

**From:** [Karen Vilandry](#)  
**To:** [ENRD, PUBCOMMENT-EES \(ENRD\)](#)  
**Subject:** Public Comment on AVX \$366 million dollar Settlement  
**Date:** Monday, December 17, 2012 3:32:40 AM

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To: Assistant Attorney General  
U.S. DOJ-ENRD

Re: CIVIL ACTION NO. 83-3882-Y

Hands Across the River Coalition has reviewed the EPA Settlement amount of \$366,250,000.00 for the cleanup of New Bedford Harbor's Superfund Site. This figure is grossly inadequate for the complete removal of all PCB sediments in the entire harbor, offsite, to a TSCA approved landfill .

The EPA said in 2010 that \$500 million dollars plus would be needed to clean the river for a seven year period. What made the cost go down with the ever increasing rates for equipment, labor, disposal, etc.?

We don't know what the EPA is doing as they excluded the community from meaningful participation and actively involved harbor groups in any of their plans and negotiations.

The removal of extremely high levels of PCB sediments containing heavy metals and other contaminants has been ongoing in the upper harbor since September of 2004. It has been said that this river, the Acushnet River running through New Bedford Harbor, is the most PCB contaminated river in the world. Currently, this sediment is hydraulically dredged underwater and piped to a desanding and dewatering facility which is a multi-million dollar facility built by the EPA. The processed cakes of PCB sediments are then secured in containers and placed on a train which then is sent by rail to a TOSCA approved landfill in Michigan. This method safely removes the deadly PCB sediment from the river and safely removes the spoils offsite, out of the river and protects the community.

The EPA's current plans to remove 300,000 cy of PCB sediments in the lower harbor by mechanical dredge, ranging from 50 to 200 PPM, and burying them in our lower harbor in a CAD cell which is nothing more than a hole in the bottom of the sea, unlined, will contaminate our air during the process and will retain the PCB sediments in our harbor forever. This will have a long term health impact on our ecosystem and community now and in the future.

Hands Across the River Coalition has consulted a number of experts on this process, namely, an environmental scientist, Wilma Subra, Peter Montague, PhD, of rachel.org., Stephen Lester, Science Director at CHEJ, Wendy Heiger-Bernays, PhD, toxicologist at Boston University, Congressman Barney Frank, Staci Rubin, Staff Attorney at ACE, Francis Veale, Esquire, and Mathew Thomas, Esquire.

It's important to note that the New Bedford City Council has, on file, voted against the CAD cells.

On Huttleston Avenue, in Fairhaven, which is Route 6, is the Fairhaven High School. It resides one block east of the harbor near the New Bedford/Fairhaven Bridge. We have mentioned numerous times to the EPA to place air monitors in this vicinity where rapidly developing students attend school and participate in sports on its football field. The EPA hasn't done so and has no plans to do so either. When young people are actively playing sports, they naturally breathe harder thus ingesting more air. This is unsafe next to an active PCB Superfund Site with unsafe methods of PCB removal with no air monitors. The EPA doesn't seem to be concerned about prevailing winds leading to that area.

Between New Bedford and Fairhaven near the bridge is Popes Island. The EPA has allowed the DEP to place 3 CAD cells along Popes Island which is on the north side of the bridge. The DEP mechanically dredges PCB contaminated sediments in the harbor on the south side of the Route 6 bridge. They then place the spoils on an open top barge bringing it to the CAD cells on the north side of the bridge to drop into their CAD cells. Remember please, again, no air monitors are used for this process. Ironically, there is a cancer cluster along Fort Street, Fairhaven, which is on the south side of the Route 6 bridge along the water where the DEP dredging takes place. They don't use air monitors and are under the authority of the EPA since this is part of their New Bedford Harbor Superfund Site.

The proposed EPA CAD cell which would be CAD cell #4 is proposed to be placed just north of these 3 CAD cells near a heavily populated area of Fairhaven just a quarter mile north of the Fairhaven High School. Again, no air monitors are there.

The proposed South Terminal Project recently approved by the EPA, will again use a mechanical dredge to remove PCB sediments from that area on the north side of the hurricane barrier. That will be another DEP CAD cell constructed to hold this deadly material making it number 5 CAD cell. The PCB sediments in that southern area of the harbor was removed to alongside the shoreline to accommodate the building of the hurricane barrier back in the 1960's. That upland soil has had 114 samples, 77 of which has PCBs ranging from 0.0059 to 989 ppm. There are more PCBs in the river there. The South Terminal Project will create CAD cell number 5 further north of the barrier near Popes Island which will be used for mechanically dredged PCB sediments.

On the south side of the hurricane barrier, is the large acreage of PCB sediments buried in the harbor near Cornell Dubilier Corp. lightly covered with sand which sways with the tides. This was the test CAD cell or depression which the EPA must monitor regularly and has no current plans to remove this PCB sediment.

Directly across the harbor to Fairhaven is the Sconticut Neck Road area, further southeast from the Fort Street area extending off which Manhattan Avenue and all streets along and leading to the harbor have yet another cancer cluster. The mechanical dredging that took place carrying over the PCB sediments to the Cornell Dubilier area didn't occur without consequences. There was no air monitoring for this operation. The EPA uses no air monitors on the Fairhaven side south of the Route 6 bridge.

The EPA has outdated data risk assessments for the effects of PCBs in the air on the community. They have excluded the most sensitive populations namely children and pregnant women. Also, when we asked, the EPA told us that they have not studied the cumulative effects of all these CAD cells on the ecosystem and human health.

We have heard this year that a study was conducted by Jon Levy, ScD, at Harvard School of Public Health, who concluded after testing the umbilical chords from pregnant New Bedford women and following the children to school age that there is a link between PCBs and ADHD.

Another study done by Harvard scientists, one of which is Donna

Vorhees, ScD., who specializes in multi-pathway exposure assessments, showed that there is a significant increase of PCBs found in tomatoes grown in gardens around New Bedford Harbor during the time of dredging. Now if PCBs are getting into tomatoes, logically, they're getting into humans here as well.

In view of the \$366 million settlement proposed by AVX to forever remove them from further litigation, that figure is grossly inadequate to remove all PCB sediments from the harbor to an offsite TSCA approved landfill. We cannot have this deadly material buried in our river forever nor can we allow the EPA to bury us by knowingly contaminating our air and water with this method of disposal into a CAD cell and yet without sufficient air monitoring with immediate readings other than those that take months to return results like the ones they currently use in the upper harbor.

Cleanup costs must be sufficient to cover all cleanup costs throughout the harbor, including sufficient air monitoring to protect the community, all the way up from north to south where dredging takes place, and removal of all PCB sediments offsite to a TSCA approved landfill.

It is crucial to retain the re-opener clause in this decree due to the very unexpected cleanup costs and increased costs over the next several years. Just a year ago, the EPA dug up archaeological finds in the upper harbor that they weren't aware of was there. As Elaine Stanley, EPA Remedial Project Manager for the Superfund Site said, that set them back about \$50,000.00 as when they find something of that nature, they have to stop operations, call the appropriate agencies and have archaeologists come over to examine the material. That was unplanned costs that by law they had to pay for.

In addition, the City of New Bedford has spoils from AVX around the area. The Parker Street Waste Site, a former toxic waste burn dump has some of the highest levels of dioxin, PCBs, heavy metals, PAH's and VOCs in the area. On this 122 acre site, far bigger than Love Canal's 70 acres, currently lies New Bedford High School, the Keith Middle School, the Andrea McCoy Sports Field, the Paul Walsh Field, a church, private and public housing.

New Bedford High School has classrooms closed due to high levels of PCBs found, a constantly monitored mechanical room with contaminants leaching in through ground water, levels of DIOXIN found in 9 out of 18 samples taken

around the school and a high amount of staff who have cancer or who have died of cancer. Students who have left the school, many have gone on to bare children with some type of neurological disorder if they could have children at all. Please remember the study on New Bedford children having ADHD from PCBs. Even neighborhood pets, both cats and dogs have died of cancer here.

The City of New Bedford had to buy out 5 private homes on this site due to high levels of contamination. The houses were demolished and the land, capped. One area of this site has electrical capacitors that were dumped there by AVX with high levels of PCBs.

The Keith Middle School which sits across the street from New Bedford High School has wetlands right behind it with one level of over 700 ppm of PCBs. This senseless, newly built school has air monitoring to keep an eye on the levels of PCBs in the building.

Why is the important? This is one more area in the city that has been affected by the PCBs from AVX, You have to maintain in the decree, the right to sue for cleanup and related costs or to take administrative action against AVX. There are more PCBs at another Superfund Site in New Bedford, Sullivan's Ledge. There are also plenty of PCBs at the Shawmut Avenue Landfill in New Bedford, both north of the Parker Street Waste Site.

We must maintain the right to go after the responsible party for all unexpected costs and for you to order the responsible parties to assume all costs now and in the future. Should the responsible party re-organize and try to get out of it, then you as the court need to insure that the future party be held responsible.

The EPA also has plans written for a CAD cell in the upper harbor where thousands of ppm of PCBs lay as we just learned. The local newspaper, the Standard Times has an in depth article on this.

**When asked about the documents obtained by the Buzzards Bay Coalition through the Freedom of Information Act, EPA Region 1 Administrator Curt Spalding had said that there is no planning under way now for an Upper Harbor CAD cell at all. But he said the EPA will officially consider the idea in July when it plans to reopen the Record of Decision regarding harbor cleanup.**

**"At that time, we would talk about different ways to remedy the harbor," he said. "There has been no decision made whether an Upper Harbor CAD cell would be part of that discussion."**

<http://www.southcoasttoday.com/apps/pbcs.dll/article?>

It is clear that the EPA plans are inconclusive and cannot predict actual costs for cleanup. Therefore, again, the \$366 million dollar settlement is insufficient. It may be a down payment but is hardly enough to cover the entire harbor cleanup to the world level of 1 PPM of PCBs.

We have a very large Environmental Justice community that you need to protect under the Civil Rights Laws and any other laws that protect the rights for people to live in a healthy environment free from the ravages of deadly contaminants. Whatever a person ingests into their body, passes over into the womb to the child. So contamination affects humans and animals genetically for generations to come. Not only does PCBs cause cancer and ADHD, it causes neurological disorders, altered brain development, hearing loss, vision loss, is an endocrine disruptor affecting the thyroid, sperm count, and altered sperm affecting any future pregnancies. There is a 53% dropout rate at New Bedford High School. Don't you think that maybe, children going to school on top of a toxic waste burn dump with PCBs in and around the school can affect their ability to learn and think rationally in all ways?

That's why you need to retain the re-opener clause and remove the covenant not to sue in the decree or take any other civil, judicial or administrative action against AVX.

Cordially,

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