



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 14, 2011

Mr. Allan Carr
P.O. Box 173
Grand Isle, Vermont 05458

Re: Modification PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)
Carr Lot, Taylor Street, Montpelier, Vermont

Dear Mr. Carr:

This is in response to the December 3, 2011 request for modification to a plan to address PCB contamination at your property located on Taylor Street in Montpelier, Vermont (the Site). Additional information on the modification was provided on December 5, 2011. PCB-contaminated soils that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a) are present at the Site. The modification request was submitted on your behalf by Weston & Sampson.

On July 29, 2009 EPA issued a *PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)* (hereinafter "the Approval") for the excavation of PCB-contaminated soils with greater than (>) 5 parts per million (ppm) and capping of PCB-contaminated soils with less than or equal to (\leq) 5 ppm beneath an asphalt cover on the Site.

In your modification request, you are proposing to construct an interim roller-compacted fine crushed gravel cap under laid with a geotextile fabric in lieu of the final asphalt cover for up to 3 years to provide sufficient time for the City of Montpelier to complete the planning of the Multi-Modal Transit Facility (MMTF). This interim cap would allow the Site to be used as a parking lot during this time period. Monitoring and maintenance of the interim cap will be conducted each year in May and October to insure the integrity of the cap.

EPA is aware that the Vermont Department of Environmental Conservation (VT DEC) has approved this modification to the Corrective Action Plan and that public comment on the proposed modification will occur. Given the positive movement for the MMTF project, the potential that the design could affect final cap design, and the parking needs in the City, EPA is approving your modification request with the following conditions:

1. Approval for this interim cap shall expire on December 31, 2014 unless revoked, suspended, modified, extended or terminated.
2. Request for an extension of this interim cap approval, shall be made in writing at least 60 days prior to the expiration date, and shall include a justification for the extension(s). EPA may require the submission of additional information in connection with any extension request.
3. Unless otherwise modified by this letter, all terms and conditions specified in Approval remain unchanged, including the notification and certification requirements specified under Approval Conditions 10 and 11.
4. The Site owner shall notify EPA in writing, at least 5 business days prior to commencement of the final cap construction at the Site, unless the PCB cleanup plan is modified pursuant to Condition 18 of the Approval.
5. The Site owner must obtain all necessary State and local permits or approvals for this modification.

EPA is reserving its rights to require additional mitigation measures, including construction of the final cap, if it determines that the PCBs are posing an unreasonable risk to public health or the environment. Should you have any questions, please call Kimberly Tisa in this office at (617) 918-1527.

Sincerely,



Mary Sanderson, Branch Chief
Remediation & Restoration II Branch
Office of Site Remediation & Restoration

cc: K. Bisceglia, Weston & Sampson
 M. Becker, VT DEC
 File



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

JUL 29 2009

Mr. Allan Carr
P.O. Box 173
Grand Isle, Vermont 05458

Re: PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)
Carr Lot, Taylor Street, Montpelier, Vermont

WESTON & SAMPSON
RECEIVED
AUG 04 2009

Dear Mr. Carr:

This is in response to your Notification¹ for approval of a risk-based disposal plan to address PCB-contamination on your property identified as the Carr Lot property located on Taylor Street, Montpelier, Vermont (the Site). PCB-contaminated soils that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a) are present at the Site.

You have proposed a plan under the PCB risk-based disposal option at 40 CFR § 761.61(c) that includes the following major activities:

- Excavation of PCB-contaminated soils with greater than (>) 5 parts per million (ppm);
- Capping of PCB-contaminated soils with less than or equal to (\leq) 5 ppm beneath an asphalt cover;
- Disposal of PCB-contaminated soils with greater than or equal to (\geq) 50 ppm at a TSCA-approved disposal facility or RCRA hazardous waste landfill;
- Disposal of PCB-contaminated soils with > 5 ppm and less than (<) 50 ppm at a RCRA non-hazardous waste landfill;
- Establishment of a long-term inspection and maintenance plan for the asphalt cover; and,
- Establishment of an activity and use limitation via a deed restriction which would detail uses and restrictions on the Site.

¹ Information was submitted by Weston & Sampson on your behalf to support a risk-based disposal approach for PCB remediation waste under 40 CFR § 761.61(c). Information was submitted dated February 25, 2009; March 24, 2009 (via e-mail), June 12, 2009 (via e-mail), and July 21, 2009 (via e-mail). These submissions will be referred to as the "Notification."

EPA finds that the proposed measures should effectively prevent direct exposure of the PCB-contaminated soils to Site users provided the asphalt cover is maintained. As such, EPA may approve this proposed work under § 761.61(c). You may proceed with the project in accordance with 40 CFR § 761.61(c); the Notification; and, this Approval, subject to the conditions of Attachment 1.

Please note that this Approval only applies to reuse of the Site as a parking lot. While the risk exposure assessment and scenarios provided in the Notification considered other end uses and were determined to be protective of public health, these end uses were not evaluated in the Corrective Action Plan (CAP), which was approved by the Vermont Department of Environmental Conservation Sites Management Section (VTDECSMS) following public notice and comment. As such, in the event that the established end-use (parking lot) changes and a revised CAP is submitted to VTDECSMS, the Site owner shall submit the information to EPA for review to determine if additional cleanup measures and/or modifications to the Approval are necessary to protect Site users. In its determination EPA shall consider any changes or information which was not evaluated during its review of the Notification (see Condition 18).

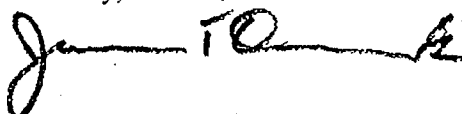
Please note that upon completion of the activities authorized under this Approval, there is a requirement to record a notation with the property's deed (Attachment 1, Condition 14) which will identify the PCB contamination remaining at the Site and the asphalt cover inspection and maintenance requirements.

Questions and correspondence on this Approval should be directed 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

EPA shall not consider the work authorized under this Approval to be complete until it has received all submittals required under this Approval.

Sincerely,



James T. Owens, III, Director
Office of Site Remediation & Restoration

cc C. Rock, Central Vermont Regional Planning Commission
✓ K. Bisceglia, Weston & Sampson
M. Becker, VTDEC
Montpelier Health Officer

Attachment 1

**ATTACHMENT 1: PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS
CARR LOT PROPERTY
TAYLOR STREET
MONTPELIER, VERMONT**

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 Notification and located on the Carr Lot property (the Site).
2. PCB cleanup activities conducted at the Site shall comply with the conditions of this Approval and the Notification.
3. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. The Site owner 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 Site owner shall contact EPA within twenty-four (24) hours for direction on sampling and cleanup requirements.
6. The Site owner 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 Site owner has or receives information indicating that any person has failed, or may have failed, to comply with any provision of this Approval, the Site owner must report the information to EPA in writing within twenty-four (24) hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the contractors, transporters or disposal facilities selected by the Site Owner are authorized to conduct the activities set forth in the Notification. The Site owner is responsible for ensuring that its selected contractors, transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.

8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the Site owner from compliance with any applicable requirements of federal, state or local law; or 3) release the Site owner from liability for, or otherwise resolve any violations of federal, state or local law.

NOTIFICATION AND CERTIFICATION CONDITIONS

9. This Approval may be revoked if the EPA does not receive written notification by Mr. Alan Carr (the "Site owner") of acceptance of the conditions of this Approval within ten (10) business days of receipt.
10. The Site owner shall notify EPA in writing of the scheduled date of commencement of on-site activities at least one (1) business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, the following information shall be submitted to EPA:
 - a. A certification signed by the selected cleanup and oversight contractor(s), stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval; and,
 - b. A certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the extraction and analytical method requirements and the quality assurance requirements specified in this Approval and in the Notification.

CLEANUP AND DISPOSAL CONDITIONS

12. The cleanup level for *PCB remediation waste* at the Site shall be less than or equal to 5 parts per million (≤ 5 ppm).
 - a. Bulk *PCB remediation waste* samples (i.e. soil) shall be collected on a bulk basis (i.e. mg/Kg) and reported on a dry-weight basis. Verification sampling shall comply with Subpart O; samples shall be collected from both excavation bottoms and sidewalls, as applicable.
 - b. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.

- c. PCB-contaminated soil at less than (<) 5 ppm shall be covered by a physical barrier (i.e. asphalt cover) as described in the Notification.
 - d. An inspection and maintenance plan for the asphalt cover shall be submitted to insure the long-term effectiveness of the asphalt cover in reducing exposure to Site users (see Condition 17).
13. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61, unless otherwise specified below.
- a. Non-liquid cleaning materials, PPE and similar materials resulting from decontamination may be disposed of in accordance with 40 CFR § 761.79(g)(6).
 - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
 - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

DEED RESTRICTION AND USE CONDITIONS

14. Within thirty (30) days of completing the activities described in the Notification and in the Approval, the Site owner shall submit for EPA's review and approval, a draft deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following the cleanup work; a description of the actions taken at the Site; and, a description of the use restrictions for the Site. Within 30 days of receipt of EPA's approval of the draft deed restriction, the Site owner shall record the deed restriction. A copy of this Approval and the inspection and maintenance plan (see Condition 17) shall be attached to the deed restriction.



SALE, LEASE OR TRANSFER OF SITE

15. The Site owner shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than 10 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 Site owner sells, leases or transfers any portion of the Site, the Site owner 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 associated with those activities. The procedures for the issuance of a new 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;
 - 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 new approval. The new 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 new approval within ten (10) days of the date of the new approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on the Site owner.
 - 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 new approval if it finds, due to the change in use, that the measures implemented under this Approval will not be protective of public health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s).
16. In any sale, lease or transfer of the Site, the Site owner shall retain sufficient access rights to enable the Site owner to continue to meet the obligations under this Approval, except as provided above.

INSPECTION, MONITORING, MODIFICATION AND REVOCATION CONDITIONS

17. Within sixty (60) days of receipt of this Approval, the Site owner shall submit for EPA's review and approval, an inspection and maintenance plan (IMP) for the asphalt cover.
 - a. The IMP shall include: a description of the activities that will be conducted, including inspection criteria and frequency, routine maintenance, and reporting requirements.
 - b. The reporting requirements shall include submission of the inspection findings and any implemented repairs to EPA. The Site owner shall incorporate any changes to the IMP required by EPA. Activities required under the IMP shall be conducted until such time that EPA determines, in writing, that such activities are no longer necessary.

18. Any modification(s) in the plan, specifications, or information contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. The Site owner 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 Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this cleanup and disposal action may pose an unreasonable risk of injury to public health or the environment due to the change in use. EPA may take similar action if the EPA does not receive the information necessary to make a determination regarding potential risk.

19. Any departure from the conditions of this Approval without prior, written authorization from the EPA or any misrepresentation or omission of any material fact in the Notification or in any future 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.

20. Approval for these activities may be revoked, modified or otherwise altered: if 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; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. The Site owner may apply for appropriate modifications in the event new rules, standards, or guidance come into effect.

21. The Site owner 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 to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.

RECORDKEEPING AND REPORTING CONDITIONS

22. The Site owner 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 Site owner shall maintain a written record of the cleanup and the analytical sampling for the activities conducted under this Approval. 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.
23. A Final Completion Report (Report) shall be submitted to the EPA within 60 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a discussion of the project activities; characterization and confirmation sampling analytical results; 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 off-site; copies of manifests; and, copies of certificates of disposal or similar certifications issued by the disposer, if applicable. The Report shall also include a copy of the recorded deed restriction and a certification signed by the Site owner verifying that the authorized activities have been implemented in accordance with this Approval and the Notification.
24. As required under Condition 17 of this Approval and unless otherwise modified, the results of the asphalt cover inspection and maintenance activities shall be submitted to EPA as specified in the final IMP to be approved by EPA.
25. 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
26. 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.

27. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally regulated contaminants at the Site otherwise available under Section 6 of TSCA, 15 U.S.C. § 2605, 40 CFR Part 761, or other provisions of federal law.

END OF ATTACHMENT 1