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April 13, 1998

VIA FACSIMILE AND REGULAR MAIL

Michael A. Hebert
Technical Section
Hazardous Waste Enforcement Branch
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue; Suite 1200
Dallas, TX 75202-2733

Re: Final Administrative Order Issued to Sparton Technology, Inc.,
Docket No. RCRA-VI-001(h)96-H; EPA ID No. NMD083212332

Dear Mr. Hebert:

Richard Mico has asked that I respond to your letter dated April 9, 1998. In that letter you state that the EPA has not received certain documents required by the above-referenced Final Administrative Order.

As you are aware, Sparton Technology, Inc. ("Sparton") has pending in Albuquerque a lawsuit that challenges actions of EPA in issuing and finalizing the above referenced order. Because you are already well aware of Sparton's position, I will not describe in detail all of the objectively reasonable basis for Sparton not to comply with that order. In general, Sparton believes and has alleged that the process leading to the final administrative order violates EPA's obligations under an administrative order on consent entered into by the agency and Sparton in October of 1988. Additionally, the existence of a pending-judicial action by EPA seeking the same relief sought in the order should have prevented EPA from proceeding further with the administrative process and issuing the final order, and should now preclude EPA from enforcing that order. Sparton has also alleged that the process resulting in the final administrative order, as applied to the particular circumstances of this matter, violates Sparton's due process rights. Finally, if you have reviewed submissions over the last several years, you are undoubtedly aware that there is a substantial disagreement between EPA and Sparton over the need for the studies and most of the remedial activities required in the final administrative order. Sparton has already submitted to the agency overwhelming evidence establishing that the final administrative order is not supported by substantial evidence and is arbitrary and capricious or otherwise not in

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accordance with law. I am sure you are also aware that Sparton has proposed an alternative to the final administrative order that would achieve the same objectives but at a much lower cost.

There are four "deliverables" that you claim were due on March 30, 1998, that Sparton has not yet submitted. The first is a Vadose Zone Investigation Workplan. It is Sparton's understanding, that the document is supposed to outline a proposal for studying impacts to the vadose zone and identify a mechanism for dealing with them. I assume that you are aware that Sparton has already begun a program for addressing impacts to the vadose zone on its property. That work was undertaken based upon a proposal presented to and approved by the New Mexico Environment Department, as well as discussions with a variety of regulatory bodies, including the EPA over the last several months. It is our understanding that none of these regulatory bodies have any objection to the program we have implemented. Given this background, there does not appear to be any need for the investigative workplan. It would only delay implementation of actual remediation, and leave Sparton to incur unnecessary expense.

The second document you identified was a Ground Water Investigation Workplan. Again, we were surprised that EPA needs any additional information. Sparton on its own initiative installed a well onsite a couple of months ago to address concerns about the depth of impacts to ground water onsite. Sparton is also moving forward to complete discussions that would lead to the installation of a monitoring well offsite to confirm the depth of impacts to ground water in the center of the plume near its leading edge. Both wells were requested by various regulatory bodies, including EPA. In light of these developments, there does not appear to be any need to submit the workplan called for.

You also requested a Health and Safety Plan. For almost 10 years, Sparton has been operating under a Health and Safety Plan applicable to any testing or investigative work done at the site. No deficiencies in that plan have been found by any regulatory agency, including the EPA. Given this background, Sparton is unable to understand why EPA is requesting a new plan. Such action would be a waste of time and money on Sparton's part, as well as the agency in reviewing something that has been adequately addressed.

Finally, EPA has not received copy of a Public Involvement Plan. As Sparton pointed out during the process leading to the issuance of the Final Administrative Order, it is the company's view that EPA does not have the statutory authority to require preparation of such a plan by Sparton. If the agency wants to undertake such action, at its own expense, it is, of course, free to do so.

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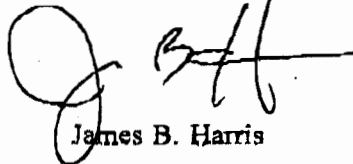
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You also inquired about the status of a monthly report. Given the fact that we are challenging the Final Administration Order, we do not see that such reports are appropriate. Nevertheless, in connection with settlement discussions relating to the lawsuit in Albuquerque, we are providing updates to Judge DeGiacomo on a weekly basis and keep you fully informed of the progress the company is making. Therefore, you are getting more information about Sparton's activities to address reports to grandulate through the lawsuit, than you would under the Final Administrative Order.

Sparton intends to raise with Judge DeGiacomo at the next settlement meeting the fact that the EPA continues to make inconsistent or duplicative demands on the company under the Final Administrative Order for the matters that are being addressed much more expeditiously and efficiently through settlement of the lawsuit.

Perhaps in advance of our discussions with the judge, it would be helpful for representatives of Sparton to meet with you and representatives of the legal staff to see if we can reach some understanding about the relationship of the Final Administrative Order to the ongoing litigation.

Yours very truly



James B. Harris

JBH/gl

cc: Michael Donnellan via facsimile
Charles De Saillan via facsimile

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FROM: Michael T. Donnellan (202) 514-4226
DATE: April 14, 1998
NUMBER OF PAGES (including cover sheet): 4
SUBJECT: Albuquerque v. Sparton Technology, Inc., No CIV 97 0206 (D.N.M.)

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