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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203



February 14, 1985

SDMS DocID 449307

CERTIFIED MAIL

Superfund Record Center  
SITE: Aerovox  
PACKAGE: 1071  
OTHER: \_\_\_\_\_

Mr. Paul Galvani  
Ropes & Gray  
225 Franklin Street  
Boston, MA 02210

RE: Aerovox; CERCLA Docket #81-964

Dear Mr. Galvani:

Enclosed is the Supplemental Consent Order for Aerovox. EPA inspected the completed remedial work on December 7, 1984, and hereby gives final approval to the work as complying with the Consent Order referred to above. This Supplemental Consent Order provides for implementation of a Long-Term Maintenance and Monitoring Plan. Please review the Order and, if you have any further questions, contact Charles Bering in our Office of Regional Counsel, at 223-0400.

After Aerovox has signed the Order, have them return it to EPA, addressed to Charles Bering, and it will then be signed and issued by the Regional Administrator and returned to you, becoming effective on the date you receive it.

Sincerely yours,

Merrill S. Hohman, Director  
Waste Management Division

Enclosure

cc: Ralph Child  
Lee Breckenridge  
Bill Pope

## EXECUTIVE SUMMARY

This is a supplement to a CERCLA §106 order issued in May, 1982, to Aerovox, Inc. The original order called for the equivalent of an RI/FS for a portion of Aerovox's property which EPA has found to be contaminated with PCBs, in an inspection by Versar, Inc., in 1981, and implementation of a clean-up plan selected on the basis of Aerovox's study and approved by EPA and DEQE. The plan was made available for public comment and a public hearing under the procedures of the state's Wetlands Act, and Aerovox then carried out the plan, except for long-term maintenance and monitoring. This order incorporates the long-term plan and provides a release for the completed work.

The effect of this supplement is to re-state the release in the original order. The release is limited to a release from further action based on information known at the time the order is issued and it applies only to the on-shore portion of Aerovox's property which is being clean up. It does not affect any government right relating to New Bedford or PCBs or other hazardous substances anywhere else in New Bedford.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

IN THE MATTER OF: )  
 ) DOCKET NO. 81-964  
Aerovox, Inc. )  
New Bedford, Massachusetts )  
 ) SUPPLEMENTAL  
PROCEEDING UNDER SECTION 106 OF ) CONSENT ORDER  
THE COMPREHENSIVE ENVIRONMENTAL )  
RESPONSE, COMPENSATION, AND )  
LIABILITY ACT, 42 U.S.C. § 9606 )

PREAMBLE

The following SUPPLEMENTAL CONSENT ORDER is being issued as a supplement to the CONSENT ORDER entered into in this proceeding between the United States Environmental Protection Agency ("EPA") and Aerovox Incorporated ("AEROVOX") in May, 1982, hereinafter referred to as "the CONSENT ORDER".

Pursuant to the terms of the-CONSENT ORDER, Aerovox implemented a sampling and analysis program to determine the degree and extent of PCB contamination of its property located at <sup>740</sup>~~760~~ Belleville Avenue, New Bedford, Massachusetts, lying to the west of the seawall separating the factory grounds from the waters of the Acushnet River estuary. The Consent Order further contemplated the development by Aerovox of alternative response actions to address the PCB contamination on Aerovox property, and approval by EPA of a program of remedial action and the implementation by Aerovox of such approved remedial program.

On the basis of the results of the sampling and analysis program, Aerovox developed a study of several alternative

remedial courses of action which were submitted to the EPA, with a recommended program. EPA has approved the remedial program recommended by Aerovox, and Aerovox carried out the plan. On September 18, 1984, EPA inspected the work, and on September 20, 1984, EPA approved the clean-up work on the condition that certain repairs be made. EPA inspected the completed repairs on December 7, 1984, and has approved the work on the basis of that inspection. Aerovox also submitted, and obtained EPA approval of, the Long-Term Monitoring and Maintenance Program attached hereto.

AGREEMENTS OF AEROVOX

In consenting to the terms of this SUPPLEMENTAL CONSENT ORDER, Aerovox agrees to commence and carry out the attached Long Term Monitoring and Maintenance Program, including compliance with the reporting requirements outlined in the Program, and to take such maintenance measures as may be necessary to maintain the containment on site and prevent releases of PCBs.

In agreeing to undertake this Program, Aerovox, as provided in the Consent Order, does not concede any obligation or liability, waive any defenses, or make any admissions with respect to its property, the Acushnet River, New Bedford Harbor, or the conduct of the prior owners of

the Aerovox property. It is further agreed that this Supplemental Consent Order may not be used as an admission against Aerovox in any other proceeding.

AGREEMENTS OF EPA

EPA hereby agrees as follows:

Aerovox has complied with, and satisfied in full its obligations under, the Consent Order earlier entered into in this proceeding, including completion of an Approved Remedial Program. EPA has inspected the remedial actions taken by Aerovox with respect to the Aerovox property and determined that such remedial actions, together with the Long Term Maintenance and Monitoring Program required herein, comply with the Approved Remedial Program.

RELEASE

It is agreed as follows:

EPA releases Aerovox from all claims, as defined below, arising out of the contamination by PCBs of the on-shore portion of Aerovox's property. The "on-shore portion of Aerovox's property" means that portion of Aerovox's property lying to the west of the seawall separating the factory grounds from the area covered at high tide by the waters of the Acushnet River estuary, and extending to the channel line as set forth in Appendix "A" to the Consent Order.

The claims from which EPA releases Aerovox include all claims for:

- 1) clean-up of the PCB contamination of the on-shore portion of Aerovox's property;
- 2) recovery of EPA's costs in investigating the PCB contamination of the on-shore portion of Aerovox's property, including sampling and analysis of soils in that area, in reviewing Aerovox's proposals and actions under the Consent Order and this Supplemental Consent Order; and
- 3) all other claims for clean-up or cost recovery relating to the PCB contamination of the on-shore portion of Aerovox's property, which EPA has claimed or may have claimed, or might in the future claim, under any federal statute, common law, or otherwise, whether based upon the June 13, 1981, Versar inspection referred to in the Consent Order, or based on any information which is or might reasonably have been available to EPA at the time of this Supplemental Consent Order, EXCEPT as set out below:

The release does not cover any claims arising out of:

- 1) any failure by Aerovox to carry out long-term monitoring and maintenance measures as

required by this Supplemental Consent Order;

- 2) information or data which was not reasonably available to EPA at the time of this Supplemental Consent Order, including any information produced by Aerovox's long-term monitoring;
- 3) any information or data relating to PCBs or other hazardous substances which have been or may be released at any time from the on-shore portion of Aerovox's property into the surrounding environment;
- 4) any information or data relating to any natural resources damages caused at any time by PCBs or other hazardous substances released from any portion of the Aerovox property; or
- 5) any other information or data relating to PCBs or other hazardous substances on Aerovox property lying to the east of the seawall described above.

EPA reserves the right to enforce the Long Term Maintenance and Monitoring Program required by this Supplemental Consent Order. EPA also reserves the right to seek through administrative or judicial enforcement to have Aerovox take action as may be necessary to respond to new information received after the completion of the Approved Remedial Program, including monitoring data produced by the Program, which was not reasonably available to EPA

at the time of this Supplemental Consent Order, and EPA reserves the right to take such response actions on its own. Prior to undertaking any enforcement or response action, EPA shall provide Aerovox with written notice of the new information and of any proposed determination or actions concerning such information, and with reasonable and appropriate opportunity to confer with EPA concerning such proposed determinations or actions. Such action may include modification of the Long-Term Maintenance and Monitoring Program.

#### MISCELLANEOUS PROVISIONS

- 1) Aerovox may, if it desires, assert a business confidentiality claim covering part or all of the information to be submitted to EPA under the Long Term Maintenance and Monitoring Plan, in the manner described by 40 C.F.R. § 2.203(b), 41 Fed. Reg. 36907 (September 1, 1976). Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to Aerovox. The information

requests in this Order are not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

- 2) For purposes of claims for response costs under Section 111(a)(2) of CERCLA, issuance of this Supplemental Consent Order by EPA does not constitute approval or certification of any response costs incurred pursuant to this Order.
- 3) It is the intention of the parties to manifest on the date of signing below the agreements reached by the parties and thereby to commit Aerovox to performance of the activities set forth in this Order. This Order may be amended by mutual agreement of EPA and Aerovox. Such amendments shall be in writing and shall have as the effective date that date on which such amendments are signed by EPA.

IT IS SO AGREED:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Aerovox, Inc.

\_\_\_\_\_  
Michael R. Deland  
Regional Administrator  
U.S. Environmental Protection Agency  
Date \_\_\_\_\_