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OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

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City
Council

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To : Bob Avaltroni

From : Ilan, Lee

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Subject: FW: EP hearing

Hello, all-

Below is the list of confirmed attendees (note EPA ombudsman office) and attached is the list of invitees and 9pp worth of questions the committee has for us. Please get back to me and to Beth regarding what strikes you as problematic that we may need to discuss in advance of tomorrow morning.

--Lee

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

From: Allison Sacks [mailto:infsacks@council.nyc.ny.us]

Sent: Tuesday, February 12, 2002 1:29 PM

To: Beth McCabe

Subject: Re: EP hearing

Nadler's office - representative

Manhattan BP office

NRDC - Eric Goldstein

EPA Ombudsman's office - Hugh Kaufman

Environmental Defense Fund

Community Board 1 - Madeline Wils

**NYC Council Committee on Environmental Protection
Hearing on the Environmental Impacts on Lower Manhattan
due to the Terrorists Attacks on the World Trade Center**

**Committee Questions
February 13, 2002**

Testing

1. What is the current coordination between the agencies? How frequently do you coordinate activities/ exchange data?
2. What is the coordination with testing done by property owners? Who has oversight over making sure the buildings were properly cleaned? What were the clean-up standards that the landlord had to comply with in order for a building to reopen?
3. According to the Washington Post, the EPA did not release more troubling data until after the nonprofit New York Environmental Law and Justice Project filed a Freedom of Information Request. These tests reportedly found elevated levels of dioxin, PCBs, lead and chromium in the air, soil, and water around the site. Do these "troubling" results reveal dangerous health risks to the public?
4. How often are you conducting the tests for each pollutant? At what times during the day and how many tests are being conducted? If not daily, why not?
 - a. In our November hearing, EPA said it would find out whether testing is conducted at night. Is night testing currently being done? How often? Were the contaminants above acceptable levels at night?
 - b. Are more locations being added? In Brooklyn?
 - c. Have testing locations been changed? If so, why?
 - d. What size particles are you testing for? What sizes should you be testing for?
5. EPA's Acting Deputy Commissioner Kathleen Callahan testified that the changing weather patterns from summer to winter will more likely "invert" air substances closer to the ground where the air is more static, thereby increasing the public's exposure at street level. Have contaminants exceeded acceptable standards during fall and winter weather?
6. Testifying before the City Council in November 2001, Dr. Robert Jaffe recommended the use of the Tetramitus Assay for toxicity analysis of air samples. He said the process is more complete and measures the toxicity of whole, untreated particles. The Tetramitus Assay allows for conducting a large number of samples on a daily basis, expanding the ability to monitor more frequently at a greater number of sites. Has more of this type of testing been done? What has it shown?

7. Dr. Levin of Mt. Sinai testified that residents "downwind" (i.e., east of Broadway) are vulnerable to dangerous air because the wind blows from west to east? To what extent does the wind direction and speed affect the air quality? Do you agree with Dr. Levin's assessment?
8. Dr. Stephen Levin testified that although there are few studies of synergistic effects of these contaminants, a well-known study indicates the risk of cancer "multiplies" as a result of exposure to both cigarette smoke and asbestos. He concluded it is not unreasonable to assume that the exposure in this "complex environment" might have "some multiplicative effects." Do you agree with that conclusion? Regardless, should we develop more conservative assumptions about the health risks and test accordingly? What progress has been made to test for synergistic effects?
9. The *Washington Post* reported that four Port Authority police officers were reassigned from the site after they tested positive for elevated mercury levels in their blood. Can you comment on this?
10. EPA testified that in its testing, that the agency (or any other agency) has not tried to distinguish between those pollutants emanating from the fire and the debris of the World Trade Center and those resulting from the heavy machinery and diesel engine trucks being used in the recovery operation. Have efforts begun to distinguish between these pollutants?
11. For Boston's "Big Dig," a commitment was made to minimize diesel emissions. What progress has been made to mitigate the impact of the diesel engines at the WTC site?
12. While there was testimony from a representative of DOH that the agency is developing a central medical registry for rescue and recovery workers at the WTC site, the Committee report recommended that the registry should also include residents of the WTC area, others who work in the area and students of the many schools in the area with health complaints, within specific geographic boundaries to be established by the agency. Has DOH expanded this registry to include all these groups? Will it do so and what geographic areas will it include?
13. At the Committee hearing in November, your agency testified that contaminants have been tested as being at acceptable levels? Do you find the assessments of the EPA National Ombudsman and testimony such as Dr. Levin's to be incorrect?
14. The WTC Emergency Environmental Group recommended checks by independent third parties to ensure testing accuracy. The group claimed discrepancies in testing results between EPA's and those of independent testers at Stuyvesant High School and Washington Market Park confirm the need for independent third party checks. The *Washington Post* reported that environmental experts claim the EPA "was too quick to interpret a few test results as a clean bill of health." Given these

discrepancies, why is the EPA dissolving the function of the EPA National Ombudsman and transferring his function to the Inspector General's Office?

15. Will a full, independent, and unfettered investigation by the EPA Ombudsman into the EPA's response to the September 11th attacks be conducted, as requested by the Ground Zero Task Force?

Cleanup

1. Are there cleanup standards for residential buildings versus commercial buildings? If so, what are they?
2. Robert Avaltroni, Deputy Commissioner of DEP, testified that the agency has been working with the Real Estate Board of New York, realtors, and building owners with regard to proper clean up measures. What follow up has been done with building owners and managers on proper clean-up methods?
3. When friable asbestos exists in a building, describe what method is used for the cleanup, and why this method is used.
4. What is the typical cost, per room, for such a cleanup? How long does it take? What precautions do the workers use?
5. What kind of equipment is needed to do this particular kind of cleanup?
6. There have been reports of many residents returning to their apartments, where windows were left open and their belongings covered in asbestos-laden dust. To what extent was this the case -- how many apartments were affected and how many residents were exposed in this way?
7. Why were residents allowed to return to apartments before cleaning was done by professionals?
8. What permits/ licenses or special credentials need to be authorized to do this cleanup?
9. Are there federal laws regarding the cleanup or are you using City regulations? And if so who is enforcing the cleanup laws on the site?
 - a. According to testimony by David Newman, the New York Committee for Occupational Safety and Health believes it is inappropriate to use the OSHA asbestos standard as a clearance standard and suggest that the AHERA clearance standard be adopted for all residences and workplaces and public places. Do you agree?
 - b. Newman argued that while EPA only classifies dust as asbestos-containing material (ACM) if it contains more than 1% asbestos, the 1% cutoff was

established decades ago to characterize the potential risk posed by the asbestos contained in solid materials, such as ceiling tiles. Working with a ceiling tile that contains 1% asbestos is entirely unlike working with dust that contains 1% asbestos. Workers can inhale a very significant amount of asbestos when cleaning up dust that contains 1% asbestos or less. Is this loophole in federal regulations exposing individuals to unsafe levels of asbestos? What should the response be?

- c. According to NYCOSH's discussions with the New York City Department of Environmental Protection, the job of cleaning up offices and apartments, even if the dust contains more than 1% asbestos, does not trigger New York City's Asbestos Control Law. Consequently, employers are not obligated to provide workers involved in the cleanup of office buildings and/or apartments with training about the health hazards of exposure to asbestos or about the appropriate work practices for handling asbestos. Employers are not obligated to provide appropriate personal protective equipment, facilities for decontamination or training about how to properly use such equipment. Is this loophole in federal regulations exposing individuals to unsafe levels of asbestos? What should the response be?
10. At the first Committee hearing last November, Joel Kupferman of the New York Environmental Law and Justice Project gave anecdotal information suggesting that EPA safety information or assurances are inconsistent or contradictory. While EPA "was saying that things were safe, workers in [EPA's] building were given masks to wear." Meanwhile, transit workers in subways said they were not wearing masks because the "EPA Commissioner said it's safe." Would you agree these anecdotes illustrate the EPA should consistently and rigorously apply the stricter federal standard from now on?
 11. Even if stricter federal standards were applied, reportedly EPA is using 20-year old methods for collecting and counting asbestos fibers to health risks from dust. According to the St. Louis Post-Dispatch article, civilian scientists and physicians hired by unions, tenant groups, and contractors, and political leaders took hundreds of samples inside apartments, offices, and condos using the newest electron microscope technology and fiber counting protocols. Purportedly they found "far more asbestos fibers" than the EPA. Why isn't EPA using the latest technology? Is this technology more reliable?
 12. What is the difference between testing using a phase contrast microscopy (PCM) versus transmission electron microscopy (TEM)?
 - a. What is the difference in sensitivity – which is more sensitive?
 - b. Why not use TEM?
 - c. What is the difference in the results?
 13. Should the government act on the assumption that these findings with more reliable technology are correct and that the public health risk is much greater? Has the EPA

conducted testing or evaluated the findings of samples utilizing the electron microscope technology?

14. Reporting: Kupferman also claims information from the EPA website indicated that there were samples in which regulated substances, including samples of dioxins, furans, benzene, chromium and asbestos, were found to be above acceptable levels. Why didn't the EPA discuss these findings in prior hearings? Don't these findings imply more serious health risks to the public than previously reported?
15. Kupferman said ATC Associates and a Virginia-based laboratory called Environmental Toxicology International (ETI) tested air samples and found high levels of asbestos and fiberglass. The companies wanted to conduct more tests, but were told by DOH not to do so. Why did DOH prohibit these companies from conducting follow up tests? Has DOH reviewed the findings of these companies? Don't the findings show serious health risks to the public?
16. It is the Committee's understanding that Ground Zero could not be formally classified as a Superfund site. With this in mind, the Committee's report recommended a long-term program with full spectrum air quality testing that will define the baseline of air quality in all areas of the City, similar to "hotspots", such as Superfund sites or State-designated hazardous waste sites. The testing program would also assist in identifying other "hotspots" that may require some variety of remedial activity. Will the agency carry out this program?
17. The Committee's report also recommended an "action" level that would trigger an emergency response and a performance level that has no adverse health or safety effects and that is the standard that should be attained. Will the agency establish these two reference levels?
18. Are the buildings being re-tested after people are allowed back into the building? How often should the buildings be re-tested after cleanup? Daily? Weekly?
19. To what extent are contaminants settling on the ground and are being transported through adhesion to shoes and clothing?
20. The streets are being washed down. How many times a day is this occurring? What happens when the streets dry and more dust accumulates?
21. In terms of cleanup, the streets are being washed down, is there anything being done for the sidewalks and outsides of buildings? Are the rooftops and ledges being cleaned? What is the plan to clean the outside of the buildings?
22. Identify which playgrounds have been tested for contaminants and subsequently cleaned since September 11th. Have these playgrounds since been retested to determine whether dust from the disaster site or from surrounding rooftops has accumulated in playground soil, sand and equipment surfaces?

23. At present, which playgrounds, if any, would the Department consider unsafe for young children to play in? Should children be restricted from playing outdoors in lower Manhattan?
24. Are we receiving money from the state or federal government for professional cleanings of apartments, co-ops, businesses and institutions?
25. The Committee's report recommended that to the maximum extent possible, the City should containerize the debris transfer at Ground Zero to facilitate the loading of the barges and to minimize the amount of particulate matter that becomes airborne into the community. Has this been carried out? What steps are being taken to do so?

Health

1. Mt. Sinai Selikoff Center testified that it has seen an onset of asthma cases among individuals who were in "excellent physical condition" (some of whom were preparing for the Marathon) before September 11, but developed symptoms of "reactive airway disease" and a "tremendous decrease in exercise tolerance." Do strenuous activities, such as jogging and bicycling, increase exposure, and therefore, health effects?
2. Has there been an increase in the number of asthma patients being treated for respiratory problems in hospital emergency rooms?
3. In what manner does the Department of Health (DOH) communicate health recommendations and/or warnings to local residents and commuters so that all receive the message in a timely fashion? What is the plan for the future?
4. Is New York City receiving any state or federal money to purchase filters for residents and/or businesses, for air quality monitoring, sampling, and analysis, for risk assessments, for health examinations or for communications with residents and businesses?
5. The Center for Constitutional Rights testified that with the Bechtel Corporation bowing out, no company has developed a Health and Safety Plan (HASP) for the WTC operation. Has Bechtel been replaced and a HASP developed? Will you leave a copy of the plan with the Committee today? Who will ensure the HASP is followed?
6. Has the DOH conducted inspections of all local food establishments to ensure that they have been properly cleaned and to advise proprietors that electricity was cut off for a substantial period of time after the blast?

Trucks

1. How many truck and barge trips per day are leaving with WTC debris? Are trucks being weighed before departing for the Staten Island landfill?
2. The Committee report recommends all equipment and vehicles running on diesel fuel be supplied with low-sulfur fuel (30 parts per million of sulfur) or lower. In its testimony, the American Lung Association made the same recommendation. New York City Transit is currently running all of its diesel buses on low-sulfur fuel so it is readily available.
 - a. What portion of the diesel-fueled equipment and vehicle fleet used in the recovery are now being supplied with low-sulfur fuel?
 - b. Do you plan on the entire diesel-fueled fleet being supplied with low-sulfur fuel? If yes, when do you think this will happen? And if no, why not?
3. The Committee report also recommended that technologies be installed to further reduce unhealthy emissions, such as attaching filters directly to the tailpipes of the vehicles. Do you plan on implementing this recommendation?

Recommendations

1. After reviewing the testimony from the hearings and observing the rescue operation at Ground Zero and at Pier 25, the Committee on Environmental Protection believes the City should implement the following recommendations listed in our Report in order to protect the people living, going to school or working around the area of the WTC and to be better prepared in the event of another environmental catastrophe. Have you implemented any of these recommendations and do you plan to in the future?

Debris Removal and Clean up Near Schools

1. In November, debris was reported to have fallen into the Hudson River. What steps have been taken to ensure that this does not happen again?
2. It is our understanding that the NYS Department of Environmental Conservation issued a letter of authorization for debris removal at Pier 25. When does the authorization expire? Does the City plan to request that it be renewed? How long do you expect that debris will be removed from that location?
3. Please explain your cleanup procedures at schools around the WTC, such as P.S. 89 and P.S. 234. What cleanup procedures and standard are you using? Who is monitoring your cleanup?
4. There have been reports of students and teachers at Stuyvesant High School getting sick, can you update us on this situation with facts and figures? How are the children doing since returning to Stuyvesant? Psychological? Physical? Can you categorize and quantify the physical symptoms of the students and the faculty?

5. Have the other schools surrounding the WTC been reopened?
6. How often are you testing the air quality at Stuyvesant and the surrounding schools and what are the results and what is your plan for continued monitoring? What pollutants are you testing for? Are you publishing these results on the internet?
7. Does the Department recommend that children undergo additional periodic lead poisoning testing until the clean up process is complete?
8. What school-based mental health programs or services have been made available to students in Lower Manhattan? Have any mental health programs been introduced in other City schools to determine how children are coping?

Fresh Kills

1. How long do you expect Fresh Kills to remain open to receive debris from the WTC site?
2. What happens to the rubble that is being brought to Fresh Kills? Are you planning to dispose of it there or transport it to another location after the FBI has examined it?
3. Are we getting money from State or Federal government for reopening and operating Fresh Kills? How much is it costing to operate?
4. How much has DOS spent to date on the response to the WTC? How much does it expect to spend in Fiscal 2002 and 2003?
5. Is New York City receiving state or federal money to help with the extra transportation costs involved?
6. What health and safety measures are being taken by the workers at the Staten Island landfill? Who is monitoring these workers?
7. What pollutants are being monitored at the landfill?
8. Have steps been taken to ensure that fugitive dust does not invade residential neighborhoods near the landfill?

Information

1. Is all of the data on a website? What is the status of the website and in the turnaround time of assessing data from other agencies?
2. Information: The Committee report recommended a central hotline be established for individuals to call for information regarding testing, cleanup and air quality reports. Has the agency done this? If not, when will this be done?

Standards

1. Monona Rossol, Safety Director of the International Alliance of Theatrical Stage employees testified that OSHA contradicted its own regulations and inaccurately announced they were providing respirators and performing fit "checking" (i.e., testing to ensure a respirator fits as it should). However, purportedly OSHA regulations allow fit "testing" (i.e., testing to ensure a respirator fits without "breakthroughs"), but only if the agency has medically certified a worker "as capable of wearing a respirator without exacerbating a physical condition." What type of respirators are being provided to workers and how is OSHA ensuring they are adequate?
2. Rossol also claimed that OSHA has proposed a standard of one fiber per cubic centimeter for fiberglass, but the industry has opposed instituting it. She said, OSHA "knows that's what [the standard] should be [since] they've already proposed it." Purportedly, monitoring would have found levels in excess of this tougher standard. The industry itself uses "threshold limit values," which is akin to one fiber per cubic centimeter and stricter than the current "permissible exposure limits." If OSHA's proposed standard were used, would fiberglass levels be considered a health risk?
3. The St. Louis Post-Dispatch reported that EPA experts and physicians at the Center for Disease Control and private research centers have shown that a "single burst, heavy dose" of asbestos could cause lung disease. Doesn't this research demonstrate the health risks from short-term exposure?
4. Prior testimony indicated that young, healthy individuals, such as the firemen and EMT's whose lung function is now being tested are likely to react better to exposures to multiple toxins, carcinogens, etc. than children, the elderly, and people who have compromised immune systems. Dr. George Thurston of the NYU School of Medicine testified that standards for lead are stricter in a home with an infant, who is more at risk of exposure to lead where "a lot of this dust got in." How are you evaluating the past and future health risk to the various populations who live and/or work downtown?

TO: Gary Altman
FROM: Allison Rosen
RE: Committee on Environmental Protection
DATE: January 24, 2002

On Wednesday, February 13, 2002 at 10 a.m. in the Council Chambers the Committee on Environmental Protection will hold an Oversight Hearing on the Committee's Recommendations in its "Air Quality and Environmental Impacts Due to the World Trade Center Disaster" Report and Other Proposed and Implemented Solutions

Please invite the following people to testify:

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Commissioner Neal Cohen
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