

Superfund Site  
SITE: NEW BEDFORD 13.1.7  
BREAK: 13.1  
OTHER: 47462

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
J.F.K. FEDERAL BUILDING, Boston, MA 02203

MEMORANDUM

DATE: NOV 14 1993

SUBJ: Nomination of New Bedford Harbor Superfund Site Hot Spot Operable Unit for Non-Binding Alternative Dispute Resolution

FROM: Harley Laing  
Regional Counsel   
Region I

TO: William A. White  
Enforcement Counsel for Superfund

This memorandum is to nominate the New Bedford Harbor Superfund Site Hot Spot Operable Unit for non-binding alternative dispute resolution (ADR). The New Bedford Harbor Superfund Site is located in Bristol County, Massachusetts. It includes the Acushnet River estuary, the commercial harbor of the City of New Bedford and adjacent areas of Buzzards Bay. The Hot Spot Operable Unit consists of approximately five acres along the western bank of the Acushnet River estuary which contain heavy concentrations of Polychlorinated Biphenyls (PCBs) in sediments. PCBs from the Hot Spot spread with the tides throughout the estuary, into New Bedford Harbor, and ultimately into Buzzards Bay. In 1990, EPA selected a remedy for the Hot Spot which includes dredging PCB sediments, dewatering of dredged sediments and incineration of dewatered sediments to destroy PCBs.

Since selection of the remedy, community opposition to incineration of PCB sediments has grown. The City Council of New Bedford and community groups from New Bedford and the downwind communities of Fairhaven and Acushnet have mounted an aggressive public campaign against the remedy. This culminated in passage by the City Council of New Bedford of a local ordinance prohibiting the transportation of water treatment and incineration equipment over the streets of the City, effectively preventing EPA from performing the remedy. In September 1993, EPA issued an Administrative Order for Property Access for immediate and unrestricted access to city streets for the purpose of effectuating the remedy. The City did not comply with the Order and the United States sought judicial enforcement. In October, the United States and the City negotiated a court issued order that provides EPA with all necessary access.

During negotiations over access, it became clear to the Region that community opposition will make it extremely difficult to implement the remedy. The Region proposes, therefore, to use a facilitated discussion forum, with a neutral third party acting as

facilitator, to bring together all interested parties for exchange of information, discussion and evaluation of incineration and other alternatives for remediating the Hot Spot. We believe that a trained facilitator would greatly aid efforts to enhance public participation and communication regarding the remedy.

We believe that ADR is appropriate in this action. However, we understand that if you object within 15 days of the receipt of this letter, we will not proceed with ADR in this case without your approval. We look forward to working with your office in this matter.

cc: David Batson, ADR Liaison  
Merrill Hohman  
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