36 Record Freezes/Litigation Holds
(13 June 2013)

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United States v. Kellogg, Brown & Root Services, Inc.
Proponent- U.S. Army Legal Services Agency, 901 N. Stuart St., Arlington, VA. 22203-1837
15 **Reference:**
SUBJECT: Preservation of Documents or Information Related to United States v. Kellogg, Brown & Root Services, Inc., Civ.A.No.1:1 0-cv-00530 (D.D.C.), Updated Request for Preservation of Documents - Litigation Hold Order
Effective date: 13 Feb 2009
Freeze code: KBR
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3. RG 159 Office of the Inspector General (Army)
4. RG 175 Chemical Warfare Service
5. RG 179 War Production Board
6. RG 190 Bureau of War Risk Litigation
7. RG 203 Office of the Chief of Finance (Anny)
8. RG 225 Joint Army and Navy Boards and Committees
9. RG 246 Office of Contract Settlement
10. RG 270 War Assets Administration
11. RG 338 Army Operational, Tactical, and Support Organizations (WWII and thereafter)
12. RG 372 Defense Contract Audit Agency
13. RG 544 U.S. Army Materiel Command

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24 **Distribution:** This Record Freeze applies to those Army commands, installations and offices that are likely to have potentially responsive information regarding the Frontier Chemical Royal Avenue Site, Niagara Falls, New York (the "Site"). I have listed below those Army installations that are likely to have potentially responsive information.
Fort AP Hill (Army and DLA DS) Fort Bliss (Army and DLA DS) Fort Bragg (DLA DS)
Fort Belvoir (DLA DS) Fort Dix Army, Fort Drum (Army and DLA DS), Fort Devens (DLA DS), Fort Eustis (DLA DS), Iowa Army Ammunition Plant (DLA DS).
Letterkenny Army Depot (DLA DS) Rock Island Arsenal (DLA DS) Seneca Army Depot (Army), Tobyhanna Army Depot (Army and DLA DS) Watervliet Arsenal (Army and DLA DS), West Point Military Academy (Army), Army National Guard Facilities Niagara Falls (Army) Lockport Armory (Army) NYS Armory Batavia (Army) AASF #4 Rochester (Army), Vermont Army Guard Camp Johnson Vermont (Army) Camp Edwards (DLA DS)
Army at Westfield Massachusetts (DLA DS), Pittsfield National Guard Armory (DLA DS
AASF #2 MAARNG Building, 7400 Westover AFB Massachusetts (DLA DS) Phelps Collins ANG Alpena Michigan (DLA DS), Selfridge ANG Michigan (DLA DS) USPFO Lansing Michigan (DLA DS), Camp Grayling ANG Michigan (DLA DS), US Army Reserve Center Grenier Field (DLA DS)

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LWD, Inc. Superfund Site
Proponent – U.S. Army Environmental Law Division, 9275 Gunston Rd, Fort Belvoir, VA 22060-5546

27 **Reference Message** – Memorandum, USALSA, subject: Preservation of Records for the LWD, Inc. Superfund Site, 13 August 2012
Effective date – 13 August 2012
Record Freeze Code –LWD

The Site is located at 2475 Industrial Boulevard in Calvert, City, Marshall County, Kentucky. The EPA Site ID Number for this Site is KYD088438817. From the 1950's until 2004, the Site served as a landfill and hazardous waste incinerator facility. From 1980 through January 2003, the Site was operated by LWD, Inc. and other LWD related entities. After January 2003, multiple parties operated the Site including, but not limited to, General Environmental Services, LLC, K & B Capital, LLC, Bluegrass Incineration Service, Robert Kattula and Glen O'Connell. The Site closed in November 2004. The current owner of the Site is Bluegrass Incineration Services, LLC.

In February 2007, a group of potentially responsible parties ("PRPs", known as the "LWD PRP Group") signed an Administrative Order on Consent to conduct additional time-critical removal actions. To date, approximately 1.6 million tons of waste has been removed from the Site and over 1.3 million gallons of waste water has been treated onsite. In 2008, EPA issued a notice letter to the Army alleging that it is a PRP at the Site. A Department of Justice ("DoJ") counsel has been assigned to represent Army in this matter.

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This litigation hold is a patent infringement law suit involving several patents issued to Nartron Corporation and owned now by Uusi LLC. The patents at issue are: US 5,287,831; US 5,327,870; US 5,729,456; US 6,009,369 and US 6,148,258. The patents generally cover vehicle starting systems or components thereof which are used for diesel engines. The complaint of the lawsuit alleges that the Electrical Engine Start System (EESS) and the Safe Start System (SSS) or components of these systems were purchased by the Army and used in High Mobility Multipurpose Wheeled Vehicles (HMMWVs). The complaint alleges that the EESS and SSS or components thereof infringe upon one or more of the patents in suit.

This freeze was sent by USALSA - Patent Division to: U.S. Army Materiel Command (AMC) Legal Office via AMC Chief IP Counsel and the U.S. Army Tank and Automotive Command (TACOM) Legal Office. RMDA forwarded this lit hold to the Records Administrator for dissemination on 2 Nov 12.

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Reference Message – Memorandum, USALSA, subject**: Preservation of Records for the case of Hellert et.al.v. United States, Case No. 05-CV-0178E (SR)**
Effective date – 12 April 2012
Record Freeze Code –HLT

The Department of Justice has requested that the Army initiate this moratorium on records destruction as an effort to ensure documents related to the Hellert litigation are preserved.

32 Hellert et. al. seek to recover $4,333,952 under the Federal Tort Claims Act, 28 USC § 2671 et seq., for damages attributed to alleged contamination caused by the Army Nike Missile Battery Base, BU 51-52, located in Hamburg, New York [hereinafter known as the "Site."] The Army operated a Nike Missile facility in 2 E. Heltz Road, Hamburg, NY, from 1956 to 1965. The facility housed a double-site launcher and Integrated Fire Control Area for Nike-Ajax Missiles. Later the land was used by the state highway department and is currently covered by a bike track, a Hamburg Town Park, and Bulk Storage. New buildings have been erected on the site.

Plaintiffs allege that the Army allowed hazardous materials to leave the facility and be discharged to the surrounding neighborhood, including the property of the plaintiffs. Plaintiffs allege that the Army used and stored hazardous materials at the Nike Base, including acetone, 2-butanone, ethyl benzene, m,p,-xylene, a-xylene, arsenic, beryllium, cadmium, chromium, lead, nickel, zinc, bis(2)-ethylhexyl, petroleum hydrocarbons, toluene and benezene; chrysene, assorted PAHs, chloroform, and hydrazine. Plaintiffs Donald Hellert, Joann Hellert and Benjamin Hellert resided at property located at 2702 Lakeview Road, Hamburg, New York. Plaintiffs Robert Martin, Carrie Martin, Alexis Martin, Amber Martin and Ashley Martin resided at property located at 2716 Lakeview Road, Hamburg, New York.

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RECORDS FREEZE REQUEST FOR Preservation of Records for the cases of Whittaker Corporation ("Whittaker") v.United States, United States District Court for the Central District of California, Civ. Case No. 13-01741 FMO (JCX) and Chubb Custom Insurance Company ("Chubb") v. United States, Case No. CV-11-5594 OW (MRWX)

Proponent - U.S. Army Legal Services Agency, JALS-EL, 9275 Gunston Road, Ft. Belvoir, VA 22060

35 **Reference Message** – Memorandum, USALSA, subject: Preservation of Records for the cases of Whittaker Corporation ("Whittaker") v.United States, United States District Court for the Central District of California, Civ. Case No. 13-01741 FMO (JCX) and Chubb Custom Insurance 35Company ("Chubb") v. United States, Case No. CV-11-5594 OW (MRWX)

Effective date – 8 May 2013

Record Freeze Code –WTK

Whittaker Corporation's insurer, Chubb, sued the United States, as Whittaker's subrogee, on 7 July 2011. In *Chubb v. United States*, the Army issued a litigation hold on 22 September 2011. To meet the litigation hold requirements for the Whittaker case, you must simply maintain the moratorium on records destruction for all records related to the case of *Chubb v. United States.* Please refer to the litigation hold guidance of the Chubb case at enclosure 2. If you have received any new documents since your last search, please review those documents for relevant material. Both cases concern alleged hazardous waste contamination at the Whittaker-Hermite Site in Santa Clarita, California.

Armywide freeze.

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