

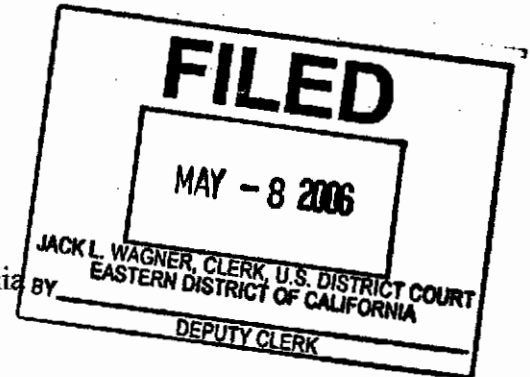


IMMI Developments

Iron Mountain Mines, Inc.

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May 5, 2006

Honorable David F. Levi, U.S. District Judge
U.S. District Court for the Eastern District of California
501 I Street, Suite 4-200
Sacramento, CA 95814

Re: *United States of America v. Iron Mountain Mines, Inc. and T.W. Arman*
United States District Court, Eastern District of California,
Nos. S-91-0768 DFL/JFM and S-91-1167 DFL/JFM

Dear Judge Levi:

This communication is a good-faith effort to bring to your attention some considerations that apparently have been obscured in the proceedings thus far in this case. This is not an official court document, which is why I have not formatted it as such. It is more in the form of a "friend-of-the-court brief," except, of course, that I am a defendant. Perhaps it is best characterized as a personal appeal for justice.

I continue to deny that I owe any cost-recovery money for the EPA's Superfund project at Iron Mountain Mines. It is clear from CERCLA and from EPA policy that all of the past owners and their successors are potentially fully responsible parties for all environmental costs at this site, and that, due to circumstances, Iron Mountain Mines, Inc. (IMMI) and T.W. Arman, in effect, currently are not actually responsible parties.

This is clearly demonstrated, and is a conclusion demanded, by the two documents of which copies are attached to this letter: the February 4, 1977 inter-office memo to Stauffer Chemical Company's geology department staff from Tom Kent, their real estate director, and the letter to Stauffer Chemical Company, date-stamped 20 Sep 1989, from Jeff Zelikson of the EPA, at that time the Director of the Hazardous Waste Management Division for Region IX. Heretofore, these crucial documents, and their critical importance in this case, have been brushed aside by all the attorneys involved—the governments' (Federal and State) and IMMI's. So they perhaps have never even come to your attention.

The Zelikson letter confirms IMMI's inability to finance the remedial cleanup, and it definitively assigns this responsibility to Stauffer, with whose successors it still lies, in that the circumstances which led to the letter have not changed. How could it be any clearer than this that IMMI will have no financial responsibility in the matter unless and until it has the means to pay (which it still does not), and even then, only if IMMI is actually liable.

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This brings the February 4, 1977 Kent memo into focus. It strongly supports the "innocent landowner" defense, in that it is absolute proof of Stauffer Chemical Company's conspiratorial and successful plot to conceal from me the environmental problems of their property prior to and even after my purchase of it in October of 1976. It clearly states, with emphasis, that the Stauffer staff all had agreed, "...nor would you give up any correspondence, reports, etc, relating to environmental issues at Iron Mountain."

I am extremely frustrated by the fact that, despite this "smoking gun", the EPA was nevertheless awarded a partial summary judgment, denying the innocent landowner defense and two others, primarily on the basis of the perjured testimony of Jim Pedri, head of the California Regional Water Board Office in Redding, given in deposition, that he warned me of the environmental problems, when in actuality he did no such thing.

Pedri's testimony, the falsity of it, and the historical context in which it occurred is discussed in detail as follows:

The Stauffer Chemical Company failed to disclose all of the facts concerning the environmental and pollution problem at the Iron Mountain Mine site to the prospective new owner, Ted Arman, of Iron Mountain Mines, Inc., prior to the execution of the purchase agreement for the land. There were eleven months of negotiations and due diligence prior to the agreement, and yet in all this time Stauffer would not reveal any of the problems or let IMMI and its consultants look in their geological and real estate files. Their intent was to deceive the buyer about their pollution problem so that the purchase agreement would be signed by October 22, 1976.

All of the information concerning the past history of the environmental concerns was withheld, and the failure to supply it should be considered fraud. A lawsuit will be brought against all parties who knew about this deceit and the withholding of pollution information from IMMI prior to the signing of the purchase agreement and who did not advise Ted Arman and IMMI that buying this property from Stauffer could cost millions of dollars in the near future, as has currently developed. No one, including the State Water Board, would disclose this financial problem to the prospective new owners. They all kept quiet, knowing that this transaction between Stauffer and IMMI could be fraudulent.

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Even after buying Iron Mountain Mines on October 21, 1976 the only geological information I received from Stauffer pertained to the approximately one million tons of pyrite ore exposed in the open pit at Brick Flat, where the EPA is now dumping lime sludge and burying more than \$100,000,000 worth of mineable mineral products so that IMMI cannot get at them to mine them. The existence and whereabouts of the remainder of the fourteen million tons of massive sulfide ore now known to be present was not disclosed or explained during the eleven months of due diligence and investigation by our mining and engineering consultant, who knew Stauffer quite well.

Because of my interest in the property, I visited Stauffer Chemical Company's Geology Department in Richmond, California in 1977 and spent two days there looking over all their mining records to see where any mineable ore might be other than the one million tons already disclosed by Stauffer. The attached February 4, 1977 inter-office memorandum to various Geology Department personnel from Tom Kent, Stauffer's Real Estate Director, was intended to ensure that they would not disclose to me any information concerning any environmental problems, a cover-up and deceit that continues to this day.

Twenty-five years later, as the EPA and the State persisted in their fraudulent and spurious cost-recovery claim litigation against T.W.Arman and Iron Mountain Mines, Inc., in Federal Court action the Court objected to IMMI's "innocent land owner" defense because the Court believed Jim Pedri, of the Water Board, who falsely claimed in Court testimony that he told Ted Arman of the pollution but never mentioned that it was going to cost millions to fix it. None of this was disclosed during the eleven months of due diligence.

This perjured testimony was repeated in Pedri's interview by the Los Angeles Times, published March 10, 2005, and reported as follows:

"But, in a Court declaration, a state official said Arman was warned about pollution problems. 'I told him whoever buys the mine will be responsible for cleaning the pollution,' Jim Pedri, head of the Regional Water Board Office here said in an interview. 'He said, 'I will fix the whole problem, trust me.'""

These two statements made by Jim Pedri to the L.A. Times are direct, flat-out lies. The only concern Pedri expressed at the one brief meeting I had with him was, "Are you going to operate the copper precipitation plant on Boulder Creek?" Since this small copper plant was already there and being operated by Stauffer Chemical Company, and was being offered to IMMI (including two operating employees and a supply of the scrap iron needed to make it work) as an

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inducement for IMMI to buy the property from Stauffer, in that the sale of the output would supposedly make the property payments, I naturally said IMMI would continue to operate it. Operating this small plant was intended to reduce the amount of copper in the naturally flowing mine water taken directly from the Richmond mine and directed to this small plant by stainless steel open flumes over a distance of about three miles. This was Pedri's only concern, and nothing else.

And his further statement that I said I would fix the whole problem is a preposterous total fabrication. I never said any such thing, and would have had no occasion to do so in this very limited discussion. Later, after I had purchased the property, he raised many issues. But before I signed the purchase agreement he did not want to discourage this sale, since Stauffer Chemical Company's management had already made up their minds to sell this property to avoid any further ownership, because of their environmental problems with the State—of which IMMI was not told by Stauffer or the Water Board.

In light of the foregoing, I have asked my attorney, "What I want to know is: With you representing me, why was the EPA allowed to get that summary judgment so easily, apparently even drafting the order themselves for Judge Levi's approval? Why wasn't this Kent memo stressed, and why wasn't Pedri's deposition challenged? Why wasn't he put on the stand and cross-examined, and why wasn't I called as a witness to refute his fabrications with my own first-person testimony?" My attorney has not yet responded.

In view of these deficiencies in the Court proceedings, it is my good faith belief that the matter of the innocent land-owner defense should be revisited, the Court's decision reversed, and the EPA's partial summary judgment overturned.

Moreover, especially in view of the Jelikson letter, and in view of the Court's December 8, 2000 Consent Decree, which settles the matter with respect to all parties, including third parties, and in which I was promised by federal attorneys that I was included, and in consideration of this I was therefore induced to drop my \$10 million cross-complaint against another party and to concur in the settlement, and which provides via the AIG Insurance Company funding mechanism for the EPA's and the State's recovery of all costs, past, present, and future, it is my good faith belief that the governments should be denied an unethical and morally indefensible, if not illegal, double recovery of their costs, and that the governments' entire case against Iron Mountain Mines, Inc. and T.W. Arman should be summarily dismissed forthwith.

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Thank you very much, Your Honor, for your very kind consideration of some of my concerns about this case.

Sincerely,



T. W. Arman,
President, CEO, and Chairman of the Board
Iron Mountain Mines, Inc.
Essential Solutions, Inc.

Attachments:

Stauffer memo by Tom Kent
EPA letter to Stauffer by Jeff Zelikson

Cc: Honorable John F. Moulds, Magistrate, U.S. District Court
Honorable J. Lawrence Irving, Magistrate, U.S. District Court
Honorable Wally Herger, United States Congressman
Barry Breen, Deputy Asst. Admin., Ofc. of Solid Waste Emergency Response
United States Environmental Protection Agency
Ms. Elizabeth Adams, Chief, Site Cleanup Branch, Superfund Division
United States Environmental Protection Agency, Region IX
Jerry D. Hall, Esq., IMMI Corporate Attorney
William A. Logan, Jr., Esq.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

Stauffer Chemical Co., a Division of Rhone-Polenc, Inc.
c/o Prentice Hall Corp. Systems, Inc.
229 South State St.
Dover, DE 19001

20 SEP 1989

RE: Iron Mountain Mine
Determination under Paragraph V of Order no. 89-18

Dear Sir or Madam:

This notice is being sent to all Respondents to the above-referenced order pursuant to Paragraph V of that Order. John Varnum, counsel for T. W. Arman and Iron Mountain Mines, Inc. (IMMI), informed the Environmental Protection Agency on August 10, 1989, that neither Mr. Arman nor IMMI have the financial resources to undertake the tasks required by the Order. Accordingly, the Environmental Protection Agency ("EPA") has determined that Mr. Arman and IMMI are unable to comply with the Order in a timely fashion. Under Paragraph V of the Order, Stauffer Chemical Co., a Division of Rhone-Poulenc, Inc., ("Stauffer") is now also required to comply with the activities required by this Order. On September 7, 1990, ICI Americas, Inc. ("ICI"), acting for Stauffer, informed EPA of its intent to comply with this Order.

This notice does not excuse either Mr. Arman or IMMI from any responsibilities under the order. EPA expects that Mr. Arman and IMMI will continue to cooperate with Stauffer, and their representatives, ICI, in their efforts under the Order.

If you have any questions regarding this determination, please contact Rick Sugarek of my staff at (415) 974-9312, or have your attorney contact Michael Hingerty of the Office of Regional Counsel at (415) 974-9671.

Sincerely,

Jeff Zelikson
Director
Hazardous Waste Management Division

cc: T. W. Arman
John Varnum, Esq.
Patrick Finley, Esq.
Samual Malovrh, Esq.
RWQCB - J. Pedri
DHS - J. Astheng
Fish and Game - Harry Rectenwald
Mike Smith



INTER-OFFICE CORRESPONDENCE

San Francisco

TO (LOCATION) Richmond FROM T. J. Kent February 4, 1977

ATTENTION L. E. Mernick SUBJECT Iron Mountain -- Geology Data

COPY TO
 R. P. Bond
 E. L. Conant
 H. O. Thomas
 F. S. Weiss
 J. V. Wiseman

Earlier this week, you were contacted by an Iron Mountain Mines representative to see if he could visit you today and obtain the remaining geological data in your office about Iron Mountain. As we discussed and agreed yesterday by phone, you will turn over all pertinent material to IMM -- both originals and primary copies -- without attempting to tabulate what's passed on.

However, we agreed that you would not provide IMM with any geological or technical information not pertinent to the 1900 acres sold last year to IMM nor would you give up any correspondence, reports, etc. relating to environmental issues at Iron Mountain.

Transmittal of data in this fashion is in accord with the Agreement for Sale and Purchase of Property which we executed jointly with IMM on October 22, 1976. Safeguarding of all the data passed on to IMM must be its responsibility henceforth.

TJK
T. J. Kent

TJK/ph

RECEIVED

FEB 7 1977

STAMPER - PLEASE USE
CORRECTLY DATE.

SAFEGUARD COMPANY INFORMATION

FORM 6001-000004

OOP_0948