

APPENDIX B
Submitted Written Public Comments*

**(Additional Written Public Comments from the July 12, 2005 Meeting may be found on the
911 Environmental Action Website:
<http://911ea.org>)**

***THE FOLLOWING PUBLIC COMMENTS WERE RECEIVED AT THE EXPERT
TECHNICAL PANEL REVIEW MEETING #11. NOTE, THE MEETING IS NOT A
PUBLIC HEARING TO HEAR TESTIMONY, BUT RATHER A TECHNICAL
MEETING FOR EXPERT PANEL MEMBER DISCUSSIONS WITH TIME SET ASIDE
TO HEAR COMMENTS FROM THE PUBLIC ON DISCUSSION TOPICS.**

WTC Public Comments, July 12, 2005

Lisa Baum

My name is Lisa Baum. I work in the Safety and Health Department of District Council 37 of the American Federation of State, County and Municipal Employees. DC 37 represents approximately 125,000 employees of the City of New York. Hundreds of our members were involved in Ground Zero rescue and recovery. Several died, including an emergency medical technician who died just a week or two ago due to lung injuries incurred at Ground Zero. Because the seat of NYC government is located in lower Manhattan, thousands of our members work near Ground Zero.

I want to make sure that the EPA is clear on the limitations of referring workers to NIOSH and OSHA to deal with environmental testing and clean up. NIOSH is only capable of doing limited sampling and cannot enforce or perform any clean up. OSHA does not have any standards that would cover what the EPA is proposing to test for. Richard Mendelson implied that if contaminants were found but did not exceed OSHA standards, then there would be no health risk for the worker. OSHA's standards are not based on health risk, they are politically determined. Take, for example, ergonomics. Musculoskeletal disorders are a recognized hazard, but the ergonomics standard was pulled for political reasons.

Also, many of the affected workers go from job site to job site. It would be extremely difficult to call in OSHA to inspect a worksite that the worker may have left weeks ago. In addition, public sector workers are not covered by OSHA. They are covered by the NYS Department of Labor's Public Employee Safety and Health Bureau. I assume no discussions were held between EPA and PESH on this issue. Our experience has been that PESH can take weeks or months to respond to a complaint. We've waited over a year for fatalities reports which are given PESH's highest priority. By then the worker has moved on to several more worksites, potentially being exposed to COPCs at each site.

As we've heard from EIOSH and the NYC Department of Health today, the health effects of ongoing exposure to WTC contaminants is real. We need to take this issue seriously.

As for the signature, I want to clarify that the Community-Labor Coalition is not opposed to a signature. We understand that the EPA has some limitations on what can be included in clean up. However, our concern is that there has not been adequate testing of the signature to determine if slag wool travels the same distance as other WTC COPCs. We are worried that, if slag wool does not travel as far as the other COPCs, the source of contamination may not be linked to the WTC when, in fact, it should be. This would result on false negatives and limit clean up of WTC-contaminated workplaces and residences. Why can't the EPA perform additional sampling a various distances from Ground Zero to determine if slag wool is present before implementing the plan?

Statement to EPA Panel 7/12/05
Caroline Martin
Family Association of Tribeca East

Generally:

As a resident, I am happy to see that south of Canal Street is now included in the area for clean-up in the event that the signature does not pass scrutiny.

One quick point about statistical sampling. Lakes have no vertical dimension – how do they relate to buildings of a variety of heights.

The Coalition would like to see the list of buildings selected for testing mentioned by the EPA this morning.

Infrequently Accessed Spaces:

In table 4, which still lists under beds as inaccessible areas, mentions bookcases. Is it just built in bookcases or all bookcases?

It is a fact of modern life that appliances do not last your lifetime. I have replaced my refrigerator, dishwasher, washer/dryer and stove at least one since I have lived in my apartment. Some of these will need to be replaced again soon. I have moved every bed, piece of large furniture and bookcase during my residence. I have lived in the same apartment for 25 years. Imagine how much more moving of ‘heavy furniture’ and appliances happens in building with a high turnover.

Breached Buildings:

I don’t understand why they need to be a separate category. Breached in this case does not include buildings whose windows were left open or whose HVAC systems were on continuously on 9/11 until the power went out.

Signature/ Whole Methodology:

Try explaining this to someone who lives downtown. In this case at the corner of West Broadway and Reade Street.

This is a short version of a conversation I had yesterday.

They said: So they are going to test and clean – great that it only took 3 years. How do I apply for testing and cleaning?

I said: You can’t. They are only testing 30 buildings in our area, and they will only clean those units that have contamination and slag wool in accessible places.

They said: So if they find all that in a building are they going to clean the whole area’s buildings?

I said: No.

They said: I know there are areas in my building where we have WTC dust. I only cleaned my apartment, but some of the common areas and basement areas are still dusty. What can I do?

I said: Hire cleaners?

They said: This program does not make logical sense.

I said: No it doesn’t, but a whole panel of scientists seems to be buying into it. The EPA as well. Perhaps we should have faith in our government’s ability to keep us safe.

We all fell about laughing.

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.

LETTER TO EPA PANEL

July 12, 2005

Hello. Thank you for the opportunity to speak to you today.

My name is Esther Regelson and I am a resident of Lower Manhattan, one block south of the contaminated Deutchbank slated for demolition. I live a half a block from 4 Albany Street, now almost completely demolished, but also contaminated by the events of 9-11. Two blocks around the corner another row of buildings on Thames Street, also breached and contaminated by debris from 9-11, will soon be destroyed. The list goes on. I hope you can understand why I am so concerned about the possibility of my home becoming recontaminated with debris as these dangerous buildings that loom outside my window are torn down.

After 9-11 I got an air purifier. I kept it on constantly for about a year and then turned it off thinking that the air was safe to breathe again. I almost threw it out when it sat there taking up space in my tiny apartment. Then, once the demolition started at 4 Albany I decided to turn it on again.

I have some show & tell for you. [Show samples] This is the filter from my air purifier. I changed it only two weeks ago and as you can see the filter is already full of dust. I also have here a sample of dust from behind my computer, not so inaccessible as you may think. I can still look inside the recesses of my printer and see the dust that no one ever cleans. And here I have one more sample – dust collected from inside and outside of my windowsill – from windows that I must keep open in the summer to battle the heat.

I offer these samples to you all. I invite you to take them home with you. Please, sleep with them, smell them, taste them and inhale them as I do everyday.

If you had to live with this –and with the reasonable fear that you could become sick from the daily exposure to toxic dust, would you want to rely on a sampling and testing program that is not scientifically sound?

Would you want to depend solely on the good will of a landlord to allow EPA to test in the building, or would you want his compliance to be mandatory?

Would you then want to be turned down for a cleaning because your dust was the wrong kind of toxic and didn't fit some kind of arbitrary signature for toxic dust from the World Trade Center?

Would you also put your trust in an EPA that told you the air from Ground Zero was safe to breathe when it wasn't, without having a proper peer review of the sampling plan or a reliable independent monitor involved?

I could go into more details here, but if these issues aren't addressed properly, there is no reason to continue. I am hoping that everyone recognizes the hazards that we must endure if the flaws in this plan are not corrected. As I have stated, I fear that I may suffer some serious health problems in the future because of this. I love this city and remained here to take part in the recovery of my community. I do not want to regret that I stayed.

I recognize that all of you on the panel are also volunteers, and I hope that this process doesn't prove to be a colossal waste of your time. Please do not accept this plan as it is simply because the price is right or it is the expedient thing to do. I appeal to this panel, and to the EPA to do the right thing.

Thank you.

Testimony to WTC Panel July 12, 2005

1. As we take one step forward and two steps back, the Panel needs to be kept apprised of events going on around us. For instance, some of the 9/11 families who have been deprived of an appropriate burial for their loved ones are in desperation asking to have the toxic debris at Fresh Kills brought back to Ground Zero. Whatever solution is arrived at about this needs not to compromise the health of the living.

2. I'm perturbed to see that in drawing up its Quality Assurance Project Plan, EPA has forged a partnership with Lockheed Martin. Lockheed Martin has been implicated in scandals involving contract violations, foreign corrupt practices, conspiracy, bribery, racism and payoffs for layoffs. Of more relevance to this Panel is that they've also been involved in illegal storage and treatment of hazardous wastes, contaminating groundwater, exposing workers to uranium and plutonium and testing perchlorate, a toxic contaminant that's in rocket fuel, on humans. Richard Wiles of Environmental Working Group said, "It shouldn't take a rocket scientist to know that medical researchers shouldn't feed toxic chemicals to humans."

Apparently it doesn't as the rocket scientists at Lockheed Martin seem not to know it.

EPA oversaw the perchlorate case. Perhaps that's where the friendship with Lockheed Martin was forged, leading to the tables turning and to Lockheed Martin's drawing up the proposal to assure the quality of EPA's testing. But this is worse than foxes guarding hens. This is foxes guarding wolves.

I wish I had the proposal here. But it came with me to a meeting that took place on a rainy night last week in a basement. In the middle of the meeting, a clump of inaccessible ceiling tile fell on the conference table. This happened eight times during the meeting, illustrating yet another of the unanticipated but myriad ways in which inaccessible ceiling tiles may become, at a stroke, accessible.

We don't have enough time now but this afternoon I'd like you to answer how Lockheed Martin got this contract and what their involvement is with the Sampling Plan.

P.M. Session:

To Pat Evangelista: When you talk about the 53 breached buildings' being contaminated, what does that imply for the buildings next door to those contaminated buildings?

[Evangelista answers in terms of the impact of demolishing the contaminated buildings.]

Orkin: Does it imply that the buildings around the contaminated buildings might be contaminated too? Do you think the contaminants went only to the buildings where you tested? You said when you found a contaminated unit, you'd clean the units around it.

Evangelista: That was for offices.

Orkin: So when the unit is bigger, like a whole building, you're not going to clean the neighboring units?

Evangelista: That's why we're doing representative testing.

Orkin: But the buildings that are known to be contaminated represent other buildings in the vicinity.

Jenna Orkin
World Trade Center Environmental Organization

**STATEMENT OF ROBERT GULACK, UNION STEWARD,
U.S. SECURITIES & EXCHANGE COMMISSION,
AT THE EPA TECHNICAL REVIEW PANEL**

FOR IMMEDIATE RELEASE

July 12, 2005

FOR MORE INFORMATION, CONTACT:

Robert Gulack, (201) 794-9322

At our last meeting on May 24th, we all heard Dr. Markowitz express his doubts that even my singing could "persuade" landlords to volunteer their buildings. We heard Dr. Prezant call for everything "legally possible" to be done to require landlords to cooperate. We know Ms. Hughes and Ms. Siegel de Hernandez agree with Dr. Prezant on this. We heard Dr. Perera call for EPA to work with OSHA on access. We heard Commander Gautier's advice that the EPA can do more legally to gain access. We know Mr. Newman wants everything legally possible to be done. Dr. Stellman spoke against allowing targets to select themselves for sampling. We heard Mr. D'Andrea tell us he was trying to get his lawyers to give him the answer on access. Dr. Liroy went to the EPA months ago to ask for the relevant legal memo on access.

No one who attended the May 24th meeting could doubt for a moment that a solid majority of the panel would like the EPA to fulfill its promise to assemble a memo listing all the possible ways in which the EPA could work with all the other relevant agencies and dispel the threat of a landlord/employer veto. Yet Chairman Oppelt did not even put this in his notes as something he was being asked to work on.

Quite the contrary. Read the May 24th Bloomberg article for the following lead sentence: "The U.S. Environmental Protection Agency won't require New York property owners to cooperate with its search for toxic dust . . . , officials said. The agency rejected calls to make participation in the inspections mandatory . . . , said an EPA researcher. . . . 'We're not going to bully people . . . ,' said Timothy Oppelt." According to Timothy Oppelt, forcing innocent Americans to work and live for four years in life-threatening conditions – forcing me, for example, into the hospital and inflicting permanent lung damage on me – is not bullying people. But compelling landlords to submit to health inspections is "bullying." Mr. Oppelt knows how ridiculous his argument is. He is simply willing to prostitute his better judgment at the behest of the White House, while thousands of innocent Americans are injured and killed.

On May 26, I wrote to all of you predicting that the EPA would categorically reject the advice of the clear majority of this panel. I predicted the EPA would waste June and July as it has wasted the last four years. I predicted there would be nothing in the July testing plan that would respond to the majority of this panel on the issue of using the legal powers of government. I was right. But predicting that the EPA is going to be inactive is like predicting that a rocking horse is not going to win the Kentucky Derby.

The EPA spits on the majority of this panel. The EPA spits on Senator Clinton, who wrote to the EPA June 29 asking the EPA to include "all of the important modifications suggested by the WTC Community Labor Coalition." It spits on the unanimous community boards of lower Manhattan, who, last year, river to river, endorsed the seven principles of the WTC Community Labor Coalition. Let us be frank. The EPA is under the direct political control of the President. He doesn't care about your community boards, or your senator, or the

year of work this panel has put in without compensation. He doesn't care how many innocent American children are killed. He cares about no one but himself.

The EPA cites a handful of tests conducted up to eight hundred meters from Ground Zero, and tests conducted six kilometers or more away, as the basis for its alleged collapse signature. From Sept. 11 to the present day, the EPA has refused to carry out testing in the crucial zone between 800 meters and 6,000. Only such testing, at 1, 2, 3, 4, and 5 kilometers, could provide the data necessary to evaluate the reliability of the alleged collapse signature beyond the immediate neighborhood of Ground Zero. To insist, without such testing, that the data from 800 meters can be extrapolated to Brooklyn is like compiling a guide to Parisian restaurants based solely upon field work done in Cincinnati.

The American Chemical Society has confirmed that many new molecules, none of which have been shown to be safe for humans, were created and dispersed by the World Trade Center fires. But by using the alleged collapse signature to cut off testing, the EPA cuts off from any consideration for cleaning every home and office contaminated solely by these horrifying fires and previously unknown molecules.

According to the EPA's latest proposal, if the collapse signature is confirmed, employees will have no right to call for EPA testing. If, on the other hand, the collapse signature is not confirmed, then, the EPA says, employees will have no right to call for EPA testing. So the EPA's position on this point is perfectly clear. People who work for a living have no rights the EPA need bother about. Exactly as they have done for four years, the EPA advises workers to go to OSHA. But, as everyone knows, OSHA operates with out-of-date regulations and out-of-date equipment that make OSHA absolutely irrelevant to this crisis. As a union steward, I went to OSHA three years ago, and OSHA told me there was nothing they could do. The EPA also refers workers to NIOSH, a purely research organization with no regulatory powers. Referring workers to NIOSH for actual help makes as much sense as referring workers to NASA.

The EPA was ridiculed for refusing to clean under beds. But this plan still says they won't clean under furniture that is "rarely moved." The EPA's position is that, if al-Qa'ida has managed to contaminate your closet or behind your chest-of-drawers, that's fair. The contamination should stay right where it is. Whose side are they on?

This panel is composed of scientists. The EPA is composed of political hirelings. For four years, New York City has begged the EPA to help them deal with this enemy attack. New York City might as well have prayed for assistance from an idol carved from stone.

I'm Kimberly Flynn and I'm a member of 9/11 Environmental Action. Thank you for the opportunity to speak today.

I'd like to address the flawed reasoning that underlies the use of a slag wool-based dust signature in EPA's sampling plan.

Insofar as other toxics of concern were not distributed in the same pattern as slag wool, it logically follows that there will be areas where slag wool will have fallen below the threshold of concern while other toxics may remain at unacceptable levels. The one and only way this would not be true is if it could be shown that slag wool were as easily and widely spread as any other WTC toxic; in that case, a zone free of slag wool would also be free of other toxics. Under the current plan, EPA is running the clear risk that since slag wool is bigger and heavier than some other substances of concern, its distribution underestimates the zone of concern.

Right now, what we all must recognize today is that the signature is a question, not an answer. It is a hypothesis awaiting confirmation or rejection--and that can only come from evidence that EPA does not yet have. The signature cannot become EPA policy now, BEFORE EPA has the science to back it up.

What Drs. Prezant and Stellman did earlier today was to make an intervention in the name of the scientific method. The "cart" of linking the cleanup decision to the dust signature cannot precede the "horse" of gathering data throughout the impacted areas.

We applaud their remarkable presentation as a triage effort in the nick of time. We too feel that it is not too late to save this sampling plan. But it has to be an honest plan, based on honest evidence, using the right methods to look for honest results.

Toward that end, we are calling for the Prezant/Stellman proposal to be given serious consideration.

Also, toward the goal of producing an honest plan looking for honest results, we are calling on EPA not to review the signature research in ways that violate EPA's own peer review guidelines, in ways that will undermine the spirit of this ongoing WTC panel public process, and in ways that will create the overwhelming impression that EPA is attempting to shield its work from full public and scientific scrutiny.

Now, I'd like to address the EPA's default plan. In the June 30 version, EPA sets out two possibilities: a signature-based sampling plan and a non-signature-based sampling plan, in the event that EPA's signature fails to be validated. We call this EPA's "heads, EPA wins/tails, we lose" proposition.

The default plan, that, it bears emphasizing, preserves most of the serious flaws of the main plan, REINSTATES the 2002 Canal/Allen/Pike Sts. boundary line, river to river. That guarantees that communities that clearly suffered the environmental impact, and, as we've heard again today, serious environmental health impacts from the disaster, will, once again, be left out.

If EPA reverts to this sampling zone, it will encounter opposition from community-based organizations and labor groups--"river to river."

As to Chairman Oppelt's opening comments complaining that the community has failed to get on board with outreach efforts for the plan, I can only say--and I speak for the broad and diverse

network of organizations involved in this process--you fix it, we'll sell it. If you don't fix it, we will not support it.

As it stands now, we see this plan as fatally flawed. To tick off the major flaws:

--We see a set of barriers to access that will destroy participation and, with it, the possibility of truly representative sampling.

--We see a set of hurdles that involve averaging, and thus diluting, data, compositing samples taken from multiple locations, and disregarding data gathered from known reservoirs of contamination. The combined effect of these provisions will turn the prospect of a whole building cleanup into a Mission Impossible.

--We see the dust signature as an arbitrary means of disqualifying impacted buildings from the possibility of cleanup

--And we see a set of technical proposals and sampling methodologies so inappropriate that--I will be diplomatic--they appear to be mistakes.

We are not too far down the road to do a mid-course correction, especially if that road was leading us to failure. Drs. Stellman and Prezant have provided a way forward. As I said, their proposals must get serious consideration. And there are other serious flaws that were detailed in the coalition's panel presentations, that we must move quickly to correct. The community remains invested in working toward an honest plan.

We should have a panel meeting in August and get to work to save the sampling plan.

Thank you.

Independence Plaza Tenants Association
40 Harrison Street, #31 B
New York, NY 10013

Statement to the EPA World Trade Center Expert Panel
July 12, 2005

My name is Pat Dillon and I'm here on behalf of the more than 2,000 residents of Independence Plaza, which is located six blocks north of the World Trade Center site. A good percentage of us registered for the EPA's "Dust Cleanup" because we were concerned about the safety of our homes, which had been heavily impacted by dust and smoke on 9/11, and we were promised professional environmental cleaning and scientifically valid post-cleanup testing. The poor design of the program, however, and the abysmal quality of the "cleanup," made it clear that it was nothing more than a PR exercise, and we were left frustrated and angry when it ended. We still had no idea if our homes were free of Trade Center contaminants and therefore safe places for our families.

Now, we are again very angry as we learn the details of the EPA's proposed sampling program, which seems designed mainly to not find World Trade Center contaminants. Following are three areas that greatly concern us.

*making
adding to
signature*

1) We don't believe that cleanup of contaminants can reasonably depend on a "signature" that is based on the insufficient data presented by the EPA. Because a lot of slag wool was found in samples taken less than one kilometer from the Trade Center site, the EPA has concluded that, to trigger a cleanup, samples will have to contain a certain amount of slag wool. But IPN is further than one kilometer from the site – where is the data that proves dust in my home even contained slag wool? My building was completely enveloped by the initial dust cloud on 9/11, so I know the dust in my apartment was Trade Center dust. But what if the slag wool fibers, which are larger and heavier than asbestos and some other contaminants, didn't get as far as my home? Or, what if subsequent cleaning removed the slag wool but left behind other contaminants? Linking cleanup to such an unproven identifier is not acceptable.

*Benchmarks
or "inaccess-
ible areas"*

2) The EPA plan designates window "troughs" as "infrequently accessed areas" and, very illogically, raises the benchmark (that would trigger cleanup) for asbestos and MMVF in these areas to ten times the one used for areas EPA deems "accessible." More than two years after 9/11, IPN's owner announced that all windows in the complex were to be replaced. Since no testing or cleaning of our buildings' facades had been done after 9/11, the tenant association was very concerned that during the window removal any remaining Trade Center contaminants would be dislodged and become airborne, so we arranged to have the windows tested. Our environmental consultant, using wipe sampling, found very high levels of asbestos in all of the eleven window troughs tested. Eight of

the eleven had concentrations of over 1 million structures per centimeter squared; the highest concentration exceeded 14 million structures. Our consultant, who negotiated with the owner's consultant to arrive at minimally acceptable protocols, and who also monitored some of the window removal work, wrote in one report, and I quote: "... parts of the existing assemblies had to be cut with a saw ... (and) severe vibration did occur." So, who knows how many of more than 2,000 residents, and the workers who removed the windows, were put at risk by Trade Center contaminants remaining in many of these "infrequently accessed" areas.

3) The requirement that participation be voluntary was a major reason for the failure of the EPA's "Dust Cleanup" program. The EPA should use the powers available to it to gain access to any buildings needed to provide a truly representative sampling, since safeguarding public health requires it.

In closing, I can assure you that IPN's 2000-plus tenants will not accept the EPA plan as currently proposed. We strongly urge the EPA to make the changes recommended by the WTC Community/Labor Coalition, which are needed to make this plan viable.

Thank you.

**Testimony by David Dyssegaard Kallick
Senior Fellow, Fiscal Policy Institute and
Coordinator, Labor Community Advocacy Network
to Rebuild NY (LCAN)**

Hearing before the WTC Expert Technical Review Panel

**New York City
July 12, 2005**

Thank you for inviting me to testify today.

My name is David Dyssegaard Kallick, and I am senior fellow of the Fiscal Policy Institute. I am also coordinator of the Labor Community Advocacy Network to Rebuild New York (LCAN), a coalition of over 50 labor unions, community organizations, advocacy groups, service providers, and research institutes that have been involved in the overall rebuilding effort since September, 2001.

I am not an expert in environmental health matters, but I hope I can add to the hearing today a sense of how important the work you are doing is to the overall rebuilding effort.

After September 11, serious concerns were raised about air quality, dust deposits, and toxins released by the World Trade Center collapse. People were getting sick, and explanations and assistance seemed to fall short.

In the weeks and months that followed, it seems that the information first given about air safety was not correct, leading many residents, business owners, and employees to question the safety of the air in Lower Manhattan and Brooklyn. These concerns have never really gone away, with people continuing to question not only the safety of the environment, but also the reliability of the information the public is being given.

Let me say it as simply as I can. The public needs to be completely assured that the area has been fully tested, and that any cleanup necessary will be done. This is essential to the revitalization of New York, where the economy has still not regained its pre-9/11 footing.

There cannot be questions about the comprehensiveness of the testing process. There cannot be concerns about cutting corners because of costs. And there cannot be questions—as there were after 9/11—about whether the government is turning a blind eye to environmental hazards.

Similarly, I would urge you not to lose sight of the goal, which must be making sure the areas are clean. I know there has been a great deal of discussion about identifying the “signature” of the World Trade Center toxins. I will leave to the experts the discussion about how or whether a legitimate signature can be found. But let me say, from the point of view of the general public, a toxin is a toxin. We’re not very interested in a prolonged and technical debate about an environmental hazard was caused by September 11, exacerbated by September 11, or maybe was already there but we’re only noticing because of September 11. It is already nearly four years after 9/11. Spending too much time and money

deciding what was caused by what is the wrong approach, and leaves the public exposed to risk and uncertainty for too long.

If it seems like a radical notion to suggest bringing environmental standards up to snuff without belaboring how the problem started, I would just like to stress that this is exactly the attitude that has been adopted in other parts of the recovery and rebuilding process. When the residential retention and attraction grants were awarded, for example, everyone who signed a lease in the defined zone was eligible. There was a presumption that landlords throughout the geographically defined area would suffer; there was no laborious process to determine the status of individual buildings. The business retention and attraction grants were awarded on the same basis.

Why shouldn't we be able to say something simple to the public about environmental health remediation: We will test every area that needs it. And wherever a problem is discovered, we won't just clean up the part we can specifically trace to 9/11 and leave the rest. We will make sure the area has a clean bill of health. And whatever funding is required, it will be forthcoming from Washington.

Isn't this what New Yorkers should expect?

Finally, let me add that while this is first of all an environmental and health issue, it is an economic issue as well. Lingering questions about the safety of the area can also poison the atmosphere for business and residential growth. Occasional news broadcasts, findings of unexpected contamination, complaints about schools that can't be dismissed because the testing hasn't been done—the cumulative impact should not be dismissed.

So: make sure every area that needs it gets tested—there can't be exceptions because of landlords or employers denying access to sites. Don't overlook areas such as elevator shafts or basement crawl spaces, where most people rarely go but where elevator repair people or telephone wiring workers may spend a great deal of time. And most of all, don't get bogged down in technical debates or budget-squeezing that leave the least question about whether the affected areas are safe places to live, work, study, and play.

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July 12, 2005

Dr. David Kotelchuck

**Hunter College and Co-Chairperson,
PSC Health and Safety Committee**

Professional Staff Congress of CUNY (Local 2334 AFT)

**Statement on behalf of PSC-CUNY at the EPA WTC Expert Technical
Review Panel Hearings on the Draft Final Sampling Program to
Determine the Extent of World Trade Center Impacts to the Indoor
Environment**

Tim Oppelt, Interim Panel Chairperson

My name is David Kotelchuck. I am Co-Chair of Health and Safety Committee for the Professional Staff Congress (PSC) of City University of New York (CUNY). Our union represents 20,000 CUNY faculty and staff, including over 1,000 employees of the nearby Borough of Manhattan Community College (BMCC). I am also an Associate Professor of Health Sciences at Hunter College, where I have been teaching occupational health and safety for over 20 years, and Director of the Hunter College Center for Occupational and Environmental Health.

First let me say on behalf of the PSC that the proposed EPA sampling and cleanup plan has many positive features, which I do not have time to enumerate here. In the time I have, I would prefer to focus on those some of those aspects of the Draft Final proposal which the PSC believes need modification and are within EPA's and this Panel's power to modify before this study begins.

1. Overreliance on WTC signature exposures to guide clean-up decisions:

As presently designed, this study puts far too much emphasis on the WTC signature of so-called man-made fibers to guide its clean-up decisions. Indeed it appears from Figure 4 in the Draft Final Plan that without evidence of a WTC signature exposure, there will be no building clean-up whatever.

While there is promising evidence that these fibers are an indicator of WTC building collapse (but not WTC fires), it is far too soon in our opinion to base important clean-up decisions ^{solely} on their presence or absence. The PSC strongly recommends that excess levels of any one or more of the four Contaminants

of Potential Concern (COPCs), whether these be lead, MMVF, PAHs or asbestos dust, should be used as a trigger for clean-up.

Our Union's and CUNY's experience at the Borough of Manhattan Community College (BMCC) may be instructive here. Following the events of 9/11 the PSC through its officers and local labor-management health and safety committee sought sampling and clean-up of the BMCC facilities to protect our members and our students. The City university administration agreed to do this, using lead as its sole COPC.

Between July 2002 and March 2003 CUNY engaged in a sampling and clean-up program at BMCC. The study focused on the ductwork for the 33 Air Handling Units (AHUs) of the North and South buildings of the campus, using 125 $\mu\text{g}/\text{ft}^2$ of lead from wipe samples as its criterion (recommended by the HUD Technical Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing). Eighteen of the 19 samples in the AHUs exceeded these HUD guidelines, according to the consultants Parsons-Brinkerhoff (PB) (Report to DASNY on AHU Decontamination Specifications). Furthermore to see if this had any effect on classroom dust levels, PB checked classroom levels serviced by contaminated room supply ducts, and levels in these rooms were consistently high.

In February 2003 PB was hired to decontaminate all 33 AHUs at BMCC, whose dust levels ranged from under 100 $\mu\text{g}/\text{ft}^2$ to greater than 4,000 $\mu\text{g}/\text{ft}^2$, to levels below 125 $\mu\text{g}/\text{ft}^2$. After this was done measured dust levels in the school classrooms were reduced as well.

This process of sampling and clean-up at BMCC did not rely on a putative WTC signature. Such a decision is not strictly speaking a scientific decision, but a policy decision based on science input. The PSC urges EPA to adopt a similar approach in its upcoming study. We remind the Panel that our goal is not simply to clean up this part of New York City, but to clean it up and restore confidence in our own community that the area is safe for residents and community alike.

Using this approach at BMCC worked. Not only were our members protected, but they were reassured by the extent of the cleanup. Student enrollment at BMCC, I might add, not only has climbed to pre-9/11 levels, but now exceeds it. Our health and safety problems at the school now relate significantly from overcrowding in the classrooms and in the hallways as students and faculty try to get to their classes on time.

2. A more pro-active approach to building access is needed

The PSC strongly urges EPA to adopt a more pro-active approach to encouraging buildings voluntarily to participate in the study. As it stands

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now, EPA proposes to allow landlords and/or employers to have a veto on whether or not a designated building participates in the study.

In unionized workplaces such as BMCC, where the building is solely owned by our employer, CUNY, we have a labor-management health and safety process to allow broader participation in health and safety decisions. And this has worked effectively at BMCC with regard to the WTC clean-up.

We urge EPA to use its bully pulpit to call together building owners, tenants, residents and employees as EPA seeks the building's participation in this study. Such a collective, pro-active approach to decision-making will contribute, we believe, to greater building participation and buy-in to this study. Conversely without such an approach, we fear this entire effort may be undermined by lack of building participation. In this respect we endorse the recommendation by the WTC Labor-Community Coalition, of which our union is a member, for the development of Participation Task Forces for each building which EPA seeks to enroll into the study.

Thank you.

David Kotelchuck, PhD, CIH
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Statement

of

Stanley Mark

On Behalf of

Asian American Legal Defense
and Education Fund

Submitted

to

WTC Expert Technical
Review Panel

Convened

July 12, 2005

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My name is Stanley Mark and I am the Program Director and an attorney at the Asian American Legal Defense and Education Fund (AALDEF). This EPA draft proposal issued June 30, 2005 is inadequate to protect the public health. Instead, the EPA must strengthen its revised proposed testing plan and clean up the contamination and recontamination resulting from the World Trade Center collapse and ensuing fires that burned into December 2001.

Current medical research data describing the health impact of the World Trade Center collapse and ensuing fire at Ground Zero require a plan to test and clean areas extending beyond east of Clinton Street and western Brooklyn not covered in this draft plan. Furthermore, I am opposed to reverting back to the boundaries from the Hudson River to the East River with Canal Street as the northern border if the signature with slagwool cannot be used successfully.

The offices of the Asian American Legal Defense and Education Fund (AALDEF) are 9 blocks north of Ground Zero and 5 blocks south of Canal Street, which became the arbitrary boundary for 9/11 relief programs. AALDEF has represented and assisted thousands of Lower Manhattan residents with obtaining relief assistance including families who lost loved ones at Ground Zero. Most of my clients live and work in Chinatown and the Lower East Side while many reside in Brooklyn and New Jersey. Many continue to have respiratory problems, skin rashes, stomach problems, anxiety, and other illnesses related to the 9/11 attack.

In 2004, AALDEF along with members of the Beyond Ground Zero network (BGZ) started a unique clinic with Bellevue Hospital with the assistance of Dr. Joan Reibman who appeared before this panel last year to describe her work on respiratory illnesses among lower Manhattan residents. At this clinic, doctors treat many residents in the Lower East Side and Chinatown who are seeking medical treatment for 9/11 related illnesses. AALDEF staff and BGZ members have surveyed several thousand residents and have escorted more than 100 patients to this clinic. Many of our client/patients do not live within the arbitrary boundaries set by the 9/11 relief programs including the WTC Health Registry, that did not provide medical treatment.

According to 2 recently published studies about environmental health impacts due to the toxic fallout of 9/11, one by Dr. Joan Reibman and the other by Dr. Anthony Szema, the documented medical impact extended in a 5 - mile radius from Ground Zero. Dr. Reibman's study encompasses residents living in Smith Projects, Chatham Towers, and Chatham Green located in Chinatown and the Lower East Side as well as Battery Park City in the West Side. Her study demonstrated a 3-fold increase of respiratory illnesses characterized as new onset of asthma. Dr. Szema's study focused on more than 200 Chinese children who were treated for asthma before and after the 9/11 attacks by the same doctors. His study showed that the number of doctor visits and the doses of asthma medication increased in a statistically significant manner for children living within a 5-mile radius from Ground Zero. Both doctors appeared before you and presented their findings and recommendations to test and clean these areas. In Dr. Szema's study is a map showing the areas by zip codes where his patients lived and illustrates the areas that were affected by the collapse of WTC and the fire and smoke from Ground Zero.

In the absence of representative sampling (proper standard monitoring of air, water, and dust samples) in the weeks and following the 9/11 tragedy, the federal and local government agencies had declared that the air safe and the Centers for Disease Control made no pronouncements to physicians about how to treat victims of WTC fallout. The federal government must allocate financial resources for the clean up of Lower Manhattan and Brooklyn and provide health coverage for medical treatment for all who are affected by the 9/11 toxic fallout.

These two recent studies documenting the environmental health impacts strongly suggest the minimum area for testing and clean up would be at least the areas revealed on the map from Anthony Szema's study – a study that you already have. With more research and medical studies, the 5 mile radii could be extended further and enlarge the findings of health impacts in a larger area. One such study published in 2005 is "Asthma in Medicaid Managed Care Enrollees Residing in New York City: Results From a Post-World Trade Center Disaster Survey" which was published in *Journal of Urban Health: Bulletin of the New York Academy of Medicine* (2005). It makes the case for a larger area of western Brooklyn where only low-income residents had an "elevated odds ratio for emergency department/inpatient hospitalizations with diagnosis of asthma post 9/11 (adjusted OR=1.52)"; this survey and study was conducted by Victoria

L. Wagner, Marleen S. Radigan, Patrick J. Roohan, Joseph P. Anarella, and Foster C. Gesten.

This testing plan remains inadequate for cleaning this minimum area. A revised plan must be developed and strengthened to test and clean up the Lower Eastside, Chinatown, and western Brooklyn and not revert to the area south of Canal Street (if slagwool fails as a signature). Almost 4 years later, the best available health and medical data demands testing and cleaning a minimum area as covered in Dr. Szema's study and map. To do otherwise, would be imprudent and against the public's health.

**US Environmental Protection Agency
World Trade Center Expert Technical
Review Panel**

July 12, 2005

**St. John's University
101 Murray Street
New York, New York**

**Comments of Paul Stein, Health & Safety Committee Chairperson
PEF Division 199, NYS Public Employees Federation, AFL-CIO**

Introduction

My name is Paul Stein. I am the Health & Safety Committee Chairperson of Division 199 of the New York State Public Employees Federation, AFL-CIO, (PEF). My union represents approximately 53,000 professional, scientific and technical employees of the State of New York. I speak today on behalf of several hundred PEF members who work at 90 Church Street, directly adjacent to the World Trade Center site.

To be very blunt, we believe the current EPA testing plan is doomed to failure because of basic design flaws. It is not too late to correct these defects and present a plan that will accurately and comprehensively test the affected area and lead to a proper cleanup.

We endorse the entire testing plan critique presented by the representatives of the World Trade Center Community/Labor Coalition. In our comments, we shall focus on only two key issues: 1. access to workplaces; and 2. testing and cleanup of locations within buildings that the current plan mistakenly labels "inaccessible."

Access to Workplaces

Approximately 2000 members of the Public Employees Federation work in the Lower Manhattan area that is currently targeted for environmental testing. You will find PEF members at: 25 Beaver Street, 75 Broad Street, 120 Broadway, 90 Church Street, 199 Church Street, 22 Cortlandt Street, 20 Exchange Place, 345 Hudson Street, 59 Maiden Lane, 80 Maiden Lane, 19 Rector Street, 1 State Street, 175 Varick Street, 245 West Houston Street, and 123 William Street. All of these PEF members work in office buildings that are owned by private landlords, with the exception of only two buildings, one of which is subject to a ground

lease held by a private real estate investment partnership. Based on the comments made by several Panel members at the May 24, 2005 meeting of this body, I think it is safe to say that many of you, like us, doubt that landlords will voluntarily agree to having the EPA test their buildings for contamination. Only the minority of buildings and offices that have been thoroughly cleaned may allow EPA testing, thus skewing the sample, invalidating the testing plan, and preventing contaminated workplaces from receiving the cleanup that is required. And even the few buildings that have already done major testing and decontamination may choose to deny further testing, in order to avoid the risk of discovery of contamination that may have been missed.

We believe the same avoidance would hold true for employers, who would not wish to expose themselves to legal liability, business disruption, and difficulty recruiting and retaining workers, if contamination were found on their premises. As long as landlords and employers have veto power over environmental testing of their premises, workers will not be protected and the EPA testing and cleanup plan will be a sham. We reject the suggestion that recourse to OSHA, NIOSH, and PESH is a viable alternative to EPA testing, based on the lack of applicable regulatory standards for the contaminants or form of contaminants at issue.

Testing and Cleanup of So-called "Inaccessible" Areas

PEF members at the New York State Department of Health regularly inspect and investigate complaints at both inpatient and outpatient healthcare facilities in Lower Manhattan, among other places. Our member who are sanitarians must enter ceiling plenums, electrical closets, and spaces behind appliances as a regular part of their responsibilities to

evaluate HVAC, electrical, plumbing, and life safety systems and pest control measures at regulated facilities. To label such areas as "inaccessible" and to hold these and similar parts of a workplace to a different standard for testing and cleanup is both misleading and dangerous. Any testing plan that effectively excludes our sanitarians and others who accompany them from the protection to which all workers are entitled is fatally flawed.

Conclusion

We urge the EPA to do everything in its power, in cooperation with other Federal, State, and City agencies that have relevant legal authority, to see to it that: 1. no landlord or employer may opt out of the EPA environmental testing plan; and 2. elevated levels of contaminants found in any part of a workplace will trigger an appropriate cleanup.

Thank you.

Testimony of Michael R. Edelstein, Ph.D.
EPA Technical Review Panel
July 12 2005

It has been several meetings since I was able to attend, and yet the issues in play should have been resolved long ago. Here, more than a year into the panel, we still lack data. There has been no sampling. We still do not have a clear idea about the distribution and persistence of hazard due to WTC disaster contamination. There is a lack of data upon which to make further decisions. After all, for all we know, many thousands of people remain at risk while these somewhat idle considerations have dragged on.

Of course, the Panel is dealing with a classically difficult challenge: environmental contamination is a relatively inaccessible applied area for strict science to address. Such questions must be confronted as: "How clean is clean?" "How much error is tolerable?" "What is safe?" These questions are least as much questions of value as they are of science.

And, in fact, the process by which these discussions have moved forward is heavily governed by values. It continues to be distracted by your Holy Grail, namely the desire to find a scientifically valid signature of WTC contamination. This scientific discussion is part of a policy (i.e., value) question, namely the desire to not clean up contaminants that are unrelated to 9/11. The focus on finding a WTC signature offers marginal utility to an alternative goal that is held by the community, namely to have a clean, hazard free and safe place to live and work.

In its latest permutation, slag wool has replaced asbestos as the long sought marker. However, EPA cannot answer the question about whether lighter contaminants from the WTC might not have traveled further than the heavier slag wool. If true, then a slag wool based methodology risks false negative findings. Perhaps it is warranted to assume that contaminated samples bearing slag wool are a result of the disaster. But is it a tolerable assumption to conclude that non slag wool dusts are not from the WTC?

Suggested is a fundamental policy error of confused and contradictory mission. As noted above, is the goal here to discover a scientifically valid method for contaminant signature or is it to implement a plan to identify the extent of the contamination from the WTC disaster, determine if risks continue, and, if so, to mitigate those risks? On the surface, these are compatible goals. The signature becomes the means for identifying the extent of contamination and thus the area requiring mitigation. In practice, they are at loggerheads. Difficulty agreeing upon the first serves as an excuse for not doing the second.

And is cleanup part of the EPA's goal at all. As of last meeting, the community discovered from the response to my question to former chairman Gilman that there were no plans for mitigation. Apparently, the presumption was, or is, that testing will find no need for cleanup. This presumption appears to be fortunately less certain in today's deliberation. If our goal is to identify the extent of contamination in order to clean it up, then the clean up needs to be planned.

A cleanup focused strategy would not need to be so tied to a search for a WTC signature. I early on suggested that the focus should be on finding COPC moving from the WTC site

outward until no contamination was found. Today Professor Leoy's comment the need for an iterative approach was in this direction. I further argued that there be less concern with clarifying the impact of the WTC disaster than enabling a cleanup up of contaminants. This strategy would minimize the chances for what I call a mitigatory gap, where a discovered contamination is not immediately remediated (see my book *Contaminated Communities*, Westview 2004). The Mitigatory gap is built into the EPA approach to date.

Beyond the policy error, the EPA plan presented for today's discussion is replete with sampling error, as two members of your panel, Stellman and Prezant today independently argued. It is interesting that their careful read of the sampling methodology that your entire approach is built around (Stevens and Olsen's Spatial Balancing Sampling Model) reveals that it was not designed for these circumstances (because it has an underlying assumption that you have access to the selected points and that they are equivalent). In short, its use as you plan is invalid.

There are other forms of sampling error present in the EPA proposal as well. These include:

1. **Dust and Smoke. Does dust deposition sampling help to evaluate smoke plume deposition? If not, then even a successful analysis of the distribution of dust and debris distribution (caustics, particles, metals and asbestos) might not address hazards from fire (dioxins and furans).**
2. **Geographic Distribution. Moreover, the EPIC study of the distribution of deposition from WTC provides an incomplete picture. EPIC provides a limited understanding of the actual distribution of the visible plume of contamination from the WTC site. If EPIC were relied upon, there would be no reason to address Chinatown and Brooklyn, for example.**
3. *Brooklyn has only been added to the areas of concern because panel members live there and can attest to fallout there.*
4. *The addition of Brooklyn due to reports of visible fallout there suggests that reports by residents and other observers should be used to enrich the understanding of the extent of contaminant deposition and thus the study area and cleanup area. In short, eyewitness reports should be listed as one valid way to document the distribution of contaminants.*
5. **Voluntary Participation. Sampling is impacted by a program that requires that building owners volunteer their participation when this group has a strong vested interest in obscuring contamination if it exists. Thus, inaccessibility to buildings is likely to block the study design from being implemented. It must be asked whether an alternative convenience sample that would allow testing to commence immediately would introduce significant error. I think not. More importantly, if the EPA approach requires building access that is likely to be denied, then failure to consider alternative approaches is an ingredient for later failure.**
6. **Breached v NonBreached. The 5 variables for sample stratification are downright silly, as members of the public noted. In particular, the effort to sample breached versus nonbreached buildings is problematic. The problem lies with the invalidity found in deciding that a building was not breached. Given the permeability of buildings to a contaminated surround, it is safe to assume that all buildings have been breached even if there are some where this is more obvious. Thus, unbreached buildings may not really be distinguishable from breached.**
7. **Inaccessible Areas. Infrequently accessed and inaccessible areas are distinguished in the sampling proposal from accessible areas, with a greater emphasis on testing and cleanup for the latter.**
8. *As a result, EPA will place its greatest emphasis on testing the areas that are most likely to have been cleaned often since 9/11 and deemphasized areas that may never have been cleaned.*

9. *It follows that the accessible areas will be heavily weighted in determining if continuing risks exist and cleanup is needed. Yet, they have the least likelihood of revealing risk and need for mitigation.*
10. *On the other hand, less accessible areas and inaccessible areas are likely to be sinks for remaining contaminants precisely because of their out-of-the way condition. These will be underemphasized in testing and cleanup decisions.*
11. *As testimony today underscores, no area is truly inaccessible. Workers who toil in such areas in effect serve as contamination wipes for these areas. Their equipment, clothing and bodies samples whatever is lurking deep within a building's underbelly. Not having been recognized, however, they have not been sampled. If there is no place that is inaccessible, why is inaccessibility considered to be a sampling consideration?*

Evident is the failure of EPA to take an ecological approach to the issue of contaminant distribution against building design, use, inhabitancy and maintenance. EPA lacks a clear idea of how buildings are actually used and maintained. When the radon gas issue emerged in Boyertown, Pa. , EPA turned physicist builder Terry Brennan loose to observe and play with radon's behavior in buildings. Over the past years, there has been ample time to conduct extensive prospective exploratory studies of contaminant distribution in actual Lower Manhattan buildings. That these have not been done allows for EPA to develop myths of inaccessibility, unbreached, an other phantom sampling considerations.

As an Environmental psychologist, I am further very interested in the issue of how buildings are used. It is clear that EPA does not know, again as evidenced by the inaccessible issue. There is a need to gain such information since it bears on the validity of findings and is essential to planning, sampling, drawing conclusions and conducting mitigation.

There is a corresponding failure by EPA to gain local expertise. Agency discussion is largely abstract not practical. The agency has no clear idea of what is going on in a given building. The information brought to the panel by residents and labor representatives underscores the importance of local knowledge and the consequences of its being ignored. Yet, as today's report by the community and labor representatives underscores, the sampling plan's level of revision according to public and lay panel member comment is "not enough" for one area of concern, "nothing" for six points, and "worse than nothing" for one point. This report card is unacceptable.

One potential reason for the failure to consider community input is the confusion of local expertise with the idea of "irrational fear." The nature of the gap between public and agency might support competing claims of irrationality. But a more valid consideration is that different stakeholders and role players bring different perspectives to the table. These are better thought of as different rationalities than irrationalities. More importantly, community and labor people have the very understanding of the context that the Panel lacks. Their different knowledge may well support different conclusions. Their input must be valued and used, not dismissed, as appears to have occurred through much of this panel.

One key area of difference that relates to the issue of error tolerance is the precautionary perspective. Against the Agency's concern with finding a way to validly screen WTC contaminants from other contaminants is the community's concern to have a safe residential environment. Even as the Precautionary Principle gains as an alternative framework for policy decision making, EPA continues to be conservative in a manner that suggests the use of science to limit agency liability. Again, there are competing rationalities afoot.

Trust is essential to the success of EPA's sampling plan. Thus, the failure to adopt suggestions is baffling, even if the agency does not fully agree with them. At least a full explanation of its rejection of key suggestions is in order. Suggested that the day of the Expert Technical Panel is dated; a consultative process is needed.

There has been surprisingly little learning about Expert Technical Panels since the ill-fated New York State Thomas Commission at Love Canal, so soundly critiqued by Adeline Levine in her book *Love Canal: Science, Politics and People*. EPA continues to use an abstract discussion to have science shield its policies. Likewise, the experience to date suggests a failure to create interagency approaches to deal with novel situations.

Recent revelations of government tampering with global warming data and the EPA Inspector General's report on the WTC disaster would seem to be reasons to reform agency procedure with the aim of gaining credibility.

Yet, in this Panel's experience, agency drafts have come too late to the panel and public alike to allow extensive review. The Panel's functioning internally is problematic. There is no evident basis to conclude that the agency will incorporate discordant Panel members' comments any more than they have addressed public concerns. This is not a consensus process. The Panel will not issue a report. There have been no scheduled meetings to hammer out the areas of disagreement and fully respond to points of argument. The agency will merely take what it wants and argue that the fact that the Panel occurred validates its efforts.

Accordingly, I urge that a minority report be written by the community and labor members with Panel scientists holding critical views of the EPA effort. Such a report might create a basis for actually having a competent study of the extent of WTC contamination done with cleanup. It also might help force reform of the agency procedures that have dominated here. After all, we must be careful that the agency does not merely pull the slag wool over our eyes. A more serious way to put this is to quote the resident who told me, and then announced herself to this panel, "First we were attacked by terrorists. Then we were attacked by our government officials."

The author is Professor of Environmental Psychology, Ramapo College of New Jersey.

12. EPA discussionist abstract. Likewise, the experience to date suggests a failure to create interagency approaches novel to the situation.