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**Congress of the United States**  
**House of Representatives**

Washington, DC 20515

August 18, 2004

**JERROLD NADLER**

8TH DISTRICT, NEW YORK

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Administrator Michael O. Leavitt  
Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Leavitt:

As a result of the September 11th terrorist attack on the World Trade Center (WTC), the Deutsche Bank building at 130 Liberty Street was severely damaged and contaminated. The contamination is so extensive, that the building will be demolished in the near future. As you know, the Environmental Protection Agency (EPA) is mandated to be responsible for the prevention and remediation of contamination from terrorist attacks under Presidential Decision Directive 62, the National Strategy for Homeland Security, and other applicable environmental statutes. I would be grateful if you would provide a detailed description of how the EPA plans to fulfill these responsibilities under the law with regard to demolition of the Deutsche Bank building to ensure that there is no release of hazardous substances into the community during the demolition and waste management phases of these activities.

When a section of 2 World Trade Center collapsed through 15 stories of the Deutsche Bank, massive quantities of WTC dust and smoke poured through the gash and through imploded windows, permeating the entire structure. To assess the extent of damage and contamination, Deutsche Bank spent thirty-three million dollars on a ten-month engineering and environmental study of the entire 41-story building.

Deutsche Bank used the study results in litigation against two of its insurance companies. As stated in the complaint, "Environmental test results show that a combination of contaminants known to be hazardous to human health, in quantities and concentrations unparalleled in any other building designed for office use, permeate the entire structure at levels which exceed by up to thousands of times the levels considered appropriate... For example, the concentration of asbestos present at certain locations in the building is almost *150,000 times* the level considered appropriate." At this time, the complaint is the only publicly available document regarding the extent of contamination in the Deutsche Bank building.

The Deutsche Bank lawsuit ended with a settlement agreement wherein the Lower Manhattan Development Corporation (LMDC) agreed to purchase the building and be responsible for the demolition. LMDC is not an environmental agency and lacks the expertise necessary to oversee the demolition of such a highly contaminated building. Also of concern is the clear conflict of interest arising when the entity responsible for testing and overseeing the demolition is the owner of the building.

I continue to expect the EPA to fulfill its responsibility under the law as the lead agency for the environmental response to 9/11. The EPA is the only agency with the expertise and jurisdiction to oversee the demolition under numerous statutes, including the National Contingency Plan and the Resource Conservation and Recovery Act. With over 30 years of experience in carrying out and supervising hazardous substance control activities, it is no wonder that EPA was designated by both President Clinton and President Bush as the lead agency for protecting the public from hazardous substances in a terrorist attack. Moreover, as you know, under the Resource Conservation and Recovery Act, the EPA has jurisdiction over parties that have and are contributing to past and present handling, storage, transportation and disposal of solid wastes that may present an imminent and substantial endangerment to health or the environment.

The potential problems posed by an improper cleanup are substantial. Lower Manhattan is a densely populated area with a multitude of businesses, residences, and schools. Another toxic release into this area would endanger the health of large groups of people, many of who have already suffered exposure. There are also concerns that contaminants could be released into the subway system via the Albany Street Fan Plant, that the improper characterization of the site could result in waste being sent to the wrong landfills, and that the release of hazardous substances could result in the recontamination of surrounding buildings. The potential problems that will result from an inadequate demolition are too numerous to list. The message, however, is clear: an improper demolition will present a serious hazard to the people of New York.

The EPA is required to ensure that the surrounding community is not exposed to hazardous substances during the Deutsche Bank demolition. The extraordinary levels of contamination in this facility highlight again the need for the EPA to conduct comprehensive testing and cleanup of all buildings affected by the collapse of the World Trade Center, a duty that the EPA has yet to complete. The situation at the Deutsche Bank building provides an opportunity for the agency to restore its reputation and fulfill the paramount duty of protecting our people.

I stand ready to work with you to protect the health and safety of the people of New York, and I look forward to your prompt response.

Sincerely,



Jerrold Nadler  
Member of Congress

cc: Jane Kenny  
Region 2 Administrator

Joel Kupferman  
NY Env. Law & Justice Project