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Hands Across the River Coalition, Inc. (HARC) is a non-profit organization based in New Bedford, Massachusetts. We have sought environmental justice and safety, while representing a broad-based collection of citizens in Southeast Massachusetts.

The EPA designated New Bedford Harbor as a Superfund Site due to the extensive contamination of PCBs. They decided to create unlined burial holes in the riverbed called “CAD cells” (Confined Aquatic Disposal) in the lower harbor, (Lower Harbor CAD Cell = LHCC in EPA records), between Interstate 195 and Rte 6. They will dispose of 300,000 cubic yards of PCB sediments ranging from 50 to 190 ppm into these CAD cells. Their method is using a mechanical dredge bringing the PCB sediments up and out of the water, placing it on an open top barge or scow, towing it to the CAD cell, then dumping the deadly sediments into the CAD cell in the riverbed. The CAD cell is about 200 yards west of the residential area of Fairhaven, MA. Fairhaven High School is approximately a quarter mile to the south and a middle school is less than a mile to the east.

This method does not remove PCB sediments offsite as originally planned, but simply relocates the toxic material to another area of the harbor away from where it originated. This is not a cleanup.

Here, according to the EPA’s evaluation, entitled, FINAL EVALUATION OF THE IMPACT OF DREDGING AND CAD CELL DISPOSAL ON AIR QUALITY NEW BEDFORD HARBOR SUPERFUND SITE, NEW BEDFORD, MA by JACOBS ENGINEERING GROUP, June 2010 would be a number of opportunities for some of the PCBs to become airborne contaminating our air. (Comments made by highly respected and credentialed experts on this report are also attached. Please see reports made by Dr. Wilma Subra, Dr. Stephen Lester from CHEJ, Dr. Peter Montague with the Environmental Research Foundation, and Dr. Noelle Eckley Selin, from MIT.)

Governor Chris Christie in the state of New Jersey refused to allow the EPA to bury PCBs and DIOXIN in their

Passaic river using CAD cells. (His letter attached)

The project here just began and will take at least a year to complete according to their plans. This will cause a tremendous threat to our community due to PCB air contamination from the project.

The cumulative effects of ingesting such air over time could create serious harm to humans especially small children and pregnant women.

We have attempted over the last five years to bring to the attention of relevant authorities and institutions the travesty that is being imposed on our community in Fairhaven, and to stop the construction of toxic waste-PCB dump that the EPA is constructing adjacent to Oxford Village, one of the oldest residential communities in the entire area. This community was begun in 1652 as a direct spin-off of the Plymouth Colony, while its high school is a historic monument that was donated to the town of Fairhaven at the turn of the 19th -20th centuries.

There is more than sufficient evidence to indict the EPA Officials for (i) Failure to assess the impacts of putting a CAD cell in a residential area, (ii) Failure to assess the impact on the Cultural and Historic Heritage of the area, (iii) Collusion with officials of the Town of Fairhaven to obscure vital information from the public and (iv) Intentional Misrepresentation to the public.

The EPA Project Manager during the period when the CAD Cell was being conceived and promoted has demonstrated a complete lack of concern for the health and welfare of Fairhaven's citizens and for the real estate value of the private homes next to which they are building this massive, toxic waste dump. His actions and those of his associates in EPA's Northeast Region 1, border on deliberate fraud and should be completely unacceptable in a democratic society.

A. On September 7, 2010, the Fairhaven Board of Selectman (BOS) approved the draft of a letter supporting EPA plans for the Harbor ("Murphy Letter" approved by the BOS Chairman at the time, Charles Murphy). This letter was composed by the EPA and transmitted to William D. Roth, Jr., Director of Planning and Economic Development for the Town.

1. We have reason to believe that the EPA and officials of the Town of Fairhaven obscured existence of the letter, the nature of its contents, and the method by which the letter was constructed.
2. At no time prior to the letter's "approval" by the Fairhaven Board of Selectman (BOS) was the letter or its contents made public by the vast array of mechanisms that were available to the paid employees of the EPA or the Town of Fairhaven. We have reasons to believe such officials contrived to bypass deliberately the process by which such agreements are conceived, vetted and made public.
3. We have called on the EPA to immediately and without delay produce the complete email trail from the EPA to William Roth that led to the creation of this letter without the vetting, review or knowledge by the people of Fairhaven. This has born no fruit.

B. On 1 March 2012 in a public meeting the EPA Project Manager made numerous representations that were

designed to mislead the public with respect to the nature and location of the PCB Dumps that were to be located in Fairhaven's harbor.

1. We believe on the 1st of March 2012, the EPA Project Manager lied when he represented in his Power Point Presentation (PPT) that the LHCC (Lower Harbor CAD Cell) CAD Cell (Confined Aquatic Disposal) would be built adjacent to Marsh Island (SDMS DocID 507200, sl-64). We believe the EPA knew that to be untrue yet deliberately and knowing made that false representation.
2. Throughout the EPA's presentation, EPA Officials used maps of the harbor (SDMS DocID 507200, sl-65-72) that had purposely blanked out the street grid in Oxford Village and along Main Street to obscure the fact that the PCB Dumps were to be built adjacent to a major residential area.
3. EPA purposely omitted the location of the Fairhaven High School (SDMS DocID 507200, sl-65), which EPA knew to be in direct proximity to the PCB Dumps that the EPA was proposing to construct.
4. Despite knowing of the lies and fabrications in your presentation, EPA Region 1 has failed to correct its deliberation misrepresentations in the EPA's public presentation of 1 March 2012.

C. In the meeting of 2014 March 13, EPA colleagues confirmed an irresponsible lack of attention to the impact of CAD Cells on residential communities, a failure to read and understand the environmental impact studies for the projects on which they work, a failure to marshal sufficient and adequate documentation to support the project for which it has responsibility. With respect to the EPA Public Informational Meeting of 2014-March 13:

1. Neither you or the EPA managers who are overseeing the constructing the CAD Cell in Fairhaven Harbor could name a single, other location where a CAD cell was being constructed next to a residential community in the entire country;
2. The spokesperson, (KO)¹ and New Bedford Harbor Superfund Site Remedial Project Manager, (RPM) (ES) inaccurately attempted to assert that the CAD Cells for Boston Harbor and Providence Harbor were in residential neighborhoods [this is demonstrably inaccurate];
3. Despite working for years on this project, your RPM (ES) could only indicate that she would "look into" whether there were other CAD cells of a similar nature, but had no information at hand;
4. She (ES) asserted that she "*did model all of our conditions with those things in mind*" [i.e. the CAD Cell impact on a residential neighborhood]; But the EPA does not appear to have ever presented this model to the public, nor address the request for it to be produced.

¹ **1. EPA:** (i) ES: Elaine Stanley; (ii) KO: Kelsey O'Neil; (iii) DL: David Lederer; (iv) GL: Ginny Lombardo; **2. HARC:** (i) PS: Paul Spooner; (ii) (ER) Eddie Rivera

5. Despite the EPA RPM, (DL) being the direct CAD cell RPM, EPA Officials could not identify a single other location where such a CAD Cell had been created next to a residential neighborhood.

6. EPA Officials admitted that the EPA was burying the problem, not eliminating the problem. They have presented no data that would assure that the PCB and Hazardous Wastes would remain in the dump site² in the face of dragging anchors, propulsion systems, major hurricanes, and other disasters or problems in the harbor.

7. EPA presented no evidence that would allow anyone to conclude that the PCBs would be isolated from the environment for the eons to come. EPA Officials have substituted their personal opinions for fact with respect to the security of the PCB Dumps. There is no evidence to conclude that the PCBs, which are to be dredged from other locations in the New Bedford harbor and dumped into Fairhaven Harbor, will not again migrate throughout the harbor and onto land under the actions of current, propulsion systems, anchoring systems, weather systems, and hurricanes.

8. EPA RPM and the group of managers that include (ES), (KO) and (DL) admitted to never having read the Environmental Impact Study and he asserted/implied that the impact on citizen health and property values was something that the Environmental Impact Study did not have to address. He stated that he merely “believed” that these would not be an issue.

9. EPA Manager and his associates admitted that although they were building a massive PCB dump next to a residential community, EPA had NEVER DONE an Environmental Impact Study of the project.

10. Despite these EPA Officials clear inability to name another similar CAD Cell construction, and their never having read the FEIR (Final Environmental Impact Review #11669 from the State of Massachusetts, and despite they and EPA never having undertaken an Environmental Impact Study for itself, these EPA Officials (David Lederer and Kelsey O’Neil) attempted to shut down criticism of this project by fraudulently claiming that they had been “threatened” by the conversation recorded in the transcript referenced below. They have knowingly, willfully and fraudulently filed statements with the EPA security to threaten those who were critical of the massive CAD Cell project for which they have responsibility.

11. EPA Officials have failed to take advantage of the massive amount of funds available from the \$366,250,000.00 settlement, plus interest, with the AVX-Kyocera Corporation of Japan for polluting the New Bedford-Fairhaven Harbor with cancer causing PCBs.

(a) EPA Officials misrepresented the time frame for the harbor cleanup: The use of CAD Cells as remediation for harbor PCBs should only have been considered if there were insufficient funds to continue to fund hydraulic and/or mechanical dredging of the harbor, and off-site disposal. With new funds from the settlement available, the harbor cleanup could proceed at a much faster pace using traditional methods, without the need for CAD Cells. The settlement funds should NOT be used to construct CAD Cells, but should be used for traditional off-site, out-of-water disposal methods.

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(b) Further, EPA Officials plan to move high level PCBs from an industrial area in New Bedford to a Residential area in Fairhaven. The transfer of these PCBs to a residential area of another town, which was not in any way involved in their creation, coincides with the conversion of the original PCB site into upscale condominiums for the Boston market.

Specifically, the Upper Harbor of New Bedford on the north side of Coggeshall St., is the industrial site of the PCBs. This is being converted into “the Riverside Landing Development,” a condominium-retail project. The PCBs are preventing the implementation of this plan to convert the New Bedford factory site to a condo site. EPA Region 1 plans to dump these PCBs into the New Bedford-Fairhaven “Middle Harbor,” immediately adjacent to the oldest, densely populated, residential community of Fairhaven and its high school.

An independent qualified researcher (Mark P. Brown, Ph.D.) evaluated the Upper Harbor PCBs sampling levels taken by the EPA noting the high concentrations of PCBs present there. Dumping these PCBs into the Fairhaven residential harbor was contrary to their public representation that only PCBs in concentrations of 50 to 190 ppm were to be dumped into the Middle Harbor.

(c) In a further obfuscation, the EPA and its collaborating officials designated the CAD Cell to be built in the Middle Harbor, as the Lower Harbor CAD Cell (“LHCC”) in an attempt to obscure from the public the location of the CAD Cell and to lull the citizens of Fairhaven into complacency. (Please refer to document “SDMS DocID 466811,” page 1-2 in Section 1.0 Executive Summary of this report, which is entitled “Dredged Material Management Plan (DMMP) EOE No. 11669, Final Environmental Impact Report (FEIR), of October 15, 2003.”) (“FEIR”).

The change in designation for the LHCC came AFTER the issuance of the FEIR, which had identified the present LHCC site as the “PIN” (Pope Island North) site in the Middle Harbor. The Lower Harbor potential location was given the “CI” (“CIA”) designation (Channel Inner Area). When EPA started their manipulative attempt to construct the PCB Dump in Fairhaven’s Middle Harbor, the name Lower Harbor CAD Cell (LHCC) was used to obscure the PCB Dump location, with the PIN name being dropped. For reference, please see the map on page p40 of the FEIR that identifies the two sites under consideration as “Pope’s Island North” (PIN) and “Channel Inner” (CIA) CAD Cell site locations. The PIN site is in Fairhaven’s Middle Harbor. The CIA Site is in the NBFH Lower Harbor on the New Bedford side. This map of page 40 also misidentifies the heavily populated resident area of Oxford Village as the uninhabited “Marsh Island,” a deliberate mislabeling that continues throughout the FEIR.

Also, for clarification, please observe any complete map of the NBFH Harbor. I enclose for reference #507268, which shows the location of the PCBs, and the three harbor sections: (i) Upper Harbor that is north of I-195, (ii) Middle Harbor, between I-195 and Route 6, (iii) Lower Harbor that is between Route 6 and the Hurricane Barrier.

EPA inaccurately describes the New Bedford-Fairhaven Harbor (“NBFH Harbor”) as consisting only of an “Upper Harbor” where the PCBs were created on the New Bedford side of the harbor, and a

“Lower Harbor” where the Lower Harbor CAD Cell is being placed. However, it is VERY CLEAR from anyone that has ever been in the NBFH Harbor that it consists of three sections: (I) “Upper Harbor” where the PCBs were created, (ii) “Middle Harbor,” which on the New Bedford side houses the largest fishing fleet on the East Coast and on the Fairhaven side is a harbor of residential pleasure boats, and (iii) a “Lower Harbor” that consists of the harbor between Route 6 and the Hurricane Barrier. .

12. The transfer of these PCBs dredged from the Upper Harbor to Fairhaven’s Middle Harbor is clearly of financial benefit to the investors of the Riverside Landing Development project and the City of New Bedford. PCBs in high concentrations from New Bedford Harbor (where they were generated) are going to be dumped into another community’s harbor, Fairhaven Harbor, where they were NOT generated for the benefit of a handful of investors.

<http://formandplace.com/urban-development/riverside-landing-new-bedford-ma/>

D. Now already submitted by Dr. Mark Brown and Dr. Wilma Subra, two eminently qualified experts in the field, are reports that testify to the inappropriate and unscientific methods EPA has chosen to utilize with respect to the construction of the PCB Dump in the Fairhaven Harbor. EPA deliberately and inaccurately refers to this dump as the “LHCC” (Lower Harbor CAD Cell).

In summary, Region 1 of the EPA has been involved in a duplicitous campaign to undermine the health and welfare of the Town of Fairhaven, while maximizing the financial returns of the investors in Riverside Landing Development project. As far as HARC and the citizens of Fairhaven are concerned, the EPA has purposely launched a chemical and terrorist assault on the residents of Fairhaven and the oldest community in the entire region.

Just why is Region 1 of the EPA dumping 300,000 cubic yards of PCBs, for which the EPA cannot gauge the range of contamination, into immediate proximity to the Fairhaven High School and Oxford Village, a community with direct ties to the historic landmark community of Plymouth Colony?

What is the EPA’s motivation for this vicious assault? Our HARC letter to David Lederer, the manager of this CAD cell project, which was submitted to him in early August 2015, has gone completely unanswered.

There is more than sufficient evidence to indict the EPA Officials for (i) Failure to assess the impacts of putting a CAD cell in a residential area, (ii) Failure to assess the impact on the Cultural and Historic Heritage of the area, (iii) Collusion with officials of the Town of Fairhaven to obscure vital information from the public and (iv) Intentional Misrepresentation to the public.

Sincerely,

HARC Board

APPENDIX: Transcript Meeting of 2014 March 13 follows.

REFERENCE: Transcript.

Individuals indicated on this transcript are as follows:

1. EPA:

- (i) ES: Elaine Stanley;
- (ii) KO: Kelsey O'Neil;
- (iii) DL: David Lederer;
- (iv) GL: Ginny Lombardo;

2. HARC:

- (i) PS: Paul Spooner;
- (ii) ER: Eddie Rivera

1. PBS Question #1: Location of a CAD cell next to a Residential Community

1:40:25: PS asks the question: "Three pronged question here, first is can you please specify exactly another example of a CAD cell being constructed [] adjacent to a residential network/community, give me one example (1:40:48)

1:40:48: (ES): "I don't..." (Elaine Stanley cannot do it.)

1:40:54: ES is interrupted by KO: citing Boston as a location.

1:40:54: (KO): "Boston Harbor"

1:40:55: (PS): Boston [CAD Cell] is not [in] a residential community; neither is Providence.

1:40:59: (ES): Yes it is, but ahh... But I don't have that kind of information

1:41:02: (PS): they are in the midst of an industrial section...

1:41:03: (ES): We can certainly look into it

1:41:06: (PS): they are not next to a residential community. Please come up with one name and one example of that location

[Elaine Stanley cannot do it.]

1:41:12: (ES): We'll come up with it after we look into it sir,

1:41:12: PS: Okay, please do that...

1:41:21: (ES): "We did model all of our conditions with those things in mind

1:41:19: (PS): I don't want to hear model, I want to hear one example of a CAD cell next to a residential

community... (1:41:24)

1:41:32: (DL): “I don’t know of any examples that I could site right here”

1:41:35: (PS): Well you should know. How long have you been working on this?

1:41:35 (DL): “About two and a half years”

1:41:39 (PS): That is two years longer than anyone else.... ...

1:42:20: (ER): you are burying the problem!

1:42:25: (DL): “We are burying the problem, correct”

2. PBS Question #2: Questions re “Environmental Impact Study” EOE #11669 FEIR 2003 Oct 15

1:42:25-36: (PS): Now the other point is, the Environmental Impact Study that was done in 2003 Oct 15th ...

Have you looked at the Maritime Historical Overview and Methodology? [See page C-20 of EOEA #11669 FEIR 2003 Oct 15]

1:42:42: (GL or ES): “NOPE”

1:42:43: (PS): “Why is there not one mention of the Oxford Village community next to which the CAD Cell is being constructed?”

1:42:51: (GL or ES): “I am unfamiliar with that” Are any of you familiar with that? “No” “we’ll have to..

1:42:54: (PS): There is not one word about the Spray memorial, the Pilgrim Memorial, the Bates home, the Collingsford [Coggeshall] home, none of the painters that lived in that area, the fact that it is the only pre-revolutionary war community in the entire area. There is not one word. Because I am looking at it right now in the Cultural Resources Program [see page C-20 of EOEA #11669 FEIR 2003 Oct 15] [1:43:19] Maritime Historical Overview.

1:43:28: (DL): I would just ask honestly, when we are looking at remediating the PCBs in the sediment in the harbor, the resources you are speaking about are on land, are they not, they are all on land...

1:43:37: (PS): that is what the Environmental Impact Cultural Review is designed to do.

1:43:40 (DL): Correct, and what would be...

1:43:42: (PS): and you are building a CAD cell right next to that community

1:43:47: (DL): and what in your mind would be the impact of building a CAD next to historic sites like that?

1:43: 53: (PS): you tell me what you think it is going to be? I’m asking you for one other example. Why is it removed, why is nothing included in your environmental impact study?

1:44:06: (DL): would say we didn’t do an environmental impact study but I would say...

1:44:08: (PS): Somebody did it for this project...

1:44:11: (ES): the state did it... (DL) okay the state did it

1:44:11 (PS): why did they not say one thing about Oxford Village?

1:44:15: (DL): okay I understand, I am sorry, I understand the document you are citing from...

1:44:21: (PS): I have the document right here....

1:44:24: (DL): we could talk to the state I would say and try to find out...

1:44:28-33: (PS): Environmental Impact Studies are supposed to look at the impact on the cultural, historical part of a city...that is what they are designed for...your review says zero on the cultural impact on Oxford Village...zero

1:44:42: (DL): just to understand that the study your are citing I believe is the EIR that was done by CZM, Coastal Zone Management part of EOEA, ...I can never... EOEEA, it is a state agency... **we could try to find out...ah but... I would say just generally...general speaking that the decision to build the CAD I don't believe is going to have any impact on any resources such as you cited...no....**

1:45:11: (PS): Well then why don't you build it next to your house?

1:45:16: Applause from audience.

1:45:19: (PS): you are completely... you did not answer this gentleman's question, you got an environmental impact study here eleven years old you nothing about and you can't give us one example, right now of another CAD Cell being built next to a residential community. That is completely unacceptable

1:45:37: (DL): [does not respond]

1:45:37: (KO): [takes microphone]

1:45:40: (KO): we definitely appreciate new views and questions here

1:45:43: (PS): you should have done this eight years ago...

1:45:46: (KO): we are happy to follow up with you and anybody on our team is happy to speak with you on this at any point in time

1:45:53: (PS): I don't want talking I want something done about it. I want an environmental impact study that is actually done appropriately and thoroughly and this one is not...

1:46:01: (KO): okay well I have taken that down too and we will make sure to look into that. If you want to talk to us after we can follow up with you individually as well.

END of CONVERSATION

EOEA No. 11669 of 2003 Oct 15

This photo comes from the FEIR of 3 Oct 2003 that is the basis of the LHCC Project.

1. FEIR only discussed two locations: (i) PIN: ("Pope's Island North") and the (ii) CI (Channel Inner Harbor). THESE were the names given the PCB Dumps by the document (EOEA No. 11669 of 2003 Oct 3) that provided the legal basis on which to move the project forward.

The FEIR has clearly stated that the LHCC was the "PIN." That was a name that the FH community could understand as it was based off a known geographic point.

In order to push the PCB Dump thru, EPA changed the name to the LHCC, it appears deliberately obscuring the location of the PCB Dump, actually, morphing the name so that it would appear to be the "CI".

Note that the FEIR shows that the PIN is both adjacent to a residential area (Oxford Village) and the Fairhaven High School. Please also be aware that the FEIR discusses NOTHING about the impact of this PCB Dump on the real estate values of Fairhaven, the sustainability of the High School, or the health of residents or students in the IMMEDIATE proximity to the dump.

We feel that the EPA clearly knowingly, willfully, and fraudulently converted the FEIR named PIN into the misleading name of the LHCC in an effort to deceive the public. They then colluded with employees of the Fairhaven Town government to force the project through without proper vetting by the public.

2. We suspect that the only reason for this can be high level corruption within the EPA and local government units, likely with respect to the creation of the Riverside Landing Retail & Residential Project being built in New Bedford immediately south of the site of the AVX-KYOCERA of Japan plant that produced the PCBs.

3. There may be other issues involved: the "Channel Inner Area" location was defined in the FEIR as the "CI". In actuality it should have been designated as the "CIA". Clearly this acronym would have raised attention; it was therefore shortened to "CI".

Why?: It is known that KYOCERA of Japan and AVX produce capacitors for nuclear weapons, and that Marshall Butler, the head of AVX and KYOCERA's US operations, had extensive and long term relationships with Israel's top technology university in Haifa. There were compelling reasons for converting the acronym "CIA" into "CI" so as not to draw attention to the relationships of Butler, the Israeli nuclear weapons production system, and certain US intelligence agencies.

EOEA No. 11669 of 2003 Oct 15