SUMMARY OF FINDINGS

Why is New Bedford Harbor getting the worst PCB Superfund Cleanup in the Nation?

In the fall of 2012 legal staff at the Buzzards Bay Coalition conducted a comparative analysis of National Priority Listed (NPL) sites under the federal Superfund program where Polychlorinated Biphenyls (PCBs) were designated as a contaminant of concern in aquatic environments in order to determine how EPA's ongoing cleanup of New Bedford Harbor compared to other sites across the country. This research was performed primarily by Tyler Franklin, Esq. and overseen by Korrin N. Petersen, Esq., Senior Attorney for the Coalition.

Summary of Findings:

EPA's present "cleanup" of New Bedford Harbor leaves behind what appears to be a significantly higher amount of PCBs in Harbor sediments than almost any other site across the country. This inequitable application of cleanup standards in New Bedford Harbor unjustifiably robs this community of its right to a clean and healthy environment. EPA's 1998 cleanup plan and subsequent amendments since that time, adopted cleanup levels higher than nearly all other PCB sediment contaminated sites in the country. **The vast majority of cleanup plans across the country target a cleanup level of 1ppm, while New Bedford's target cleanup level for PCBs is, in some areas of the Harbor, as high as 50ppm.**

Where EPA Failed New Bedford:

In 1998 when EPA chose the target cleanup level for this harbor, it explicitly rejected the more protective site-wide cleanup target of 1ppm – the cleanup level seen in the majority of sites across the country. At the time, the EPA admitted that such a cleanup would not be as protective and would not allow for safe consumption of seafood in more than a decade post cleanup, and instead selected cleanup levels ten and fifty times higher leaving behind a level of contamination mostly unseen in any other part of the country. EPA's goals were to dredge sediments with PCB concentrations above 50ppm in the lower harbor and in saltmarshes, sediments above 10ppm from the Upper Harbor, sediments above 25ppm between the high and low tide levels in certain

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shoreline areas prone to beach combing, and sediments above 1ppm only in areas where homes directly abut the harbor and where contact with sediment is expected.

EPA stated in 1998 that it was uncertain as to whether the selected remedy would be successful stating its uncertainty as to "when – or whether – PCB levels in seafood will reach levels that are safe for human consumption in all species in all areas." 1998 Record of Decision at 6. In its evaluation of the remedy, EPA readily admits that a target contaminant level of 10ppm site-wide would be more protective of human health and the environment than the selected remedy of 50ppm in the lower harbor and saltmarshes. *Id.* at 24. However, EPA states that even at 10ppm, the site-specific safe seafood level of .02ppm PCBs, would not be reached within ten years, requiring the continued reliance on the failed use of fishing limitations. *Id.*

Further, in response to assertions by AVX Corporation (the largest of New Bedford Harbor's responsible parties) in 1997 that a 50ppm cleanup level would be protective of human health, the EPA disagreed that a 50ppm target cleanup level would be protective of human health. EPA goes on, in response to AVX, that a 50ppm cleanup level would not provide adequate protection against shoreline dermal contact risks and would be ineffective in protecting against consumption of PCB-contaminated local seafood. *Id.* at A-32. Yet, EPAs ultimate remedy included a 50ppm cleanup level for the Lower Harbor and saltmarshes throughout the site.

Analysis Methodology:

This comparative analysis was developed entirely based on publicly-available U.S. EPA documents for the Superfund Program. The project was complicated due to the fact that most superfund sites have decade-plus long histories EPA's failure to provide a consistent or standard method of reporting Superfund cleanup information. Despite these challenges every effort was made to consistently report the most up-to-date and accurate information. In the event an error was made by the researchers, we encourage you to notify the Coalition. We are confident that the data reported in this survey support the principle finding that New Bedford Harbor stands apart as one of the 'dirtiest PCB cleanups' in the country.