

**SPARTON****SPARTON TECHNOLOGY**

January 16, 1998

Mr. Mark E. Weidler, Secretary  
State of New Mexico  
Environment Department  
Harold Runnels Building  
1190 St. Francis Drive  
P. O. Drawer 26110  
Santa Fe, NM 87502-0110

Mr. Samuel Coleman, Director  
Compliance Assurance and Enforcement Division  
U.S. Environmental Protection Agency  
Region 6  
Suite 1200  
1445 Ross Avenue  
Dallas, TX 75202-2733

Mayor Jim Baca  
1 Civic Plaza N.W.  
11<sup>th</sup> Floor  
Albuquerque, NM 87103

Mr. Juan Vigil  
Bernalillo County Manager  
1 Civic Plaza N.W.  
10<sup>th</sup> Floor  
Albuquerque, NM 87103

Dr. William M. Turner  
New Mexico's Trustee for  
Natural Resources  
P. O. Box 26110  
Santa Fe, NM 87502

Re: Sparton Technology, Inc.

Gentlemen:

As I am sure your attorneys have advised you, the settlement discussions before Magistrate Judge Robert J. DeGiacomo reached an impasse in December. Nevertheless, Sparton remains committed to the proposals it made to Secretary Weidler in July of 1996 - namely the implementation of an on-site soil vapor extraction (SVE) system, enhancement of on-site containment, and installation of an off-site containment well. In Sparton's judgment, these three remediation activities are both reasonable and ones that it can financially afford.

After the settlement discussions in Santa Fe in September of 1996, the only conceptual impediment to implementation of an off-site containment well was finding a mechanism to economically deal with recovered and treated groundwater. Unfortunately, over a year later that issue remains unresolved.

We are encouraged, however, by the fact that the City of Albuquerque has recently advised us that it supports the placement of an infiltration gallery in the Calabacillas Arroyo. We are also encouraged by the fact that NMED has promised to expedite review of our Groundwater Discharge Permit Application filed on December 24, 1997.

Discussions during the remediation process before Magistrate Judge Robert J. DeGiacomo did result in substantial agreement as to initial implementation of one of these three remediation activities, namely an on-site SVE program. Accordingly, we will begin an on-site soil vapor extraction program within the next 30-45 days, as negotiated during the mediation discussions and consistent with the proposal described in a letter to

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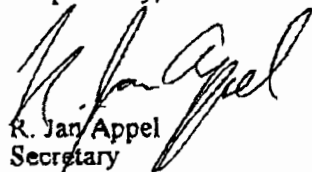
Page 2

Michael Donnellan dated October 31, 1997 and in two letters received from Michael Donnellan dated October 24, 1997 and November 7, 1997.

We also intend to undertake some additional on-site testing in order to better locate the "center of mass" of groundwater impacts. Your representatives will be invited to attend.

We ask for your cooperation in these efforts. If you have any questions or would like to discuss the matter further, please feel free to give me a call.

Respectfully,



R. Jan Appel  
Secretary

RJA:jc

cc: John Zavitz (505) 766-8517  
Wendy Blake (202) 514-8865  
Gary O'Dea (505) 768-4525  
Patrick Trujillo (505) 768-4245  
Ana Marie Ortiz (505) 827-1628  
Charles de Saillan (505) 827-4440  
Michael T. Donnellan (202) 514-8395

FILED

UNITED STATES DISTRICT COURT  
LAS CRUCES, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JAN 16 1998

*Robert M. ...*  
CLERK

ALBUQUERQUE, CITY OF, et al.,

Plaintiffs,

vs.

SPARTON TECHNOLOGY, INC.,  
et al.,

Defendants.

JAN 1998  
RECEIVED  
Legal

NO. CIV 97-206 LH/JHG  
CONSOLIDATED WITH  
NO. CIV 97-208 LH/JHG  
NO. CIV 97-210 LH/JHG  
NO. CIV 97-981 LH/JHG

INITIAL SCHEDULING ORDER

This cause is assigned to me for scheduling, case management, discovery, and other non-dispositive motions. The Federal Rules of Civil Procedure as amended in 1993, as well as the local rules of the Court shall apply to this law suit. Civility and professionalism will be required of counsel. Counsel should read "A Lawyer's Creed of Professionalism of the State Bar of New Mexico".

The parties, appearing through counsel or pro se, shall "meet and confer" no later than February 6, 1998 to formulate a provisional discovery plan. Fed. R. Civ. P. 26(f). The time for discovery, generally 120 to 150 days, will run from the Rule 16 initial scheduling conference. The provisional discovery plan shall be filed with the Court no later than February 12, 1998. The parties will cooperate in preparing an Initial Pre-trial Report (IPTR) which will follow the sample IPTR form obtainable from the Court Clerk. The blanks for dates should not be filled in. Plaintiff, or Defendant in removed cases, is responsible for

<sup>1</sup> Note the specific requirements of the assigned trial judge.

*Copy sent to Counsel and Clerk*

submitting the ORIGINAL IPTR with a COPY of the Provisional Discovery Plan directly to my office by February 12, 1998, if not, copies are to be FAXED TO 505-527-6919 BY THAT DATE.

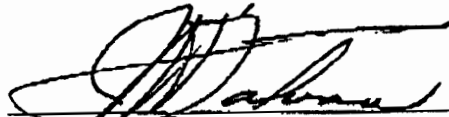
Good cause must be shown and Court approval obtained for any modification of the IPTR schedules.

Initial disclosures under Fed. R. Civ. P. 26(a)(1) shall be made within ten days of the meet and confer session.

A Rule 16 scheduling conference will be held in Clerk's Conference Room 10018, Tenth Floor, United States Courthouse and Federal Building, 500 Gold Avenue SW, Albuquerque, New Mexico on Wednesday, February 18, 1997 at 1:30 p.m. The Rule 16 scheduling conference Counsel shall be prepared to discuss discovery needs and scheduling, all claims and defenses, the use of scientific evidence and whether a Daubert<sup>2</sup> hearing is needed, initial disclosures, and the timing of expert disclosure and reports under Fed. R. Civ. P. 26(1) (2). We shall also discuss settlement prospects and alternative dispute resolution possibilities. Client attendance is not required.

Pre-trial practice in this cause shall be in accordance with the foregoing.

IT IS SO ORDERED.

  
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Joe R. Galvan  
UNITED STATES MAGISTRATE JUDGE

<sup>2</sup> Daubert v. Merrell Dow Pharmaceuticals, 113 S.Ct. 2786 (1993).