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MAY 29 1980

Ms. Mary Beth Brado
Town of Lewiston
1375 Ridge Road
Lewiston, New York 14092

Dear Ms. Brado:

This is in response to your letter of January 29, 1980, and subsequent telephone discussions with Mr. Brazley of my office, concerning land use restrictions on the 1,511 acres declared surplus in the Towns of Lewiston and Porter, New York.

In regard to your question of land use restriction and its application to the surplus land in the Lewiston area, our Office of General Counsel determined that the Department of Energy does not have the authority to restrict any land use or development of the property in question. Such authority rests with the State and local governments. We have been advised that the State of New York is applying controls through its appropriate regulatory authority. In this case the Department of Health has the jurisdiction over the surplus land area. Notwithstanding, we would appreciate receiving the information you mentioned regarding the "difference of opinion" between the State of New York and the Federal Government with respect to the land use issue.

As you are aware, a radiological survey conducted in June 1972 by the former Atomic Energy Commission indicated that only a small portion of the central drainage ditch and 6-mile creek exceeded the established radiological criteria at the time for the lands in question. As part of our current survey program at the Lake Ontario Ordnance Works, a low-level helicopter survey was conducted in October 1978. This survey did not reveal any extensive areas containing low-level residual radioactive material. However, these areas are being scheduled for a comprehensive ground survey to confirm the results of the low-level aerial survey.

Should you require any additional clarification on the land use question, please call Mr. Steven Miller, Office of the General Counsel on 202-252-6947.

bcc: S. Miller, GC-34
A. Whitman, EV-131
R. Ramsey, NE-30
Aerospace

Sincerely,

Original signed by:

William E. Mott, Director
Environmental Control
Technology Division
Office of Environment

*Incorporated S. Miller's comments.

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Subject EV Mailroom
EV-1/RF T. Brazley/RF
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