Nutter

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December 12, 2016
11478-130

**BY E-MAIL & U.S. FIRST CLASS MAIL**

Gerard Martin
MassDEP Bureau of Waste Site Cleanup
20 Riverside Drive
Lakeville, Massachusetts 02347

**Re: Aerovox Facility – Dispute Resolution**

Dear Mr. Martin:

Our client, AVX Corporation ("AVX"), has not yet received MassDEP's decision letter concerning the Phase III Remedial Action Plan ("Phase III") it submitted on August 22, 2016. The Phase III was discussed at length during a meeting at MassDEP's Southeast Regional Office on Thursday, December 8, 2016. The agenda for the meeting, which AVX received on Wednesday, December 7, 2016, included explicit references to MassDEP's decisions concerning the remedial alternatives that the Phase III proposed for each of the operable units at the Aerovox Facility disposal site.

Paragraph 22 of the Administrative Consent Order and Notice of Responsibility ("ACO") provides the procedures governing dispute resolution. Subparagraph 22(a) provides that AVX may invoke dispute resolution to challenge a decision by MassDEP under Paragraph 14 of the ACO "within five (5) days after obtaining knowledge of [ ] a dispute." While recognizing that there were discussions at and after the meeting that may impact MassDEP's approach, as will be reflected in the forthcoming decision letter, AVX is compelled to send this letter out of an abundance of caution that AVX could be deemed to have knowledge of MassDEP's decisions by virtue of its receipt of the meeting agenda. Thus, to preserve its rights pending further developments, this letter serves as AVX's written notice of a dispute concerning MassDEP's denial of the selected remedial alternative for operable unit 3B (permeable reactive barrier). AVX also must reserve its rights to invoke dispute resolution with respect to other decisions of MassDEP that, as fleshed out in MassDEP's forthcoming decision letter, prove to be similarly problematic.

Please do not hesitate to call if you have any questions or wish to discuss anything raised by the above.

Very truly yours,

Gary L. Gill-Austern

cc *(by email)*:

Millie Garcia-Serrano, MassDEP
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