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February 14, 1997

Superfund Records Center

SITE: NEW BEDFORD

BREAK: 11.09

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Benedict P. Rosen
President
Chief Executive Officer

Mr. John P. DeVillars
Regional Administrator, Region 1
U.S. Environmental Protection Agency
John F. Kennedy Federal Building
Boston, MA 02203

RE: New Bedford Harbor Superfund Site

Dear Mr. DeVillars:

I am writing today to ask you to carefully review a document that was delivered to Mr. David Dickerson on February 3, 1997. This document is entitled:

Comments of AVX Corporation
on
The Proposed Cleanup Plan for the
Upper and Lower New Bedford Harbor
Released to the Public for Comment
on October 30, 1996

The volume noted above represents our efforts to consolidate the most recent available information on sediment cleanup technology, as well as the most current human health information regarding consumption of PCBs.

Following are key points made in our comments which add new or updated information to the Administrative Record on the Harbor. The recurrent message throughout our comments is that EPA made a capricious and arbitrary change in the cleanup without giving consideration to new information.

- Published studies indicate that the cancer risk to humans from PCBs is lower than believed in 1992. There is no scientific reason to lower the Target Cleanup Level from 50 to 10 ppm.

- The proposed method of dredging to 10 ppm levels is untested in conditions such as exist in New Bedford Harbor. The "Hot Spot" dredging, the working model for the proposed plan, achieved only levels of 4000 ppm after three passes of the dredge!

- EPA greatly underestimated the cost and time to do the "Hot Spot" dredging in New Bedford Harbor in 1994 and can be expected to err again in the future based on their track record. (Projected cost = \$14 million; Actual cost = \$33 million. Estimated time = 80 days; Actual time = 260 days)

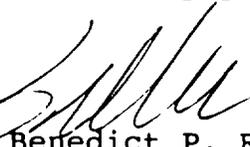
- EPA rejected AVX's proposal to cap the Harbor bottom entombing the PCBs and continues to advance dredging and the resultant unavoidable re-contamination of the Harbor as the preferred remedy, with the knowledge that the "Hot Spot" dredging did not achieve its intended goal.

- EPA failed to include input from AVX Corporation, successor to the prime responsible party, in EPA's Remedy Review Board meeting in the fall of 1996, in violation of their own stated objectives.

Each of these items is discussed in detail in our formal document.

Once again, we ask for your studied consideration of our comments on the October, 1996 proposed plan to clean up New Bedford Harbor. From the beginning, AVX has anticipated a cost effective remedy but this has not been the case.

Very truly yours,



Benedict P. Rosen

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Enclosure

CC: Ms. Carol Browner - EPA Administrator
U.S. Environmental Protection Agency
Waterside Mall
401 M Street, S.W.
Washington, DC 20460

Mr. David Dickerson
U.S. Environmental Protection Agency
Boston, MA 02203

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February 3, 1997
11478-122

BY HAND DELIVERY

David Dickerson
Remedial Project Manager
U.S. Environmental Protection Agency
Region I, HBO
JFK Federal Building
Boston, Massachusetts 02203

Re: Proposed Cleanup Plan for the Upper and
Lower New Bedford Harbor, October 30, 1996

Dear Mr. Dickerson:

Enclosed with this letter are comments of AVX Corporation ("AVX") with respect to the Proposed Cleanup Plan for the Upper and Lower New Bedford Harbor released for public comment on October 30, 1996 (the "1996 Plan"). The technical and scientific comments of several expert consultants, work coordinated by Dames & Moore, Inc., are included below. These comments supplement those submitted by AVX, its consultants and attorneys in 1992, including the Requests for Admissions prepared and served on the United States and the Commonwealth of Massachusetts in June 1990, which presented the scientific and technical work undertaken by AVX as of that date.

In 1991, AVX signed a Consent Decree with the United States of America and the Commonwealth of Massachusetts whereby it agreed to pay \$66,000,000 to settle its alleged liability for response costs and natural resource damage in New Bedford Harbor, subject to certain reopeners. With interest, AVX paid \$72,000,000 after the Consent Decree was approved by the Court in 1992. Because the Consent Decree contains a reopener that permits cost recovery litigation to be instituted against AVX in the event EPA remedial costs for the first and second operable units at the New Bedford Harbor Superfund Site exceed \$130,500,000, AVX is filing these comments in order to preserve its legal rights in such future litigation. In addition, however, AVX notes that it has invested considerable time and

David Dickerson
February 3, 1997
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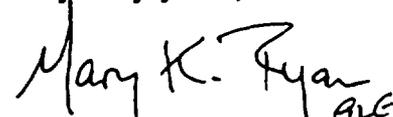
effort over the last 15 years in studying the environmental conditions in New Bedford Harbor, as well as the most environmentally sound and cost-effective remedial approaches for the site. The comments being filed today reflect AVX's deep concern that the 1996 Plan, if adopted, will have more adverse environmental impacts than other significantly less expensive alternatives, will be ineffective in reaching cleanup goals that are overly stringent, and will cost far more than EPA would have the public believe. The experience derived from the New Bedford Harbor remedial program conducted to date by EPA strongly suggests that this will be so.

In the early 1990s, when AVX entered into the consent decree, the Hot Spot Record of Decision had been signed; Hot Spot remediation was expected to cost \$14,400,000. EPA had then proposed remediation of the remainder of the harbor to a cleanup level of 50 ppm, anticipated to cost \$42,000,000. The remedy proposed in 1996 has changed the cleanup level for large portions of the harbor to 10 ppm, and is anticipated to cost \$116,000,000. As explained more fully in these comments, there is simply no basis on the administrative record for this site to justify spending at least another \$75,000,000 to try to reach a 10 ppm TCL in the upper estuary. As such, if EPA in fact decides to select the preferred remedy, its decision will be arbitrary and capricious.

At the same time, AVX is cognizant of the efforts that EPA has made to insure community involvement in this decision-making process. Community acceptance is a significant factor in Superfund decision-making and AVX applauds the process which has led to apparent consensus among federal, state, and city officials and community groups. This process, however, is not a substitute for the decisional process mandated by CERCLA and the National Contingency Plan. AVX strongly urges that EPA consider the technical issues raised by these comments with an open mind.

Should EPA wish to consult further with AVX or any of its expert consultants concerning the matters addressed in these comments, please feel free to contact the undersigned.

Very truly yours,


Mary K. Ryan

Enclosure

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cc: Dennis Oldland
Weldon Bosworth