

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

April 11, 2006

Mr. Victor J. Gallo
Senior Advisor & Counsel, Environmental & Regulatory Affairs
Lower Manhattan Development Corporation
One Liberty Plaza, 20th Floor
New York, N.Y. 10006

Re: Phase II Structural Deconstruction Activities at 130 Liberty Street, New York City

Dear Mr. Gallo:

I am writing on behalf of the United States Environmental Protection Agency ("EPA") and other regulatory agencies, including the New York State Department of Labor ("NYSDOL") and the New York City Department of Environmental Protection ("NYCDEP"), with regard to the April 3, 2006 letter from the Lower Manhattan Development Corporation ("LMDC") pertaining to the Phase II structural deconstruction of the building at 130 Liberty Street.

The regulators appreciate LMDC's attempt to clarify its position with regard to the structural deconstruction activities. However, EPA and its regulatory partners have not been provided with sufficient details about these proposed engineering changes to evaluate them fully. As discussed below, there also is a difference of opinion between LMDC and the regulators about several deconstruction activities referenced in the April 3 letter from LMDC.

This letter is intended only to respond to the April 3 cover letter from LMDC. EPA and its regulatory partners are currently reviewing the following documents: (1) "Deconstruction Implementation Plan," dated March 29, 2006, and received by the regulators on April 3, 2006; (2) memorandum from Thornton-Tomasetti Group to LMDC, dated March 29, 2006, and received on April 3, 2006; and (3) engineering drawings provided to EPA and some of the regulators on April 5, 2006. We will review these submittals and provide LMDC our comments.

The April 3, 2006 letter addresses several statements in EPA's March 20, 2006 letter that LMDC contends do not reflect the scope and the purpose of the abatement and deconstruction of 130 Liberty Street. Our March 20 letter only addressed some of the open issues with regard to the Phase II structural deconstruction. The March 20 letter was intended to identify some key examples of differences that exist between the information originally provided to EPA and its regulatory partners in LMDC's September 7, 2005 deconstruction plans and certain of the deconstruction activities briefly outlined for us at the March 8, 2006 meeting about LMDC's

proposed Phase II structural deconstruction approach for 130 Liberty Street. For the first time on March 8, 2006, LMDC informed EPA and its regulatory partners of new and changed steps that it proposed to implement during the structural deconstruction of 130 Liberty. EPA and its regulatory partners do not agree with LMDC's interpretation that certain of the activities mentioned in the April 3 letter were authorized by the September 7, 2005 deconstruction plans. In addition, EPA and its regulatory partners will have additional questions and/or concerns to relay to LMDC after we have had an opportunity to review the information that LMDC has recently submitted for the Phase II structural deconstruction of the project. The following are our comments on the April 3 letter; also attached to this letter is an April 7 letter from the NYSDOL:

Waste Sampling and Management Plan

Section 2.0 (Building Components) of LMDC's September 7, 2005 Waste Sampling and Management Plan states that "[t]his Plan is intended as a working document to be used during ongoing operations at the Building and will be updated as necessary as new information becomes available." As a result, updates are expected during this project. EPA and its regulatory partners have indicated that we would work cooperatively with LMDC to understand the ongoing operations and to review promptly new information that becomes available as the deconstruction progresses. As EPA noted in its January 31, 2005 letter to LMDC, the regulators know that 130 Liberty Street was seriously contaminated both inside and outside with dust and debris containing asbestos, lead and other hazardous substances and contaminants from the collapse of the World Trade Center. Thus, the Waste Sampling and Management Plan needs to be an important part of the deconstruction.

Section 9 (Documentation) of the Waste Sampling and Management Plan states that the following documents, among others, must be created and maintained for non-hazardous construction and demolition debris ("C&D debris"): shipping papers (non-hazardous waste manifests, bills of lading). EPA interprets this language in the Waste Sampling and Management Plan to mean that C&D debris would be recycled and disposed off-site. The Waste Sampling and Management Plan does not state that waste streams generated from the 130 Liberty Street building are intended to remain on-site or used on-site as backfill, as is now being proposed for the concrete slab debris. Since this new information was recently presented to the regulators, as discussed below, we have questions about this approach which we would like to explore with LMDC.

Use of Chute for Transportation of Cleaned Concrete:

LMDC's April 3, 2006 letter states: "First, the use of a chute system for the vertical transport of cleaned concrete slab debris was specifically referenced and approved in the May 11, 2005 Variance Decision File No. 05-0427 that is part of the Deconstruction Plan." LMDC quotes only a small portion of item #66 from the May 11, 2005 Variance Decision File No. 05-0427. The subsequent sentence within item #66 states in underlined language from NYSDOL: "The project design for this work must be submitted to the Department and approved prior to commencement of tent enclosure preparation." It is recommended that appropriate approvals be

obtained from applicable federal, state and local agencies regarding use and installation of cranes, hoists and non-asbestos project chutes proposed to be used on the project.”

The project designs for the installation of interior concrete chutes were never submitted to the regulators subsequent to the 05-0427 variance. In fact, it is unclear why LMDC references item #66 of the 05-0427 variance as allowing the use of chutes. As we interpret the new information, LMDC is currently proposing to use an exterior chute to be placed within the vestibules, not an interior chute. The use of non-asbestos project chutes proposed to be used for this project were just recently communicated to all of the regulatory agencies. As recommended by NYSDOL in the 05-0427 variance, appropriate approvals should be obtained from applicable federal, state and local agencies regarding the use and installation of the non-asbestos project chutes prior to beginning Phase II of the project.

The use of a chute was originally proposed by Gilbane Building Company (“Gilbane”) in the first plans for the abatement phase of the work at 130 Liberty to transport asbestos waste streams from as high as the top floor to the bottom floor of the building. This proposal was dropped by LMDC after discussions with the regulatory agencies, and it was removed from the various plans submitted by LMDC for this project after the contract with Gilbane was terminated. References to the concrete chute were also removed from various portions of the Health and Safety Plan (“HASP”).

Please note that the HASP is a document that explains health and safety protocols to be used for this project. It is not an engineering plan that sets forth specifications and engineering controls or a document memorializing the procedures to be followed for the abatement and structural deconstruction of 130 Liberty. Information addressing abatement and deconstruction activities, if acceptable to the regulatory agencies, would have needed to be provided in far greater detail than as a reference to the level of personal protective equipment (“PPE”) to be worn during the deconstruction. The PPE reference in the HASP in LMDC’s April 3, 2006 letter does not support LMDC’s position with regard to the use of chutes. The two locations in the HASP that LMDC implies authorized the use of a concrete chute for transporting construction and demolition (C&D) debris (i.e., pages 2-20 and 2-32) from the top floors to ground level were supposed to have been omitted by LMDC in the final September 7, 2005 plans. Although LMDC references the level of PPE to be worn by workers constructing a “concrete chute,” the PPE reference does not authorize LMDC to design, construct, and use such a chute. Since LMDC has just introduced the use of an exterior chute for the transport of C&D waste streams to ground level, in contrast to the movement of asbestos waste via an interior chute, the regulatory agencies are reviewing the information about this newly proposed chute, and we have concerns about it.

Use of Concrete Crushing Equipment:

The April 3, 2006 letter states: “Obviously, the use of such a chute system of necessity involves appropriate concrete crushing equipment in order to enable the concrete to fit within and safely traverse the chute.” Nothing in LMDC’s September 7, 2005 plans explains that a chute

was to be used to deposit concrete slab debris in the basement of 130 Liberty, nor is the need for concrete crushing equipment mentioned. It is not clear to the regulators why LMDC did not provide information to the regulators about use of concrete crushing equipment long before LMDC's anticipated schedule for commencement of the Phase II activities that were initially scheduled by LMDC to begin in May 2006, and now are rescheduled by LMDC to commence in June 2006.

Use of Construction Debris On-Site as Fill:

The April 3, 2006 letter states: "The use of clean construction and demolition ("C&D") debris on the site as backfill is completely consistent with the Waste Sampling and Management Plan which states that cleaned deconstruction waste will be managed as "non-hazardous construction and demolition (C&D) debris." Section 4.3.4 (Disposal) of the September 7, 2005 Waste Sampling and Management Plan states: "Cleaned, unpainted, non-porous deconstruction waste will be classified, managed and recycled/disposed of as non-hazardous construction and demolition (C&D) debris. Likewise, cleaned, painted, non-porous deconstruction waste with TCLP metals results of less than applicable standards will also be classified, managed and recycled/disposed of as non-hazardous C&D debris." Further, this section states that potential disposal facilities are identified in Section 8 (Disposal Facilities) and Attachment 4 (Preliminary List of Potential Disposal Facilities). As noted above, the Waste Sampling and Management Plan makes clear that C&D debris, including, but not limited to concrete slab debris, would be recycled and/or disposed of off-site. This proposal is new and EPA and its regulatory partners may need more information from LMDC.

Buffer Zone Between Abatement and Cleaning:

The September 7, 2005 plans discuss a buffer zone between the areas being abated and the areas being deconstructed. The five-floor buffer zone is new information that did not correspond to the September 7, 2005 plans. EPA and its regulatory partners want to ensure that any new information is provided for review and acceptance, even if LMDC assumes it will not be detrimental to the project. LMDC needs to amend all portions of the appropriate plans that reference the buffer zone, as LMDC has done in consultation with the regulatory agencies for other amendments that LMDC proposed and implemented for the Quality Assurance Project Plan.

Use of a "Floating Roof":

The use of a "floating roof" is new information to the regulators, contrary to LMDC's assertion in the April 3, 2006 letter. EPA and its regulatory partners want to understand the ongoing deconstruction operation and review new information that becomes available for the project before accepting the "floating roof." Providing such information in as timely a manner as possible to the regulators will expedite their review and acceptance, and will facilitate the progress of this project.

EPA's principal objective in assessing the Phase II structural deconstruction plans is to identify instances where safeguards must be strengthened for the prevention of releases into the environment of hazardous substances and contaminants that may present an imminent and substantial endangerment to worker and public health and the environment. Our regulatory team wants to reiterate that work on the structural deconstruction of 130 Liberty shall not commence until such time as the regulatory team has agreed that LMDC has provided them with an acceptable plan for such work.

Sincerely,



Pat Evangelista

WTC Coordinator

New York City Response and Recovery Operations

Attachment

cc: Sal Carlomagno, NYSDEC w/attachment
Chris Alonge, NYSDOL w/attachment
Krish Radhakrishnan, NYCDEP w/attachment
Richard Mendelson, OSHA w/attachment
Robert Iulo, NYCDOB w/attachment

April 7, 2006

Pat Evangelista
WTC Coordinator
New York City Response and Recovery Operations
US EPA
Region 2
290 Broadway
New York, NY 10007-1866

**Re: Department Comments on Phase II Structural Deconstruction Plan LMDC Cover Letter, dated April 3, 2006
Vacant High Rise Office Building
130 Liberty Street
New York, NY**

Dear Pat,

The Department has received the Structural Deconstruction submittal as provided by LMDC via e-mail on April 3, 2006. The Bovis/John Galt Corp Deconstruction Implementation Plan is currently under review by the Department, as it relates to asbestos project activities.

However, the two-page LMDC cover letter, dated April 3, 2006, has been reviewed and the Department provides the following comments on pertinent aspects of the cover letter:

- Regarding installation of chutes for transfer of non-asbestos project concrete debris from non-asbestos project areas, variance decision condition #66 clearly indicates:

"For interior negative pressure tent enclosure work areas necessary for installation of interior concrete chutes (to be used for transport of "Clean" concrete slab debris from non-asbestos project work areas), the entire intended path of the chute within contaminated floors/areas/spaces must be abated, cleaned and cleared prior to chute installation. The project design for this work must be submitted to the Department and approved prior to commencement of tent enclosure preparation. It is recommended that appropriate approvals be obtained from applicable federal, state and local agencies regarding use and installation of cranes, hoists and non-asbestos project chutes proposed to be used on the project."

In addition, the marked-up variance decision attachment (page 12) clearly indicates **"see variance conditions"** for specific requirements on "installation of interior concrete chute to be used to transport concrete slab debris generated during clean phase II activities only".

The required asbestos project design for the non-asbestos project chute installation portion of work, as required by the variance decision, was never submitted to the Department and thus was never approved. If the intended vertical path for the chute

was cleaned/decontaminated as a result of the approved tent enclosure work to allow for installation of the floor-by-floor decontamination system enclosures, a clean vertical path for these chutes may now exist within the cleaned "decontamination enclosure hoist vestibules". However, the walker ducts and raceways have not been cleaned, so chute installation may still impact contaminated portions of the building. This is the reason the Department requested notification prior to installation of the chute access holes. The walker ducts and raceways must not be impacted by the non-asbestos project chute installation.

The last sentence of this variance decision condition indicates that appropriate approvals must be obtained from applicable federal, state and local agencies regarding use and installation of cranes, hoists and non-asbestos project chutes proposed to be used on the project. Were the necessary approvals for the non-asbestos project chutes ever obtained?

- Regarding the use of a "floating roof" over the topmost portion of the cleaned portions of the building, no specifics were ever provided to the Department within any site-specific variance request.

As previously indicated, certain aspects of the 130 Liberty Street structural deconstruction may impact contaminated portions of the building. The Department reiterates our concern that we must be allowed the opportunity to review and comment on the entire structural deconstruction plan for potential impact to contaminated portions of the building, prior to commencement of invasive (non-asbestos project) deconstruction activities.

If you have any questions regarding the information contained in this letter, please contact our office at (518) 457-1536.

Sincerely,



Christopher G. Alonge, P.E.
Senior Safety and Health Engineer

ec Krish Radhakrishnan, P.E. - NYC DEP
Gil Gillen – USDOL/OSHA
Robert Iulo – NYC DOB
Richard Fram – NYS DEC
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