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October 13, 1987

David Hird, Esquire  
Environmental Enforcement Section  
Land & Natural Resources Division  
U. S. Department of Justice  
10th & Pennsylvania, N.W.  
Washington, D.C. 20530

Re: United States and ADPC&E v. Hercules Incorporated and  
Vertac Chemical Corporation

Dear David:

This letter is a follow-up to the August 14, 1987, meeting held at EPA headquarters among EPA, ADPC&E, Hercules and IT Corporation regarding the Vertac off site areas.

As we expressed at that meeting, Hercules viewed the meeting as a negotiating session in accordance with the Consent Decree. EPA took the position that the purpose of the meeting was for EPA to receive additional comments from Hercules on the off site Remedial Investigation/Feasibility Study.

You also made it clear at that meeting that EPA intends to select an off site remedy and to issue a ROD in accordance with CERCLA/SARA.

Hercules strongly believes that the procedures set forth in the Consent Decree must be followed in the selection of any off site remedial action plan. In light of EPA's announced intention not to follow those procedures, however, Hercules must protect its interests by submitting materials for inclusion in the administrative record.

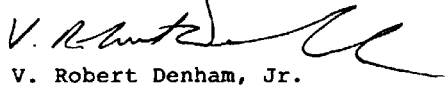
Accordingly, I enclose, for inclusion in the record, a summary of the August 14, 1987, meeting. Hercules intends to submit other materials for inclusion in the record at a later time.

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David Hird, Esq.  
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Hercules' submission of materials for inclusion in the record in no way reflects an abandonment of or change in Hercules's position that the Consent Decree applies to the selection of an off site remedy, and does not constitute any waiver of that position. The submission is with a full reservation of Hercules' rights.

Very truly yours,

  
V. Robert Denham, Jr.

VRD/cdd  
Enclosures

cc: Bruce D. Jones, Esq.  
Roxanne E. Jayne, Esq.  
Charles Schlumberger, Esq.

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SUMMARY OF MEETING CONCERNING OFF SITE REMEDIAL ACTION

VERTAC CHEMICAL CORPORATION SITE  
JACKSONVILLE, ARKANSAS

Environmental Protection Agency

Washington, D.C.

August 14, 1987

This is a summary, to be included in the administrative record, of a meeting held at United States Environmental Protection Agency ("EPA") Headquarters in Washington, D.C., on August 14, 1987. The meeting was among representatives of EPA, Arkansas Department of Pollution Control & Ecology ("ADPC&E"), IT Corporation ("IT"), Hercules Incorporated ("Hercules"), and CH2M Hill. A copy of the attendance sheet is attached to this summary.

The meeting was held to discuss off site matters relating to the Vertac Chemical Corporation site in Jacksonville, Arkansas.

David Hird, attorney for the United States Department of Justice, representing EPA, opened the meeting by announcing EPA's position that, since the Jacksonville site is a National Priorities List site, any off site remediation will be in accordance with the provisions of CERCLA. Mr. Hird said that EPA viewed the meeting as an opportunity for Hercules to make further comments on the off site Remedial Investigation/Feasibility Study. EPA, Mr. Hird said, did not view the meeting as a negotiation pursuant to the Consent Decree which has been entered

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in the litigation concerning the Vertac site. EPA disagrees with Hercules's position that the Consent Decree governs off site remediation, and that EPA must follow the provisions of the Consent Decree in seeking remedial action.

Mr. Hird said that EPA would move toward making a decision based upon a Record of Decision ("ROD"). No ROD is imminent or expected in the near future. EPA has not endorsed or accepted any particular off site remedy.

EPA's most immediate concern is to move on site remediation forward. Mr. Hird acknowledged that ADPC&E wishes to incinerate the drummed materials which are on site.

EPA also has concerns, Mr. Hird stated, about the manufacturing area of the Vertac plant.

In light of these priorities, EPA is not moving as quickly with respect to off site remediation as it is with respect to the drum disposal and closure of the drum storage and manufacturing areas. Mr. Hird estimated that the decision concerning off site remediation would be made between April and August, 1988.

Mr. Hird also stated that after the ROD is issued, Hercules will have an opportunity to negotiate a settlement under Section 122 of CERCLA and restated EPA's position that it would be inappropriate for Hercules to go to court until after any Section 122 report is issued.

Roxanne Jayne, on behalf of Hercules, stated Hercules's position that the meeting constituted the first negotiation under the Consent Decree. Ms. Jayne also reiterated Hercules's position that off site matters are covered by the Consent Decree.

Ms. Jayne stated that the reason that Hercules had requested the meeting was to elicit comments from EPA concerning Hercules's August, 1986, proposal for off site remediation, which was based on the Remedial Investigation for the site. Dr. J. P. Frawley, representing Hercules, stated that the meeting was to be part of continued negotiations based on comments submitted by Hercules in response to the Feasibility Study.

Mr. Hird responded that EPA would not comment on the Hercules plan. Mr. Hird went on to say that EPA had identified several potential off site remedial areas, which included the flood plain, Bayou Meto, and Rocky Branch Creek. He also stated that EPA views incineration as a desirable method for remediation of the site. The issue from EPA's point of view, according to Mr. Hird, was what, how much, and where to incinerate.

As to the city's West Treatment Plant (the "POTW"), into which leachate collected from the Vertac plant site flows, Mr. Hird stated that the RI/FS prepared for EPA by its contractor CH2M Hill was based upon the assumption that the POTW would be put out of service. He also stated that the sewer interceptor line from the plant site to the POTW can be cleaned out without a ROD; a "RIM" order could be issued.

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Dr. Frawley then stated that Hercules was under the impression that the meeting was convened for EPA to respond to Hercules's plan, which was submitted in August, 1986, and to which EPA had not responded. Dr. Frawley also informed the group that Hercules plans to do more sampling in the off site areas. Dr. Frawley stated that Hercules had asked EPA Region VI what sampling that office was planning to do, and had received no response. Dr. Frawley stated that Hercules is therefore going ahead with its sampling plan and that new up-to-date data should be used for any decision on remedial action in the off site areas.

In response to Ms. Jayne's comment that Judge Woods' March 9, 1987, order requires EPA to negotiate before the selection of an off-site remedy, Mr. Hird expressed the opinion that the March 9, 1986, court order does not prevent EPA from using all approaches available under CERCLA. Phil Deisch (ADPC&E) stated that he saw no real conflict between the Consent Decree and CERCLA with regard to off site issues.

In keeping with EPA's view that the Consent Decree does not apply to the proceeding, Mr. Hird suggested that Hercules supplement and make comments for inclusion in the administrative record.

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In response to comments from Dr. Frawley and from Robert Denham, attorney for Hercules, challenging the appropriateness of the action levels for TCDD assumed in the FS, Mr. Hird suggested that, as part of Hercules's comments, Hercules set forth a justification for alternative action levels for TCDD to the ATSDR action levels referred to in the Endangerment Assessment. Those comments, Hird stated, would be considered by EPA in a similar way to comments received in a rule making procedure. If such comments are made, EPA must respond to them. The comments should include toxicological considerations relating to exposure to soil. Mr. Hird acknowledged that EPA is in a difficult position in evaluating off site areas because the TCDD levels are close to the assumed action level.

Dr. Frawley then asked if EPA would make available research funded by EPA relating to dioxin toxicity and appropriate action levels for TCDD. Larry Rexroat, EPA Region VI, stated that anything EPA has is available, as long as the documents are sufficiently identified.

Mr. Hird said that EPA is looking at all sites, not only the Jacksonville site, with regard to action levels. He also stated that Renate Kimbrough is now employed at EPA in Washington. In response to a comment by Hercules representatives that Hercules might contact Ms. Kimbrough, Mr. Hird stated that he would want to brief her first.

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Mr. Hird went on to say that he is interested in the bioaccumulation of TCDD in organisms in and near the waterways.

The discussion then moved to the POTW and the treatment of leachate from the on site landfills. Doug Keilman presented Hercules's proposal.

Mr. Keilman observed that, under the present system, Hercules is pre-treating leachate from the landfills with activated carbon. The leachate is then sent to the West POTW.

The City of Jacksonville plans to phase out the West POTW when the City's new POTW begins operating. The City has already greatly reduced its maintenance of the West POTW, and has only one aerator operating.

The City of Jacksonville wishes to have the present interceptor line from the Vertac plant site to the West POTW flow into the new POTW. The City does not plan to make that change, however, until the interceptor line is cleaned out and the flow from the Vertac site is no longer sent through the interceptor.

Treatability studies have demonstrated that biological treatment will satisfactorily treat the leachate. Mr. Keilman said that the report on treatability will be available in approximately one month.

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Hercules's plan is to construct a new pipeline from the landfill to the West POTW to carry leachate. The existing interceptor line can then be flushed out and connected to the new POTW.

Hercules believes that the treatability study will demonstrate that there will no longer be a need to pre-treat the leachate with carbon absorption. The biological treatment will treat to acceptable levels. This carries with it the advantage that there will be no spent carbon which will require disposal.

Hercules proposes to use the aeration basin in the West POTW for the biological treatment of the leachate. The discharge from the POTW will meet in-stream NPDES limits if diluted with discharge from the new POTW.

Hercules's preference is that the City of Jacksonville continue to own and operate the West POTW, with some contribution of funds from Hercules for operating expenses.

Mr. Hird stated that he believed that, if Hercules were to operate the West POTW, the POTW would be a RCRA facility.

Mr. Keilman responded that, even if Hercules were to operate the POTW, the facility would not be regulated by RCRA. It would continue to have sanitary waste coming from the Vertac site, and would therefore continue to qualify for the POTW exemption from RCRA.

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Mr. Hird expressed his strong concern about leaving the oxidation ponds and the aeration basin in place. He expressed concern that there are no data on organic chemicals, other than TCDD, which may be present in the POTW. This information would be needed to determine whether the sludge can be left in the aeration basin and oxidation ponds. Mr. Hird agreed that the sewer line needs to be cleaned out, but expressed concern about continuing to operate the POTW. He also stated that EPA would need to review the treatability study.

Mr. Hird set forth EPA's requirements for approving the cleaning of the interceptor line as follows:

- (1) Submission of a work plan to EPA;
- (2) Discussion of technical issues of concern by EPA;
- (3) The entry of a consent administrative order.

Mr. Hird emphasized that if the cleaning of the sewer line were approved, that approval would not indicate an approval of Hercules's plan relating to the treatment plant. Also, the disposition of the material removed from the interceptor line would have to be settled.

Larry Rexroat of EPA Region VI expressed the concern that a worker health and safety plan must be contained in the work plan. Mr. Rexroat also expressed a concern about inflow into the

interceptor line of contaminants from the surrounding soil after the interceptor line is cleaned, and suggested that sealing leaks in the interceptor line might be required. Mr. Rexroat also expressed the concern that the high concentration level of TCDD would be diluted by a flushing process, and wondered if there was a way to remove the sediments rather than flush them into the aeration basin. Mr. Rexroat expressed the belief that sediment should be collected in its most concentrated form and stored, and wondered if that goal could be better achieved by flushing the sediment into old equipment or into storage tanks for storage, rather than flushing the sediment into the aeration basin.

Mr. Hird observed that EPA generally tries to avoid diluting high concentrations of contaminants, but conceded that flushing, which results in dilution, may be necessary to clean the interceptor line.

Richard Saterdal of CH2M Hill expressed a concern that sediments would be kept in suspension in the aeration basin, and would not be settled out but, instead, would float out of the basin. He would like to see a plan for the containment of sediments.

Phil Deisch, of ADPC&E, observed that a condition of the federal and state grant for the new POTW was that no TCDD be introduced into the new system. After flushing the interceptor line, therefore, there would have to be an inspection and

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approval before the line is connected to the new plant. The line, Mr. Deisch said, would have to meet federal construction grant requirements.

Mr. Deisch observed that, as presently situated, there would be a one half mile distance between outfalls from the new and old POTW's. There would be, therefore, a half mile stretch of water in which there would be water quality non-compliance. Mr. Keilman suggested that that could be remedied by placing the outfalls closer together. Mr. Deitch suggested that a polish/finish step using carbon can be used to remove dichlorophenols.

Upon the inquiry of Mr. Hird, Mr. Keilman stated that the treatability study for the leachate had been performed by Dr. Young, of University of Arkansas at Fayetteville. Both EPA and ADPC&E want to see the treatability study report. Mr. Heard and Mr. Rexroat asked what would be done if the lab scale treatment does not work in practice and what would be done if the TCDD levels stay the same or increase due to concentration.

Mr. Deisch then raised the concern that total chlorides would be a problem. Mr. Keilman stated that total chlorides should not be a problem, and should be no obstacle to going forward with Hercules's plan.

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Mr. Hird and Carla Nelson, of EPA Region VI, suggested that Hercules, as part of its plan, address the impact of RCRA on the POTW. Mr. Hird expressed his view that RCRA could be avoided by treating leachate at the Vertac site and closing the West POTW. He also expressed the view that the POTW, if not city owned/operated, could be considered a RCRA waste/storage facility subject to permitting and other RCRA requirements.

EPA had not previously considered the continued use of the POTW. EPA wants to study the option and meet with the city about it. A decision will not be made quickly by EPA.

The proposed sampling on behalf of Hercules by IT was then discussed. Copies of the plan were distributed to EPA, ADPC&E, and CH2M Hill. Dr. Frawley stated that the background for acquiring additional data was the concern by Hercules that decisions were being made on three year old data. The purpose of the IT sampling was, therefore, to do a "trend analysis" in places where TCDD had been observed in the remedial investigation in concentrations greater than one part per billion. Those locations include the aeration basin and the oxidation ponds, and soils and sediments in and near Rocky Brach, Bayou Meto, and the flood plain. Mr. Rexroat requested details of the statistical plan used for the trend analysis.

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Ducks, fish, and frogs would also be analyzed. Edible portions of ducks will be analyzed raw; retained edible portions may be analyzed after cooking if indicated by results of initial analyses. Edible portions of predator and bottom feeding fish and frogs will be analyzed.

Dr. Florence Kinoshita of Hercules noted that the soil and sediment sampling locations were based upon CH2M Hill collection data where TCDD was observed in concentrations of approximately one part per billion or greater. The samples would be taken at incremental depths. Analyses would be performed at depths where analyses were conducted before, and other samples will be saved for possible future analysis.

Mr. Rexroat suggested that very early data may not be comparable to more recent data because of the analytical methods used.

Messrs. Rexroat and Hird expressed concern that contaminated sediments may have moved downstream since the earlier sampling, and suggested that a complete trend analysis should include samples from locations downstream from locations where TCDD was previously found.

Duck and fish samples have been taken where they were taken before, and in Lake Dupree. Frogs would be taken in Rocky Brach and Bayou Meto. Mr. Rexroat requested a copy of the frog study

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referred to in the sampling plan. Dr. Kinoshita provided him with a copy, along with an earlier publication by the same group.

Dr. Kinoshita asked EPA to supply Hercules with the modified analytical method that was used in 1986 for duck analyses. Mr. Rexroat said that EPA is looking for it; he also stated that he was trying to get it from the EPA contracts office. Dr. Kinoshita pointed out that the same analytical methods should be used in order to do appropriate comparisons.

Dr. Kinoshita offered to take the ducks collected by Wildlife Management this year, if EPA is not going to analyze them. Dr. Frawley asked what EPA was planning to do with the ducks. Mr. Rexroat answered that EPA will analyze the edible portion of the ducks, the liver and the remainder of the duck and composite of the contents of the digestive tract.

Mr. Hird said that EPA may want to obtain soil sample splits for its own analysis and said that EPA has considered doing more sampling itself. Mr. Hird asked about the IT timetable for sampling, and the page in the plan containing the timetable was shown to him. In response to a Hercules suggestion that Hercules may want a split of samples EPA takes, Mr. Hird said that Hercules is entitled to request such samples.

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Comments about the IT plan will be directed to Ms. Kinoshita. Larry Rexroat will be the contact person for U.S. EPA. Doice Hughes will be the contact person for ADPC&E.

EPA agreed to try to schedule the next meeting to discuss offsite areas on or about September 14, 1987.

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# Veriacc Meeting

August 14, 1987 - Washington, DC

## Attendance Sheet

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	Name	Organ.	Phone #
1.	Carla Nelson	EPA, Reg VI	(214) 655-21
2.	LARRY REDCUTT	EPA, 16- Superfund	214-655-67
3.	Dev Deshner	EPA, HQ Enforcement	(202) 382-48
4.	Steve Batts	EPA, HQ	(202) 382-
5.	Kevin Bohlin	EPA, HQ	(202) 475-
6.	Deirdre Nigro	ADPC+E	501 562
7.	Carol Erikson	IT Corporation	615 690 321
8.	DANA S. SIMPLY	IT CORPORATION	615 690 321
9.	Douglas J. Kerlman	Hercules	302-594-61
10.	FLORENCE K KINOSHITA	HERCULES	302-594-7
11.	CHARLES L. SCHLUMBERGER	HERCULES	
		(WRIGHT, LINDSEY & JENNINGS)	(501) 371-01
12.	Robert Denham	Powell, Goldstein, Freen & Murphy	(404) 572-
		(Hercules)	
13.	JOHN P. FRAWLEY	HERCULES	302 594 70
14.	ROXANNE E. FAYNE	"	302 594 70
15.	Richard Saterdal	CH2M HILL	(303) 771-09
16.	Phillip Deisch	ADPC+E	501 562-7
17.	David HIRD	DOJ	(202) 633-