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**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

EPA VOL 5  
2358

March 31, 1995

R. Jan Appel  
Vice President and General Counsel  
Sparton Corporation  
2400 East Ganson St.  
Jackson, MI 49202

RE: Characterization of Contamination at Sparton Corporation Coors  
Road Facility, Albuquerque

Dear Mr. Appel:

The New Mexico Environment Department (NMED) has received the letter dated March 10, 1995 sent by Richard Virtue in behalf of Sparton Corporation (Sparton). NMED disagrees with much of the information presented in this letter and reasserts its authority under Water Quality Control Commission (WQCC) Regulation 1-203 to require Sparton to undertake further plume characterization and, ultimately, remediation at Sparton's Coors Road Facility. In particular, NMED makes the following points:

1) NMED contends that the current extent of ground water contamination resulting from Sparton's past waste management practices has not been determined. The most downgradient upper flow-zone monitor well within the TCE plume, MW-61, has shown a TCE concentration of approximately 800 ug/l as of late 1994. Similarly, the most downgradient lower lower-flow zone monitor well, MW-55, has shown a TCE concentration of approximately 600 ug/l as of late 1994. The New Mexico ground water standard for TCE is 100 ug/l. Because there are no wells downgradient of MW-61 and MW-55 in their respective flow zones, it is impossible to determine the downgradient extent of contamination.

NMED is aware that MW-49 is the only monitor well in the third (deep) zone. This well is considerably offgradient from the waste disposal area and so is inadequate to fully characterize the extent of ground water contamination in the deep flow zone as was argued by Mr. Virtue in his March 10, 1995 letter. TCE is denser than water and has a tendency to move down through an aquifer and so it is important to monitor the deeper zone.

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NMED disputes the claim in Mr. Virtue's letter dated March 10, 1995 that the plume has been characterized because the RCRA Facility Investigation (RFI), which included plume characterization, was approved by the EPA in July, 1992. NMED may make its own determination as to the adequacy of plume characterization. Even if the characterization in the RFI was accurate for the horizontal extent of the plume at the time it was submitted and approved, the TCE plume has expanded beyond the limits of the existing monitoring system since that time. Note that the first sample from MW-61 to indicate the presence of TCE was the sample collected in December of 1993. The December 1993 sampling of MW-55 also suggests a dramatic increase in TCE concentration.

2) NMED also disputes Mr. Virtue's claim that the TCE mass in ground water has dramatically decreased. The full extent of contamination is not known, as described above, so one cannot reasonably estimate the volume of contaminated ground water or the mass of contaminant. The method used to draw these conclusions in the Report on the Effectiveness of the Groundwater Recovery Well System in the Upper Flow Zone (prepared for Sparton in February, 1995) is not described and so cannot be evaluated by NMED. It is also difficult to draw firm conclusions about trends of TCE concentrations in the off-site portion of the TCE plume, as distinguished from seasonal variations in concentrations, due to the very infrequent monitoring of off-site monitor wells.

3) WQCC Reg. 1-203.A.5 requires that the owner/operator of a facility where a discharge has occurred,

"take such corrective actions as are necessary or appropriate to contain and remove or mitigate the damage caused by the discharge."

It was stated in Mr. Virtue's March 10 letter that Sparton believes that it is currently in compliance with WQCC Reg. 1-203.A.5 because "Sparton is taking corrective action 'necessary or appropriate to contain and remove or mitigate the damage caused by the discharge'". NMED strongly disagrees for the following reasons:

i) The TCE plume is not being contained. The TCE concentration in MW-61 was 610 ug/l in December 1993 where all previous samples had been non-detect. In addition, NMED disputes the capture zone analysis contained in the Report titled "Report on the Effectiveness of the Groundwater Recovery Well System in the Upper Flow Zone" dated February, 1995, because it utilized the equations for a confined aquifer instead of an unconfined aquifer, which would have resulted

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in a much smaller capture zone. Further, field measurements do not match predicted capture zones (there does not appear to be any measurable drawdown off-site resulting from the pumping of on-site extraction wells). Therefore, NMED believes that the capture zone of the pumping wells does not extend off-site.

ii) Integral to containing and removing or mitigating the ground water contamination caused by Sparton's past waste management practices is fully characterizing the extent of ground water contamination. Full characterization of the plume, therefore, falls under the purview of WQCC Reg. 1-203, but, as described above, has not been done.

4) As Mr. Virtue pointed out, Section 74-6-12 of the Water Quality Act states: "the Water Quality Act does not apply to any activity or condition subject to the authority of the environmental improvement board pursuant to the Hazardous Waste Act...except to abate water pollution..." NMED believes that the phrase "except to abate water pollution" gives it clear authority to require investigation and cleanup of the contamination at the Sparton facility. Sparton may have engaged in substantial regulatory activity up to this time, but the fact remains that more than 12 years after the ground water contamination was first identified, the plumes are neither fully characterized, contained nor remediated.

Further, the investigation and cleanup requirements of WQCC 1-203.A.5 are not subject to any time limitations. This regulation states that the damage caused by the discharge shall be contained and removed or mitigated. While Sparton has satisfied the notification requirements of WQCC 1-203.A.1 and 1-203.A.3, it has not fully complied with 1-203.A.5.

5) The reason that the Ground Water Protection and Remediation Bureau (GWPRB) has not become involved earlier than it has is because the problems at this site were only brought to our attention in 1994. Since that time, we have been attempting to gain full characterization of ground water contamination at the Sparton site.

Please submit to NMED, no later than 30 days after receiving this letter, those items previously requested of Sparton in NMED's letter dated January 6, 1995 including:

1) A modified quarterly sampling program for selected off-site monitor wells. The monitoring plan shall be approved by the GWPRB;

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2) installation of at least 2 monitor wells in the third (deep) flow zone. The construction and locations of these wells shall be preapproved by the GWPRB;

3) installation of additional monitor wells as needed to identify the downgradient extent of ground water contamination in the upper and lower flow zones. The construction and locations of these wells shall be preapproved by the GWPRB.

This is NMED's final attempt to gain Sparton's voluntary compliance in this matter. Failure to submit the requested items within 30 days will result in a formal Notice of Violation, a compliance order and/or penalties.

If you have any questions, please contact Dennis McQuillan at 505-827-2831 or Rob Pine at 505-827-0178.

Sincerely,



Marcy Leavitt, Chief  
Ground Water Protection &  
Remediation Bureau

ML/RP/rp

cc: Richard Virtue, Taichert, Wiggins, Virtue & Najjar, 119 East Marcy Street, Suite 100, P.O. Box 4265, Santa Fe, NM 87502-4265

Steve Cary, Office of the Natural Resources Trustee, 2600 Cerillos Rd., P.O. Box 26110, Santa Fe, NM 87502

Ron Kern, HRMB, NMED

Baird Swanson, Remediation Section, NMED

Vincent Malott, Technical Section, RCRA Enforcement Branch (6H-CX), U.S. Environmental Protection Agency, 1445 Ross Ave., Dallas, TX 75202-2733

Norm Gaume, Public Works Department, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103