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Office of Counsel

Subject: Asbestos, Chemical Waste Sewer and TNT Removal Actions
at the Former Lake Ontario Ordnance Works

Mr. Ronald L. Kuis
Attorney at Law
12 Scenery Road
Pittsburgh, Pennsylvania 15221

Dear Mr. Kuis:

Recently, I was provided copies of your letters of August 25, 1999, October 14, 1999, and October 27, 1999, addressing a variety of issues pertaining to the Former Lake Ontario Ordnance Works. On behalf of the United States Army Corps of Engineers, Buffalo District "the Buffalo District", I am responding to your statements and inquiries regarding the subject work.

First, I would like to address the ongoing Chemical Waste Sewer and TNT waste pipeline removal action. The purpose for undertaking the removal action and the focus during the planning and execution of the work was to ensure the safety of the public and the workers at the site. To that end, the Buffalo District contractor, Radian International ("Radian"), was required to submit acceptable work plans, a health and safety plan and an ordnance plan to the Buffalo District prior to commencing construction work at the site. Before Radian was given the notice to proceed, the Buffalo District carefully reviewed the plans to ensure that they met all statutory and regulatory requirements and provided for a safe work methodology. The ordnance plan was also reviewed by the United States Army Corps of Engineers Ordnance Center of Expertise in Huntsville, Alabama to ensure that all potentially explosive material would be handled in an appropriate manner. Mr. Syms was provided copies of the plans. The implementation of the plans has resulted in a safe and successful removal action that found no material remotely close to being explosive in the lines on either the Syms or CWM property.

Fred B
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During the conduct of the chemical waste sewer portion of the removal action, Radian engaged in work on Mr. Syms' property for nine days in July and ten days in October. Each time it was necessary for them to enter the property, a representative of the Buffalo District and/or the contractor's superintendent informed Mr. Syms about the day's planned activities. At no time was Mr. Syms or any of his staff placed in danger nor did the removal activities impact on Mr. Syms' use of his property.

As of October 15, 1999, all chemical waste sewer work on Mr. Syms' property has been completed. Radian will stop work on the CWM property by the end of November. The remaining chemical waste sewer and TNT line work on the CWM property will resume when funding and weather conditions allow.

I also would like to address the asbestos removal work undertaken on the Syms property during 1998. Mr. Raymond Pilon, the Project Manager, sent a letter to Mr. Syms on October 21, 1999, indicating that if Mr. Syms is willing to grant a new Right-of-Entry, the Buffalo District is prepared to remobilize our contractor, Environmental Quality Management Inc., to complete asbestos removal work required by Delivery Order 01 of its contract. Syms was also informed that the contractor was directed to resolve the other outstanding issues, which are its responsibility, directly with him. Unfortunately, you have indicated to Mr. Pilon that Mr. Syms is not willing to grant the necessary Right-of-Entry for the work without the Buffalo District agreeing to do additional work beyond what Mr. Pilon has outlined in his letter of October 21, 1999.

Regarding additional asbestos work outside the original scope of work, no other asbestos removal is authorized under the Formerly Used Defense Sites (FUDS) program, nor is any required by law. Accordingly, the Buffalo District does not have any current plan to do additional asbestos work beyond what is described in Mr. Pilon's letter of October 21, 1999. Therefore, if Mr. Syms will not grant a Right-of-Entry without such plans, the Buffalo District can not complete the work previously authorized.

In your letter of October 27, 1999, you also inquired about the attorney responsible for handling your administrative tort claim. I have forwarded your claim to Captain Charles Lozano of the United States Army Claims Service at Fort Meade, Maryland. He, or the attorney assigned to the claim, will contact you in the near future.

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Finally, please note that any further inquiries concerning the work at the Syms property should be directed to Mr. Pilon. Any other inquiries relating to the United States involvement at the site, other than those relating to your client's tort claims, should be directed to me.

If you have any questions or would like to set up a meeting to discuss these matters further, please contact me at (716)-879-4183.

Sincerely,

SIGN

Michelle F. Barczak
Assistant District Counsel