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MALIBU UNITES
For Healthy Schools

MALIBU UNITES AND PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY'S COMMENTS ON ENVIRON'S "SITE-SPECIFIC PCB-RELATED BUILDING MATERIALS MANAGEMENT, CHARACTERIZATION AND REMEDIATION PLAN"

As concerned teachers, staff, parents, community members, scientists, public figures and environmental groups represented by Malibu Unites and Public Employees for Environmental Responsibility (PEER), it is with mounting dismay and alarm that we submit comments on Environ's "Site-Specific PCB-Related Building Materials Management, Characterization and Remediation Plan." Beyond the worst fears of our groups even after multiple disappointments, Environ proposes to leave in place all PCBs, even the caulk in the four rooms already known to contain illegal levels of PCBs, for 15 years or more, unless and until renovation or demolition occurs. Meanwhile, Environ proposes to test only air and dust in those rooms and only for one year, after which testing may be abandoned altogether while PCBs remain in place. At that point protection of teachers and students from a known carcinogen and neurotoxicant will be relegated to routine cleaning and pamphlets in the school office encouraging employees and students to avoid touching the caulk, to wash their hands often, and to open windows. The plan for actual removal of PCBs is so distant and hypothetical that Environ notes that when the time finally comes, it will need to submit a new plan for testing and remediation reflecting future technologies and regulations that would then exist.

EPA should reject this plan as wholly inadequate to meet the requirements of the Toxic Substances Control Act (TSCA) and EPA's specific directions for this plan. The School District should direct Environ to create a plan which includes testing of all caulk in pre-1979 buildings, removal of all caulk found to contain PCBs above 50 ppm, as well as testing and remediation of other materials which may have been contaminated by the caulk, and removal of all remaining PCB-containing light ballasts and testing of the area around the ballasts.

1. Independent Testing has Shown that PCB Contamination is Far More Serious and Widespread than what this Plan Addresses

The utter bankruptcy of the "Don't Test, Don't Know" approach and the severe threat to public health that it poses has now been confirmed by independent testing which has found illegal levels of contaminated caulk and other materials in rooms that were not previously tested – at hundreds of times the highest levels previously found and more

than seven thousand times the legal limit.[1] Testing of caulk and dirt in only a few additional rooms resulted in a finding of one room in Juan Cabrillo Elementary School with caulk containing 340,000 ppm PCBs. The woodshop room in the High School had caulk in the door frame testing even higher – at 370,000 ppm PCBs. These appear to be the highest levels ever found in classrooms in the United States. The highest level previously found in Malibu, in the library, was 1,870 ppm. Ironically, the room in Juan Cabrillo was one to which a sixth grade teacher and her students had been moved to protect them from exposures in a middle school room which contained caulk only modestly above the 50 ppm legal threshold. The School District touted its "protective" action which in fact moved this teacher and students to a room with thousands of times more PCBs! Such counterproductive and dangerous actions are to be expected as long as the School District is flying blind because it refuses to test any more caulk or identify PCB sources. Even the youngest, most vulnerable students in the school, including in the elementary school, could continue to be unknowingly exposed to extremely high levels of PCBs.

The independent testing also found PCBs in dirt in air vents at as much as eleven times the level of EPA's regional screening guide. These samples include dirt from inside the two classrooms that were trenched in August 2013 and had dirt from under the building sitting inside the classrooms for several days. This is another finding which never would have been made under Environ's general plan to test only air and surface dust, ignoring other possible routes of exposure to PCBs. Even the air and dust tests are to be limited to 1/3 or less of the rooms in the schools – very possibly missing other hot spots like the ones found by independent testing. This is directly contrary to EPA's direction in January 2014 that "all rooms in pre-1979 buildings will be sampled."[2]

EPA's approval of Environ's approach and disclaimer of jurisdiction over anything but the four rooms with caulk which previously tested above 50 ppm has been shown to utterly fail to protect public health. Identification of other heavily-contaminated rooms can occur only if caulk and other materials in all pre-1979 rooms are tested. Furthermore, in light of these independent test results, a dust ingestion pathway should be considered concurrently with an inhalation pathway. This is particularly relevant because all four teachers diagnosed with thyroid cancer have taught in classrooms with levels of PCBs that far exceed regulatory limits.

2. There is No Justification for Leaving Illegal Caulk in Place for 15 Years or More

EPA has repeatedly demanded – as it must under federal law -- that the District's Plan include a timetable for removing all caulk containing 50 ppm or more PCBs. Beginning in November 2013, when the illegal caulk was first identified, EPA informed the District that a clean-up plan would be required that included: "Removal and disposal of caulk material and any other source(s) of PCBs present at the school."[3] EPA made

[1] The laboratory reports of this testing are attached.
[2] Letter from Steve Armann, EPA, to Sandra Lyon, January 27, 2014.
[3] Letter from Steve Armann, EPA, to Sandra Lyon, November 21, 2013.

clear that Best Management Practices (cleaning), which Environ now proposes as the only action to be taken for 15 years or more, are only "interim actions to reduce risk pending a final cleanup plan." *Id.* In January 2014, EPA reminded the District that the minimal requirements for a plan included: "Removal of all caulk with known concentrations above 50 ppm PCBs in the library and in Blue Building Rooms 1, 5, and 8."[4] Environ's first PCB plan was rejected by EPA in part because it did not include a schedule for removing caulk with 50 ppm or more PCBs.[5]

EPA further stated: "If caulk with PCBs equal to or above 50 ppm is proposed to be encapsulated, such approach, if approved by EPA, would be a short-term alternative to minimize exposure to PCBs. Such alternative would be subject to approval by the EPA contingent upon a schedule for ultimate removal of PCB-containing caulk." *Id.* at C.5. In the current Plan, Environ does not even propose to encapsulate the caulk, but simply to leave it in place, and for a period that by no stretch of the imagination could be considered "short-term." It also strains beyond any reasonable bounds the meaning of "a schedule for ultimate removal" to be 15 years or more. Concerned that even 15 years might not be enough time to reach the point where the buildings in question would be renovated or demolished such that the caulk would be removed anyway, Environ states that: "The District also may propose an option to extend this [15 year] period, if needed, with concurrence with USEPA." This could well occur, because there is currently no written approved plan to renovate Building E, where some of the violating rooms are located, such that windows and doors with illegal caulk would be removed.

EPA should not concur but should reject this plan out of hand as illegal under TSCA and contrary to its own repeated direction to the District.

Environ posits no justification for waiting 15 years or more to remove the caulk; no extenuating circumstances that would make prompt removal infeasible. Instead, it claims that its approach is "consistent" with USEPA Region 1's agreement with the University of Massachusetts.[6] Nothing could be further from the truth. Without drawing any conclusions as to whether the Massachusetts plan is adequately aggressive, the situation there cannot be compared with Malibu. While it is true that the remediation plan there is projected to possibly extend 15 years, it involves the removal of 900 windows.[7] Sources throughout the buildings were tested, resulting in a plan to remediate the entire school. Work was required to begin right away, with a requirement that some of the windows be removed within six months of the signing of the consent order.[8] The Massachusetts plan requires more remediation in the first six months than would likely be required to fully complete remediation in the four rooms subject to the Environ plan.

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[4] Letter from Steve Armann, EPA, to Sandra Lyon, January 27, 2014.
[5] U.S. EPA Comments on "Comprehensive PCB-Related Building Materials Inspection, Management, and Removal Plan for Santa Monica-Malibu United School District: (General Plan)," dated April 2014, at B.1.
[6] Available at http://yosemite.epa.gov/oa/rhc/epaadmin.nsf/Filings/AA2B233AE5DBA5A985257A62001B7A19/$File/TSCA-01-2012-0036%20CAFO.pdf
[7] Consent Order Attachment, "PCB Interim Measures Plan" at 1-1.
[8] The Consent Order was signed June 4, 2012, and requires the removal of some of the windows by Dec. 31, 2012. Para 21(i).

The Massachusetts plan also includes many precautionary measures to encapsulate or isolate PCBs until they all can be removed. This plan also notes that the buildings are occupied by adults and college and graduate students, not children.[9] There are hefty fines for not following through with the plan as stated.[10] This is nothing like Environ's plan to "manage in place" and do nothing for 15 years or more with regard to four rooms in a school with children, while avoiding testing that could reveal the true extent of the problem.

3. There is No Justification for Ending Air Testing in One Year

While long-term air testing is not an appropriate substitute for prompt removal of caulk and other PCB-containing materials, Environ's plan adds insult to injury by proposing to test for only one year while leaving illegal caulk in place for 15 years or more. That way, after the first year, there would be no way to know if conditions had changed (due to caulk deterioration, changes in ventilations systems, etc.) resulting in higher concentrations of PCBs in the air and dust. EPA made clear that if caulk removal were delayed, Environ was required to "include a sampling and analysis plan to monitor PCB concentrations in air and on surfaces in the four rooms known to have PCB-containing caulk to ensure that PCB levels remain below health guidelines."[11] Environ's plan also fails to meet this requirement.

4. BMP Cleaning has Not Been Shown to be Effective in Avoiding PCB Exposure

Because BMP cleaning is being proposed as a more or less permanent alternative to identifying and removing materials with illegal levels of PCBs, it is important to note that there is no scientific proof that these measures are effective in protecting public health. As noted above, EPA has characterized them as interim measures pending a final clean-up plan, which is what the current plan was supposed to be. Instead, Environ's plan makes BMPs the only plan until the buildings are renovated or demolished, potentially more than 15 years in the future.

Kent Thomas at EPA's Office of Research and Development has stated that "no scientific measurement data were collected on the effectiveness of cleaning, how often it needs to be done, and how to ensure it is done effectively for reduction in the potential for PCB exposures."[12] While testing in five rooms and Malibu High School last winter break pre- and post-BMP cleaning showed an approximately 50% reduction of PCB air concentrations and a 90% reduction of PCBs on surfaces, additional rooms cleaned and sampled by the District showed lower reductions in air concentrations. In fact, in the room with the highest PCB air concentration, the gym faculty office, the concentration went from 96.65 ng per cubic meter to 89.02 ng per cubic meter, only about a 9%

[9] PCB Interim Measures Plan at 2-2.
[10] Consent Order, Para 42.
[11] EPA Comments on "Comprehensive PCB-Related Building Materials Inspection, Management, and Removal Plan for Santa Monica-Malibu Unified School District" (General Plan), dated April 2014, at B.1.
[12] Email from Thomas Kent, EPA to Jennifer deNicola dated May 8, 2014,

reduction.[13] The overall difference for the rooms tested was 38% for those tested with windows closed and 7.8% for those tested with windows open. *Id.* at 3. Whatever the reductions are, there is no scientific evidence as to what they actually mean in terms of health. There is also no evidence as to how long they last – i.e. how quickly PCBs volatilize into the air or PCB-laden dust is re-deposited. It may well be that over time, there is little difference in PCB concentrations unless BMP cleaning is done very frequently. As Mr. Thomas pointed out, there is no knowledge of how frequently it needs to be done to maintain reductions.

The cost of continued BMP cleaning and testing is quite high – likely hundreds of thousands of dollars a year – and amounts to a very expensive band-aid for a serious health problem that can only be solved by actually removing the sources of the PCBs. Furthermore, it is impractical to assume that a custodial staff that is currently unable to maintain the schools at an acceptable level of cleanliness could be expected to perform the additional demands of BMP cleaning to the desired effect.

5. Additional Comments on the Environ Site-Specific and General Plans

A. All raw data should be provided to Malibu Unites' expert at the time Environ receives it. This is to prevent bias. Environ cannot be the only party to do analysis of the data.

B. All pre-1979 rooms must be sampled, as EPA's directed in January 2014.

C. Wipe samples should include door frames; this is where some of the extremely high levels were found in the independent testing. See Environ Site-Specific Plan at F.1.11.2.

D. In rooms with wipe samples above regulatory limits, such as Room 301 in the Music Building (F), PCB sources must be evaluated and remediated.

E. Record keeping and documentation must be reported to the public as well as the EPA. See Environ Site-Specific Plan at F.4.1.

CONCLUSION

Recent testing has shown that Malibu Middle and High School and Juan Cabrillo Elementary School have a very serious PCB problem – one that never would have been detected by following Environ's plans, and one that requires immediate action to identify and remediate all PCB-containing materials at all three schools. Environ's current plan is wholly inadequate and should be replaced with a plan for comprehensive testing and remediation. Environ does have a plan for site characterization to identify all PCB-containing materials in Appendix E to its site-specific plan. That plan should be carried

[13] Pre- and Post- Best Management Practices Cleaning Polychlorinated Biphenyl Air Sampling Report, Mark Katchen and Hsin Chou, February 2014 at 2, available on the SMMUSD website.

out immediately, not when renovation or demolition occurs up to 15 years or more from now, and should apply to all pre-1979 buildings in all three schools, not just the two buildings previously identified as containing illegal caulk. Environ's Appendix F plan for remediation and removal of PCB-containing materials should be implemented immediately following the comprehensive characterization in order to remove, clean-up and dispose of all PCB-impacted materials.

Respectfully submitted,

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