

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) 225-6635
- ☐ DISTRICT OFFICE:
201 VARICK STREET
SUITE 889
NEW YORK, NY 10014
(212) 367-7350
- ☐ DISTRICT OFFICE:
445 NEPTUNE AVENUE
COMMUNITY ROOM 2C
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.

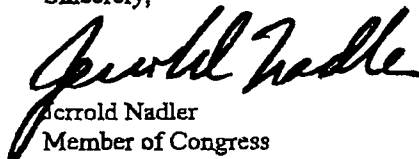
Requiring average citizens to clean their own cars of asbestos, and possibly other hazardous materials, is reckless and irresponsible, and presents a threat to public health. Therefore, I urge you to exercise your authority under the Resource Conservation and Recovery Act (RCRA) to prevent the return 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 operated.

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

**REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1868**



March 15, 2002

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

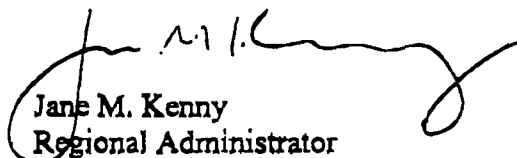
www.epa.gov/ezhire

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

JAN-31-2002 10:21 FROM DEP LEGAL

TO 4544

P.01/01

POST-IT FAX NOTE

1011

pages

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Prero, Judah

From: Hoffer, Mark
 Sent: Wednesday, January 30, 20
 To: Prero, Judah
 Cc: Gilsenan, Michael
 Subject: RE: Cars at Fresh Kills

To	MIKE GILSEMAN	From	JUDAH PRERO
Co./Dept.	BEC	Co.	LEGAL
Phone #	4543	Phone #	6607
Fax #	4544	Fax #	6543

I have no time to fool around with this. I say go with what we agreed to on the phone. If DOH has agreed to having the cars tarp'd when taken away from Fresh Kills, that seems to satisfy Mike's/Krish's concern. Gabe has indicated that decon at Fresh Kills has already been considered and rejected by NYCDOH. DOH has the lead on this and I for one don't have the time to second-guess them.

Mike - do you agree? If so, please advise Judah and Judah should oet Gabe know we are signed off with the tarp requirement.

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

From: Prero, Judah
 Sent: Wednesday, January 30, 2002 4:16 PM
 To: Hoffer, Mark
 Cc: Gilsenan, Michael
 Subject: FW: Cars at Fresh Kills

We need to respond ASAP.

--- -Original Message-----

From: Levi, Steven [mailto:slevi@law.nyc.gov]
 Sent: Wednesday, January 30, 2002 4:19 PM
 To: Taussig, Gabriel; 'Prero, Judah'
 Cc: 'Wilfredo Lopez (E-mail)'; 'Martha Robinson (E-mail)'
 Subject: RE: Cars at Fresh Kills

The level of health protection that is applied to the cars at Freshkills must be consistent with the advice we are giving to the public who live in the area AND to the city workers who are using the vehicles affected by 9-11

WTC debris. If there is a policy disagreement between agencies, it must be RESOLVED before we make statements in Gabe's federal case.

Did DEP recommend decon on the City emergency vehicles? please tell me when and how this was made? were recommendations not followed? did DEP comment on DOH's public health advisory on its web site? did DEP issue contrary advice?

regarding the cars at Freshkills - almost all the operable cars that I saw in the parking lots had windows that were intact, so that there was very little debris inside the vehicles. Most of the vehicles with broken windows will be scrapped by, insurance companies that paid claims according to the rep from NCIB. It seems to me that very few cars that would even apply