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cc to
mml

DEPARTMENT OF ENVIRONMENTAL PROTECTION
59-17 Junction Boulevard
Corona, New York 11368-5107

LOG NO. _____

RETURN BY _____

TO: Alyssa Preston
cc - Russ Pecunies
FRANK SCHIANO

New file
ⓕ World Trade
Center -
City Council

- ☐ For Immediate Action/Urgent
- ☐ For Appropriate Action
- ☐ Draft response for my signature
- ☐ Draft response for Commissioner's signature and return to me
- ☐ Discuss with me
- ☐ For your comments
- ☐ For your information
- ☐ File under _____

Remarks: I NEVER GOT YOUR E-MAIL ON
THIS. ① IS THERE ANOTHER MEETING?
② I WOULD SUGGEST BOB ANASTASINI'S
SHOP TAKE A FIRST CRACK AT DRAFTING A
REPLY + WE'LL REVIEW (WE HAD LITTLE
DIRECT INVOLVEMENT IN THESE DECISIONS)

Mark D. Hoffer
General Counsel

DATE SENT: 11/9/04

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**Hearings of the City Council Committee on Health and the
Select Committee on Lower Manhattan Redevelopment
Regarding Air Quality in New York City after the Events of 9-11**

April 15, 2004

Follow Up Questions to the Testimony of New York City Agencies

I. Government Response to 9-11 Events

1. On September 11th, what role did the EPA play in conducting an environmental assessment, including air quality monitoring/evaluation, to assess the air quality in Lower Manhattan? What role did the EPA have between September 11th and September 18th (the return to work announcement) in conducting a further assessment of the air quality in Lower Manhattan? How did the EPA influence the return to work announcement? Describe the role the White House/White House Council on the Environment played in the "return to work" decision.
2. On September 11th, what role did the DEC play in conducting an environmental assessment, including air quality monitoring/evaluation, to assess the air quality in Lower Manhattan? What role did the DEC have between September 11th and September 18th (the return to work announcement) in conducting a further assessment of the air quality in Lower Manhattan? How did the DEC influence the return to work announcement?
3. On September 11th, what role did the DEP play in conducting an environmental assessment, including air quality monitoring/evaluation, to assess the air quality in Lower Manhattan? What role did the DEP have between September 11th and September 18th (the return to work announcement) in conducting a further assessment of the air quality in Lower Manhattan? How did the DEP influence the return to work announcement?
4. How did the aforesaid agencies coordinate efforts to assess the air quality in Lower Manhattan? What understanding did the City, State, and federal government reach as to the division of responsibility for environmental assessment? Were there any other entities that had a role in the assessment/monitoring/evaluation of the air quality in Lower Manhattan? If so, describe their role and how they coordinated with the other agencies.
5. The representative of the City's Office of Emergency Management, Sam Benson, testified on April 15, 2004 that the federal National Contingency Plan was put into effect in Lower Manhattan following 9/11. It was reported, however, that the full deployment of personnel permissible under the plan adopted for Lower Manhattan did not occur. Is this true? If so, why didn't the EPA deploy sector managers (including on-scene coordinators) to Lower Manhattan as deployed at the Pentagon? Who made this decision?
6. According to the EPA Inspector General's August 2003 "Evaluation Report", City officials stated on both September 30th and October 9th, 2001 that they would not be requesting EPA's assistance with regard to residential sampling, reoccupation, and clean-up. The EPA Report

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- also stated that NYC would not be requesting Federal assistance for cleaning roof debris. Apparently, however, NYC officials continue to disagree with the characterizations of their statements presented in the EPA Report, insisting that the City welcomed any authorized federal assistance at that time. Please clarify the statements and provide copies of documents/statements authorizing or requesting federal assistance by City officials.
7. Why didn't the City request the federal government to undertake the same type of extensive measures and steps for clean-up as the EPA undertook in Libby, Montana?
 8. What role, if any, did the City administration have in authorizing and/or giving the "all clear" signal allowing Lower Manhattan residents, including children, to return to homes, workplaces and schools? What information did the City receive justifying this signal?
 9. Did the City administration ever come to feel that it had a responsibility to act as a check and balance on the federal government with respect to environmental protection and the clean-up effort? If so, in what areas? Please provide documentation which reflects the City's position.
 10. Once the emergency period ended, did the City administration reassert full responsibility for ongoing environmental protection and clean-up? If so, when did this occur? Which City agencies played the lead role?
 11. What City agency(s) inquired of the federal EPA as to the basis of the EPA's decision to issue the aforesaid "all clear" signal? What City agency agreed or disagreed with the "all clear" conclusion? Who specifically would the City administration expect to hear from now to justify issuing an "all clear" signal in the event of a possible chemical, biological and/or "radiological" situation?
 12. In the event of a future attack on NYC, what roles would City, State and Federal agencies have in assessing the environment and providing safety directives to residents and workers in NYC?
 13. In the event of a future attack, has a collection and analysis policy matured to the point where specific entities, whether public or private, have been directed to collect and analyze toxic materials by type and region? Would data thus analyzed be made available to representatives of residents in a near real time mode with clear recommendations as to how residents should respond to the hazards posed by the toxins?
 14. Please provide copies of any and all directives or instructions received from the federal government as to the role it would play and/or the role it would expect the City to play, in the event of a future attack on NYC, with respect to the assessment of the safety of air quality and to environmental protection and clean-up. And provide copies of all directives or instructions the City has received and/or prepared for distribution to residents now that indicate how they should respond in the event specific types of toxins are placed in their residential environment. Please include directives and instructions prepared relating to chemical agents and biological agents, as well as in the event of a "radiological" attack.

II. Clean-up

A. Indoor Clean-up

1. Did the City, State, and federal government reach any understanding as to the division of responsibility for indoor premises inspection and clean-up?
2. To what extent were residential building owners required to clean common areas or air vent systems of dust or debris from Ground Zero? What methodologies were required? Please provide a copy of whatever directives were issued as well as the scientific/health basis for such requirements.
3. What led the City to permit the self-certification of the cleanup of residential buildings rather than requiring City inspections to assure proper clean-up? Why was certification, self or otherwise, not required for commercial spaces?
4. What instructions were provided by City, State and/or federal agencies with regard to indoor clean-up? Provide copies of written instructions. How was this information disseminated to the public?
5. Some financial relief was provided by FEMA and private agencies to assist people with cleaning their residences. What resources were made available by the City to help residents? How was information regarding available resources for this purpose disseminated to the public?
6. The Committee is aware that asbestos/contaminants in one part of a building can contaminate another. Given that, why was the indoor premises clean-up program voluntary rather than mandatory? Who or what agency made this determination? Why did the indoor clean-up program not cover small business or headquarters of civic organizations?
7. The federal EPA evacuated and professionally cleaned its own offices in Lower Manhattan. This was consistent with the Dr. Chatfield/Kominsky report urging a full clean-up of Lower Manhattan indoor premises in proximity to Ground Zero prior to the return of residents. Why didn't the City require such a clean-up for all residential and commercial buildings?
8. What was the basis for the decision not to request the federal government to conduct indoor testing and clean-up in Lower Manhattan and in areas which lay under the 9/11 plume but beyond the federal government's catchment area? Who was involved in making this decision?

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9. Since September 11th, have standards been developed for determining what is "safe" in terms of levels of asbestos and other toxins? Please provide those standards and the basis for such level determinations.
10. In the future, would the federal government be requested to assist in the performance of indoor testing in the event of a chemical, biological and/or "radiological" attack?
11. Given the potential vulnerability of the closed ventilation systems of large office buildings and apartment houses and the ability of chemical/ biological (CB) agents to be delivered as aerosols that travel quickly through such ventilation systems and the potential for such agents to produce high mortality rates, what contingency plans has the City drafted to protect residents from the dissemination of such agents?
12. What is the City's current position as to the type of indoor testing and residential clean-up that would be undertaken in the event of a chemical, biological and/or "radiological" attack? Who has been given responsibility for issuing directives and position statements regarding clean-up should an attack occur?

B. Outdoor Clean-up

1. Did the City, State, and federal governments reach any understanding as to the division of responsibility for outdoor area inspection and clean-up? Provide details.
2. How did the City clean open spaces including parks and schoolyards? What monitoring was done and what is being done now in light of testimony from experts that grass and soil would tend to retain asbestos fiber throughout rainy or other weather until stirred up by, for example, children playing? Has there been any follow-up testing?
3. Did any city agency assess whether asbestos or other toxins in the area under the plume, but beyond the Ground Zero vicinity, landed in dangerous levels? If so, was this cleaned or monitored in anyway?
4. Please provide a listing of the locations of all air monitoring stations and the toxins that were measured at those stations throughout the period that fires were burning at Ground Zero. Provide results or summaries of results of those measurements.
5. After barges were used for debris removal, did the City conduct any "post-barge" debris assessments or sampling in or around Independence Plaza North (IPN) or other residential buildings in proximity to Pier 25 barge debris removal operations? If so, please provide the results of such an assessment; if not please explain.
6. Please provide a description of the practices implemented to minimize dust spillage or debris emissions from trucks and barges carrying Ground Zero debris, including the responsibilities of inspectors or other oversight personnel enforcing those procedures.

C. Protective Equipment

1. On September 12th or thereafter, was an assessment made as to whether residents, students and area workers in the Ground Zero vicinity should be given protective equipment? If so, who made such assessment and what were the results of such assessment?
2. Understanding that the City played the lead role in contracting for Ground Zero debris removal and clean-up, did the City play a role in providing protective gear or information about protective gear to any laborers or volunteers involved in the clean-up effort? If so, describe such role.
3. Did the City ever include worker or personnel protection requirements in such contracts for Ground Zero work? If so, please provide copies of such provisions.
4. After 9-11 the use of surgical masks downtown was widespread. Did the City ever determine if such masks were effective protection? What agency, if any, participated in the distribution of surgical masks?
5. Several rescue workers reported that they were told not to wear respiratory or other protective equipment. To what extent was the use of protective gear mandatory or voluntary for City employees? for workers involved in Ground Zero debris removal and clean-up? Which agency or individual made this determination? If equipment was required, which agencies were responsible for enforcing such requirements?
6. What steps has the City taken, and what steps does the current administration plan to take to assure that sick Ground Zero workers or volunteers receive funds for required treatment or other health coverage?

III. Command and Control

1. In light of the City's experience during the 9-11 disaster in attempting to coordinate the efforts of various City agencies and to have City agencies efficiently interact with State and federal agencies to best protect the people of New York, is there now a clear protocol as to which City agency will take the lead in case of another environmental or Haz/Mat incident in NYC?
2. The Committee understands that at the federal level, EPA is regarded as the "lead agency" for response to environmental or Haz/Mat incidents. According to the OEM's May, 2004 Citywide Incident Management System (CIMS) Unified Command Matrix, Haz/Mat incidents will be the primary responsibility of the NYPD, with the FDNY as second lead. Why hasn't DEP been assigned a primary responsibility for CBRN/Haz/Mat Life Safety and Mass Decontamination issues?

3. In classifying environmental situations and conditions, will the emission and spreading of toxic particles like asbestos, which become dangerous only upon inhalation or touch, be regarded as a CBRN incident? Similarly, will the change of an environmental condition of uncertain nature, e.g., a dense, smoke-filled cloud, be classified as a CBRN incident? What individual or agency will make these determinations?
4. Given that federal law and regulations direct the federal EPA to take responsibility for assessment and remediation of environmental and Haz/Mat incidents, what plans exist to ensure that the City takes full advantage of the federal government's experience, expertise and financial resources in a time of environmental crisis, while not ceding entirely the authority to make decisions in the best interests of the people of the City?

IV. Document Request

Please provide the following documents:

1. Any and all directives or instructions received from the federal government as to the role it would play and/or the role it would expect the City to play, with respect to the assessment of the safety of air quality and to environmental protection and clean-up.
2. Copies of transcripts of meetings of the joint federal/City/State taskforce on environmental issues referred to in Commissioner Avaltroni's testimony.
3. As promised by Commissioner Avaltroni, please provide a listing and results for all dust and air sampling conducted in or around air ventilation systems in Lower Manhattan, with dates of tests and methods utilized.
4. Copies of any directives or instructions provided to both public and private schools in Lower Manhattan with respect to clean-up procedures or advice. Please provide copies of any test results for testing in public and private schools in Lower Manhattan, including Snuyvesant High School.
5. Test results for all ground sampling done in all public parks in the vicinity of the World Trade Center, including Wagner Park, Rockefeller Park, and Washington Market Park.
6. Minutes from the October 9, 2001 meeting between FEMA, EPA, and New York City and State officials, referred to in the EPA Inspector General's August, 2003 report.
7. Documents the City received or relied upon which justified the issuance of the "all clear" signal on or about September 18, 2001.