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METRIC
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August 5, 2002

Mr. John Kieling, Manager
New Mexico Environment Department
Hazardous Waste Bureau
2905 Rodeo Park Drive East
Building One
Santa Fe, New Mexico 87505-6303

Mr. Robert Warder
Hazardous Waste Bureau
New Mexico Environment Department
4131 Montgomery Blvd. NE
Albuquerque, NM 87109

Re: Comments on Draft Post-Closure Care Permit for Sparton Technology, Inc.

Dear Mr. Kieling:

The following comments are submitted on behalf of Sparton Corporation and Sparton Technology, Inc. The fact sheet for the draft permit states that comments are to be received on or before August 4, 2002, which was a Sunday. Robert Warder communicated to me that because August 4, 2002 was a Sunday, comments received before 5:00 p.m. on Monday, August 5, 2002 would be considered.

The New Mexico Environment Department's ("NMED") draft post-closure care permit for Sparton Technology, Inc. ("Sparton") is a response to a revised application filed on February 15, 2002, in compliance with the terms of a Consent Decree to which Sparton and NMED are parties. As set forth in ¶22.b. page 16 of that Consent Decree, Sparton's post-closure care permit is not to address corrective action required while the Consent Decree is in effect. The draft post-closure care permit violates this provision of the Consent Decree by imposing corrective action obligations on Sparton and by making any failure to comply with those obligations a violation of the permit.[1]

The specific provisions of the draft permit that must be deleted because they violate Mr.

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[1] Sparton has already invoked dispute resolution procedures under the Consent Decree because of NMED's failure to follow the terms of the Consent Decree. The outcome of that process will determine what NMED can include in the permit with respect to corrective action.

NMED's obligation under the Consent Decree not to address corrective action in a post-closure permit including the following:

1. Paragraph 1 of Section I.A., which among other things incorrectly states that the permit "authorizes" Sparton to perform the corrective actions, and it incorrectly states the permit "establishes" standards for corrective action.

2. Paragraph 4 of Section I.A. in referencing permit sections that impose corrective action obligations on Sparton.

3. The inclusion of the following definitions in Section I.D. — "Consent Decree," "Corrective Action Program," "Draft Source Containment System Operation and Maintenance Manual," "Facility," "Final Off-Site Containment System Operation and Maintenance Manual," "Permit" (to the extent it incorporates the Consent Decree and its attachments and makes reference to various operation and maintenance manuals developed in accordance with the Consent Decree), and "Work."

4. Section I.E.6 because it is only necessary with respect to corrective action.

5. Sections I.E.8.-10.

6. I.G.

7. I.H.

8. II.D.

9. II.E. (to the extent it references remediation systems called for by the Consent Decree)

10. II.E.1-5 (to the extent that they require inspection of operations governed by the Consent Decree).

11. Section II.I.1-5 (to the extent it requires preparedness and prevention plans for activities governed by the Consent Decree).

12. II.J.1.-4 (to the extent it imposes contingency planning requirements for activities governed by the Consent Decree).

13. II.L.1-3 (to the extent it imposes recordkeeping and reporting requirements for activities governed by the Consent Decree).

14. II.O. (to the extent it requires the submission of cost estimates for activities governed by the Consent Decree).

15. II.P. (to the extent it imposes financial assurance obligations for activities governed by the Consent Decree).

16. III.A.1. (to the extent it describes groundwater monitoring and corrective action governed by the Consent Decree).

17. All of module IV because it addresses activities governed by the Consent Decree.

Sparton also objects to II.M.5. because it deals with closure activities that have already been completed.

Perhaps the simplest way to address Sparton's concerns and to bring the draft permit into compliance with NMED's obligation under the Consent Decree is to change the definition of the term "Facility." As currently defined it includes all of the activities governed by the Consent Decree. What the parties contemplated under the Consent Decree is that the term "facility" would describe RCRA units that had not been clean closed. There is only one of those left at the site – the former surface impoundment. That unit is part of a capped area. Sparton's application for a post-closure permit was limited to that capped area and it should be the "facility" for purposes of the post-closure care permit.

If the facility is the capped area covering the former surface impoundment, then the draft post-closure care permit should consist of:

1. Section I.A., with the deletion of any references to the Consent Decree;

2. Section I.B.;

3. Section I.C.;

4. Section I.D., modified by revising the definition of "facility," revising the definition of "permit" to remove any reference to the Consent Decree or submittals approved under the Consent Decree, and deleting the terms as requested above;

5. Section I.E.1-6;

6. Section I.E.10 (but not I.E.10.a.);

7. Sections I.E.11-16;

8. Section I.F. (after deleting any reference to the Consent Decree);

9. Section I.G.;

10. Section I.H.;

11. Section I.I.;

12. Section II.A.;

13. Section II.B.;

14. Section III.A.2-6; and

15. Appendix IV-A.

Sparton also has the following specific comments with respect to factual inaccuracies in the draft post-closure care permit. The fact sheet incorrectly identifies the facility as owned by Sparton Corporation, when it is owned by Sparton Technology, Inc. The fact sheet incorrectly says that printed circuit electronic assembly and manufacturing occurred from 1961 to 1999. The plant was operated as an electronics manufacturing plant from 1961 to 1999 with printed circuit electronic assembly occurring only during some of that time. Contrary to what is said in the notice of intent and fact sheet, the printed circuit manufacturing did not generate spent solvents. It was the electronic assembly activities that generated spent solvents. Additionally, contrary to what is said in the notice of intent and fact sheet, the plating waste did not consist of TCE, TCA, methylene chloride, acetone or DCE.

The facility description in the fact sheet is incorrect. The facility should be limited to the capped area in which the former surface impoundment is located.

The draft permit provides in Section II.N.4. that post-closure requirements remain in place for thirty (30) years after "implementation" of corrective action, while Section II.N.1. says the requirements are imposed for thirty (30) years after "initiation" of corrective action. If NMED intends these words to mean the same thing, then Sparton suggests using the same word in both sentences.

Either I or other representatives of Sparton are available to meet with you to discuss our concerns and to work cooperatively to develop a post-closure care permit consistent with what the parties agreed to in the Consent Decree.

Sincerely,

METRIC Corporation

Gary L. Richardson, P.E.
Executive Vice President

GLR/rkh

cc: Charles Stranko
Jim Harris
Susan Widener