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Via Email Moran.Gloria-Small@epamail.epa.gov and Via UPS

April 1, 2011

Gloria Moran, Esquire
United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Re: Work Takeover-Falcon Refinery Superfund Site
2725 Bishop Road, Ingleside, San Patricio County, Texas

Dear Ms. Moran:

Richard F. Bergner, Esq. legal counsel for National Oil Recovery Corporation ("Norco") has sent me a copy of a letter dated March 28, 2011 ("Letter") from the United States Environmental Protection Agency ("EPA") regarding the EPA's proposed action relating to the Falcon Refinery Superfund Site referenced above ("Site").

I am writing to you in my capacity as legal counsel for Darina Holdings One, LLC, a Texas limited liability company ("Darina") the contract purchaser for the Site and to advise you of our very serious concerns with the basis for the issuance of this Letter by the EPA with respect to the Site.

We undertook an analysis of two (2) agreements which Norco has entered into with the EPA. The primary operative documents which govern the relationship of Norco and the EPA with respect to the Site are the Administrative Order on Consent for Removal ("AOC for Removal") and the Administrative Order on Consent for remedial Investigation ("AOC for Remedial Investigation")

The EPA's stated position is that Norco is not entitled, pursuant to AOC for Remedial Investigation, to the benefit of the Dispute Resolution mechanism set forth in under Paragraphs 65 and 66 because Paragraph 102 does not specifically provide that the Dispute Resolution provisions of Paragraphs 65 and 66 apply to Paragraph 102.

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The language contained in Paragraph 102 of the AOC for Remedial Investigation is as follows:

"102. In the event that NORCO fails to complete all or part of the Work required by this Order, and EPA is required to complete all or part of the remedial Work required by this Order, NORCO shall provide the EPA with the necessary access to the fully-secured financial assurance instrument in order to take over the Work and prevent any delays in cleanup."

In order for the EPA's position regarding the interrelationship of the Paragraphs 65 and 66 regarding Dispute Resolution and Paragraph 102 regarding EPA takeover of remedial Work to have any validity, the AOC for Remedial Investigation would have to have been structured, so that, every Paragraph to which Paragraphs 65 and 66 were to apply would have to be specifically cross referenced to the relevant Paragraph to which it applies. This is not how the AOC for Remedial Investigation is structured; in point of fact, although there are references in other Paragraphs of the AOC for Remedial Investigation to "dispute resolutions", as in Paragraph 40, there are within that agreement only two (2) specific cross references, in Paragraph 73 and Paragraph 78 to Section XX, which also contains Paragraphs 65 and 66. Therefore, if the EPA's position were to be taken to its logical conclusion, the Dispute Resolution provisions of Paragraphs 65 and 66, since there are only two (2) cross references in the Paragraphs within the AOC for Remedial Investigation, then they have no application to this agreement even though other Paragraphs of the AOC for Remedial Investigation use the term "dispute resolution" with no reference to either Section XX or Paragraphs 65 and 66. This position is patently unsustainable on its face and is in contravention of every rule of construction used to interpret contractual agreements. The appropriate construction of the AOC for Remedial Investigation is that the Dispute Resolution provisions of Section XX, Paragraphs 65 and 66, apply to all provisions of this agreement unless they are specifically excluded from such application.

One final point, under the rules of contractual construction, restrictions on the applicability on Section XX or Paragraphs 65 and 66 would be incorporated within the provisions of that Section or those Paragraphs and this was not done in the AOC for Remedial Investigation agreement.

I look forward to the opportunity to discuss any aspect of the foregoing with you.

Sincerely,

Quinn O'Connell, Jr.