



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

Superfund Records Center

SITE: NEW BEDFORD

BREAK: 9.1

OTHER: 47209

May 13, 1992

Ms. Helen Waldorf
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Re: New Bedford Harbor Site Institutional Controls

Dear Helen:

This letter follows our recent conversation and attempts to clarify EPA's position regarding institutional controls at the site.

As I am sure you are aware, in September of 1979, the Massachusetts Department of Public Health established three fishing closure areas in New Bedford Harbor. Closure of the Harbor was based upon widespread PCB contamination. As I understand it, the closure was predicated upon PCB contamination in biota in excess of the FDA tolerance limit. The ultimate goal of the ban is the protection of human health, a goal that is shared by both EPA and the Massachusetts Department of Environmental Protection.

Since the imposition of the ban we have learned a great deal about the Harbor, including the level and extent of PCB contamination. More importantly, we have better defined the risks to the local population as a result of the contamination. We now have reason to believe that the FDA tolerance standard may not be sufficiently protective of the health of the local population. In fact under certain assumed conditions, the consumption of biota from the Harbor results in a cancer risk which is outside of both the target risk range set forth in the NCP and the MCP. This fact gives EPA cause for concern, concern that is elevated in light of documented instances of fishing which have occurred in areas where the fishing ban is in effect and which ban appears to fail to meet our Agencies' standards for protection.

In the Hot Spot Record of Decision we recognized the potential shortcomings of the FDA standard with respect to the local population. In the January 1992 Proposed Plan for the estuary, lower harbor and bay we stated that "the fishing ban would be maintained until such time that PCB levels in biota were reduced to acceptable levels." Based on current information, it does not appear that the FDA standard is an acceptable level from either your or my Agency's perspective. We assume that this is of

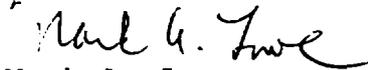


particular importance to the Commonwealth, since under the NCP, the state is responsible for operation and maintenance of the institutional controls that we agree are necessary to protect human health and the environment at the site.

One solution to the problem would be to lower the standard of the fishing ban below the FDA tolerance limit to a level that would not result in unacceptable cancer risk. EPA recognizes, however, that the enforcement of such a ban could be problematic. We would like to explore other potential solutions as well.

EPA would like to meet with you and other interested parties in the very near future in order to discuss how to best act in order to protect public health at the site. I propose that we meet during the last week of May.

Sincerely,



Mark A. Lowe
Assistant Regional Counsel

cc: Gayle Garman
Margery Adams
Paula Fitzsimmons
Cynthia Catri