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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-176872

December 14, 1973

Mrs. Kay Marten
1550 North Yoinsettia Place
Los Angeles, California 90046

Dear Mrs. Marten:

After receiving your letter of September 6, 1973, with enclosures, requesting, in effect, a reconsideration of our prior [disallowances of your claim for debris removal expenses] incurred by you as a result of floods of January and February 1969, we wrote to the Secretary of Housing and Urban Development requesting that he review your correspondence to determine if he felt there was any basis to increase the amount of the allowances of your claim.

We might point out that recently the responsibilities of the Director, Office of Emergency Preparedness (OEP) have been transferred to the Secretary and that the functions of OEP are now handled by the Federal Disaster Assistance Administration (FDAA) within the Department of Housing and Urban Development.

In a letter to us dated October 16, 1973, the Administrator of FDAA stated that he has been unable to find any basis for disputing the OLI engineer's report which calculated the dimensions of the area eligible for debris clearance under existing OEP criteria. Further, he stated that the FDAA concurred with the original OEP finding that the removal, much of it by hand, of debris and silt from around trees, shrubbery and hedges was not necessary to maintain the public health and safety. Accordingly, he felt that he could not find any grounds for reversing, in whole or in part, the actions taken by the OEP Director.

Most of the amount disallowed by OEP (now FDAA) concerns findings of fact, such as the depth of the debris and the amount of area cleared. This Office is not equipped, especially four years after the floods, to make an independent determination as to the correctness of the factual allegations asserted by you and by the agency. Therefore, following the long-standing and consistently applied policy of the accounting officers of the Government in cases of disputed facts between an agency of the Government and claimants, we must accept the agency's determinations.

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Accordingly, for this and the other reasons discussed in our letter of May 1, 1973, B-176872, to Senator John V. Tunney, a copy of which he furnished to you, we must once again affirm the disallowance by our Transportation and Claims Division of your claim against the United States.

Thus, while we appreciate the financial hardship that this position may place upon you, we can find no grounds which would allow us to reverse the determinations which have been made by the agency involved.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States