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February 6, 1997

Mr. James B. Harris
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**RE: New Mexico Environment Department's ("NMED") Response to
January 17, 1997 letter**

Dear Jim:

This letter is in response to your letter of January 17, 1997 and in part to your letter of January 28, 1997. I will first address the issues in your January 17, 1996 letter and then provide some comment on your recent letter of January 28, 1996 to David Fischel.

Aquifer Testing/Extraction Demonstration/Additions
to Monitoring Network

I) As a condition of approval of the proposal, NMED required that over the course of the long-term pumping test, Sparton, in conjunction with NMED, determine if a higher pumping rate is necessary in order to confidently demonstrate capture. NMED remains firm in this requirement. Should an apparent steady state be reached early on in the test at the given pumping rate without an adequate demonstration of capture, it will be important to increase the pumping rate, therefore this option must remain open.

NMED also required that Sparton size the pump in the extraction well for the long-term pumping test to pump at a rate greater than 200 gallons per minute. In your letter of January 17, 1997 Sparton proposes to drill a 6 inch well and install a 5 inch pump with an upper pumping limit of 250 gpm (though pumps are available for a 6 inch well that can pump up to 350 gpm). As discussed in our January 3, 1997 letter and to further clarify our position, NMED believes the pumping test should not be constrained by pumping limitations. If the limit of the pump is 250 gpm and this rate is insufficient to demonstrate plume capture, the primary goal of the pumping test will not be achieved. Whatever may be the pumping limitation of a 6 inch well, Sparton needs to realize that this

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rate may be inadequate to demonstrate capture. Given this highly possible scenario, NMED requires Sparton to do one of the following: i) install a 10 inch well instead of a 6 inch well; or ii) submit a contingency plan covering the possibility that the 6 inch well is not capable of capturing the plume. This contingency plan is subject to NMED's approval and shall not be "subject to the limits" of a 6 inch well as stated in your letter of January 17, 1997. The contingency plan could include the installation of a higher capacity pump.

II) NMED will not approve of Sparton's modification to NMED's condition No. 2 as set forth in our January 3, 1997 letter as well as in our original proposal of October 17, 1996. NMED has been consistent in its requirement that, at a minimum, a well cluster and piezometer would be installed northwest of the MW-60/MW-61 cluster. The cluster would have two (2) or more wells.

In your letter you quote NMED's letter of October 17, 1996 which refers to a "nested monitor well and piezometer" to suggest that the requirements in NMED's January 3, 1997 letter are not consistent with past requirements. NMED's October 17, 1996 letter goes on to state that "the monitor well shall be drilled through the base of the plume with multiple completions as appropriate to define the vertical extent of the plume." This portion of the letter you completely disregard. Not only are these two letters consistent, but they are both consistent with what was agreed upon at the September meeting in Santa Fe. NMED finds it difficult to understand why Sparton is apparently balking at something it had previously agreed to.

III) With respect to Sparton's insistence on delaying the aquifer pumping tests until Sparton has all necessary permits to dispose of recovered ground water from plume containment, NMED cannot agree. NMED's January 3, 1997 letter was very clear in its condition that "Sparton shall submit their written pumping test report no later than 180 days from the date Sparton receives this letter." Additionally, NMED's letters have consistently required Sparton to proceed immediately with the pumping test (See NMED's letters of November 18, 1996, December 2, 1996, and October 17, 1996). In essence, Sparton is refusing to contain the plume unless it is able to dispose of treated water in the arroyo, thus calling into question its commitment to contain the contamination it has created.

With respect to your item No. 6, although Sparton may be aware of three injection wells that have problems, the majority of injection wells that NMED is familiar with have operated without problems. Therefore, Sparton's projection of O & M costs is, in all likelihood, significantly overestimated. Furthermore, it should not

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cost \$500,000 to install an injection well of the kind Sparton would need. NMED remains very disappointed in Sparton's excuses for not considering reinjection and this position only suggests that Sparton's commitment to containing the plume is tenuous.

IV) In Sparton's response to NMED's letter of January 3, 1997, Sparton seems to disagree to monitor the more distant monitor wells more frequently. In fact, Sparton now seems to be indicating that only after the data in the closer wells suggest that the more distant wells may be impacted will monitoring in these wells begin. Your letter not only completely fails to address Condition No. 5 of our January 3, 1997 letter, but rather, is now proposing something different altogether and unacceptable to NMED. NMED clearly stated in its January 3, 1997 letter that monitoring once per day in the distant wells may not make it possible to distinguish background fluctuations from small drawn-downs due to the pumping test. Therefore, NMED insists that monitoring in the more distant wells commence along with the monitoring of the closer wells and that, at first, the monitoring be more frequent than originally proposed by Sparton in its December 6, 1996 proposal.

Expansion of Interim Measures (IM)

Sparton refuses to consider reinjection for the disposal of treated water from an enhanced on-site interim pump-and-treat system. For the disposal of only 20 gpm, reinjection can be accomplished relatively inexpensively and, as discussed above, reliably. NMED encourages Sparton to reconsider this option for the enhanced interim measure.

NMED stands firm on all its conditions of approval for Sparton's proposals as described in our letter of January 3, 1997. We are disappointed that Sparton refuses to proceed with the necessary and required corrective action.

Response to Letter of January 28, 1997

NMED was in no way represented at any settlement discussions that you may have had with David Fishel of the Department of Justice ("DOJ"). I spoke with David Fishel after reading your letter and he indicated that he never spoke for NMED nor represented our position. Why you wrote in terms of what NMED expressed and felt, when NMED was not a party to any settlement discussions with Sparton and DOJ, is perplexing to us. Any statement in your letter describing the opinion, intention or position of NMED is not considered accurate by NMED.

With respect to one point in your letter, NMED will provide

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additional comment. In your letter you indicated that Sparton will submit applications for a discharge permit and an NPDES permit for a discharge of 270 gpm. NMED considers this discharge rate to be too low. It may very well save Sparton time and money in the long run to submit an application, or amend any application, for a higher discharge rate up-front, rather than having to modify any permit later on. By applying for a higher discharge rate initially, Sparton is not necessarily committing to actually discharging at the higher rate, but allowing for that possible contingency.

Very truly yours,



ANA MARIE ORTIZ
Assistant General Counsel

cc: Mark Weidler, Secretary
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