

THE STATE OF NEW MEXICO
ENVIRONMENT DEPARTMENT
OFFICE OF THE NATURAL RESOURCES TRUSTEE

October 20, 1997

The Honorable Max Coll, Chairman
Legislative Finance Committee
416 State Capitol Building
Santa Fe, New Mexico 87503

Re: Sparton Technology, Inc., Albuquerque

Dear Chairman Coll:

We are in receipt of your letter of September 23, 1997, inquiring about the groundwater contamination emanating from the Sparton Technology facility in Albuquerque. We share your concern about this contamination. Remediation of the contamination at the Sparton facility is a top priority for both our agencies.

You have requested information on the history of actions taken to date to address the contamination at the Sparton facility, and our recommendation for appropriate action to commence cleanup at the earliest possible time. We address each of these inquiries below.

History of Actions Taken. Sparton Technology, Inc. (Sparton) is the owner and operator of a manufacturing facility located at 9621 Coors Road, NW, in Albuquerque. Sparton manufactured electronic components at the facility from 1961 through October 1993. The manufacturing operations generated metal plating wastes and spent solvent wastes. These wastes are considered hazardous under the federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, and the New Mexico Hazardous Waste Act, NMSA §§ 74-4-1 through 74-4-14. Until 1983, Sparton disposed of the wastes on-site in two adjacent ponds. After 1983, Sparton began placing the wastes in drums, storing them on-site for up to 90 days, and disposing of them off-site at a permitted hazardous waste facility. In 1986, Sparton closed the ponds in accordance with New Mexico hazardous waste regulations.

As a hazardous waste disposal facility, Sparton was required under RCRA to install a groundwater monitoring system to detect any releases of hazardous wastes or hazardous waste constituents

from its facility into groundwater. Sparton installed such a system in 1983 and 1984 pursuant to a Consent Agreement with the U.S. Environmental Protection Agency (EPA). Analysis of groundwater samples revealed that groundwater beneath the facility was contaminated with solvents, primarily trichloroethylene (TCE), and with heavy metals, primarily chromium. This contamination resulted from Sparton's past disposal practices.

Having detected hazardous waste constituents released from its facility into groundwater, Sparton is required by RCRA to conduct corrective action to clean up the contamination. In June 1987, the predecessor to the Environment Department, the Environmental Improvement Division, agreed not to pursue certain state remedies if Sparton entered into an administrative settlement with EPA. On October 1, 1988, EPA and Sparton entered into an Administrative Order on Consent, under section 3008(h) of RCRA, requiring Sparton to begin corrective action. The Order required Sparton to implement interim measures to begin to contain the on-site contamination; conduct a RCRA facility investigation (RFI) to determine the full extent of the contamination; and conduct a corrective measures study (CMS) to evaluate various cleanup alternatives.

Pursuant to the Order, as an interim measure, in 1988 Sparton began operating a recovery system consisting of eight on-site recovery wells (converted from monitoring wells), screened in the upper 10 feet of the aquifer. The system was designed to address groundwater contamination known at the time. The system removes approximately 1300 gallons per day, or 0.9 gallons per minute, of contaminated groundwater. The water is treated to remove contaminants and discharged into the City sanitary sewer. The recovery system is still in operation, although based on what we now know of the extent of the contamination the system is woefully inadequate.

Also pursuant to the 1988 Order, Sparton conducted a RCRA facility investigation. It submitted to EPA a report of its investigation on May 14, 1992. As part of the investigation, Sparton installed additional monitoring wells both on-site and off-site. Data from these wells revealed that the groundwater contamination had migrated off-site, although the full length and depth of the contaminant plume were not defined. Based on this data, and on additional data that Sparton disclosed in 1996, we now know that a plume of groundwater contamination extends at least one-half mile off-site and at least sixty feet below the water table. TCE contamination in groundwater beneath the facility has been detected as high as 7,600 micrograms per liter. TCE contamination in groundwater one-quarter mile from the facility has been detected as high as 1,900 micrograms per liter. The federal drinking water standard for TCE is 5 micrograms per liter. A map showing the extent of the TCE plume is enclosed.

As the final step under the 1988 Order, Sparton conducted a corrective measures study. Sparton submitted to EPA a draft report for this study in November 1992. In the draft report, Sparton evaluated a range of cleanup alternatives but recommended no further action beyond continued operation of the on-site recovery system. Notwithstanding Sparton's recommendation, EPA proceeded to hold a public hearing and to solicit public comment on the various cleanup alternatives that had been evaluated. The Environment Department, the Office of the Natural Resources Trustee, and the Office of the Attorney General all submitted comments on the cleanup alternatives. On May 13, 1996, Sparton submitted a final report on the corrective measures study. In the final report, Sparton expanded its cleanup recommendation based on new groundwater monitoring data, although the recommendation remained limited. As its final recommendation, Sparton proposed enhancement of the on-site recovery system; installation of additional monitoring wells; and installation and operation of a soil vapor extraction system -- but only if soil vapor measurements revealed levels above 10 parts per million vapor (ppmv), which Sparton deemed unlikely. Sparton proposed no measures to address the off-site contamination, and only inadequate measures to control the source of the contamination. We found the proposal to be unacceptable, as did the City of Albuquerque, Bernalillo County, and, ultimately, EPA. Sparton, however, has argued that EPA is bound by the Order to accept the proposal.

Based on an administrative record, which included the comments submitted by state and local agencies and members of the public, EPA selected a more aggressive cleanup alternative. It consisted of the installation of additional monitoring wells; installation and operation of an on-site soil vapor extraction system to remove contaminant vapors from soil above the water table; and installation of an extraction and treatment system to remove and treat contaminated groundwater both on- and off-site. Although we preferred a cleanup alternative that included air sparging of on-site soils as an additional component, we believe EPA's selected alternative is appropriate, and both our agencies have concurred with it.

On July 2, 1996, EPA sent to Sparton a proposed consent order for implementation of the selected remedy, and offered to negotiate its terms with Sparton. Sparton refused. In September 1996, EPA issued a unilateral order requiring Sparton to implement the remedy. Sparton requested an administrative hearing before EPA on the unilateral order. In addition, Sparton filed a lawsuit in federal district court in Dallas seeking to block EPA from finalizing the order. EPA held an administrative hearing on the order on March 27, 1997. On July 9, 1997, the hearing officer recommended approval of the initial order, with slight modifications. Sparton then effectively appealed this decision by submitting extensive comments on the order to the EPA Regional Administrator. On September 3, 1997, the Regional Administrator upheld the hearing officer, again with slight

modifications. EPA is currently modifying the order and may issue a final, enforceable order shortly.

In 1993, the Environment Department and EPA collected and analyzed additional groundwater samples from wells around the site. Results of the analysis, received in 1993 and 1994, showed that several off-site monitoring wells (wells 55, 60, and 61) which had not previously shown contamination were now heavily contaminated. In response to this increasing contamination, the Environment Department initiated discussions with Sparton, relying on State statutory authority. The Department met with Sparton on November 7, 1994, and sent letters to Sparton, dated January 6, 1995 and March 31, 1995. The Department expressed its concern over the increasing off-site contamination and requested that Sparton take the necessary corrective action pursuant to the New Mexico Water Quality Act, NMSA §§ 74-6-1 through 74-6-17, and the water quality regulations. Sparton resisted, initially taking the position that EPA had exclusive jurisdiction over the matter and that the Department was without authority to require corrective action. After several months of arguing this point, Sparton relented and agreed to further discussions. The Environment Department, with support from the Trustee's Office, held a series of meetings with Sparton in November 1995 and April and September 1996.

During these meetings, the Department requested that Sparton conduct further investigation to determine the levels of vapor-phase soil contamination on the Sparton site. Sparton agreed to conduct additional soil vapor analysis. In June 1996, Sparton installed a cluster of six vapor probes and collected vapor samples. Analysis revealed that the soil vapor levels of contaminants were among the highest in the state. As a result of these data, Sparton acknowledged that soil vapor remediation on the site was appropriate. Consequently, in February 1997, Sparton installed five additional soil vapor monitoring and extraction wells. On February 27 and 28, 1997, Sparton conducted a pilot test to confirm the feasibility of a soil vapor extraction system.

Due to the increasing groundwater contamination, the Environment Department also requested Sparton to step up its groundwater monitoring program. Sparton agreed to conduct more comprehensive groundwater monitoring, which it began in January 1996. In June 1996, Sparton installed five additional groundwater monitoring wells.

Furthermore, the Department requested Sparton to perform additional and necessary tests in order to design and construct a system that -- at a minimum -- would adequately contain the spread of contamination. On September 26 and 27, 1996, the Department, the Trustee's Office, the City of Albuquerque, and Bernalillo County met with Sparton to discuss a detailed settlement proposal. We sought Sparton's agreement to conduct an aquifer pump test as the first step in the design of a

remediation system; install additional groundwater monitoring wells to fully define the leading edge and bottom of the contaminant plume both on- and off-site; enhance the on-site recovery system; and install and operate a soil vapor extraction system. Although we seemed at times to be very close to a settlement, our negotiations ultimately broke down in December 1996.

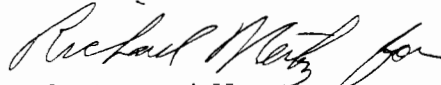
Finally, on February 19, 1997, the State of New Mexico, the Environment Department, and the Office of the Natural Resources Trustee filed a lawsuit against Sparton in federal district court under RCRA, the New Mexico Hazardous Waste Act, and the New Mexico Water Quality Act, as well as common law. The lawsuit alleges that contamination at the Sparton facility presents an imminent and substantial endangerment to human health and the environment, and seeks an injunction requiring Sparton to clean up the contamination. On the same day, the City of Albuquerque and Bernalillo County filed a lawsuit under RCRA making similar allegations and seeking identical injunctive relief. Also on the same day, the United States, on behalf of EPA, filed a lawsuit under RCRA and the federal Safe Drinking Water Act also making similar allegations and seeking identical injunctive relief. We quickly filed a motion to consolidate, and the court consolidated the three lawsuits into one action styled *City of Albuquerque v. Sparton Technology, Inc.*, No. CIV 97-0206 LH/JHG (D.N.M.). On April 1, 1997, we jointly filed a motion for a preliminary injunction. The court held a status conference on the matter on July 29, 1997, and referred the case to a settlement judge. We have now had three settlement conferences before the settlement judge, Magistrate Judge Robert J. DeGiacomo, and have had numerous meetings and conferences with Sparton. We are making progress, albeit slowly, and we remain hopeful a settlement can be worked out. A further settlement conference is scheduled for October 29, 1997.

Recommendation for Appropriate Action. We believe that continuing the settlement negotiations, under the authority of Judge DeGiacomo, is the best approach for achieving cleanup of the Sparton facility at the earliest possible time. We have made considerable progress in resolving several issues that caused the negotiations to break down last year. If agreement can not be reached, we will go back to the trial court and seek a ruling on our motion for preliminary injunction, and an expedited trial on our broader claim for injunctive relief.

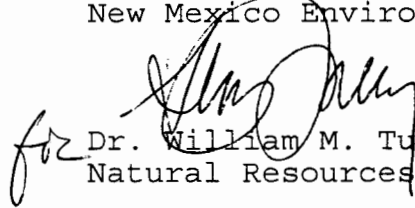
We are optimistic that we can compel Sparton to clean up the contamination using the authority of existing law. Regarding possible legislation, because our agencies have differing statutory responsibilities, we would prefer to explore any possible legislation with you individually.

We appreciate your interest and continued support in this matter. If you have any further questions, please do not hesitate to contact our offices. Because this matter is in litigation, we would prefer that any further inquiries be directed to our counsel, Ana Marie Ortiz, Assistant General Counsel in the Environment Department, at 827-2987, or Charles de Saillan, Assistant Attorney General in the Office of the Attorney General, at 827-6939.

Sincerely,



Mark E. Weidler, Secretary
New Mexico Environment Department



for Dr. William M. Turner
Natural Resources Trustee

Enclosure

cc: John Stomp, Water Resources Manager
Gary O'Dea, Assistant City Attorney
City of Albuquerque

Juan Vigil, County Manager
Patrick Trujillo, Assistant County Attorney
Bernalillo County

Jerry Clifford, Acting Regional Administrator
Evan Pearson, Assistant Regional Counsel
Gloria Moran, Assistant Regional Counsel
Michael Hebert, Project Manager
U.S. Environmental Protection Agency, Region VI

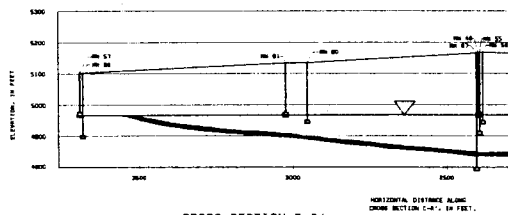
Michael Donnellan, Trial Attorney
Wendy Blake, Trial Attorney
U.S. Department of Justice

LEGEND

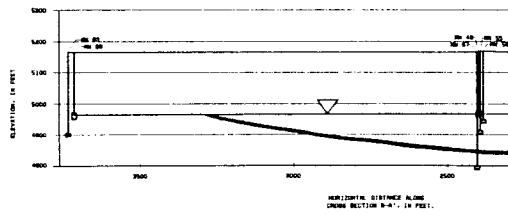
- UPPER FLOW ZONE WELL
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- LOWER LOWER FLOW ZONE WELL
- ▼ THIRD FLOW ZONE WELL

TCE in parts per million - April 1997

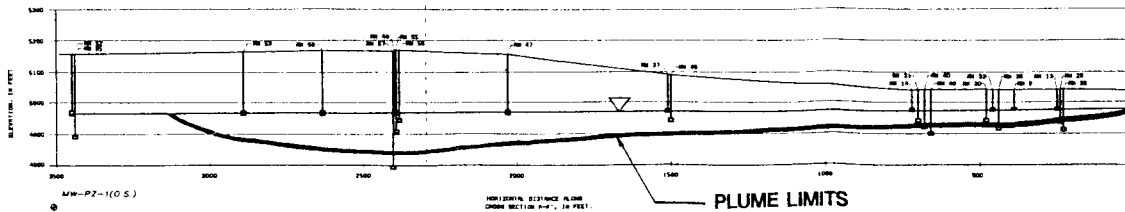
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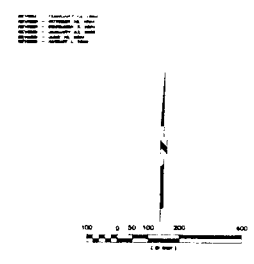
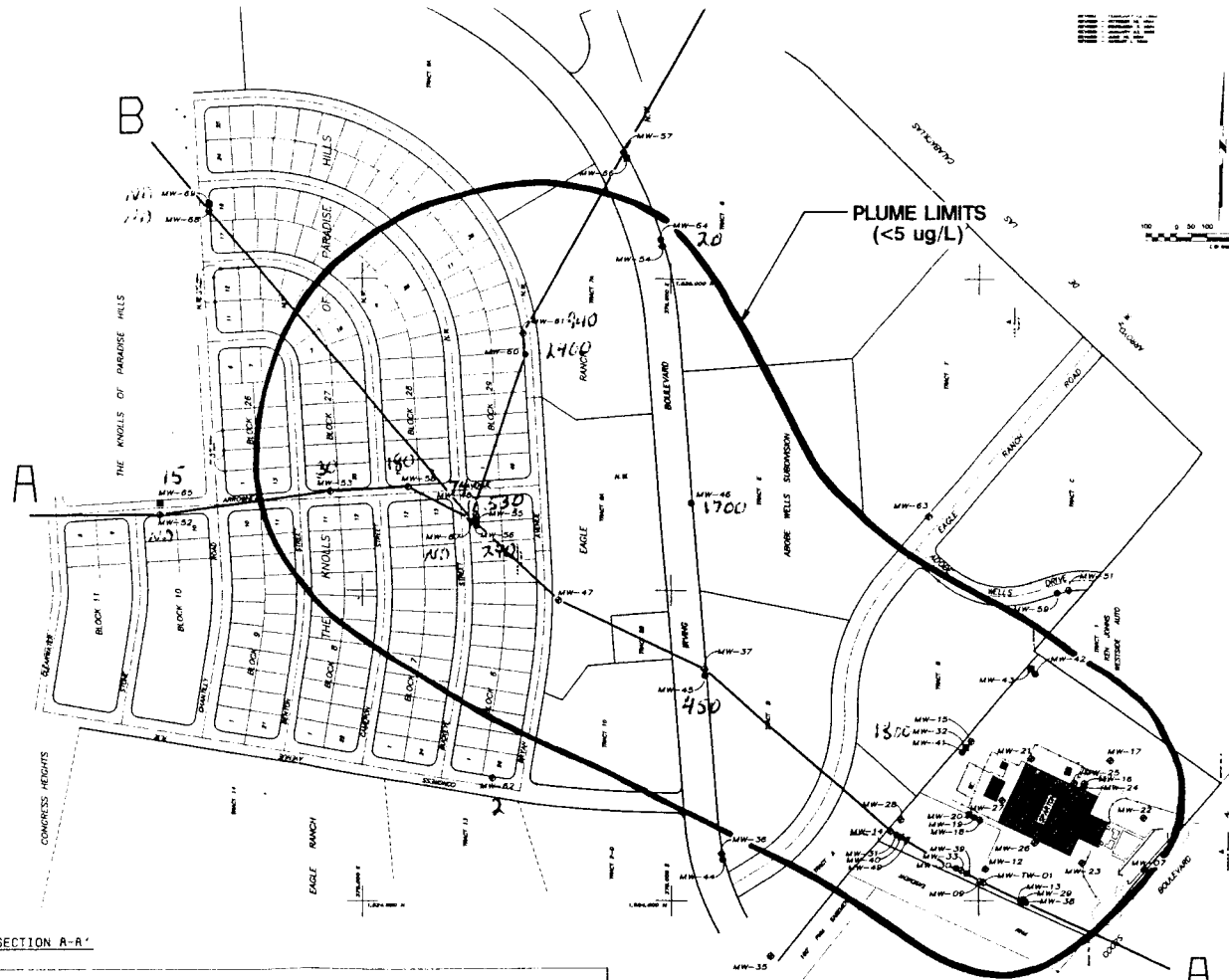
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CROSS-SECTION A-A'



**PLUME LIMITS
(<5 ug/L)**



DESIGNED _____ DETAILER _____ CHECKED _____ APPROVED _____ DATE _____		 Black & Veatch Dallas, Texas	PROJECT NO. 26602	JULY 1996 PLUME LIMITS SPARTON TECHNOLOGY, INC. COORS ROAD FACILITY ALBUQUERQUE, NEW MEXICO
DATE _____ REVISIONS AND RECORD OF DESIGN _____				