of any penalties.
 - iii. NYC DEP has a long history of non-compliance
 - (1) NYC in general and NYC DEP has proven to be more than "lax" in enforcing asbestos and other environmental regulations
 - (2) They have continuously made false, inaccurate or incomplete statements
 - (a) It is in their best interest to cover-up their inaction by claiming that abatement is not necessary
 - (3) NYC DEP admitted that it only issued one Asbestos violation since 9/11.
 - (4) Scaffolding Fatal accident: A contractor who had an impersonator take a safety test was fined only \$350 and served no jail time.
 - (5) City agencies have been notorious in their failure to recuse themselves in instances including conflict of interest issues, complacency, lack of enforcement, sweetheart deals, and other behavior that puts the public at risk.

- (a) One example, includes Department of Sanitation hiring of Rapid Demolition/Hi-Tech Environmental/ D.S.A. Services to preform dangerous asbestos abatement at the Gansevoort Street Plant despite the fact the owner of D.S.A. having been disbarred by the NYS DOL for committing willful violations.
 - (b) NYC DOH was ready to rehire Clarke Mosquito Control despite the \$1 million OSHA fine and contract provision that forbade re-contract in face of such labor violations
 - (6) They abrogated their right to have any role due to the fact their reliance completely on landlord self-certification
- 8. Entire buildings/neighborhoods are to be cleaned completely in a systematic way to prevent cross-contamination/re-contamination.
 - a. The abatement is to be done street by street.
 - b. The entire building has to be done at one time.
 - i. Allowing people to be exposed flies in the face of reason. The abatement workers will be abating in full protective gear and the proposal given to us says that there require that the occupants be in the room while cleanup is done and will be thus exposed.
 - (1) Occupants will be relocated for the duration of the abatement procedure on building
 - c. This needs to be done
 - i. HVAC/Ventilation systems must be completely cleaned
 - (1) The building ventilation system will be set to negative pressure as per EPA regulations regarding asbestos abatements.
 - ii. Common areas/stairwells/etc.
 - iii. Elevator shafts
 - iv. pppropriate treatment for dropped ceiling tiles
 - v. Windows casing
 - vi. Wallpaper, Air Conditioning Units, & Carpets that cannot be properly abated must be removed and disposed of properly
 - vii. Rugs should be sent for proper cleaning
- 9. All buildings and spaces inside the zone must be abated including parks, schools, commercial spaces/offices, religious institutions, hospitals, city-owned buildings, etc.
- 10. Testing should be done in real-time & reported via a publicly accessible web site done by EPA that is publically accessible
 - a. All data should be permanently available for public perusal and easily accessible without the need for FOIA.
- 11. The most stringent safety/health regulations should be applied.
- 12. Observation by video; independent authorized observers must be allowed access to abatement sites, videos must be sent to review teams for analysis.
- 13. Contractors
 - a. Must ensure that the friable asbestos material remains wet until collected