

January 22, 2007

Mr. David Newman
Industrial Hygienist
New York Committee for Occupation Safety and Health
116 John Street, Suite 604
New York, NY 10038

Re: Fiterman Hall: Remediation and Deconstruction

Dear Mr. Newman:

Thank you for your continuing interest in this project and your efforts on behalf of the Lower Manhattan residential and work community. We have compiled the following responses to your questions and comments, dated December 20, 2006 and quoted below in italics, regarding the Fiterman Hall remediation documents.

1. CUNY's Fiterman documents are scattered among three different websites (EPA, BMCC, and lowermanhattan.info).

- No complete list, index, or collection of Fiterman documents has been made available to the public and/or posted on the BMCC Fiterman Hall News website. Consequently, it is difficult to find and to access the pertinent documents.*
- When accessing a document on one of these websites, it is impossible to know if the document is final or whether a more current document exists on another website. The status and content of regulators' responses is also difficult to ascertain.*
- Because there is no complete, centralized list of documents, it is impossible to know whether the documents accessed on these websites comprise a complete collection of all relevant and current documents.*

CUNY should post on the BMCC website a complete list of links, in chronological order, to all documents pertaining to the demolition of Fiterman Hall, including all CUNY proposals and all regulatory responses.

Answer

As of the last week in December, the LowerManhattan.info webpage for Fiterman Hall (http://lowermanhattan.info/construction/project_updates/fiterman_hall_39764.aspx)

gives a full listing of regulatory submissions, with the names and dates clearly labeled.

All documents and attachments that are included within a submission appear when you click on that submission. The BMCC webpage (<http://www.bmcc.cuny.edu/fitermannews/>) is primarily a “snap shot” of recent activities and plans for the new Fiterman Hall, but it does provide a hyperlink labeled “Related Project Documents” that links into the full list on LowerManhattan.info.

It would not be appropriate for us to ask the EPA to restructure its website protocols, but we believe the improvements we made to the other two sites have successfully addressed your valid criticism.

2. *The Regulatory Submittal Part I(R) document (hereafter referred to as “RS”) relies upon and references several other key documents, none of which appears on the BMCC Fiterman Hall News website. These documents include:*

- *the Environmental Characterization Report*
- *the Facade Characterization Report*
- *the January 10, 2006 Preliminary Regulatory Submittal*
- *the Environmental Community Air Monitoring Program*
- *the Emergency Action and Community Notification Plan.*

Each of these documents is dependent upon the findings of and procedures proposed in the other documents. In particular, and significantly, the adequacy of proposed safety precautions in the RS cannot be properly evaluated without full access to current and final environmental sampling and site characterization reports. Absent these key documents, a thorough, complete, and final assessment of the RS document is not possible.

Versions of these documents are posted on other websites, as detailed above. However, it is not clear whether the documents posted on other websites are the documents referred to in the RS. For example:

- *The December 7, 2006 RS states that the Environmental Characterization Report is provided under separate cover. Does this refer to the October 31, 2006 Environmental Characterization Report, which is entitled “Preliminary”, or does it refer to some other version?*
- *The December 7, 2006 RS states that the Facade Characterization Report is provided under separate cover. Does this refer to the September 15, 2006 Environmental Characterization Report, which is listed as “preliminary”, or does it refer to some other version?*

I urge CUNY not to submit documents to the regulatory agencies on a piecemeal basis and I urge the regulatory agencies not to approve individual documents until all relevant documents can be examined. All documents should be made publicly available prior to submission to regulators.

Answer

The Preliminary Environmental Characterization Report and Façade Characterization Report (both dated September 15, 2006) that are posted with the “Scaffold” submittal of October 5, 2006 are the most recent versions. Both are titled “Preliminary” as they may be updated over time based on new

information and input. As stated above, all regulatory documents are now available on the BMCC Fiterman Hall News webpage via hyperlink to the LowerManhattan.info and USEPA websites.

Submissions to the EPA will not be “piecemeal.” The submittals are phased, just as the project is phased (Scaffold, Remediation and Deconstruction and Reconstruction). This submittal format has been discussed at length with the regulators. Given the distinct phase separations that are planned for this project, there is no reason to withhold submittal and approval of the scaffolding plan based on some aspect of a deconstruction phase that will occur six months later. It is however, important for the scaffolding phase that the Environmental and Façade Characterization Plans be reviewed and that the Community Air Monitoring Plan and Waste Management Plan be in place. Hence, those plans are included with the scaffolding submittal.

3. The RS calls for use of shredders. Use of shredders significantly increases the potential for resuspension in air of respirable toxic contaminants, where they become available for inhalation or unanticipated emission. No rationale is presented for the proposed use of one or more shredders. There is no hazard assessment for shredder use.

Answer

The use of one shredder is included in the Remediation Plan. The use of the shredder is proposed to facilitate the consolidation of the tremendous amount of waste that the project will generate and, therefore, minimize truck trips from the site . The shredder is a bulk industrial shredder, not a pulverizer, ie., it does not grind material to powder, but it breaks down large pieces of debris, as would be done manually by workers if no shredder were used.

Specifications for the proposed shredder are included with the regulatory submittal package. The shredder is to be used in a closed area under negative air pressure, which is designed to control microscopic particles. Wet misting techniques will be used to minimize dust within the containment area. In addition, operators of the shredder will utilize PPE designed to protect against microscopic particles.

4. The RS establishes clearance levels for metals, without explanation or reference.

Answer

The clearance levels proposed are the same levels that have been used at the other WTC response demolitions within the EPA WTC Response and Recovery Operation. They are based on OSHA guidance and have been determined by the Regulators to be sufficiently protective for this application.

5. The RS makes clear that proposals for variances are intended and known. However, these proposals are not included in the RS. Although formal variance requests may appropriately be filed separately and at a later date, proposals that are known now should be included in the RS.

Answer

The NYSDOL variance proposals will mirror the work practices proposed in the work plans as they pertain to asbestos containment and handling (as NYSDOL only regulates asbestos). It is our preferred practice to first submit the work plan for preliminary review by CUNY and DASNY, the regulators and the community, before generating the specific variance petition language based on the final agreed

procedures. This should ensure that the regulators t review petitions that accurately describe the procedures to be followed.

6. *Qualifications for the Contractor Safety Officer are not specified in the remediation Health and Safety Plan (hereafter "RHASP") or in the scaffold HASP.*

Answer

The following text has been added to the RHASP:

"The Contractor Safety Officer (CSO) will be a remediation and demolition manager with a minimum of fifteen years of relevant experience who will make executive decisions regarding safety matters in counsel with a third party Safety Consultant who will be contracted to oversee site safety on this project. The third party Safety Consultant will provide a certified NYC Site Safety Manager (SSM) as their on site representative."

7. *The RHASP section on Overt Chemical Exposure states "Please note that there are no chemicals present that could be disturbed during Remediation operations." This statement is not explained and certainly is not accurate in its present form.*

Answer

The following text has been added to the RHASP:

"In the event that chemicals are encountered during the Remediation, the CSO, SSM and Owners Environmental Consultant (OEC) will evaluate the situation to determine the necessary response procedures required to prevent overt exposure."

8. *The RHASP states "Employees must replace body fluids lost from sweating. Employees are encouraged to drink more than the amount required to satisfy thirst, 12 to 16 ounces every half-hour is recommended." This provision should be amended to include a directive that fluid replenishment requires exiting the containment area and undergoing decontamination.*

Answer

The above quoted text has been replaced with the following:

"It is recommended that employees replace body fluids lost from sweating by drinking more than the amount required to satisfy thirst. Employees will be provided with break time to decontaminate and exit the work area in order to consume fluids. Eating and drinking are prohibited within containment areas at all times during the Remediation."

9. *The RS presumes that an emergency air horn warning system will provide adequate emergency notification to workers in close proximity to loud equipment such as shredders. However, no evidence to support this presumption is presented.*

Answer

The following text has been added to the RHASP:

“The shredder machine will be run by a designated operator who will act as the shredder zone foreman. The CSO, SSM or PAL Superintendent will maintain direct contact with the shredder zone foreman to advise in case of emergencies where high sound levels and hearing protection may limit the audibility of the air horn warning system.”

10. *The RHASP lists the following “principle contaminants (known or suspected)”: asbestos, metals, man-made vitreous fibers, dioxins/furans, PAHs, PCBs, and crystalline silica. However, the RS requires personal testing only for asbestos and area testing only for asbestos and metals. Personal or area monitoring for other listed contaminants (man-made vitreous fibers, dioxins/furans, PAHs, PCBs, and crystalline silica) is not addressed in the RS.*

Answer

The contract documents require the Contractor’s strict adherence to all OSHA regulations. The Contractor, PAL Environmental Safety Corp. (“PAL Environmental”) has informed the project team that their CSO is currently reviewing sampling data (air and wipe) collected in the Building along with historical sampling data collected on projects of a similar nature near the WTC site in order to determine what Negative Exposure Assessments (NEA’s) and/or personal monitoring will be required. The Owner’s Environmental Consultant will conduct an independent review of the CSO’s determinations prior to the commencement of work at the site.

Community area monitoring for a wide range of listed CoPCs is included in the Environmental Community Air Monitoring Plan.

11. *The issue of applicability of, and conformance to, the Hazwoper standard is inadequately, and inconsistently, addressed.*

- *The Environmental Characterization Report states that the entire building is assumed to be contaminated with WTC-derived toxic substances.*
- *The RHASP states “Hazardous Waste Operations and Emergency Response (HAZWOPER) Training Requirement: There is no potential exposure to hazardous waste and none shall be generated by Remediation procedures. It will not be necessary for personnel performing the Remediation to have HAZWOPER training. Awareness training will be provided for CoPC’s and Universal Waste.”*
- *The RHASP also states that in the event of an “unplanned, sudden, or non-sudden release of hazardous waste or constituents ... (workers shall) perform a controlled cleanup of the release.”*

Remediation workers on site should be required to have completed 40-hour Hazwoper training, as required by OSHA 1910.120(e)(3)(i), which states “General site workers (such as equipment operators, general laborers and supervisory personnel) engaged in hazardous substance removal or other activities which expose or potentially expose workers to hazardous substances and health hazards shall receive a minimum of 40 hours of instruction off the site, and a minimum of three days actual field experience under the direct supervision of a trained experienced supervisor.” All other applicable provisions of the Hazwoper standard should be followed as well, and codified in the RHASP.