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September 29, 1994

HAND DELIVERY

Linda Herrli, Clerk
Hazardous Waste Facility Board
1700 WaterMark Drive
First Floor
Columbus, Ohio 43266-0149

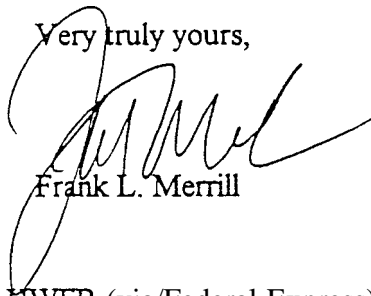
Re: In the Matter of Southdown, Inc., Case No. 9 1-NF-0700

Dear Ms. Herrli:

Enclosed please find an original and 4 copies of Southdown's Motion for Reconsideration and Request for Suspension of Final Order in the above referenced matter. Please cause this document to be filed.

If you have any questions or comments, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,



Frank L. Merrill

FLM/vac
Enclosure

cc: Judith French-Berry, Chairwoman HWFB (via/Federal Express)
Warren W. Tyler, HWFB (via/Federal Express)
Donald L. Mason, Esq., HWFB (via/Federal Express)
Dr. E. Scott Bair, HWFB (via/Federal Express)
Dr. Neville G. Pinto, HWFB (via/Federal Express)
Gerry Ioannides, Past Chairman HWFB (via/Federal Express)
Robert Shostak, Counsel to Greene Environmental Coalition, Inc. (via/Federal Express)
James Saunders, Bath Township (via/Federal Express)
David E. Northrop, Counsel for Greene County Commissioners (via/Federal Express)
Alan G. Anderson, Counsel for Village of Yellow Springs (via/Federal Express)
Dr. Paul McStallworth, Xenia Township (via/Federal Express)
John K. McManus, Attorney General's Office (via/Federal Express)

Edgar J. Marston III
EXECUTIVE VICE PRESIDENT
AND GENERAL COUNSEL



September 29, 1994

Ohio Hazardous Waste Facility Board
1700 WaterMark
Post Office Box 1049
Columbus, OH 43266-0149

In re Southdown, Inc.
Case No. 91-NF-0700

Ladies and Gentlemen:

In August 1992 Clement International, Inc. completed a risk assessment on Southdown's cement manufacturing facility in Fairborn, Ohio. Thereafter, a number of the people who worked on the Southdown risk assessment at Clement left that firm and joined other risk assessment firms, including the Weinberg Consulting Group Inc. When the HWFB staff first raised questions in March 1994 concerning certain technical aspects of the fire and explosion scenario in the Fairborn risk assessment, Southdown engaged the Weinberg Group to assist it in addressing those concerns. Following receipt of the highly critical Opinion and Final Orders of the HWFB effective September 19, 1994, Southdown engaged the Battelle Memorial Institute to assist it in assessing not only the merits of HWFB's technical criticisms of the fire and explosion scenario but also the Weinberg Group's responses to those criticisms. Based upon the results of Battelle's preliminary review, Southdown now believes that some of HWFB's criticisms merit further consideration. Accordingly, Southdown respectfully requests that HWFB grant Southdown's Motion for Reconsideration that is being filed contemporaneously with this letter and suspend the effectiveness of HWFB's Orders until Southdown can complete a comprehensive reevaluation of the fire and explosion scenario by Battelle or some other firm of comparable stature. Southdown wishes to review and discuss with the HWFB and its Staff the selection of such a peer review consultant as soon as possible if the HWFB grants Southdown's motion for reconsideration.

On a personal note, I want to assure HWFB that neither I nor, to my knowledge, any other employee of Southdown, our legal counsel or our governmental affairs counsel was aware of the possible merits of some of HWFB's criticisms until my meeting on the afternoon of September 27, 1994 with a representative of Battelle. Since none of the foregoing persons is a risk assessment expert, prior to that meeting each of us had relied in good faith upon the advice of Southdown's risk assessment advisors to the effect that HWFB's criticisms were generally not meritorious. I thought we

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were justified in continuing to rely upon our experts because of their national reputation and the indication I received in August 1994 from Barry Dellinger, a professor of electro-optics at the University of Dayton, that, based upon his review of the relevant items in the record and his general knowledge of combustion matters, "the fire and explosion scenario outlined in Southdown's risk assessment meets the general standard of reasonableness normally applied to such evaluations."

I hope you will find this explanatory letter useful.

Cordially,


Edgar J. Marston III

EJMIII:lh

cc: Judith French-Berry, Chairwoman HWFB
Warren W. Tyler, HWFB
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Dr. E. Scott Bair, HWFB
Dr. Neville G. Pinto, HWFB
Gerry Ioannides, Past Chairman HWFB
Robert Shostak, Counsel for GEC
James Saunders, Bath Township
David Northrup, Counsel for Greene County Commissioners
Alan G. Anderson Counsel for Village of Yellow Springs
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