



GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P. O. Drawer 26110
Santa Fe, New Mexico 87502-0110
(505) 827-2855
Fax: (505) 827-2836

Jerry
Carl



MARK E. WEIDLER
SECRETARY

VIA HAND-DELIVERY

JAN 23 1998

Bart -
copy to Steve
Original to
my pending file
Bart

January 23, 1998

Honorable Ben Altamirano
Chairman, Senate Finance Committee
State Capitol Building
Santa Fe, NM 87503

Re: Groundwater Remediation at Sparton Technology, Inc. Site in Albuquerque

Dear Chairman Altamirano:

The Senate Finance Committee has asked the Environment Department for information on costs associated with the remediation of contaminated groundwater at the Sparton Site on the west side of Albuquerque. Like your Committee, we are highly concerned about groundwater pollution at this site. Consequently, in conjunction with various state and federal entities, we have taken aggressive legal action in federal court against Sparton with the goal of having it effectuate a clean-up of groundwater.

The history of the site and attendant legal proceedings is long and complicated. This information is effectively summarized in an October 20, 1997 letter to the Chairman of the Legislative Finance Committee. In order to provide you with this background information, we are enclosing a copy of this letter. As you can see, at the time this letter was written, we were engaged in settlement negotiations under the authority of a federal magistrate judge. Since then, negotiations having failed to resolve the matter, the magistrate has sent the case back to the federal district court judge for a preliminary injunction hearing and subsequent full trial on the merits.

We believe that the plaintiffs will ultimately prevail in this litigation, and Sparton will have to clean up the mess that it created. Given Sparton's propensity to aggressively litigate every procedural and substantive matter, this will not be easy or quick. However, if the plaintiffs prevail on the preliminary injunction, Sparton will have to quickly begin some of the more urgent corrective action measures.

We understand that your committee is considering appropriating money so that the state can begin its own corrective action at the site. Rather than having the state assume this burden, we believe that the best course of action is to aggressively pursue the remedies that may be afforded by our ongoing litigation. Probably within the coming year, the court will schedule a preliminary injunction hearing. As already stated, this may result in Sparton having to begin effectuating some of the most urgent corrective action measures.

Senator Ben Altamirano
January 23, 1998
Page 2

We will not reiterate the complex and lengthy history of cost recovery for environmental clean-ups in this state and elsewhere. However, if your committee contemplates that the state will be able to cost recover money spent on the Sparton Site, you should be aware that such recovery is far from assured.

Further complicating matters, Sparton has an ongoing remediation effort (in our opinion, a woefully inadequate one) at the site. Recently, Sparton has asserted that it is willing to work on other measures that we consider to be among the most important. Given Sparton's intransigence on almost all matters, we believe that it would be very difficult to coordinate any state remediation scheme with Sparton's ongoing efforts. Also, any state action will somehow need to be integrated into any future court ordered resolution. We also believe it is possible that Sparton might claim (however unjustifiably) that the state's actions have in some way exacerbated the problem at the site. This could be endlessly litigated.

In summary, we do not believe that appropriating state money for corrective action would be wise at this time. However, at your request, we have prepared some estimates of cleanup costs. These are summarized in the attached table entitled "Sparton Cleanup Estimates, January 1998". These estimates include those based on work that has been done by Sparton and the Environmental Protection Agency. This Department's estimates are derived from a further refinement of the data. Of course these estimates may need to be revised as we develop more knowledge of the site. The estimates are for overall costs and are not reduced by work that Sparton may undertake in the future, either by agreement or by order of the court.

We hope that this letter answers your questions. Please do not hesitate to call if you have any other questions or concerns.

Sincerely,



Mark E. Weidler
Secretary

cc: wenclosures

Senator Aragon
Senator Campos
Senator Carraro
Senator Eisenstadt
Senator Fidel
Senator Ingle
Senator Lyons
Senator McKibben
Senator Romero
Senator Smith

SPARTON CLEANUP ESTIMATES, JANUARY 1998
 (Thousands of Dollars)

Soil-Vapor Extraction (SVE) (3 yrs)

	Capital	*O&M/yr	O&M total	Total SVE
EPA	150	28	84	234
Sparton	85	16	48	133
NMED	108	24	72	180

Ground-Water Remediation (GWR) (30 yrs)

	Capital	O&M/yr	O&M total	Total GWR
EPA	812	348	10440	11252
Sparton	359	194	5820	6179
NMED	717	298	8940	9657

Grand Totals

EPA	11486
Sparton	6312
NMED	9837

Annual Cost Breakdown (based on NMED estimates)

Year 1 Cost = \$ 1147 (capital expenses for soil-vapor extraction system, recovery wells, air stripper and infiltration gallery; operation and maintenance)

Year 2 Cost = \$ 322 (operation and maintenance of soil-vapor extraction and ground-water treatment systems)

Year 3 Cost = \$ 322 (operation and maintenance of soil-vapor extraction and ground-water treatment systems)

Years 4-30 Annual Cost = \$ 298 (operation and maintenance of ground-water treatment system)

NOTE!!! EPA's estimates are from its 1996 Statement of Basis.

Sparton's estimates are from its 1996 Corrective Measures Study.

NMED's estimates are based on a review of EPA's and Sparton's estimates.

The full extent of ground-water pollution is not yet defined. These estimates may change.

*O&M stands for annual operation and maintenance.

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.

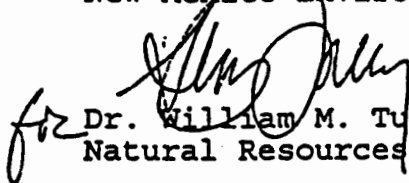
We are optimistic that we can compel Sparton to clean up the contamination using the authority of existing law. Regarding possible legislation, because our agencies have differing statutory responsibilities, we would prefer to explore any possible legislation with you individually.

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

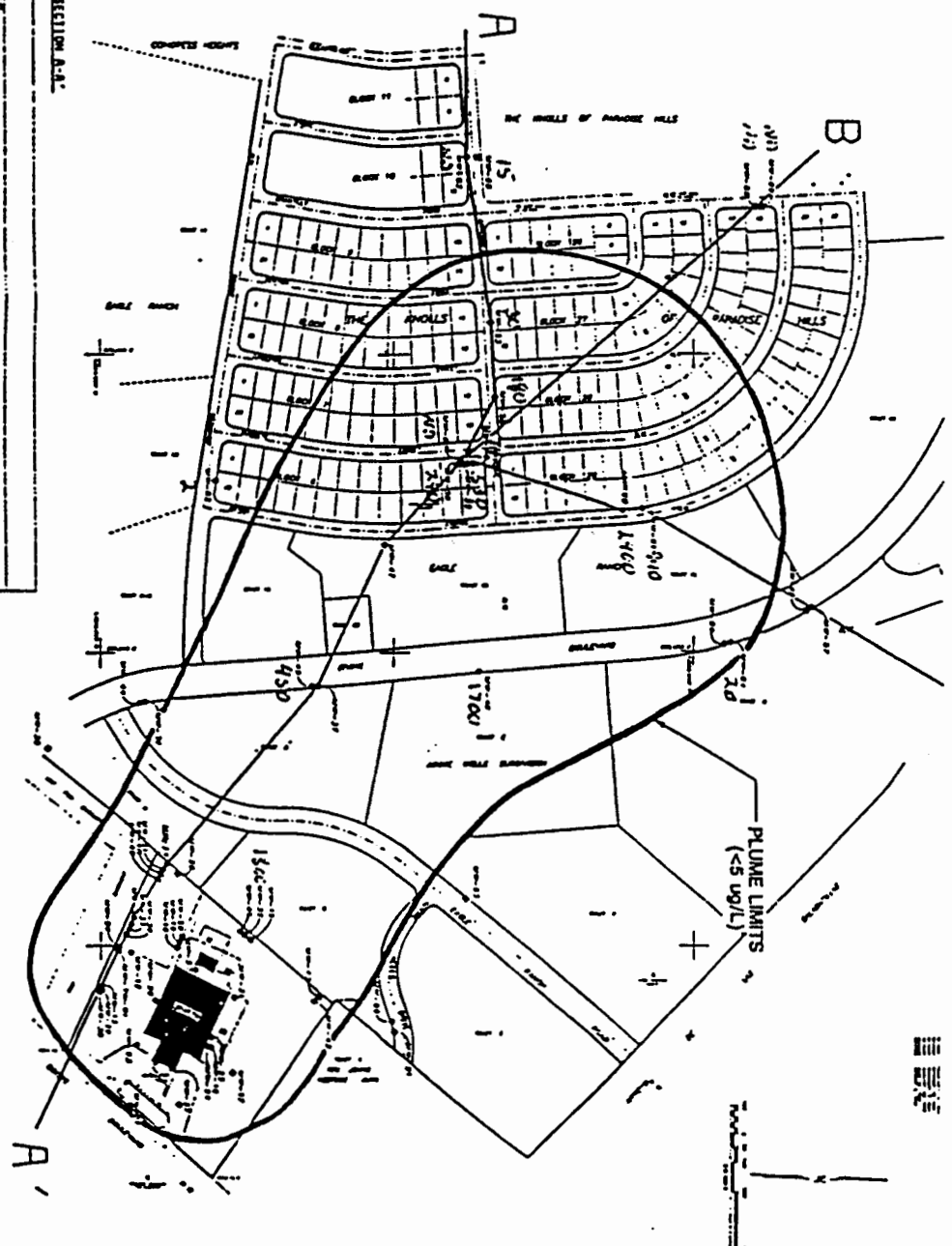
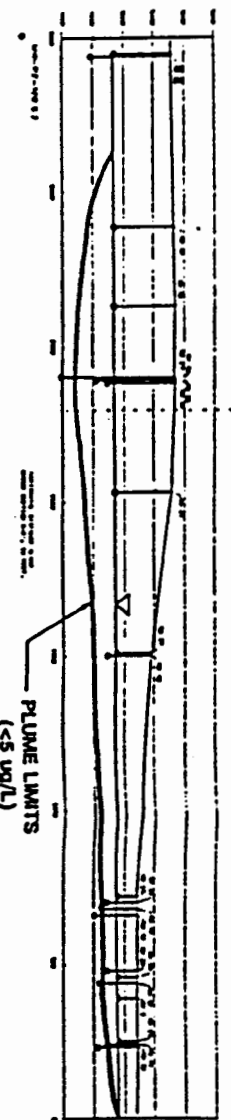
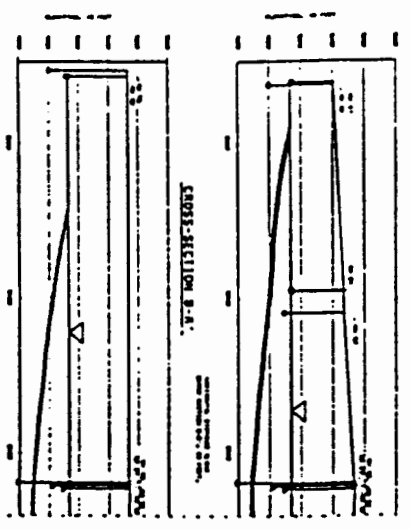
cc: John Stomp, Water Resources Manager
Gary O'Dea, Assistant City Attorney
City of Albuquerque

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
 □ LOWER FLOW ZONE WELL
 ● LOWER FLOW ZONE WELL
 ▼ FLOW ZONE WELL
 Feb. 1996 per Wilson - Aug. 1997



PROJECT NO. 26602 JULY 1996 PLUME LIMITS	
SUTATION 11 CUMUL OCT. 1996 CUMUL FLOW FACILITY ALBION RD. W. N. M. K. I. C. O.	
	BLACK & VEATCH CONSULTING ENGINEERS 1100 MARKET STREET PHILADELPHIA, PA 19102