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FROM: Michael T. Donnellan (202) 514-4226
DATE: August 6, 1998
NUMBER OF PAGES (including cover sheet): 7
SUBJECT: Albuquerque v. Sparton Technology, Inc., No CIV 97 0206 (D.N.M.)

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MESSAGE: 08/06/98 letter from Donnellan to Harris transmitting draft of 08/07/98 Joint Status Report



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6 August 1998

By telefax

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Re: Albuquerque v. Sparton Technology, Inc., No. CV-97-0206 (D.N.M.)

Dear Jim:

Attached please find a draft Status Report. As I informed you earlier, I will be out of the office on Friday. Please note that text in italics relates to issues on which we expect to learn Sparton's position tomorrow. Charlie DeSaillan is prepared to work with you on any last minute changes and to transmit the report to Judge DeGiacomo. Since Charlie must leave his office at 4 pm MDT, I ask that you call Charlie with any changes before lunchtime. For your convenience, Charlie's telephone number is 505/827-6939. I will check for voicemails over the course of Friday.

Sincerely,

A handwritten signature in cursive script that reads "Michael".

Michael T. Donnellan

c: counsel of record

August 7, 1998

By telefax

Honorable Robert J. DeGiacomo
United States Magistrate Judge
United States District Court for the District of New Mexico
500 Gold Avenue, SW
Albuquerque, New Mexico 87103
(505) 248-8061
FAX: (505) 248-8066

Re: Joint status report in Albuquerque v. Sparton Technology, Inc., No. CIV 97
0206 (D.N.M.)

Dear Judge DeGiacomo:

As agreed during the July 30, 1998 settlement conference, we submit this joint status report setting forth (1) the parties positions on the issues discussed during the settlement conference and (2) the planned schedule of activities during August. The parties current positions on the issues discussed on July 30 are set forth below:

Task IV: Soil Vapor Extraction System

- The most significant outstanding issue in this area is whether it is necessary to characterize the contamination in the lower portion of the vadose zone. The parties believe it may be possible to design a Soil Vapor Extraction ("SVE") system in such a way that characterization of the lower portion of the vadose zone is not required. The parties are exploring whether it is possible to reach agreement on such a design.

Task V: Groundwater Remedy

(1) Restoration Workplan

- *The parties are agreed that the goal of the cleanup is to reduce groundwater contamination either to the lower of the federal drinking water standards or the state water standards or to the lowest feasible level at all locations.*
- *The parties are agreed that the Restoration Workplan will address the restoration of the entire contaminant plume including the on and off-site areas.*
- *The parties are agreed that the Restoration Workplan will provide for an annual report which, among other items, will provide specific justification for any proposal by Sparton not to implement active restoration measures.*

(2) On-Site Containment System

- The Co-Plaintiffs are evaluating whether the current monitoring system is sufficient to determine whether the on-site containment system is adequate to address contamination in the area between monitoring well 32 and monitoring wells 42 and 43. Sparton continues to maintain that no additional monitoring wells are required on-site.

- Co-Plaintiffs have committed to provide written comments on Sparton's proposal to install a 50 gallon per minute on-site containment system. Plaintiffs are currently evaluating variations on Sparton's proposed design which may facilitate resolution of issues related to characterization of the on-site contaminant plume.

(3) Off-Site Containment System Evaluation Workplan

- The parties are agreed that the workplan will explicitly state that if additional extraction wells are required to achieve containment, Sparton will install such wells.
- The parties are agreed that the workplan will state that the contaminant plume will be defined by the outer bounds of the area where contaminant concentrations exceed the lower of the federal drinking water standards or the state water standards
- *Co-Plaintiffs maintain that the workplan should provide for an evaluation of whether additional monitoring wells are required to determine whether capture has been achieved. Sparton's position is....*
- *Co-Plaintiffs maintain that the workplan should provide that both hydraulic and chemical data will be considered in the evaluation of whether leading edge capture has been achieved. Sparton's position is*

Task I: Groundwater Monitoring Program Plan

- The parties are agreed the Groundwater Monitoring Program Plan will be finalized and followed by Sparton during the next quarterly sampling event. The schedule for August provides for the development of a final plan, and the parties anticipate that Sparton will send a letter to EPA on or before August 26, 1998 committing to implement that plan.

With regard to the settlement activities during August, a schedule setting forth tasks and deadlines is attached. If you have any questions regarding this status report, please feel free to contact the appropriate party.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA, as Plaintiff

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