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July 25, 1996

Christopher H. Little*
John E. Bulman*
Michael W. Reardon*
Fran R. Robins Liben*

J. Michael Keating, Jr.
Of Counsel

*Also admitted in Massachusetts

Kristen Conroy
Superfund Community Relations Section
Office of External Programs
U.S. Environmental Protection Agency
Region 1
J. F. K. Federal Building (RPS)
Boston, MA 02203

Re New Bedford Superfund Forum Phase 2 Agreement

Dear Kristen:

Attached is a copy of the final agreement and all of the signature pages. The delay was all due simply to . . . delay. As you can see from the pages, John Haaland did not sign his until late last week.

I reworked slightly your draft press release and sent it to Jane Wells, who was going to add something further. We have talked about some sort of press conference to announce the finalization of the agreement. In the general dearth of positive news about the environment, this might make a great moment for some fanfare for the New Bedford folks. Some of the political movers and shakers who pushed for a rethinking of the original ROD might appreciate an opportunity to bask in the glow of the Forum's success, or whatever.

Let me know if there is anything more I can do.

Sincerely yours,

J. Michael Keating, Jr.

Enclosure

cc. Cindy Catri (with enclosure)
Jane Wells (with enclosure)

mediation/bedford/725kclt.doc

BOSTON OFFICE

The Bulfinch Building 47 Thorndike Street Cambridge, Massachusetts 02141 (617) 494-8070

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

The New Bedford Harbor Superfund Site Community Forum has been meeting since April 25, 1995 on issues related to the second record of decision (ROD 2) for remediation of contamination in New Bedford Harbor. After extensive review and discussion of the agencies' original proposal, the Forum met on May 1, 1996, and agreed to the following:

1. The PCBs and heavy metals presently contaminating the Acushnet River and New Bedford Harbor need to be removed from the river and harbor. The health and ecological risks associated with their continued presence are unacceptable.

2. The Forum prefers the treatment and destruction of the PCBs and the treatment of heavy metals rather than their storage and containment in long-term or permanent confined disposal facilities (CDFs) along the shores of the river and harbor.

3. While the use of CDFs does not destroy the PCBs and heavy metals, the Forum agrees that the employment of CDFs for storage and containment of the dredged and contaminated sediments accomplishes their removal and reduces the risks to human health and the environment.

4. The Forum acknowledges that the use of CDFs for permanent storage and containment of the dredged and contaminated sediments, however, involves some risks associated with leakage and the long-term integrity of the

CDFs, as well as issues of long-term cost allocation for their maintenance.

5. The Forum also acknowledges that existing treatment alternatives for such a large amount of sediments with such high levels of contamination are neither technically nor economically feasible at this time. If, pursuant to paragraphs 6 and 7, below, treatment becomes technically and economically feasible, the agencies commit themselves to seek funding for such treatment, consistent with Superfund legislation. The agencies further commit to make public the results of, and reasons for, any such decision.

6. The agencies are committed to a continuing literature review of the applicability and feasibility of treatment alternatives developed during the ROD 1 (Hot Spot) remediation process for the materials stored in the CDFs. After the signing of the ROD 2 (Upper and Lower Harbor), the agencies will continue the literature review of viable treatment alternatives during the early stages of the Phase 2 remediation, before the CDFs are capped. The Forum agrees that one of the treatment alternatives to be reviewed will be bioremediation.

7. If no technically and economically feasible alternative treatment is developed prior to the capping of the CDFs, the agencies pledge to conduct a literature review, no less frequently than every five years, or more frequently upon receipt of significant new information, of developments in alternative technologies

that, in the future, may become technically and economically feasible for application to the stored materials.

8. The Forum supports the utilization of some portion of the remediation CDFs to store navigational dredging spoils from the harbor.

9. The Forum agrees with EPA's proposal to use CDFs A, B, C, and D (formerly, respectively, the northern portion of CDF 1B, the southern portion of CDF 1B, CDF 1A and CDF 7) for the storage and containment of contaminated sediments and other navigational dredging spoils from New Bedford Harbor for which there may be adequate capacity. See the attached map for the location of the CDFs that are the subject of this agreement. ROD 2 will expressly require that the final configuration of CDFs A and B be so designed and engineered as to ensure the integrity of the salt marshes and to maintain normal intertidal circulation and water levels in the Acushnet River.

10. The Forum urges all governmental agencies, federal, state and local, with a role in either remedial or navigational dredging in New Bedford Harbor to work closely together to coordinate and expedite their actions in meeting all of the many regulatory and permit issues involved in the dredging operation.

11. During remedial design and construction, EPA agrees to work cooperatively with persons whose property abuts the CDFs to minimize disruption of land use and to plan for future use of CDFs.

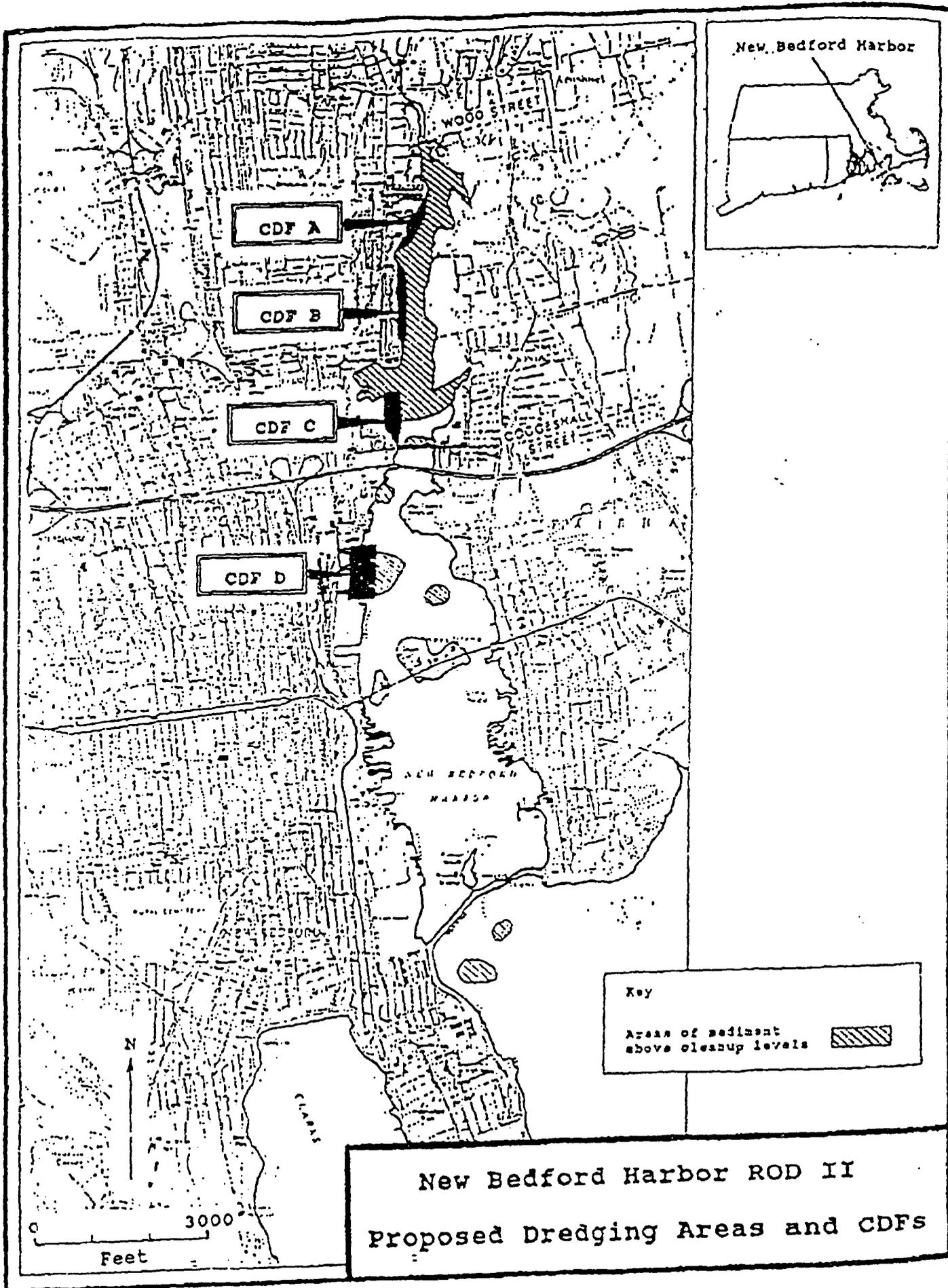
12. The Forum is committed to full implementation of the established process for identifying

and preserving any Native American artifacts in the Acushnet River that may be affected by the dredging conducted during ROD 2 operations.

13. There is a strong commitment on the part of all its members to the continuance of the Forum to participate actively in the development of the engineering design of any CDFs, the design and implementation of monitoring plans, the planning and implementation of dredging activity; the development of appropriate uses for any capped CDFs, the review of alternative treatment developments, and all other aspects of the development of the ROD 2 remedy.

Signatures of Forum representatives are attached on separate signature pages.

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New Bedford Harbor ROD II
 Proposed Dredging Areas and CDFs

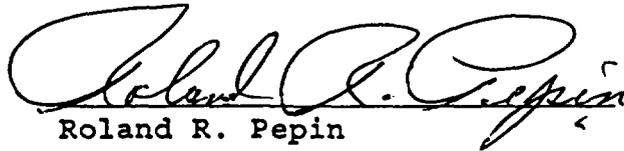
ATTACHMENT

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

Citizens for a Clean Harbor

Dated: 6-7-96


Roland R. Pepin

C.C.H.

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

Concerned Parents of Fairhaven

Dated: June 20, 1996


Claudia Kirk

Kathleen M. Rocha
Patricia A. Estrella

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

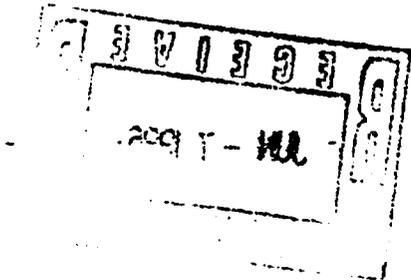
Department of Environmental Protection

Dated: 6/10/96

Heidi A. Wallorf, Environmental Analyst.

James C. White, Assistant Commissioner, BWS.

Audrey F. Spadafino, Deputy Regional Director
DEP Southeast Region



New Bedford Harbor Superfund Site Community Forum

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Downwind Coalition

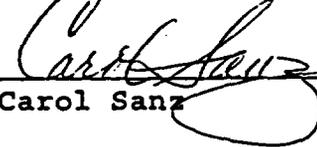
Dated 6/21/96



Neal Balboni



Diana Cobbold



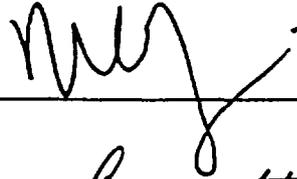
Carol Sanz

New Bedford Harbor Superfund Site Community Forum

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Environmental Protection Agency

Dated: 6/20/96



Frank Cavatton

Amy Biel

Daryl Adams

Cynthia Cati

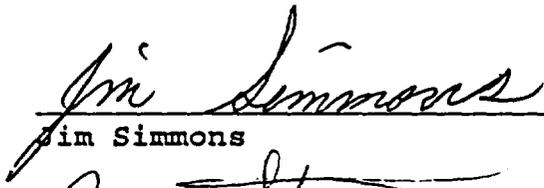
New Bedford Harbor Superfund Site Community Forum

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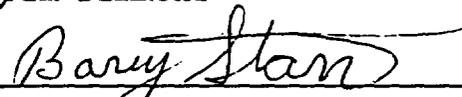
Hands across the River Coalition

Dated:

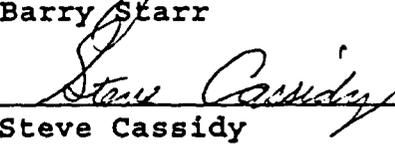
6/24/96



Jim Simmons



Barry Starr



Steve Cassidy

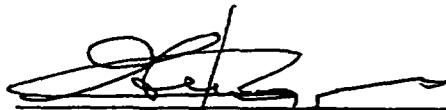
New Bedford Harbor Superfund Site Community Forum

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New Bedford City Council

Dated:

6/7/96



George Rogers, Council President



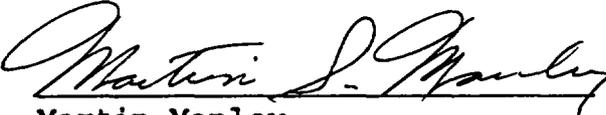
Paul Koczera, Councilman

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

New Bedford Harbor Development.
Commission

Dated: 6/7/96

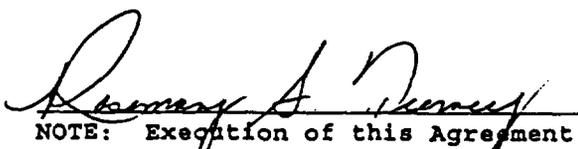

Martin Manley

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

New Bedford Mayor's Office

Dated: 7-3-96



A handwritten signature in cursive script, appearing to read "Raymond A. Tierney", is written over a horizontal line.

NOTE: Execution of this Agreement is conclusively evidenced only by the initialing of Mayor upon the five-page agreement together with this signature page.

Approved as to form



A handwritten signature in cursive script, appearing to read "Arthur Curran", is written over a horizontal line.

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

State Elected Official

Dated:

A handwritten signature in cursive script, appearing to read "William Straus", written over a horizontal line.

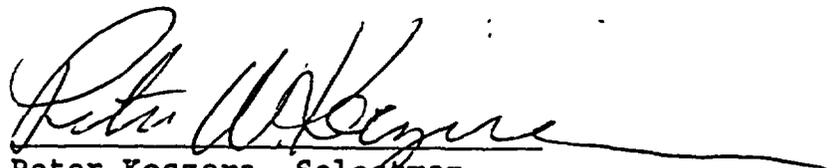
Representative William Straus

New Bedford Harbor Superfund Site Community Forum

AGREEMENT

Town of Acushnet

Dated: 6/10/96

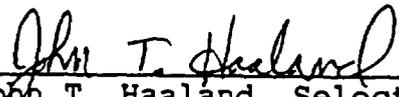

Peter Koczera, Selectman

New Bedford Harbor Superfund Site Community Forum

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Town of Fairhaven :

Dated: July 18, 1996



John T. Haaland, Selectman

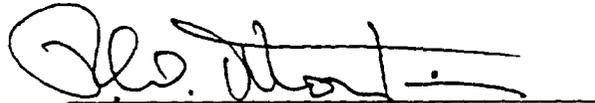
New Bedford Harbor Superfund Site Community Forum

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Wampanoag Indian Tribe

Dated:

June 13, 1996


Billy Monteiro

New Bedford Harbor Superfund Site Community Forum

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Waterfront Businesses ;

Dated:



Joseph M. Forns