

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO,

MARK E. WEIDLER in his official
capacity as Secretary of the
New Mexico Environment Department
and the NEW MEXICO ENVIRONMENT
DEPARTMENT, and

CIVIL ACTION NO.
CIV 97-0208-JC

WILLIAM M. TURNER in his official
capacity as New Mexico Natural
Resources Trustee and the NEW
MEXICO OFFICE OF THE NATURAL
RESOURCES TRUSTEE,

Plaintiffs,

v.

SPARTON TECHNOLOGY, INC.,

Defendant.

ANSWER OF DEFENDANT SPARTON TECHNOLOGY, INC.

Defendant, Sparton Technology, Inc. (hereinafter referred to as "Sparton") for its answer to Plaintiffs' Complaint states and alleges as follows:

1. Sparton admits that the Complaint purports to be brought under the Resource Conservation and Recovery Act ("RCRA"), the New Mexico Hazardous Waste Act, the New Mexico Water Quality Act, and under federal and New Mexico common law, and that Plaintiffs seek to enjoin Sparton and seek restitution of certain costs, but deny all of the other allegations in paragraph 1 of the Complaint.

2. Sparton admits the allegations of paragraphs 2, 3, and 4 of the Complaint.

3. Paragraph 5 of the Complaint contains conclusions of law to which no response is required.

4. Sparton denies the allegations of paragraph 6 of the Complaint.

5. Paragraph 7 of the Complaint contains conclusions of law to which no response is required.

6. Sparton denies the allegations of paragraph 8 of the Complaint.

7. Sparton admits the allegations of paragraph 9 of the Complaint.

8. Paragraph 10 of the Complaint contains legal conclusions to which no response is required.

9. Sparton admits the allegations is paragraph 11 of the Complaint, except that it denies it ceased manufacturing operations in 1994.

10. Sparton admits the allegations in paragraph 12 of the Complaint, except it denies that it continued to generate metal plating waste after 1992, it denies that it disposed of metal plating waste in a concrete basin located on the facility property, it denies that it disposed of metal plating waste in two surface impoundments on the facility, and it denies it has ceased manufacturing operations.

11. Sparton admits the allegations of paragraph 13, except that it denies it generated spent chlorinated solvent after 1994, it denies that it disposed of spent solvent in a concrete sump located on the facility property, it denies that it stored spent

chlorinated solvent in steel drums on site prior to shipment for all disposal offsite after 1994.

12. Paragraph 14 of the Complain contains conclusions of law to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton denies that it generated metal plating waste after 1992, and it denies that those waste are properly designated "F006," "F007," "F008," and "F009."

13. Faragraph 15 of the Complaint contains conclusions of law to which no response is required.

14. Faragraph 16 of the Complaint contains conclusions of law to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton denies spent chlorinated solvents were generated from its manufacturing operations after 1994, and denies the spent solvents are properly designated "F001, F002, F004 and F005."

15. Paragraph 17 of the Complaint contains conclusions of law to which no response is required. To the extent the paragraph contains factual allegations that might require a response, Sparton denies spent chlorinated solvents were generated from its manufacturing operations after 1994.

16. Sparton denies the allegations of paragraph 18 of the Complaint.

17. Sparton is without knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 19, because it does not know what Plaintiffs

believe constitutes "contamination." Additionally, Sparton denies that it disposed of hazardous waste and solid waste at the facility. To the extent the Plaintiffs use the term "contamination" to describe a situation where groundwater contains substances above drinking water limits, then Sparton admits groundwater both on the facility property and off the facility property has been "contaminated." Sparton denies that such contamination presents an imminent and substantial endangerment to health or the environment as alleged in the second sentence of paragraph 19. Based on its assumption about the meaning the Plaintiffs intended for the term "contamination," Sparton admits the third sentence, denies the fourth sentence, is without knowledge sufficient to form a belief as to the truth of the fifth sentence, because the Plaintiffs have not identified which substances they are referring to, and therefore, denies the same, admits the sentences six through nine, denies the tenth sentence, admits the eleventh and twelfth sentences, denies the thirteenth sentence, admits the fourteenth and fifteenth sentences, denies the sixteenth sentence, admits the seventeenth and eighteenth sentences and denies the nineteenth sentence.

18. Sparton admits the first sentence of paragraph 20 of the Complaint. Sparton denies the second sentence of paragraph 20 of the Complaint. Sparton admits that the third sentence of paragraph 20 correctly describes conclusions set forth in a document entitled "Final Decision RCRA Corrective Action," but denies such conclusions are correct.

19. Sparton denies the allegation of paragraph 21 of the Complaint to the extent Plaintiffs are suggesting that Sparton has been unwilling to implement any part of the corrective action remedy that EPA has selected; but admits the allegation to the extent it is intended to describe every aspect of the Corrective Action Remedy, which has yet to be fully defined.

20. Sparton is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 of the Complaint, and, therefore, denies same.

21. Sparton is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the Complaint, and, therefore, denies same.

22. Sparton denies the allegations in paragraph 24 of the Complaint.

23. Sparton denies the allegations in paragraph 25 of the Complaint.

24. Sparton denies the allegations in paragraph 26 of the Complaint.

25. With respect to paragraph 27 of the Complaint, Sparton incorporates as if fully set forth herein the responses stated in paragraphs 1 through 25 above.

26. Paragraph 28 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it is a past generator of hazardous or solid waste, but denies the remaining allegations.

27. Paragraph 29 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it is a past owner or operator of a storage facility for hazardous or solid waste, but denies the remaining allegations.

28. Paragraph 30 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that the "facility" is a past storage facility for hazardous or solid waste, but denies the remaining allegations.

29. Paragraph 31 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it has contributed to the past storage of hazardous and solid waste at the "facility," but denies the remaining allegations.

30. Sparton denies the allegations of paragraphs 32, 33, and 34 of the Complaint.

31. With respect to paragraph 35 of the Complaint, Sparton incorporates as if fully set forth herein the responses stated in paragraphs 1 through 30 above.

32. Paragraph 36 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it is a past generator of hazardous or solid waste, but denies the remaining allegations.

33. Paragraph 37 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it is a past owner or operation of a storage facility for hazardous or solid waste, but denies the remaining allegations.

34. Paragraph 38 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that the "facility" is a past storage facility for hazardous or solid waste, but denies the remaining allegations.

35. Paragraph 39 of the Complaint contains a legal conclusion to which no response is required. To the extent that paragraph contains factual allegations that might require a response, Sparton admits that it has contributed to the past storage of hazardous and solid waste at the "facility," but denies the remaining allegations.

36. Sparton denies the allegations of paragraphs 40, 41, 42, and 43 of the Complaint.

37. With respect to paragraph 44 of the Complaint, Sparton incorporates as if fully set forth herein the responses stated in paragraphs 1 through 36 above.

38. Sparton denies the allegations of paragraphs 45, 46, 47, 48, and 49 of the Complaint.

39. With respect to paragraph 50 of the Complaint, Sparton incorporates as if fully set forth herein the responses stated in paragraphs 1 through 38 above.

40. Sparton denies the allegations of paragraphs 51, 52, 53, 54, 55, and 56 of the Complaint.

41. With respect to paragraph 57 of the Complaint, Sparton incorporates as if fully set forth herein the responses stated in paragraphs 1 through 46 above.

42. Sparton is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Complaint, and, therefore, denies same.

43. Sparton denies the allegations of paragraphs 59, 60, and 61 of the Complaint.

44. Sparton denies the prayer for relief.

45. Sparton denies all allegations not admitted in this answer.

AFFIRMATIVE OR ADDITIONAL DEFENSE

1. Plaintiffs' Complaint fails to state any claim upon which relief can be granted.

2. Plaintiffs' claims, if any, are barred, in whole or in part, by the doctrine of unclean hands.

3. Plaintiffs' claims, if any, are barred, in whole or in part, by estoppel or laches.

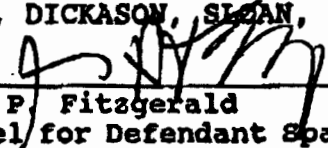
4. To the extent Plaintiffs have any right to restitution, and Defendant denies they do, they are only entitled to recover costs they have incurred.

5. To the extent Plaintiffs have any right to restitution, and Defendant denies they do, they are only entitled to recover necessary costs.


6. To the extent Plaintiffs have any right to restitution, and Defendant denies that they do, they are only entitled to recover reasonable costs.

7. This action should be stayed pending the outcome of a lawsuit filed by the United States, involving the same nucleus of operative facts and seeking essentially the same relief.

RODEY, DICKASON, SLEAAN, AKIN & ROBB, P.A.


James P. Fitzgerald
Counsel for Defendant Spartan Technology, Inc.
P.O. Box 1888
Albuquerque, NM 87103
(505)765-5900

THOMPSON & KNIGHT


James B. Harris
1700 Pacific Avenue, Suite 3300
Dallas, TX 75201-4693
(214) 969-1700

I hereby certify that a true and correct copy of the foregoing pleading was mailed to opposing counsel of record this 25th day of March, 1997.


James P. Fitzgerald

JOHN D. ROBB
 JAMES C. RITCHIE
 ROBERT A. ST. JOHN
 JOSEPH J. WILLIAMS
 MARK A. ADAMS
 ROBERT S. MCCORMACK
 BRUCE HALL
 JOHN P. SALAZAR
 WILLIAM S. DORR
 JOHN P. BURTON
 BEZ D. THROCKMORTON
 JONATHAN W. HEWES
 W. ROBERT LASATER, JR.
 MARK C. MEDRING
 CATHERINE T. GOLDBERG
 TRAVIS R. COLLIER
 JO SASTON BRAYNER
 S. L. BICTZER, JR.
 EDWARD RECCO
 W. MARK HOWERY
 PATRICK M. SHAY
 NANCY J. APFLEET
 DAVID C. DAYENPORT, JR.
 CERRA ROMERO THAL
 ELLEN T. SHRAK
 WENDY MOORE JONES
 HENRY M. BOHNHOFF
 CHARLES A. PURCELL
 JAMES P. FITZGERALD

ANDREW S. SCHULTZ
 JOHN H. BRANT
 JOSEPH B. ROCHELLE
 SCOTT D. GORDON
 SUSAN A. THROCKMORTON
 PATRICIA M. TAYLOR
 OWITT M. MORRAN
 SHAW H. LECHAVA
 MARK A. SMITH
 R. NELSON FRANSE
 THERESA W. PATRISH
 PAUL R. ROLLER
 JAMES P. BRIS
 JAY D. HALL
 CHARLES J. VIOL
 MARY KELEHER CASTLE
 THOMAS L. STANL
 DAVID W. BLUNTRO
 SUSAN K. BARGER
 PAUL C. COLLINS
 KEVIN LYNN WILDERSTEIN
 JEFFREY M. CRAGSDOLL
 JEFFREY L. LOWRY
 DEBORAH E. MANN
 ALICE L. NYBYL
 AMY E. BADGER
 THOMAS A. COUTER
 SETH L. SHANKS

RODEY, DICKASON, SLOAN, AKIN & ROBB, F. A.

COUNSELORS AND ATTORNEYS AT LAW
 ALBUQUERQUE PLAZA
 301 THIRD STREET NW, SUITE 2300
 ALBUQUERQUE, NEW MEXICO 87102

P. O. BOX 1888
 ALBUQUERQUE, NEW MEXICO 87103

TELEPHONE (505) 765-5000

FACSIMILE (505) 766-7398

COUNSEL
 JEFFREY W. LINDSET
 RICHARD C. HENZLER
 GARY D. EISENBERG
 JOHN D. CLINE
 BENJAMIN C. ROYBAL
 THOMAS R. GUILLEY
 LESLIE MCCARTHY APODACA

OF COUNSEL
 DON L. DICKASON
 JACKSON G. AMN
 RAY M. RODEY

PEARCE C. ROOPE (888) 858-8588
 WILLIAM A. SLOAN (810) 892

SANTA FE OFFICE
 MARCY PLAZA, SUITE 101
 123 EAST MARCY STREET
 P. O. BOX 1357
 SANTA FE, NM 87504-0357
 TELEPHONE 984-0100
 AREA CODE 505
 FACSIMILE 984-2542

WRITER'S DIRECT NUMBER

**FACSIMILE NO. (505) 768-7395
 COVER PAGE**

DATE: March 25, 1997
TO: Ana Marie Ortiz
TELEPHONE NO: (505) 827-2987
FACSIMILE NO.: (505) 827-1628
FROM: James P. Fitzgerald
PAGE: 11 Includes this cover page



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RODEY, DICKASON, SLOAN, AKIN & ROBB, P. A.

COUNSELORS AND ATTORNEYS AT LAW
ALBUQUERQUE PLAZA
201 THIRD STREET NW, SUITE 2200
ALBUQUERQUE, NEW MEXICO 87102

P O BOX 1888

ALBUQUERQUE, NEW MEXICO 87103

TELEPHONE (505) 768-5900

FACSIMILE (505) 768-7398

March 25, 1997

COUNSEL
JEFFREY W LOUBET
RICHARD C HINZNER
GARY D EISENBERG
JOHN Q CLINE
BENJAMIN C ROYBAL
THOMAS P GULLITY
LESLIE MCCARTHY APOBACA

OF COUNSEL
DON L DICKASON
JACKSON G AKIN
RAY H ROOBY

PEARCE C. RODEY 11888-1958
WILLIAM A. SLOAN 11910-1893

SANTA FE OFFICE
MARCY PLAZA, SUITE 101
123 EAST MARCY STREET
P. O. BOX 1357
SANTA FE, NM 87504-1357
TELEPHONE 984-0100
AREA CODE 505
FACSIMILE 989-9542

WRITER'S DIRECT NUMBER

768-7394

JOHN D. ROBB
JAMES C. BITCHIE
ROBERT M. ST. JOHN
JOSEPH J. MULLINS
MARK K. ADAMS
ROBERT E. MCCORMACK
BRUCE HALL
JOHN R. CALAZAR
WILLIAM S. DEZON
JOHN R. BURTON
RICK D. THROCKMORTON
JONATHAN W. HOWES
W. ROBERT LASATER, JR.
MARK C. MEICRING
CATHERINE T. GOLDBERG
TRAVIS R. COLLIER
JO SEXTON BRAYER
S. I. BETZER, JR.
EDWARD RICO
W. MARK HOWERY
PATRICK M. SHAY
NANCY J. APFLEBY
DAVID C. DAVENPORT, JR.
DEBRA ROMERO THAL
ELLEN T. SHAR
TRACY WGETT JENKE
HONRY M. BONNHOF
CHARLES A. FURCELL
JAMES R. FITZGERALD

ANDREW G. SCHULTZ
JOHN M. BRADF
JOSEPH B. ROCHELLE
SCOTT D. GORDON
SUSAN S. THROCKMORTON
PATRICIA R. TAYLOR
DEWITT R. MORGAN
BRIAN M. LEHATTA
MARI A. SMITH
R. NELSON FRANKS
THERESA M. PARTRISH
PAUL R. KOLLER
JAMES P. BIGG
JAY D. HILL
CHARLES J. VOHL
MARY KELEHER CASTLE
THOMAS L. STAM
DAVID W. BUNTING
SUSAN R. SANDER
PAUL C. COLLINS
KEVIN LYNN WILSONSTEIN
JEFFREY M. CRASSELL
JEFFREY L. LOWRY
DEBORAH E. MANN
ALICE L. HYSTER
AMY E. SAUGER
THOMAS A. CUTLER
SETH L. SPARKS

VIA FACSIMILE AND REGULAR MAIL

**Charles De Saillan, Esq.
Environmental Enforcement Div.
P.O. Drawer 1508
Santa Fe, New Mexico 87504-1508**

**Ana Marie Ortiz, Esq.
New Mexico Environment Department
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502-6110**

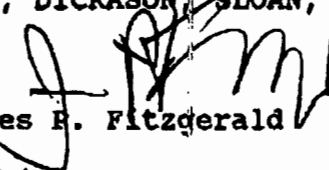
**Re: State of New Mexico, et al. v. Sparton Technology, Inc.,
United States District Court Cause No. CIV 97-0208-JC**

Dear Counsel:

Transmitted herewith please find a copy of Defendant Sparton Technology, Inc.'s Answer in the above-referenced matter.

Sincerely yours,

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By 
James R. Fitzgerald

JPF/jkj
Enclosure

cc w/encl: James B. Harris, Esq.
cc w/out encl: Bruce Hall, Esq.