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to be filed



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

James Hoyte, Secretary
Executive Office of Environmental Affairs
100 Cambridge Street
Boston, MA 02202

Re: New Bedford, MA Superfund Site

Dear Secretary Hoyte, [Signature]

This letter is being sent to you because the policy and regulatory issues it raises involve several agencies which are under your purview. To ensure that our actions are in harmony with state laws and regulations, and to prevent possible delays in the project, we need a uniform state position on these matters.

As you are aware, significant Superfund activities have been initiated at the New Bedford site. Specifically, the fast track feasibility study of the Acushnet River Hot Spot is underway and is scheduled to be completed in draft form, for public comment, by June of this year. It is likely that the proposed remedial alternatives will require disposing of PCB contaminated sediments, dredge spoils, or wastes, in the area.

Pursuant to Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Section 300.62(c)(2) of the National Contingency Plan, the state is required to provide a suitable location for off-site disposal of such wastes. Currently, EPA is working with the state, via a staff level working group of the Interagency Task Force, to locate potential disposal sites in the New Bedford area. However, several policy and regulatory issues have arisen which must be resolved by the state.

1. Will a PCB containment site, either directly adjacent to the harbor or at a nearby upland site, be required to go through the lengthy siting requirements of M.G.L. 21D and Chapter 111, Section 150B? If so, when will the state initiate the siting process?

2. Will remedial actions, such as dredging or in place containment be subject to the Massachusetts Environmental Policy Act (MEPA) process? If so, when will the state initiate the MEPA process?

3. Are there other state laws and regulations governing in-state disposal of PCB contaminated dredge spoils which may impact, and possible delay, Superfund activities?

These issues have been raised at this and other sites at staff level discussions between EPA and the state. However, no policy decisions have been transmitted to EPA relative to these important issues.

If it is the state's determination that any state laws or administrative procedures could impact the selection of disposal alternatives or dredging requirements, EPA would like to request that the state give serious consideration to any methods which may compress the time required to comply with state laws and regulations.

For your information, the Region recently received guidance from EPA Headquarters pertaining to CERCLA compliance with other federal environmental laws. The guidance concluded that Superfund responses, both fund financed and enforcement actions, are not subject to other environmental regulatory programs administered by EPA. However, as a matter of policy the agency will, in most cases, comply with the technical requirements of the laws. For example, Superfund remedial investigation/ feasibility studies are considered to fulfill the technical requirements of the National Environmental Policy Act (NEPA), and the NEPA public input requirements are fulfilled by a responsive Superfund community relations program.

I would appreciate a timely response to these issues to avoid unnecessary delays in implementing possible remedial actions. We look forward to continued cooperation between the state and EPA towards resolving the difficult environmental problems in the New Bedford area.

Sincerely,



Michael R. Deland  
Regional Administrator

cc: Anthony Cortese  
James Gutenshon  
Richard Delaney  
Sam Mygatt