UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
1 CONGRESS STREET, SUITE 1100, BOSTON, MASSACHUSETTS 02114-2023

Certified Mail – Return Receipt Requested

August 17, 2010

Scott Alfonse, Director
Environmental Stewardship Department
City of New Bedford
133 William Street, Room 304
New Bedford, Massachusetts 02740

Re: Liberty Street Drainage Improvements – TSCA Applicability

Dear Mr. Alfonse:

This is written in response to your November 5, 2009 letter regarding the City of New Bedford's plan for installation of a drainage system to improve storm water drainage along Liberty Street. The City provided supplemental information on the project dated March 10, 2010 (supplemental soil data collection proposal); May 11, 2010 (supplemental data soil sampling locations); June 17, 2010 (analytical results from supplemental soil data collection); and, July 14, 2010 (Utility-Related Abatement Measure (URAM) Notification).

The proposed project will result in the generation of approximately 109 cubic yards of soil and 3.7 cubic yards of asphalt that will require off-site disposal and/or recycling. The work will be conducted in accordance with the URAM as set forth in the Massachusetts Contingency Plan and subject to review and oversight by the Massachusetts Department of Environmental Protection. The letter indicates that all excavated soils will be staged on poly sheeting until transported for off-site disposal. Excavated asphalt will be either loaded directly into a truck(s) or staged on poly sheeting until transported off-site for recycling/disposal.

Condition 1 of the EPA's August 31, 2005 Approval for Risk-Based Cleanup and Disposal required the City to submit a plan to address PCB contamination if PCBs regulated under 40 CFR Part 761 were identified during assessment activities or alternatively, a justification as to why the PCBs were not regulated for cleanup. In your letter you conclude that the soils which would be displaced as part of this project are not regulated for cleanup under 40 CFR Part 761 since the soils do not meet the definition of a *PCB remediation waste* as defined at 40 CFR 761.3. You base this determination on the following:

1. New Bedford High School (NBHS) was constructed in the early 1970s and the Parker Street Waste Site (PSWS) related activities took place between 1950 and 1954. Thus, waste deposition from PSWS activities concluded prior to April 1978.

2. The highest PCB concentration identified within the Liberty Street drainage route was 3.9 mg/Kg (or parts per million). The nearest soil location with PCBs at greater than 50 ppm is located approximately 500 feet from the project area.

Given the above, it does not appear that the soils which are likely to be displaced during this project meet the definition of a *PCB remediation waste*, as defined at 40 CFR § 761.3. Accordingly, EPA approval for this project is not required. However, in the event the City identifies PCB-contaminated soils at greater than or equal to (≥ 50 ppm located in the project area, the City is required to comply with 40 CFR Part 761.

Please be aware that EPA's determination applies solely to the soils located within the Liberty Street drainage line route. This determination has no bearing on the requirements under 40 CFR Part 761 for PCB-contaminated soils located on other portions of the New Bedford High School property or within the Parker Street Waste Site.

Questions regarding this matter should be directly to Kim Tisa at (617) 918-1527.

Sincerely,

Mary Sanderson, Chief
Remediation & Restoration II Branch
Office of Site Remediation & Restoration

cc: D. Sullivan, TRC
M. Cote, MassDEP
File