

11/12/72

Dear Mr. Clapp,

My wife and I have discussed the government's offer communicated in your letter of the 8th. It does not interest us. Not as a basis of settlement. It interests me in another way, for their earlier and supposedly last offer was less than a third of the \$5,000 offer.

We also appreciate the time you took to discuss this with Mr. Baron. As you know, he impressed me very much. I do not agree with his assessment of the prospects of recovery for damage done to the chickens we actually had on the place and their productivity. There may be some minor quibbling about the computations, but they are reasonable, they are lower than the production rate we did achieve prior to these disturbances, they are lower than the rate of production achieved by the same stock under competitive conditions, which is not as good as our undisturbed environment, I do have these records also, and I do believe they substantiate the reasonableness of my computations. There can be no doubt at all that with the onset of these trespasses our income was cut by more than the amount it had been before expansion, and our books do show this expansion and its dates. The very income-tax returns used against us in the trial support this I think without possibility of refutation. Our lawyer simply had not looked into "proof of loss" prior to trial. We have those returns and they were in evidence.

You are correct about the strain of the trial. However, we regard that as the lesser evil and much less than "a bird in hand". It hardly covers our costs in attempting to litigate. I believe there would be a more serious emotional consequence if we were to accept an unacceptable offer just to avoid the stresses of the trial.

David told me quite bluntly when he was here that there would be no offer we would accept, and this was after he had gone over the records Peter Taft had filed. If the government will ever make a reasonable offer, I don't think it will be before we are ready for trial. They and Davis do know that our income was cut as stated above. We did discuss it. He was so without doubt he didn't even want to see our books to learn if what I told him was true. "He didn't have to." The Army buzzed us to take pictures! So, they have pictures showing the expansion. I think it is one thing for which we should ask, including the elevation from which these pictures were taken, for that was under the 800 feet of the decision.

I have found and spoken to Walter Morse. His recollection is precisely as I represented to you. He has written to his successor to see if the files he left can be made available to me now. His letter says there is nothing in them to which we are not entitled or that the government can or should hold secret. His decent attitude is unchanged and if the desires and agreements of the Department of Defense have any meaning in the case, his recollection of all of that is sharp. He recalls the DOD inability to control the Army pilots, something the judge made a crack about in the first case, about "joy riding" when there was nothing about it in evidence.

I have heard from Mrs. Maxwell, whose EPA testimony I sent you. She has added to it details of emotional consequences that also coincide with our experiences. This includes two medical evaluations that there is "a severe psychoneurosis related to noise factors", falls for no apparent reason as with my wife, etc.

I will be in Washington this coming week and will continue efforts to obtain expert witnesses. Some are leading to referrals to others and to at least spiritual support, as from The National Society for Medical Research, "I sincerely hope you are successful in your pursuit, as I personally feel noise represents a very serious problem for our society." All the ecology groups I have approached are interested, whether or not they can do anything. Through them I located Mrs. Maxwell's testimony.

Sincerely,

Harold Weisberg