

**U.S. Environmental Protection Agency
Region 2**

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In the Matter of:	:
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Garwood Property Site	:
Garwood, New Jersey	:
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Approval for Risk-Based Cleanup
and Disposal of Polychlorinated
Biphenyl Remediation Waste

This document is the United States Environmental Protection Agency, Region 2's (EPA Region 2) response to and approval of the request for a risk-based disposal of polychlorinated biphenyl (PCB) remediation waste (as defined at 40 C.F.R. §761.3). The disposal approval request was submitted to EPA Region 2 by EcolSciences, Inc. ("EcolSciences") on behalf of 490 South Avenue, LLC, which entity has since been renamed "South Ave. Urban Renewal, LLC" (hereafter referred to as "South Ave."), dated December 2015, and amended thereafter by EcolSciences. The document addresses the remediation and redevelopment of property located at 450-490 South Avenue and 50 Center Street in the Borough of Garwood, Union County, New Jersey (the "Site"). EPA Region 2's approval is issued in accordance with the federal regulations for PCBs promulgated pursuant to the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601 *et seq.*, and set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761). In EPA Region 2, the authority to issue such approvals under 40 C.F.R. § 761.61(c)(2) has been delegated to the Director of the Division of Enforcement and Compliance Assistance ("DECA").

The completed application that EPA Region 2 considered in determining whether to approve South Ave.'s request consists of the following:

- the December 2015 request submitted by EcolSciences on behalf of South Ave. to EPA Region 2 for a risk-based PCB disposal approval; and
- correspondence dated November 9, 2016; January 27, 2017; March 16, 2017; March 17, 2017; and September 8, 2017 from EcolSciences to EPA Region 2, amending the December 2015 request.

EcolSciences' aforementioned submittals and any documents attached to or referenced thereunder are collectively referred to herein as the "Application."

EPA Region 2 reviewed South Ave.'s Application to determine whether the remedial actions proposed in the Application would be protective of human health and the environment, and technically feasible and appropriate. EPA Region 2 has also reviewed South Ave.'s Application to ensure that safeguards, including long-term maintenance and monitoring commitments, associated with the remediation of the Site will be in place.

Based on the information provided in the Application, EPA Region 2 has determined that implementation of the remedial actions proposed in the Application to address the presence of residual PCBs at the Site will not pose an unreasonable risk of injury to human health or the environment.

EPA hereby issues approval for the risk-based disposal of PCB remediation waste at the Site, subject to the terms and conditions specified herein ("Approval"). This Approval is being issued under the authority granted to EPA by TSCA as codified in 40 C.F.R. § 761.61(c). This Approval also constitutes an order issued under the authority of Section 6 of TSCA, 15 U.S.C. § 2605.

1. Effective Date

This Approval shall become effective on the date the Director of DECA, EPA Region 2, receives written notification from South Ave., signed by an authorized representative of South Ave., of South Ave.'s acceptance of, and intention to comply with, the terms and conditions of this Approval. This offer may be withdrawn if EPA Region 2 does not receive, within forty-five (45) calendar days of the date of this Approval, written notification from South Ave. of its acceptance of, and intention to comply with, the terms and conditions of this Approval.

2. Description of the Site and the Extent of PCB Contamination

The Site is 5.08 acres in area and consists of two lots; Lot 1 is 2.87 acres and Lot 2 is 2.21 acres. The lots were historically one larger parcel that was used for industrial purposes, including operations by the Aluminum Company of America prior to the individual operations conducted by Petro Plastics Company and Petro Extrusions Technologies (on Lot 1) and Casale Industries (on Lot 2). There are vacant industrial buildings present on both lots.

The Site has been the subject of prior environmental investigations. PCBs are currently present in the soil on both lots. On Lot 1, PCBs were found to be generally low (i.e., less than 10 parts per million (ppm)) with the exception of the southeast corner of the lot where concentrations were found up to 280 ppm (at a 7.5-foot depth below the surface). On Lot 2, PCBs were found in the southwestern and south central portion of the lot, with a maximum concentration of 3,700 ppm (at a 7-foot depth). PCBs have been found as deep as 28 feet below the surface (on Lot 2, at a concentration of 3.2 ppm). PCBs have been found in the groundwater at a maximum concentration of 32 parts per billion. It is believed that the high levels of PCBs in the soil are impacting the groundwater.

3. Work to be Performed

The work to be completed is described in detail in the Application, and shall include, but is not limited to, the following components:

- 1) demolition of the on-site buildings;
- 2) excavation of PCB-contaminated soil within the six-foot depth below the existing and finished grade of the soil surface to 10 ppm and 100 ppm in locations, respectively, designated high occupancy and low-occupancy (as these terms are defined at 40 CFR 761.3);

- 3) excavation of PCB-contaminated soil to 190 ppm at depths deeper than six feet below the existing and finished grade of the soil surface;
- 4) disposal of PCB-contaminated waste associated with the demolition and excavation activities in accordance with the Application, all applicable PCB regulations, and the following:
 - a) if the excavated soil contains PCBs > 100 ppm, it will be disposed off-site; and
 - b) if the excavated soil contains PCBs \leq 100 ppm, it will be consolidated on the site in a low occupancy area under a site-wide cap ("Site Cap");
- 5) installation of a Site Cap over all locations where PCBs were found to be greater than 1 ppm, with the Site Cap meeting the requirements of 40 CFR 761.61(a)(7); and
- 6) long-term maintenance and monitoring, including the installation of one or more additional wells and the collection of groundwater samples in accordance with Section 6 of this Approval, to verify that PCB-contaminated soils impacting the groundwater have been removed.

Within thirty (30) calendar days after this approval becomes effective, South Ave. shall submit to EPA Region 2 a reasonably detailed schedule for performance of the remedial work and the date for commencement of the long-term monitoring to be performed. To the extent that South Ave. hires any sub-contractor, independent agent or other third party to perform said work, South Ave. shall be responsible to ensure that any such sub-contractor, independent agent or other third party perform said work in accordance with the terms and conditions of the Application and this Approval. Nothing herein shall preclude additional work measures from being implemented, provided that any such measure not be inconsistent with or violate any express provision in this Approval or any PCB regulatory provision of 40 C.F.R. Part 761.

4. Periodic Reporting Requirements

South Ave. shall provide EPA Region 2 with a written report, every three (3) months, of the status of the remedial actions performed in accordance with Section 3 [1 – 5] of this approval (Work to be Performed).

Beginning the first July following the completion of the work identified in Section 3 and continuing every July thereafter, South Ave. shall submit to EPA Region 2, no later than July 31, an annual written report (the "Annual Report") covering the previous annual reporting period (July 1 through June 30).

The Annual Report shall include the information collected during implementation of the long-term maintenance and monitoring and the sampling performed pursuant to Section 3[6].

5. Remedial Action Report

Within sixty (60) calendar days of completing the work specified in Section 3 of this approval, except for long-term maintenance and monitoring, South Ave. shall submit to EPA Region 2 a Remedial Action Report (RAR) that includes the following:

- 1) a detailed description of the specific activities performed to address the PCB contamination present on the Site;
- 2) a tabular summary (with supporting laboratory documentation) of the results of all sampling conducted in connection with the remedial work;
- 3) documentation of off-site disposal of any PCB remediation waste that is removed from the Site;
- 4) “as-built” figures depicting conditions at the Site after the remedial work has been completed; and
- 5) a certification, signed by a professional engineer licensed by the State of New Jersey and on behalf of 490 South Ave., verifying that all engineering components directed by this Approval have been completed in accordance with this Approval.

6. Inspection, Monitoring, Maintenance, and Related Obligations

At least sixty (60) calendar days prior to the anticipated date for completion of the work specified in Section 3 [1 – 5] of this approval, South Ave. shall submit a draft Maintenance and Monitoring Plan (“MMP”) to EPA Region 2 for review and approval. The draft MMP shall include the following components:

- 1) a plan for the installation of one or more monitoring wells on the Site and the collection of ground water samples;
- 2) a detailed schedule of inspections and maintenance including inspection and maintenance reporting templates;
- 3) preventive maintenance schedules and procedures;
- 4) corrective maintenance procedures; and
- 5) a detailed schedule for reporting inspection and maintenance activities to EPA Region 2.

Within thirty (30) calendar days of EPA Region 2’s approval of the draft MMP, South Ave. shall commence implementation of said plan. To the extent that South Ave. hires any sub-contractor, independent agent or other third party to perform said work, South Ave. shall be responsible to ensure that any such sub-contractor, independent agent or other third party performs said work in accordance with the terms and conditions of South Ave.’s Application and this Approval.

Annual inspections and reporting will be required as part of the final approved MMP. The Site Cap shall be maintained to prevent access to or release of the contaminated material from under the cap. South Ave. shall perform at least annual visual inspections of the Site Cap and shall maintain it. South Ave. shall prepare written reports of all inspections performed and maintenance activities completed

and shall submit each year a copy of all such cap inspection and maintenance reports, as well as any other information pertaining to maintenance of the Site Cap, to EPA Region 2. Such reports shall be submitted by July 1st of each year covering the previous calendar year (January through December).

In the event that South Ave. identifies a breach in the Site Cap, South Ave. shall notify EPA Region 2 in writing within fourteen (14) calendar days of discovery. The notification shall include the anticipated corrective measures and a schedule for implementation.

7. Financial Assurance

South Ave. shall provide financial surety, subject to EPA approval, sufficient for the work required by Section 3 of this Approval. South Ave. shall establish financial assurance by choosing from the financial assurance mechanisms set forth in 40 C.F.R. § 761.65(g) (referencing provisions of Subpart H of 40 C.F.R. Part 264), or any combination of such mechanisms. Documentation that this financial surety is in effect shall be provided to EPA Region 2 within thirty (30) calendar days of the effective date of this Approval. EPA Region 2 retains the right, upon written notice to South Ave., to require that variations to, or modifications from, the language prescribed in 40 C.F.R. § 264.151 be made in the instrument(s) South Ave. elects under 40 C.F.R. § 264.151 to effect financial assurance.

South Ave. shall submit an annual certification to EPA Region 2 that the selected financial assurance mechanism(s) is/are still in effect. The certification shall be submitted by July 1st covering the previous calendar year (January through December).

Beginning five years from the effective date of this Approval and repeating every five years thereafter, South Ave. shall demonstrate to EPA Region 2 that the financial assurance mechanism(s) is/are sufficient to cover any reasonably contemplated increased costs of a future cleanup as determined by South Ave. or its representatives. If South Ave. wishes to change the financial assurance mechanism(s) due to factors other than inflation, South Ave. shall submit an adjusted financial assurance mechanism(s) (as applicable) to EPA Region 2. EPA Region 2 will review the change(s) and may require South Ave. to revise the adjusted financial assurance mechanism(s) prior to approving it.

In the event that South Ave. sells any portion of the Site or the Site in its entirety, these financial assurance obligations shall be transferred from South Ave. to the buyer or lessee, provided that the terms and conditions specified in Section 10 of this Approval are met. If South Ave. leases any portion of the Site, these financial assurance obligations shall remain the responsibility of South Ave. If South Ave. sells or leases any portion of the Site or the Site in its entirety, but has not transferred the financial assurance obligations to such buyer or lessee, South Ave. shall remain liable for such obligations as if such sale or leasing arrangement had not been effected.

8. Records

As long as PCB remediation waste above 1 ppm remains on the Site, South Ave., or any new owner pursuant to Section 10, shall maintain the following records:

- 1) the final construction drawings and any other construction-related documents pertaining to the Site Cap;

- 2) all records and information related to characterization, analysis,¹ sampling, shipping and disposal of PCB-contaminated material at the site; and
- 3) all records and information related to the long-term monitoring including monitoring of both the Site Cap and ground water.

9. Deed Restriction and Certification to EPA

Within sixty (60) calendar days of completing the work specified in Section 3 of this approval, except for long-term maintenance and monitoring, South Ave. shall do the following.

- 1) Prepare and record a Deed Notice with the County Clerk's Office, Union County, New Jersey in accordance with 40 C.F.R. § 761.61(a)(8) and applicable New Jersey law. The Deed Notice shall, at a minimum, include a description of the extent of contamination found at the Site; a description of the work performed under this Approval; the restrictions on use included in Section 11 of this Approval; a description of the inspection, maintenance, and reporting requirements associated with the final approved MMP; and a copy of this Approval, appended as an attachment.
- 2) Submit to EPA Region 2 a certification signed by an authorized representative of South Ave. indicating that South Ave. has recorded the Deed Notice as required by 40 C.F.R. § 761.61(a)(8) and specified in subparagraph (1) of this Section.

10. Sale of the Site

South Ave. shall not sell any portion of the Site (or the Site in its entirety) unless South Ave. notifies EPA Region 2, in writing, no less than thirty (30) calendar days prior to such sale. This notification shall include the name, address and telephone number of the proposed new owner(s). In the event that South Ave. sells any portion of the Site (or the Site in its entirety), South Ave. shall continue to be bound by all the terms and conditions of this Approval, and be responsible to ensure the timely and satisfactory completion of all work required thereunder, unless and until the following three conditions occur:

- 1) the new owner requests, in writing, that EPA Region 2 reissue this Approval to the new owner, transferring all responsibility to comply with the terms and conditions of this Approval to the new owner;
- 2) EPA Region 2 reissues this Approval to the new owner, transferring all responsibility to comply with the terms and conditions of this Approval to the new owner; and
- 3) the new owner provides written notification to EPA Region 2 of its acceptance of and intention to comply with the terms and conditions of the reissued Approval.

¹ South Ave. shall use an appropriately sensitive and selective testing method from the latest update of the document entitled: "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," also known as SW-846, or validated equivalent, or as otherwise specified in this approval.

EPA Region 2 may withdraw the reissued Approval if it does not receive written notification from the new owner of its acceptance of, and intention to comply with, the terms and conditions of the reissued or as modified Approval within forty-five (45) calendar days of the date of the reissued or as modified Approval. Where EPA Region 2 has withdrawn the reissued or as modified Approval, this Approval, as originally issued to South Ave., will remain in effect. In such case, South Ave. shall provide EPA Region 2, in writing, documentation that South Ave. will be afforded access to the Site, as necessary, to fulfill any and all obligations included in this Approval.

In the event that the three conditions listed above are met and the Approval is reissued to and accepted by a new owner, South Ave. will transfer custody of the documents required to be preserved pursuant to 40 C.F.R. Part 761, and to the extent not inconsistent with applicable TSCA statutory or regulatory requirements, South Ave. will then be released from any further obligations as mandated by this Approval.

11. Restrictions on Use

As long as PCB remediation waste above 1 ppm is present on the Site, South Ave. or any successor in interest may not use any area of the Site for purposes other than the anticipated commercial and residential use as set forth in the Application, unless otherwise approved in writing by EPA Region 2.

12. Modifications and Changes in Use

Any proposed modification to any of the terms or conditions of this Approval, whether expressly stated herein or incorporated by reference, must receive prior written approval from the Director of DECA, EPA Region 2. South Ave. shall notify EPA Region 2 in writing of any such proposed modification at least sixty (60) calendar days prior to the anticipated date for implementation of the modification unless EPA agrees in writing to shorten the prior notice period. No action shall be taken to implement any such modification unless EPA Region 2 has approved the modification in writing. EPA Region 2 may request additional information in order to determine whether or not the modification should be approved. If a modification were to involve a change in the use of the Site, EPA Region 2 may revoke, suspend and/or modify this Approval if it determines that South Ave.'s proposed modification, if approved, may pose an unreasonable risk to human health or to the environment resulting from the change in use, or if EPA Region 2 does not receive the information from South Ave. that it feels it needs to assess and/or make a determination regarding such potential risk.

13. EPA Region 2 Authority for Entry and Inspection

By signing this Approval, South Ave. consents to EPA Region 2's authorized representatives entering the Site at reasonable times, upon notice to South Ave. to coordinate such access, for any purpose authorized by Section 11 of TSCA, 15 U.S.C. § 2610, including but not limited to the following purposes:

- 1) to inspect the Site to assess compliance with this Approval and/or the federal PCB regulations;
- 2) to inspect records related to this Approval and/or federal PCB regulations; and

- 3) to collect samples to assess compliance with this Approval and/or the federal PCB regulations. South Ave. will be given the opportunity to split samples collected by EPA Region 2 representatives, provided this does not compromise EPA Region 2's sampling activities or the samples which EPA Region 2 collects.

Any refusal to allow any of the above actions may result in the suspension and/or revocation of this Approval.

14. Confidential Business Information

Information supplied to EPA is presumptively available to the public under the Freedom of Information Act, 5 U.S.C. § 552, and the regulations at 40 C.F.R. Part 2. As provided in Section 14(c) of TSCA, 15 U.S.C. § 2613(c), South Ave. may claim information provided to EPA Region 2 to be Confidential Business Information ("CBI") provided it complies with the substantive criteria in 40 C.F.R. § 2.208. Information designated as CBI will be disclosed by EPA Region 2 only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2.

Factors that EPA Region 2 considers in determining whether a claim of CBI is valid, in the event that a claim is evaluated, are set out in TSCA § 14(c) and at 40 C.F.R. § 2.204(e)(4). These factors include but are not limited to the following:

- 1) South Ave. has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures;
- 2) the information is not, and has not been, reasonably obtainable without South Ave.'s consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on showing of special need in a judicial or quasi-judicial proceeding);
- 3) the information is not publicly available elsewhere; and
- 4) disclosure of the information would cause substantial harm to South Ave.'s competitive position.

The information requested under this Approval concerns the proper handling of PCB remediation waste and is not expected to involve CBI. However, in the event that information is claimed to be CBI by South Ave., it must be clearly identified as such on the documents submitted.

15. Addresses for Correspondence

- 1) EPA Addresses
 - (a) All non-CBI correspondence to be submitted to EPA Region 2 shall be sent via certified mail or next-day commercial carrier to:

James S. Haklar, Ph.D., Senior PCB Disposal Specialist
Pesticides and Toxic Substances Branch
United States Environmental Protection Agency, Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679
Telephone: (732) 906-6817

(b) All CBI information with cover letter designating it as such that is to be submitted to EPA Region 2 shall be sent via certified mail or next-day commercial carrier to:

Mark Bean, Document Control Officer
Pesticides and Toxic Substances Branch
United States Environmental Protection Agency, Region 2
2890 Woodbridge Avenue (MS-105)
Edison, New Jersey 08837-3679
Telephone: (732) 321-6606

2) South Ave. Address

All correspondence to South Ave. shall be submitted to the following representatives:

Mr. Edward Russo, Manager
South Ave. Urban Renewal, LLC
570 Commerce Boulevard
Carlstadt, New Jersey 07072

Mr. Peter Hansen, LSRP, LEP
EcolSciences, Inc.
75 Fleetwood Drive, Suite 250
Rockaway, New Jersey 07866

3) The EPA and South Ave. reserve the right to designate additional or different addressees for communication upon written notice to each other.

16. Conclusion

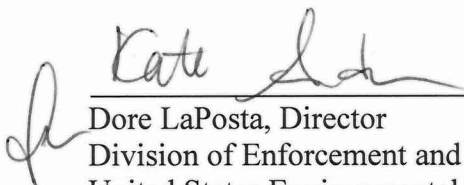
Based on the information included in the Application, EPA Region 2 finds that the PCB disposal authorized by this Approval and the use of the Site as set forth in the Application does not present an unreasonable risk to human health or the environment. Acceptable concentrations of PCB remediation waste remaining on-site under this Approval are based on a site-specific risk determination pursuant to TSCA, and are not applicable to any other site. Notwithstanding any other provision of this Approval, this Approval may be reviewed, revoked, suspended and/or modified at any time before or after South Ave.'s acceptance thereof if EPA Region 2 determines that implementation of this Approval may present an unreasonable risk of injury to human health or the environment. Nothing in this Approval is intended or shall be construed to prejudice any sanction or remedy otherwise available to EPA (or the

United States on behalf of EPA) under Section 6 of TSCA, 15 U.S.C. § 2605, and 40 C.F.R. Part 761, or under other applicable law.

This Approval, issued pursuant to 40 C.F.R. § 761.61(c), is based upon South Ave. having provided EPA Region 2 with a complete and truthful disclosure of all material facts related to the Site in its Application. The misrepresentation or omission by South Ave. of any material fact in its Application or in any document associated with or supporting this Approval may result in EPA Region 2's revocation, suspension and/or modification of this Approval, and such other legal or equitable remedy, either civil or criminal, that EPA (or the United States on behalf of EPA) is authorized to pursue under applicable law.

South Ave.'s acceptance of this Approval constitutes South Ave.'s agreement to comply with the following:

- 1) all terms and conditions of this Approval; and
- 2) all applicable provisions of federal, state and local law pertaining to the PCB remediation waste present in or beneath the Site. This Approval only specifies the applicable requirements under TSCA and does not cite to or make any determination regarding the requirements that may be applicable under other federal, state or local law. TSCA disposal requirements do not supersede other, more stringent, applicable federal, state or local laws. Any failure by South Ave. to comply with any condition or term of this Approval shall constitute a violation of the Approval, which has been issued pursuant to 40 C.F.R. § 761.61(c). Any such violation is made unlawful by Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), and may result in EPA Region 2's revocation, suspension and/or modification of this Approval and such other legal or equitable remedy that EPA Region 2 (or the United States on behalf of EPA) may choose to pursue under applicable law.



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance
United States Environmental Protection Agency, Region 2

SEP 27 2017

Date