Message

From: Santos, Carmen [Santos.Carmen@epa.gov]
Sent: 2/11/2014 6:58:33 PM
To: Cepko, Russ P [Russ.Cepko@cbs.com]
CC: Lieben, Ivan [Lieben.Ivan@epa.gov]; Wall, William D [William.Wall@cbs.com]; Groy, Jeff [Jeff.Groy@cbs.com]; McDaniel, Doug [McDaniel.Doug@epa.gov]; Rollins, Christopher [Rollins.Christopher@epa.gov]; Jones, Joel E. [Jones.Joel@epa.gov]; Armann, Steve [Armann.Steve@epa.gov]; Robert.Krug@dtsc.ca.gov; Chandler, Phil@DTSC [Phil.Chandler@dtsc.ca.gov]; lbrausch@consolidated.net
Subject: RE: PCBs: USEPA R9 Reiterated Request for PCB Cleanup Application - Former Westinghouse Facility, Rancho Dominguez, California

Hello Mr. Cepko:

Thank you for your clarifications.

Our attorney will discuss the matters in your reply upon receiving CBS attorney's phone call.

Thank you for your courtesies.

Sincerely,

Carmen D. Santos
PCB Coordinator
USEPA Region 9 (WST-5)
Waste Management Division
75 Hawthorne Street
San Francisco, CA 94105
Voice: 415.972.3360
santos.carmen@epa.gov

"Think left and think right and think low and think high. Oh, the thinks you can think up if only you try!" Dr. Seuss

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From: Cepko, Russ P [mailto:Russ.Cepko@cbs.com]
Sent: Monday, February 10, 2014 2:15 PM
To: Santos, Carmen
Cc: Lieben, Ivan; Wall, William D; Groy, Jeff; McDaniel, Doug; Rollins, Christopher; Jones, Joel E.; Armann, Steve; Robert.Krug@dtsc.ca.gov; Chandler, Phil@DTSC; lbrausch@consolidated.net
Subject: RE: PCBs: USEPA R9 Reiterated Request for PCB Cleanup Application - Former Westinghouse Facility, Rancho Dominguez, California

Dear Ms. Santos, we acknowledge receipt of your email below. As you know, CBS has conducted numerous investigations and remedial work at this facility since the 1990s including admission into the state voluntary cleanup program in 2006. The Voluntary Cleanup Program Agreement included a scope of work with phasing that clearly

showed the interior building work to be done as phase 2. CBS has notified USEPA of our philosophy for the interior of the facility which includes first a general cleaning and then sampling of the building components. The post cleaning sample results will form the basis for a PCB Mega Rule plan for decontamination. Until the sampling results are developed, CBS is unable to prepare and submit a meaningful Mega Rule decontamination plan. We continue to believe this is the most prudent, logical and expeditious approach.

Our attorneys will be in contact with your attorney to further discuss this approach. However, we note that the bases you list for your referral to the enforcement division has several inaccuracies which we feel compelled to correct:

1. As we have stated before, neither CBS nor Westinghouse was ever an owner of the facility. A unit of the former Westinghouse Electric Corporation, to which CBS is a successor, indeed operated a repair facility at this location from 1958 till 1992. Westinghouse operated at this facility under a long term lease with the building owner.
2. Westinghouse exited the repair business and subleased the facility to several subsequent companies which also operated the facility as a repair facility, including the repair of electrical equipment containing PCBs.
3. The lease that Westinghouse held for this facility was terminated in 2004.
4. Since neither Westinghouse nor CBS was ever an owner of the property or buildings, and is not currently an owner or operator at the facility or has any control/responsibility for current site operations, it is not clear to us why USEPA would require a use authorization from CBS for current operations.
5. CBS is interested in expediting the cleanup of the building interior. We believe our first phase cleaning will help towards that end and remain committed to beginning that process as soon as possible.

Russ Cepko

From: Santos, Carmen [mailto:Santos.Carmen@epa.gov]
Sent: Friday, February 07, 2014 5:52 PM
To: Cepko, Russ P
Cc: Lieben, Ivan; Wall, William D; Groy, Jeff; McDaniel, Doug; Rollins, Christopher; Jones, Joel E.; Armann, Steve; Robert.Krug@dtsc.ca.gov; Chandler, Phil@DTSC
Subject: PCBs: USEPA R9 Reiterated Request for PCB Cleanup Application - Former Westinghouse Facility, Rancho Dominguez, California

Dear Mr. Russell Cepko:

Thank you for the contact information you provided for CBS' attorneys.

This message is to reiterate USEPA Region 9's (USEPA's) requests for a risk-based PCB sampling and cleanup application (Application) under the Toxic Substances Control Act (TSCA) regulations in 40 CFR 761.61(c) to sample and remediate PCBs at the former Westinghouse facility (inclusive of the building) in Rancho Dominguez, California. In addition, this message notifies CBS of USEPA's RCRA Corrective Action Office's referral of the matters addressed here to its Enforcement Division for further consideration. We have requested the Application based on the fact that continued use of the Facility building (Building) is not allowed under the TSCA use authorizations in 40 CFR 761.30(u). In addition, PCB contamination present at and beyond the Facility is subject to characterization and cleanup under 40 CFR 761, Subpart D (inclusive of 40 CFR 761.61(c)).

As explained to CBS and its consultants, 40 CFR 761.30(u) prohibits the use of materials (e.g., building structures) contaminated with PCBs during "manufacture, use, servicing, or because of spills from, or proximity

to, PCBs ≥50 ppm, including those not otherwise authorized for use under this part. . ." unless those materials are decontaminated or cleaned up in accordance with 40 CFR 761 Subpart D (for example, 40 CFR 761.61(c)).

As previously discussed with CBS, continued use of the Building is subject to satisfactory completion of a PCB characterization and cleanup approved by USEPA under the applicable TSCA regulations. To that end, in previous correspondence, USEPA has stated that it considered CBS' December 20, 2013 and January 9, 2014 letters proposing an industrial cleaning inside the Building as the Application requested on August 23, 2013 and November 19, 2013. On January 2, 2014, we provided input to CBS on those letters in the form of draft conditions for approval of the Application.

However, we realized that CBS stated in its December 20, 2013 and January 9, 2014 letters that such letters are not the Application we previously requested under 40 CFR 761.61(c). Therefore, given CBS' lack of response to our request for a PCB sampling and cleanup Application submitted pursuant to 40 CFR 761.61(c), and the ongoing possible violations occurring at the Building, we referred this matter to our Enforcement Division.

At this point, we strongly urge CBS to submit the requested Application under 40 CFR 761.61(c) within 15 days after the date of this message to further characterize and remediate PCB contamination in the Facility Building and the Facility. The application must be addressed and submitted to Douglas K. McDaniel, Chief, Waste and Chemical Section, Enforcement Division at mcdaniel.doug@epa.gov.

Basis for USEPA's request for the PCB Sampling and Cleanup Application Under 40 CFR 761.61(c)

- Westinghouse operated the Facility as an electrical apparatus service and repair center where Westinghouse handled PCBs.

- We understand that (1) CBS sold the property to Pacific Industrial Partners, LLC and Pacific Equity Partners, LLC, and (2) Southern Counties Express is currently leasing the property from the current owners. We also understand the approximate 2-acre former Westinghouse Building is currently in use and that such use includes storage of materials (e.g., aluminum ingots) and office space within the Building. As discussed on August 14, 2013, the Building is currently contaminated with PCBs based on concrete surface wipes and bulk concrete samples collected by CBS' consultants in 2007 from certain locations within the Building.

- The cleanup of PCB contamination at the Facility and disposal of PCB remediation waste is subject to cleanup and disposal requirements in the TSCA PCB regulations in 40 CFR 761, Subpart D (inclusive of 40 CFR 761.61).

- CBS' PCB characterization sampling inside the Facility Building conducted some years ago demonstrate the Building is contaminated with PCBs.

- The Building is currently in use and occupied by tenants since 6 to 7 years ago and CBS has not remediated PCBs in the Building consistent with TSCA requirements for continued use in 40 CFR 761.30(u)(1). Tenants in the Building may be potentially exposed to PCBs in the Building. Therefore, the cleanup of PCBs in the Building is necessary and must be expedited to prevent a potential risk of injury to health and/or the environment.

- Continued use of the Building while it is still contaminated with PCBs is not authorized in 40 CFR 761.30(u)(1).

- Disposal of PCBs to be removed from the Facility (inclusive of the Building), as well as additional characterization sampling and cleanup of PCBs must be approved by USEPA beforehand consistent with 40 CFR 761.61(c) requirements.

- 40 CFR 761.61(c) is a more appropriate cleanup option for the Facility (inclusive of the Building) because of the size of the Facility and the need for sampling media not covered under the self-implementing cleanup option in 40 CFR 761.61(a). Further, 40 CFR 761.61(c) provides flexibilities for sample collection and cleanup verification approaches not included in the 761.61(a) cleanup option.

If you have any questions concerning this message, please call me at 415.972.3360 or have CBS' attorney(s) call Ivan Lieben (Office of Regional Counsel) at 415.972.3914.

Thank you for your courtesies and have a nice day.

Sincerely,

Carmen D. Santos
PCB Coordinator
USEPA Region 9 (WST-5)
Waste Management Division
75 Hawthorne Street
San Francisco, CA 94105
Voice: 415.972.3360
santos.carmen@epa.gov

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From: Cepko, Russ P [mailto:Russ.Cepko@cbs.com]
Sent: Thursday, February 06, 2014 12:24 PM
To: Santos, Carmen
Cc: Lieben, Ivan; Wall, William D; Groy, Jeff
Subject: RE: PCBs: Former Westinghouse Facility, Rancho Dominguez, California

Carmen,
Good to hear from you, hope all is well. We continue to believe that we should not need an approval for the cleaning work or a use authorization . Contact information for our attorneys is listed below:

William Wall
William.Wall@cbs.com
Vice President, Senior Counsel/ Environmental
412-642-3580
20 Stanwix Street
Pittsburgh, Pa 15222

Jeffrey B. Groy
Vice President, Senior Counsel/Environmental

CBS Law Department
CBS Corporation
2 East Mifflin Street, Suite 200
Madison, WI 53703
Work/Cell: 262-705-0579
E-mail: jeff.groy@cbs.com

From: Santos, Carmen [mailto:Santos.Carmen@epa.gov]
Sent: Tuesday, February 04, 2014 4:51 PM
To: Cepko, Russ P
Cc: Lieben, Ivan
Subject: PCBs: Former Westinghouse Facility, Rancho Dominguez, California

Hello Russ:

We are completing our approval of the proposals that you sent on December 20, 2013 and January 9, 2014 regarding PCB contamination at the subject former Westinghouse facility building. We were not able to send that approval earlier as we had planned.

Please provide the contact information (phone numbers and e-mail addresses) for CBS' attorneys Mr. J. Groy, Esq. and Mr. W.D. Wall, Esq..

Thank you for your courtesies. I look forward to your reply.

Sincerely,
Carmen

Carmen D. Santos
PCB Coordinator
USEPA Region 9 (WST-5)
Waste Management Division
75 Hawthorne Street
San Francisco, CA 94105
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From: Santos, Carmen
Sent: Wednesday, January 15, 2014 12:41 PM
To: 'Cepko, Russ P'
Cc: Groy, Jeff; Wall, William D; Brausch, Leo M; Robert.Krug@dtsc.ca.gov; diana.olson@hagerpacific.com; markc@hmcinc.box; Rick.Freudenberger@wspgroup.com; Dave.Rykaczewski@wspgroup.com; Glen.Rieger@wspgroup.com; lbrausch@consolidated.net
Subject: RE: Former Westinghouse Facility, Rancho Dominguez, California

Hello Russ:

Thank you for your letter which I have reviewed. We greatly appreciate CBS' initiative in proposing to take some steps toward initial decontamination (not that effective in removing PCBs from certain surfaces) of the building at the former Westinghouse electric apparatus repair and servicing in Rancho Dominguez, California.

As we explored earlier, USEPA will move forward with a formal approval of the procedures included in CBS' letter under 40 CFR 761.61(c). In addition, as I explained earlier, the continued use of a building contaminated with PCBs at the former Westinghouse facility in Rancho Dominguez, California is a matter that needs to be resolved. An approval by USEPA under 40 CFR 761 Subpart D of the TSCA regulations needs to be issued, in my opinion, to begin a path forward in resolving this matter. Based on 40 CFR 761.30(u) which is TSCA's use authorization for decontaminated materials (structures included), in order to use a structure that is contaminated with PCBs that structure must be decontaminated consistent with the TSCA PCB requirements in 40 CFR Subpart D (includes 761.61(c)), 40 CFR 761.79, or other specifically stated regulatory authorities.

While I understand your statement that Westinghouse never owned the building, information we have via earlier conversations with DTSC indicate that Westinghouse was the owner of the property and buildings at the facility. However, CBS states in its letter that this is not the case. In our opinion, Westinghouse conducted operations at the building for many years which involved handling of PCBs (and such PCBs at concentration equal to or above 50 ppm) that resulted in PCB contamination of the building.

USEPA will be sending a letter approving with conditions under 40 CFR 761.61(c) CBS' proposed initial decontamination of the building to facilitate additional characterization activities and ultimate cleanup of PCBs inside the building. Our plan is to have such approval letter transmitted to CBS by early next week (week of January 20, 2014), or if possible, by the end of this week.

We appreciate CBS' cooperation on the matters addressed in this message.

Thank you for your courtesies and have a nice day.

Sincerely,

Carmen D. Santos
PCB Coordinator
USEPA Region 9 (WST-5)
Waste Management Division
75 Hawthorne Street
San Francisco, CA 94105
Voice: 415.972.3360
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From: Cepko, Russ P [mailto:Russ.Cepko@cbs.com]
Sent: Thursday, January 09, 2014 12:16 PM
To: Santos, Carmen
Cc: Groy, Jeff; Wall, William D; Brausch, Leo M; Robert.Krug@dtsc.ca.gov; diana.olson@hagerpacific.com; markc@hmcinc.box; Rick.Freudenberger@wspgroup.com; Dave.Rykaczewski@wspgroup.com; Glen.Rieger@wspgroup.com; lbrausch@consolidated.net
Subject: RE: Former Westinghouse Facility, Rancho Dominguez, California

Carmen, please see our letter response attached.