

Statement of Basis

Approval for Commercial Storage and Disposal of Polychlorinated Biphenyls (PCBs)

**Clean Harbors Los Angeles, LLC
Los Angeles, California
U.S. EPA ID: *CAD 050806850***



**Issued by
U.S. Environmental Protection Agency, Region 9
San Francisco, California**

October 24, 2013

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I. Executive Summary

The United States Environmental Protection Agency, Region 9 (“U.S. EPA”) is renewing an Approval (permit) for Clean Harbors Los Angeles, LLC (“Clean Harbors”) to continue operating a commercial polychlorinated biphenyl (“PCB”) storage facility in Los Angeles, CA (hereinafter “Facility”). This Statement of Basis (“SB”) presents the terms of the Approval and U.S. EPA’s rationale for its issuance.

The Approval will be issued pursuant to Section 6(e)(1) of the Toxic Substances Control Act (“TSCA”) of 1976, 15 U.S.C. § 2605 (e)(1), and 40 C.F.R. Part 761, including any amendments or revisions thereto. Under TSCA, this action is known as an "Approval," which is essentially the same as a permit. U.S. EPA has followed a similar administrative process for Approval issuance, renewal and modification as for a permit. This Approval allows for continued storage of PCBs.

The Approval is based on the written renewal application titled “TSCA Commercial Storage Permit Renewal Application, Clean Harbors Los Angeles, LLC” submitted on June 5, 2013. This application was originally submitted as the “Safety-Kleen (Los Angeles), Inc. Re-application for TSCA PCB Storage Authorization, August 1, 2001,” and was revised on December 16, 2010 and September 12, 2012 prior to the final, June 5, 2013 application. These submissions collectively make up the “Renewal Application”.

Clean Harbors has been operating under an Approval to manage PCB wastes issued by U.S. EPA in 1997. On August 1, 2001, the former site owner Safety-Kleen submitted an application to renew the 1997 Approval prior to its expiration on February 15, 2002. Safety-Kleen transferred ownership of the facility to Clean Harbors in 2002. This Approval supersedes the 1997 Approval.

For the reasons set forth in this SB and the final Approval, U.S. EPA has concluded that PCB operations at the Facility do not pose an unreasonable risk of injury to human health or the environment.

U.S. EPA has made a final decision on the Renewal Application after giving the public an opportunity to comment on the proposed decision. U.S. EPA hosted a public meeting and hearing, and held a 45-day public comment period from August 22, 2013 until October 7, 2013. No public comments were received. For more information, see the following of this document, Public Participation for Proposed Approval.

II. Public Participation for Proposed Approval

45-day public comment period

U.S. EPA requested public comment on its proposed TSCA Approval for the Clean Harbors Facility in Los Angeles, CA. U.S. EPA issued a public notice and fact sheet announcing a 45-day public comment period which began on August 22, 2013 and ended on October 7, 2013. An English-language version of the public notice was published in the Los Angeles Wave, and a Spanish-language version was published in La Opinion, both on August 22, 2013. An English and Spanish language fact sheet was sent out to 1600+ residents, community organizations, and local government on August 20, 2013. No comments were received during the public comment period.

Public Meeting and Hearing

A public meeting and hearing was held on September 24, 2013 from 6:00 pm to 8:00 pm at the Slauson Multipurpose Center located at 5306 South Compton Avenue, Los Angeles, CA 90011. Six people attended the meeting, however no comments were received.

Administrative Record

U.S. EPA created an Administrative Record which contains the documents and information that U.S. EPA considered in renewing and modifying the Clean Harbors Approval. The AR is physically located at the U.S. EPA Region 9 Office, 75 Hawthorne Street, San Francisco, CA 94105.

Information Repository and Website

U.S. EPA setup an information repository during the Approval application review process as well as during the public comment period for the proposed permit. This repository was housed at the Florence Library, 1610 East Florence Avenue, Los Angeles, CA 90001. At the repository, pertinent documents and an index of the Administrative Record were made available for public viewing. Other important documents used in the decision making process are accessible on U.S. EPA's website at:

<http://www.epa.gov/region9/pcbs/disposal/cleanharbors/documents.html>.

III. Facility Description

Facility Location

The Clean Harbors Los Angeles, LLC facility ("Facility" or "CHLA") is located at 5756 Alba Street in Los Angeles, California, approximately two and a half miles south of Downtown Los Angeles. The Facility owns and occupies 2.6 acres of land zoned for light manufacturing and enterprise. The Facility is at the intersection of the Vernon, Central

Alameda, Huntington Park, and Florence neighborhoods. Vernon is a heavily industrialized city to the Northeast of the Facility.

Facility History

In 1979, the property was purchased by Oil Process Company, a transportation services company for various manufacturing and waste-generating industries. In 1980, the Facility was issued an EPA ID number as a transporter of hazardous waste. In 1985, California Department of Health Services (now Department of Toxic Substances Control or “DTSC”) issued a Hazardous Waste Facility Permit and the facility began receiving waste for treatment and discharging treated effluent. The property was sold to Rollins OPC Inc. in 1992, then to Laidlaw Environmental Services in 1997. Laidlaw then changed its name to Safety-Kleen in 1998. In 2000, Safety-Kleen filed for bankruptcy and sold the Facility to Clean Harbors in 2002. Currently, Clean Harbors is authorized to provide storage, treatment, and transfer services for offsite generated wastes from the petroleum, chemical, and plastics industries under the Hazardous Waste Facility Permit last issued by DTSC in 2011.

PCB Operations

CHLA was initially authorized to store PCBs in the Container Storage Warehouse on September 10, 1991. The Container Storage Warehouse is a containment building with an epoxy-coated concrete containment slab encompassing an indoor secondary containment bay for PCB storage. This authorization was amended on December 19, 1991 to revise the maximum storage capacity to 825 gallons, and increase the time that PCB items may be stored outside the designated storage area. A second amendment, dated May 5, 1994, increased the storage capacity of the Facility to 8,745 gallons. CHLA is currently also permitted to store PCB waste in a separate area, Containment Bay E, but will close this area as described in Appendix M of the Approval application. No treatment of PCB waste occurs other than the draining and repackaging of PCB liquids in the event that the primary container is compromised.

Regulatory Summary

The Facility is currently operating under a 2011 RCRA permit issued by DTSC to manage hazardous waste (“State RCRA Permit”) and a separate TSCA Approval from the U.S. EPA to store and dispose of PCB waste that was issued in 1997 and expired in 2002. This Approval supersedes the 1997 Approval.

IV. Final Approval Decision

The Approval authorizes Clean Harbors to store PCB wastes at the Facility as described in the table below:

Table 1
Approved PCB Units and Maximum Capacities

<i>Waste Management Unit Name</i>	<i>Type and Number of Units</i>	<i>Authorized Activity</i>	<i>Maximum Total Capacity</i>
Container Storage Warehouse Bay 1	1 Building	Storage	7,920 gallons

The Container Storage Warehouse is also separately permitted by the California Department of Toxic Substance Control to store, treat, and dispose of hazardous waste under RCRA. The unit being approved for storage of PCBs is shown in Figure 2, Map of Approved PCB Unit.

V. PCB Unit Descriptions

One PCB Unit, the Container Storage Warehouse Bay 1, is authorized by the Approval for storage at the Clean Harbors. This unit is primarily used for storing PCBs and if necessary, for repackaging leaking equipment that contain PCB liquids. The State RCRA Permit authorizes other hazardous waste besides PCBs to be stored in the Container Storage Warehouse. The warehouse consists of an enclosed building (130 ft x 80 ft) with a roof and walls to protect PCBs from precipitation. It has 3 containment bays (50 ft x 30 ft) with continuous curbing 6 inches high, one of which is designated for PCB storage. The building has a concrete floor and epoxy is reapplied approximately every 2 years. A truck loading dock is located directly adjacent to the PCB storage area in the warehouse.

VI. Required Regulatory Determinations for Storage of PCBs (40 C.F.R. § 761.65(d)(2))

U.S. EPA has evaluated the Renewal Application including the supporting documents and determined that the requirements contained in 40 C.F.R. § 761.65(d)(2) have been satisfied for Clean Harbors to store PCBs at the Facility. U.S. EPA’s findings for each requirement are discussed below:

a. Personnel Requirements

In accordance with 40 C.F.R. § 761.65(d)(2)(i), Clean Harbors, its principals, and its key employees responsible for the establishment and operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste. This finding is based on U.S. EPA’s evaluation of the experience of the personnel that manage the Facility, as stated in the resumes contained in Appendix A of the Renewal Application. This finding is also based on the Facility’s compliance with the worker

training program as described in Section 6 of the Part “B” Application dated April 2009. The Part “B” Application is contained in Appendix C of the Renewal Application.

b. Facility Capacity Requirements

In accordance with 40 C.F.R. § 761.65(d)(2)(ii), the Facility possesses the capacity to handle the quantity of PCB waste which Clean Harbors has estimated will be the maximum quantity of PCB waste that will be stored at any one time at the Facility. This finding is based on the secondary containment calculations contained in Section 3.1 and Appendix E of the Renewal Application.

c. Certification of Compliance with Storage Facility Standards

In accordance with 40 C.F.R. § 761.65(d)(2)(iii), Clean Harbors has certified compliance with the storage facility standards in 40 C.F.R. § 761.65(b) and (c)(7). The signed certification is contained in Section 3.2 of the Renewal Application.

d. Closure Plan Development

In accordance with 40 C.F.R. § 761.65(d)(2)(iv), U.S. EPA finds that Clean Harbors has developed a written closure plan for the Facility that is deemed acceptable under the closure plan standards of 40 C.F.R. § 761.65(e). This finding is based on U.S. EPA’s evaluation of Section 4 and Appendix M of the Renewal Application.

As required by 40 C.F.R. § 761.65(e), the Closure Plan includes a description of closure work for the PCB Storage Areas, the maximum extent of storage operations (the locations where waste will be stored), an estimate of the maximum amount of waste that could be stored at the Facility, a detailed description of the steps necessary to decontaminate PCB waste residues, and a schedule for closure of each area of the Facility where PCBs were stored or handled. Since this is not a disposal facility, there is no potential for post-closure releases of PCBs.

e. Demonstration of Financial Responsibility for Closure

In accordance with 40 C.F.R. § 761.65(d)(2)(v), U.S. EPA finds that Clean Harbors has included in the application a demonstration of financial responsibility for closure that meets the financial responsibility standards of 40 C.F.R § 761.65(g). This finding is based on Section 7 and Appendix J of the Renewal Application. Clean Harbors is utilizing “Closure Insurance” as described in 40 C.F.R § 761.65(g)(5).

f. Operations Will Not Pose an Unreasonable Risk

In accordance with 40 C.F.R. § 761.65(d)(2)(vi), the operation of the storage units at the Facility will not pose an unreasonable risk of injury to health or the environment. This

finding is based on U.S. EPA's evaluation of the Renewal Application, the RCRA Part "B" Application dated April 2009, (Rev 9.0), and the Health Risk Assessment submitted to DTSC by Clean Harbors as part of the RCRA application. These documents are included in the Administrative Record which is available for public review as discussed in Section 3 of this SB.

Operation of the Facility, consistent with the requirements set forth in the proposed Approval, will ensure that the Facility does not pose an unreasonable risk to human health. The major pathway for exposure of nearby communities is through the release and migration of liquid PCBs. The enforceable operational provisions of the Approval, along with the design of the Facility (which includes a secondary containment area for potential spills), ensures that any spills would not migrate offsite.

Moreover, no treatment of PCBs occurs except for draining of certain PCB-containing items. In the event that a primary container is compromised during such draining, the PCBs would be controlled within the secondary containment area, which is epoxy coated and hence impermeable. Also, PCBs have limited volatility, which eliminates another potential pathway for human exposure. There is no other reasonably identifiable pathway of exposure to residents beyond the Facility boundary.

Workers at the Facility are protected through training programs and personal protective equipment. The RCRA Contingency Plan and Facility Spill Prevention Control and Countermeasures Plan contain the procedures and protocols to address any accidental spills of PCBs.

Finally, based on the facility location in an industrial development zone, U.S. EPA has concluded that there are no significant risks of harm to the environment and wildlife associated with a Clean Harbors PCB Approval. In accordance, U.S. EPA has made a determination under the Endangered Species Act that management of PCB wastes at the Facility, as allowed in the Approval, "will not affect" any threatened or endangered species or critical habitat. U.S. EPA's determination can be found in Appendix B.

g. Compliance History

In accordance with 40 C.F.R. § 761.65(d)(2)(vii), the history of environmental civil violations of Clean Harbors, its principals, and its key employees does not constitute a sufficient basis for denial of approval in that it does not demonstrate an unwillingness or inability to achieve and maintain compliance with the regulations. This finding is based on U.S. EPA's evaluation of the information contained in Section 2.7 of the Renewal Application, as well as the results of the most recent TSCA inspection. That inspection, which was conducted on August 25, 2011, showed that there were only minor TSCA violations regarding labeling. These issues were corrected during the site visit. All other

available evidence demonstrates that the Facility is in compliance with its current Approval and the TSCA PCB regulations at 40 C.F.R. Section 761, and that the history of violations does not serve as a sufficient basis for denial of the Approval.

VII. Use of Omnibus Provisions at 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii)

The TSCA regulations at 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii) allow U.S. EPA to include other requirements in an approval that the agency finds necessary to ensure that PCB storage and disposal operations at a facility “will not pose an unreasonable risk of injury to health or the environment.”

U.S. EPA’s justification for using the omnibus provisions of 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii) in the Clean Harbors Approval are provided in Appendix A.

VIII. Other Requirements

In addition to TSCA and the regulations at 40 C.F.R. § 761, U.S. EPA must comply with other requirements prior to proposing and issuing a TSCA Approval to manage PCB wastes. These other requirements include Section 106 of the National Historic Preservation Act (“NHPA”), Environmental Justice per Presidential Executive Order 12898, and Section 7 of the Endangered Species Act. U.S. EPA has evaluated the Renewal Application and its supporting documents and determined that the proposal and issuance of the TSCA Approval for the Clean Harbors Facility is in compliance with these other requirements as discussed below:

a. Section 106 of the National Historic Preservation Act

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford consulting parties and the public reasonable opportunity to comment. The requirements of the NHPA apply to U.S. EPA for the renewal and modification of the TSCA Approval for Clean Harbors to manage PCB wastes at the Facility. The requirements apply because issuance of the Approval is an “undertaking” pursuant to the NHPA.

As part of the Section 106 review process, U.S. EPA searched for historic and/or culturally significant properties near the Facility, contacted local Native American groups, and initiated formal consultation with eight Indian tribes. Those efforts did not yield any information on historic properties. Thus, EPA has made a determination of “No Historic Properties Affected” for this undertaking. The California State Historic

Preservation Officer provided concurrence on this finding. U.S. EPA’s determination can be found in Appendix C.

b. Environmental Justice

Environmental Justice (“EJ”) is one factor that U.S. EPA considers when taking an action, such as making an Approval decision. This is done in accordance with Presidential Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which was issued on February 11, 1994. The main goal of the Executive Order is to ensure that federal agencies identify and address, as appropriate, any disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority or low-income populations. In order to evaluate and address possible EJ concerns during the permit application process,¹ U.S. EPA considers whether the facility pursuing an Approval may be located in an overburdened community.² In overburdened communities, U.S. EPA promotes the consideration of environmental justice concerns by enhancing the community’s ability to participate fully and meaningfully in the permitting process.

Environmental Justice Screening

In accordance with U.S. EPA Region 9’s Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities (Appendix E), U.S. EPA Region 9 identified the need for enhanced public outreach activities for the community surrounding the Clean Harbors facility. U.S. EPA also reviewed records of DTSC’s public participation process for its 2011 RCRA permit issuance to the facility. Reviewing past public outreach provided information about specific community questions and concerns, preferred methods of contact, and a community mailing list. For example, community surveys showed that the most common questions were regarding the types of chemicals at the facility and potential health risks that they pose. These surveys also revealed that the preferred methods for dissemination of information were through a mailed fact sheet and holding of a community meeting – both activities that U.S. EPA conducted.

1 The EPA defines “environmental justice” as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

2 The term “overburdened” describes the minority, low-income, tribal, and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of both negative and lack of positive environmental, health, economic, or social conditions within these populations or communities.

Considering Potential Impacts

PCBs are a class of toxic chemicals that are carcinogenic and may cause other harmful non-cancer effects on the body. A March 2009 Risk Assessment³ of the Clean Harbors Los Angeles facility, performed as part of the 2011 RCRA Permit process, describes how the low vapor pressure of PCBs results in negligible air emissions. Thus, the main risk posed to the community from continued storage of PCB waste at the Clean Harbors facility is from the potential migration of PCB waste beyond the facility boundary if spills occur and are not properly contained and remediated. To address this risk, U.S. EPA has included Approval conditions which serve to minimize the potential for a PCB release to the environment and mitigate any impacts to the surrounding community and environment in the event that one does occur. These requirements include:

- Facility design requirements preventing exposure of PCB waste to external elements and physical containment of PCB waste in the event of a spill
- Training and operational requirements designed to minimize unsafe handling of PCB waste including regular inspections of waste in storage
- Requirements regarding emergency procedures
- Spill cleanup and decontamination requirements
- Notification requirements for spills and emergencies
- Required emergency equipment and maintenance

Outreach Activities and Community Engagement

After reviewing demographic and environmental information about the community, U.S. EPA determined that enhanced outreach for this Approval decision was warranted. Consequently, U.S. EPA conducted outreach activities beyond those required for the Approval process, as specified in 40 C.F.R. § 124. This outreach attempted to inform the community about the Approval application earlier in process, make information more accessible to the community, establish a point of contact for the community, and gauge community interest. The following outreach activities were conducted during the Approval application review phase of the process:

- An informational fact sheet was mailed to 1600+ residents, local government, and community organizations in October 2012. This fact sheet was written in plain language and provided information about the facility, PCBs, the Approval application and process, and resources for more information. A version translated into Spanish was also provided. No questions or comments were received from the public as a result of this outreach effort as of August 22, 2013.
- A website was created to provide background information on U.S. EPA's involvement at the facility and serve as an access point for Approval documents.

³ Available for viewing as part of the Administrative Record.

This website can be accessed at
<http://www.epa.gov/region9/pcbs/disposal/cleanharbors/>.

- An information repository was set up at the Florence Library. The repository provided a physical location within the community to view documents relevant to the Approval process. English and Spanish copies of the fact sheet were also made available at the front desk to take home.

The EPA held a 45-day comment period on the draft Approval. The public notice was translated and published in both English and Spanish language newspapers. A fact sheet about the draft Approval was also provided to the community mailing list as a follow up to the informational fact sheet from October 2012. This fact sheet was made available at a local library and on EPA's permit webpage. In addition, the EPA held a public meeting and hearing in the community to discuss the draft Approval. No public comments were received.

Conclusion

Due to the potential for EJ concerns during the screening process, the U.S. EPA made a good faith attempt to engage the community earlier in the Approval application review and decision-making process and make information more accessible to the community. These activities involved:

- A commitment to translating materials
- Using plain language descriptions of the facility
- Initiating community outreach earlier in the application review process
- Having a single point of contact for the community
- Using outreach methods that the community prefers, and
- Addressing specific community questions and concerns about the facility and Approval action

Throughout the permit process, U.S. EPA conducted enhanced community outreach as appropriate.

c. Endangered Species Act

Section 7(a)(2) of the Endangered Species Act ("ESA"), 16 U.S.C. § 1536(a)(2), requires all Federal agencies, in consultation with the United States Fish and Wildlife Service ("USFWS"), to ensure that any action they carry out, fund, or authorize (such as through a permit or Approval) is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. U.S. EPA considers issuance of the Approval to be an "action" subject to the ESA.

U.S. EPA evaluated the area surrounding the facility using Google maps, the ecological portion of the *Health Risk Assessment* prepared for Clean Harbors dated March 2009, and the summary of ecological issues in DTSC's *Initial Study* report dated 7/26/06. In summary, the Facility is located in an industrial area and there is no habitat to support endangered species and no apparent mechanism by which the PCBs might be released and transported to such habitats. Thus, EPA has determined that the renewal and modification of the TSCA Approval for Clean Harbors "will not affect" any listed species or designated critical habitat. Accordingly, formal consultation with the USFWS is not required. U.S. EPA's determination can be found in Appendix B.

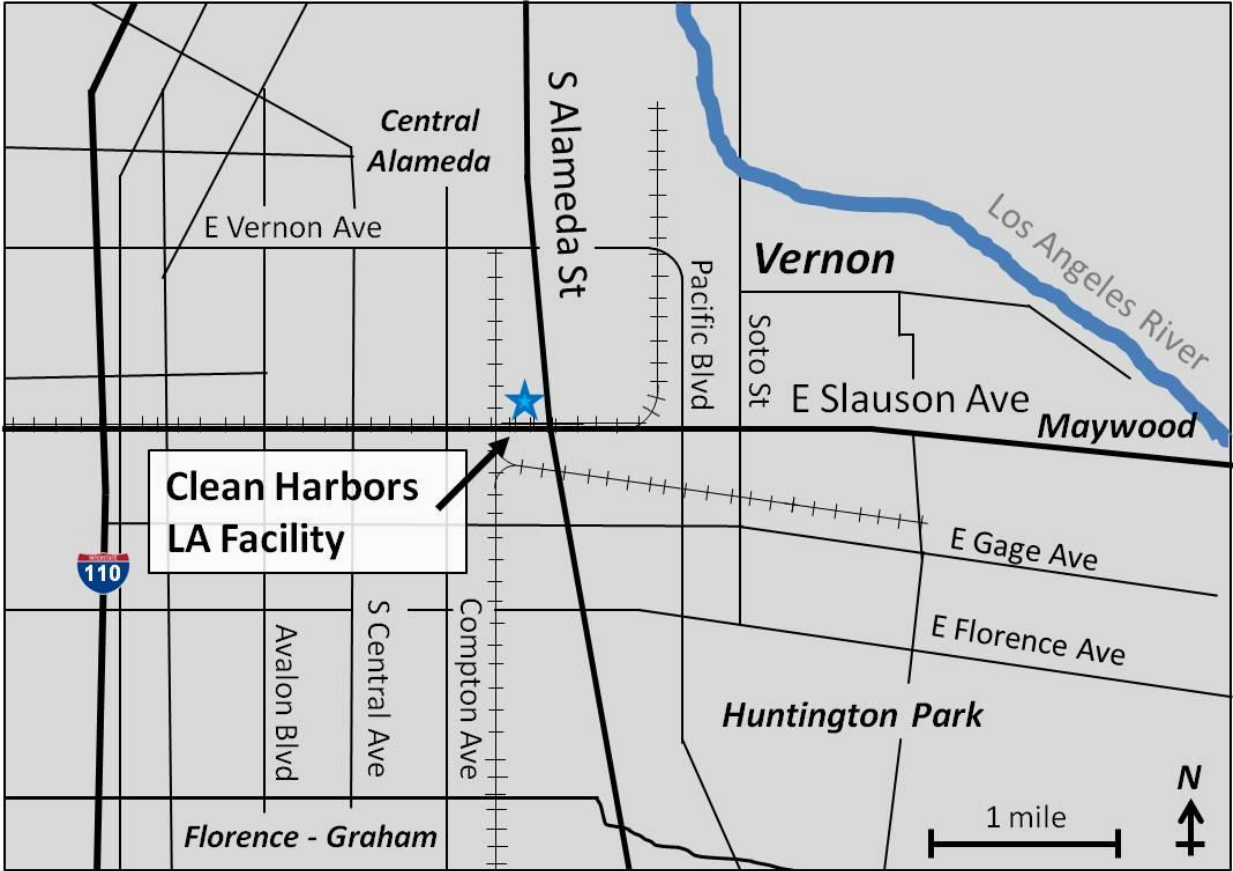


Figure 1 – Site Location Map

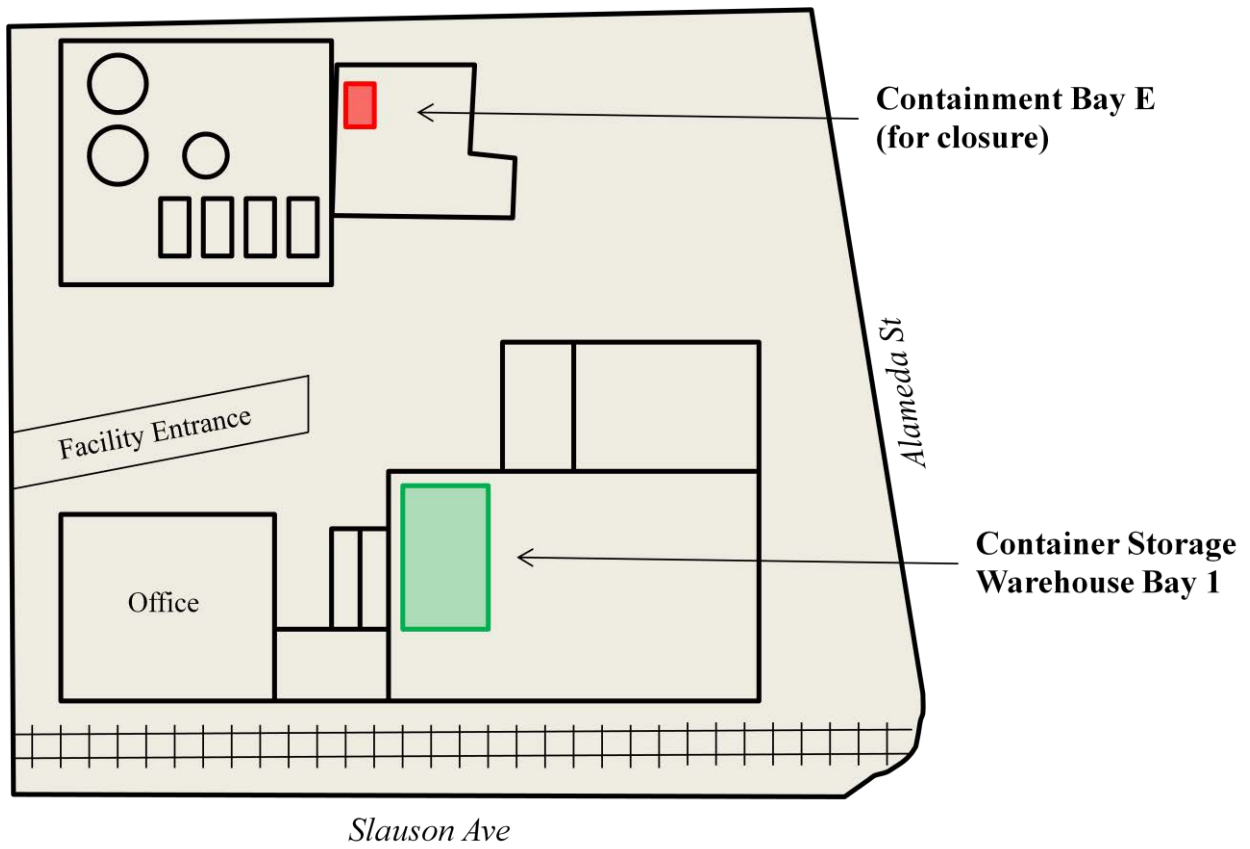


Figure 2 – Map of PCB Unit Proposed for Approval

Appendix A
Justification for use of Omnibus Provisions

Appendix B
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