

 **ENTERED**

# THOMPSON & KNIGHT

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ATTORNEYS AND COUNSELORS

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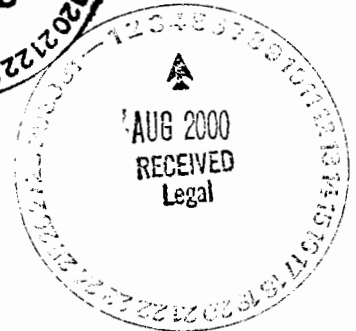
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AUSTIN  
DALLAS  
FORT WORTH  
HOUSTON  
MCALLEN  
SAN ANTONIO  
SAN JUAN, PUEBLO, MEXICO



August 2, 2000

VIA FEDERAL EXPRESS

Connie Salazar, Hearing Clerk  
Environment Department  
State of New Mexico  
1190 St. Francis Drive, Room N4050  
Santa Fe, New Mexico 87502

Re: Sparton Technology, Inc. - Request for Hearing and Answer

Dear Ms. Salazar:

Enclosed please find the original and two copies of a Request for Hearing and Answer to be filed on behalf of Sparton Technology, Inc. challenging an annual hazardous waste management business fee that has been assessed against Sparton.

I would appreciate your filing the original and returning the two copies to me with your file-mark stamped thereon in the self-addressed and stamped envelope.

A copy of this Request for Hearing and Answer is being simultaneously served on Richard Mertz, General Counsel for the Environment Department.

If you should have any questions, please do not hesitate to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "James B. Harris".

James B. Harris

JBH/tks

Encls.

cc: Richard Mertz, General Counsel

STATE OF NEW MEXICO  
SECRETARY OF ENVIRONMENT



SPARTON TECHNOLOGY, INC., §  
§  
Complainant §  
§  
v. §  
§  
ENVIRONMENT DEPARTMENT - §  
HAZARDOUS AND RADIOACTIVE §  
MATERIALS BUREAU, §  
§  
Respondent. §

NO. 00-06(A)

REQUEST FOR HEARING AND ANSWER

COMES NOW Sparton Technology, Inc. ("Sparton") and pursuant to 20 NMAC 4.2.III.302.1 files this request for a hearing and answer and would respectfully show as follows:

I.  
Background

On July 5, 2000, Sparton received a letter from Robert S. Dinwiddie, RCRA Advisor, Hazardous and Radioactive Materials Bureau assessing an "Annual Hazardous Waste Management Business Fee" against Sparton of \$6,250.00. Neither the letter nor the attachments specify to what Sparton facility the invoice applied. Sparton assumes the invoice was directed at its plant at 9621 Coors Road, N.W., Albuquerque, New Mexico (the "Coors Road Plant").

II.  
Request for Hearing

Because the letter and its attachments do not correctively or accurately describe activities at Sparton's Coors Road Plant, and because that letter and its attachments seek to improperly impose an "Annual Hazardous Waste Management Business Fee Assessment" against Sparton, a hearing is requested. A copy of the letter and attachments are included as Exhibit "A."

III.  
Answer

Sparton Responds to the Letter it Received on July 5, 2000, and its attachments as follows: Sparton denies the first sentence of that letter. It admits the second and third sentences. It denies the fourth sentence. It admits the fifth through twelfth sentences of the letter. Sparton denies that the attachments are accurate or consistent with the regulations imposing the "Annual Hazardous Waste Management Business Fee Assessment."

IV.  
Affirmative Defenses

Sparton's Coors Road facility is not subject to a hazardous waste permit fee.

Sparton's Coors Road facility is not operated under interim status.

Sparton's Coors Road facility does not have two land disposal units.

Sparton's Coors Road facility does not have two storage in container units.

The Environment Department did not require any corrective action at Sparton's Coors Road facility during the calendar year 1999.

To the extent any corrective action was undertaken at Sparton's Coors Road facility in calendar year 1999 or will be done in calendar year 2000, it was done at the insistence of the United States Environmental Protection Agency.

The Environment Department has not been authorized by the United States Environmental Protection Agency to administer corrective action management units at Sparton's Coors Road facility.

The "Annual Hazardous Waste Management Business Fee" is an improper and illegal tax.

V.

Prayer

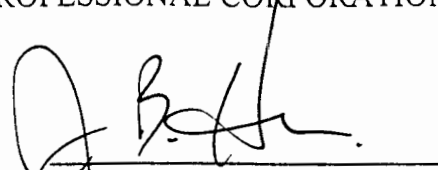
Sparton requests the following relief:

1. That this matter be set for hearing;
2. That upon final hearing hereof an order be entered finding that Sparton is not responsible for an "Annual Hazardous Waste Management Business Fee" at its Coors Road Plant;
3. In the alternative, that upon final hearing hereof, an order be entered finding that the Environment Department has mischaracterized the units that exist at Sparton's Coors Road Plant and that a correct determination of the units that exist and are subject to the "Annual Hazardous Waste Management Business Fee," if any, be made;
4. That there be a finding that the "Annual Hazardous Waste Management Business Fee" is an improper and illegal tax;
5. For such other and further relief at law and in equity to which Sparton may show itself justly entitled.

Respectfully submitted,

THOMPSON & KNIGHT  
A PROFESSIONAL CORPORATION

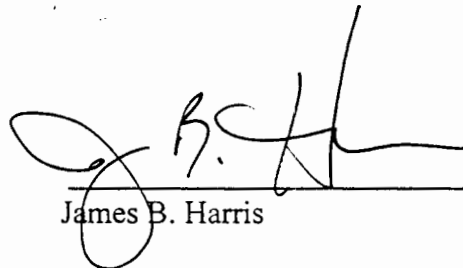
By:



James B. Harris  
State Bar No.09065400  
1700 Pacific Avenue  
Suite 3300  
Dallas, Texas 75201-4693  
(214) 969-1102 Telephone No.  
(214) 969-1751 Fax No.

ATTORNEYS FOR  
SPARTON TECHNOLOGY, INC.

I hereby affirm that the information contained in this request for hearing and answer is to the best of the undersigned is knowledge believed to be true and correct.

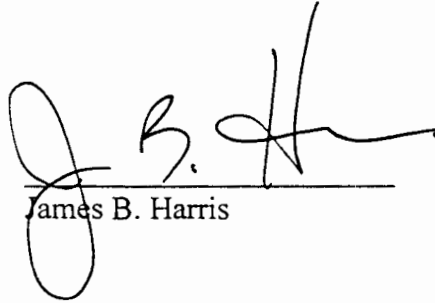


James B. Harris

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Request for Hearing and Answer was placed in U.S. mail, first class postage pre-paid, on August 2, 2000 to:

Richard Mertz  
General Counsel  
State of New Mexico Environment Department  
Office of the General Counsel  
Harold Runnels Building  
1190 St. Francis Drive, P.O. Drawer 26110  
Santa Fee, New Mexico 87502-6110



James B. Harris



GARY E. JOHNSON  
GOVERNOR

*State of New Mexico*  
**ENVIRONMENT DEPARTMENT**  
*Hazardous and Radioactive Materials Bureau*  
2044 A Galisteo, P.O. Box 26110  
Santa Fe, New Mexico 87502-6110  
Telephone (505) 827-1567  
Fax (505) 827-1544



PETER MAGGIORE  
SECRETARY

PAUL R. RITZMA  
DEPUTY SECRETARY

*Dave Begley*  
*mtc*

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**CORRECTED COPY**

July 3, 2000

Mr. Richard Mico  
Sparton Technology, Inc. - Vice President  
4901 Rockaway Boulevard  
Rio Rancho, NM 87124

**RECEIVED**  
**'JUL' 05 2000**  
**RICHARD D. MICO**

**RE: ANNUAL UNIT AUDIT for 1999**

Dear Mr. Mico:

The RCRA Permits Management Program (RPMP) and the Corrective Action Program (CAP) of the Hazardous and Radioactive Materials Bureau (HRMB) have completed the first Annual Unit Audit (AUA) of facilities permitted under the New Mexico Hazardous Waste Act to ensure that each facility's permit accurately and appropriately lists the facility's operating, closure, post closure and corrective action units, as required by 20 NMAC 4.2.201.2. Under 20NMAC 4.2.201.1, the AUA is also used to determine the Annual Hazardous Waste Management Business Fee (AHWMBF) for each facility. Input from each facility was requested in a letter dated February 29, 2000 and signed by Dr. Robert S. (Stu) Dinwiddie, AUA Project Leader and RCRA Advisor.

As a result of the AUA, an Annual Hazardous Waste Management Business Fee of \$6,250 is assessed for Sparton. Tables used for calculation of this fee are enclosed.

Payment is due within sixty (60) day of you receipt of this letter, as required by 20 NMAC 4.2.401. Should the Return Receipt be sent back to HRMB without a date of receipt, the fees are due sixty (60) day from the date of this letter. Payment should be made by certified check or money order payable to the New Mexico Environment Department Hazardous Waste Fund #339.

Should you need to request an extension of the sixty (60) day period, the request must be received a minimum of fourteen (14) calendar days prior to the end of the sixty (60) day period.

EXHIBIT

tabbies  
"A"

Richard Mico  
July 3, 2000  
Page 2

This fourteen (14) day period is necessary to ensure that the facility receives written approval of denial prior to the expiration of the sixty (60) day payment period.

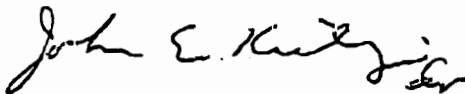
Payments should be mailed to:

Hazardous and Radioactive Materials Bureau  
New Mexico Environment Department  
2044 Galisteo Street  
P.O. Box 26110  
Santa Fe, New Mexico 87502  
ATTN: Cindy Abeyta

HRMB recognizes that there may be disagreement regarding the inclusion of some units of the permit and AUA list. If you disagree with the fee assessed, you may file an Administrative Appeal under the provisions of 20 NMAC 4.2.302.1.

If you have any questions you may contact me at (505) 827-1561 Ext 1039.

Sincerely,



Robert S. Dinwiddie, Ph.D.  
RCRA Advisor  
Hazardous and Radioactive Materials Bureau

cc: reading file  
Carl Will, HRMB



## ANNUAL UNIT AUDIT INVOICE WORKSHEET SUMMARY

**FACILITY:** Sparton  
**Unit Type/Description**

Unit Type/Description	Fee/Unit	No. of Units	Total Unit Fee
Land Disposal	\$2000.00	2	\$4000.00
Post Closure Care with Corrective Action	\$2000.00		
Post Closure Care w/o Corrective Action	\$2000.00		
Land Treatment	\$1500.00		
Surface Impoundment - Treatment	\$1500.00		
Incinerator	\$1500.00		
Boiler or Industrial Furnace	\$1500.00		
Subpart X - Treatment	\$1500.00		
Treatment in Tanks	\$1500.00		
Treatment in Containers	\$1500.00		
RD & D Treatment	\$1500.00		
Waste Pile	\$1000.00		
Surface Impoundment - Storage	\$1000.00		
Storage in Tanks	\$1000.00		
Storage in Containers	\$1000.00	2	\$2000.00
RD & D Storage	\$1000.00		
Corrective Action	\$250.00	1	\$250.00
	<b>Total AHWMBF Unit Fee</b>		<b>\$6250.00</b>



# New Mexico Environment Department

## Hazardous and Radioactive Materials Bureau

Sparton Technology Inc.  
Vice President  
4901 Rockaway Blvd  
Rio Rancho, NM 87124  
Attn: Richard D. Mico

06-28-2000

Invoice # - HRMB-ST-AUA-99  
Annual Unit Audit for 1999

Quantity	Item	Item Cost	Total Cost
2	Land Disposal	\$2,000.00	\$4,000.00
2	Storage in Containers	\$1,000.00	\$2,000.00
1	Corrective Action	\$250.00	\$250.00
		<b>Total Fees</b>	<b>\$6,250.00</b>

Make Checks Payable to: NMED/HRMB

Mail Checks and Invoice to:

New Mexico Environment Department, HRMB  
Attn: Cindy Abeyta  
P.O. Box 26110  
Santa Fe, NM 87502

State of New Mexico Use Only:

Date Received:  
Check Number:  
Amount Received:

RECEIVED TIME JUL. 11. 10:37AM

PRINT TIME JUL. 11. 10:39AM

# ANNUAL HAZARDOUS WASTE MANAGEMENT BUSINESS FEE WORKSHEET

Based on Annual Unit Audit For 1999

NM ID #: 2438 INVOICE NUMBER: HRMB-ST--AUA-99

EPA ID#: NMD083212332

FACILITY: Sparton Technologies

UNIT TYPE:	FEE PER UNIT	NO. OF UNITS	FEE
Land Disposal	\$2,000	<u>2</u>	<u>\$ 4,000</u>
Post-Closure Care	\$2,000	<u>          </u>	<u>          </u>
Land Treatment	\$1,500	<u>          </u>	<u>          </u>
Surface Impoundment (Treatment)	\$1,500	<u>          </u>	<u>          </u>
Incinerator	\$1,500	<u>          </u>	<u>          </u>
Boiler/Industrial Furnace	\$1,500	<u>          </u>	<u>          </u>
Subpart X Treatment	\$1,500	<u>          </u>	<u>          </u>
Treatment in Tanks	\$1,500	<u>          </u>	<u>          </u>
Treatment in Containers	\$1,500	<u>          </u>	<u>          </u>
RD&D Treatment	\$1,500	<u>          </u>	<u>          </u>
Waste Pile	\$1,000	<u>          </u>	<u>          </u>
Surface Impoundment (Storage)	\$1,000	<u>          </u>	<u>          </u>
Storage in Tanks	\$1,000	<u>          </u>	<u>          </u>
Storage in Containers ✓	\$1,000	<u>2</u>	<u>\$ 2,000</u>
RD&D Storage	\$1,000	<u>          </u>	<u>          </u>
Corrective Action ✓	\$ 250	<u>1</u>	<u>\$ 250</u>
<b>Total AHWMBF Fee</b>			<b><u>\$ 6,250</u></b>

Robert S. (Stu) Dinwiddie RCRA Advisor Robert S. Dinwiddie Date: 6/14/00  
 John Kicling, Permits Program Manager John E. Kicling Date: 6/15/00  
 Cindy Abeyta, Financial Program Manager \_\_\_\_\_ Date: \_\_\_\_\_