

9/11 ENVIRONMENTAL ACTION SIERRA CLUB

TESTIMONY OF KIMBERLY FLYNN, 9/11 ENVIRONMENTAL ACTION AND SUZANNE MATTEI, SIERRA CLUB TO THE EPA WORLD TRADE CENTER EXPERT TECHNICAL REVIEW PANEL, APRIL 12, 2004

We welcome the opportunity to testify at this second meeting of the EPA World Trade Center Expert Technical Review Panel. Other members of the public will address the technical issues that the Panel is considering at this stage. We would like instead to address a threshold procedural and structural issue, a matter that we feel jeopardizes the “transparent” public process that we were promised.

9/11 Environmental Action and Sierra Club became aware last Thursday that a “side panel” had been established to evaluate EPA’s highly controversial practice of relying solely on asbestos testing to determine the need to clean-up indoor spaces. We strongly object that this approach jeopardizes the “transparent” process that the public was promised for review of EPA’s management of the World Trade Center hazards. In particular:

- The decision on how to test indoor spaces for WTC contamination is a crucial starting point for clean-up of the hazards that remain in homes, schools and workplaces. Everything starts from this question – which indoor spaces are contaminated? Community residents and concerned members of the public are deeply concerned about how this question is examined. To relegate important discussions to a side panel outside the view of the public and without public participation would be a major mistake.
- Residents, workers and advocates strongly oppose EPA’s use of asbestos alone as a signal of the presence of WTC contamination. We have already explained in our March 31 testimony why using asbestos testing as a surrogate for testing for the presence of WTC contamination is grossly inadequate. The mere fact that asbestos is not present does not mean that other harmful WTC dust hazards are absent. The testing program should screen for a list of contaminants in both indoor air and settled dust that would include, but not be limited to, those contaminants listed in the World Trade Center Indoor Environment Assessment: Selecting Contaminants of Potential Concern and Setting Health-based Benchmark. To the best of our knowledge, the members of your proposed side panel did not hear the public testimony at that meeting which might have informed their analyses.
- The existence of this proposed new side panel was not even announced at the Panel’s meeting less than two weeks ago, when EPA Chair Paul Gilman made his presentation introducing the Expert Technical Review Panel and setting out its operating principles. It is unclear why the public at that meeting was not informed of the existence of this side panel.
- The public had no opportunity to nominate experts to serve on this proposed side panel even though its agenda is one of the primary issues of concern for the public.

We must stress that public participation and oversight are critical for ensuring that protecting peoples' health will be the decisive factor in the consideration of this or any charge question.

- We have not had the opportunity to review any disclosures of potential conflicts of interest among the members of this proposed side panel. We are very concerned that individuals who may have close ties to major polluting industries regulated by the EPA must not be placed in a position to advise on the hazards of chemicals from the WTC when their own companies or clients produce or discharge these same chemicals into the environment.

We call on EPA to immediately implement a transparent public process with the same operating principles as the WTC expert review panel.

- The community must have the opportunity to nominate experts
- The community should be represented by a community liaison
- All meetings of any side panels should be public.
- There must be full disclosure of side panelists' respective interests and copies of their CVs should be posted on the EPA website
- Detailed minutes of any meetings of the side panel must be made public.

We cannot begin to emphasize how important it is that this Panel must gain the trust of the community. It is no exaggeration to say that the success of this Panel and the success of EPA's next steps to clean up the pollution from the terrorist attack depends on re-gaining that trust. EPA will need the cooperation of the community in order to accomplish any sampling project.

To put it bluntly, Lower Manhattan residents should not be asked to open their homes again for pseudo-scientific testing of only one contaminant.

EPA absolutely must go about its work this time in a way that has strong credibility with the public. We urge that your proposed "side panel" approach runs counter to that goal, and will undermine -- rather than foster -- public trust. This is EPA's second chance, and there will not be a third one.

Finally, we emphasize again that -- more than two-and-a-half-years after the terrorist attack -- thousands of residences and workplaces affected by the World Trade Center pollution still have not been tested or professionally cleaned. The federal government must not delay action to clean up the toxic residue that still poses an exposure hazard for residents and workers in affected areas of the City, nor use the existence of this panel (or any "side panels") as an excuse for such delay.

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