



GARY E. JOHNSON  
GOVERNOR

State of New Mexico  
**ENVIRONMENT DEPARTMENT**

Office of the General Counsel  
Harold Runnels Building  
1190 St. Francis Drive, P.O. Box 26110  
Santa Fe, New Mexico 87502-6110  
Telephone (505) 827-2990  
Fax (505) 827-1628  
www.nmenv.state.nm.us



PETER MAGGIORE  
SECRETARY

PAUL R. RITZMA  
GENERAL COUNSEL

ST 2001

December 20, 2001

James B. Harris  
1700 Pacific Avenue, Suite 3300  
Dallas TX 75201-4693  
fax (214) 969-1751

RE: Sparton v. NMED, Hazardous Waste Bureau, HWB 00-06(A)

Dear Mr. Harris,

Enclosed you will find a settlement agreement for your client's signature. As suggested, I have added Sparton's proposed language as paragraph 12. After Mr. Stranko signs the Agreement please return it to me and we will sign it, file it and mail you a copy. I have also advised the Hearing Officer that we expect to file a settlement in the near future. I will be out of the office during the week of December 24<sup>th</sup>. If you have any questions next week, please contact Julia Mullen, Assistant General Counsel, at 827-1047.

Steve Hattenbach  
Assistant General Counsel  
New Mexico Environment Department  
Santa Fe, New Mexico 87502-6110  
(505) 827-2824  
Attorney for the Hazardous Waste Bureau

CC: James Bearzi, Chief HWB  
John Kieling, Program Manager  
Carl Will, HWB  
Robert Warder, District One

STATE OF NEW MEXICO  
SECRETARY OF THE ENVIRONMENT

SPARTON TECHNOLOGY, INC., )  
COMPLAINANT, )  
 )  
v. ) No. HRM 00-06(A)  
 )  
NEW MEXICO ENVIRONMENT )  
DEPARTMENT, HAZARDOUS AND )  
RADIOACTIVE MATERIALS )  
BUREAU, )  
Respondent. )

---

**SETTLEMENT AGREEMENT**

On July 3, 2000 the Hazardous Waste Bureau (“HWB” or “Bureau”) of the New Mexico Environment Department (“NMED” or “Department”) issued its 1999 Annual Hazardous Waste Business Management Fees Invoice (“1999 Invoice”) to Sparton Technology Inc., (“Sparton”) assessing Annual Hazardous Waste Business Management Fees (“fees”) of \$6,250 pursuant to 20.4.2.201.2 NMAC for Sparton’s former Coors Road Facility at 9621 Coors Road, N.W. Albuquerque, New Mexico (“Sparton Facility”). On August 4, 2000 Sparton filed a Request for Hearing, appealing the 1999 Invoice pursuant to 20.4.2.302 NMAC. On June 29, 2001 the HWB issued its 2000 Annual Hazardous Waste Business Management Fees Invoice (“2000 Invoice”) to Sparton assessing fees of \$6,250 pursuant to 20.4.2.201.2 NMAC for the Sparton Facility. On July 27, 2001 Sparton filed a Request for Hearing, appealing the 2000 Invoice pursuant to 20.4.2.302 NMAC. The Department held a public hearing on these two appeals on October 11, 2001. At this public hearing the Hearing Officer consolidated the two appeals into one case (No. HRM 00-06(A)). The HWB and Sparton (collectively referred to as “the Parties”) hereby

DRAFT

agree to settle this case under the terms and conditions set forth in this Settlement Agreement (“Agreement”).

1. Consolidation of Units. For purposes of settlement of this case, the Bureau agrees to revise the 1999 Invoice and 2000 Invoice to consolidate the two land disposal units at the Sparton Facility. This will result in a fee reduction of \$2,000 for each year, for a total fee reduction of \$4,000.
  
2. Removal of New Drum Storage Area. For purposes of settlement of this case, the Bureau agrees to revise the 1999 Invoice and 2000 Invoice to remove the new drum storage area. The removal of this container storage unit will result in a fee reduction of \$1,000 for each year, for a total fee reduction of \$2,000.
  
3. Calculation of Remaining Fee. Pursuant to the changes to the 1999 Invoice and 2000 Invoice discussed in paragraphs one and two of this Agreement, Sparton’s fee assessment for each year is \$3,250, for a total amount of \$6,500 for both years. Sparton paid the full \$6,250 fee charged pursuant to the 1999 Invoice in a timely manner. Sparton has not paid any amount on the \$6,250 fee charged pursuant to the 2000 Invoice. The Parties agree that Sparton was entitled to a \$3,000 credit on the 2000 Invoice for overpayment of its 1999 Invoice. The Parties agree that Sparton’s remaining fee liability for the 1999 Invoice and 2000 Invoice is \$250.
  
4. Payment Due Date: Pursuant to 20.4.2.301 NMAC the HWB grants Sparton an

DRAFT

extension for payment of the 2000 Annual Hazardous Waste Business Management Fees.

The new due date shall be sixty (60) days after receipt of the revised invoice sent pursuant to paragraph six below.

5. Waiver of Billing Fee: Pursuant to 20.4.2.301 and 402 NMAC the HWB waives the \$100 billing charge that would be imposed for failure to pay fees within sixty (60) days of the date of the original invoice. A billing charge may be imposed if Sparton does not pay the revised invoice in a timely manner.

6. Revised Invoice: The HWB shall, consistent with this Agreement, send a revised fee invoice for 2000 fees in the amount of \$3,250.00 (three thousand two hundred fifty dollars) to Sparton. The revised fee invoice shall reflect a credit of \$3,000 for overpayment of the 1999 Invoice. The revised invoice shall reflect a remaining fee liability of \$250. Sparton shall withdraw its August 4, 2000 and July 27, 2001 Requests for Hearing within ten (10) days of receipt of the revised fee invoice. Sparton shall pay the invoiced fees within sixty (60) days of the date of the revised fee invoice.

7. Effective Date. This Agreement shall become effective upon full execution by the duly authorized representatives of the parties.

8. Authority of Signatories. The persons executing this Agreement represent that they have the authority to bind their respective parties to this Agreement and fulfill the terms

DRAFT

and obligations of this Agreement, and that their representation shall be legally sufficient evidence of actual authority to bind their respective parties to this Agreement.

9. Complete Agreement. This Agreement constitutes the final and complete settlement agreement between Sparton and HWB. This Agreement may be modified only by written consent of all signatories.

10. Precedential Effect This agreement is for purposes of settling this case only and does not establish binding precedent on any signatory to the Agreement. This Agreement does not constitute an admission or evidence of the truth of any statement contained in Sparton's August 4, 2000 or July 27, 2001 Request for Hearing. This Agreement does not constitute a settlement of any fee issues not explicitly addressed in the Agreement. This Agreement does not preclude Sparton or the HWB from fully litigating the same or similar issues arising in future actions before State or Federal agencies or in any court of law.

11. Reservation of Rights and Defenses. This Agreement shall not be construed to prohibit or limit in any way the Department from requiring Sparton to comply with any applicable state or federal requirement. This Agreement shall not be construed to prohibit or limit in any way the Department from seeking any relief authorized by the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et. seq. ("RCRA"), the Hazardous Waste Act, NMSA 1978 §§ 74-4-1 et seq. ("HWA"), the Hazardous Waste Management Regulations 20.4 NMAC ("HWMR") or permit for violation of any applicable state or

DRAFT

federal requirement. This Agreement shall not be construed to prohibit or limit in any way Sparton from raising any defense to a Department action seeking such relief.

**New Mexico Environment Department, Hazardous Waste Bureau**

\_\_\_\_\_  
Greg Lewis, Director  
NMED, Water & Waste Management Div.  
1190 St. Francis Dr.  
Santa Fe, New Mexico 87502-6110

Date: \_\_\_\_\_

**Sparton Technology, Inc.**

\_\_\_\_\_  
[signatory's name]  
[signatory's address]

Date: \_\_\_\_\_

RESPECTFULLY SUBMITTED

\_\_\_\_\_  
Steve Hattenbach, Esq.  
OGC, NMED  
P.O. Box 26110  
Santa Fe, New Mexico 87502-6110  
telephone (505) 827-2824

Attorney for HRMB

DRAFT

STATE OF NEW MEXICO  
SECRETARY OF THE ENVIRONMENT

SPARTON TECHNOLOGY, INC., )  
COMPLAINANT, )

v. )

No. HRM 00-06(A)

NEW MEXICO ENVIRONMENT )  
DEPARTMENT, HAZARDOUS AND )  
RADIOACTIVE MATERIALS )  
BUREAU, )  
Respondent. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Settlement Agreement was served on Sparton Technology, Inc. on December \_\_, 2001 by first class mail.

James B. Harris  
1700 Pacific Avenue, Suite 3300  
Dallas TX 75201-4693

fax (214) 969-1751

Attorney for Sparton Technology, Inc

\_\_\_\_\_  
Steve Hattenbach, Esq.  
OGC, NMED  
P.O. Box 26110  
Santa Fe, New Mexico 87502-6110  
telephone (505) 827-2824

Attorney for HWB