

TESTIMONY OF
SUZANNE Y. MATTEI,
SIERRA CLUB NYC EXECUTIVE,
BEFORE THE SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
ORGANIZATION & PROCUREMENT, COMMITTEE ON OVERSIGHT &
GOVERNMENT REFORM RE: THE ENVIRONMENTAL AND HEALTH EFFECTS OF
THE SEPT. 11, 2001 ATTACKS ON THE WORLD TRADE CENTER:
CONTAMINATION EAST OF THE SITE
Brooklyn, NY

April 23, 2007

Good day. My name is Suzanne Mattei, and I am the New York City Executive for the Sierra Club, which is a national environmental advocacy organization. The purpose of my testimony is to describe information that the Sierra Club has obtained regarding the extent to which the contamination from the World Trade Center disaster traveled east from the site, crossing over the East River into the Borough of Brooklyn.

When a significant release of hazardous substances occurs, the federal Environmental Protection Agency (“EPA”) has authority to respond under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), known as the “Superfund Law.”¹ With regard to the September 11th attack, EPA also had a mandatory duty under Presidential Decision Directive 62 of 1998 to conduct a cleanup. In doing so, the agency must determine the answer to two basic questions:

- (1) What is in the toxic release? And,
- (2) Where did it go?

This did not happen as it should have at Ground Zero, a problem that was revealed through a hearing held by the EPA National Ombudsman in early 2002² and further documented by a report issued by the EPA Inspector General in 2003.³

In these documents and in subsequent proceedings, the EPA has been criticized for issuing improper assurances of safety and also for:

- Failing to use the best equipment to test for asbestos;
- Failing to test for ultrafine particles;
- Failing to test systematically, in concentric circles moving outward from the site;
- Failing to conduct a proper indoor testing program; and
- Ignoring impacts on Brooklyn.

¹ See CERCLA, 40 U.S.C. § 9604 and 40 CFR §§ 300.400(d)(1) and (d)(2).

² EPA National Ombudsman, First Investigative Hearing on WTC Hazardous Waste Contamination, Transcript (Feb. 21, 2002).

³ EPA Inspector General, *EPA’s Response to the World Trade Center Collapse: Challenges, Successes and Areas for Improvement* (Aug. 21, 2003)(hereafter, *Inspector General Report*).

In this testimony, I am focusing on the failure to conduct proper testing in the Borough of Brooklyn.

EPA's original 2002 residential testing and cleanup program completely ignored Brooklyn. It was limited to residences of Lower Manhattan south of Canal and Pike Streets. The EPA Inspector General's 2003 investigative report criticized EPA's limited testing program, concluding, "It has not been determined whether buildings north of Canal Street or east of Lower Manhattan, in Brooklyn, were contaminated."⁴ This 2002 plan was the subject of a re-evaluation, thanks to the efforts of Senator Hillary Clinton and Joseph Lieberman, beginning in 2005. That re-evaluation process made it clear that further testing was necessary. Nevertheless, despite the Inspector General's criticism, despite testimony from Brooklyn resident Jenna Orkin and others about the need to address Brooklyn,⁵ and despite support from EPA's own Expert Technical Review Panel for testing in the borough, EPA's new indoor testing and cleanup program again completely ignores Brooklyn.

Other than the publication of aerial photographs of the dust cloud that spread over Brooklyn,⁶ and sporadic newspaper accounts describing dust or burnt paper from the towers (some still readable) landing in the Brooklyn Heights, Carroll Gardens and Red Hook neighborhoods,⁷ little was known about actual deposition of World Trade Center dust in the borough until nearly two years after the attack. That was when the EPA Inspector General released a small survey of New York City residents, including Brooklyn residents, related to the collapse of the towers. Most of the questions focused on air quality in Lower Manhattan, but the survey did ask whether or not the respondent was aware of his or home having been contaminated by the 9/11 pollution. Of the 204 residents of Brooklyn who responded, 23.5% reported seeing visible dust or debris in their homes. The three most significant reporting neighborhoods were:

Carroll Gardens/Cobble Hill (11231) – 40%
Brooklyn Heights/Cobble Hill (11201) – 44%
Park Slope (11215) – 28%⁸

While this was a very small survey, the information should have sparked further investigation by EPA, but apparently did not.

⁴ *Inspector General Report*, p. 32.

⁵ See Testimony of Brooklyn resident Jenna Orkin to the WTC Expert Technical Review Panel (Mar. 31, 2004).

⁶ NASA aerial photographs taken by Airborne Visible/Infrared Imaging Spectrometer (AVIRIS) indicate that the World Trade Center dust plume moved in a southeasterly direction across lower Manhattan and reached areas of Brooklyn on the afternoon of September 11, 2001. Photographs can be viewed at www.globalsecurity.org/eye/wtc-imagery.htm. See Philip Landrigan, M.D., *et al.*, "Health and Environmental Consequences of the World Trade Center Disaster," *Envtl Health Perspectives* 112(6):731-39 (May 2004).

⁷ *New York Newsday* described "wayward paperwork" from the towers, sometimes including readable addresses, landing in Brooklyn neighborhoods close to Manhattan, including Brooklyn Heights, Carroll Gardens and Red Hook. Rocco Parascandola, "America's Ordeal: Collecting the Rain of WTC Paper -- B'klyn Finds Could Be Clues," *New York Newsday* (Queens Ed.)(Sept. 27, 2001)

⁸ EPA Inspector General, *Survey of Air Quality Information Related to the World Trade Center Collapse* (Report No. 2003-P-00014), p. 13.

In 2005, the Sierra Club decided to conduct a small survey through tabling outside grocery stores in Brooklyn. We focused on the three highest reporting neighborhoods in the IG survey, and also added the Red Hook neighborhood, given the newspaper report of deposition there. This was not a scientific survey. We simply wanted to develop some additional information on World Trade Center dust deposition in Brooklyn.

The results were as follows:

People who saw WTC dust in their neighborhood:

Brooklyn Heights:	67% (16/24)
Cobble Hill/Carroll Gardens:	86% (21/24)
Red Hook:	31% (4/13)
Park Slope:	86% (18/21)

(Five out of 10 people in Coney Island also witnessed some dust.)

People who smelled odors or saw WTC dust inside their homes:

Brooklyn Heights:	58% (14/24)
Cobble Hill/Carroll Gardens:	54% (13/24)
Red Hook:	31% (4/13)
Park Slope:	24% (5/21)

(Three out of 10 people in Coney Island smelled odors or saw WTC dust indoors)

In total, 84 of 130 residents surveyed – or 65 percent – reported witnessing World Trade Center dust in their local Brooklyn neighborhoods. Of the 56 Brooklyn residents who saw or smelled 9/11 pollution in their homes, 70% reported that their windows had been open. As many may recall, September 11, 2001 started out as a clear and pleasant day, before the attack, and many people had their windows open. It should be noted that while open windows increased risk, homes with closed windows may still have been infiltrated, and toxic dust may have been present but not noticeable or visible, as testing in Manhattan dwellings revealed.

People reported that a burning or acrid smell in the aftermath of the attack affected areas north of Brooklyn Heights, such as DUMBO, Williamsburg, Greenpoint and Fort Greene, although they did not see visible dust. Areas from which we received surveys – but from very few responders – indicating some neighborhood contamination that should be investigated further include the following neighborhoods:

Downtown Brooklyn	Borough Park
Sunset Park	Bensonhurst/Brighton Beach
Boerum Hill	Midwood
Prospect Heights	Ocean Parkway
Windsor Terrace	Sheepshead Bay
Flatbush	and possibly others.

In addition to the research conducted by Dr. Anthony Szema and others regarding asthma impacts for children living within five miles of Ground Zero, about which this panel is hearing testimony today, I would point out that a small survey of Medicaid Managed Care enrollees having persistent asthma, which was released in 2005, found that residence in both Lower Manhattan and Western Brooklyn were associated with self-reported worsened asthma, and that residents of Western Brooklyn had an elevated odds ratio for emergency department/inpatient hospitalizations with diagnoses of asthma between September 11 and December 31, 2001.⁹ More investigative research should be conducted to evaluate the extent of that impact.

In conclusion, it is clear that the dust cloud did not just go over Brooklyn; it went through Brooklyn. The information that we have compiled indicates roughly that the southern and central neighborhoods were more affected than the northern neighborhoods. This information should not be ignored; rather, it should be subject to further investigation and clarification. EPA needs to conduct a proper testing and cleanup program, not the current weak one that even EPA's own expert panel has rejected – and this program must include Brooklyn.

I am submitting with this testimony a copy of our full report on Brooklyn impacts. Thank you for your consideration of this testimony.

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⁹ Victoria Wagner, *et al.*, "Asthma in Medicaid Managed Care Enrollees Residing in New York City: Results from a Post-World Trade Center Disaster Survey," *J Urban Health* 82(1):76-89 (2005), p. 84 (Table 3).

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CERTIFICATION AND EDUCATION

Admitted to practice law: New York State; Second Circuit Court of Appeals.

Yale Law School, J.D. 1981. Participated in clinical programs on civil rights and racial justice.

Washington State Univ., B.A. 1977. Majors: Literature, Education. Minors: Math, Anthropology. Led organizations on environment, arts, civil rights and county initiative campaign. Phi Beta Kappa.

PROFESSIONAL EXPERIENCE

3/03 - present *New York City Executive*, for national Sierra Club office in New York City

Develop program priorities and campaign strategies; serve as media spokesperson.

A leading strategist in successful campaign to pass law protecting children from lead poisoning.

Produced in-depth reports on health impacts of pollution from September 11th attack on the World Trade Center and need for a stronger National Response Plan for terrorist attacks and disasters.

9/98 - 3/03 *Associate Counsel and Public Policy Director*, N.Y.S. Trial Lawyers Association

Conceived and carried out successful legal action against Insurance Department to block anti-consumer regulations on automobile insurance; established important case law under State law.

Supervised legislative program (legislative analysis and bill memoranda); produced analysis, memoranda and draft language on more complex issues. Designed successful statewide lobbying strategy to block bill that would have effectively eliminated right to sue for toxic health impacts.

2/94 - 9/98 *Assistant Deputy Advocate for Research & Investigation*, New York City Public Advocate

Developed final lobbying/legal strategy to stop the Brooklyn Navy Yard incinerator project; developed strategy to strengthen NYC Coalition to End Lead Poisoning in City politics.

Produced report on childhood lead poisoning in NYC; exposed full extent of problem; worked with citizen activists to successfully obtain abatement of lead paint hazards in over 1200 NYC public school classrooms. Produced study of renovation hazards in schools and public housing.

Identified long-term risks of Mayor Rudy Giuliani's proposed sale of NYC water and sewer system to a State corporation; informed and then leveraged strong public support for City Comptroller's successful objection to the sale.

Produced study on ways to prevent pollution of upstairs apartments by toxic perchloroethylene fumes from dry cleaners located inside residential buildings, and successfully lobbied to establish State regulations setting new safety standards.

8/90 *Senior Environmental Advisor, Policy Management*, for NYC Comptroller.

Represented Comptroller in negotiation of \$10 million settlement with Exxon Corp. for 1990 "little Valdez" oil spill in New York Harbor; used leverage of required Comptroller signature to obtain funding for wetlands restoration program, now a national model for oil spill recovery.

Produced series of reports on environmental and fiscal effects of proposed solid waste plan; played significant role in outreach/lobbying efforts that helped spur major changes (elimination of six planned incinerators and doubling of City recycling target).

Pro bono: Successful intervention in Connecticut environmental permit proceeding on behalf of American Lung Association of Connecticut.

1985 - Aug. 1990 *Exec. and Legal Director*, Conn. Fund for the Environment (Staff Attorney 1981-85)

Served as the environmental representative on a select four-person negotiation team that produced one of the first comprehensive toxic air regulatory programs in the United States;

Successfully united farmers and environmentalists to obtain passage of farmland preservation statute.

Successfully represented the organization in court and agency proceedings to protect two barrier beaches, prevent the destruction of intertidal flats, block installation of a commercial development within the Connecticut river and shut down a mismanaged toxic waste dump.

Adjunct Faculty, Yale Univ. School of Epidemiology & Public Health, 1988-90 (environmental law and public health). Also *Adjunct Faculty* at Southern Conn. State Univ., 1985-1986.

Serve on boards of Environmental Advocates and Citizens Environmental Coalition.