

# THOMPSON & KNIGHT

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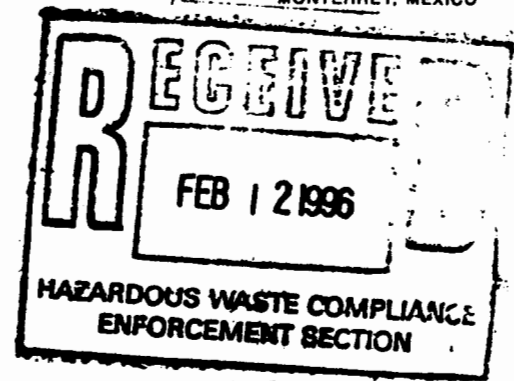
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February 8, 1996



Mr. Desi A. Crouther  
Chief Hazardous Waste Enforcement Branch  
U.S. Environmental Protection Agency  
Region VI  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Re: Sparton Technology, Inc./Coors Road Facility

Dear Mr. Crouther:

I write on behalf of Sparton Technology, Inc. ("Sparton") for three purposes. First to share with you certain concerns I have about the process EPA is currently following to evaluate potential remedies at Sparton's Coors Road facility. Second, to confirm what we understand to be the procedures EPA will follow in the future under the AOC. Lastly, to provide certain limited substantive comments in response to certain public concerns generated by EPA's efforts to solicit public input concerning the Coors Road facility.

In a September 18, 1995, letter to Ronald Crossland, Sparton expressed concern about contacts between EPA, the city of Albuquerque, and the state of New Mexico not reflected in the administrative record. Since that time, we understand that there have been additional meetings to discuss the Sparton situation. Once again, none of these contacts are set forth in the administrative record. Sparton remains very concerned that information is being shared and decisions are being made of which there is no record. Obviously, to the extent such activities are occurring, my client is significantly disadvantaged because it is not able to fully understand the nature of the concerns of various parties, nor can it seek to correct misinformation or misperceptions.

A specific example of our concern is presented by the handling of a December 5, 1995, letter to you from Norman Gaume of the city of Albuquerque. On November 29, 1995, representatives of Sparton met with you and members of your staff to discuss among other items our correspondence of November 6, 1995. At that meeting, we were told that there would be a detailed response to our letter, possibly available within a couple of weeks. Part of that response was to include what we were told was a point by point discussion by the city of Albuquerque of certain issues we had raised. Unfortunately, we still have not received EPA's response. Somewhat more troubling, however, is the fact it was not until

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February 2, 1996, that we were provided with the city's comments on our November correspondence. We were very surprised by the delay, especially given what we understood to be a commitment by EPA to forward any city response to us. Perhaps we misunderstood what was said at the meeting. On the other hand, EPA apparently supplied our correspondence to the city, and it seemed reasonable that any information from the city would be shared with us.

Interestingly, the city apparently assumed that its letter would be forwarded to us. For instance, at the public meeting Norman Gaume told me that he understood from your staff that we had been provided a copy of the letter. When I told him we had not received the letter and suggested that we talk with Vince Malott to clear up the confusion, Gaume said he was not interested in talking with Malott. Nevertheless, when I followed up with Vince, he told me that Gaume had been advised that the state had supplied the December 5, 1995, letter to Sparton. In fact, the state did not provide us with a copy of the December 5, 1995, correspondence. Instead, the state provided us with an entirely different letter from Gaume, less than a page in length, dated November 13, 1995. Needless to say, none of this confusion is currently reflected in the administrative record. Moreover, this sequence of events tends to confirm Sparton's concern about exchanges of misinformation that may adversely impact decision-making.

On behalf of Sparton, therefore, I once again request that EPA include in the administrative record a description of contacts it has with non-parties to the administrative order on consent relating to the RFI, CMS, or selection of a remedy at the Coors Road facility. We also ask that the administrative record be kept as current as possible. For instance, it is my understanding that the record currently contains information only through December 5, 1995, and there is no assurance that all information received through that date had been put into the record.

Based on comments made by representatives of EPA at the public hearing on February 1, 1996, Sparton understands that EPA intends to; (1) review all public comments received, (2) then share questions and concerns about the draft CMS with Sparton, (3) then direct Sparton to finalize the CMS, and (4) then finally select a remedy and respond to public comments. Under this procedure, it is neither necessary nor appropriate for Sparton to file comments, in response to EPA's most recent statement of basis.

Sparton, in its draft CMS, has already indicated what it believes to be an appropriate remedy at this site. Therefore, its position on remedy selection, which is the type of information EPA requested through the comment period, is already before the agency. It is not necessary to repeat that position at this time. Obviously, any information we need to share with EPA can be included with the final CMS, as the agency has recognized.

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It is also inappropriate to expect Sparton to deal with comments received at the public hearing, or in writing on or before February 8, 1996, by February 8, 1996. As we have mentioned, the administrative record is not current, so there is no way of knowing what information has already been supplied to EPA. Moreover, it can be reasonably expected that additional information will come in postmarked February 8, 1996. Obviously, meaningful consideration of public concerns and development of a thoughtful and appropriate response can take a significant amount of time. For instance, there is much in Mr. Gaume's eight page, December 5, 1995, letter with which Sparton disagrees. Nevertheless, it is unrealistic to think that an appropriate response could be developed in less than a week.

Our more detailed reaction to the city of Albuquerque's concerns and those of other interested parties will be set forth in the final CMS. In advance of providing that information, there are certain general concerns Sparton has with respect to the city of Albuquerque's stated position. Conceptual disagreements between Sparton and the city of Albuquerque fall into three distinct categories; (1) the need to use pumping and treating to remediate groundwater, (2) the extent of impact to groundwater, and (3) the existence of workable remedies.

The city's argument about the need to use a pump-and-treat remedy seems to be based on the following assumptions:

1. That groundwater is the only source of water for the city of Albuquerque;
2. That all groundwater can be used at any time;
3. That any impact to groundwater above MCLs prevents use of that groundwater; and
4. That impacts to groundwater above MCLs can be eliminated promptly by pumping and treating.

Unfortunately, none of these assumptions are correct.<sup>1</sup> Groundwater is not the only source of water for the city of Albuquerque. Water from the Rio Grande could be used, but requires treatment systems. Discarded water is also available for reuse, but again requires treatment facilities. The city is currently evaluating both of these alternatives in order to reduce dependence on groundwater. Not all groundwater can be used simultaneously for reasons such as location of existing wells, geological conditions, and water demand. Nor is all groundwater equally attractive for use as a resource. The fact that groundwater is impacted does not mean that its quality must be addressed in the ground. In many instances

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<sup>1</sup> Evidently the city's assumptions change from site to site. It is the city's apparent position that no prompt remedy is necessary at the Los Angeles Landfill, which it owned and operated, even though according to city documents that site presents a much greater threat to groundwater usage than the Coors Road facility.

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wellhead treatment is more cost effective and allows the use of groundwater impacted above MCLs. Finally, and as EPA has learned in the superfund program, most impacts to groundwater causing exceedences of MCLs cannot be eliminated promptly through pumping and treating<sup>2</sup>.

Unfortunately, there has not been any meaningful dialogue on these conceptual issues, resolution of which is critical, in Sparton's estimation, in identifying an appropriate remedy. Making such a discussion difficult is the fact that the city's comments are long on generalization and short on specifics.<sup>2</sup>

For instance, the city has never identified exactly when it would install a well in the vicinity of the Coors Road facility. Nor has the city ever identified how, if a water supply well was installed in the vicinity of the Coors Road facility, it would be effected by the relatively shallow impact to groundwater in that area. Likewise, the city has yet to specifically explain how it believes Calabacillas Arroyo might ever be effected by the Coors Road facility. All available technical information says it is not and will not be affected. Finally, the city has not identified any pump-and-treat remedy that has been successful in remediating to MCLs impacts to aquifers of the same type found at the Coors Road facility caused by the same types of solvents.

Stated as plainly as possible, no specific information has been provided to EPA to support a conclusion that any impacted groundwater associated with the Coors Road facility will be used as a drinking water resource within the next one hundred years. No specific information has been provided to EPA to support a conclusion that if the area in the vicinity of the Coors Road facility was used as a source of drinking water supply that the impacts identified in the RFI would prevent such a use. Finally, no specific information nor specific success stories have been provided to EPA to support a conclusion that a pump-and-treat remedy will reduce impacts to groundwater within the next one hundred years, to any greater extent than natural attenuation.

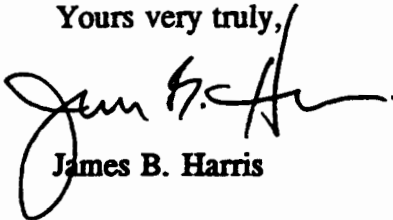
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<sup>2</sup> For instance, the city says that if diffusion was the sole transport mechanism, the plume would move a foot a year, but supplies no calculations. Apart from the fact Sparton has never argued the position advanced by the city, making EPA's consideration of this comment unnecessary, the failure to include the calculations also raises questions about its accuracy.

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EPA's selection of a remedy should not be based on unsubstantiated generalizations, but instead on facts, verified to be correct, and technical conclusions consistent with the current understanding of the practicalities of groundwater remediation.

Yours very truly,



James B. Harris

JBH/eshd

cc: U.S. Environmental Protection Agency  
Hazardous Waste Enforcement Branch  
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