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Attorney General of Missouri

POST OFFICE BOX 899
JEFFERSON CITY, MISSOURI 65102

JOHN ASHCROFT
ATTORNEY GENERAL

(314) 751-3321

June 27, 1983

Mr. Gerald F. Lucey
Legal Counsel
Litton Industries
4825 Beach Street
Schiller Park, Illinois 60176

Re: State of Missouri v. Litton Systems, Inc. (Advanced Circuitry Division), Cause No. CV182-2093-CC-3

Dear Mr. Lucey:

This letter is a follow-up to our telephone conversation of June 22, 1983 and a formal response to your letter of May 31, 1983 with offer of settlement therein. For the reasons which I will explain below, that offer was rejected by the Missouri Department of Natural Resources (DNR). The DNR is willing to settle the above-captioned matter as follows:

1. Payment by Litton ACD of $5,252.00 to the Department of Natural Resources as clean-up expenditures incurred by the Department pursuant to § 260.375(23), RSMo;

2. Payment of $44,748.00 to the Greene County School Fund as a payment the sole purpose of which is to satisfy claims set forth in the petition, without admitting liability.

The terms recited above are basically the same as those originally offered to you. However, during our first discussion regarding settlement the lump sum of the petition was not included and hence at that point, DNR was not seeking "clean-up costs." So in that respect the DNR has reduced its demands by roughly $3,000.00. The above terms have always been represented to me by DNR as a minimum that would be acceptable to them and this is still the case.

As to the "profit" issue addressed by you in your letter of May 31, the DNR understands and appreciates Litton's position in that regard. However, for all of the following reasons the DNR

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feels it is appropriate to settle only on the terms specified above:

1. In 1981, Armming-Fergis Industries of Kansas City placed a properly constructed storage lagoon into service without first receiving a permit from the DNR. An action similar to this action proceeded and was settled for the sum of $25,000.00 on terms similar to those specified above. The DNR considers the violation by AFI to have been of a technical nature, inasmuch as there never was a threat to the environment as a result thereof.

2. On or about September 19, 1980 the DNR entered into a consent order with Litton ACD regarding mismanagement practices for the lagoon that is the subject matter of these proceedings. In that stipulation Litton agreed to and did pay the sum of $20,000.00. The DNR feels that for second and successive violations of the law the appropriate penalties to be incurred should increase.

3. The DNR has calculated the potential liability under the law to be a multi-million dollar figure.

4. DNR perceives that a very poor precedent would be established if it settled this matter for less than a "significant" sum.

5. The DNR perceives that the condition at and around the subject lagoon had deteriorated to the point where the lagoon presented one of the gravest threats to the environment that has been documented since inception of the Hazardous Waste Laws.

6. The State of Missouri is at present unauthorized to administer its program in lieu of RCRA. Because of this fact, EPA is authorized to take enforcement action against Litton as well as the state. In this matter, DNR has been designated the lead agency to handle enforcement. If DNR settles for a figure which will not satisfy EPA there is nothing to preclude EPA from bringing a similar enforcement action. I am unsure at present what would satisfy the EPA. However, I understand DNR was considering substantial administrative penalties for the alleged monitoring violation alone.

I hope that this letter has adequately set out the DNR position on settlement of this matter. I look forward to hearing from you in this regard.

Very truly yours,

JOHN ASHCROFT
Attorney General

EDWARD F. DOWNEY
Assistant Attorney General

EFD:lkp

cc: Dave Bedan
Paul Meiburger
Mike Sanderson