



Pillsbury Winthrop Shaw Pittman LLP  
725 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-5406 | tel 213.488.7100 | fax 213.629.1033

Mark E. Elliott  
tel 213.488.7511  
mark.elliott@pillsburylaw.com

September 22, 2014

Via Certified Mail – Return Receipt Requested

Paula Dinerstein, Esq.  
Public Employees for Environmental Responsibility  
2000 P Street NW, Suite 240  
Washington, DC 20036  
pdinerstein@peer.org

James W. Vititoe, Esq.  
Vititoe Law Group  
5707 Corsa Ave., Second Floor  
Westlake Village, CA 91362  
warrick@vititoelawgroup.com

Re: Notice of Intent to File Suit

Dear Ms. Dinerstein and Mr. Vititoe:

I write as counsel for the Santa Monica-Malibu Unified School District (“District”), regarding the Notice of Intent to File Suit under the Toxic Substances Control Act (“TSCA”), 15 U.S.C. Sections 2601 *et seq.*, dated August 19, 2014 (hereafter “Notice to Sue”), which was sent by your clients, Public Employees for Environmental Responsibility (“PEER”) and Malibu Unites, to the District, the Attorney General of the United States, the U.S. Environmental Protection Agency, and the U.S. Environmental Protection Agency, Region IX (collectively referred to as “EPA”). A copy of the Notice to Sue is attached hereto as Attachment A.

As you are aware, the District is conducting an ongoing PCB-Related Building Materials Inspection, Management and Removal Program at the Malibu High School and Juan Cabrillo Elementary School, located at 30237 and 30215 Morning View Drive (collectively “Malibu Campus”), in Malibu, California. This program is being conducted with oversight from EPA who has been involved in overseeing the PCB-

building materials investigation efforts at the Malibu Campus since fall 2013. EPA has exclusive jurisdiction to enforce TSCA. 15 U.S.C. § 2601(c).

Further, as you are aware, the District shall remove the building materials at the Malibu Campus which have been identified and verified to contain PCBs at concentrations above 50 parts per million (ppm), again under oversight from EPA.

The Notice to Sue sent by PEER and Malibu Unites alleges violation of TSCA at the Malibu Campus. Specifically, the Notice to Sue alleges the following TSCA violations:

- window caulking from Room 19 on the Juan Cabrillo campus contained 340,000 parts per million of PCBs
- interior door caulking from room 506 on the Malibu High School Campus contained 370,000 parts per million of PCBs
- caulking from the physical education faculty office in the Malibu High School Campus contained 190 parts per million of PCBs
- three dirt samples from classrooms in building E on the Malibu High School Campus contained PCBs in excess of 11 times the EPA's residential screening limits

The sparse information contained in the Notice to Sue regarding these alleged violations is insufficient to permit the District to investigate, assess and verify these additional alleged violations. Under the law, the pre-suit notice must provide sufficient information to permit the District to remedy the alleged violations. The Notice to Sue sent by PEER and Malibu Unites has not provided such information.

The Notice to Sue further alleges that Malibu Unites and PEER reported these same test results to both the District and EPA on July 17, 2014. Indeed, on July 17, 2014, an email was sent from Ms. Dinerstein to the District attaching a series of purported sampling results and a "key" to those sample results. The "key" to the sampling data which was provided does not correspond to the room numbers or known locations on the Malibu Campus.

On July 23, 2014, Carol Serlin, environmental consultant at ENVIRON, the District's environmental contractor, emailed Kurt Fehling, technical consultant to Malibu Unites, and requested that it provide additional information regarding the sampling data in order to permit ENVIRON to investigate these locations further. A copy of Ms. Serlin's email is attached hereto as Attachment B. Despite this detailed request, this information has never been provided to the District, EPA, or ENVIRON.

The pre-suit notification requirement is a jurisdictional prerequisite to a citizen suit under TSCA. The purpose of the pre-suit notification is to allow a non-adversarial

period during which the alleged violator is provided the opportunity to return to compliance. In addition, the pre-suit notification requirement permits EPA the opportunity to investigate potential violations, thus obviating the need for a citizen suit.

The District would like the opportunity to evaluate, assess and verify the sampling data collected by Malibu Unites and PEER so that it may evaluate its compliance with TSCA for those alleged TSCA violations. Currently, the District and EPA are prevented from doing so without additional information regarding the sampling data that lies exclusively in the possession of Malibu Unites and PEER.

Accordingly, please provide the following information regarding the sampling data no later than September 29, 2014:

1. The date and time the samples were collected;
2. The school, building and placarded room number where the samples were collected;
3. The location within each room at the Malibu Campus where the samples were taken;
4. The party who collected the samples;
5. A complete chain of custody of the samples from that time that they were collected to when they were received by laboratory and how they were stored from the time of collection until time of laboratory analysis;
6. The methodology used to collect such samples;
7. Any photos and/or field notes taken while the samples were collected;
8. Any third party data validation report.

The District shall remove and dispose of the building materials at the Malibu Campus which have been identified and verified to contain PCBs at concentrations above 50 ppm under oversight from EPA. The District would like to the opportunity to evaluate, assess and verify the sampling data collected by PEER and Malibu Unites. The requested information should be provided to both the District and EPA.

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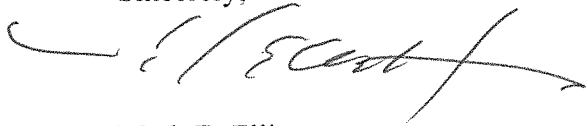
Please direct the requested information to the following persons:

Steve Armann  
Manager, RCRA Corrective Action Office  
Waste Management Division  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105-3901  
Armman.Steve@epa.gov

Mark E. Elliott  
Pillsbury Winthrop Shaw Pittman  
725 S. Figueroa St, Suite 2800  
Los Angeles, CA 90017  
Mark.elliott@pillsburylaw.com

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Elliott", with a long horizontal flourish extending to the right.

Mark E. Elliott

cc: U.S. Environmental Protection Agency  
U.S. Environmental Protection Agency, Region IX