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CITY OF NEW BEDFORD
MASSACHUSETTS
CITY PLANNING DEPARTMENT

August 19, 1983

City Planner

Charles Bering
ENVIRONMENTAL PROTECTION AGENCY
JFK Federal Building
Boston, MA 02203

Dear Charles:

?

Just a reminder. Please forward the documents mentioned before.

I am also enclosing a memo distributed to the last State PCB Task Force Meeting. I invite your consideration of point #3, the protocol.

The genesis of the idea was the following: Upon a telephone conversation with GS of the EPA, I mentioned dissatisfaction with the participatory role of the locality. At the time this had to do with the release of data to the media without notification, consultation or review of such by the locality. He suggested that there may be need of a protocol in respect to the relationship between the governmental bodies. In my last correspondence I noted no notification of local officials for the last public meeting in Fairhaven. At the last State PCB Task Force meeting, GS noted this omission and said it would be corrected in the future. Well, you did it again. The recent announcements by Ruckelshaus & Deland were all news to us until we saw it in the news. The Mayor's office only became aware of it upon an inquiry by the local newspaper, to which we could offer no response. I am beginning to wonder if the whole matter is hopeless.

In my conversation with you about the need to evaluate the standard, you mentioned the limits of the standard offices in doing this; and that to do so, there was a need of proceeding at a different level, namely, the executive offices (EPA, State, locality).

While I had thought of such, the thoughts of both of you crystallized my thoughts such to define the protocol as described in the memo.

Many thanks, but please forward the material.[?] This is my third request.

Sincerely,

Robert B. Davis
ROBERT B. DAVIS

mw

cc: David Kennedy

ENCLOSURE DIVISION

LOCAL COMMENTS

TO: State PCB Task Force
FROM: Robert B. Davis
DATE: June 20, 1983
RE: Local Comments on the PCB Issue

One does not need to read RAMP to know what the major issues are that need to be addressed. Based on my experience with the issue, there are needs in respect to 4 areas:

1. Remedial Action
2. Health Analysis
3. Procedures to achieve the above
(Protocol)
4. The Standard

In respect to #1, the problem is twofold: short-term action for the high level areas, and long-term action for the low level or moderate areas. I shall forego comments on the 2nd except to note that the downstream levels, for the most part, derive from the upstreet area north of the Coggeshall St. bridge. Consequently, the extent of downstream cleanup or containment is contingent on the solution to the upstream area.

There are 2 important considerations. First, to determine the flux rate from the southern bound of the Hot Spot area relative to the same type rate at the Coggeshall St. bridge. This is important in that the surface area south of the Hot Spot area to the bridge is substantial compared to the Hot Spot area. Hence the contribution from this source can be significant. The extent of upstream cleanup can affect the extent of downstream studies and actions.

The 2nd consideration is the method of remedial action. They are:

1. Dredge
2. Impound
3. Alternative Methods:
 - (a) extract, and then degrade
 - (b) solidify, and then dredge
 - (c) degrade.

In respect to #1, if removal is outside the region, the costs are extremely high such that the same amount of money could handle a more substantive local area by another method, say impoundment.

While there are some local sites, it is questionable whether there could be agreement, and it is questionable whether they could withstand the controversy that would be generated. I do not cite this to exclude their consideration, but to be realistic.

The 2nd method, impoundment, has definite potential, and affords an opportunity to make available land for a Waterfront Park. The configuration of the waters (a narrow estuary and basin passing through a channel) lends itself to a controlled situation by which various engineering means can lead to different impoundment scenarios.

It is important, however, to determine what constitutes a sufficient cap in order to permit safe and varied surface use. This is wanting but some engineers are knowledgeable in this regard. (Gidley).

The 3rd method may contain an element of the speculative such that they are impractical. But note that I said 'may'. I am concerned that a simple paper review will write them off since they are not on line. However, this may be premature, and a great disservice to the resolution of the problem since the methods may have the potential for a far greater cleanup than either of the above considerations.

In view of my preliminary assessment of some of the alternative methods, they hold a promise that has to be determined. Thus, some limited funding is necessary so a determination can be made.* Up to now I have seen no interest in this by either the State or the EPA. My only concern about this is that it may best serve the interest of the future. It is something that should have been done 6 months ago (or more), for the opportunity was presented.

In respect to #2, the health analysis, I shall forego comments on this except to note the City has submitted a review of the DPH proposal to the CDC. In brief, we feel there is a need of an outside control for the low-level group, the chemical testing should be extensive at the isomeric level, not to exclude PCDFs, and there should be a coordination between the marine and health chemical analyses.

PROTOCOL

In respect to #3, the procedures or protocol, to achieve the above. As noted in the last meeting, it is the conviction of the author that what he assumed to be natural, is in need of definition: a protocol between the 3 governmental bodies in order to assure the recognition of the contribution of each in the decision-making that will take place. At times one wonders if the locality is an unwanted sister subject to the Organization Man. Briefly, there must exist a way in which the input of each is heard and decided at the executive level in the event of differences**and by that I mean the hard and responsible decision should be made where it belongs: with Keough, Hoyte, and the Mayor. Obviously, they cannot be saddled with much of what is to be done, but I am concerned that operations can proceed in a manner whereby their function is only administrative, when there are genuine options available for action which require an executive decision.

* Briefly, to cite only one: to extract the chemical from under the water and then degrade. The former can be done, the latter is definite. The former needs limited testing. It appears to be practical. The latter entails a...

Protocol Cont'd.

Let me use one example to illustrate this point. A while back there was considerable concern about the replacement of the bridge when it was discovered there existed PCB levels over the threshold value in the area about the bridge that had to be dredged. As a matter of fact, there was considerable frustration at what to do, and concern at being boxed into an irresolvable situation in which the agency was being subjected to unfair publicity.

It was pointed out at the meeting that there existed a (recent?) law that permitted the indefinite storage of hazardous wastes in the environs of an area, up to 30,000 cu.yds. The amount to be dredged was well under that (c.9,000 cu.yds). It was also pointed out a waiver (no other alternative) was needed.

What I found amazing was no one could see this as a viable alternative. No one would speak with assurance that a last resort means was available and that the bridge could be replaced. I remember asking some pointed questions at the time, suggesting it as a means to solve the problem. But the representative of the agency that would grant the waiver would have none of it, and no one from any other agency was willing to assign a place to this means.

I found it puzzling in that if there ever existed conditions for the use of the law, those conditions clearly existed.

Upon reflection, the reason became apparent; to permit an exception to take place meant the exception to the rule could become the rule. It is difficult for a bureaucracy and a conscientious regulator to distinguish between a norm and an exception. It invites the need of special criteria that are difficult to defend. Indeed it is a problem. A regulator does not have nor does not want discretionary authority. It would be an executive decision being exercised by someone without that authority.

Consequently, my conclusion was the need of participation of the executive level. The need to feed into that level by recognizing that aspects of the problem belong to that level, and the mid-level bureaucracy should not pre-empt their decision-making by precluding options in favor of standard modes of operation.

It is my belief that a tripartite governmental participation can be an excellent means to assure the standard operational procedures can attain standards that are not standard, if necessary. The standard I am talking about is excellence. But this cannot be done unless there is defined a protocol to assure it can be done, for it is clear that the input of those outside the agency can only be decisive when dealing with the person responsible for making executive decisions. Each governmental agency is limited by the restraints of their office (budget, procedures, regulations), and it is only by the appeal or insistence of its peer that action can take place outside the bounds of restraint, and move the issue to a plane of excellence. Agencies are parts of a whole and they should be ordered to the whole, and that means ordered to the executive level whose office is the prime bearer of responsibility.*

*Enclosed is a memo on this written some time ago. *Jazz (P) G, JM, #1*

The Standard

In respect to point #4, the standard. At the last meeting I requested that the State petition the EPA to reevaluate the standard. I have to be brief in this memo, but my basis was the following:

1. select isomers than the chemical mixture may be the "toxic cause," such that the standard may be too high or low,
2. a chemical byproduct than the PCBs may be the primary toxic cause. (A study of Japanese and Taiwanese people noted pathogenic effects for PCBs with high PCDF levels, and benign clinical effects for the pure PCBs. See Kashimoto).
3. A toxicological consulting firm (Drill et al, employed by the industry) did a detailed literature review (they missed some articles) and concluded that PCBs were not substantially harmful, other than for some dermatological effects which were reversible.

It was pointed out to me that the FDA wanted to lower the standard (to 2 ppm), it is currently in stay subject to a judicial decision and that a recent review of the above study by the EPA, while not denying the merits of the study, concluded that the standard should remain in effect, especially because of the potential effects on the very young (feti).*

I believe the point I was making was not understood and confused with the above petitions.

I am neither asking that the standard be raised nor that it be lowered. I am asking that it be reevaluated, and reevaluated for appropriateness. I have no idea, other than an intuition, what the standard should be. It is my opinion it would entail another kind of chemical analysis. That is a determination to be made by the reevaluation. There indeed is sufficient evidence this should be done. Are you to leave individuals in communities to live with a situation in which the tests may not be appropriate? Consequently, I suggest the following: to petition the EPA for the:

1. formation of a Scientific Advisory Commission;
2. To direct research so that an appropriate standard will be put in effect.

It is also obvious that we (the task force) do not have the authority to do so, to submit the petition, unless there exists the protocol defined at point #3. This is an executive level decision which can only be optimally effective if it is as noted, i.e. a tripartite decision. What is necessary is for us to recognize the need and then submit that to the executive level. But, in view of all I have said, no one is going to do it unless the protocol is defined, for only one of us, I am afraid, cannot effectively do it.

* I am grateful to Chas. Bering of the EPA for forwarding me the copy.