

Testimony of Kimberly Flynn, 9/11 Environmental Action,
and Suzanne Mattei, the Sierra Club, to the WTC Expert
Technical Review Panel
May 24, 2004

Good afternoon. We appreciate the opportunity to testify today.

We believe that the WTC Expert Technical Review Panel stands at a crossroads. Actions taken by this panel will determine whether we can all move forward in partnership toward the common goal of a genuine resolution of the many pressing questions about the nature, geographic extent and levels of existing WTC contamination.

EPA will not achieve resolution of the issues before it unless it charts a course, today, that is open and inclusive of the public. By this we mean that EPA and this panel should work with the public as partners – not merely observers and commentators – in the process.

Some of you may think that is impossible or impractical. In fact, it is not only possible and practical but also essential.

We have watched both government and private sector experts make significant mistakes simply because they did not have the on-the-ground knowledge of what is really needed here and how so-called “policies” and “practices” have actually been implemented in the real world. You have certain areas of expertise, but so do we.

Some of you may see the public as “irrational.” We urge you not to succumb to that kind of prejudice. We have seen certain scientists and government officials behave in shockingly irrational ways. We have not, however, given up on working with scientists and government officials because we know that working together in partnership is much more likely to achieve rational results.

Here are our concerns and our proposals to address them.

Public Process

It should be EPA's role to foster community involvement in every aspect of this review of EPA's management of the World Trade Center hazards. Instead, we find that since the April 12th panel meeting, EPA has taken several actions that minimize or impede community input, such as restricting and altogether eliminating public comment periods. It is disturbing that the agency has not even begun to alert the public to this panel's existence and conduct outreach for future meetings, yet it is already cutting back the opportunities for public input.

These actions jeopardize the transparent public process that we were promised and, taken together, amount to an exclusion of the affected communities from deliberations that stand to have a direct impact on their health and the health of their families.

We recommend that EPA and this panel should:

- Co-create the agenda with the community. EPA has generated meeting agendas without giving the Community Liaison an opportunity to seek community input. Also, EPA has failed to post meeting agendas to its website with sufficient advance notice.
- Fully restore public comment periods. The duration and timing of public comment periods should be proportional to what has been provided in the last two public meetings—one hour of public comments in the morning session, and one hour in the afternoon.
- Create an accurate public record of the panel proceedings. All meetings of the WTC Expert Technical Review Panel should be transcribed by a court reporter, with transcripts posted to the EPA website.

Community Involvement in the Design of the Sampling Program.

The community's input is essential to formulating a sampling program that is both scientifically valid and feasible. A program developed without sufficient community input will not gain the cooperation of the people whose homes and workplaces you want to enter. Consider what happened with the Health Registry. It was poorly designed without public input, and public participation has been extremely low. People are so irate about its flaws that many have advocated boycotting it because its results will be misleading. Whether you think that is right or wrong doesn't matter. The result is lack of participation and lack of resolution of a problem.

We need to do this right.

Let's be clear about what is at stake. People are sick today. People are rightly concerned that they may become even more sick in the future. Your proposed sampling program will not help to address either of those concerns. Any illness that can be prevented through the discovery and remediation of remaining WTC contaminants indoors will be a victory.

With this goal in mind, we object to the following ideas put forward by panelists in the course of the discussion of sampling design on the May 12 conference call.

1. Some panelists appear to be contemplating a sampling design that would bypass regulated hazards like asbestos and lead as well as other substances that are well-known as hazards to the lay public, in favor of a sampling plan that focuses largely on gypsum and man-made vitreous fibers (MMVF).

Our response: This is unworkable. We recognize the value of including gypsum and MMVF, especially since exposures to the high alkalinity of the dust from construction materials and pulverized glass have played a major role in the development of already existing respiratory illnesses.

Community members, however, will not accept a sampling plan that excludes toxic chemicals known to be present in WTC dust that cause cancer or are suspected of being hormone disruptors or impairing the immune system or reproductive system. Remember that many members of the public brought in independent testers who found asbestos, lead, silica and other hazards at levels that exceed existing guidelines and standards.

2. Some panelists propose a sampling design that will exclude any contaminants found to exist in significant background levels in urban environments.

Our response: This is irrational. The presence of high levels of lead and asbestos in WTC dust has been confirmed by EPA's own data as well as independent data. EPA must conduct sampling for those hazards.

3. Some panelists propose a sampling design that will create such a narrowly-defined set of criteria for the identifying of WTC dust, i.e., one "WTC fingerprint," that almost none of it will be found.

Our response: This is completely unacceptable. We do not need a rigged sampling plan designed to find very little WTC dust anywhere.

The best scientific opinion holds that contaminants were unevenly distributed both in the original collapses and in the emissions from the fires that burned on the pile for months. Only proper representative testing in concentric circles will tell us whether there are one, two, or more "fingerprints." Indeed there may be different fingerprints in different geographic areas.

EPA clearly must undertake a sampling program that tests for a suite of contaminants including, but not limited to, the six pollutants identified as Contaminants of Potential Concern (COPCs) in the *World Trade Center Indoor Environmental Assessment* document.

4. Some panelists apparently propose to limit sampling to the area below Canal Street.

Our Response: This is totally inappropriate. One of the major criticisms of EPA's conduct after September 11th was that the agency halted the testing and clean-up program at an arbitrary line on a map, rather than basing the boundaries on the results of test data.

We know that the WTC contaminants traveled further in Manhattan and that it also affected Brooklyn. We urge the panel to take a more scientifically credible approach to defining the boundaries of the clean-up program, by conducting representative testing in concentric circles.

The Next Steps

Going forward, we urge a change of roles. Instead of treating the community as "outsiders" who criticize you, treat the community as partners who work with you. Some may think that going through the effort to work with the community is time that could be better spent elsewhere, but there is nothing more time-consuming than efforts to correct a failure.

Finally, we want expeditious action but not haphazard action. Do not misinterpret our call for action to be a call for a short shrift, sloppy and minimalist testing program. This community has learned a lot about the dangers of minimalist testing and the substitution of politics for science.

Again, we appreciate the opportunity to testify and we look forward to a more integrated community-panel interaction in the future.