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By postal mail and email to armann.steve@epa.gov and wilson.patrick@epa.gov

Re: Environ Draft Comprehensive PCB-Related Building Materials Inspection, Management and Removal Plan for the Santa Monica-Malibu Unified School District (Draft Plan)

Dear Mr. Armann and Mr. Wilson,

We are writing on behalf of the group "Concerned Malibu/Cabrillo Teachers," which consists of 29 of the teachers and staff at Malibu Middle and High School and Juan Cabrillo Elementary School. ("Concerned Teachers"). The Concerned Teachers strongly urge EPA to reject the Draft Plan as: 1) wholly inadequate to meet the requirements that EPA set for the Plan, 2) illegal under the 1976 Toxic Substances Control Act (TSCA) in failing to remove materials known to contain 50 ppm or more PCBs, and 3) failing to ensure that the school environment will be free of PCB-containing materials above the regulatory limit by failing to test or remove any other potentially-PCB containing materials unless and until there is a demolition or renovation.

In addition, the Draft Plan fails to direct any action on PCB-containing materials at Juan Cabrillo Elementary School until after EPA requirements are carried out at Malibu High School, at a later unspecified time along with the rest of the schools in the Santa-Monica Malibu Unified School District. However, there is no reason to believe there is any less potential for PCBs at Cabrillo, which should be prioritized along with Malibu High School and Middle School because of its close proximity to those schools and likely involvement in any wider contamination issues related to the PCBs and toxic substances already found there. The Draft Plan also fails to address the potential for PCBs in the outdoor areas of the campuses, despite the fact that significant quantities of

PCBs of unknown origin were found in the limited area of campus soil that was previously tested.

Essentially, the Draft Plan consists of inventorying potentially PCB-containing materials based on visual inspections, but not testing them to determine if they actually contain PCBs, and then leaving them in place while applying "Best Management Practices" (BMPs) which amount to no more than ordinary cleaning. The real substance of the Draft Plan – the characterization and removal of PCB-containing materials – is relegated to a distant and uncertain future when renovations and demolitions may occur. The Draft Plan is little more than an excuse to do next to nothing until the potentially PCB-containing materials would be removed anyway in the course of a demolition or renovation.

As teachers and staff at the Malibu Schools, it is simply unacceptable to us to allow continued exposure of ourselves and our students to PCB-containing materials which are or may be above the regulatory limit. TSCA and the implementing regulations do not allow this for good reason. As you well know, PCBs are one of the first and very few chemicals to be banned in the United States because of their high level of toxicity to humans and wildlife. EPA considers PCBs to be probable human carcinogens which can also damage the immune, reproductive, nervous, and endocrine systems. The International Agency for Research on Cancer recently upgraded PCBs to Group 1, known to be carcinogenic to humans. Congress chose in TSCA to completely ban PCB-containing materials such as caulk which could result in human exposure. EPA determined in TSCA's implementing regulations that: "Items with PCB concentrations of 50 ppm or greater present an unreasonable risk of injury to health within the United States. This finding is based upon the well-documented human health and environmental hazard of PCB exposure . . . " 40 C.F.R. 761.20. EPA requires the removal of materials containing concentrations of PCBs of 50 ppm or higher. It is contrary to these authorities and to the protection of public health to leave materials known to contain illegal levels of PCBs in place, or to turn a blind eye to the likelihood that other materials at the schools contain those levels by failing to test them.

1. <u>The Draft Plan Fails to Meet EPA's Requirements for the Plan</u>

As Environ acknowledges in their cover letter to you, EPA provided the following "minimal" requirements for the PCB Plan in a letter dated January 27, 2014 to the School District:

a. Removal of all caulk with known concentrations above 50 ppm PCBs in the library and in Blue Building Rooms 1, 5, and 8. Even though air concentrations are below our health based guidelines, the cleanup plan should include post caulk removal air sampling as well as wipe sampling around the areas where caulk was removed.

b. Mitigation or removal of any caulk that is deteriorating in pre-1979 structures at Malibu High School/Middle School. After mitigation or removal of any caulk, the windowsills and adjacent areas should be thoroughly cleaned.

c. Development of an air sampling plan for EPA approval that, at a minimum, ensures that all rooms in pre-1979 structures at the school will be sampled. It is acceptable for the District to conduct PCB Aroclor analysis in lieu of the PCB congener analysis the District previously conducted.

What Environ does not acknowledge is that EPA previously provided a much more extensive list of requirements to the District, with which Environ does not even feign compliance. Although the Draft Plan does address the "minimal" requirements set forth in January, in fact it does not even meet <u>any</u> of these far less comprehensive requirements.

a. Instead of removing the caulk with known concentrations above 50 ppm and then taking post-removal air and wipe samples, as EPA required, Environ plans to do this only if and when demolition and renovation occur in the future. Environ notes that demolition and renovation of the buildings where concentrations above 50 ppm were found could occur nine to twelve months <u>after</u> receiving Coastal Commission approval. Because there is currently an appeal of the Coastal Development permit, it is unknown when Commission approval will be received, if ever. Moreover, although plans for this demolition and renovation began shortly after the passage of Measure BB eight years ago, no real progress towards implementation of the demolition and renovation of the two buildings has occurred since then. One can only conclude that the timing of these events is entirely uncertain and may be several years in the future, if ever. In addition, Building E, which contains rooms with caulk known to be above the regulatory limit, is only scheduled for renovation, not demolition, and the remodeling plans do not include addressing windows or doors or caulk. Leaving caulk with known illegal concentrations of PCBs in place for the indefinite future violates TSCA and its implementing regulations.

b. EPA required mitigation or removal of deteriorating caulk in pre-1979 structures and subsequent cleaning of adjacent areas. Environ, however, plans only to "manage in place" following BPMs. Deteriorating caulk will only be removed at the next scheduled demolition or renovation. As noted above, the timing of the planned demolition and renovation of two buildings is entirely uncertain. In addition, there are <u>no plans at all</u> for demolition or renovation of many of the schools' rooms in other buildings which may contain deteriorating caulk. Planned renovations to Building E do not include addressing windows and doors or caulking. Although the Draft Plan talks of "repair" and "encapsulation" of deteriorating caulk, despite a lot of verbiage, it does not reveal what is meant by "repair," or how it will be determined

whether repair, encapsulation or removal is appropriate or protective in any particular circumstance.

c. EPA required that air sampling should include at a minimum ALL rooms in pre-1979 structures. Environ plans to sample air only in "representative" rooms containing potentially impacted materials which are regularly occupied, and it appears, only after the first annual BMP cleaning or caulk repair. Environ also states it will not re-sample any of the rooms previously sampled, even though EPA did not oversee most of that sampling (13 rooms out of 18) and some of it was done with windows open, against EPA direction. This falls far short of EPA's requirement, which as explained below, itself is inadequate as a substitute for characterizing the caulk (or other material) itself and removing it if it contains more than 50 ppm PCBs.

In addition, the far more extensive and effective requirements that EPA previously set out for the School District in November 2013 are not even acknowledged, much less covered, in the Draft Plan, including:

- "Removal and disposal of caulk material and any other source(s) of PCBs present at the school. Disposal to be consistent with TSCA and state regulations.

- Testing of surfaces (e.g., concrete, masonry, metal) underlying the caulk or other PCB material such as paint.

- Cleanup of surfaces that have been in contact with PCB sources such as caulk consistent with a cleanup level to be established by EPA and procedures to be approved in the plan.

- Inspection of the ventilation system and collection of bulk dust samples for analysis, if in sufficient amount. Wipe samples should be collected, otherwise.

- Cleaning of the ventilation system, if necessary; and demonstration of the system's efficacy pre and post cleanup.

- Sampling and analysis of soils within 3 to 5 feet from school buildings; and removal of soils containing PCBs above a cleanup level to be established by EPA.

- Post-cleanup re-testing of indoor air within the school to verify cleanup efficacy. This testing is to include collection of background outdoor air samples.

- Post-cleanup re-testing of critical surfaces within the school building such as student desks, teachers' desks, and tables.

- Sampling and Analysis Plan detailing sampling and laboratory analysis procedures.

- Schedule to conduct the tasks required in the cleanup plan."

Letter from Steve Armann to Sandra Lyon, November 21, 2013 (emphasis supplied). All of these requirements must be met in any acceptable Plan.

Equally important, instead of making BMPs a substitute for the actions required above, as the Environ Draft Plan does, the November EPA letter makes clear that BMPs are only "'''interim actions to reduce risk' pending a final cleanup plan." Once there is a final cleanup plan, as the Draft Plan purports to be, BMPs must be superseded by the actual cleanup.

2. All Caulk and Other Potentially PCB-Containing Materials in Pre-1980 Buildings at All Three Schools Must Be Tested, and Removed if Found to Contain 50 ppm or More PCBs.

The Draft Plan has things completely backwards, by elevating the interim BMP measures to be taken until the Plan is put in place to being the content of the Plan itself, unless and until demolition or renovation occurs. In fact, what needs to come first, is what Environ puts last (and maybe never) -- testing of all potentially PCB-containing materials (including materials which may have been contaminated by those materials), and removal of any materials with more than 50 ppm PCBs. In addition, soils both near PCB-containing building materials and in other areas of the campuses need to be tested for PCBs and removed if necessary.

Environ's Draft Plan leaves potentially PCB-containing but uncharacterized material in place with only the application of BMPs which amount to wiping down surfaces with water and HEPA vacuuming, as well as occasional cleaning of the ventilation systems – i.e., no more than is required to keep any school clean even absent concerns about PCBs or other toxic substances. This fails to comply with TSCA and EPA requirements and fails to meet the goals of ensuring a safe and healthy school environment. It is even more unfitting given that four out of 10 rooms that were previously tested had PCBs in violation of regulatory levels. There is absolutely no reason to believe that there is not a similar proportion of rooms with illegal levels of PCBs in all pre-1980 buildings. As you well know, a visual inspection cannot identify whether or not or what levels materials contain PCBs, and even PCBs which appear to be in good condition can be a significant source of PCBs in the school environment.

In sum, the Concerned Malibu/Cabrillo Teachers request that EPA reject the Draft Plan and provide direction to Environ as to how to create an acceptable Plan that meets all of the requirements of TSCA, its implementing regulations, and the requirements set out by EPA in your November 2013 letter.

Sincerely,

Jeff Ruch, Executive Director

Paula Dinerstein

Paula Dinerstein, Senior Counsel

Public Employees for Environmental Responsibility

On behalf of the Concerned Malibu/Cabrillo Teachers

cc: Jared Blumenfeld, EPA Region IX Administrator
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