

US EPA ARCHIVE DOCUMENT



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

JUN 17 2008

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Len Racioppi, Area Manager  
Major Projects - Refining & Chemicals  
ExxonMobil Corporation  
1545 Route 22 East  
Annandale, NJ 08801

**Re: Approval for Risk-Based Disposal of PCB Remediation Waste under 40 CFR §761.61(c)**

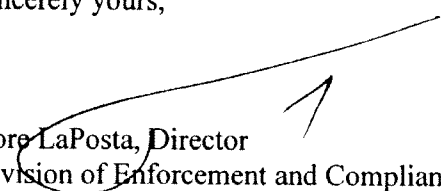
Dear Mr. Racioppi:

Enclosed, please find the United States Environmental Protection Agency's (EPA's) response to and approval of ExxonMobil Corporation's (ExxonMobil's) request for risk-based disposal of polychlorinated biphenyl (PCB) remediation waste, for portions of the Former Lail Property located in East Greenwich Township, New Jersey. The enclosed 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 the regulations set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761).

Please note that the approval shall become effective on the date the Regional Administrator of EPA Region 2 receives written notification from ExxonMobil, signed by an authorized representative of the company, indicating acceptance of and intention to comply with the conditions of the approval. This offer may be withdrawn if EPA Region 2 does not receive written notification from ExxonMobil of its acceptance of, and intention to comply with, the conditions and terms of this approval within 45 days of the date of this approval letter.

Should you have any questions concerning this matter, please contact James S. Haklar, Ph.D., P.E., of my staff, at (732) 906-6817.

Sincerely yours,

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

Enclosure

cc: Lynn Vogel, New Jersey Department of Environmental Protection

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

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	:
In the Matter of	: Approval for Risk-Based
	: Disposal of Polychlorinated
Exxon Mobil Corporation	: Biphenyl Remediation Waste
Former Lail Property	:
East Greenwich Township, New Jersey	:
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This document is the United States Environmental Protection Agency's (EPA or EPA Region 2) response to and approval of the request for risk-based disposal of polychlorinated biphenyl (PCB) remediation waste. The disposal approval request by Exxon Mobil Corporation (ExxonMobil), dated February 1, 2006, addresses portions of the Former Lail Property (also referred to as the "Site"), located in East Greenwich Township, New Jersey. EPA'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 the regulations set forth in Part 761 of Title 40 of the Code of Federal Regulations (40 C.F.R. Part 761).

The complete Application EPA considered that is the subject of this approval includes the following documents (collectively referred to as the "Application"), and any documents referenced therein, all of which are incorporated by reference into this approval.

- February 1, 2006 correspondence from ExxonMobil to EPA, Region 2;
- September 13, 2006 correspondence from ExxonMobil to EPA, Region 2;
- November 13, 2006 electronic mail from ExxonMobil to EPA, Region 2;
- December 21, 2006 correspondence from ExxonMobil to EPA, Region 2; and
- August 21, 2007 correspondence from ExxonMobil to EPA, Region 2.

Based on the information provided in ExxonMobil's Application, EPA has determined that implementation of the clean up actions described herein and in the Application will not pose an unreasonable risk of injury to human health or the environment.

EPA Region 2 reviewed ExxonMobil's Application to determine whether the proposed interim remedy would be protective of human health and the environment, is technically feasible and appropriate, and is consistent with and supportive of the plans of the New Jersey Department of Environmental Protection (NJDEP) relating to the phased remediation of the Site.

EPA hereby issues approval for the risk-based disposal of material contaminated with PCBs located at the Former Lail Property, subject to the conditions specified herein. 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 under the authority of Section 6 of TSCA, 15 U.S.C. §2605.

### **1. Effective Date and Review Date**

This approval shall become effective on the date the Regional Administrator of EPA Region 2 receives written notification from ExxonMobil, signed by an authorized representative of the company, indicating acceptance of and intention to comply with the conditions of this approval. This offer may be withdrawn if EPA Region 2 does not receive written notification from ExxonMobil of its acceptance of, and intention to comply with, the conditions and terms of this approval within 45 days of the date of this approval letter.

EPA will review this approval no later than 5 years from its effective date. At that time, if EPA finds that continued implementation of the interim remedial measures approved herein presents an unreasonable risk to human health or the environment, EPA may modify, suspend, or revoke this approval. Alternatively, EPA may request further information to make such a determination.

### **2. Description of the Former Lail Property and the Extent of PCB Contamination**

The Former Lail Property, which is the subject of this approval, is located immediately southeast of the Interstate 295 (I-295) overpass for the Mantua Creek. The approximately 16-acre Site consists of a tidally influenced freshwater embayment, adjacent tidal emergent freshwater wetlands, and surrounding upland areas. The embayment was created from the excavation of borrow material used historically for the construction of I-295 in the 1950's. The emergent wetlands on the property are associated with the tidally influenced Mantua Creek, which flows northward into the Delaware River at Paulsboro, approximately two miles northwest of the Site.

Portions of the embayment, the inner wetlands and adjacent upland areas of the Site contain an aluminosilicate material (ASM) that contains PCBs. The ASM is believed to have been deposited in the former borrow pit during the late 1950's/early 1960's. ASM was subsequently covered by sediment deposition within the embayment and inner wetlands and placement of fill

materials in the upland area. ASM is found in a continuous layer throughout portions of the embayment and the inner wetlands at estimated thicknesses ranging from less than 0.5 inches to greater than 9 feet. Portions of the upland area along the southwestern, southern, and southeastern boundaries of the embayment also contain ASM. ASM is covered by varying thicknesses of overlying soil or sediment ranging up to a cover greater than 5 feet of thickness.

Investigation activities have identified PCBs in ASM within the embayment at concentrations up to 5,066 parts per million (ppm). Outside the ASM area, sediment PCB concentrations within the embayment range up to 12.6 ppm. PCBs have been identified within ASM in the inner wetland area at concentrations up to 530 ppm, while sediment in the inner wetland area outside of the ASM contains PCBs at concentrations up to 7 ppm. PCBs have been identified within ASM in the upland portion of the site at concentrations up to 570 ppm.

### **3. Interim Remedial Measure/Remedial Action**

The remedial action described below is an interim remedial measure (IRM). The long-term effectiveness of the IRM, and potential measures for portions of the site that are not addressed by the IRM, will be addressed in the final phase of the remedial action for the Site. Additionally, those portions of the Site with PCB contamination at concentrations less than 1 ppm that are not addressed under Federal regulations, are subject to, and shall be addressed in accordance with, the requirements of NJDEP.

This risk-based PCB disposal approval addresses areas of the Site containing ASM in sediment and soils, and underlying material beneath the ASM that is contaminated with PCBs at concentrations of 1 ppm or greater. ExxonMobil shall excavate visible ASM and underlying material vertically to a PCB cleanup level of 1 ppm PCBs. Following the installation of stone berms, excavated ASM and sediment from the embayment and inner wetlands shall be dewatered, stabilized with calcium oxide and disposed off-site as a TSCA-regulated material at a TSCA-permitted facility, or at a disposal facility permitted under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

ASM-containing soils shall be staged and transported for off-site disposal as a TSCA-regulated material at a TSCA-permitted facility or at a RCRA-permitted Subtitle C disposal facility. Overburden soils that must be removed to access underlying ASM-containing soils shall be disposed off-site based on in-situ sampling for disposal. If sampling of the overburden soil reveals less than the TSCA disposal level of 50 ppm PCBs, then the soil may be disposed off-site at a State-permitted solid waste landfill. If it contains greater than 50 ppm PCBs, it shall be disposed as a TSCA-regulated material at a TSCA-permitted facility or at a RCRA-permitted Subtitle C disposal facility. Construction water, including, but not limited to all liquids generated as a result of dewatering operations, shall be treated and discharged to surface water as described in ExxonMobil's Application.

Following removal of the ASM and associated PCB-contaminated materials to the vertical cleanup level of 1 ppm referenced above, the excavated areas of the Site shall be restored in the manner described in ExxonMobil's Application. For purposes of demonstrating that the 1 ppm PCB cleanup level has been achieved, ExxonMobil shall use the point-by-point post-excavation sample results as specified in the ExxonMobil Application, unless an alternate methodology is approved by EPA. Prior to initiating restoration activities, ExxonMobil shall obtain EPA's verbal approval, followed by EPA's written confirmation that the removal of the ASM and associated PCB-contaminated materials is adequate and warrants restoration of the Site.

Notwithstanding the above, EPA and ExxonMobil acknowledge that, during the course of the work, ExxonMobil may encounter discrete areas where the 1 ppm cleanup level may not be reasonably achievable on a point-by-point basis due to technical or operational reasons. Under such circumstances, EPA will consider approving closure of a given area based on site-specific circumstances. EPA will act on such requests from ExxonMobil on an expedited basis, such as during the weekly construction meetings, in order to facilitate the timely completion of construction activities. In the event that ExxonMobil is unable to achieve the 1 ppm vertical cleanup level on a point-by-point basis as referenced above, ExxonMobil shall notify EPA in writing, and shall obtain EPA's verbal approval, followed by EPA's written confirmation before completing the IRM with respect to that particular area.

ExxonMobil shall comply with requirements set forth in the Application and this approval, as well as any subsequent written modification thereof by EPA. A request to modify the IRM must be submitted by ExxonMobil in writing and received by EPA at least 60 calendar days prior to the proposed implementation of the modification. The provisions of this approval shall supersede any inconsistent provisions which may be contained in whole in or in part in the Application.

EPA expressly reserves the right to require, by modification of this approval, additional PCB disposal measures subsequent to the completion of the IRM, that may be necessary to avoid any unreasonable risk to human health or the environment.

#### **4. Reporting Obligations**

ExxonMobil shall provide EPA Region 2 with an update of the status of the IRM every three (3) months following the effective date of this approval until construction of the IRM is complete. Within thirty (30) calendar days of completing the IRM, ExxonMobil shall submit to EPA Region 2 a certification, signed by a professional engineer, verifying that such work has been completed in accordance with this approval.

ExxonMobil shall also, by July 1 of each year, submit to EPA Region 2 an annual written summary report covering the previous reporting period (January through December of the previous year). The Annual Report shall provide the documentation required under 40 C.F.R. §761.180(a).

## **5. Sale of the Site**

During the period that ExxonMobil is carrying out the terms of this IRM, if ExxonMobil intends to sell or lease any portion of the property that is the subject of this approval, ExxonMobil shall notify EPA Region 2, in writing, no later than 30 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 ExxonMobil sells or leases any portion of the Site, it shall continue to be bound by all the terms and conditions of this approval, unless the following occurs:

- 1) The new owner or any 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;
- 2) EPA Region 2 reissues this approval to the new owner or any 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 any 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. The reissued approval may be withdrawn if EPA Region 2 does not receive written notification from the new owner or lessee of its acceptance of, and intention to comply with, the conditions and terms of the reissued approval within 45 days of the date of the reissued approval. Under such circumstances, this approval, issued to ExxonMobil, will remain in effect. In such case, ExxonMobil shall provide EPA, in writing, documentation that ExxonMobil will be afforded access to the Site, as necessary, to fulfill any and all obligations included in this approval.

## **6. Modifications and Changes in Use**

Any modification of the plan, specifications, or the information submitted in ExxonMobil's Application, that forms, in whole or in part, the basis upon which this approval has been issued, will be considered by EPA to be a major modification and must receive prior written approval from the Director of the Division of Enforcement and Compliance Assistance, EPA Region 2. Other modifications to this approval, which EPA, in its sole discretion, determines to be minor, may be authorized, in writing, by the Chief of the Pesticides and Toxic Substances Branch of the Division of Enforcement and Compliance Assistance, EPA Region 2.

ExxonMobil shall notify EPA Region 2 in writing of any such proposed modification at least 60 calendar days prior to the anticipated date for implementation of the modification. No action shall be taken to implement any such modification unless EPA Region 2 has approved of 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 involves a change in the use of the Site, EPA may revoke, suspend and/or modify this approval if it determines that

ExxonMobil's remedy 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 information from ExxonMobil that it needs to assess and/or make a determination regarding such potential risk.

## **7. EPA Entry and Inspection**

No later than 30 calendar days after this approval becomes effective, ExxonMobil shall provide EPA assurance that EPA's authorized representatives may enter the Site at reasonable times for the purposes listed below:

- 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. ExxonMobil will be given the opportunity to split samples collected by EPA representatives, provided this does not compromise EPA's sampling activities or the samples which EPA collects.

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

This approval, issued pursuant to 40 CFR § 761.61(c), is based upon ExxonMobil having provided EPA Region 2 with a complete and truthful disclosure of all material facts related to the Site and its Application for approval. The misrepresentation or omission by ExxonMobil of any material fact in its Application or in any document associated with or supporting this approval may result in EPA's revocation, suspension and/or modification of this approval, and such other legal or equitable remedy that EPA may choose to pursue under applicable law.

ExxonMobil's acceptance of this approval constitutes ExxonMobil's agreement to comply with:

- 1) all conditions and terms of this approval; and
- 2) all applicable provisions of federal, state and local law. 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 supercede other, more stringent, applicable federal, state or local laws, including any applicable requirements under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and its amendments. Any failure by ExxonMobil to comply with any condition or term of this approval shall constitute a violation of the approval, which has been issued pursuant to 40 CFR § 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's revocation, suspension and/or modification



of this approval, and such other legal or equitable remedy that EPA may choose to pursue under applicable law.

## **8. Confidential Business Information**

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

The following guidelines are used by EPA in determining if a claim of CBI is valid in the event the claim is challenged:

- 1) The company 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 the company'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 the company's competitive position.

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

## **9. Address for Correspondence with EPA**

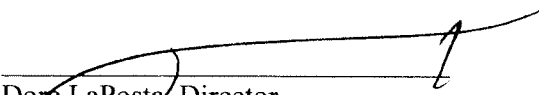
All correspondence to be submitted to EPA, Region 2, except specific correspondence designated as CBI, shall be sent to:

James S. Haklar, Ph.D., Sr. 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 Facsimile: (732) 321-6788

The address for submission of CBI information is as follows:

Michael Bious, 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) 906-6892 Facsimile: (732) 321-6788

Based on the information included in ExxonMobil's Application, EPA Region 2 finds that the PCB disposal authorized under this approval will not present an unreasonable risk to human health or the environment. Permitted levels of PCB concentration for material 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, this approval may be revoked, suspended and/or modified after ExxonMobil's acceptance thereof at any time 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 right or remedy concerning the operation of the Former Lail Property otherwise available to EPA under Section 6 of TSCA, 15 U.S.C. § 2605, and 40 CFR Part 761.

  
Dore LaPosta, Director  
Division of Enforcement and Compliance Assistance

JUNE 17, 2008  
Date