



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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January 12, 2005

Paul Craffey
Massachusetts Department of
Environmental Protection
One Winter Street
Boston, MA 02108

RE: New Bedford Harbor State Enhanced Remedy

Dear Paul:

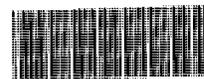
Enclosed please find the Regional Administrator's TSCA Determination for the State Enhanced Remedy as described in the December 2005 Work Plan. As you know this is part of the Performance Standards for that work. I believe this is Appendix A to that 2004 Work Plan.

Sincerely,

Lauren O'Neil

for
Cynthia Catri
Senior Enforcement Counsel

cc: Dave Dickerson, EPA
Kim Tisa, EPA



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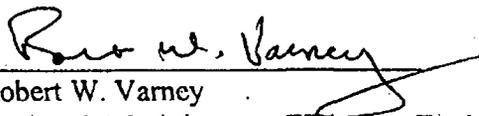
Appendix A - TSCA 761.61(c) Determination

Consistent with Section 761.61(c) of the Toxic Substances Control Act (TSCA), I have reviewed the pertinent documents regarding the state enhanced remedy for the New Bedford Harbor site and considered the proposed confined aquatic disposal cells (CAD cells) for the dredged PCB-contaminated sediments set out in the October 2004 Work Plan for New Bedford Harbor Dredge - Phase II, North Terminal Maintenance Dredge. I have also reviewed a map of the location of the CAD cells which is attached hereto as Attachment A. As required by that section of TSCA, I have determined that the Work Plan's proposed method of disposing of the PCB-contaminated sediments in CAD cells north of Route 6 in New Bedford Harbor does not pose an unreasonable risk to human health or the environment as long as the following conditions are met:

1. Compliance with the Work Plan's water quality and turbidity performance standards is maintained during all dredging and disposal activities;
2. The CAD cells are capped with clean, suitable material of sufficient thickness to isolate the PCB-contaminated sediments physically, chemically and biologically from the surrounding benthic environment. The placement of these underwater caps shall be timed such that sufficient consolidation of the underlying dredged material has taken place to physically support the cap material. A bathymetric survey shall be performed upon completion of the cap placement;
3. The CAD cell caps are monitored to demonstrate their physical, chemical and biological quality. This monitoring shall include bathymetric surveys, chemical sampling and sediment camera work (as an alternative to benthic faunal enumeration). The frequency of this cap monitoring shall be at least annually for the first three years after cap placement, unless otherwise directed by EPA New England. After three years, the Commonwealth may propose a revised schedule for monitoring;
4. An annual report summarizing the CAD cell cap placement or CAD cell cap monitoring shall be submitted to EPA New England beginning with placement of the cap material. This report shall include a summary discussion of all activities associated with the cap placement or cap monitoring, and shall include if needed any recommendations for corrective action to maintain the physical, chemical or biological quality of the caps. A draft and final version of each such annual report shall be submitted, with the final version incorporating all comments received from EPA New England.
5. Corrective actions recommended in the annual reports, or alternatively, those required by EPA New England based on information in the annual reports, shall be implemented in a timely manner.
6. The City of New Bedford/Harbor Development Commission coordinates with the Department of Commerce through the National Oceanic and Atmospheric Administration, National Ocean Service and the U.S. Coast Guard to ensure that the as-built locations of the CAD cells become included in all future nautical charts of New Bedford Harbor.

This determination is based on the information contained in the December 2004 Work Plan. Any

proposed change(s) to the 2004 Work Plan shall be provided to EPA. Upon review, EPA may find it necessary to revise this determination or issue a new TSCA determination based on the proposed change(s).


Robert W. Varney
Regional Administrator, EPA New England

1-12-05
Date

