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July 3, 2007

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Charles de Saillan
Assistant General Counsel
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502-6110

Re: Draft Order for Bloomfield Refinery

Dear Charlie:

I am writing to follow up on the June 28, 2007 meeting between the New Mexico Environment Department ("NMED") and Giant Industries Arizona, Inc. ("Giant"). Although you and I have discussed a number of issues involving the draft Order since that meeting, my specific purpose in this letter is to provide information requested by NMED at the meeting concerning the API Separator and the evaluation of human health and ecological risk.

I. DESCRIPTION OF API SEPARATOR

In our June 6, 2007 letter, Giant suggested revised language describing the API Separator at Paragraph 62 (currently pages 15 and 16) of the draft Order to clarify that the API Separator does not generate a hazardous waste. NMED has requested that Giant provide the regulatory and factual basis for Giant's suggested language.

Oil bearing sludge that accumulates at the bottom of the API Separator is not hazardous waste because it is not a solid waste, in accordance with 40 C.F.R. §261.4(a)(12). The material is generated at a petroleum refinery and is sent directly to another petroleum refinery, the Motiva Refinery in Norco, Louisiana where, according to Giant's understanding, the material is inserted into the petroleum refining process. Furthermore, the section 261.4(a)(12) exclusion from the definition of solid waste applies "unless the material is placed on the land, or speculatively accumulated before being so recycled." The material is not placed on

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Assistant General Counsel
New Mexico Environment Department
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the land, because it is transferred directly from the API Separator to tanker trucks by vacuum pumps. The material is not speculatively accumulated, because it is removed from the API Separator and shipped to the Motiva Refinery at least annually.

The processes used by this Norco refinery to recover values from these stypes of API separator materials is cited by EPA Headquarters on its website as a major waste minimization success story. EPA states the following about this process for making productive use of such API separator materials:

"Norco has a facility that processes oil-bearing secondary material using centrifuge and thermal desorption. This enables oil values to be recovered as feedstock to the refining process....

Dedicated facilities to manage oil-bearing secondary material have been an effective means to retain hydrocarbon values, assure product quality, and minimize waste at Norco. Motiva uses a contractor to provide an onsite facility for oil recovery operations. This Norco Oil Recovery Facility, or NORF, is integrated into the overall refining process. The process receives oily refinery sludges and separates out the water and oil and generates a thermally-desorbed residue. Water recovered from the sludge is sent to biotreatment and recovered oil is sent to the refinery as feed to catalytic cracking or coking operations. Recovered hydrocarbons are converted into refinery products rather than becoming disposed or incinerated."

See, "NPEP Success Story," available online at EPA Waste Minimization at <http://www.epa.gov/epaoswer/hazwaste/minimize/motiva.htm>

II. EVALUATION OF HUMAN HEALTH AND ECOLOGICAL RISK

At the June 28, 2007 meeting, the parties discussed the meaning of the first sentence of Section VI.B.1, requiring Giant to "evaluate human health and ecological risk." The parties recognized that such an "evaluation" does not necessarily involve a "risk assessment" and that clarifying language would be helpful. Giant proposes that the following sentence be added as a parenthetical statement after the first sentence of Section VI.B.1: "Such an 'evaluation' is not intended to require preparation of a risk assessment."

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III. CONCLUSION

In addition to resolving these specific topics discussed above, Giant is ready to continue discussions to resolve all other remaining issues.

Sincerely,


Edmund H. Kendrick

EHK/dho

Monzeglio, Hope, NMENV

From: De Saillan, Charles, NMENV
Sent: Tuesday, July 03, 2007 5:23 PM
To: Bearzi, James, NMENV; Cobrain, Dave, NMENV; Monzeglio, Hope, NMENV
Subject: FW: Draft Order for Bloomfield Refinery
Attachments: Letter to NMED 7-03-07.pdf

Attached is the latest letter from Ned Kendrick.

- Charlie

From: Edmund H. Kendrick [mailto:EKendrick@montand.com]
Sent: Tuesday, July 03, 2007 5:21 PM
To: De Saillan, Charles, NMENV
Subject: Draft Order for Bloomfield Refinery

Charlie,

Attached is a letter following up on two topics from our June 28 meeting.

Ned

<<Letter to NMED 7-03-07.pdf>>

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