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October 27, 1999

Mary Elizabeth Ward, Esquire
U.S. Department of Justice
Environment and Natural Resource Division
Environmental Defense Section
P.O. Box 23986
Washington, DC 20026-3986

Ray Pilon, Project Manager
Army Corps of Engineers
U.S. Department of Defense
1776 Niagara Street
Buffalo, NY 14207

Re: Remediation at the Property of the Somerset Group

Dear Ms. Ward and Mr. Pilon:

Enclosed is a copy of the letter, dated October 21, 1999, from the Army Corps of Engineers to the Somerset Group.

As you know, this office represents the Somerset Group, Inc. and John Syms in environmental matters arising at the Lake Ontario Ordnance Works. All future communications from the representatives and agents of the Federal government to the Somerset Group and John Syms concerning environmental matters at the Lake Ontario Ordnance Works should be directed to either the undersigned or Linda R. Shaw, Esquire.

Comments to the Corps' letter of October 21, 1999, are as follows:

Paragraph 3.a. The proposal to handpick and dispose of transite panel pieces at various locations across the Somerset Group property, while appreciated as a first step, is not a comprehensive response to asbestos abatement. Shattered transite exists at more locations than those mentioned in Paragraph 3.a. In addition, broken transite panels remain on the main process building of former Air Force Plant No. 68. In order to let this work proceed, Mr. Syms requests the opportunity to identify to the Corps and the abatement contractor the areas where transite is known to exist, both on buildings and on the ground, such a site visit must occur prior to granting site access for this work. Assuming that the parties can agree to the scope of the work to be conducted, Somerset Group is prepared to immediately sign a limited form of Right-of-Entry for this project only.

As you might expect, Mr. Syms has - not unreasonably - lost confidence in the ability of the contractors of the Army Corps of Engineers to properly proceed with this project. The inability of the contractor to comply with Federal regulations is a concern that is only

magnified by the admitted damage done to site fixtures and property. (Paragraph 5 of the Corps' letter is an acknowledgement of some, but not all, of the property damage alleged by the Somerset Group.) By way of analogy, a home owner who has seen unprofessional conduct from a contractor will naturally be hesitant to allow that contractor to return to his or her property. This concern can, I believe, be ameliorated if the Army Corps of Engineers agrees to meet with Mr. Syms prior to site entry in order to jointly define the future asbestos remediation work scope.

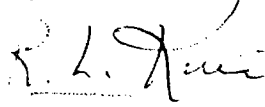
Paragraph 4. The Somerset Group is reviewing the proposed Right-of-Entry agreement and will provide the Army Corps of Engineers with comprehensive comments within the next week to ten days. At this time, however, there are numerous CERCLA and tort claims pending before the Department of the Justice that relate directly to future remedial actions to be taken at the site. As a condition of proceeding with future site work, we request that the Department of Justice provide the name of the attorney(s) from the Environmental Defense Section and/or Nuclear Regulatory Commission responsible for reviewing these CERCLA and tort claims. We also suggest a meeting between counsel for the United States and Somerset Group to discuss site access by the Corps and the other legal issues raised in the demand and claim letter of August 25, 1999. These discussions will be facilitated by the prompt identification of the responsible attorney representing the United States.

In addition to the remedial actions proposed in the Corps' letter of October 21, 1999, there are a number of other remediation matters that must be addressed. These remediation matters include, but are not limited to: (1) the removal of asbestos from the office buildings, non-combustible warehouse building, Building 30A, and the maintenance building at Somerset Group property and (2) the completion of sewer line excavation and remediation. With respect to the removal of asbestos in office buildings at the Somerset Group property, I indicated in my correspondence of October 14, 1999, that the Army Corps of Engineers has a statutory mandate under DERP/FUDS that is broader than mere compliance with the National Contingency Plan, 40 C.F.R. Part 300. Section 211 of SARA requires the Department of Defense address environmental conditions in buildings that may exceed those remedial actions normally considered within the scope of an NCP-compliant remediation. The Corps' letter of October 21, 1999, is silent on this point.

In addition, Mr. Syms has explained to me that the remedial actions taken with respect to the contaminated sewer lines under the Somerset Property were intentionally left incomplete. He has indicated that sewer lines containing known contaminants have been plugged without any attempt to decontaminate or remove the lines. According to Mr. Syms the odor emanating from the previously opened sewer lines is an "overpowering organic smell." The central problem with any future industrial development on the Somerset Group property is the inability to use the property because of the site's unsuitability for new construction. If the Corps chooses to plug and leave contaminated sewer lines in place, there is simply no way in which the property can be brought to future productive use. We ask you to reevaluate the Corps's position regarding this phase of the remedial project and to provide the Somerset Group with all available chemistry data for contaminants found in these sewer lines.

I look forward to your response. If you have any further questions, please do not hesitate to call either Linda Shaw at 716/546-8430 or me at 412/731-7246.

Very truly yours,

A handwritten signature in cursive script, appearing to read "R. L. Kuis".

Ronald L. Kuis

RLK/sbg
Enclosures

cc: Linda R. Shaw, Esquire, w/o encl.
Somerset Group, Inc., w/o encl.