

ST 2003



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DATE: 4-28-03 PAGES (including cover sheet): 4

TO: John Keely

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FROM: FIELD OFFICE DIVISION

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COMMENTS:  
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## FACSIMILE COVER LETTER

TO: Ana Marie Ortiz, Esq.  
New Mexico Environment Department

FROM: James B. Harris, Esq.

SUBJECT: *Sparton Technology, Inc.*

DATE: April 21, 2003

CLIENT/FILE NO.: 040310.000001

ATTY PHONE EXT: 1102

FAX NO.: (505) 827-1628 or (505) 827-2836

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APR. 21, 2003 3:10PM

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April 21, 2003

**Via Facsimile**

Ana Marie Ortiz

Assistant General Counsel

State of New Mexico Environment Department

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Santa Fe, New Mexico 87502-6110

Re: Sparton Post-Closure Care Permit

Dear Ana:

This letter is a follow up to my voice-mail message left on Thursday, April 17, 2003, regarding Sparton's post-closure care permit. I very much appreciate your efforts, as well as those of Robert Wider in addressing most of the concerns Sparton raised about the post-closure care permit. There are still a few issues that need to be worked out, but I am confident that they can be resolved. In my mind, the easiest way to do so is to schedule a face-to-face meeting so we can have the documents in front of us and, hopefully, develop on the spot language acceptable to both sides. After receiving this letter, please give me a call so we can set up such a meeting.

I also thought it would be helpful to identify what I perceive to be the remaining issues, so that we both can be fully prepared to discuss and resolve these when we get together.

One very minor issue is that the post-closure care permit still requires us to notify you of human health or safety issues connected with the "site" and "the facility." In our view, notification involving "site" issues is addressed under the Health and Safety Plans approved pursuant to the Consent Decree, as well as the permits issued for the conduct of corrective action. Therefore, we would suggest modifying Section I.E.14 to delete the phrase "the site."

All of Sparton's remaining concerns are limited to Module IV, which deals with corrective action. One concern is process related. In particular, the latest draft seems to suggest that imposing an obligation on us to undertake clean-up of the old surface impoundment, until the concentration of constituents of concern is at or below residential levels, is within the sole discretion of NMED. Likewise, the imposition of further corrective action requirements, after termination of the Consent Decree, is apparently left to the discretion of NMED. Sparton apparently has no ability to either confer with NMED, or, if necessary, challenge any proposal that NMED may make. I am not sure that is what you intended, but that is the way the current draft of the post-closure care permit reads to me. It seems to us that the easiest way to address both of these issues is to provide that the need to undertake further cleanup of the facility or

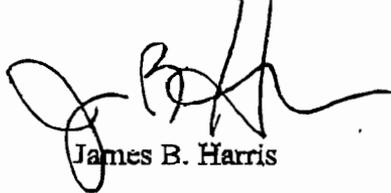
Ana Marie Ortiz  
April 21, 2003  
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undertake further corrective action will be accomplished by NMED proposing a modification or amendment to the current post-closure care permit. Using this approach ensures both an administrative process and a recognized procedure for judicial review.

On the substantive side, there are two matters we would like to discuss with you. First, we believe there may be a way to develop deed restrictions that would allow the state to use a commercial standard instead of a residential standard with respect to further cleanup of the surface impoundment soils. Second, we are not inclined to agree that the entire site should be considered a solid waste management unit. The only solid waste management unit that we are aware of is the abandoned sump. We do not believe that others exist. We understand that NMED is concerned that while it is not currently aware of any other solid waste management units, some might be discovered if and when the structure currently on the site in which Sparton engaged in manufacturing activities is removed. It seems to us that in the event such a discovery occurs, and Sparton does not believe there will be such a discovery, there are other mechanisms available under the environmental laws of the state of New Mexico to address those issues, independent of the post-closure care permit. We would like to visit with you about those.

Ana, I think we are very close to getting the language of this permit wrapped up, and I look forward to doing so in the near future.

Yours very truly,



James B. Harris

JBH/tks

cc: Gary Richardson

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