

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

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In the Matter of: :
: : Approval for Risk-Based Cleanup
Former ASARCO Facility : and Disposal of Polychlorinated
Block 430, **Lot 1.03** : Biphenyl Remediation Waste
Perth Amboy, New Jersey :
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This document is the United States Environmental Protection Agency, Region 2’s (“EPA” or “EPA Region 2”) response to and approval of the request for a risk-based cleanup and disposal of polychlorinated biphenyl (“PCB”) remediation waste (as defined at 40 C.F.R. § 761.3) (“Approval”) for the portion (Block 430, **Lot 1.03**) of the property (“Site”) located at 1160 State Street, Perth Amboy, Middlesex County, New Jersey. The Site consists of Block 430, Lots 1.02¹ and 1.03 of the Middlesex County tax map. The disposal approval request was submitted to EPA Region 2 by First Environment, Inc. (“First Environment”) on behalf of **Perth Amboy 1160, LLC** (“Perth Amboy 1160”) the owner of Block 430, **Lot 1.03** and Eport Phase II Urban Renewal, LLC (“Eport”), the owner of Block 430, Lot 1.02, to manage remediation activities on the two lots. While the Application presented information pertaining to the two lots, this Approval is only for Lot 1.03.

The documents that EPA Region 2 considered in determining whether to approve Perth Amboy 1160’s request consist of the following (all of which were submitted on behalf of Perth Amboy 1160 and Eport and together constitute the “Application”):

- October 2022 document entitled “Toxic Substances Control Act (“TSCA”) Polychlorinated Biphenyls (“PCBs”) Risk-Based Approval Application Perth Amboy 1160, LLC 1160 State Street Perth Amboy, New Jersey” including all tables and appendices (“PCB Application”), prepared by First Environment on behalf of Perth Amboy 1160 and Eport². This document is an updated revision of a July 2019 application.
- October 2021 document entitled “Current Conditions Report Perth Amboy 1160, LLC Perth Amboy, New Jersey” including all tables and appendices (“Current Conditions Report”), prepared by First Environment on behalf of Perth Amboy 1160 and Eport. This document is an updated revision of an April 2019 Current Conditions Report. An updated October 2021 Current Conditions Report with a correction to the Bridge entity name was submitted by Wanda Chin Monahan in her October 11, 2022 letter (see below).

¹ An Approval of the risk-based cleanup and disposal of Lot 1.02 has been separately issued to Eport.

² In an earlier submittal, First Environment prepared the application for Perth Amboy 1160 and Bridge Perth Amboy Urban Renewal, LLC (a related entity to Eport).

- October 11, 2022 letter (from Wanda Chin Monahan of Wanda Chin Monahan, LLC to Ariel Iglesias, EPA Director of Land, Chemicals and Redevelopment Division) entitled ‘RE: Correction to “Eport Phase II Urban Renewal, LLC” name as Owner of Block 430, Lot 1.02 in PCB Application and Current Conditions Report - ELT/ASARCO, 1160 State St., Perth Amboy, New Jersey” including 2 enclosures. The letter changes the name of the entity that owns Block 430, Lot 1.02 in the PCB Application and Current Conditions Report from “Bridge Perth Amboy Urban Renewal, LLC” to “Eport Phase II Urban Renewal, LLC.”

EPA Region 2 has reviewed the 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 the Application to ensure that safeguards, including long-term maintenance and monitoring commitments, associated with the remediation of Lot 1.03 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 Lot 1.03 will not pose an unreasonable risk of injury to human health or the environment.

EPA therefore hereby issues this Approval for the risk-based disposal of PCB remediation waste at Lot 1.03, in accordance with the federal regulations for PCBs promulgated pursuant to the Toxic Substances Control Act (“TSCA”), as amended, 15 U.S.C. §§ 2601 - 2697 *et seq.* and set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761), and subject to the terms and conditions specified herein. 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 Land, Chemicals and Redevelopment Division (“LCRD”).

1. Effective Date

This Approval shall become effective on the date the Director of LCRD, EPA Region 2, receives written notification from Perth Amboy 1160, signed by an authorized representative of Perth Amboy 1160, of its 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 Perth Amboy 1160 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

Lot 1.03 is a portion of the Site, located at 1160 State Street, in a commercial/industrial area of Perth Amboy, Middlesex County, New Jersey. The Site is bounded by State Street on the west, a petroleum bulk storage facility on the north, the Arthur Kill on the east, and a former industrial site on the south. A portion of the southern property line is adjacent to Cranes Creek which is located on the adjacent property.

The American Smelting and Refining Company (“ASARCO”) acquired the Site and commenced operations in 1901. Historical operations at the former ASARCO facility included the reduction of non-ferrous metal ores to their metallic form. In September 2009, the Site was purchased out of bankruptcy court by Perth Amboy 1160. Currently, there are no operations on the Site except for the storage of equipment and materials. All former buildings have been demolished in anticipation of Site development.

During 2010, remedial investigation (“RI”) activities identified PCB contaminated material at the Site. Based on the results of the RI activities, a Self-Implementing Plan (“SIP”) for the remediation of PCB contamination at the Site was submitted by First Environment, on behalf of Perth Amboy 1160, to EPA on November 4, 2011, and EPA approved the SIP in a letter dated April 25, 2012. This plan was implemented in 2014 and involved the excavation and off-site disposal of materials contaminated with PCBs above 100 parts per million (“ppm”) and the relocation of PCB remediation material between 10 ppm and 100 ppm to an area that was to be designated as a Low Occupancy Area (“LOA”), as that term is defined by 40 C.F.R. § 761.3. Due to recent redevelopment plans for the property, a LOA is no longer suitable in its original proposed location. In 2017 and 2018, additional delineation activities were conducted at the Site. Analytical results revealed additional contaminated material that exhibited PCB concentrations above 100 ppm. PCB contamination at the Site is primarily associated with building rubble/fill from former buildings that have been demolished and used as backfill. The contaminated media is the fill material and the surrounding soils.

From 2006 to 2018, 449 samples representing PCB soil conditions at the Site were collected during site/remedial investigation activities. Out of the 449 samples collected site-wide, approximately 30 percent were determined to be either non-detect for PCBs or had PCB concentrations below the New Jersey Department of Environmental Protection non-residential direct contact soil remediation standard of 1.0 ppm; approximately 29 percent had PCB concentrations between 1 ppm and 10 ppm; approximately 34 percent had PCB concentrations between 10 ppm and 100 ppm; approximately 5 percent had PCB concentrations between 100 and 500 ppm; and one sample had a PCB concentration of 1,200 ppm. Samples which revealed PCB concentrations greater than 100 ppm are located on Lot 1.02.

Groundwater sampling was conducted in 2018 and 2019 in order to evaluate potential groundwater impacts. PCBs have not been identified in groundwater at concentrations above the TSCA decontamination standard for water containing PCBs (less than or equal to 0.5 micrograms per liter (“µg/L”) for unrestricted use) per 40 C.F.R. § 761.79(b)(1)(iii).

In December 2020, the Site was divided into 2 lots; Perth Amboy 1160 retained Lot 1.03 and Eport purchased Lot 1.02. Future development plans for Lot 1.03 include raising the elevation a minimum of four (4) feet to a level above the FEMA flood hazard elevation and construction of an 8,700 square foot warehouse with asphalt and landscape areas for the remainder of the Lot.

3. Work to be Performed

All work required by this Approval must be conducted in accordance with the Application, which is herein incorporated by reference, as well as the terms and conditions specified in this Approval, and the federal PCB regulations, including but not limited to the regulatory provisions regarding on-site storage of remediation waste³, off-site transport and disposal, and decontamination of equipment utilized in remediation⁴. When conducting analyses of samples, Perth Amboy 1160 shall use appropriately sensitive and selective testing methods as required under 40 C.F.R. Part 761 or 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.

³ All on-site storage of PCB remediation waste will be in accordance with 40 C.F.R. § 761.65(c)(9).

⁴ All equipment utilized in the remediation will be decontaminated in accordance with 40 C.F.R. § 761.79, including swabbing surfaces that have contacted PCBs with a solvent and a double wash/rinse as defined in Subpart S.

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

1. Installation of a Lot-wide Cap, in accordance with the capping plan specified in the Application and the requirements of 40 C.F.R. § 761.61(a)(7), over the entire Lot. At a minimum, the following standards shall be met for each area capped: two feet of certified clean fill for landscaped areas; six inches of asphalt for parking lots and roadways; and six inches of concrete for building slabs;
2. Groundwater monitoring for PCBs, to be conducted quarterly for the period of one year, at monitoring wells MW-23 and MW-12SR. A groundwater monitoring plan will be submitted to EPA for review and approval, within 90 days of the effective date of this Approval. Once approved, the groundwater monitoring plan will be implemented. The results will be reported to EPA when the laboratory results are finalized each quarter;
3. The recording of a deed restriction (*i.e.*, a Deed Notice) for Block 430, Lot 1.03 with the Middlesex County Clerk's office. The Deed Notice will, among other things, include the requirement to maintain the Lot-wide cap in perpetuity, and restrict the use of the Lot to nonresidential purposes as defined in Title 7 of the New Jersey Administrative Code (N.J.A.C.) 7:26D-1.5, in accordance with Section 9 of this Approval;
4. In the event that higher concentrations of PCBs in groundwater or soil are revealed that were not previously found in Lot 1.03 and/or identified in the application, Perth Amboy 1160 shall immediately notify EPA Region 2 of the new site conditions. If requested, an action plan with a proposed implementation schedule will be submitted to EPA Region 2 within 30 days from the notification for review and approval. Upon approval, the action plan will be implemented. Additional cleanup activities, including excavation, may be required.
5. Long-term maintenance and monitoring of the Lot-wide Cap in accordance with Section 6 of this Approval; and
6. Any other remedial actions, if deemed necessary, to prevent migration of unacceptable exposures of PCB contamination at Lot 1.03.

To the extent that Perth Amboy 1160 hires any contractor, sub-contractor, independent agent or other third party to perform said work, Perth Amboy 1160 shall ensure that any such contractor, sub-contractor, independent agent or other third party performs said work in accordance with the terms and conditions of the Application, this Approval, and the PCB regulations.

Any proposed revisions or modifications to the Work as described in Section 3 [1-6] shall be submitted to EPA for review and approval prior to implementation. Nothing herein shall preclude additional work measures from being implemented, provided that any such measure is not inconsistent with nor violates any express provision in this Approval or any PCB regulatory provision of 40 C.F.R. Part 761.

4. Periodic Reporting Requirements

The following reports shall be made:

Work Schedule. Within thirty (30) calendar days after this Approval becomes effective, Perth Amboy 1160 shall submit to EPA Region 2 a reasonably detailed schedule for performance of the remedial work and sampling identified in Section 3 and the date for commencement of the long-term monitoring to be performed as per Section 3[5].

Work Status Report. After the effective date of this Approval, Perth Amboy 1160 shall provide EPA Region 2 with a written report every three (3) months of the status of the relevant remedial actions performed in accordance with Section 3 (Work to be Performed) of this Approval and any other remedial actions, if deemed necessary.

Remedial Action Report. Within sixty (60) calendar days of completing the work specified in Section 3[1- 4] of this Approval, Perth Amboy 1160 shall submit to EPA Region 2 for review and approval a Remedial Action Report (“RAR”) in accordance with Section 5 below.

Deed Notice. Within seven (7) calendar days of recording the Deed Notice identified in Section 3[3] above and further described in Section 9 below, Perth Amboy 1160 shall submit proof of recording to EPA Region 2 in accordance with Section 9.

Annual Report. Beginning the first July following the completion of the work identified in Section 3 [1- 4] and the commencement of the long-term maintenance and monitoring identified in Section 3[5] and continuing every July thereafter, Perth Amboy 1160 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.

5. Remedial Action Report

Within sixty (60) calendar days of completing the work specified in Section 3 [1- 4] of this Approval, Perth Amboy 1160 shall submit to EPA Region 2 a Remedial Action Report (RAR) that includes the following, but is not limited to the following:

- 1) a detailed description of the specific activities performed to address the PCB contamination present on Lot 1.03;
- 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 Lot 1.03;
- 4) “as-built” figures depicting conditions at Lot 1.03 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 Perth Amboy 1160, verifying that all engineering components directed by this Approval have been completed in accordance with this Approval.

A supplemental RAR shall be submitted within sixty (60) calendar days of completing any other remedial action as identified under Section 3[6] of this Approval and shall include the information specified above.

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 [1-4] of this Approval, Perth Amboy 1160 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 detailed schedule for the inspections/maintenance of the Cap, including inspection and maintenance templates;
- 2) preventive and corrective maintenance procedures; and
- 3) any supplemental measures required from the implementation of additional remedial actions pursuant to Sections 3 [4 and/or 6] of this Approval.

Within thirty (30) calendar days of EPA Region 2’s approval of the draft MMP, Perth Amboy 1160 shall commence implementation of said plan. To the extent that Perth Amboy 1160 hires any sub-contractor, independent agent or other third party to perform said work, Perth Amboy 1160 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 the Application, this Approval and the PCB regulations.

As part of the final approved MMP, annual inspections and reporting will be required. The Cap shall be maintained to prevent access to or release of the contaminated material from under such Cap. Perth Amboy 1160 shall maintain the Cap and perform at least one annual visual inspection of the Cap. The Perth Amboy 1160 shall prepare written reports of all inspections performed and maintenance activities completed and shall annually submit a copy of all cap inspection(s) and maintenance reports, as well as any other information pertaining to maintenance of the 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 Perth Amboy 1160 identifies a breach in the Cap, Perth Amboy 1160 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

Perth Amboy 1160 shall demonstrate that it has financial assurance sufficient to complete the work required by Section 3 [1-6] of this Approval and the inspection, maintenance, and monitoring obligations under Section 6 of this Approval. Perth Amboy 1160 shall establish financial assurance by choosing among 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). Documentation that this financial assurance is in effect shall be provided to EPA Region 2 within thirty (30) calendar days of the effective date of this Approval. Variations to or modifications from the language prescribed in 40 C.F.R. § 264.151 can be made in the instrument(s) that Perth Amboy 1160 elects under 40 C.F.R. § 264.151 to effect financial assurance. However, EPA Region 2 will review the change(s) and may require Perth Amboy 1160 to revise the adjusted financial

assurance mechanism(s) prior to approving it.

No later than March 1st of each year, Perth Amboy 1160 shall submit an annual certification to EPA Region 2 that the selected financial assurance mechanism(s) covered the prior calendar year and that Perth Amboy 1160 has and will maintain such coverage for the current year.

Beginning five (5) years from the effective date of this Approval and repeating every five years thereafter, Perth Amboy 1160 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. If Perth Amboy 1160 wishes to change the financial assurance mechanism(s), Perth Amboy 1160 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 Perth Amboy 1160 to revise the adjusted financial assurance mechanism(s) prior to approving it.

In the event that Perth Amboy 1160 sells or leases any portion of Lot 1.03 or the Lot in its entirety, these financial assurance obligations shall be transferred from Perth Amboy 1160 to the buyer or lessee, provided that the terms and conditions specified in Section 10 of this Approval are met and the buyer or lessee has demonstrated that it has a financial assurance mechanism acceptable to EPA in place. If Perth Amboy 1160 sells or leases any portion of Lot 1.03 or the Lot in its entirety but satisfactory demonstration of financial assurance has not been provided by such buyer or lessee to EPA, Perth Amboy 1160 shall remain liable for financial assurance as if such sale or leasing arrangement had not taken place.

The financial assurance mechanism shall designate EPA as a beneficiary of funds. In the event Perth Amboy 1160 fails to perform Approval obligations, is seriously or repeatedly deficient in its performance, and fails to correct the situation after notice from EPA, EPA shall be entitled to obtain funds from Perth Amboy 1160's financial assurance mechanism to effect proper performance.

8. Records

As long as PCB remediation waste above 1 ppm remains on Lot 1.03, Perth Amboy 1160, or any new owner pursuant to Section 10, shall maintain the following records at a central location and shall make them available to EPA upon request:

- 1) the final construction drawings and any other construction-related documents pertaining to the Cap;
- 2) all records and information related to characterization, analysis, sampling, shipping and disposal of PCB-contaminated material associated with the cleanup at the Lot; and
- 3) all records and information related to the long-term monitoring including the records of monitoring, inspections and repair of the Cap.

9. Deed Restriction and Certification to EPA

Within sixty (60) calendar days of completing the work specified in Section 3 [1] of this Approval, Perth Amboy 1160 shall do the following.

- 1) Prepare and record a Deed Notice with the County Clerk's Office, Middlesex 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 Lot 1.03; a description of the work performed under this Approval; a statement requiring that a deed Notice and the Lot-wide Cap must be maintained in perpetuity; a restriction on the use of Lot 1.03 to nonresidential purposes (as defined in Title 7 of the New Jersey Administrative Code (N.J.A.C.) 7:26D-1.5); 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 Perth Amboy 1160 indicating that Perth Amboy 1160 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 or Lease of Lot 1.03

Perth Amboy 1160 shall not sell or lease any portion of Lot 1.03 (or the Lot in its entirety) unless Perth Amboy 1160 notifies EPA Region 2, in writing, no less than thirty (30) calendar days prior to such sale or lease. This notification shall include the name, address and telephone number of the proposed new owner(s) or lessee(s). In the event that Perth Amboy 1160 sells or leases any portion of Lot 1.03 (or the Lot in its entirety), Perth Amboy 1160 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 or lessee requests, in writing, that EPA Region 2 reissue this Approval to the new owner or lessee, transferring all responsibility to comply with the terms and conditions of this Approval to the new owner or lessee, and the new owner or lessee indicates how it intends to comply with the financial assurance and other requirements of this Approval;
- 2) EPA Region 2 reissues this Approval to the new owner or lessee, transferring all responsibility to comply with the terms and conditions of this Approval to the new owner or lessee; and
- 3) the new owner or lessee provides written notification to EPA Region 2 of its acceptance of and intention to comply with the terms and conditions of the reissued Approval.

Any sale or lease agreement must provide that Perth Amboy 1160 has continued access to Lot 1.03 to perform its obligations under the Approval, and that EPA has access to the Lot for inspection and/or monitoring activity until each of the three above conditions are met.

EPA Region 2 may withdraw the reissued Approval if it does not receive written notification from the new owner or lessee of its acceptance of, and intention to comply with, the terms and conditions of the reissued Approval within forty-five (45) calendar days of the date of the reissued Approval. Where EPA Region 2 has withdrawn the reissued as, this Approval, as originally issued to Perth Amboy 1160, will remain in effect. In such case, Perth Amboy 1160 shall provide EPA Region 2, in writing, documentation that Perth Amboy 1160 will be afforded access to Lot 1.03, 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 or lessee, Perth Amboy 1160 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, Perth Amboy 1160 will then be released from any further obligations, except as otherwise set out in Section 7 (Financial Assurance), above, mandated by this Approval.

11. Restrictions on Use

As long as PCB remediation waste above 1 ppm is present on the Lot 1.03, Perth Amboy 1160 or any successor in interest may not use any area of the Lot for purposes other than the anticipated commercial and industrial 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 the LCRD, EPA Region 2. Perth Amboy 1160 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 proposed modification involves a change in the use of Lot 1.03 that has the potential to affect the Cap or to result in other unacceptable changes, EPA Region 2 may not approve the proposed modification, and if EPA determines that the change in use of Lot 1.03 may pose an unreasonable risk to human health or to the environment, or if EPA Region 2 does not receive the information that EPA reasonably requires to assess and/or make a determination regarding such potential risk, then EPA Region 2 may revoke, suspend and/or modify this Approval. Perth Amboy 1160 shall prepare and record any amendment to the Deed Notice and/or this Approval, resulting from any modification(s), within sixty (60) days of such changes(s).

13. EPA Region 2 Authority for Entry and Inspection

By signing this Approval, Perth Amboy 1160 consents to EPA Region 2's authorized representatives entering the Lot 1.03 at reasonable times, upon notice to Perth Amboy 1160 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 Lot 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. Perth Amboy 1160 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), Perth Amboy 1160 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) Perth Amboy 1160 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 Perth Amboy 1160’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 Perth Amboy 1160’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 Perth Amboy 1160, it must be clearly identified as such on the documents submitted and the claims to confidentiality must be substantiated at the time of submittal.

15. Addresses for Correspondence

- 1) EPA Addresses.
 - (a) All non-CBI correspondence to be submitted to EPA Region 2 shall be sent via electronic mail to:

Andrew Park, Chief, Corrective Action Section
Land and Redevelopment Programs Branch
United States Environmental Protection Agency, Region 2
290 Broadway, 25th Floor
New York, New York 10007-1866
park.andy@epa.gov
 - (b) All CBI information with cover letter designating it as such that is to be submitted to EPA Region 2 shall be placed in a sealed envelope marked ‘CONTAINS TSCA CBI TO BE OPENED BY THE DOCUMENT CONTROL OFFICER ONLY’ and that envelope

shall be placed inside a regular mailing envelope addressed as below. DO NOT indicate on the outer envelope that it contains CBI or that the addressee is the Document Control Officer. The records should be submitted to:

Chief, Land and Redevelopment Programs Branch
United States Environmental Protection Agency, Region 2
290 Broadway, 25th Floor
New York, New York 10007-1866

- 2) Perth Amboy 1160 Address. All correspondence to Perth Amboy 1160 shall be submitted to the following representatives:

Thomas Roberts and Michael Roberts, Member
Perth Amboy 1160, LLC
1515 Des Peres Road, Suite 300
St. Louis, Missouri 63131
troberts@cdcco.com
mroberts@cdcco.com

Thomas Bambrick, Director
First Environment, Inc.
10 Park Place, Bldg. 1A, Suite 504
Butler, New Jersey 07405
TCB@firstenvironment.com

- 3) EPA and Perth Amboy 1160 reserve the right to revise the address information set out above and 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 cleanup and disposal at Lot 1.03 authorized by this Approval and the use of the Lot as set forth in the Application do 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 Perth Amboy 1160'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 is to be construed as prejudicing, waiving or negating any authority or sanction available to EPA (or the United States on behalf of EPA) under Section 6 of TSCA, 15 U.S.C. § 2605, any other section of TSCA, and 40 C.F.R. Part 761, and/or under other applicable law or regulation, nor is anything in this Approval intended or is to be construed as barring or precluding EPA (and/or the United States on behalf of EPA) from commencing and maintaining an enforcement action under Sections 16 and 17 of TSCA, 15 U.S.C. §§ 2615 and 2616, respectively, for any relief authorized thereunder, with regard to or concerning Lot 1.03.

This Approval, issued pursuant to 40 C.F.R. § 761.61(c), is based upon Perth Amboy 1160 having provided EPA Region 2 with a complete and truthful disclosure of all material facts related to Lot 1.03

in its Application. The misrepresentation or omission by Perth Amboy 1160 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.

Perth Amboy 1160's acceptance of this Approval constitutes the Property Owner'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 Lot 1.03. 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 Perth Amboy 1160 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.

Ariel Iglesias, Director
Land, Chemicals and Redevelopment Division
United States Environmental Protection Agency, Region 2

Date