# Final Statement of Basis

# Approval for Commercial Storage of Polychlorinated Biphenyls

## Veolia Environmental Services Technical Solutions, LLC
## Phoenix, Arizona
## EPA ID: *AZ0000337360*


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

***September 30, 2015***

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## 1. Executive Summary

The United States Environmental Protection Agency, Region 9 (EPA) has requested public comment on its proposal to renew and modify an Approval for Veolia Environmental Services Technical Solutions, L.L.C. (Veolia), as facility operator, to continue to operate a commercial polychlorinated biphenyl (PCB) storage facility in Phoenix, Arizona. This Statement of Basis (SB) presents the terms of the Approval and EPA's rationale for its issuance. Consistent with Section 106 of the National Historic Preservation Act (NHPA), EPA has also requested public comments on its determination that historic properties will not be affected from the renewal and modification of the Approval for Veolia to store PCBs.

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, the action being proposed is known as an "Approval", which is essentially the equivalent to a permit. EPA follows a similar administrative process for Approval issuance, renewal and modification as a permit. The Approval allows for continued storage of PCBs.

The Approval is based on the written renewal application titled "*TSCA Section 6(e) PCB Commercial Storage Renewal Application, Revision 10*" revised in June 2015 (Renewal Application).

Veolia previously operated under an approval to manage PCB wastes issued by EPA in 1994 (1994 Approval). The 1994 Approval was issued to Salesco Systems USA, Inc. Arizona (Salesco). In May 2000, Salesco sold their assets to Superior Special Services, Inc. (SSS). On January 1, 2003, SSS changed its name to Onyx Special Services Inc. (OSS). On January 1, 2005, facility ownership was transferred from OSS to Onyx Environmental Services, L.L.C. (OES). On July 1, 2006, OES officially changed its name to Veolia. Applications to renew the 1994 Approval were submitted by: Salesco in December 1999; SSS in September 2001; OSS in April 2003 and April 2004; OES in October 2005; and Veolia in 2009. Veolia submitted subsequent revisions in 2010, 2011, 2012, and 2013. The revisions were later superseded by Veolia's June 2015 Renewal Application. Veolia was permitted to operate under the 1994 Approval until EPA made a final decision.

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

EPA made a final decision on the Renewal Application after considering public comments. A 45-day public comment period began on June 15, 2015 and ended on July 29, 2015. All comments were submitted to EPA during the public comment period.

## 2. Introduction

This SB explains and justifies EPA's decision to issue a TSCA Approval for Veolia, located at 5736 West Jefferson Street, in Phoenix, Arizona (Facility), for the storage for disposal of PCBs with concentrations of 50 parts per million (ppm) or greater.

Documents in the appendices to this document help support the justification for issuance of a TSCA Approval to Veolia. These documents are organized in the following manner:

- Appendix A: Justification for use of Omnibus Provisions
- Appendix B: EPA Endangered Species Act Determination
- Appendix C: EPA National Historic Preservation Act Determination
- Appendix D: EPA Region 9 Environmental Justice and Permitting Implementation Plan

## 3. Public Participation for Approval

EPA requested public comment on its proposed decision for the Veolia Facility in Phoenix, Arizona. Consistent with the NHPA, EPA also requested public comment on its determination that historic properties will not be affected from the renewal and modification of the Approval for Veolia to store PCBs.

EPA issued a public notice and fact sheet announcing a 45-day comment period. The public notice was published in two local newspapers; Prensa Hispana on June 11 and the Phoenix Arizona Republic on June 13, 17 and 19. The public comment period began on June 15, 2015 and ended on July 29, 2015.

Comments were submitted to EPA during the 45-day public comment period over the phone and in writing via email. The public meeting and hearing was held on July 15, 2015 from 6:00 pm to 8:00 pm at the Desert West Community Center, located at 6501 West Virginia Street, Phoenix, Arizona 85035. No comments were submitted during the public meeting and hearing.

Comments over the phone and written comments were received on or before July 29, 2015 and were sent to the EPA project manager below:

Cynthia Ruelas, Project Manager (LND-4-2)
US Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Phone number: 415-972-3329
Fax number: 415-947-3528
Email: ruelas.cynthia@epa.gov

The public was also able to review the Administrative Record (AR) which contains the documents and information that EPA considered in proposing to renew and modify the Veolia Approval. The AR is physically located at the EPA Region 9 Office, 75 Hawthorne Street, San Francisco, CA 94105.

A local information repository containing the most pertinent documents and an index of the AR was located at the Phoenix Public Library, Desert Sage Branch, 7602 West Encanto Boulevard, Phoenix, Arizona 85035, during the 45-day public comment period. If a document listed in the index of the AR was not able to be found at the Phoenix Public Library, Desert Sage Branch, community members were informed that they could call EPA project manager Cynthia Ruelas at (415) 972-3329, and a copy would immediately be made available.

The most pertinent documents used in the decision making process can also be found on EPA's website at http://www.epa.gov/region9/pcbs/disposal/veolia

## 4. Facility Description

*Facility Location*

The Veolia Facility is located at 5736 West Jefferson Street in Phoenix, Arizona, at approximately -112°12'01" west longitude and 33°26'46" north latitude in the southwest quarter of the northwest quarter of Section 8, Township 1 North, Range 2 East of the Gila and Salt River Base and Meridian. The Facility is approximately six miles west of downtown Phoenix and one mile south of Interstate 10 (I-10), as depicted in Figure 1. Veolia is now located within the Industrial Westgate Center, which began development in 1984. The property is currently zoned by the City of Phoenix as A-1: Light Industrial, and is predominantly surrounded by other industrial facilities.

*Facility History*

Prior to development, the property and surrounding area was used for agricultural purposes. The Facility began waste handling operations in 1991. The property is currently owned by Jewel Investment Company of Phoenix, Arizona (Jewel Investment). Jewel Investment has owned the property since 1994, and currently leases the Facility to Veolia on a month-to-month basis. Salesco initiated waste reduction and recycling activities at the Facility in October 1991. Salesco was issued the initial TSCA Approval for PCB-related operations in 1994. Salesco conducted similar waste management activities that currently take place at Veolia. Ballast processing, which involves disassembly of PCB-containing ballasts, also took place at the Facility beginning in 1994. PCB ballast processing no longer takes place at the Facility; however, Veolia still receives and stores PCB and non-PCB ballasts within areas designated for PCB storage. Veolia was authorized to operate under the 1994 Approval until EPA made a final decision.

*PCB Operations*

The Facility boundary consists of 2.67 acres (Figure 2), and four main buildings, which are approximately 8,336 square feet ($ft^2$), 8,036 $ft^2$, 8,336 $ft^2$, and 8,036 $ft^2$, respectively. There is also an approximately 990 $ft^2$ hazardous waste storage building on the northwest corner of the property. PCB activities take place in Buildings 2, 3, and 4.

Each of the four main buildings have associated truck wells, which slope to the north towards each building's roll-up doors, to assist with loading and off-loading of containers or equipment. The outdoor area contains berms alongside each building in the vicinity of the truck wells. These outdoor berms serve as stormwater run-off control, and also minimize the chances that any accidental spill might enter the parking lot area. The Facility is secured along the perimeter of the property; it is enclosed by exterior building walls, masonry block walls, or chain link gates. The masonry walls are topped with rolled barbed wires and/or razor wire. During non-operating hours, the Facility is locked and a security system is activated.

The Facility conducts the following activities for PCB and PCB Items: manifest management; recordkeeping; transportation; receipt; storage; processing, which involves draining and flushing of PCB Equipment; decontamination/recovery of metals; and shipment for off-site recycling or disposal. Other than transportation, these TSCA activities currently take place in Buildings 2, 3, and 4.

PCBs stored in Building 2 are stored in a pod storage area and curbed area, which serves as secondary containment. A PCB receiving area is also located in Building 2. Building 3 has a large curbed area where storage and processing of PCBs take place. Building 4 has a small pod for PCB storage. Figure 3 depicts the designated receiving, storage and processing areas in Buildings 2, 3, and 4. Veolia's permitted capacity for the entire Facility is 218 cubic yards (44,190 gallons) of PCBs.

*Regulatory Summary*

There are other non-TSCA units within the Facility that are separately permitted by the State of Arizona to store, treat and dispose of non-PCB hazardous waste under the Resource Conservation and Recovery Act (RCRA). The Arizona Department of Environmental Quality (ADEQ) regulates the RCRA-related activities at the Facility. The Facility is currently managing hazardous waste under a 2006 RCRA permit issued by ADEQ. Veolia has been managing PCB waste under a separate TSCA Approval that was issued by EPA in 1994 and expired in 1999. Veolia was authorized to continue operating using the 1994 Approval until EPA made a final decision.

## 5. Final Decision

EPA's final decision authorizes Veolia to store PCB wastes for disposal at the Facility as described in the table below:

**Table 1**
**Approved PCB Units and Maximum Capacities**

| Unit Name | Maximum Unit Storage Capacity | Maximum Total Storage Capacity |
|---|---|---|
| Building 2 Storage Pod | 41.59 cubic yards (8,400 gallons) | 218 cubic yards (44,190 gallons) |
| Building 2 Curbed Storage Area | 20.79 cubic yards (4,200 gallons) | |
| Building 3 Curbed Storage & Processing Area | 228.76 cubic yards (46,200 gallons) | |
| Building 4 Storage Pod | 16 cubic yards (3,232 gallons) | |

*The Maximum Total Storage Capacity is less than the sum of the storage capacities of each unit.

The units at the Facility being approved under TSCA for storage of PCBs are shown in Figure 3, PCB Storage and Processing Areas.

## 6. PCB Unit Descriptions

The Facility consists of 4 warehouse buildings and a hazardous waste storage structure (see Figures 1 and 2). Building 1, located on the western part of the property, and the hazardous waste storage structure, located on the northwestern part of the property, are both used primarily for RCRA activities. RCRA activities at the Facility are overseen by ADEQ.

Building 2 is used for PCB storage. Building 3 is used for storage and processing of PCBs. Building 4 has a small storage unit for storage of PCBs. PCB activities in these buildings are regulated by EPA. Figure 3 provides a map of areas within Buildings 2, 3, and 4 that are designated for PCB receiving, storage and processing.

## 7. Required Regulatory Determinations for Storage of PCBs

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 Veolia to store PCBs and PCB Items at the Facility. EPA's findings for each requirement are discussed below:

a. Personnel Requirements

In accordance with 40 C.F.R. § 761.65(d)(2)(i), Veolia, 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 EPA's evaluation of the experience of the personnel that manage the Facility, as stated in the resumes presented in Appendix B of the Renewal Application. This finding is also based on the Facility's compliance with the worker training program as described in Appendix D of the Renewal Application. The Renewal Application is presented in Appendix B of EPA's Approval for Commercial Storage of Polychlorinated Biphenyls for the Veolia Facility, dated September 30, 2015.

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 Veolia 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 Appendix C of the Renewal Application.

c. Certification of Compliance with Storage Facility Standards

In accordance with 40 C.F.R. § 761.65(d)(2)(iii), Veolia 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 1.2 of the Renewal Application.

d. Closure Plan Development

In accordance with 40 C.F.R. § 761.65(d)(2)(iv), EPA finds that Veolia 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 EPA's evaluation of Appendix E of the Renewal Application.

As required by 40 C.F.R. § 761.65(e), the Closure Plan includes a description of closure activities for the PCB storage areas, an estimate of the maximum amount of waste that may 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), EPA finds that Veolia has included in the Renewal 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 Appendix E of the Renewal Application. Veolia is utilizing "Letter of Credit" as described in 40 C.F.R § 761.65(g)(4).

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 human health or the environment. This finding is based on EPA's evaluation of the Renewal Application. This document is included in the AR, 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 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 secondary containment areas in PCB storage and processing areas for potential spills), ensures that any spills would not migrate offsite.

Moreover, no treatment of PCBs takes place at the Facility. PCB Items are processed, which involves draining, flushing, and decontamination of certain PCB Items. In the event that a primary container is compromised during processing activities, the PCBs would be controlled within the secondary containment area. Also, PCBs have limited volatility, which eliminates another potential pathway for human exposure.

The Facility has 11 dry wells; 4 dry wells are located in the outdoor storage yard; 4 drywells are located within the truck wells; and 3 dry wells are located in the parking lot in the southern part of the Facility (see Figure 5 of Veolia's Renewal Application). The dry wells in the outdoor storage yard and truck wells are sealed. These dry wells were sealed by grouting the well lids in-place. Storm water run-on in the areas where the sealed dry wells are located cannot enter the subsurface. Instead storm water is retained on-site. Storm water that accumulates in these areas either evaporates, or may be pumped out if there is a significant rain event. The dry wells in the parking lot located on the south side of the Facility are separated from the operations area of the Facility by berms. The bermed areas along the buildings help further prevent accidental releases that may occur in the operations area of the Facility from entering the dry wells in the parking lot. Also, during transfer of PCB liquid waste from totes in Building 3 to tanker trucks, the dry wells in the parking lot are covered with impermeable material over or around the drywells to further ensure that there are no spills or releases of oil into the dry wells. The Facility has developed a Standard Operating Facility (SOP) for transfer of PCB oils from portable totes to tanker trucks (Appendix D of the Renewal Application). Each tanker truck driver transferring PCB liquids must read and sign off on the SOP. These measures help ensure that PCBs that may be accidentally released at the Facility do not enter into the subsurface.

There is no other reasonably identifiable pathway of exposure to residents beyond the Facility boundary.

Workers at the Facility are protected through training programs, personal protective equipment, and a decontamination station that is used when entering or exiting the storage and processing area in Building 3. The Facility Spill Prevention Control and Countermeasures Plan contains the procedures and protocols to adequately address any accidental spills of PCBs.

Finally, based on the Facility location (light industrial development zone), EPA has concluded that continued operation of the Veolia Facility will not pose any significant risks to the local environment and wildlife. Accordingly, EPA has made a "no affect determination" under the Endangered Species Act regarding the management of PCB wastes at the Facility, as allowed in the Approval. EPA's determination was updated based on a public comment received by a representative from the US Fish and Wildlife Services (USFWS) during the public comment period. EPA's revised 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 Veolia, its principals, and its key employees do not constitute a sufficient basis for denial of approval because they do not demonstrate an unwillingness or inability to achieve and maintain compliance with the regulations. This finding is based on EPA's evaluation of the information contained in Section 2.3 of the Renewal Application, as well as the results of TSCA inspections conducted. Violations found during previous inspections have been corrected. 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.

**8. Use of Omnibus Provisions**

The TSCA regulations at 40 C.F.R. § 761.65(d)(4)(iv) and 40 C.F.R. § 761.75(c)(3)(ii) allow 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." For example, the Approval requires periodic sampling in Buildings 2, 3, and 4. This requirement helps to ensure that accidental spills of PCBs are detected and adequately cleaned up in a timely manner.

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 Veolia Approval are provided in Appendix A.

## 9. Other Requirements

In addition to TSCA and the regulations at 40 C.F.R. § 761, EPA must ensure compliance with other requirements prior to issuing a TSCA Approval to manage PCBs. These other requirements include Section 106 of the NHPA, Environmental Justice per Presidential Executive Order 12898, and Section 7 of the Endangered Species Act. EPA has evaluated the Renewal Application and its supporting documents and determined that the issuance of the TSCA Approval for the Veolia 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 EPA for the renewal and modification of the TSCA Approval for Veolia 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, EPA searched for historic and/or culturally significant properties near the Facility, and consulted with 10 local Indian tribes that may be affected by this undertaking. Those efforts did not yield any information on religious or culturally significant sites within the Facility. Thus, EPA has made a determination of "no historic properties affected" for this undertaking. The Arizona State Historic Preservation Officer provided concurrence on this finding. EPA's determination can be found in Appendix C.

### b. Environmental Justice

Environmental Justice (EJ) is one factor that 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 goal of the Executive Order is to ensure that all federal agencies identify and address, as appropriate, any disproportionately high and adverse impacts of their programs and activities on minority or low-income groups. In order to evaluate and address possible EJ concerns during the permit application process,[1] EPA first considers whether there is any basis to believe that the facility pursuing an Approval may be located in an overburdened community. In overburdened communities, EPA promotes the consideration of

1 An "environmental justice concern" is the actual or potential lack of fair treatment or meaningful involvement of people, including minority populations, low-income populations, and indigenous populations, in the development, implementation, or enforcement of environmental laws, regulations, and policies.

environmental justice concerns by enhancing the community's ability to participate fully and meaningfully in the permitting process.

*Environmental Justice Screening*

In accordance with EPA Region 9's Regional Implementation Plan (Appendix D), EPA uses EJSCREEN, a nationally consistent EJ screening tool. This tool compares communities to the national average and provides a preliminary assessment of the combination of demographic and environmental data at the Census block group. The goal of EJSCREEN's assessment is to identify communities where additional review or considerations for potential EJ concerns may be warranted. EJSCREEN identified the community surrounding the Facility as a place where additional review for EJ concerns is warranted. The screening results indicated that the census block group that the facility falls in, according to 2010 census data has 1,796 people where 89.7% are minority. The three block groups that are just west of the site all have minority percentages greater than 90%. The percent minority for the city of Phoenix is 34.1% and for the state of Arizona is 27%. The communities surrounding this facility far surpass the city and state minority percentages. The American Community Survey (conducted by the US Census Bureau to collect data over a series of years) 2006-2010 shows that the median household income for the census block group is $29,964, well below the median household income for Phoenix ($48,823) and Arizona ($50,488). Additionally, according to the ACS data, the percent linguistically isolated (no one in the household over the age of 14 speaks English well) is 16.2%. Therefore, the community surrounding the Facility is of potential EJ concern based on minority, income, and linguistic isolation data. EJSCREEN results were used to determine whether enhanced outreach is warranted for this Approval decision.

*Community Risk*

PCBs are a class of toxic chemicals that are carcinogenic and may cause other harmful non-cancer effects on the body. The main risk posed to the community from continued storage of PCB waste at the 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, 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 EJSCREEN results and other information about the community, EPA determined that enhanced outreach for this Approval decision is warranted. Consequently, 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 Renewal Application review phase of the process:

- A community informational fact sheet was mailed to 1000+ residents, local government, and community organizations in February 2013. This fact sheet was written in plain language and provided information about the facility, PCBs, the Renewal Application, and resources for more information. A version of the community information fact sheet translated into Spanish was also provided.
- A website was created to provide background information on EPA's involvement at the facility and serve as an access point for Approval documents. This website can be accessed at http://www.epa.gov/region9/pcbs/disposal/veolia.
- An information repository was set up during the 45-day public comment period, at the Phoenix Public Library, Desert Sage Branch, located at 7602 West Encanto Boulevard, in Phoenix, Arizona. The repository provides a physical location within the community to view documents relevant to the Approval process.

EPA held a 45-day comment period on the proposed Approval. The public notice was translated and published in both English and Spanish language newspapers. A fact sheet about the proposed Approval was also provided to the community mailing list as a follow up to the community information fact sheet from February 2013. This fact sheet was made available at the local library and on EPA's permit webpage.[2] In addition, EPA held a public meeting and hearing in the community to discuss the proposed Approval. At the end of the comment period, all comments from the public were considered and addressed in a document titled: *PCB Approval Decision and Response to Public Comments*, dated September 30, 2015.

2 http://www.epa.gov/region9/pcbs/disposal/veolia

*Conclusion*

Due to the potential for EJ concerns during the screening process, the EPA has made a good faith attempt to engage the community earlier in the permitting 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.

Moving forward in the Approval process, EPA will continue to conduct 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 USFWS, to ensure that any action they carry out, fund, or authorize (such as through an 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. EPA considers issuance of the Approval to be an "action" subject to the ESA.

EPA has evaluated the area surrounding the facility using Google Earth and the USFWS's IPaC database, which lists Threatened and Endangered species for Maricopa County, Arizona. In summary, the Facility and its immediate surrounding areas are completely industrial urban, which indicates that there is no nearby habitat for special status species, as well as no apparent mechanism by which the PCBs might be released and transported to such habitats. Thus, EPA has made a "no affect determination" on any listed species or designated critical habitat. Accordingly, formal consultation with the USFWS is not required. EPA's determination can be found in Appendix B.

# Figures

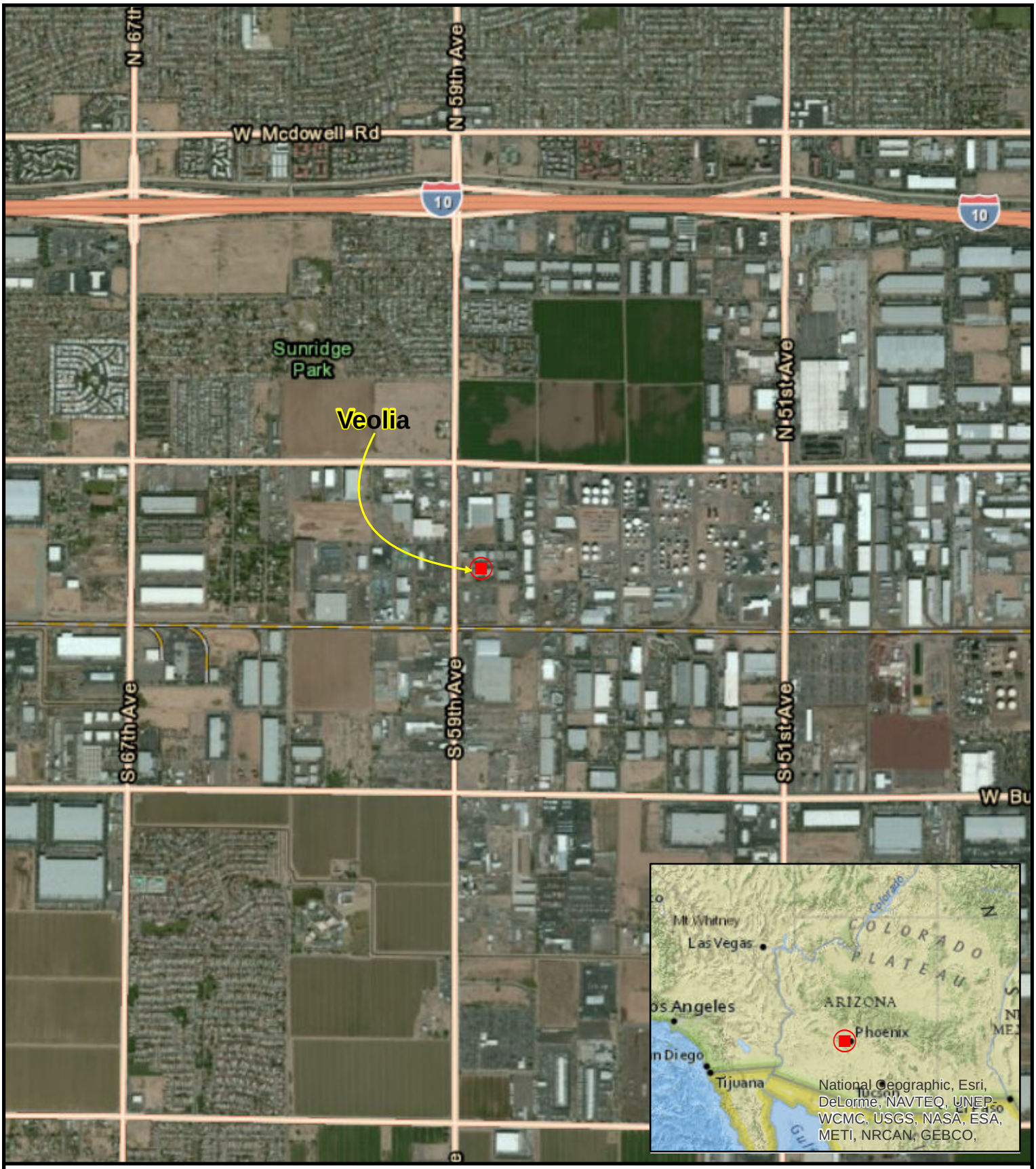


**Figure 1: Veolia Site Vicinity Map**

# Veolia Environmental Services Technical Solutions LLC

5736 W. Jefferson St. Phoenix, AZ 85043

Facility Location

N

Miles 0 0.25 0.5 1

EPA Region 9 GIS Center

WST1302084.1
April 18, 2013

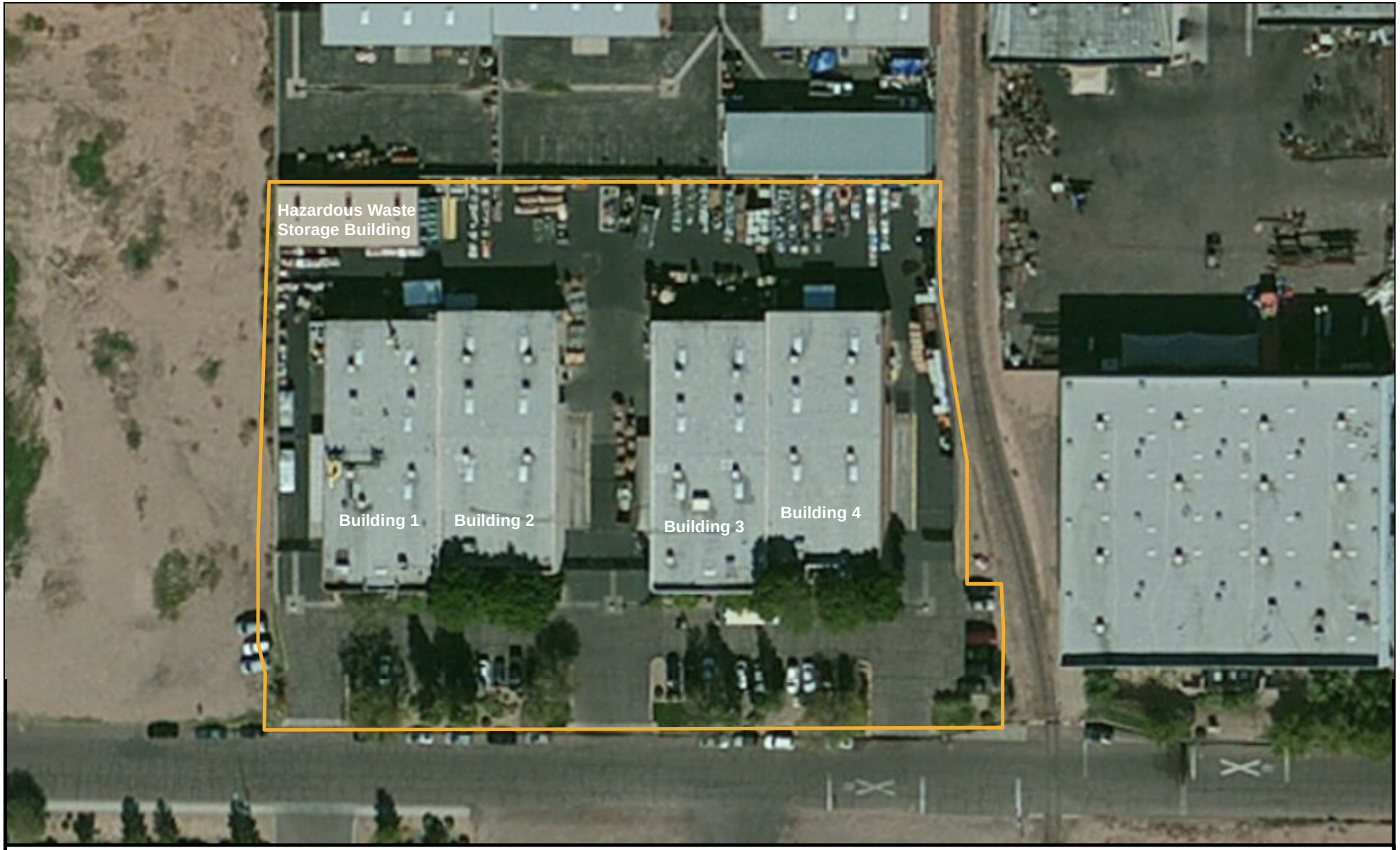


**Figure 2: Veolia Site Boundary**

Veolia Environmental Services Technical Solutions LLC

5736 W. Jefferson St. Phoenix, AZ 85043

EPA Region 9 GIS Center

Site Boundary

N

0 25 50 100 Feet

WST1302084.2
April 18, 2013


**Figure 3: PCB Storage and Processing Areas**

## Unit Type *

- PCB Processing
- PCB Receiving
- PCB Storage

* The Unit Type dimensions are approximate

Veolia Environmental Services
Technical Solutions LLC

5736 W. Jefferson St. Phoenix, AZ 85043

N

0 25 50 100 Feet

EPA Region 9 GIS Center

WST1302084.1 June 01, 2015

# Appendix A
# Justification for use of Omnibus Provisions

**U.S. EPA Justification for Use of Omnibus Provisions in Proposed TSCA Approval**
**Veolia Environmental Services Technical Solutions, LLC**
**June 11, 2015**

The Toxic Substances Control Act ("TSCA") omnibus provision for storage facilities is located at 40 C.F.R. § 761.65(d)(4)(iv). The omnibus provisions allow U.S. EPA to include requirements in a TSCA Approval beyond those explicitly set forth in the regulations when the Agency finds that an Approval Condition is 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 is including in the proposed Veolia Approval certain conditions not specifically supported by an existing TSCA regulation. For these conditions, U.S. EPA has made a determination that the standards for use of the omnibus provisions are satisfied as follows:

| **Approval Section** | **Condition** | **Justification** |
|---|---|---|
| IV. General Approval Conditions | IV.D.1 (Waste Management) | The proposed Approval specifies waste acceptance procedures for incoming PCB waste. Waste characterization is important because it ensures that the correct wastes are being accepted by the Facility and that they will be subsequently disposed of offsite in the proper manner. |
| IV. General Approval Conditions | IV.E.1 (Personnel Training) | The proposed Approval requires employee training, including Occupational Health and Safety Administration (OSHA) classes related to hazardous materials. Training is an important component of hazards awareness, safety, and emergency response. |
| IV. General Approval Conditions | IV.F.1. (Health and Safety Requirements) | This proposed Approval requires that Veolia conduct operations in compliance with safety and health standards, and conduct work in accordance with applicable OSHA regulations. Ensuring the health and safety of workers by following the applicable regulations is important especially given the potential harm from persistent exposure to PCBs. |
| IV. General Approval Conditions | IV.G (Emergency Preparedness and Spill Cleanup) | The proposed Approval requires that Veolia implement emergency preparedness plans, and provide notification to U.S. EPA of PCB spills. The Renewal Application has detailed reporting and notification procedures for hazardous waste spill incidents. The proposed Approval establishes U.S. EPA as a separate regulatory entity with its own jurisdiction over PCBs for requiring |

| | | |
|---|---|---|
| | | development and implementation of the emergency plans and for reporting PCB spills. This independent jurisdiction allows U.S. EPA to ensure that Veolia complies with the proposed Approval conditions and promptly responds to PCB spills and emergencies in a safe manner. |
| IV. General Approval Conditions | IV.H (Entry and Agency Inspection) | The proposed Approval requires that Veolia provide copies of records upon request and allow U.S. EPA representatives access to the Facility in order to determine compliance with applicable statutes, regulations and the proposed Approval conditions. It is important for U.S. EPA representatives to have access to the Facility and applicable records in order to ensure that operations are conducted in compliance with the proposed Approval and in a manner that does not create an unreasonable risk of injury to human health and the environment. |
| IV. General Approval Conditions | IV.I.1 (General Inspection Requirements) | The proposed Approval requires that Facility representatives conduct to onsite inspections of the PCB storage units. The inspections are important for ensuring that equipment used for communications, fire protection, spill control and decontamination are in proper working order. They are also critical for identifying potential problems such as leaks that need to be corrected as soon as possible so that they do not create hazardous situations. |
| IV. General Approval Conditions | IV.J (Security) | The proposed Approval requires that Veolia implement security systems at the facility to prevent unauthorized access of the facility at all times, to prevent vandalism and potential migration of hazardous materials. |
| IV. General Approval Conditions | IV.K (Closure Cost Estimate) | The proposed Approval requires that Veolia maintain a closure cost estimate for the PCB storage unit. A closure cost estimate requirement in the Approval is important because it is a key step toward ensuring that there is adequate funding available to close any units under U.S. EPA oversight. |
| IV. General Approval Conditions | IV.L (Financial Assurance | The proposed Approval requires that Veolia maintain financial assurance for the closure |

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| | for Closure) | of any PCB units in operation. This proposed Approval also requires that Veolia update the financial assurance based on the most current cost estimate in the Renewal Application within 30 days of EPA's issuance of a permit decision. It is important that funding be maintained for closure in order to ensure that all units that manage PCBs will be closed and maintained in a manner that prevents possible future releases of these compounds into the environment. Due to the high toxicity and persistence of PCBs, it is important to prevent any releases that could impact ecological and human receptors. Veolia will have two separate financial assurance mechanisms for RCRA and TSCA closure. |
| IV. General Approval Conditions | IV.M (Recordkeeping and Reporting) | The proposed Approval requires implementation of the Recordkeeping requirements described in the Renewal Application, and some additional information to supplement with what is required in the regulations. Recordkeeping and reporting are important because they allow U.S. EPA to monitor activities at the Facility and check compliance with the proposed Approval. This U.S. EPA oversight ensures that operations are carried out in a manner consistent with the TSCA requirements. |
| V. Conditions for Storage and Processing of PCBs and PCB Items | V.E. (PCB Storage in Containers) | The proposed Approval requires that Veolia (1) operate and maintain a database system in order to track waste materials throughout the Facility, (2) stack drums no more than two high, (3) maintain a minimum 2 foot aisle space between stored units, and (4) operate in a manner that protects the epoxy coating on the floor. U.S. EPA uses the tracking information to determine compliance with the proposed Approval. The stacking limitation is needed to ensure that drums are not stacked to heights that would be dangerous if drums fell. The 2 foot aisle space is needed to allow for inspection of the containers for possible leaks. Maintaining the integrity of the epoxy is a protective measure against migration of PCB waste in |

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| | | the event of a spill. |
| V. Conditions for Storage and Processing of PCBs and PCB Items | V.E (PCB Storage in Containers) | The proposed Approval requires that any container used for the storage of PCBs meet the Department of Transportation requirements described in 40 C.F.R. Parts 171 through 180. This is necessary in order to prevent releases of PCBs into the environment. |
| V. Conditions for Storage and Processing of PCBs and PCB Items | V.G (Sampling of PCB Storage and Processing Building) | The proposed Approval requires periodic sampling in Buildings 2, 3, and 4. This requirement helps to ensure that accidental spills of PCBs are detected and adequately cleaned up in a timely manner. |
| V. Conditions for Storage and Processing of PCBs and PCB Items | V.H (Closure of Storage Units) | The proposed Approval requires that the storage units be closed in accordance with the Closure Plan in the Renewal application. The Closure Plan must be updated to reflect current operations prior to implementation to ensure that storage units are closed in an appropriate and safe manner. |
| VI. PCB Processing | VI.C (Draining and Flushing of PCBs) | The proposed Approval requires that (1) all draining of PCB equipment be done in accordance with the procedures contained in the Renewal Application and only in the event that the PCB equipment is leaking, (2) all draining operations be conducted within sealed containment areas, (3) Veolia cleanup and address any accidental spills of PCBs. These requirements are necessary in order to prevent PCB releases into the environment. |
| VII. Procedures to Modify, Transfer, Revoke, Suspend, Deny, Continue or Renew Approval | Entire Section VI | The proposed Approval specifies the administrative procedures to modify, transfer, revoke, suspend, deny, continue or renew the proposed Approval. These procedures are important because they enhance U.S. EPA's ability to oversee Facility operations and ensure that Veolia is in compliance with the proposed Approval. These procedures are also necessary to allow the modification or adjustment of the proposed Approval to address issues that may occur during future operations (e.g., need for a modification to include a new unit). To be maximally protective, the terms and conditions of the proposed Approval should reflect the most current configuration |

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| | | and operation of the Facility. Also, the ability to revoke or deny the proposed Approval is necessary in case the Facility or its operations is ever determined to pose an unreasonable risk and operations must be terminated at the site. Finally, while the TSCA regulations at 40 C.F.R. § 761.65 do not explicitly include terms covering how to modify, transfer, revoke, suspend, deny, or renew the proposed Approval, U.S. EPA interprets its authority under these provisions to issue a proposed Approval as also providing authority to undertake these associated permit processing actions. |

# Appendix B
# EPA Endangered Species Act Determination

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

75 Hawthorne Street
San Francisco, CA 94105-3901

August 20, 2015

**MEMORANDUM**

SUBJECT: Veolia Environmental Services Facility, 5736 West Jefferson Street, Phoenix Arizona TSCA Permit: Updated EPA Endangered Species Act Determination

FROM: John Beach
Environmental Scientist

TO: Cynthia Ruelas
Permit Writer

CC: Carrie Marr, USFWS

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I understand that EPA is considering renewal and/or modification of the TSCA PCB Approval for the subject facility. This memorandum updates the determination that I made in 2011 that the proposed facility operations under the TSCA PCB permit will not affect threatened or endangered species or designated critical habitat.

I understand that the facility is used to store, drain and solvent-wash PCB transformers and other equipment. I have reviewed the environmental setting for the Veolia site using Google Earth and the US Fish and Wildlife Service (USFWS) IPaC list of Threatened and Endangered species for Maricopa County, Arizona. My review indicated that the facility itself is constructed and operates in an existing industrial area and does not contain habitat for species in the IPaC list and that the operations will not release PCBs into the environment. Based on my review, I have determined that the proposed facility operations under the TSCA PCB permit will have no effect on threatened or endangered species, other species regulated by USFWS, or designated critical habitat.

Additionally, I spoke informally with Carrie Marr of the USFWS office in Phoenix, AZ to obtain technical assistance on my approach to the project and my conclusions.

With this determination, EPA fulfills is obligation under Section 7 of the Endangered Species Act and does not need to consult with the US Fish and Wildlife Service in order to issue the permit.

Please contact me if you have questions.

# Appendix C
# EPA National Historic Preservation Act Determination

NHPA



Arizona State Parks
AZStateParks.com



15 October 2012

Caleb Shaffer
Manager
RCRA Facilities Management Office
United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

RE: Permit renewal for Veolia Environmental Services Technical Solutions, LLC; 5736 West Jefferson Street, Phoenix; EPA; EPA ID AZ0 000 337 360; **SHPO-2006-1379 (108286)**

Dear Mr. Shaffer:

Thank you for consulting with our office regarding the above referenced federal undertaking. Pursuant to 36 C.F.R. Part 800, the implementing regulation for Section 106 of the National Historic Preservation Act, we have reviewed the documentation submitted, and we concur with a finding of no historic properties affected. If you have any questions or concerns, then please do not hesitate to contact me via e-mail, elaurila@azstateparks.gov, or by phone, 602-542-7120.

Sincerely,

Erick M. Laurila
Compliance Specialist/ Archaeologist
Arizona State Historic Preservation Office

# Appendix D
# EPA Region 9 Environmental Justice and Permitting Implementation Plan

*Disclaimer: This document identifies internal recommended procedures for EPA employees who are staff or managers developing or issuing a permit. This document is not a rule or regulation. This plan does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. It does not impose any legally binding requirements.*

## Introduction

This EPA Region 9 Regional Implementation Plan to Promote Meaningful Engagement of Overburdened Communities in Permitting Activities describes actions EPA Region 9 can take to promote meaningful engagement of overburdened communities in regional permitting activities.[1,2] The Plan EJ 2014 Environmental Justice Permitting Initiative promotes the consideration of environmental justice concerns in the permitting process by: 1) enhancing the ability of overburdened communities to participate fully and meaningfully in the permitting process for EPA-issued permits; and 2) taking steps to address environmental justice issues in the EPA permitting process.[3]

Overburdened communities may experience barriers that discourage active participation in the permitting process, such as: lack of trust, awareness or information, limited access to technical and legal resources, and language barriers. The term "overburdened" describes minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of negative and lack of positive environmental, health, economic, or social conditions within these populations or communities. Targeting outreach efforts to bring overburdened communities into the permitting process can help reduce barriers to community participation, and consequently help EPA address environmental justice concerns.

This plan provides a framework to help Region 9 conduct enhanced public outreach activities for permit applications and renewals, to meaningfully engage overburdened communities or communities with a significant interest in the permitting process. The types of outreach activities as well as the number of permits for which Region 9 would conduct enhanced outreach depend on site-specific considerations and resource availability.

## EPA Permits Background

Facilities are required to obtain permits from EPA or designated permitting authorities to emit or discharge pollutants into the air or water, or manage or dispose of hazardous waste. This section provides a brief overview of EPA permitting programs, and specifies which of these permits are generally issued by EPA Region 9 in California, Arizona, Nevada, Hawaii, the Pacific Islands, and Tribal Nations.

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[1] "EPA Activities to Promote Environmental Justice in the Permit Application Process" available at www.epa.gov/environmentaljustice/plan-ej/permitting.html.

[2] 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. **Fair treatment** means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies. **Meaningful involvement** means that: (1) people have an opportunity to participate in decisions about activities that may affect their environment and/or health; (2) the publics' contribution can influence the regulatory agency's decision; (3) their concerns will be considered in the decision making process; and (4) the decision makers seek out and facilitate the involvement of those potentially affected. More information is available at: http://www.epa.gov/environmentaljustice/basics/ejbackground.html.

An "environmental justice concern" is the actual or potential lack of fair treatment or meaningful involvement of people, including minority, low-income, and indigenous populations, in the development, implementation, or enforcement of environmental laws, regulations, and policies.

[3] Plan EJ 2014 is EPA's roadmap to integrating environmental justice into its programs and policies. More information on the Plan EJ 2014 Environmental Justice and Permitting Initiative is available at: http://www.epa.gov/compliance/ej/resources/policy/plan-ej-2014/plan-ej-permitting-2011-09.pdf.

I. Clean Air Act

*Air Permits*

The Clean Air Act (CAA) gives EPA authority to regulate emissions of air pollutants. The three major CAA air permitting programs are: preconstruction permits (also known as New Source Review permits), operating permits (also known as Title V permits) and acid rain permits (also known as Title IV permits).[4] For sources in Indian Country, these permits are issued by EPA, and may be issued by the tribal permitting authority upon EPA program approval or delegation. A complete list of CAA permit program delegation agreements may be found at: http://www.epa.gov/region09/air/permit/permitdelegation.html.

A. New Source Review (NSR) Permitting Program: This program requires facilities to obtain an air permit before starting construction or making certain modifications to the facility. The permit specifies which air pollution control devices must be used, what emission limits must be met, and how the facility must be operated. Three types of permits can be obtained under this program: [5]
   i. Prevention of Significant Deterioration (PSD) Permit – This permit is required for new major sources or major modifications to major sources in an attainment area. PSD permits may be issued by EPA Region 9 or by state or local permitting authorities.
   ii. Nonattainment NSR Permit – These permits are required for new major sources or major modifications to major sources in a nonattainment area. Nonattainment NSR permits are generally issued by state and local permitting authorities.
   iii. Minor Source Permit – This permit is for newly constructed stationary sources that do not require a PSD or nonattainment major NSR permit, or minor changes at major sources with increases in pollutants that do not trigger PSD or nonattainment major NSR permit. Minor source permits are issued by state and local permitting authorities according to programs approved by EPA. Minor source permits on tribal land are issued by EPA Region 9 or by tribal permitting authorities according to programs approved by EPA.

B. Operating Permit Program: This program requires facilities to obtain a permit that consolidates all of the applicable CAA requirements for a facility into one document. Operating permits are legally enforceable documents designed to improve compliance by clarifying what facilities must do to control air pollution. These permits may be issued by EPA Region 9 or state, local, or tribal permitting authorities.[6] EPA Region 9 is the Operating Permit Program permitting authority for all sources in Indian country, except for the Navajo reservation, where EPA Region 9 has delegated the administration of the program to the Navajo Nation Environmental Protection Agency.

C. Acid Rain Permitting Program: This program uses a market-based approach to reduce levels of sulfur dioxide and nitrogen oxides. Facilities own an allowance of pollution that is reflected in an acid rain permit. Although allowances may be bought, sold, or banked, facilities may not emit at levels that would violate federal or state limits set under CAA Title I to protect public health.[7] Acid rain permits are issued by the Title V permitting authority.

[4] More information on the Clean Air Act air permitting programs is available at: http://www.epa.gov/airquality/permjmp.html.

[5] More information on NSR Permitting Program is available at: http://www.epa.gov/airquality/nsr/.

[6] More information on the Operating Permit Program is available at: http://www.epa.gov/airquality/permits/.

[7] More information on the Acid Rain Program is available at: http://www.epa.gov/airmarkets/progsregs/arp/basic.html. More information on Acid Rain Permits is available at: http://www.epa.gov/airmarkets/progsregs/arp/permitting-factsheet.html.

II. Clean Water Act

*National Pollutant Discharge Elimination System Permits*

The federal Clean Water Act (CWA) requires all municipal, industrial, and commercial facilities that discharge wastewater or stormwater directly from a point source into a water of the Unities States to obtain a National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit program regulates point sources that discharge directly to surface waters. Two types of NPDES permits are provided for: individual permits and general permits. An individual permit is specifically tailored to an individual facility and is issued in response to an application from the permitee. A general permit covers several facilities that have the same type of discharge and are located in a specific geographic area, and individual dischargers request coverage under the permit. The NPDES program has several program areas, which are listed in Table 1 below.

EPA can authorize states, tribes, and territories to administer the NPDES program, though the Agency continues to perform oversight after program delegation is authorized. In Region 9, California, Arizona, Nevada, and Hawaii issue NPDES permits for discharges in areas (other than Tribal lands) within those states. EPA Region 9 is the NPDES permitting authority for Tribal lands in Arizona, California, Nevada, and all Navajo lands; the Pacific Island territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands; and any discharges into federal ocean waters beyond state boundaries.

Table 1. NPDES Permit Program Areas

| Source | Program Area |
|---|---|
| Municipal | Municipal publicly owned treatment works (POTWs) effluent discharges<br>Indirect non-municipal discharges (Pretreatment)<br>Biosolids (sewage sludge) use and disposal<br>Combined sewer overflow (CSO) discharges<br>Sanitary sewer overflow (SSO) discharges<br>Municipal separate storm sewer systems (MS4s) discharges |
| Non-municipal (industrial) | Process wastewater discharges<br>Non-process wastewater discharges<br>Stormwater discharges associated with industrial activity<br>Stormwater discharges from large construction activities<br>Cooling water intake structures<br>Concentrated animal feeding operations<br>Concentrated aquatic animal production facilities<br>Vessel discharges |

Adapted from Exhibit 2-4 of the U.S. Environmental Protection Agency NPDES Permit Writers' Manual (September 2010). Available at: http://www.epa.gov/npdes/pubs/pwm_2010.pdf.

III. Safe Drinking Water Act

*Underground Injection Well Permits*

The Safe Drinking Water Act (SDWA) requires the EPA to develop minimum federal requirements for Underground Injection Control (UIC) programs and other safeguards to prevent injection wells from contaminating underground sources of drinking water. In Region 9, the UIC program has been fully delegated to

Nevada, Guam, and the Commonwealth of the Northern Mariana Islands. Partial delegation has been granted to the Navajo Nation and the California Division of Oil, Gas, and Geothermal Resources for Class II wells. EPA Region 9 directly implements the UIC program with support from state and tribal water quality agencies in Hawaii, Arizona, California, and in tribal lands including the Navajo Nation. EPA's regulations group injection wells into six groups or classes (Classes I - VI):

A. Class I Injection Wells inject hazardous and non-hazardous wastes into deep rock formations isolated below underground sources of drinking water. Class I wells are classified as either hazardous, non-hazardous industrial, municipal, or radioactive depending on the properties of the injected fluid.
B. Class II Injection Wells inject fluids associated with oil and natural gas production. There are three types: enhanced recovery wells, disposal wells, and hydrocarbon storage wells.
C. Class III Injection Wells inject fluids to dissolve and extract minerals (i.e., uranium, salt, copper, and sulfur) for mining.
D. Class IV Injection Wells are used as part of EPA or state-authorized actions to clean up groundwater that is contaminated with hazardous chemicals.
E. Class V Injection Wells inject non-hazardous waste fluids into or above underground sources of drinking water.
F. Class VI Injection Wells inject carbon dioxide into subsurface rock formations for long-term storage, or geologic sequestration.

## IV. Resource Conservation and Recovery Act

### *Hazardous Waste Permits*

Subtitle C of the Resource Conservation and Recovery Act (RCRA) requires owners and operators of facilities that treat, store, or dispose of hazardous waste to obtain an operating permit to ensure that hazardous wastes are handled safely and responsibly. Facilities that treat, store, or dispose of hazardous waste are often referred to as treatment, storage, and disposal facilities (TSDFs). Treatment facilities process hazardous waste to change its composition, which can enable some waste to be recovered or can reduce the amount of hazardous waste. Storage facilities temporarily keep waste onsite until they are treated or disposed. Disposal facilities permanently keep hazardous wastes onsite in a repository (most commonly a landfill).

In Region 9, California, Arizona, Nevada, and Hawaii have authority to enforce their own hazardous waste program; however, EPA retains jurisdiction and authority to initiate an independent enforcement action, pursuant to RCRA Section 3008(a) and a Memorandum of Agreement between EPA and the Region 9 states.

## V. Toxic Substances Control Act

### *Toxic Substances Control Act Permits*

The Toxic Substances Control Act (TSCA) authorizes EPA to regulate the manufacture, handling, storage, and disposal of chemical substances, including polychlorinated biphenyls (PCBs). PCBs are synthetic organic chemicals used in industrial and commercial products, which have a range of toxicity and persist in the environment for many years if released. Although PCBs were banned from manufacture in 1979 and are no longer produced in the U.S., they may be present in products and materials. Facilities that commercially store or dispose PCBs must obtain EPA permits to ensure PCBs are handled safely and responsibly.

**Identifying Priority Permits Based on Environmental Justice Concerns**

EPA Region 9 may conduct enhanced public outreach for EPA-issued permits where environmental justice concerns have been identified by Region 9 or the community. Permits with activities that may pose significant public health or environmental impacts include:

A. CAA construction permits, especially new major sources (or major modifications of sources) of criteria pollutants;

B. SDWA Significant Underground Injection Control Program permits;

C. CWA NPDES "Major" industrial permits and "Non-Major" industrial permits that are identified by EPA on a national or regional basis as a focus area, for:
   i. New sources or new dischargers, or
   ii. Existing sources with major modifications, including, but not limited to, a new outfall, a new or changed process that results in the discharge of new pollutants, or an increase in production that results in an increased discharge of pollutants; and

D. RCRA permits associated with new combustion facilities or modifications to existing permits that address new treatment processes or corrective action cleanups involving potential off-site impacts.

**Environmental Justice Screening**

EJ screening is the use of available environmental and demographic information to highlight locations where additional review (e.g., information collection or analysis) may be warranted. EJ screening results in a preliminary characterization of potential impacts on the population, including low-income and/or minority populations, and potential environmental and health impacts that may fall disproportionately on them. EPA is now beta-testing a nationally consistent screening tool, called EJSCREEN. EJSCREEN is a geospatial tool that contains demographic and environmental data for the United States at the census block group level. The environmental factors include:

1. PM 2.5 Level in Air
2. Ozone Level in Air
3. Diesel Particulate Matter Level in Air
4. Air Toxics Cancer Risk
5. Air Toxics Neurological Hazard Index
6. Air Toxics Respiratory Hazard Index
7. Traffic Proximity and Volume
8. Lead Paint Indicator (% pre-1960)
9. Risk Management Plan Facility Proximity
10. Superfund Site Proximity
11. Treatment Storage Disposal Facility Proximity
12. Major Direct Dischargers to Water Proximity

In addition to environmental factors, the tool also uses two primary demographic factors, specifically, percentage of the population that is minority and percentage of population that is and low-income. EJSCREEN also includes information about linguistic isolation, population over age 64, population under age 5, and population with less than a high school education. EJSCREEN also creates indexes, which combine each

environmental indicator with the two primary demographic factors, to provide a measure of how much each block group contributes to disparity between demographic groups nationwide.

Region 9 will use EJSCREEN and other readily available sources of information, including known community concerns, during the pre-decisional screening process. As a pre-decisional tool, EJSCREEN will be used to highlight candidates for additional review where enhanced outreach may be warranted. Additional review includes consideration of additional available information and data unique to an area and that may capture environmental and demographic factors more holistically. EJSCREEN is not designed to conclusively determine whether or not disproportionately high and adverse impacts in fact exist.

In cases where EJSCREEN is not appropriate for use in screening because the relevant data were not available for the area, the region will complete a similar screening by reviewing available demographic and environmental data. EPA expects that in most circumstances EJSCREEN will be the appropriate tool for initial screening.

**Identifying When to Conduct Enhanced Outreach**

Region 9 will generally use environmental justice screening and consider other information to determine when to conduct enhanced outreach. Enhanced outreach includes those activities that go beyond public involvement activities required in 40 CFR Part 124 or other applicable regulations.[8] These required activities include the following: providing public notices of the preparation of a draft permit, including a notice of intent to deny a permit; providing a formal public comment period on the proposed permit action or the permit application; and providing a public hearing if there is a significant degree of public interest.[9]

Figure 1 below provides a framework EPA Region 9 will use to determine when to provide enhanced outreach activities for communities potentially affected by an EPA permit. The initial step of the framework is to determine whether the facility is subject to more than one EPA permit and if so, to coordinate across the relevant permitting programs on screening and/or outreach activities, if appropriate. The second step of the framework involves initial screening for potential environmental justice concerns using EJSCREEN, an EPA tool that uses environmental and demographic indices to identify areas with greater potential for environmental justice concerns, and other readily available information. Staff may supplement EJSCREEN results with additional information about the facility and community, including any community concerns previously raised to Region 9, to better elucidate actual or potential environmental justice concerns. This information would subsequently be used to determine whether enhanced outreach should be considered. The types of enhanced outreach activities to be provided would be determined on a case-by-case basis and would depend on site-specific considerations as well as resource availability.

**Region 9 Responsibilities**

The success of this plan is contingent upon the participation and coordination among Region 9 offices and programs. This section of the plan summarizes the responsibilities different offices and programs may fulfill. Site-specific considerations and resource availability could determine whether responsibilities are shifted or reduced.

[8] 40 CFR Part 124 is available at: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr124_main_02.tpl.

[9] A public hearing is required only if EPA determines that there is a significant degree of public interest. One written request does not necessarily demonstrate a significant degree of public interest. Please see 40 CFR Part 124 for more information: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr124_main_02.tpl.

*Permit Offices*

- Provide information about existing permit universes and locations of proposed EPA permit actions to enable the EJ team to develop an internal permit tool using GIS to facilitate coordination between offices.
- Review and use the regional permit tool after an application is received to determine whether the facility has other EPA-issued permits. If the facility has more than one EPA-issued permit, notify other appropriate offices an application was received.
- Maintain the permits database underlying the GIS tool by adding location and type information on new permit applications as they are received.
- Coordinate initial screening and analysis with other permit offices that have EPA-issued permits for that facility and the EJ Program, as needed.
- Continue to lead outreach efforts and coordinate outreach activities with other permit offices, the EJ Program, and others as needed.

*EJ Program*

- Develop and maintain the region's GIS-based permit tool for EPA permits based on information provided by the permit programs.
- For permit programs with known universes of permittees, conduct batch screening using EJSCREEN; assist permit offices with initial screening and analysis, and response to public comments, when requested.
- Facilitate coordination among the permit offices, upon request.
- Assist with outreach activities, upon request.
- Follow up on community concerns raised to EPA during the permit process and coordinate with external agencies, as appropriate.
- Coordinate with permit offices, the Tribal Programs Office, the Pacific Islands Office, and others to review and update this plan, as appropriate.

*Tribal Programs Office and Pacific Islands Office*

- For EPA permit actions in Indian country and the Pacific Islands with the potential to cause environmental justice concerns, the Tribal Programs Office and Pacific Islands Office may play a coordinating role if requested by the permitting program(s).
- Permitting programs will coordinate with the Tribal Programs Office when tribal consultation is warranted.

**Enhanced Outreach Activities to Support Meaningful Engagement**

EPA Region 9 may conduct additional outreach during the permitting process to promote greater involvement of overburdened communities. Resource availability will affect the feasibility of enhanced outreach and the number of permits Region 9 can conduct enhanced outreach for; therefore, Region 9 could choose to implement all, some or none of the activities listed below.[10] The list of proposed activities is intended to identify priority areas of activity.

[10] Resource constraints will differ for each program based on the number of permits processed, the length of time to obtain a complete application, complexity, and the degree to which additional reviews under statutes such as the National Historic Preservation Act and the Endangered Species Act are required. Furthermore, resource constraints could limit the ability to travel to certain areas to conduct enhanced outreach.

Planning & Gathering Information:

- Identify upcoming priority permits for promoting greater public involvement. When identifying priority permits, focus on permits that the community has identified as a priority, to the extent such information is available.
- Locate existing data and studies that are relevant to the particular community, including where schools and child care centers are located relative to the proposed project.
- Explore ways to reach out to the affected community in coordination with relevant EPA staff, including permit writers, EJ coordinators, public affairs staff, and EPA's Conflict Prevention & Resolution Center.
- Evaluate the appropriate length of the public comment period.
- Consider holding informational meetings for the public in addition to formal public comment sessions.

Coordination:

- For applicants with multiple EPA permits, permit writers will inform permit writers from other offices in the region that a permit application was received from the applicant.
- Coordinate with state, local, and/or tribal authorities, when appropriate.

Communicating with the Community:

- Designate EPA point(s) of contact that the community can contact to discuss environmental justice concerns or questions of a technical nature about the permit application.
- Use informational materials to explain the permitting process.
- Use plain language when communicating with the public.
- Use communication techniques the community values, such as direct mailings, posters, articles in local newspapers, and emails to list serves.
- Offer translation services for communities with multi-lingual populations (including interpreters at public meetings or translations of public documents) when feasible.
- Make key documents on the proposed project, such as the draft permit and statement of basis or fact sheet, readily accessible to the community, using a variety of media tools (paper copies, online, etc.), when appropriate.
- When holding a public meeting, schedule the meeting at a time and place in the community to afford the public a meaningful chance to attend.
- After the permit has been issued, make available to the community a summary of EPA's comment responses and provide information on where the community can find the comment response summary.

Communicating with the Permit Applicant:

- Encourage the permit applicant to provide EPA with a plain-language description of its proposed project or permit application.
- Encourage the permit applicant to consult EPA guidance on environmental justice and other resources developed under Plan EJ 2014, including the Promising Practices for Permit Applicants Seeking EPA-Issued Permits: Ways to Engage Communities at the Fence-Line.

**Progress Review**

Region 9 will periodically review progress and share lessons learned with other regions and headquarters in carrying out the enhanced outreach provided in this plan.

**Figure 1. Outreach Planning Process**