

TESTIMONY

Before

**The United States House of Representatives
Committee on Education and Labor**

Hearing on

Why Weren't World Trade Center Rescue and Recovery Workers Protected?

Washington, DC

September 12, 2007

Presented by

James Melius MD, DrPH

**Administrator, New York State Laborers' Health and
Safety Trust Fund**

Albany, NY

Honorable Chairman Miller and other members of the Committee. I greatly appreciate the opportunity to appear before you at this hearing.

I am James Melius, an occupational health physician and epidemiologist, who currently works as Administrator for the New York State Laborers' Health and Safety Trust Fund, a labor-management organization focusing on health and safety issues for union construction laborers in New York State. During my career, I spent over seven years working for the National Institute for Occupational Safety and Health (NIOSH) where I directed groups conducting epidemiological and medical studies. After that, I worked for seven years for the New York State Department of Health where, among other duties, I directed the development of a network of occupational health clinics around the state. I currently serve on the federal Advisory Board on Radiation and Worker Health which oversees part of the federal compensation program for former Department of Energy nuclear weapons production workers.

I have been involved in health issues for World Trade Center responders since shortly after September 11th. Over 3,000 of our union members were involved in response and clean-up activities at the site. One of my staff spent nearly every day at the site for the first few months helping to coordinate health and safety issues for our members who were working there. When the initial concerns were raised about potential health problems among responders at the site, I became involved in ensuring that our members participated in the various medical and mental health services that were being offered. For the past four years, I have served as the chair of the Steering Committee for the World Trade Center Medical Monitoring and Treatment Program. This committee includes representatives of responder groups and the involved medical centers (including the NYC Fire Department) who meet monthly to oversee the program and to ensure that the program is providing the necessary services to the many people in need of medical follow-up and treatment.

PROTECTION FOR 9/11 WORKERS

Providing initial protection for our members who initially responded to the WTC attack was very difficult. Many of our union members working nearby or hearing about the collapse of the buildings rushed to the scene with their construction tools and equipment. Many worked long hours at the site trying to rescue anyone who might have survived the collapse of the building. Some brought respirators and other protective equipment with them, but most did not have such equipment readily available. Gradually, respirators were made available to them. Over the next few weeks, our union worked with our contractors to organize a respirator program for people working at the site and provided respirators, eye protection, and other needed equipment. Other organizations did the same. During this time period, I visited the site several times to observe working conditions and to help organize our response.

I personally tried to obtain information on the results of air sampling being done by EPA and other agencies near the site. For a short time, I was permitted access to some of these results on an EPA web site and was permitted to participate in conference calls discussing these results. However, after a short time, my access to this information ceased, and I was unable to obtain any information on these results until much later. Similar to those working on the site and those directing that work, I assumed that the results did not indicate any serious problems.

Once the City took control of the site and more formally organized the construction work, safety efforts also became more organized. Access to the site was restricted, and daily safety meetings involving contractor and labor representatives were held. As I mentioned, a member of my staff attended each meeting. Much of the focus of those meetings was on the prevention of traumatic injuries at the site, a very important consideration given the nature of the site. However, it was several months before a safety training program for every one at the site was developed and provided to the workers.

During my visits to the site, I occasionally saw OSHA representatives. Often they were standing outside of the secure area, observing the work. However, later I saw some OSHA staff at the actual work site. I believe that they also participated in the daily safety meetings.

OSHA ENFORCEMENT

OSHA handled the work at the World Trade Center site in a “consultative” role throughout the recovery and clean-up. Although the City of New York managed the recovery and clean-up, their role regarding health and safety issues at the site was also “consultative”. Through their management of the construction activities, the City tried to take into account the safety of the people working at the site. They also promoted efforts such as the daily safety briefings to ensure a safe work site. However, I observed little evidence that they assumed full responsibility for health and safety protections at that large job site.

This “consultative” approach by OSHA and the City seemed to work in regards to major injuries at the site. Given the nature of the job site (unstable structures, etc), the low rate of serious injury on this job site is remarkable. However, as has been pointed out in this hearing, thousands of the workers at the site are now suffering from pulmonary disease and other health ailments. These health problems are not isolated among just a few workers or in a particular work group. They are widespread and quite serious leading to many of these workers being disabled and unable to work. The health problems cannot be attributed solely to exposures in the immediate day or to after September 11. Studies show that prolonged exposure even starting several days after September 11 increases the risk of developing respiratory disease.

The lack of more comprehensive OSHA involvement at the World Trade Center site including enforcement contributed to the development of these health problems. A serious health hazard was not recognized and properly controlled.

I would add that this problem with OSHA enforcement involves not only the World Trade Center site. Shortly after September 11, our union was involved with the anthrax mail problem. We represent mail handlers and clean-up workers. Both groups were exposed to anthrax in mail facilities or during the clean-up of contaminated buildings. We asked OSHA to get actively involved in protecting our workers, and they refused leaving it to health and environmental agencies to address the problems. Fortunately, the anthrax mailings ceased. More recently, I went to the New Orleans area and met with many fire fighters who were ill because of their exposures in follow-up to Katrina. The lack of proper steps to protect the health of workers after this natural disaster contributed to their health problems.

WHAT NEEDS TO BE DONE

I would propose two major initiatives in response to this failure.

The first is preventive. We need a process that ensures OSHA involvement including enforcement starting with the early response to an incident similar to the WTC. This would require OSHA to make a complete evaluation of the hazards at this type of disaster site and to take the proper steps including enforcement action to fully protect the people working at the site. This protection should extend to all workers. It makes no sense to exclude federal workers or state and local government workers from these provisions. No work at the site should be allowed to go forward until OSHA has certified that the people doing the work will be protected. In the case of the World Trade Center, OSHA enforcement could have been phased in after the initial rescue phase. For example, work at the site could have been halted or slowed down until all workers had been appropriately trained about work requirements (including protective equipment) and then the work restarted with strict enforcement.

We need to recognize that situations such as the World Trade Center also involve the possible rescue of people at the site. Inappropriate delays could endanger the lives of

those people, and there often will not be time for a careful deliberate approach to this phase of the work. Therefore, we must also ensure that we prepare for these situation including health and safety protections for those involved. We need proper planning for these potential situations, appropriate training of all groups that may be involved (including construction workers as we learned at the WTC site), and the availability of proper protective equipment for those who will be responding. We also need to develop better protective equipment such as lighter weight respirators that can be worn for longer time periods and better chemical protective clothing.

The second need is to ensure proper medical follow-up of the people responding to these disasters. In the World Trade Center situation, we have relied on a fragmented system utilizing private philanthropy, health insurance, line of duty disability retirement, and workers' compensation along with some federal funding to support the necessary medical monitoring and treatment for the thousands of people whose health may have been impacted by their WTC exposures. If the federal funding ends, this fragmented approach will inevitably leave many of the ill and disabled rescue and recovery workers without needed medical treatment and will only worsen their health conditions. We need a comprehensive approach. The legislation just introduced by Representatives Maloney, Nadler, and Fossella provides the framework and support needed for this comprehensive program for these workers and for the residents, school children, and others whose health has been harmed by the failure to recognize and address the health hazards from this incident. It is unfortunate that the failure to properly protect these people at the time of the incident makes this program necessary.

Thank you for your time and attention, I would be glad to answer any questions.