REGION 9

SAN FRANCISCO, CA 94105

January 17, 2024

Anthony Espinoza
Environmental Health Manager
Los Angeles Unified School District – Office of Environmental Health & Safety
333 S Beaudry Ave., 21st Floor
Los Angeles, CA 90017

Re: USEPA Conditional Approval Under 40 C.F.R. § 761.61(c), Bethune Middle School, CATSCA111064

Dear Anthony Espinoza:

Thank you for working with the U.S. Environmental Protection Agency, Region 9 ("USEPA") to address the disposal of polychlorinated biphenyls ("PCBs") found in soil at Bethune Middle School located at 155 W 69th St., Los Angeles, CA 90003 (Los Angeles County Assessor's Parcel No. 6012-003-916). USEPA has reviewed the *Site Characterization Report and Cleanup Plan Bethune Middle School Los Angeles, California PCB Site CATSCA111064* (the "Application") received on November 8th, 2023 prepared by Tetra Tech, Inc. on behalf of Los Angeles Unified School District's Office of Environmental Health & Safety (OEHS) that outlines OEHS's plan for excavation and off-site disposal of soil and concrete containing PCBs from the approximately 0.5 acre landscaped courtyard area (the "Site") on the east side of the property, and the construction of an engineered protective barrier for the on-site disposal of any remaining PCB-impacted soil.

The maximum concentration of PCBs detected in the samples taken from the Site to date is 93.6 mg/kg. Historical records from LAUSD archives suggest that the source of the PCBs is likely related to a construction project that occurred sometime around 1968 that utilized PCB-impacted backfill during the replacement of a former tennis court with the existing courtyard configuration.

The courtyard is partially bounded to the south and west by the "Classroom Building"; to the east by the "Shop Building"; and to the north by a multi-use paved lot. Both buildings were constructed prior to the opening of the school in 1927 – predating the manufacture of PCBs in the United States in 1929, and therefore making it unlikely that the PCB impact extend underneath those buildings. Subsurface samples exhibiting non-detectable PCB concentrations taken from beneath the structures further support this hypothesis. Subsurface samples taken from beneath the pavement to the north of the courtyard similarly exhibit non-detectable PCB concentrations, thereby further supporting the hypothesis that the horizontal extent of PCB impacts at the Site are limited to the courtyard itself.

Core samples taken from the Site further substantiate the contaminated backfill hypothesis. These samples show a distinct difference between two types of soil underlying the courtyard. The shallower soil type locally contains construction debris such as small brick and concrete fragments, metal fasteners, and wire. This debris becomes absent around the depth at which the soil changes in color and composition. Furthermore, the analytical results from these core samples exhibit an attenuation of PCB concentrations to nondetectable amounts beneath the uneven horizon between the two soil types around three to five feet beneath the current surface.

The Application describes the following remedial actions consistent with Toxic Substance Control Act ("TSCA") regulations to address the PCB impacts at the Site:

- Implementation of interim engineering controls (fencing and placing a plastic cover over areas of exposed soil) to minimize the potential for exposure to PCB-impacted soils prior to execution of the proposed cleanup plan.
- Excavation and off-site disposal of soil underlying the Site to a minimum depth of 2 feet below surface, except for three geographically limited areas where shallower/alternative excavation procedures are proposed to protect existing infrastructure without compromising protectiveness. These three areas are as follows:
    1) Immediately adjacent to and beneath the HVAC unit adjacent to the Shop Building on the eastern side of the courtyard.
    2) Immediately adjacent to and beneath the arcade support posts and footings abutting the Classroom Building on the western side of the courtyard.
    3) Immediately adjacent to and beneath the elevated HVAC scaffolding adjacent to the Classroom Building on the western side of the courtyard, north of the arcade.
- Removal and off-site disposal of the existing hardscape materials.
- Construction of an engineered protective barrier (EPB) consisting of colored geotextile filter fabric and a minimum of two feet of compacted soil, or a combination of compacted soil and pavement, to prevent direct exposure of any remaining PCBs left in place at depth.
- On-site disposal of PCB-impacted soils beneath the EPB with a current average concentration of 0.397 mg/kg. This average was calculated using USEPA's ProUCL software and represents the upper limit of the true average concentration at the Site with 95% confidence.
- Preparation of an air monitoring plan consistent with South Coast Air Quality Management District Rules 1466 and 403 to ensure monitoring and mitigation of fugitive dust and particulates are implemented during cleanup activities.
- Implementation of land use controls to ensure the EPB remains intact and prevent future residential use of the property.

The PCB regulations in 40 CFR § 761.61(c) require that a determination of no unreasonable risk of injury to health or the environment be made by USEPA in connection to its risk-based approvals. USEPA believes implementation of the remedial actions described in the Application, as modified by the conditions below, will pose no unreasonable risk of injury to health or the environment. This determination of no unreasonable risk under 40 CFR § 761.61(c) applies strictly to areas located within the Site's boundary and the remedial actions proposed in the Application.

Additionally, USEPA analyzed the Site for future climate change vulnerabilities using the *Region 9 Land, Chemicals and Redevelopment Climate Vulnerability Screening Tool* and determined that the Site is not at significant risk for flooding, wildfire, sea-level rise, coastal inundation, or groundwater rise. Furthermore, any future climate vulnerabilities will be addressed and minimized by implementation of the activities described in the Application by removing PCB-impacted soils to very low levels.

USEPA is approving LAUSD OEHS's Application with the following conditions pursuant to 40 CFR § 761.61(c) (i.e., risk-based disposal standards of TSCA):

USEPA Conditions of Approval and Additional Comments:

1. **Land Use Controls:** A land use control in the form of a Land Use Covenant ("LUC") shall be recorded in accordance with California state law to prohibit residential use. The LUC shall also, at a minimum, include the following provisions: (1) a statement indicating that USEPA will be a third party beneficiary to the LUC with enforcement rights, (2) language stating that USEPA will be notified in writing if land use and/or property ownership changes, (3) a statement indicating that a Soil Management Plan and an Operation & Management Plan for the EPB will be developed, submitted to USEPA, and that the USEPA-approved plan will be implemented to ensure the EPB remains intact as well as guide any future work at the site that requires breaching the EPB, (4) language stating that the conditions of the LUC run with the land and shall be binding on future owners and occupants, and (6) a statement indicating both the maximum PCB concentration of materials left in place beneath the EPB and the 95% UCL of the mean total PCB concentrations left in place beneath the EPB based upon all available data collected from the Site (inclusive of verification sampling). A draft LUC shall be submitted to USEPA for review within 180 days after submitting the PCB Cleanup Report.

   In addition, USEPA is requiring that a coordinate survey of the Site boundary and EPB shall be included in the LUC as follows:

   a. The boundary of use restriction shall be defined as a polygon.

   b. The longitude and latitude of each polygon vertex shall be established as follows:

      i. In the format of decimal degrees.
      ii. With a precision of at least seven decimal places.
      iii. Negative sign for west longitude.
      iv. Using the World Geodetic System 1984 datum.

2. **EPB Construction**: In addition to the specifications described in Appendix E of the Application, any high-strength geotextile fabric selected by LAUSD OEHS or its contractors must be brightly colored so that it shall distinctly contrast the surrounding media for the purpose that it be as easily distinguishable as possible during any future construction and/or excavation efforts at the Site that may encounter it. The selected high-strength geotextile fabric shall also be installed in such a manner that it lines the bottom surface of all excavated areas – regardless of the depth of those surfaces – created during implementation of the remedial actions described

in the Application as modified by the conditions of this Approval. To ensure robust demarcation and separation between the new backfill and extant media, adjacent sheets of the selected high-strength geotextile fabric shall overlap as described in the Application such that a single, functionally continuous surface (i.e., with as few vertical or horizontal gaps as possible) remains throughout the entirety of excavation envelope at the Site.

3. **Areas where shallower/alternative excavation procedures are proposed to protect existing structures:** Once the shallower/alternative excavation procedures described for the three areas in the Application and referenced above (i.e., the immediate areas surrounding the HVAC units and the arcade support posts) have been implemented, the remaining surfaces at the bottom of the excavated areas shall be covered with overlapping sheets of brightly colored, high-strength geotextile fabric in accordance with Condition #2 of this Approval.

4. **Areas of additional excavation to accommodate tree planting holes:** Once the additional excavation procedures described for areas where trees are to be planted have been implemented, the remaining surfaces at the bottom of the excavated areas shall be covered with overlapping sheets of a brightly colored, high-strength geotextile fabric in accordance with Condition #2 of this Approval. If necessary for the health of the trees to be planted, a lower strength and/or more porous geotextile fabric may be utilized provided that it remains brightly colored and otherwise installed in accordance with Condition #2 of this Approval. Should this alternative approach become necessary, it shall constitute a contingency event and be documented in accordance with Condition #12 of this Approval.

5. **Stockpiling of Soils for Off-Site Disposal:** LAUSD OEHS and its contractors shall comply with the provision of 40 CFR § 761.65(c)(9) if stockpiling for off-Site disposal.

6. **Disposal of PCBs:** LAUSD OEHS and its contractors shall dispose of all PCB waste that it generates during the PCB cleanup in accordance with the TSCA PCB regulations and other applicable federal, state, and local regulations. In determining the disposal method for the waste, LAUSD OEHS and its contractors must comply with the anti-dilution requirements in 40 CFR § 761.1(b). All bulk PCB remediation waste (i.e., soil and hardscape materials) must be disposed of in accordance with the requirements in 40 C.F.R. § 761.61(a)(5). LAUSD OEHS and its contractors must select appropriate disposal facilities based on the in-situ PCB concentrations of the remediation waste.

7. **PCB Cleanup Waste Disposal**: Cleanup waste (e.g., personal protective equipment, rags, gloves, booties, disposable sampling equipment) shall be disposed of in accordance with 40 CFR § 761.61(a)(5)(v). Disposal of all waste shall be in accordance with all federal, state, and local regulations.

8. **Verification Sampling:** The results of the verification sampling shall be used conjunction with any data from discrete samples reflective of soil left in place beneath the EPB to recalculate the upper limit of the true average concentration at the Site with 95% confidence. This value shall then be recorded in the land use control mechanism in accordance with Condition #1 of this Approval.

9. **Excavation Backfill:** The analytical results from the testing of the imported backfill shall be included in the cleanup completion report.

10. **Decontamination**: LAUSD OEHS and its contractors shall decontaminate non-disposable sampling tools and equipment, as well as movable equipment used during cleanup and/or additional sampling in accordance with Section 5.11 of the Application. These procedures shall be implemented in a manner that is protective of human health and the environment, and consistent with the requirements in 40 CFR § 761.79(e). Decontamination residues resulting from the mechanical removal of soil must be collected and disposed of at their original concentrations in accordance with the requirements in 40 CFR § 761.79(g)(2). PODF used for decontamination must be collected, characterized at a rate of one sample per 55-gallon drum, and disposed of in accordance Section 5.12.6 of the Application.

    In addition, the decontamination that occurs during implementation of the remedial actions described by the Application, as amended by the conditions of this Approval, shall be documented and maintained in accordance with 40 CFR § 761.61(f)(2). This documentation shall be included in the cleanup completion report.

11. **Contingencies:** Should any of the contingency plans described in Section 7.0 of the Application become necessary, LAUSD OEHS and its contractors shall document the implementation of that/those contingency plan(s) to be implemented and include it in the cleanup completion report. This documentation shall include at a minimum a description of the need for the contingency plan to be implemented, the subsequent actions taken to address the situation, and the justification for those actions.

12. **PCB Cleanup Completion Report**: LAUSD OEHS and its contractors shall submit a PCB cleanup report within 60 days of completion of the cleanup that includes all relevant data and justification demonstrating that the work completed is consistent with this Approval. In addition to the reporting elements described in Section 5.13 of the Application, and the terms of Conditions #9 through #11 of this Approval, it must also address, at a minimum, all the reporting requirements set forth at 40 CFR § 761.61(a)(9) and 40 CFR § 761.125(c)(5) and include figures and GPS coordinates depicting the location and results for all Site characterization and verification samples.

13. **Procedures to Submit Reports, Documentation, and Correspondence to USEPA:** LAUSD OEHS and its contractors shall follow the below procedures to submit reports and documentation required in this Approval to USEPA and to send correspondence to USEPA related to this Approval:

    a. The title of the report or the subject line on documentation and correspondence (inclusive of emails) shall include the PCB site name ("PCB Site") and the PCB cleanup site identification number ("PCB SITE ID") assigned by USEPA. Specific to this USEPA Approval are the following: the PCB Site is "Bethune Middle School", the PCB SITE ID is "CATSCA111064", and the USEPA project manager is Christian Baker (baker.christian@epa.gov).

b. You must identify in advance any confidentiality claims regarding information you submit to USEPA. If no claim of confidentiality accompanies the submitted information, then such information may be made available to the public by USEPA without further notice to LAUSD OEHS. Prior to submitting to USEPA any information that you claim is confidential, you must contact USEPA about document submission procedures for submitting to USEPA with an assertion of business confidentiality. Your submission must comply with the requirements of 15 USC 2613 and 40 CFR Parts 2 and 703.

c. Except as otherwise specified in these instructions, all documentation (e.g., reports), correspondence, and other written communications shall be submitted to USEPA electronically via email to the USEPA project manager (baker.christian@epa.gov) with a courtesy electronic copy via email to R9LandSubmit@epa.gov. Please include the PCB SITE ID (i.e., "CATSCA111064") and the PCB Site name (i.e., "Bethune Middle School") in the email's subject line.

14. **Future Proposed Modification to Cleanup Plan:** LAUSD OEHS and its contractors shall request any changes to the approved cleanup plan via email to USEPA, and USEPA will provide any response to the request via email.

LAUSD and its contractors must comply with and implement the conditions in this approval. This approval does not relieve LAUSD OEHS or its contractors from complying with all other applicable federal, state, and local regulations and permits. Departure from the conditions of the Approval without prior written permission from USEPA may result in the commencement of proceedings to revoke this Approval and/or an enforcement action. Nothing in this Approval bars USEPA from imposing penalties for violations of this Approval or for violations of other applicable TSCA PCB requirements or for activities not covered under this approval.

This approval only applies to the Site. USEPA reserves the right to require additional characterization and/or cleanup of PCBs at the Site if new information during additional site characterization, cleanup verification, and/or during future post-cleanup activities show that PCBs remain at the Site above the approved PCB cleanup level or change of land use (e.g., redevelopment or post-redevelopment) at the property. In addition, USEPA may require cleanup of areas immediately adjacent to the Site if those areas are found to be impacted by PCBS from the Site. If additional information demonstrates that USEPA cannot sustain the no unreasonable risk determination, USEPA will modify or revoke this approval. In case of conflict between the Application and applicable requirements in 40 CFR Part 761, the applicable requirements in 40 CFR Part 761 take precedent.

USEPA encourages LAUSD and its contractors to reduce the potential impacts that PCB cleanups may have on the environment and strongly recommends adherence, as feasible, to the guidelines found at https://www.epa.gov/greenercleanups/epa-principles-greener-cleanups. Please consider Greener Cleanups Best Management Practices (BMPs) that are compatible with the planned remedial activities and include discussion of any selected BMPs in the Cleanup Completion Report. Cleanup parties may utilize the Greener Cleanups BMP Checklist from the ASTM Standard Guide for Greener Cleanups, available at https://www.astm.org/Standards/E2893.htm, and/or a Greener Cleanups BMP Checklist for PCB Cleanup Sites developed by USEPA Region 9 that identifies BMPs relevant to activities

commonly conducted at PCB cleanup sites. The Region 9 BMP Checklist and supporting information is available upon request.

USEPA appreciates the opportunity to assist LAUSD OEHS with this PCB cleanup. If you have any questions regarding this Approval, please contact Christian Baker by telephone at (415) 972 – 3883 or by email at baker.christian@epa.gov. Thank you for your cooperation.

Sincerely,

ADRIENNE PRISELAC

Digitally signed by ADRIENNE PRISELAC
Date: 2024.01.18 11:35:04 -08'00'

for Claire Trombadore, Director
Land, Chemicals, and Redevelopment Division

Cc(electronic): Filmon Tesfaslasie, LAUSD OEHS
Mark Feldman, Tetra Tech