HAZLETON CREEK PROPERTIES, LLC
www.hazletoncreekproperties.com
info@hcpsoil.com

4000 4th Street
Moosic, PA 18507

Phone: 570-207-2000 ext. 101
Fax: 570-457-3996

VIA OVERNIGHT MAIL

June 8, 2018

Mr. Scott Rice
U.S. Environmental Protection Agency Region III
1060 Chapline Street
Wheeling, West Virginia 26003

Re: Hazleton Creek Properties, LLC's Supplemental Response to US EPA Notice of Noncompliance and Information Request
Docket Number: 03-18-0016

Dear Mr. Rice:

This is a supplemental response (Response) by Hazleton Creek Properties, LLC (HCP) to U.S. EPA Region III's April 24, 2018 Notice of Non-Compliance and Information Request (the "Notice") issued pursuant to the Toxic Substances Control Act (TSCA). As stated in its May 29, 2018 correspondence, HCP respectfully disagrees with and specifically objects to U.S. EPA's allegations in the Notice.[1]

HCP is in full compliance with TSCA, the federal polychlorinated biphenyls (PCBs) regulations at 40 CFR Part 761 and U.S. EPA's long-standing policy and guidance as it pertains to PCBs. For example, U.S. EPA's 2014 PCB Question & Answer Manual specifically states that soil with concentrations < 50ppm from a pre-1978 release may be moved to another site and used as fill. Further, the Manual states that disposal of pre-1978 waste at PCB concentrations <50ppm are not regulated under TSCA. (U.S. EPA's 2014 PCB Question & Answer Manual, pp. 46-47).

HCP respectfully requests a meeting with the appropriate senior U.S. EPA officials in Philadelphia to discuss this matter in detail. An HCP representative will contact U.S. EPA to arrange such a meeting very soon.

---

[1] HCP's general objections to the Notice are contained in Attachment A and incorporated by reference to this Response. Without waiving any objections, HCP submits this Response without conceding that the Notice or any part thereof is authorized under TSCA or that the Notice is otherwise lawful or reasonable. HCP reserves its rights to challenge any information or documents provided pursuant to this Notice in any proceeding or subsequent request and reserves all defenses available under law in any action or proceeding.

I. INTRODUCTORY STATEMENT

Based on your previous personal experience with the HCP Remediation Project in 2005-2007, you are aware that HCP is conducting a voluntary site remediation project at a 277-acre abandoned mines land property (referred to in this Response as "the HCP Site"), which is located in the City of Hazleton, Pennsylvania. Voluntary remediation work at the HCP Site has been ongoing for many years pursuant to a Pennsylvania Act 2 Special Industrial Area Consent Order and Agreement (SIA Agreement) entered into on December 6, 2005 between PA DEP, the Hazleton Redevelopment Authority (HRA) (former owner of the site) and HCP. The SIA Agreement outlines the remediation obligations to achieve the Act 2 non-residential statewide health standards and site-specific standards approved by PA DEP for the HCP Site. Completion of these remediation activities will eliminate significant environmental concerns and will provide viable economic redevelopment opportunities in the Hazleton region.

As described more fully in the SIA Agreement and other documents enclosed, the HCP Site was severely impacted by past deep mining and surface mining activities which resulted in over 200 acres of abandoned mine pits and spoil piles. As part of this, Region III is aware that the pre-existing site contamination included detectable PCB levels in soil.

Moreover, the Act 2 site investigation Baseline Environmental Report (BER) approved by PA DEP in 2005 confirmed that the groundwater under the HCP site is not a used aquifer, but is a contaminated mine pool, 600 feet under the site that is not directly or indirectly connected to any public or private water supplies. In addition, in 2007 and 2008, assessments lead by Myles Bartos, EPA On-Scene Coordinator of Region III, conducted testing of off-site private drinking water sources and reconfirmed that the private wells were not impacted by the pre-existing site conditions and were not directly or indirectly connected to the mine pool. Ten years of extensive groundwater monitoring at the Hazleton site has further confirmed that the remediation activities and the Regulated Fill, Clean Fill and other DEP approved materials placed at the site by HCP have not adversely impacted groundwater and surface water. The quarterly groundwater results consistently show PCBs as "non-detect."

The project requires HCP to place over 10 million cubic yards of DEP approved off-site material to fully cap waste disposal areas and bring the site to final grades to allow redevelopment of the sit and to the benefit of the local community. As authorized by PA DEP, over 3.2 million cubic yards (or approximately 4.8 million tons) of approved residual waste material has been accepted and placed at over 150 acres of the HCP Site since 2007. Placement of materials is conducted pursuant to strict acceptance criteria, rigorous testing and protective measures (including groundwater monitoring) required by PA DEP permits and other HCP operating practices. Availability of residual waste material for the HCP Site dictates the speed at which the remediation project will be completed. The longer it takes to complete the remediation project, the longer community redevelopment and local economic resources will remain unproductive or squandered. U.S. EPA's Notice has chilled HCP's ability to locate acceptable residual waste material and will slow the progress of remediation at the site. In fact US EPA's action has the potential to render the entire Hazleton remediation project non-viable. Obviously, this would be a multi-faceted tragedy with no discernible counterbalancing environmental benefit.

From a broader perspective, HCP believes a final decision by U.S.EPA to interpret the PCB rules as expressed in the Notice will have significant negative economic impacts on PA DEP's environmental site remediation/cleanup programs and solid waste programs.

HCP has located and reviewed information and documents responsive to US EPA's Notice which are produced on the enclosed disk. For ease of reference, these documents are bates-stamped "HCP000001-HCP000514" and an index to the documents is attached to this Response.

III. HCP's Response to the Notice

The Notice cites information that is based on emails U.S. EPA relied upon from PA DEP (as referenced in the table on page 2 of the Notice). HCP understands that U.S. EPA did not have immediate access to, or review, other sources of information before transmitting the Notice. HCP respectfully requests that U.S. EPA transmit copies of all PA DEP's emails and documents which are referenced in, or in any way relate to, the Notice to: William Rinaldi, President, Hazleton Creek Properties, LLC, 4000 4th Street, Moosic, PA 18507.

The Notice alleges that "on nine different occasions from March 2017 through February 2018, Hazleton Creek Properties, LLC accepted PCB-containing soils... at your Hazleton Creek Properties, L.L.C. properties, notated as the "Route 924 Mined Lands" and "Lyndon Lane and School Street" Sites . . . ." While HCP operates the Route 924 location, the site at Lyndon Lane and School Street (the "Moosic Site") is not owned or controlled by HCP and HCP has no involvement or affiliation with the Moosic Site. HCP objects to the Notice as it improperly refers to the Moosic Site as being affiliated with HCP.

The PA DEP emails alleging that HCP accepted the nine (9) listed sources and placed them at the Hazleton and Moosic sites are inaccurate and misleading. In fact, as described below, HCP only accepted four (4) of the nine (9) listed sources containing PCBs 2 ppm or greater and the Moosic Site did not receive or accept, by way of HCP, any of the nine (9) sources listed in the Notice. In addition, the timeframes for acceptance as alleged in the Notice is also not correct.

A. Sources Not Accepted at the HCP Site

Please be advised that the following five (5) sources identified in the Notice were not accepted at the HCP Site:

- La Central Building – New Source #2711
- Barnum Landing – FP-001 #2340
- Barnum Landing – FP-001 #2341
- Glassworks #2335
- 425 Union Road – New Source #2191

As previously discussed above, contrary to PA DEP's assertion and U.S. EPA's allegation, the HCP Site did not accept material from the 425 Union Road

construction project containing concentration of PCBs of 2 ppm or greater. The HCP Site accepted Historic Fill containing both soil and concrete, however, this material did not include material from stockpile 22 (sample SP-22) that had PCBs concentrations of 2ppm or greater. By letter dated May 3, 2017 to Roger Bellas, Regional Waste Management Manager of the PA DEP Northeast Regional office, HCP expressly notified PA DEP that material from Sample Stockpile SB-22 (with a PCB-1254 result of 6.8 ppm) would not be shipped to HCP. ("The client did not want to resample the stockpile SB-22, ***and has informed us that he will be shipping the material to another facility***"). The SP-22 material as sent by the generator went to another site unknown to HCP.

B. Sources Accepted at the HCP Site

The following describes the sources of material identified in the Notice that were accepted at the HCP Site. All sampling and testing of Regulated Fill and Clean Fill materials is performed on a cubic yard basis in compliance with PA DEP's Management of Fill Policy, Appendix A. All materials are received and recorded on scale receipts in tonnage. By agreement with PA DEP, the standard conversion used is 1 CY = 1.5 tons.

- **JSF Henderson Road, King of Prussia, PA - New Source #2579**

The source of this material is a construction project located at Henderson Road, King of Prussia, PA. The commercial construction project is not associated with any TSCA PCB Cleanup project. The excavated material was received as Historic Fill as that is defined under the Regulated Fill Permit WMGR096NE001 and the PA DEP Management of Fill Policy (#258-2182-773). The material was a conglomerate with soil, concrete and block. The material was submitted to PA DEP by letter dated October 30, 2017 under a New Source submittal for the 10-day review process under WMGR096NE001. The material was sampled and tested consistent with the PA DEP Management of Fill Policy, Appendix A. The material was deemed approved by PA DEP and based on scale receipts, was received at the HCP Site between 11/20/17 and 12/13/17. The total tonnage received from this source was 4,256.27 tons. However, only one (1) test sample had PCB concentrations of 2 ppm or above. Therefore, the total volume of material with PCB concentrations of 2 ppm or greater actually received by HCP was approximately 562 cubic yards. The total concentration of PCBs was 6.75 ppm. The material from this source was placed in Unit C within the eastern portion Mammoth pit of the PA DEP approved Regulated Fill Placement Area. The material is currently beneath approximately thirty (30) feet of cover of Regulated Fill and Clean Fill materials. The placement location is within a quadrant bounded by the following latitude/longitude: The northwest corner of the placement location is, 40, 56", 49.9" degrees north, 75,59',02.3" degrees west. The northeast corner is 40, 56". 50.6" degrees north and 75, 59',02.7" degrees west. The southwest corner of the quadrant representing the approximate placement area is 40, 56',50.1" degrees north, 75, 59',01.7 degrees west. The southeast corner is 40,56",50.8" degrees north and 75,59',01.4" degrees west. The recorded elevation at placement ranged from 1620 -1627 ft elevation. The location of this placement is marked on the map at HCP000514 as #1. This material was confirmed to be pre-1978 material based on Sanborn maps confirming no excavation or placement of material after 1976 plus other due diligence information on the site and provided by

the generator. Therefore, it was determined that this material is not PCB-remediation waste as that is defined under the PCB regulations.

- **85-89 Jane Street, NY, NY – New Source #2518**

  The source of this material is a construction project located at 85-89 Jane Street, NY, NY. This commercial construction project is not associated with any TSCA PCB cleanup project. The excavated material was determined to be Historic Fill as defined under WMGR096NE0001. It was predominantly concrete, block, and soil derived from demolition debris. This material was submitted to PA DEP under two (2) New Source submittals for the 10-day deemed approved process under WMGR096NE001, one for concrete and one for soil on September 22, 2017. The material was sampled and tested in accordance with PA DEP Management of Fill Policy, Appendix A and the applicable standards in New York. The material was deemed approved by PA DEP and based on scale receipts was received at the HCP Site between 2/8/18 and 4/27/18. The total tonnage received from this source was 393.06 tons. However, only one of the required test results detected PCB concentrations of 2ppm or greater. Therefore, the total volume of material received by HCP with PCB concentrations of 2ppm or greater is approximately 56 tons based on the required frequency of the test. The total PCB concentration was 7.73 ppm. The material from this source was placed in Unit B of the PA DEP approved Regulated Fill Placement Area in a location south of the railroad spur west of the WS-1 Water Supply Shed (Note: The source of the well is the mine pool a withdrawal approved by the Susquehanna River Basin Commission for use as dust control on the site and is not a source of drinking water). The small amount of material from this source is currently 5 to 10 feet below the surface covered by other sources of approved Regulated Fill and Clean Fill materials. The placement location is within a quadrant bounded by the following latitude/longitudes. The northeast corner of the placement location is 40,57',00.5 degrees north and 75,59',15.4" degrees west. The northeast corner is 40,57',00.4" degrees north and 75,59', 16.4 degrees west. The southwest corner is 40,57',01.4" degrees north and 75,59',15.6 degrees west. The southeast corner is 40,57',01.5" degrees north and 75,59',16.4" degrees west. The recorded elevation at the time of placement was 1584 to 1601 ft. elevation. The location of this placement area is marked on the map at HCP000514 as #2). Due diligence performed and records reviewed confirmed that there was no evidence of a spill or release on this property after April 1978. Further, the Phase 1 performed on the site concluded that the source of the PCBs detected were lighting ballasts containing PCBs which were not in use after 1978. Therefore, it was determined that this material is not PCB-remediation waste as that is defined under the PCB regulations.

- **Gowanus Village, Brooklyn, NY - New Source #2356**

  The source of this material is a construction project located at Gowanus Village, NY, NY. The excavation of the material that was received by HCP is not associated with a TSCA PCB cleanup project. However, a previous TSCA PCB cleanup was performed on a contiguous property which was a location of a power facility. The PCB contaminated material subject to the TSCA cleanup was determined by U.S. EPA to be prior to 1978. The material received by HCP was excavated under a

separate project by a separate contractor in a separate area and was not related to or connected to the TSCA project. The excavated material was a conglomerate of material primarily composed of concrete, block and soil. The material was submitted under one New Source submittal to PA DEP on June 16, 2017. The material was deemed approved by PA DEP and was received by HCP between 7/14/17 and 9/15/17. The total tonnage of material received from this source was 9,307.17 tons. Ten of fourteen tests performed had PCB concentrations of 2ppm or greater. The detected PCB was a single Aroclor with total PCB concentration of 20 ppm. The material was placed in Unit C of the Regulated Fill Placement Area in the eastern portion of the Mammoth pit near the southern highwall. The material is current covered by in excess of 40 feet of other DEP approved Regulated Fill and Clean Fill materials. The placement location is within a quadrant bounded by the following latitude/longitudes. The northwest corner of the placement location is 40,56',48.2 degrees north and 75,59'03.1" degrees west. The northeast corner is 40, 56',49.1" degrees north and 75,59',04.0" west. The southwest corner is 40,56',50.0" degrees north and 75,59',00.8" degrees west. The southeast corner is 40, 56',50.1 degrees north and 75,59',02.0" west. The recorded elevation at placement ranged from 1629 to 1637 ft. elevation. The location of this placement area is marked on the map at HCP000514 as #3. Information reviewed as part of the due diligence including the U.S. EPA TSCA cleanup reports, and property aerial maps confirm that the PCBs on-site are prior to 1978 and the material excavated and received by HCP was not associated with any TSCA PCB cleanup. Therefore, it was determined that this material is not PCB-remediation waste as that is defined under the PCB regulations.

- **Glassworks Aberdeen, NJ FP-001 #2336**

The source of this material is the Glassworks property located in Aberdeen, NJ. The source of the material is a construction project. The construction project is not associated with any TSCA PCB cleanup project. The material was predominantly concrete, soil or block. The material was submitted under two (2) New Source application submittals for the 10-day deemed approved process, one for concrete and one for soil, both on June 8, 2017. The material was sampled and tested consistent with PA DEP Management of Fill Policy, Appendix A and applicable NJ standards. The material was deemed approved by DEP and was received between 6/14/17 and 6/21/17. The total tonnage received from this source was 8,776.81 tons. However, only 1 of 39 samples of the approximately 3,000 tons of the concrete portion had PCB concentrations of 2 ppm or greater. Therefore, the total tonnage of material received by HCP from this source with PCB concentrations of 2 ppm or greater is approximately a maximum of 76 tons. The soil portion did not have PCB concentrations of 2 ppm or greater. The total concentration of PCBs was 5.059 ppm. The material was placed in Unit B of the Regulated Fill Placement Area. The material is currently covered by approximately 20-30 feet of PA DEP approved Regulated Fill or Clean Fill. The placement area is within a quadrant bounded by the following latitude/longitudes. The northeast corner of the placement area is 40,57',03.5" degrees north, 75,59',31.7" degrees west. The northeast corner is 40,57',03.4" degrees north and 75, 59",32.4" degrees west. The southwest corner is 40,59',31.7" degrees north and 75,57',04.2" degrees west. The southeast corner is 40,57',04.2" degrees north and 75,59'33.0" degrees west. The location of this placement area is marked on the map at HCP000514 as #4. Because concrete was the source of the

PCBs and the construction of the building was prior to 1978, it was determined that this material is not PCB-remediation waste as that is defined under the PCB regulations.

C. Responses to Other Information Requested by EPA

1. *Provide copies of each New Source application submitted to the Pennsylvania Department of Environmental Protection (PA DEP) as required under your Beneficial Use Permit WMGR096NE001 which included PCB-containing materials with PCB concentrations of 2 ppm or greater. Provide the dates that you or the sites in Hazleton and Moosic, PA accepted these PCB-containing materials.*

Response: Please refer to Section III.B above as it pertains to sources accepted at the HCP Site referenced in the Notice. Due diligence performed on the four (4) sources of material in the Notice with PCB concentrations of 2 ppm or greater that were accepted at the HCP Site demonstrates that such material was not PCB-remediation waste and acceptance is permitted by the PCB regulations at 40 CFR Part 761. The enclosed documents supporting this determination include laboratory analysis conducted by a PA DEP registered lab, due diligence or site background information, generator certifications, and other sufficient evidence demonstrating that acceptance of this material is compliant with TSCA.

2. *Provide copies of each FP-001 application submitted to the PA DEP as required under the PADEP Clean Fill Policy which included PCB-containing materials with PCB concentrations 2 ppm or greater. Provide the dates that you or the sites in Hazleton and Moosic PA accepted these PCB-containing materials.*

Response:

PA DEP Form FP-001 is not an "application". The form is submitted under the PA DEP Management of Fill Policy (Tech. Doc # 258-2182-773) as modified in August 7, 2010 for information purposes only (not the Clean Fill Policy). The FP-001 form did not exist prior to 2010. Placement sites are not required by regulation to maintain analytical records on these sources. Only one of the four (4) sources listed in the U.S. EPA letter that were accepted by HCP was a Clean Fill source. The FP-001 form and accompanying analytical test results for this source are enclosed.

3. *Provide the total amount of PCB-containing material with PCB concentrations of 2 ppm or greater that has been placed at your site in Hazleton and Moosic, PA.*

Response: Please refer to Section III.B and other responses above as they pertain to sources accepted at the HCP Site referenced in the Notice. The additional information EPA is requesting cannot be provided at this time. The information has not been located and it may no longer exist. For example, due to a scale house fire caused by vandalism at the HCP Site, HCP lost its scale receipts and GPS records on the location of the placement of source material received prior to 2010. HCP does not expect many records to be available in order to

accurately estimate the total volume of material with PCB concentrations of 2ppm or greater at the HCP Site.

Under Permit Condition 20 of WMGR096NE001 (Attachment E), HCP is only required to maintain analytical evaluations and waste analysis for five (5) years. In addition, due to a scale house fire caused by vandalism on the site, HCP lost all of its scale receipts and GPS records on the location of the placement of each source received prior to 2010.

4. *Provide a site map or schematic that describes and specifies the location, including lat/long coordinates of each cell or other specific unit, where PCB-containing material with PCB concentrations of 2 ppm or greater has been used as either construction material under PA Beneficial Use Permit WMGR096NE001 or as Clean Fill under the PA DEP Clean Fill Policy. Include information related to the depth of this material if it has been buried, including a description of the overburden or cap material.*

Response: A map depicting the entire 277-acre HCP Site and the PA DEP approved Regulated Fill Placement Area is enclosed. Materials received from the four (4) sources received by HCP were placed within the Regulated Fill Placement Area in Unit B and Unit C as marked on the map. Please refer to Section III.B above for additional details.

As a standard practice, HCP currently uses a hand-held GPS unit to record the approximate latitude/ longitude and depth of material received in a given day. Material identified in Section III.B above is now covered by a minimum of 10 feet to 50 feet of Regulated Fill and/or Clean Fill. The approximate placement location including latitude /longitude of each of the four (4) sources, has been depicted on the enclosed map. In some cases, the material from a source was accepted by HCP over a number of days or months and in these cases, the placement location of this source will be over a larger area.

5. *Describe the intended future use of the properties where PCB-containing material with PCB concentrations of 2 ppm or greater has been placed and the anticipated timeline for that intended future use. Include any information related to potential sale, transfer or other conveyance of the property.*

Response: Please refer to the foregoing responses. Upon completion of the remediation project conducted under the Act 2 Special Industrial Area (SIA) Agreement between HCP and PA DEP, the entire 277-acre HCP Site will be promptly redeveloped for commercial and light industrial redevelopment uses. HCP expects the redevelopment of a substantial portion of the Regulated Fill Placement Area (Unit B and Unit C) to commence within 5 to 7 years. As stated in the SIA Agreement, the redevelopment of the site is an "integral part of the remediation" and is required as a designated SIA area. The Site Redevelopment Plan was approved by PA DEP as part of the Baseline Environmental Report approved in January 2005. Detailed plans for the redevelopment of Unit A, Unit B and Unit C of the site were subsequently provided to PA DEP by HCP as part of the application for a Determination of Applicability (DOA) under WMGR096NE0001 in 2007. HCP. Subdivision approval for the entire property was received in 2006 with specific commercial, entertainment and general industrial districts.

The 277-acre property is currently owned by Hazleton Creek Properties, LLC. Under terms of the SIA Agreement, PA DEP must be informed in writing prior to any transfer of the property and HCP must provide any future owner with a copy of the SIA Agreement. Any transfer of the property that would include transfer of the Regulated Fill General Permit WMGR096NE001 (Permit Condition 10) or any other PA DEP permit, requires formal written notice to PA DEP and the new owner must agree in writing to accept all terms and conditions of the environmental permit and have their compliance history reviewed by PA DEP.

6. *Provide any documentation related to deed notices, deed restrictions, land-use covenants and other institutional controls as they relate to locations where PCB-containing materials with PCB concentrations of 2 ppm or greater were placed.*

Response: Under the provisions of the PA DEP approved Remediation Plan contained in the Baseline Environment Report, the SIA Agreement, the terms and conditions of WMGR096 and applicable portions of Chapter §287 and §250 of the PA DEP regulations, a number of institutional controls are required for the HCP Site. There is a permanent prohibition on the construction or use of any drinking water well or source on the 277-acre property. In addition, due to the fact that the remediation is being conducted to achieve the non-residential Statewide Health Standards (SHS) under Act 2, future development of the entire property is restricted to non-residential uses. Finally, under Permit Condition 10 of WMGR096NE001, HCP at the completion of the project is required to provide PA DEP with proof that information regarding the type of all material received and the location of placement has been recorded with the deed for all future conveyances or transfers.

In addition to these institutional controls, HCP has implemented other protective measures to ensure public health and the environment are protected during and after completion of the project. Most importantly, HCP has conducted a PA DEP approved enhanced groundwater and surface water monitoring program for ten (10) years with seven (7) upgradient and down-gradient monitoring wells and one (1) surface water monitoring point. A quarterly Trend Analysis is performed by an independent Pennsylvania Professional Geologist who has confirmed that the HCP Site has not caused any adverse impacts to groundwater or surface water. As a further protection, HCP has a bond in place to cover the cost of groundwater monitoring for ten (10) years after completion of the remediation project.

IV. The Four Sources Accepted by HCP Do Not Pose a Potential Threat to Public Health, Safety or the Environment

Placement of the four (4) sources of material at the HCP Site referenced in the Notice does not pose any potential threat to public health, safety or the environment. The Act 2 site investigation Baseline Environmental Report (BER) approved by PA DEP in 2005 confirmed that the groundwater under the HCP Site is not a used aquifer, but is a contaminated mine pool, 600 feet under the site that is not directly or indirectly connected to any public or private water supplies. In addition, in 2007 and 2008, assessments lead by Myles Bartos, U.S. EPA On-Scene Coordinator, conducted testing of off-site private drinking water sources and reconfirmed that the private wells were not impacted by the pre-existing site conditions and were not directly or indirectly connected to the mine pool. Ten years of extensive groundwater monitoring at the HCP Site has further confirmed that the remediation activities and PA DEP approved materials

placed at the site by HCP have not adversely impacted groundwater and surface water. The quarterly groundwater results at the HCP Site consistently show PCBs as non-detect.

In the approximately 15-month timeframe in which the four sources of Regulated Fill or Clean Fill with <50 ppm PCBs concentrations were accepted by HCP, HCP has placed over 516,000 tons of Regulated Fill and over 800,000 tons of total material at the HCP Site. The small quantity of material containing PCBs <50 ppm from these sources is now at depths ranging from 10 to 50 feet below the surface and is covered by PA DEP approved Regulated Fill and Clean Fill materials. Combined with the fact that the mine pool underlying the HCP Site is not connected to public or private water supplies, and other protective measures conducted by HCP (including the planned institutional controls discussed above), there is no direct or indirect pathway for exposure to the four sources of Regulated Fill or Clean Fill identified in the Notice. Therefore, the placed material in question does not pose any potential threat to public health or the environment.

V. REQUEST FOR MEETING

As HCP indicated above and in its May 29, 2018 letter, HCP respectfully requests a meeting with U.S. EPA leadership officials to resolve this matter promptly. HCP will be in touch shortly to discuss available dates for a meeting.

Respectfully submitted,

William Rinaldi,
President
Hazleton Creek Properties, LLC

cc: Harry T. Daw, U.S. EPA Region III
Walt Harner, Pennsylvania Department of Environmental Protection
George Hartenstein, Pennsylvania Department of Environmental Protection
Ali Morris, Pennsylvania Department of Environmental Protection

Attachment A: General Objections to Notice
Enclosure (bates-stamped documents)

HCP INDEX TO ENCLOSED DOCUMENTS

Briefing Paper on the Hazleton Remediation Project - Site History HCP000001- HCP000006

Documentation on Sources Accepted at HCP Site
- JSF Henderson Road (New Source #2579) HCP000007- HCP000067
- 85-89 Jane Street (New Source #2518) HCP000068- HCP000181
- Gowanus Village (New Source #2356)..... HCP000182- HCP000374
- Glassworks (FP-001 #2336)..... HCP000375- HCP000407
- 425 Union Road (New Source #2191)..... HCP000408- HCP000410

Baseline Environmental Report (BER) HCP000411- HCP000467

Act 2 Special Industrial Area (SIA) Agreement..... HCP000468- HCP000480

HCP Beneficial Use General Permit WMGR096NE001 ..... HCP000481- HCP000496

DEP Management of Fill Policy/Clean Fill Concentration Limits..... HCP000497- HCP000510

HCP Material Characterization Report – PCB Certifications Form HCP000511- HCP000513

Regulated Fill Placement Area Map – Placement Locations HCP000514

ATTACHMENT A TO
HAZLETON CREEK PROPERTIES, LLC'S RESPONSE TO US EPA NOTICE

HCP'S GENERAL OBJECTIONS TO THE NOTICE

HCP makes the following general objections to the Notice. These objections will not be repeated in responses to specific requests, but are applicable to each request as appropriate and are incorporated by reference into HCP's Supplemental Response to U.S. EPA's Notice of Noncompliance and Information Request.

1. HCP objects to U.S. EPA Region III's allegations as set forth in the Notice, including but not limited to EPA's preliminary determination of any alleged violation of the federal polychlorinated biphenyls ("PCB") regulations. HCP is in full compliance with TSCA, the federal PCB regulations at 40 CFR Part 761 and U.S. EPA's long-standing policy and guidance as it pertains to PCBs. HCP also objects to U.S. EPA's Notice to the extent it is inconsistent with the proper procedures for seeking information under TSCA and also inconsistent with and exceeds U.S. EPA's authority under TSCA.

2. HCP objects to the Notice on the grounds that it is based on inaccurate or incomplete information.

3. HCP objects to the Notice as it is legally and factually inaccurate and, as a result, has harmed HCP's efforts and financial ability to remediate the HCP Site as approved by PaDEP.

4. HCP objects to the Notice on the grounds that it seeks documents or information not in HCP's possession on the grounds that it is unreasonable, unduly burdensome, arbitrary and capricious.

5. HCP objects to the Notice and the thirty (30) day deadline in which to respond on the grounds that it is unreasonable, unduly burdensome, arbitrary and capricious, is neither required nor compelled by TSCA and exceeds the scope of U.S. EPA's authority.

6. HCP objects to the Notice on the basis that it is overly broad, vague and ambiguous which directs HCP to speculate, guess or otherwise generate information it does not already have. Without waiving any objection, HCP has made reasonable assumptions regarding the scope of the Notice and has submitted documentation accordingly.

7. HCP objects to the Notice on the grounds that it seeks information or documents already in the possession of or readily available to U.S. EPA or PaDEP, or its employees, officials, attorneys or agents, on the grounds that such requests are unreasonable and unduly burdensome.

8. HCP objects to the Notice to the extent it seeks disclosure of privileged information, attorney work product or information otherwise protected from disclosure under applicable law.

9. HCP object to all other aspects of the Notice to the extent it exceed the scope of U.S. EPA's authority or is otherwise unreasonable, arbitrary or capricious.