

February 13, 2004

MEMORANDUM

SUBJECT: City of Fort Worth's Asbestos Abatement and Demolition Project –
Issues Needing Immediate Decision

FROM: Richard E. Greene
Regional Administrator (6RA)

TO: Jeff Holmstead
Assistant Administrator
Office of Air and Radiation (6101A)

At our meeting with Fort Worth Mayor Moncrief in Washington on September 29, 2003, we agreed that a test of the Fort Worth alternative for removing a portion of asbestos from old buildings prior to demolition should be conducted, with, of course, all appropriate safeguards. We also agreed that the test should occur during the summer of 2004, when the nearby small school would not be in session. I need your personal intervention now to ensure that we can meet that time frame.

Extraneous issues continue to be raised by Headquarters staff that impede this test, now in the third year of discussion. I would like to tee up those issues, tell you how I plan to address them, and ask you to meet with me personally if you disagree with where I am headed. Without such issue elevation, a test of this method – which is strongly supported by the neighborhood in Fort Worth – will never be given a chance to succeed or fail.

1. Some HQ staff worry that the Cowtown Inn may not be the best building for this test, due to its proximity to a small church school.

We have told Fort Worth that a side by side demonstration of the NESHAP and proposed Fort Worth method is critical to our decision. The City has responded that the Cowtown Inn is the only building currently in their possession and control where a side by side demonstration can be conducted; it is also a building in serious need of demolition, for the sake of the local community. To ensure no impact on the nearby school, the test is planned for the summer, when the school is not in session, and we are developing substantial monitoring and remediation plans. As long as the test is conducted in a safe and verifiable manner, I see no reason to second guess the local decision on which building to use in the test.

2. Some HQ staff believe that there are Environmental Justice concerns that need to be

addressed before proceeding with this test.

Although HQ staff have raised the question of environmental justice, we have heard no EJ complaints from the community, and since this project was first proposed in 1999, Fort Worth has had numerous public meetings in addition to sending out monthly newsletters from May 2002 to the present. That outreach has revealed that the community sees the alternative method as holding great promise for assisting the neighborhood by eliminating a dangerous nuisance and a potential haven for drug dealers and prostitutes. However, we are always attentive to public participation and EJ issues, and have added a Region 6 EJ staff person to the Fort Worth team to ensure that public outreach and education efforts are effective, and that issues raised by the community are addressed as we proceed. I think this appropriately addresses any concerns on this topic.

3. Some HQ staff are calling for a more intensive Peer Review.

ORD has said that a letter review by experts would be appropriate for the draft Fort Worth Method and the Quality Assurance Project Plan. ORD is the expert office on these matters, and I see no reason for questioning their view. HQ staff concerns may stem from a fear that this is the peer review that will help us make a determination of equivalency with the NESHAP; *that is incorrect*. This peer review will simply examine the method for carrying out the Phase 2 test. Further reviews would be conducted later on the issue of equivalency.

4. Some HQ staff believe that we should provide the community with a Technical Assistance Grant similar to those developed under the Superfund program.

This suggestion appears to be excessive. Technical Assistance Grants are only awarded – by statute – at National Priority List sites under the Superfund program, where cleanup activities are high risk and often span several years; the planned test on the Cowtown Inn will be of short duration (less than a week). In addition, there has been no demand from the community for such a grant, and we believe we can provide effective information and educational materials to the community without such a grant. Further, there is no readily available funding mechanism. I do not see a grant as necessary in this case.

5. Some HQ staff believe we need to have additional meetings with City officials regarding the City's potential liability stemming from this test.

We have met with City officials and the City Attorney. Mayor Moncrief calls me to discuss this project about once every week. I am comfortable that the local officials understand the liability issues, and do not require (or desire) additional meetings on the subject. Should they ask for additional meetings, we will accommodate their request.

6. Some HQ staff believe that significantly more time is needed to review the Fort Worth method and QAPP documents.

Some HQ staff seem to want to comment on issues that will need to be addressed later, if the Phase 2 test is successful. For now, I would like the review to focus only on how to make the test safe and effective. In order to conduct the Phase 2 test this summer, we need to conduct the review of the Draft Method and QAPP on the expedited schedule that is set out in the Attachment. I plan to ask all reviewing offices to identify the specific language that must be

changed or added, why it must be changed, and the alternative language; and that their comments be limited to truly significant points. This is critical, as the schedule will only afford the City of Fort Worth one week to return the documents to us. *If we fail to meet the attached schedule, then the demolition will be postponed for another 6 months or possibly a year* – much to the frustration of City officials, neighborhood residents, and the local media – all of whom have enthusiastically supported this project.

Please let me know by February 26, 2004, if you are not comfortable with the way I plan to handle these issues, and have your secretary set up a meeting for us to discuss them. I appreciate your help in moving this project test forward.

Attachment

ATTACHMENT

Proposed schedule for review of the Fort Worth Method/QAPP:

- ★ February 5 City received EPA's comments on the Ft. Worth Method Document
- ★ February 6 City Received latest (but not final) comments on the QAPP
- ★ February 17 City submits revised Method and QAPP to EPA, and TDH for review. EPA will forward the revised documents to EPA's internal asbestos experts workgroup,
- ★ February 27 EPA and TDH submit final comments on the draft to Fort Worth
- ★ March 5 City submits Draft Final documents to EPA ready for Peer Review
- ★ March 31 EPA receives comments from Peer Review
- ★ April 15 Internal decision on which Peer Review comments should be incorporated into the Fort Worth documents
- ★ April 18 Peer Review comments submitted to Fort Worth
- ★ March and April Fort Worth conducts outreach to the community to obtain comments on the proposed documents
- ★ April 30 Fort Worth submits final documents incorporating peer review and public comments
- ★ May 4 EPA makes decision on enforcement discretion. If the decision is no, then this process ends and Fort Worth must look for another demolition site or a new schedule must be submitted. If yes, then we proceed.
- ★ May 5 City begins contracting process for the demolition
- ★ May 5 TDH begins its approval process
- ★ mid June Demolition process begins