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, i.e., 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 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.
Answer
PAL Environmental has informed the project team that their CSO is currently reviewing sampling data (air and wipe) collected in the Building and the record of existing contents in order to determine the applicability of the HAZWOPR Standard. The Owner’s Environmental Consultant will conduct an independent review of the CSO’s determinations prior to the commencement of work at the site.

12. Figure 7-1 in the RHASP establishes action levels for certain contaminants. However, the RHASP does not specify what action is to be taken in the event that an action level is exceeded.

Answer
The following text has been added to the RHASP:

“If action levels are exceeded, the CSO, SSM and the OEC will determine the necessary course of action for worker protection (i.e. upgrading engineering controls, PPE assessment, etc.)”

Note also: Details on the monitoring to be conducted and the notification protocol for exceedances can be reviewed within the January 11, 2007 Scaffold Submittal-Regulatory Submittal Part II - Environmental Community Air Monitoring Program, which can be viewed at: http://www.lowermanhattan.info/construction/project_updates/fiterman_hall_39764.aspx.

13. The RHASP mentions the written Respiratory Protection Program but neither discusses its content nor provides access to its text. The Respiratory Protection Program should be attached to the RHASP.

Answer
PAL Environmental has an established Respiratory Protection Program (RPP), a written copy of which is provided to and signed by each employee. Additionally, each PAL employee is trained in the proper implementation of the RPP. The RPP was designed in compliance with all OSHA standards. As this document represents internal company policy, it is not public record and is not included in the RHASP.

14. A respirator cartridge changeout schedule should be established and codified in the RHASP and/or the Respiratory Protection Program. Provision for 24/7 access to changeout cartridges should also be established and codified in the RHASP and/or the Respiratory Protection Program.

Answer
The following text has been added to the RHASP:

“Respirator filters will be discarded upon exit from the work area. New filters will be available at all times at all entrances to the work area.”

15. Section 17.5 of the RHASP states “In the event of an unanticipated structural failure, the CSO shall immediately ... ensure that all containment isolation barriers are to remain secure until the required negative pressure has been re-established.” This statement warrants an explanation of how this is to be accomplished.
Answer:
The above quoted text has been replaced with:

“In the event of an unanticipated structural failure being encountered during the Remediation, the CSO, SSM, OEC, NYC DOB and First Responders will evaluate the conditions to determine the necessary response procedures required to stabilize the structure and restore engineering controls. This may include the installation of additional air monitoring test equipment if deemed advisable by the OEC.”

16. The issue of respiratory protection in the event of an emergency evacuation is inadequately addressed.

• The RHASP states “Work Area Evacuation ... protect workers potentially exposed to building contaminants... Any personnel not utilizing respirators will be instructed through radio communication to immediately don respiratory protection and to proceed to the PDAA or ADAA. If respiratory protection is not immediately available, personnel must avoid inhaling or ingesting dust and proceed directly to the PDAA or ADAA. It is recommended that all personnel carry a dust mask at a minimum on their person at all times during the Remediation.”

Recommendations that workers avoid inhaling dust during a contaminant release or that they utilize dust masks for emergency respiratory protection have no scientific or regulatory basis.

Section 1910.134(d)(3)(i) of the OSHA Respiratory Protection Standard states “The employer shall provide a respirator that is adequate to protect the health of the employee and ensure compliance with all other OSHA statutory and regulatory requirements, under routine and reasonably foreseeable emergency situations.” OSHA defines emergency situation as “any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of an airborne contaminant.”

This section of the RHASP must be reworked.

Answer
The following text has been added to the RHASP:

“All Remediation workers will utilize proper PPE while working in containment or exterior work areas. It is recommended that all personnel on site outside of work areas, including visitors, carry an APR equipped with P100 filter cartridges on their person at all times for usage in the event of an emergency evacuation.”

17. The October 11, 2006 Draft Emergency Action and Community Notification Plans document posted on the lowermanhattan.info website contains no effective provisions for community notification in the event of an emergency. Instead it relies on OEM or other agencies for such emergency notification. This does not constitute adequate advance planning for notification of the surrounding residential and business communities in the event of a significant emergency event such as a toxic emission or a structural failure. The remediation and demolition of a contaminated high-rise building
such as Fiterman Hall, located in a densely populated urban environment, warrants detailed and rigorous advance planning, including emergency scenarios and decision trees. Such advance planning should occur in partnership with the community.

Answer
Emergency planning and community notification in a densely populated urban environment are extremely complex issues with implications far beyond the scope of the project. Within the City of New York, the Office of Emergency Management (OEM) and the police and fire departments (NYPD and FDNY) are in charge of emergency public communications and response actions. To ensure public safety and reduce the potential for multiple or conflicting notifications, CUNY, DASNY, and its contractors will coordinate emergency actions and notifications through these officials. As you are aware, we have posted and submitted our proposed Emergency Action and Community Notification Plan to OEM, consistent with this guideline. We will continue to keep the public apprised of the status of the plan, which is currently undergoing OEM, NYPD, and FDNY review.

18. Section 5.2 of the September 15, 2006 Environmental Characterization Report references personal exposure testing but does not provide adequate information to support its conclusions. Significantly, this section does not disclose whether workers who underwent personal testing were engaged at the time of the tests in disturbance activities similar to those to be utilized during remediation. Additionally, although the RHASP list of principle contaminants includes man-made vitreous fibers, dioxins/furans, PAHs, and PCBs, the Environmental Characterization Report did not require personnel to be tested for possible exposure to these substances.

Answer
The personal exposure testing conducted was informational in nature and was not used to draw any broad conclusions about the execution of the Work Plan. The activities engaged in were not identical to the upcoming activities of the Remediation Contractor and were not intended to be representative of the Contractor’s work. As no broad conclusions and no downgrading of PPE was planned as a result of the personal testing conducted, it was not considered critical to sample for all of the CoPCs. Per our response to comment #10 above, NEA’s and further personal sampling for the Remediation Phase will be reviewed.

19. Attachment 1 of the Environmental Characterization Report does not disclose whether asbestos air samples were obtained utilizing aggressive conditions.

Answer
Air sampling was not conducted under aggressive protocols, as it was not conducted as part of clearance testing. There was no desire to re-entrain contaminants prior to the establishment of the full-containment and negative air enclosures of the Remediation Phase.

20. My final comment does not address the content of the RS per se but rather goes to the issue of process.
   • Community comments should be shared with the community and the public at large and not be filtered or edited by CUNY.
   • Additional, regular public meetings should be held to provide information, answer questions, and hear suggestions and concerns.
• A broad-based, representative community advisory board operating transparently should be established to help oversee the demolition process.

Answer
In response to the process issues you raise:

• Public comments and our response, including this correspondence, will be posted on the websites described above.
• Our next public information session is scheduled for January 30th at 6.30 pm. It is our intention to hold future sessions approximately every 6 weeks thereafter.
• Along with approximately thirty-five other community members elected officials, you were invited to join a Fiterman Hall Community Advisory Committee. We anticipate that the first meeting is scheduled for February 9 at 10.30 am in Assembly Speaker Sheldon Silver’s office. We hope to see you there.

In closing, we again thank you for your insightful and measured comments, which have been helped us improve our documentation. Please note, the Remediation Submittal, incorporating your suggestions, was sent to the EPA on January 17th, and will be posted on our websites shortly. If you have any further questions or comments, please feel free to call Max Pizer of CUNY at (212) 541-0468 or Benn Lewis of Airtek Environmental Corp. at (212) 768-0516 at any time.

Sincerely,

Eduardo del Valle, AIA, AICP, LEED-AP
Interim Vice Chancellor