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11.9  
AEROVEX

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BY HAND

February 22, 1984

Ralph Child, Esquire  
Assistant United States Attorney  
1107 Post Office  
and Courthouse  
Boston, MA 02109

Re: New Bedford Harbor

Dear Mr. Child:

This letter is in response to your letter of February 17 addressed to RTE Corporation, care of the undersigned. Your letter was received apparently late in the day on Friday, the 17th, which was the commencement of a three-day weekend. Your letter says that any response must be made within five days of the date of the letter, or February 22. I do not understand why you saw fit to deliver the letter immediately before a three-day weekend and then allow only five days to the recipient to respond. Needless to say, a meaningful response is impossible under such circumstances. Moreover, based upon the facts which are known to me in this case, there is no need for any urgency at this time of which I am aware.

You state "Hazardous substances . . . have been released into New Bedford Harbor from a facility owned and operated by a subsidiary of RTE Inc." You go on to say "the United States has determined accordingly that RTE, Inc. is liable as a responsible party under CERCLA Section 107." In the first place, I am aware of no administrative proceedings, adjudicatory or otherwise, which led to the Government's "determination". It goes without saying that any such determination, however, in order to have any effect at all must have been an adjudicatory proceeding pursuant to the Administrative Procedure Act. Second, I know of no evidence which would support the "determination" stated. I would appreciate it if you would notify me as to the procedures that were followed by the EPA in making this determination

Ralph Child, Esq.

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and the evidence upon which it was based, as well as the time that it was made.

You state that EPA "earlier gave Aerovox notice that Aerovox is a party that might be liable for money expended by the government to take corrective action, and offered to discuss voluntary action by RTE to abate the releases." I would appreciate it if you would send me a copy of that earlier notification. No notice in writing, to my knowledge, was given under CERCLA, and certainly none was given to RTE.

Next, you state that NOAA gave notice of its claim to representatives of RTE on December 9, 1983. I assume that what you have reference to was a telephone call made by someone in the Commerce Department to me announcing that suit had been commenced. It strikes me that "notice of its claim" is a euphemism for what happened.

Finally, you state that demand is made upon RTE for payment of the above-related sum (\$3.5 million) together with any sums hereafter expended. RTE denies any liability under CERCLA and rejects the demand. However, RTE is prepared to sit down and discuss these matters with you.

Very truly yours,

*Paul B. Galvani*  
TAK

Paul B. Galvani

PBG:cik