

Office of the Staff Judge Advocate
Redstone Arsenal, Alabama 35898

28 September, 1999

Mr. Lee Young
ATG, Inc.
669 Emory Valley Road
Oak Ridge, TN 39830

Dear Mr. Young:

The Radiation Protection Division of the North Carolina Department of Environment and Natural Resources has requested the jurisdictional status of the Tarheel Army Missile Plant (TAMP) and grounds be determined. Specifically, the question was asked whether or not this property is "exclusive Federal jurisdiction."

Based on a legal review of the documents surrounding the Government's use of this property there is not "exclusive Federal jurisdiction" at the Tarheel Army Missile Plant. The enclosed Report on Title for the Tarheel Army Missile Plant, under item 6, states specifically that the United States holds a proprietorial interest in the property and that there is no degree of Federal jurisdiction over it. Since there is no exclusive Federal jurisdiction at TAMP, the removal action for the radioactive material should be performed under the laws and regulations of the State of North Carolina. The reciprocity license for this work should be obtained from the State of North Carolina instead of the United States Nuclear Regulatory Commission.

Questions or comments regarding this decision should be directed to me at 256-876-9017 or to Ms. Terry de la Paz at 256-955-6968.

Sincerely,

Steven E. Butler

Steven E. Butler
Major, U.S. Army
Deputy Staff Judge Advocate

Enclosure

REPORT ON TITLE

TARHEEL ARMY MISSILE PLANT
BURLINGTON, NORTH CAROLINA

Pursuant to the Federal Property Management Regulations, 41 CFR 101-47.2, the following information is submitted.

1. Identification of Property. The property is locally known as Tarheel Army Missile Plant and is located at 204 North Graham-Hopedale Road, Alamance County, Burlington, North Carolina. Survey maps and legal descriptions are attached to SF 118, Report of Excess. Site detail maps are attached to this report.
2. Acquisition of Property. The property was acquired by the United States of America from Reconstruction Finance Corporation by Quit Claim Deed dated July 1, 1954. Title was transferred to the Department of the Army by the General Services Administration by transfer of jurisdiction letter dated November 4, 1957, with effective date of transfer being December 31, 1957. A copy of the deed and letter is attached to SF 118.
3. Public Domain Land. None of the land comprising Tarheel Army Missile Plant was withdrawn from the public domain.
4. Reservations, Exceptions and Restrictive Conditions. The 32.36 acres of fee were acquired subject only to existing easements for public roads and highways, public utilities, railroads, and pipelines. There are no other conditions or reservations. The 12.0 acres of railway easement were acquired subject to all rights, title, and interests outstanding, including power line right-of-way, road right-of-way (Midway Avenue), and aircraft runway right-of-way, which do not interfere with or abridge the powers, privileges, and authority granted to the United States. A copy of the Attorney's Preliminary Certificate of Title pertaining to the fee is attached.
5. Change in Title. Title was transferred to the Department of the Army effective December 31, 1957. No action, thing, or circumstance has occurred from the date of acquisition to the date of this report which in any way affected or may have affected the right, title, and interest of the United States in and to this real property.
6. Legislative Jurisdiction. The United States holds a proprietary interest in the property and there is no degree of Federal jurisdiction over same.
7. Floodplain/wetlands. The property is not located in an identified floodplain or wetlands.

8. Architectural, Archeological, or Cultural Significance. The property does not contain structures or related personal property that have architectural, archeological, or cultural value.
9. National Register of Historic Places. The property is not listed or eligible for listing on the National Register of Historic Places. It is not in proximity to any property which is listed on the National Register. The property has no significant historical, architectural, archeological, or cultural value.
10. Environmental Considerations. An environmental assessment is being finalized. Environmental issues will be fully addressed in the Finding of Suitability to Transfer (FOST).
11. Screening. On March 27, 1987, the U.S. Army Engineer District, Savannah, dispatched a screening message to determine if the property was needed by any other DOD agency. The Department of the Navy initially indicated an interest in acquiring the property but was unable to secure the necessary funding or authority for acquisition. The Savannah District was subsequently notified that the Navy no longer had an interest in the property and the disposal process was resumed. No other inquiries reflecting interest in the property were received.
12. Danger to Public Health and Safety. Any dangers to public health and safety identified by the environmental assessment will be addressed in the FOST.
13. Polychlorinated Biphenyls (PCB's). Any presence of PCB's will be addressed in the FOST.
14. Asbestos. An Asbestos Survey is on file in GSA, Region 4.
15. Indian Reservation. The property is not located on an Indian Reservation and does not qualify for transfer to the Indians under Public Law 93-599.
16. Location Within Corporate City Limits. The property is located within the corporate city limits of Burlington, North Carolina. The Mayor is The Honorable Joseph H. Barbour and the City Manager is Mr. William R. Baker. Their mailing address is City of Burlington, P.O. Box 1358, Burlington, North Carolina 27216.

17. Suitability for Use by Homeless Provider. The property has not been reported to the Department of Housing and Urban Development pursuant to the Stewart B. McKinney Homeless Assistance Act (McKinney Act). By letter dated February 16, 1989, GSA agreed to obtain a suitability determination and to conduct the screenings required by the McKinney Act.

By: Elaine S. McDowell
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Date: February 5, 1997
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