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May 24, 2010

BY HAND

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
Post Office Square – Suite 100
Boston, MA 02109-2912

Re: ***Aerovox, U.S. EPA Region 1 Docket No. CERCLA-01-2010-0017;
Proposed Administrative Settlement Agreement and Order On Consent
for Non-Time Critical Removal Action***

Region I Hearing Clerk:

This office represents Acushnet Rubber Company, Inc., d/b/a Precix (“Precix”), located at 744 Belleville Ave., New Bedford, Massachusetts (the “Precix Property”). On behalf of Precix, I am writing to comment on the Proposed Administrative Settlement Agreement and Order on Consent for Non-Time Critical Removal Action between the United States Environmental Protection Agency (“EPA”) and AVX Corporation (“AVX”) (“Proposed Agreement and Order”). Precix’s world headquarters and primary manufacturing facility is located on the property north of and directly adjacent to the former Aerovox facility located at 740 Belleville Avenue, the facility which is the subject of the Proposed Agreement and Order.

Precix is writing to urge EPA to reconsider its decision, expressed in § XXV of the Proposed Agreement and Order, to extend AVX protection from third party CERCLA claims for contribution, pursuant to 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4). AVX should not be given this extraordinary protection at this stage, for the following reasons.

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First, extending broad third party contribution protection to AVX at this point in time is premature, given that there has been no comprehensive site assessment of the extent of the releases of multiple hazardous materials at and/or from the former Aerovox facility. Under the Proposed Agreement and Order, as well as AVX's agreements with the City of New Bedford and the Massachusetts Department of Environmental Protection ("Mass DEP Agreement"), a Phase II Comprehensive Site Assessment will not be performed until after the completion of the NTCRA. Until such a comprehensive site assessment is performed, EPA and other parties cannot fully understand what it may mean to provide AVX with contribution protection, i.e., EPA and other parties cannot know the degree to which EPA may be prejudicing, fairly or unfairly, the rights of third parties. Moreover, there is no compelling or particular need for EPA to extend AVX contribution protection at this point in time. This is highlighted by the fact that the Massachusetts Department of Environmental Protection is not, under the Mass DEP Agreement (if and when it becomes effective), giving AVX contribution protection under Mass. Gen. L. ch. 21E at this time.

Second, extending third party contribution protection to AVX at this point in time may be highly prejudicial to the owners of adjacent and/or downgradient properties, such as Precix. The Precix Property currently has Downgradient Property Status for the presence of VOC's and PCB's at concentrations above reportable concentrations, the source of which it has been determined was or is groundwater flow from the Aerovox property. See Massachusetts Department of Environmental Protection Release Tracking Numbers 4-11186 and 4-21348. The NTCRA, however, will not result in the remediation of these or any other releases that may have migrated from the Aerovox facility. Before receiving CERCLA contribution protection for the matters addressed in the settlement agreement, AVX should be required not only to perform the demolition and removal contemplated in the NTCRA, but also to fully remediate or otherwise perform all necessary and appropriate response actions not merely at the "Site" as "Site" is defined in the Proposed Agreement and Order, but wherever a release of hazardous materials at the former Aerovox facility has come to be located, including the Precix Property.

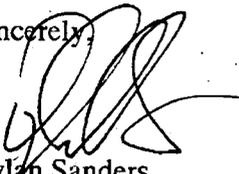
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For these reasons, Precix urges EPA to reconsider its decision to extend CERCLA contribution protection to AVX at this time.

Thank you for your attention to this matter.

Sincerely,



Dylan Sanders

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