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DEPUTY SECRETARY

August 23, 1996

Mr. Jim Harris
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201-4693

Dear Jim:

NMED received your letter of August 15, 1996 by regular mail on August 20, 1996. In your letter of August 19, 1996 you state you sent a fax to me at (505) 827-2638. You also asked me to let you know if there are problems with the fax number you used. The fax number you used does not belong to NMED. My fax is (505) 827-1628; the Secretary's fax is (505) 827-2836 not 827-2638. You need to make the necessary correction for your future reference.

We will attempt to respond to your letters of August 15, and 19, 1996. We are concerned with your characterization of what Governor Johnson told Dick Mico. We believe Governor Johnson's response was to advise Mr. Mico that we are working together and that Sparton needed to work with NMED and follow its guidance. This should not be taken to mean that we were close to resolution on all matters or proposals submitted by Sparton. To date, the only aspect of any of Sparton's proposals that have shown movement is in the area of a soil-vapor extraction (SVE) proposal. Although NMED has found Sparton's proposal inadequate, NMED remains hopeful Sparton will submit an acceptable SVE proposal in the very near future. In my letter of August 16, 1996, I informed you that Mr. Chandler's proposal of August 12, 1996 was not acceptable. Rob Pine has been out of the office and is recovering from surgery. As soon as Rob returns NMED will provide the specific deficiencies of Mr. Chandler's proposal of August 12, 1996 under separate cover. We anticipate mailing this letter to you next week.

NMED believes that EPA and the Department of Justice (DOJ) should be present at all our negotiations and concur with our technical opinions. Since August 27, is not a convenient time for EPA or DOJ to travel to Santa Fe, I suggest we proceed to set another date to have settlement discussions to determine if we can reach consensus on the SVE issue after we get back to you with the specific deficiencies of Mr. Chandler's August 12, 1996 proposal next week.

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NMED will coordinate with the other interested parties to be present when Sparton and NMED meet after you provide NMED with some alternative dates for your client's availability to come to Santa Fe. I suggest we meet within the next two weeks.

If, however, NMED and EPA have an opportunity to review Mr. Chandler's 27 pages of calculations and justifications by the time we meet, we can discuss the containment issue at our proposed meeting. As previously stated, it is pointless for us to discuss the containment issue until we review Mr. Chandler's calculations and justifications for the capture zone he projected in his proposal of July 10, 1996. As I write this letter my secretary informs me that a 27 page document is being received through our fax machine from Mr. Chandler. Given the length of Mr. Chandler's calculations and justifications, it will obviously take some time for NMED and EPA to review them.

Although Mr. Appel wants NMED to sign off on both an SVE and containment proposal, it will behoove Sparton to propose and implement an acceptable SVE system, even if, the containment issue or other issues are not resolved at our proposed meeting. As you are well aware, Sparton did represent that if the vapor levels were in excess of 10ppmV it would implement an SVE system NMED could approve.

In one of your letters you also express Sparton's frustration with the SVE target "that NMED keeps moving." As I mentioned over the telephone, NMED is likewise very frustrated with Sparton; every time NMED has asked Sparton to specifically do something, Sparton proposes something contrary to our suggestions, deficient and less than what can be approved.

Please call me regarding any clarifications you may need with respect to NMED's position. I believe it will be more fruitful to discuss any misunderstandings you may have after reading this letter rather than firing off a letter informing me that you do not understand or are puzzled by what NMED's position is. If Sparton is truly serious about constructing a viable SVE system; we hope it

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will demonstrate this desire by working with NMED rather than exchanging berating comments that serve no beneficial purpose.

Sincerely,



Ana Marie Ortiz
Assistant General Counsel

cc: Mark E. Weidler, Secretary
Ed Kelley, Director
Rob Pine, NMED
Dennis McQuillan, NMED
Evan Pearson, EPA
Gary O'Dea, City of Albuquerque
Charlie de Saillan, ONRT
David Fishel, DOJ
David Hokenbrocht