



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DIVISION, GREAT LAKES AND OHIO RIVER
CORPS OF ENGINEERS
550 MAIN STREET
CINCINNATI, OH 45202

Military Integration Division

FEB .. 1 2007

Mark F. Bohne
Plum Brook Ordnance Works, Restoration Advisory Board
Community Co-Chairman
311 East Mason Road
P.O. Box 447
Milan, Ohio 44846

Dear Mr. Bohne:

This is in response to your December 29, 2006, letter concerning issues related to the assignment of project management responsibilities at Plum Brook Ordnance Works (PBOW).

Let me begin by saying that I appreciate your recognition of the work that Huntington and Nashville are accomplishing at PBOW. I agree with your assessment that they are a high performing team, that they are performing work at PBOW in an exemplary manner, and that progress is being made on cleaning up the property. That is why, even though recent changes at a national level to improve the efficiency and effectiveness of the Formerly Used Defense Sites (FUDS) Program mean that Huntington District will no longer be a FUDS Program and Project Management District, my intent is that Huntington District retain project management responsibilities for on-going work at PBOW.

Regarding DoD's responsibility at the site, Huntington District's recent records review reveals that the matter of who may be a potentially responsible party (PRP) at this site is more complicated than previously understood. This initial review shows that an operational analysis of the site to determine PRP responsibility must be undertaken. This analysis is necessitated by federal law and Department of Defense (DoD) regulations. These rules provide that the United States Army Corps of Engineers (USACE), in its efforts to restore Formerly Used Defense Sites (FUDS) and in complying with the Defense Environmental Restoration Program (DERP), must attempt to ascertain DoD's liability and negotiate a fair and equitable settlement with other PRP's before proceeding with its own response action. Expending FUDS funds to cleanup a site where DoD is not responsible could constitute a federal law violation.

I share your concerns with the need for prompt resolution of these matters. Coordination with our Headquarters to initiate an investigation of the operational history at the site has already begun. USACE will resolve these issues as expediently as possible so that further cleanup can proceed. You will be kept informed of our decision-making process.

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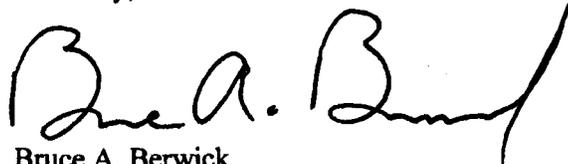
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I look forward to working with you on this issue so that USACE can act in accordance with law and in the best interest of the public. I also appreciate your invitation to attend a PBOW Restoration Advisory Board (RAB) meeting. Unfortunately, I already have a commitment for the evening of March 8, 2007. Perhaps, another opportunity may arise for me to visit PBOW and meet with you.

Should you have additional concerns related to cleanup of PBOW, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce A. Berwick". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Bruce A. Berwick
Brigadier General, U.S. Army
Division Engineer

Enclosure

December 29, 2006

Brig. Gen. Bruce A. Berwick, Commander
U.S. Army Corps of Engineers
Great Lakes and Ohio River
P.O. Box 1159
Cincinnati, Ohio 45201-1159

Mark F. Bohne, Community Co-Chairman PBOW RAB
Plum Brook Ordnance Works Restoration Advisory Board
311 East Mason Road
P.O. Box 447
Milan, Ohio 44846
E-mail: hilltop@lrbcg.com

Re: Plum Brook Ordnance Works

Dear Sir,

It has brought to my attention that, once again, it has been proposed (on paper) that project management for the Plum Brook Ordnance Works would be transferred to the Buffalo District on January 10, 2006. While it was "verbally" inferred that "everything would remain the same", the official, written directive is that Buffalo will assume the responsibility for the project and the continued remediation activities. Verbal commitments by government agencies are not guarantees that the status quo will be maintained. In bureaucracies written directives carry priority and no one should feel comfortable with informal verbal agreements. At our last RAB meeting there was a unanimous consensus in favor of leaving the present ACoE Project management team intact. If an "arrangement" is to be made to keep our team intact, then let it be made officially, in writing.

I am also quite surprised that this problem needs to be addressed less than six months since the last time we confronted this issue. In July 2006, my elected officials assured me in writing that the project will remain under the present management team assigned from the Huntington and Nashville Districts. Also, considering nature of the last communications between RAB members and your office regarding this matter, we are all surprised that we are the last to learn of this decision. I am personally disappointed by the lack of professionalism and disregard concerning our past requests and then proceeding with changes without having the courtesy of meeting with the RAB face-to-face about such matters.

Throughout this project the dedication of the assembled team has shown the local community that the Army Corps considers our environment as their own. Numerous times, in the past, I have personally voiced strong objections any time it has been suggested that another project team should assume responsibility for the project. This RAB has formed a unique level of trust that should not be tested. I am also alarmed that

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the proposal to change the project management team would be presented to the RAB members with little time to react. We were informed at our quarterly RAB meeting on Thursday, December 21, 2006, that the paperwork authorizing the transfer was already approved by you and would be presented to Lieutenant General Temple for his final approval on January 10, 2007.

As in the past, the RAB is strongly opposed any formal or informal change in management for this project. For ten years the stakeholders have worked extremely well in partnership with the present Army Corps staff for the proper management of this project. The Huntington and Nashville team has formed a unique alliance with the community to properly remediate the Plum Brook Ordnance Works site. Our RAB is a model team that has worked tirelessly with the Corps to "make whole" the environment in Erie County through the remediation of Plum Brook. It makes little sense to disassemble our management group for any reason.

My request in this matter is the same. I urge you to keep the present management team in-place until this project is closed. Our RAB has committed their time and energies (at no cost to you or the taxpayers) and promised to remain throughout the course of this project, regardless of length of time it may take to complete. I would expect that our management team from the Huntington and Nashville Districts would remain in-place as well. The stable nature of our team has provided you with a "trouble-free" project relative to negative public opinion when considering the extent of the potential environmental impact on the site.

Information was also presented to the RAB that recent research into the deed language crafted when the property was transferred from the Department of Defense to NASA has placed our project in "administrative limbo." As explained to us, it has been implied that the legal offices of the Army Corps now feels that NASA assumed responsibility for the environmental contamination when the property was transferred. I also understand that there are some that would imply that the site should not be part of the FUDS program.

As you know, the Clean Air and Clean Water Acts clearly place the blame for environmental pollution on the polluter. "The polluter pays" for remediation when they can be identified and the resources are available. Certainly, we are discussing two federal agencies here. The Department of Defense was responsible for the site contamination before NASA was even an agency. What signal does this send to other polluters? Sell a polluted property and walk away without responsibility? That's not how the legislation was written. The Federal Government is still responsible, regardless of property "ownership."

As it stands, it makes no difference which federal agency pays, it's coming out of our taxes anyway. Transferring the project will significantly increase the costs to the taxpayer. NASA has few internal resources to manage such a project and frivolous delays would only confound existing research for the project and add to the costs. I

would urge the Army Corps to quit wasting time and money on legal semantics and concentrate on getting the property cleaned-up.

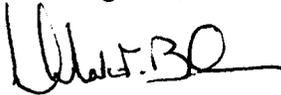
Finally, I would think that the assembled team from Huntington and Nashville would represent a valuable asset to the Army Corps of Engineers when it comes to ordnance site remediation. Their knowledge and expertise add substantially to the project. Their "cutting edge" proposals for remediation will have saved the taxpayers millions by the time this project is complete. They have already successfully completed remediation at Dolly Sods in West Virginia. It makes good business sense to leave the present team intact, and allow them to continue their work and research at Plum Brook. Matter-of-fact, their expertise should also be utilized at other sites where TNT or DNT manufacturing pollution is an issue. Learning curves are an expensive part of any project, why not reap the benefits of wisdom already experienced?

If needed, I would gladly come to Cincinnati to meet with you and discuss these issues face-to-face. In the past, I have invited you to attend one (or more) of our RAB work sessions. That invitation is still valid. I believe that once you see our group in action, you will see why I am so passionate about these issues.

I can be reached during the day at my office at 419-668-4474 Extension 2218 should you wish to contact me there. As always, my e-mail address is the most efficient way to contact me.

Thank you for taking your precious time to consider these matters. As always, I stand ready to serve in any way possible.

Best Regards,



Mark F. Bohne
Co-Chairman
Plum Brook Ordnance Works Restoration Advisory Board

cc: Plum Brook Ordnance Works RAB Members
Brigadier General Temple, Director of Military Programs, US ACoE
Lieutenant General Carl Strock, Commander, US ACoE
Governor-Elect Ted Strickland, Ohio
Senator George Voinovich, Ohio
Senator-Elect Sherrod Brown, Ohio
Representative Marcy Kaptur, Ohio



REPLY TO
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DEPARTMENT OF THE ARMY
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P.O. BOX 1159
CINCINNATI, OH 45201-1159

Military Integration Division

FEB 5 2007

Peg Kingsley
Plum Brook Ordnance Works, Restoration Advisory Board
Community Member
3210 Fox Road
Huran, Ohio 44839

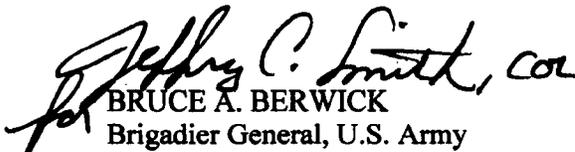
Dear Mrs. Kingsley:

This is in response to your January 2, 2007, letter concerning the assignment of project management responsibilities at Plum Brook Ordnance Works (PBOW) and a possible determination that someone other than the Department of Defense (DoD) may be responsible for cleanup. I have attached a copy of your letter for reference.

Rather than repeating the same information, I am enclosing a copy of my response, dated February 1, 2007, to Mr. Mark Bohne who raised the same concerns in his letter to me, dated December 29, 2006.

Should you have additional concerns related to cleanup of PBOW, please do not hesitate to contact me.

Sincerely


BRUCE A. BERWICK
Brigadier General, U.S. Army
Division Engineer

Enclosures

January 2, 2007

Brig. Gen. Bruce A. Berwick, Commander
U.S. Army Corps of Engineers
Great Lakes and Ohio River
P.O. Box 1159
Cincinnati, OH 45201-1159

Peg Kingsley, Community Member PBOW RAB
Plum Brook Ordinance Works Restoration Advisory Board
3210 Fox Road
Huron, OH 44839
E-mail: cmak70@aol.com
Re: Plum Brook Ordinance Works

Dear Sir,

You have by now received a letter from our RAB's co-chairperson: Mark Bohne. I have been on the PBOW RAB with Mark and many other local community members since its inception. I agree with and endorse everything that Mark has detailed to you in his letter of December 29th.

I have continued to be impressed with the professionalism and expertise of the Army Corp of Engineers from the Huntington and Nashville districts. This management team has worked extremely hard to build a high level of trust within our community. They know the area, the problems, the methods that work here for clean-up, etc. It would be a travesty to bring in another management team at this point in our work. We would literally have to start over in building the communication that we have worked at for the past ten years with the current team. It would waste tax payer dollars to bring the new team up to the level of knowledge about this area that already exists with the current team.

I, like Mark, think before you make any decision about this, you should come to a RAB meeting and see for yourself what we are doing and what we feel. We could also share with you at that time our feelings about the deed language that is now up for discussion. For ten years we have had nothing but positive press and public opinion about the PBOW RAB. Please don't let that change now.

Thank you for taking your time to consider this issue.

Sincerely,



Peg Kingsley

Community Member of Plum Brook Ordinance Works Restoration Advisory Board

cc: Brigadier General Temple, Director of Military Programs, US ACoE
Lieutenant General Carl Strock, Commander, US ACoE
Governor-Elect Ted Strickland, Ohio
Senator George Voinovich, Ohio
Senator-Elect Sherrod Brown, Ohio
Representative Marcy Kaptur, Ohio

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State of Ohio Environmental Protection Agency

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RLM

Southwest District

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937)285-6357 FAX: (937)285-6249
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Laura Powell, Acting Director

January 11, 2007

Brig. Gen. Bruce A. Berwick, Commander
U.S. Army Corps of Engineers
Great Lakes and Ohio River Division
P.O. Box 1159
Cincinnati, Ohio 45201-1159

Dear Brig. Gen. Berwick:

On December 21, 2006, Ohio EPA was informed of two changes that would impact the investigation and remediation of the former Plum Brook Ordnance Works (PBOW). The purpose of this letter is to convey our concerns regarding these changes and to request that the Army Corps reconsiders these decisions.

The first change concerns the decision to stop the initiation of new projects at the PBOW until a legal review of deed transfer language is complete. The rationale for this decision was to provide time for the Army Corps to evaluate if language in the transfer documents completed in the 1960s indemnifies the Department of Defense (DoD) from addressing contamination found at PBOW before they expend any additional funds. I understand that the Army Corps does not want to expend funding to address contamination that may be the responsibility of another party {the National Aeronautics and Space Administration (NASA)}. Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the parties liable to address contamination include both the property owners and those that caused the contamination. The contamination being investigated under the Formerly Used Defense Sites (FUDS) Program was caused by past DoD activities at PBOW, and not caused by activities conducted by NASA. In addition, the transfer of property at PBOW occurred in the early 1960s, before the hazards associated with past waste management and disposal practices were understood. Ohio EPA feels that it is unlikely that the personnel involved at the time would have agreed to take on liability to address contamination, when no one knew it was a hazard. Unfortunately, while the Army Corps tries to decide whether these indemnification clauses apply to environmental liability or only liability associated with health and safety, the contamination present at PBOW is not being remediated – and poses a potential risk to human health and the environment. I ask that the Army Corps reconsiders this decision and commits to address contamination associated with the past DoD activities at the PBOW under the Formerly Used Defense Site Program.

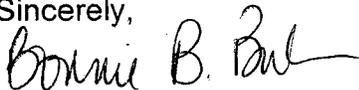
The second change concerns the Army Corps decision to change project management responsibilities from the Huntington District to the Buffalo district. Ohio EPA is very

Brig. Gen. Bruce A. Berwick, Commander
U.S. Army Corps of Engineers
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January 11, 2007
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concerned about this change. The Huntington District (with technical support from the Nashville District) has been managing this project for over 12 years now. Their expertise in dealing with this site is essential as projects move from investigation to the remediation stage. Changing project management now to a district with personnel that have no knowledge of PBOW will jeopardize progress and extend remediation schedules. In addition, the current Army Corps team has worked very hard to address stakeholder concerns about this site and has support of the PBOW RAB. According to the December 29, 2006 letter from the PBOW RAB Community Co-Chair, the RAB unanimously agreed that the current Army Corps project management team should remain. They therefore decided to send a letter to you (with copies to elected officials) requesting that the current Army Corps team remain. If the RAB feels this strongly about the current team, changing project teams could cause the RAB to no longer support your activities. This lack of support from the RAB may potentially impact progress as well. I therefore ask that the Army Corps reconsiders this decision.

Thank you for considering these requests. If you have any questions or wish to discuss these concerns with me, please contact me at (937) 286-6469.

Sincerely,



Bonnie B. Buthker
DSMOA Program Manager for Ohio
Federal Facilities Section
Division of Emergency and Remedial Response.

CC: Cindy Hafner, DERR/CO
Paul Jayko, DERR/NWDO
Patricia Bertsch, USACE, Ohio River Division
Richard Meadows, USACE, Huntington District
Robert F. Lallier Jr., NASA
Mark Bohne, PBOW RAB Community Co-Chair

BBB/plh