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April 3, 1997

## VIA FACSIMILE

David Fishel, Esq.  
U.S. Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
Washington, DC 20530

Re: Albuquerque Litigation

Dear Dave:

The purpose of my attempt to talk with you by telephone this morning was to discuss scheduling issues related to the Albuquerque Litigation.

As I am sure you will agree, the procedural setting of the various motions now pending in those actions is somewhat confused.

Your Motion for Preliminary Injunction was not received at the offices of Sparton's local counsel until approximately 5:00 p.m. on April 1, 1997. I did not see it until I arrived in their offices at approximately 9:30 a.m. on April 2, 1997. After reviewing that pleading, I continue to oppose your request to exceed the local rule limitation on exhibit pages. We hope to have a response to your motion on this subject very quickly. Obviously I need a determination on that issue in order to know exactly how to respond to your motion for preliminary injunction.

It also strikes me that decisions on the motion to consolidate and motion to stay, dismiss, or transfer need to be made in advance of any consideration of the motion for preliminary injunction.

Additionally, depending on the Court's ruling on your request to exceed page limitations for exhibits, I will probably want to take at least four depositions -- the Director of Public Works with the City of Albuquerque, Mr. Morrison, Sam Coleman, and Mark Weidler. I anticipate that each one of these depositions will take two days, and the information from those depositions will be needed in order to allow me to respond to your Motion for Preliminary Injunction, in the event that the Court allows it to be filed in its current form.

Finally, in order to complete a response to your motion, I am going to need some reasonable period of time in order to synthesize: (1) the information from the depositions (in



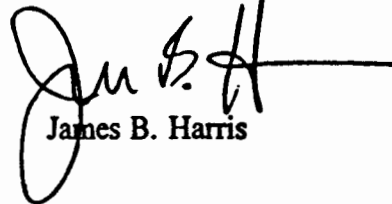
David Fishel, Esq.  
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the event that they are necessary); (2) input from Sparton's recently retained experts; and (3) analysis of the legal points you have raised. I do not think this work can be accomplished within the next fourteen (14) days, even if the Court grants your motion to exceed page limitations on exhibits.

Given all of these factors, it seems to me that the most reasonable approach is to request an immediate scheduling conference with Judge Conway, who is the chief judge of the New Mexico District, in order to agree upon the process by which the pending motions will be considered, as well a briefing and hearing schedule.

Please let me know, no later than early tomorrow morning, how you want to proceed.

Yours very truly,



James B. Harris

JBH/eshd

cc: Bruce Hall  
James Fitzgerald  
R. Jan Appel

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