



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912

OCT 31 2013

Via First Class Mail and Electronic Mail

Gary L. Gill-Austern, Esq.  
Nutter McClennen & Fish LLP  
Seaport West  
155 Seaport Boulevard  
Boston, MA 02210-2604

Re: New Bedford Harbor Superfund Site—Eleventh Modification of Effective Date of Unilateral Administrative Order for Remedial Design, Remedial Action, and Operation and Maintenance (U.S. EPA Docket No. CERCLA-01-2012-0045)

Dear Mr. Gill-Austern:

Enclosed please find a copy of the executed Eleventh Modification of Effective Date of Unilateral Administrative Order for Remedial Design, Remedial Action, and Operation and Maintenance, U.S. EPA Docket No. CERCLA-01-2012-0045 (“UAO”). This eleventh modification changes the effective date of the UAO, which was issued by EPA on April 18, 2012, from November 1, 2013 to January 2, 2014.

On October 10, 2012, a proposed Supplement Consent Decree with Defendant AVX Corporation was lodged with the U.S. District Court for the District of Massachusetts that would resolve the dispute between the United States and the Commonwealth of Massachusetts (the “Governments”) and AVX, including AVX’s liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, at the Site. On September 18, 2013, the U.S. District Court for the District of Massachusetts granted the Governments’ Motion to Enter Supplemental Consent Decree, and the Supplemental Consent Decree was subsequently entered by the Court on September 19, 2013 (collectively, the “Court Order”). The Court also granted the Motion to Intervene filed by the Buzzards Bay Coalition (“Coalition”). The Coalition therefore has until November 18, 2013 to file a notice of appeal of the Court Order. On October 4, 2013, the Court entered an order granting the Governments’ and AVX’s joint motion to have AVX deposit funds, required by the Court Order, into the Registry of the Court. Upon the “Final Approval”<sup>1</sup> of the Court Order, EPA will withdraw the UAO, and on motion,

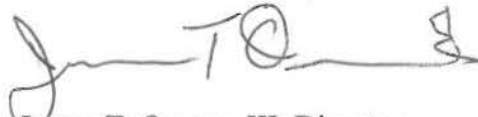
<sup>1</sup> Final Approval means either that (a) the time by which any party may seek any further appellate review has expired without filing of a further appeal; or (b) the Court Order is upheld on further appeal and either the time for

the Court shall enter an order for the disbursement of the funds deposited into the Registry of the Court, and interest thereon, to EPA on behalf of the Governments. In the unlikely event of the "Final Disapproval"<sup>2</sup> of the Court Order upon an appeal by the Coalition, such funds deposited into the Registry of the Court would need to be returned to AVX.<sup>3</sup>

EPA is now extending the effective date of the UAO to provide time to know whether there will be either Final Approval or Final Disapproval of the Court Order.

Please contact Man Chak Ng, EPA Senior Enforcement Counsel, at (617) 918-1785, with any questions.

Sincerely,



James T. Owens, III, Director  
Office of Site Remediation and Restoration

Enclosure

cc (via email only):

Mary K. Ryan, Esq., Nutter McClennen & Fish LLP  
Elaine T. Stanley, EPA Remedial Project Manager  
Man Chak Ng, Esq., EPA Senior Enforcement Counsel  
Cynthia Catri, Esq., EPA Senior Enforcement Counsel  
Maximilian Boal, Esq., EPA Enforcement Counsel  
Keith T. Tashima, Esq., U.S. Department of Justice  
Jerry W. MacLaughlin, Esq., U.S. Department of Justice  
Bradley Levine, Esq., U.S. Department of Justice  
Matthew Brock, Esq., Massachusetts Attorney General's Office  
Andy Cohen, Esq., MassDEP  
Paul Craffey, Project Manager, MassDEP

---

any further appeal has expired without the filing of any further appeal or no further appeal is allowed by law.

<sup>2</sup> Final Disapproval means that (a) the Court Order is not upheld on appeal, and either that the time by which any party may seek any further appellate review has expired without filing of a further appeal: or (b) the Court Order is not upheld on further appeal and either the time for further appeal has expired without the filing of any further appeal or no further appeal is allowed by law.

<sup>3</sup> On October 18, 2013, AVX deposited \$136,810,851.66 into the Registry of the Court.