



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

Site File



SDMS DocID 279888

Site File
New Bedford
17.2
279888

January 9, 2001

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL**

Greg Jonsson, Esq.
683 Main Road
Westport, MA 02790-0740

RE: APRAK Realty Trust
AP 93, Lot 263

Dear Mr. Jonsson:

Enclosed please find an Administrative Order for Property Access issued today with regard to the above-captioned property. Please note you have an opportunity to request a hearing and/or submit comments as provided in paragraph 27. The Order becomes effective on January 19, 2001.

Sincerely,

Cynthia E. Catri

Cynthia E. Catri
Senior Enforcement Counsel

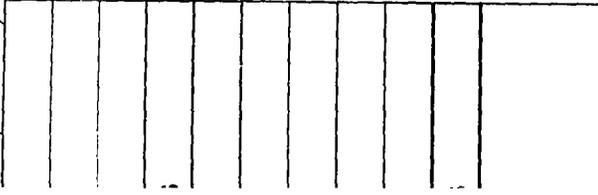
Enc.

cc: Jim Brown, EPA
Quentin Walsh, COE

P 368 639 127

Registered Mail

provided.
1 Mail (See reverse)



Greg Jonsson, Esq.
683 Main Road
Westport, MA 02790-0740

PS Form 3800 April 1995

Respondent

2. The Respondent, APRAK REALTY TRUST is a Trust set up in the Commonwealth of Massachusetts. A Declaration of Trust dated January 7, 2000 is recorded in Bristol County Registry of Deeds, in New Bedford, Massachusetts at Book 4606, Page 266. Richard P. Vohnoutka is a Trustee of the APRAK REALTY TRUST.

Findings of Fact

3. The New Bedford Harbor Superfund Site (the Site) is located in the City of New Bedford in Bristol County, Massachusetts. The Site extends from the shallow northern reaches of the Acushnet River estuary south through the commercial harbor of New Bedford and into 17,000 adjacent areas of Buzzards Bay. Sediment in the Harbor and along the shoreline is contaminated with polychlorinated biphenyls (PCBs) and heavy metals.

4. The Site is listed on the CERCLA National Priorities List, 40 CFR Part 300, App. B (1988), pursuant to Section 105(a)(8)(B) of CERCLA, 42 U.S.C. § 9605(a)(8)(B).

5. From the 1940's into the 1970's two electrical capacitor manufacturing facilities, one located near the northern boundary of the Site and one located just south of the New Bedford Harbor hurricane barrier, discharged PCB-wastes either directly into the Harbor or indirectly via discharges to the City's sewerage system. An EPA region-wide sampling program in the mid-1970's identified PCB-contaminated sediments and seafood in and around New Bedford Harbor. In 1979, the Massachusetts Department of Public Health promulgated regulations prohibiting fishing and lobstering throughout the Site due to elevated PCB levels in area seafood. Elevated levels of heavy metals in sediments (notably cadmium, chromium, copper and lead) were also identified during this time frame. In 1982 the U.S. Coast Guard erected signs around the Site

warning against fishing and wading. These signs have been maintained or replaced by EPA and the City of New Bedford as needed.

6. EPA began site-specific investigations in 1983 and 1984 with the Remedial Action Master Plan and the Acushnet River Estuary Feasibility Study. Site investigations continued throughout the rest of the 1980's and early 1990's. Long-term ecological monitoring is ongoing. A risk assessment was performed in 1989 and updated in 1997 as to consumption of contaminated seafood. Consumption of local seafood and exposure to shoreline sediments in several areas are the greatest of the exposure pathways evaluated. Fish tissue concentrations of PCBs are at levels that are orders of magnitude above the health-based target level for local residents. Similarly, existing shoreline PCB levels pose significant risk to young children whose residences abut the Harbor and to beachcombers. In addition, ecological risk findings conclude that the Harbor, particularly the upper harbor, is an area under high ecological stress due to exposure to PCBs with PCB concentrations in sediment and sediment pore water (the water in the small spaces between sediment particles) being highly toxic to at least some members of all major taxonomic groups. In fact, juvenile aquatic organisms using the upper Harbor area as a nursery ground may be at an elevated risk given that this life stage is generally more sensitive to chemical insult than the adult stage. Fish in the outer Harbor were found to be potentially impacted as well. By way of comparison, PCB concentrations in sediment of 0.1 to 1.0 ppm range can be considered protective of marine resources; existing sediment PCB levels in the Harbor, especially in the upper Harbor, are at least ten time higher than the 1 ppm threshold.

7. Collectively, these investigations identified the Aerovox facility as the primary source of PCBs to the Site. Secondary inputs of PCBs were also made from the Cornell Dubilier

Electronics, Inc. (CDE) facility just south of the New Bedford Hurricane barrier. EPA took administrative and judicial actions against these parties which resulted in the following settlements:

(a) A 1982 Administrative Consent Order with Aerovox to install a cut-off wall and cap system to isolate contaminated soil and for groundwater monitoring and maintenance;

(b) A 1982 Administrative Consent Agreement and Final Order under the Toxic Substance and Control Act (TSCA) with CDE to address PCB handling procedures, discharges, releases to the municipal sewer system and surrounding areas, and groundwater monitoring requirements;

(c) A 1983 Administrative Order under CERCLA §106 to CDE to remove PCB-contaminated sediments from portions of the municipal sewer system downstream of the CDE plant;

(d) A judicial complaint was filed in 1983 against both parties and their successors for natural resource damages and response costs pursuant to CERCLA §107. Eventually the parties reached a settlement and three Consent Decrees were entered in 1991 and 1992 for a total of \$99 million for natural resource damages and response costs;

8. In April, 1990 EPA issued a Record of Decision (ROD) for the hot spot operable unit of the Site. The hot spot ROD called for dredging and on-site incineration of the Sites' most highly PCB-contaminated sediments (those exceeding 4,000 ppm) located adjacent to the Aerovox facility. Dredging of approximately 14,000 cubic yards was carried out from April 1994 through September 1995. Subsequently, due to a reversal in congressional and local support for on-site incineration, the incineration component of the remedy was suspended and the

dredged sediment was stored in a shoreline confined disposal facility. In April, 1999 EPA issued an Amended ROD and the sediments were dewatered and transported offsite for disposal from December 1999 through May, 2000.

9. In September 1998 EPA issued another ROD that calls for dredging of all sediment exceeding 10 ppm in the upper harbor and 50 ppm in the lower harbor, with some lower levels along the shorelines, for a total of approximately 450,000 cubic yards.. The dredged sediments will be contained in four shoreline confined disposal facilities (CDFs A, B, C and D) which will be capped and ultimately reused as open green space in the upper harbor and as a commercial marine facility in the lower harbor.

10. In order to address the release or threatened release of hazardous substances at the Site, EPA is conducting certain response actions. Pursuant to the RODs, these actions include relocating underground combined sewer overflow pipelines (CSOs), dredging contaminated sediments from the Harbor, constructing confined disposal facilities to contain the dredged sediments, treating water from the dredged sediments, and capping the confined disposal facilities.

11. The Respondent owns 1.83 acres of property adjacent to the Site. This property is described by the New Bedford Tax Assessor as Plat 93, Lot 263 and contains a two story brick building that was formerly a mill but is now vacant. It is shaped generally like two rectangles set in a reverse "L", with the parts running parallel and perpendicular to the Harbor. The Respondent is a legal holder of a title on the property by virtue of a Quitclaim Deed dated January 11, 2000, and recorded in Book 4606, Page 288 of the New Bedford Registry of Deeds. The Respondent's property is located in close proximity to the shoreline area where CDF C will

be located and is one of a series of parcels along which the CSO underground pipeline will be relocated. Specifically, 51,034 square feet, more or less, of the Respondent's property running parallel to the Harbor is necessary for the location, construction, operation, maintenance, alteration, repair and patrol of CDF C and for relocation of a CSO pipeline. An additional 3402 square feet is necessary for a period of three years as a staging/construction area for the project.

12. In order to perform the response actions described above, it will be necessary for employees, agents, contractors, and other representatives of EPA immediately to enter the property owned or controlled by the Respondent referred to above. The activities for which entry is required include: Relocating a CSO pipeline (including fencing, excavating a trench, laying pipeline in the trench, covering excavated trench); constructing CDF C (including installation and maintenance of a fence, clearing, grubbing, grading, excavating sediments for the foundation, installing sheet pile wall and perimeter dike, installing liner material, filling the CDF with dredged sediments, temporary and permanent capping of the CDF, installing air monitoring system, installing gas collection system, sediment dewatering activities, installing surface runoff management systems, operation and maintenance activities); and general staging and construction activities.

13. EPA estimates the duration of construction, filling and temporary capping of CDF C to be approximately 5 years. After the dredged sediment has settled (approximately 3 years) a final cap will be installed and the portion of the property affected by the CDF will be available for limited reuse as open green space. Operation and maintenance of the CDF along with CERCLA statutory five-year reviews will continue indefinitely. Relocation of the CSO pipeline should be complete within one year. Once the pipeline is complete, the surface portion of the

property affected by the pipeline will be available for vehicular access. Relocation of the CSO pipeline will temporarily deprive the Respondent of its legal access to the property; therefore, EPA will provide alternate access directly adjacent to the current access until legal access becomes available. The duration of the entire project (dredging and construction of CDFs A, B, C and D) is expected to be 10 years, with long-term operation and maintenance activities and long-term monitoring activities continuing indefinitely.

14. Despite repeated requests from representatives of EPA, the Respondent has failed to provide adequate access for purposes of performing the response activities described above. In addition, the Respondent has refused EPA's offer to purchase temporary and permanent easements for the portions of the property affected by the CSO pipeline and CDF C. Negotiations to resolve the matter have failed and, as a result, EPA has begun condemnation proceedings to obtain the necessary property interests. Communications related to these efforts include the following:

(a) Letter dated February 3, 1999 from David J. Dickerson (EPA) to Karpa, Inc. (predecessor to APRAK REALTY TRUST) requesting that it sign the enclosed Access Agreement;

(b) Signed Access Agreement dated February 17, 1999 by Richard P. Vohnoutka, President of Karpa, Inc.;

(c) Letter dated May 13, 1999 from Greg Jonsson, Esq. to Cynthia Catri (EPA) revoking access and demanding that EPA remove an air monitoring station installed on the property;

(d) Telephone messages left for Greg Jonsson, Esq. by Cynthia Catri (EPA) on May 18, 19 and 20;

(e) Letter dated May 18, 1999 from Cynthia Catri (EPA) to Greg Jonsson, Esq. acknowledging revoked access and requesting limited access to perform a property survey and enclosing limited Access Agreement form;

(f) Telephone conversation held May 25, 1999 between Greg Jonsson, Esq. and Cynthia Catri (EPA) discussing limited access for property survey;

(g) Signed limited Access Agreement for property survey by Richard Vohnoutha, President, Karpa, Inc. dated May 26, 1999;

(h) Letter dated June 3, 1999 from Cynthia Catri (EPA) to Greg Jonsson, Esq. reflecting telephone call and enclosing second limited Access Agreement to conduct geophysical survey, soil borings and to traverse the property to dismantle and remove air monitoring system and reconstruct and operate system on adjacent property;

(i) Meeting June 3, 1999 at property between Cynthia Catri (EPA), Dave Dickerson (EPA), Maurice Beaudoin (COE), Greg Jonsson, Esq. and Richard Vohnoutka to discuss removal of air monitoring system and anticipated project plans;

(j) Second limited Access Agreement dated June 8, 1999 signed by Richard P. Vohnoutka, President, Karpa, Inc.;

(k) Meeting approximately June 10, 1999 between Maurice Beaudoin, U.S. Army Corps of Engineers (COE), Greg Jonsson and Richard Vohnoutka at property to discuss moving air monitoring station;

(l) Letter dated June 15, 1999 from Cynthia Catri (EPA) to Greg Jonsson, Esq. discussing possible purchase of air monitoring poles installed by EPA;

(m) Meeting November 15, 1999 between Greg Jonsson, Richard Vohnoutka, Cynthia Catri (EPA) Jim Brown (EPA) Edward Fallon (COE) and Quentin Walsh (COE) to discuss anticipated remediation activities on property;

(n) Letter dated September 12, 2000 from Joseph Redlinger (COE), on behalf of EPA, to Richard Vohnoutka, Trustee of APRAK Realty Trust offering to purchase two permanent easements and one three year temporary work easement to implement the remedial action;

(o) Telephone messages on September 28, 29, and October 6, 2000 left for Greg Jonsson, Esq. by Edward Fallon (COE) to discuss offer and access;

(p) Meeting October 23, 2000 between Greg Jonsson, Cynthia Catri (EPA), Jim Brown (EPA), Edward Fallon (COE) and Quentin Walsh (COE) to discuss offer and access;

(q) Signed limited COE Right of Entry form dated October 23, 2000 by Richard Vohnoutka to allow access for construction work but specifically prohibiting erecting buildings or any other type of improvements;

(r) Meeting October 31, 2000 between Greg Jonsson, Richard Vohnoutka, potential developer of property, Cynthia Catri (EPA), Jim Brown (EPA), Edward Fallon (COE), Quentin Walsh (COE) and other EPA, COE representatives as well as other interested parties to discuss impact of remediation on future development options;

(s) Fax dated November 8, 2000 from Quentin Walsh (COE) to Greg Jonsson, Esq. requesting response to offer;

(t) Letter dated November 9, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) discussing offer;

(u) Fax dated November 10, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) containing counteroffer;

(v) Fax dated November 18, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) referring to earlier counter-proposal faxed November 10, 2000;

(w) Telephone call November 20, 2000 between Greg Jonsson, Esq. and Edward Fallon (COE) regarding counter-proposal and new meeting with potential developer. Mr. Jonsson to recommend that Mr. Vohnoutka sign unlimited COE Right of Entry and get independent appraisal;

(x) Fax on November 28, 2000 by Edward Fallon (COE) to Greg Jonsson, Esq. of another copy of unlimited COE Right of Entry form;

(y) Telephone message November 29, 2000 from Edward Fallon (COE) to Greg Jonsson, Esq. to inquire about Right of Entry and meeting with developer;

(z) Telephone call December 6, 2000 between Edward Fallon (COE) and Greg Jonsson regarding Mr. Vohnoutka signing Right of Entry and tentative meeting date with potential developer;

(aa) Telephone call approximately December 11, 2000 between Greg Jonsson, Esq. and Cynthia Catri (EPA) regarding Right of Entry form, need to move project, and consequences of failure to secure access. Greg Jonsson would try to get Mr. Vohnoutka to sign and have form to EPA by December 15, 2000;

(bb) Letter dated December 26, 2000 from Cynthia Catri (EPA) to Greg Jonsson, Esq. requesting response within seven days to EPA offer to purchase property and notifying of imminent Access Order; and

(cc) Letter dated January 4, 2001 from Cynthia Catri (EPA) to Greg Jonsson, Esq. resending letter dated December 26, 2000 noting that original letter was never retrieved and that Access Order expected to be issued within next two business days.

15. Design plans for relocation of the CSO have been completed since October 5, 2000, and EPA awarded the construction contract on October 9, 2000. Of the six property owners impacted by the CSO relocation and CDF C construction, only the Respondent has failed to sign an unlimited Right of Entry form. EPA and its contractors have been ready to begin construction since December 19, 2000 but have been prevented from so doing on the Respondent's property because of the Respondents' failure to grant access. Complete access along the entire length of the pipeline and shoreline CDF is necessary to ensure efficient and cost effective work.

Determinations

16. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

17. The Respondent is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

18. All of the chemicals listed in paragraphs 3 and 5 above are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

19. The past, present, or potential migration of hazardous substances at or from the Site constitutes an actual "release" or a threat of such a release into the "environment" within the meaning of Sections 101(8) and 101(22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

20. The property owned or controlled by the Respondent referred to in paragraph 11 above is property where entry is needed to effectuate a response action within the meaning of Section 104(e)(3) of CERCLA, 42 U.S.C. § 9604(e)(3).

21. Entry to property owned or controlled by the Respondents by agents, contractors, or other representatives of the United States is for the purposes of taking a response action within the meaning of Section 104(e)(1) of CERCLA, 42 U.S.C. § 9604(e)(1).

22. Access to the property owned by the Respondent as necessary to effectuate a response action has not been granted.

ORDER

23. The Respondent shall provide the United States Environmental Protection Agency and its officers, employees, agents, contractors, and other representatives, full and unrestricted access to the Respondent's property described by the New Bedford Tax Assessor as Lot 263 on Assessor's Plat 93 for the purpose of conducting response activities, including but not limited to performing remedial action activities as described in paragraphs 11 through 13 above.

24. The Respondent shall not interfere with EPA's exercise of its access authorities pursuant to 42 U.S.C. § 9604(e)(3) and 40 C.F.R. § 300.400(d).

25. Nothing herein limits or otherwise affects any right of entry held by the United States pursuant to applicable laws, regulations, or permits. This Order applies to and is binding upon the Respondent and its agents, heirs, successors, trustees and assigns. In the event of any conveyance by Respondent, or Respondent's agents, heirs, successors, trustees or assigns, of an interest in any property which includes an access area, Respondent and Respondent's agents, heirs, successors, trustees or assigns shall convey the interest so as to insure continued access by

EPA and/or its representatives for the purpose of carrying out the activities pursuant to this Order. Any such conveyance shall restrict the use of such property so that the use will not interfere with activities undertaken pursuant to this Order. Respondent, or Respondent's agents, heirs, successors, trustees and assigns shall notify EPA in writing at least thirty (30) days prior to the conveyance of any interest in property where an access area is located, and shall notify the other parties involved in the conveyance prior to the transfer, of the provisions of this Order.

Enforcement

26. Compliance with this Order shall be enforceable pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5). Failure to comply may also permit a court to subject the Respondent to civil penalties of up to \$27,500 for each day of each violation, as provided in Sections 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5) and the Civil Monetary Penalty Inflation Adjustment Rule, 61 Fed. Reg. § 69360, and/or punitive damages in an amount up to three times the amount of any costs incurred by the United States as a result of such failure, as provided in section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Nothing herein shall preclude EPA from taking such other actions as may be necessary to protect the public health or welfare or the environment and recovering the costs thereof.

Opportunity to Confer

27. Within two days after receipt of this Order, the Respondent may request a conference with EPA to be held no later than two days before the effective date of this Order on any matter pertinent to this Order, including its applicability, the factual findings and the determinations upon which it is based, the appropriateness of any actions the Respondent is ordered to take, or any other relevant and material issues or contentions which the Respondent have regarding this

Order. This conference is not an adversarial proceeding and is not part of any proceeding to enforce or challenge this Order. The Respondent may appear in person or by an attorney or other representative at the conference. The Respondent may also submit written comments or statements of position on any matter pertinent to this Order no later than the time of the conference, or two days before the effective date of the Order if the Respondent does not request a conference. EPA will deem the Respondent to have waived its right to the conference or to submit written comments if it fails to request the conference or submit comments within the specified time period(s). Any request for a conference or written comments or statements should be submitted to:

Cynthia E. Catri, Senior Enforcement Counsel
Office of Environmental Stewardship
United States Environmental Protection Agency
One Congress Street - Suite 1100 (SES)
Boston, Massachusetts 02203-2211
Telephone: (617) 918-1888

The Respondent is directed to contact Cynthia Catri at (617) 918-1888 before the effective date of this Order to advise whether or not the Respondent will comply with this Order. Failure to do so will be considered a violation of this Order.

Administrative Record

28. EPA has established an Administrative Record which forms the basis for the issuance of this Order. It is available at the EPA offices in Boston, Massachusetts. To review the Administrative Record, please contact Cynthia Catri, Senior Enforcement Counsel, at (617) 918-1888.

Effective Date; Computation of Time

29. Because of the immediate need to conduct the activities described above, this Order is effective on the tenth day following the date of issuance written below.

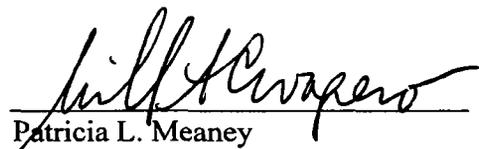
30. All times for performance of obligations under this Order shall be calculated from the effective date. For purposes of this Order, the term "day" shall mean a calendar day unless otherwise specified. When computing any period of time under this Order, if the last day would fall on a Saturday, Sunday, or federal legal holiday, the period shall run until the next working day.

Termination and Modification

31. This Order shall terminate when EPA so orders.

32. This Order may be amended or modified only by EPA in writing. Any such amendments or modifications shall be effective when signed by the Director of the Office of Site Remediation and Restoration or his or her delegate.

SO ORDERED.

Date: Jan 9, 2001 for 
Patricia L. Meaney
Director, Office of Site Remediation and Restoration

Administrative Record Index
for Access Order to APRAK Realty Trust
New Bedford Tax Assessor's Plat 93, Lot 263

1. Administrative Record Index for New Bedford Harbor Upper and Lower Harbor Operable Unit. The Record consists of 18 three-ring binders of documents, including the Record of Decision dated September 25, 1998.
2. Quitclaim Deed dated October 22, 1997 from the City of New Bedford to Karpa, Inc.
3. Vote dated December 17, 1999 of Richard Vohnoutka, sole Director and shareholder of Karpa, Inc. to convey Karpa, Inc.'s real property to Richard Vohnoutka. Recorded in New Bedford Registry of Deeds in Book 4678, Page 225 on May 11, 2000.
4. Quitclaim Deed dated December 23, 1999 from Karpa, Inc. to Richard Vohnoutka. Recorded in New Bedford Registry of Deeds in Book 4588, Page 347 on December 23, 1999.
5. Declaration of Trust dated January 7, 2000 creating APRAK REALTY TRUST and appointing Richard P. Vohnoutka as Trustee of APRAK REALTY TRUST. Recorded in the New Bedford Registry of Deeds in Book 4606, Page 266 on January 21, 2000.
6. Quitclaim Deed dated January 11, 2000 from Richard P. Vohnoutka to APRAK REALTY TRUST. Recorded in the New Bedford Registry of Deeds in Book 4606, Page 288 on January 21, 2000.
7. Letter dated February 3, 1999 from David J. Dickerson, (EPA) to Karpa, Inc. (predecessor to APRAK REALTY TRUST) requesting that it sign the enclosed Access Agreement.
8. Signed Access Agreement dated February 17, 1999 by Richard P. Vohnoutka, President of Karpa, Inc.
9. Letter dated May 13, 1999 from Greg Jonsson, Esq. to Cynthia Catri (EPA) revoking access and demanding that EPA remove an air monitoring station installed on the property.
10. Letter dated May 18, 1999 from Cynthia Catri (EPA) to Greg Jonsson, Esq. acknowledging revoked access and requesting limited access to perform a property survey and enclosing limited Access Agreement form.
11. Telephone conversation held May 25, 1999 between Greg Jonsson, Esq. and Cynthia Catri (EPA) discussing limited access for property survey.
12. Signed limited Access Agreement for property survey by Richard Vohnoutka, President, Karpa, Inc. dated May 26, 1999.

13. Letter dated June 3, 1999 from Cynthia Catri (EPA) to Greg Jonsson, Esq. reflecting telephone call and enclosing second limited Access Agreement to conduct geophysical survey, soil borings and to traverse the property to dismantle and remove air monitoring system and reconstruct and operate system on adjacent property.

14. Summary notes by Cynthia Catri (EPA) of meeting June 3, 1999 at property between Cynthia Catri (EPA), Dave Dickerson (EPA), Maurice Beaudoin (COE), Greg Jonsson, Esq. and Richard Vohnoutka to discuss removal of air monitoring system and anticipated project plans.

15. Second limited Access Agreement dated June 8, 1999 signed by Richard P. Vohnoutka, President, Karpa, Inc.

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19. Notes by Edward Fallon (COE) reflecting telephone messages on September 28, 29, and October 6, 2000 left for Greg Jonsson, Esq. by Edward Fallon (COE) to discuss offer and access.

20. Summary notes by Cynthia Catri (EPA) of meeting October 23, 2000 between Greg Jonsson, Cynthia Catri (EPA), Jim Brown (EPA), Edward Fallon (COE) and Quentin Walsh (COE) to discuss offer and access.

21. Signed limited COE Right of Entry form dated October 23, 2000 by Richard Vohnoutka to allow access for construction work but specifically prohibiting erecting buildings or any other type of improvements.

22. Summary notes by Cynthia Catri (EPA) of meeting October 31, 2000 between Greg Jonsson, Richard Vohnoutka, potential developer of property, Cynthia Catri (EPA), Jim Brown (EPA), Edward Fallon (COE), Quentin Walsh (COE) and other EPA, COE representatives as well as other interested parties to discuss impact of remediation on future development options; and notes by Edward Fallon (COE) reflecting meeting of October 31, 2000.

23. Fax dated November 8, 2000 from Quentin Walsh (COE) to Greg Jonsson, Esq. requesting response to offer.

24. Letter dated November 9, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) discussing offer.

25. Fax dated November 10, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) containing counteroffer.

26. Fax dated November 18, 2000 from Greg Jonsson, Esq. to Quentin Walsh (COE) referring to earlier counter-proposal faxed November 10, 2000.

27. Notes by Edward Fallon (COE) reflecting telephone call November 20, 2000 between Greg Jonsson, Esq. and Edward Fallon (COE) regarding counter-proposal and new meeting with potential developer. Mr. Jonsson to recommend that Mr. Vohnoutka sign unlimited COE Right of Entry and get independent appraisal.

28. Notes by Edward Fallon (COE) dated November 28, 2000, reflecting another fax of unlimited COE Right of Entry form.

29. Notes by Edward Fallon (COE) reflecting telephone message November 29, 2000 from Edward Fallon (COE) to Greg Jonsson to inquire about Right of Entry and meeting with developer.

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33. Letter dated January 4, 2001 from Cynthia Catri (EPA) to Greg Jonsson, Esq. resending letter dated December 26, 2000 noting that original letter was never retrieved and that Access Order was expected to be issued within next two business days.

34. Administrative Order for Property Access dated January 9, 2001 with transmittal cover letter.