



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 1

1 Congress Street, Suite 1100

Boston, MA 02114-2023

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Scott Alfonse, Director  
City of New Bedford  
Department of Environmental Stewardship  
133 William Street  
New Bedford, Massachusetts 02740

Re: **DRAFT** Approval for Risk-Based PCB Remediation under 40 CFR §761.61(c)

Dear Mr. Alfonse:

This is in response to the City of New Bedford (the City) application for approval of a risk-based plan to address PCB-contaminated materials at the property known as the McCoy Field, located on Hathaway Boulevard, New Bedford, Massachusetts (the Site).<sup>1</sup> The Site contains PCB-contaminated materials that exceed allowable PCB levels under the federal PCB regulations at 40 CFR §761.61.

The City has proposed to construct a school on the Site and has submitted a proposed cleanup plan that includes the following major activities:

- Removal and off-site disposal of PCB-contaminated soils with greater than or equal to 100 parts per million ( $\geq 100$  ppm) in the excavation areas;
- Installation of a minimum 2-foot clean soil cover in paved areas and a minimum 3-foot clean soil cover in landscaped areas;
- Installation of 2-foot clean soil cover, a passive vapor ventilation system and solid vapor barrier beneath the proposed building footprint;
- Establishment of institutional controls and deed restrictions, including recording an Activity and Use Limitation to restrict exposure to soil and disturbance of soil at the Site; and
- Establishment of a long-term monitoring and maintenance implementation plan (MMIP) for the surface covers (cap), including the building floor, and for monitoring of groundwater and indoor air quality.

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<sup>1</sup> Information was submitted on behalf of the City of New Bedford by BETA Group to support a risk-based cleanup and disposal approach for PCB remediation waste under 40 CFR §761.61(c). Attachment 2 provides a list of supporting information for this request. These submissions will be referred to as the "Application."

EPA has determined that the City's proposed plan is acceptable and that there will be no unreasonable risk to public health or the environment when the cleanup is conducted in accordance with the Application and this Approval. Therefore, the City may proceed with this project, subject to the conditions of Attachment 1.

Should you have any questions on this matter, please contact Kimberly Tisa at (617) 918-1527.

Sincerely,

Robert W. Varney  
Regional Administrator

Attachment 1  
Attachment 2

cc: A. Hanscom, BETA

**ATTACHMENT 1: PCB DISPOSAL APPROVAL  
MCCOY FIELD  
NEW BEDFORD, MASSACHUSETTS**

**GENERAL CONDITIONS**

- 1 This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Application, specifically the PCB waste located at McCoy Field (the Site).
  - a. This Approval does not address PCB contaminated sediments in the wetlands adjacent to the Site. Within 60 days of receipt of this Approval, the City of New Bedford (the City) shall submit a cleanup plan for the wetlands for EPA review and approval.
  - b. This Approval does not address PCB contaminated soils at the High School property or in the residential properties. Prior to initiating cleanup at these properties, the City shall submit a cleanup plan for EPA review and approval. In the alternative, the City shall submit documentation that cleanup of these properties is not regulated under TSCA and the federal PCB regulations at 40 CFR Part 761.
- 2 The City shall conduct on-site activities in accordance with the conditions of this Approval and with the Application.
- 3 This Approval shall be revoked if the EPA does not receive written notification from the City of its acceptance of the conditions of this Approval within 10 business days of receipt.
- 4 In the event that the activities described in the Application differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
- 5 The terms and abbreviations used herein shall have the meanings as defined in 40 CFR §761.3 unless otherwise defined within this Approval.
- 6 The City must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, the City shall contact EPA for direction on sampling and cleanup requirements.

- 7 The City is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time the City has or receives information indicating that the City or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
- 8 This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by the City are authorized to conduct the activities set forth in the Application. The City is responsible for ensuring that the City's selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
- 9 The City shall notify EPA in writing of the scheduled date of commencement of on-site activities at least three business days prior to conducting any work under this Approval.
- 10 This Approval does not waive or compromise EPA's enforcement and regulatory authority, nor release the City from any other applicable requirements of federal, state or local law, including those affecting any other contaminants.

#### **USE CONDITIONS AND DEED RESTRICTION**

- 11 Within sixty (60) days of completing the activities described in the Application and in the Approval, the City shall submit for EPA's review and approval, an Activity and Use Limitation (AUL, i.e., a deed restriction) for the Site. The AUL shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. Within sixty (60) days of EPA's acceptance of the AUL, the City shall record the AUL in the Registry of Deeds. A copy of this Approval shall be attached to the AUL. Within 15 business days of the recording, the City shall submit to the EPA a copy of the AUL, with a certification(s) by an authorizing official that the City has recorded the AUL and Approval as required above.
- 12 Any modification(s) in the plan, specifications, or information submitted by the City, contained in the Application, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. The City shall inform the EPA of any modification, in writing, at least 10 days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Application, the EPA may revoke, suspend, and/or modify this Approval if it finds that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information from the City needed to make a determination regarding potential risk.

### **SALE, LEASE OR TRANSFER OF SITE**

- 13 The City shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than 30 days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that the City sells, leases or transfers any portion of the Site, the City shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval ("re-issued approval") are as follows:
- a. The new owner(s), lessee or transfer entity must request, in writing, that the EPA issue a new approval to the new owner(s), lessee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities; and,
  - b. The EPA reviews the request, and determines whether to issue a new approval; and,
  - c. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the re-issued approval. The re-issued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the re-issued approval within 30 days of the date of the reissued approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on the City.
  - d. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the re-issued approval if it finds, due to the change in use, that this risk-based cleanup and disposal action will not be protective of health or the environment. The new owner shall record any amendment to the AUL, resulting from any approved modification(s), within 60 days of such change(s).

- 14 In any sale, lease or transfer of the Site, the City shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval for groundwater and indoor air monitoring and for maintenance of the caps, except as provided above.

### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

- 15 The City shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by the City to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
- 16 Within 60 days of receipt of this Approval, the City shall submit for EPA's review and approval, a detailed long-term monitoring and maintenance implementation plan (MMIP) for the caps and for groundwater and indoor air quality. At a minimum, this MMIP shall include a description of the activities that will be conducted, including cap inspection criteria, frequency, and routine maintenance activities; groundwater and indoor air quality monitoring locations, frequency, and analytical criteria; and reporting requirements to EPA. The MMIP shall also include a communications component which details how the maintenance and monitoring results will be communicated with the Site users, including teachers, parents, students, other on-site workers, and interested stakeholders. The City shall incorporate any changes to the MMIP required by EPA. Activities required under the MMIP shall be conducted until such time that EPA and the Massachusetts Department of Environmental Protection (MADEP) determine, in writing, that such activities are no longer necessary.
- 17 Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
- 18 Any misrepresentation or omission of any material fact in the Application or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
- 19 Approval for these activities may be revoked, modified or otherwise altered at any time EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; if EPA finds that there is migration of PCBs from the Site; or if EPA finds that changes are

necessary to comply with new rules, standards, or guidance for such approvals. The City may apply for such a modification in the event new rules, standards, or guidance come into effect.

### **RECORDKEEPING AND REPORTING CONDITIONS**

- 20 The City shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required by Subparts J and K. The City shall maintain a written record of the cleanup and the analytical sampling for activities conducted under this Approval, at City Hall and at the Site. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.
- 21 The City shall submit a Final Completion and Inspection Report (Report) to the EPA within 120 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a short narrative of the project activities; characterization and confirmation sampling analytical results; copies of indoor air monitoring reports; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed of off-site; copies of manifests; copies of certificates of disposal or similar certifications issued by the disposer, if applicable; and any additional report required under the Massachusetts Contingency Plan, including the As-Built Construction Report. The Report shall also include a Completion Statement signed and sealed by a registered Licensed Site Professional or Professional Engineer in the Commonwealth of Massachusetts verifying that the activities have been implemented in accordance with this Approval and the Application.
- 22 As required under Condition 16 of this Approval, the City shall submit the results of the long-term monitoring and maintenance activities to EPA and MADEP as specified in the final approved MMIP.
- 23 Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
1 Congress Street, Suite 1100 - CPT  
Boston, Massachusetts 02114-2023  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527

- 24 No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

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End of Attachment 1

**ATTACHMENT 2: Administrative Record**

- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) May 26, 2005 letter responding to VERSAR May 19, 2005 risk assessment comments*
- *William D. Sweet (ATSDR) to Kimberly Tisa (EPA), Health Consultation on McCoy Field Site, post remediation and after building construction. May 25, 2005.*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) May 24, 2005 letter clarifying comments contained in May 18, 2005 letter*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) letter responding to EPA Supplemental Comments on Risk-Based Application, May 18, 2005*
- *May 19, 2005 Versar Comments on Risk-Based Cleanup Request Risk Assessment Calculations*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA), Transmittal of Summary of Supplemental EPA Review Comments on Risk-Based Cleanup Application, via e-mail May 16, 2005*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA), Transmittal of Summary of EPA Review Comments on Risk-Based Cleanup Application, via e-mail May 12, 2005*
- *Supplemental EPA Review Comments, May 12, 2005 from Alan Hanscom (BETA, Inc) to Kimberly Tisa (EPA), via e-mail*
- *Letter from Scott Alfonse (City of New Bedford) to Kimberly Tisa (EPA), May 10, 2005*
- *Memorandum from Cyndee Fuller (ESS) to Al Hanscom (BETA), Revision of Risk-based Air Concentrations for PCBs and comparison with MADEP air guidance, May 9, 2005*
- *Risk Based Cleanup Request, School Site at McCoy Field, New Bedford, Massachusetts, Revision 1, May 3, 2005, Volumes I and II.*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) letter dated May 2, 2005 responding to EPA April 5, 2005 memo on technical design of engineered cap.*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) letter dated May 2, 2005, responding to EPA April 19, 2005 comments on Risk-Based Cleanup Request, Rev. 0, March 21, 2005.*
- *Alan Hanscom (BETA) to Kimberly Tisa (EPA) letter dated May 2, 2005, responding to Versar April 14, 2005 comments on Risk-Based Cleanup Request, Rev. 0, March 21, 2005.*

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- *Kimberly Tisa (EPA) to Scott Alfonse (City of New Bedford) letter dated April 19, 2005 transmitting comments on Risk-Based Cleanup Request, March 21, 2005*
- *Yoon-Jean Choi (EPA) to Kim Tisa (EPA), Comments on Proposed Engineered Cap, April 5, 2005*
- *Robert W. Varney (EPA) to Mayor Frederick M. Kalisz, Jr. (City of New Bedford) regarding cleanup application for the Keith Middle School Project, March 30, 2005*
- *Scott Alfonse (City of New Bedford) to Kimberly Tisa (EPA), Risk-Based Cleanup Request, Rev. 0, March 21, 2005.*

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End of Attachment 2