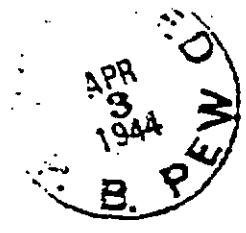


*file*

*[Handwritten signature]*

*P.B.V.*

*For your file.*



March 29, 1944

*[Handwritten signature]*

Captain E. L. Van Horn  
Area Engineer  
P.O. Box 8  
Kenmore, New York

Dear Captain Van Horn:

This refers to the conversations regarding disposal of effluent liquors from Step I into the sanitary sewer of the Town of Tonawanda.

Because of the difficulty experienced at the filtration plant, we are informed that notice will be served on us by the New York State Board of Health to discontinue emptying this waste material into the sanitary sewer.

When this notice is given to us there will be two possible courses of action:

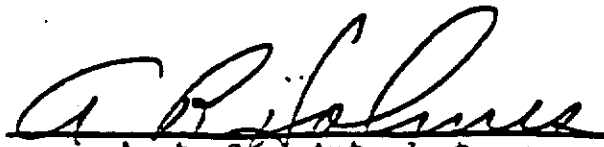
1. Discharge this material into a storm sewer, then to the Two-Mile Creek, and finally the Niagara River.
2. Discharge this material into a well on our Tonawanda Factory property from which water was formerly taken at the rate of 1,000 gallons per minute. It is estimated that the effluent liquors from Step I total 150,000 gallons each twenty-four hours. The well water is unfit for use.

Plan 1 is objectionable because of probable future complications in the event of claims of contamination against us. Plan 2 is favored because our Law Department advises that it is considered impossible to determine the course of subterranean streams and, therefore, the responsibility for any contamination could not be fixed. Our Law Department recommends that this method of disposal be followed. We understand that local representatives of the New York State Board of Health and of the Town of Tonawanda Filtration Plant have given the opinion that the effluent liquors are not detrimental to the public health. We also are told that Captain Ferry has expressed the opinion that there is nothing in the effluent liquors detrimental to public health.

We would, therefore, like your approval to proceed under Plan 2.

Very truly yours,

THE LINDS AIR PRODUCTS COMPANY

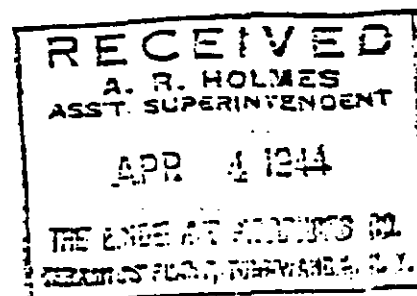
  
Asst. Superintendent

ARHolmes:DEB

IN REPLY  
REFER TO  
EIDM T-1

WAR DEPARTMENT  
UNITED STATES ENGINEER OFFICE  
TONAWANDA AREA OFFICE  
P. O. Box 8  
KENMORE, N. Y.

3 April 1944



The Linde Air Products Company  
Ceramics Plant  
E. Park Drive and Woodward Ave.  
Tonawanda, N. Y.

Attention: Mr. A. R. Holmes.

Gentlemen:

Receipt of your letter of 29 and 31 March 1944, concerning disposal of filtrate from Step I is acknowledged.

This office interposes no objection to the use of either of the two schemes for disposal of this material and leaves to the discretion of the contractor the selection of the method of disposal most satisfactory to all concerned.

Should you decide to follow plan one as outlined in your letter of 29 March, we would like to have from you an opinion as to the detrimental effects, if any, to persons or vegetation coming in contact with the diluted liquors in two mile creek.

On the other hand should you elect to discharge the effluent into a well on the Linde property, we would like to make sure that you have ascertained that:

- a. The well will take the discharge at the required rate over a long period of time.
- b. That contact of the liquors with the well water and surrounding underlying strata will not cause a chemical reaction precipitating solids which might eventually cause plugging of the well.
- c. Introduction of the effluent into the underground stream will not to the best of your knowledge effect the use of the water in other plants or installations for normal purposes. (Our attitude on this is that even though we might not be liable from a legal standpoint, we might from an ethical point of view be doing something which would effect the production of other war plants, and could be severely

EXHIBIT 5

3 April 1944

criticized for our actions).

We would also like some assurance that the Government will not under the terms of the contract be required at some later date to remove any effluent which may remain in the well or be required to restore the well to its original condition.

Having given due consideration to the above mentioned points and furnished us with the aforementioned assurances in connection with this problem, you may proceed with whatever construction work is necessary to dispose of the liquors. Reimbursement for this work will be made in the usual manner.

Very truly yours,



E. L. VAN HORN,  
Captain, Corps of Engineers,  
Area Engineer.