



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502

OFFICE OF GENERAL COUNSEL

PHONE: 505-827-2990

FAX: 505-827-1628

MARK E. WEIDLER
SECRETARY

EDGAR T. THORNTON, III
DEPUTY SECRETARY

August 7, 1996

Jim Harris, Esq.
Thompson and Knight
1700 Pacific Avenue
Suite 3300
Dallas, Texas 74201-4699

Dear Jim:

This letter is in response to your letter of August 6, 1996 regarding your understanding of what was agreed during our telephone conversation of August 5, 1996. NMED is not in agreement with your characterization of our phone conversation. Your letter misrepresented NMED's understanding of the August 5, 1996 telephone conversation.

NMED's understanding of the telephone conference was to explain and further clarify to Sparton the need for a pilot test and the need to submit a proposal for an adequate pilot test. Among other reasons, as NMED stated, without a pilot test an adequate soil vapor extraction (SVE) system cannot be designed. Sparton has yet to submit an adequate pilot test proposal which will provide guidance for the construction of an adequate SVE system. NMED understood that Sparton was going to resubmit a proposal for a pilot test given its enlightened understanding of the need and purpose of a pilot test. NMED never agreed to the submission of a supplement to a proposal that was never considered adequate to begin with. NMED suggests that Sparton not submit a supplement to an inadequate proposal until our misunderstandings are clarified.

Your characterization and understanding, as stated in the fourth and fifth paragraphs of your letter, is inaccurate and misrepresents what NMED stated. Not only have you misrepresented what NMED stated but you have taken certain discussions out of context.

With respect to your last paragraph you again completely misstate what NMED said. Prior to discussing the containment issue or having Rob review any calculations, NMED stated that Pierce Chandler needed to submit his calculations and all justification

for the capture zone he is projecting. Mr. Chandler indicated he would provide that to NMED before NMED comments on the containment issue and before NMED discussed the issue with the other entities.

Finally, we mentioned that final approval for a pilot test and SVE system must first be discussed and coordinated with other entities, i.e. EPA and the City of Albuquerque, before final NMED approval can be given on such proposals.

Given the nature of how this matter is progressing all communications must be directed through our office of general counsel. Please instruct your clients to not contact my clients directly. Mark Weidler concurs with managing this matter in this manner.

If you need specific clarification on any point with respect to this letter please feel free to contact me.

Sincerely,



Ana Marie Ortiz,
Assistant General Counsel

cc: Mark E. Weidler, Secretary of Environment
Ed Kelley, Division Director
Rob Pine
Dennis McQuillan
Evan Pearson, EPA
Gary O'Dea, City of Albuquerque
David Fishel, DOJ