

STATE OF NEW MEXICO
BEFORE THE SECRETARY OF ENVIRONMENT



IN THE MATTER OF THE APPEAL OF
SPARTON TECHNOLOGY, INC.,
HAZARDOUS WASTE MANAGEMENT
BUSINESS FEE ASSESSMENT,

HRM 99-04 (A)

NOTICE OF DOCKETING AND
HEARING OFFICER ASSIGNMENT

The above captioned case is hereby docketed pursuant to 20 NMAC 1.5, §201.A. In accordance with 20 NMAC 4.2 §301.1 Felicia L. Orth has been designated as Hearing Officer. A timely appeal was received by the Hearing Clerk on June 11, 1999.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Docketing and Hearing Officer Assignment in the above captioned case was served by First Class mail on this 15th day of June, 1999 to:

JAMES B. HARRIS, ESQ.
Thompson & Knight, P.C.
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201-4693

Felicia L. Orth
Hearing Officer
20 Barranca Rd.
Los Alamos, NM 87544

and that a copy thereof was hand-delivered on the same date to the following representatives of the New Mexico Environment Department:

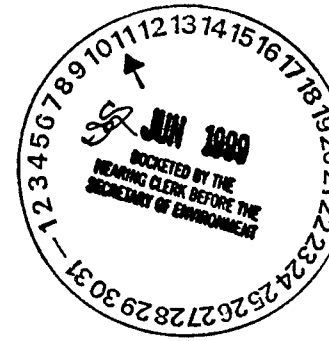
Richard Mertz
NMED General Counsel
P.O. Box 26110
Santa Fe, New Mexico 87502

James Bearzi
HRM Bureau Chief
P.O. Box 26110
Santa Fe, NM 87502



Idalee M. Sisneros
Idalee M. Sisneros, Hearing Clerk
New Mexico Environment Department

STATE OF NEW MEXICO
SECRETARY OF ENVIRONMENT



SPARTON TECHNOLOGY, INC.,

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Complainant

v.

NO. 99-04 (A)

ENVIRONMENT DEPARTMENT -
HAZARDOUS AND RADIOACTIVE
MATERIALS BUREAU,

Respondent.

REQUEST FOR HEARING AND ANSWER

COMES NOW Sparton Technology, Inc. ("Sparton") and pursuant to 20 NMAC

4.2.III.302.1 files this request for a hearing and answer and would respectfully show as follows:

I.

Background

On May 12, 1999, Sparton received a letter from Benito J. Garcia, Chief, Hazardous and Radioactive Materials Bureau enclosing an "Annual Hazardous Waste Management Business Fee Assessment" invoice for \$4,750.00. Neither the letter nor the attachments specify to what Sparton facility the invoice applied. Sparton assumes the invoice was directed at its plant at 9621 Coors Road, N.W., Albuquerque, New Mexico.

As Sparton understands the letter and its attachments the Environment Department believes that in calendar year 1998 or calendar year 1999 Sparton was engaged in: (1) the treatment, storage, or disposal of hazardous waste at its Coors Road location and that such a facility was subject to a hazardous waste permit or operated under interim status; (2) that closure or post-closure care activities occurred at the Coors Road location; or (3) or corrective action,

required by the state, occurred at that location. These assumptions are incorrect. The letter and its attachments also indicate that there are two currently operated surface impoundments and there are not. The letter and its attachments also suggest there are three corrective action units and there are not. Therefore, there should be no "Annual Hazardous Waste Management Business Fee" associated with Sparton's Coors Road facility.

II.
Request for Hearing

Because the letter and its attachments do not correctively or accurately describe activities at Sparton's Coors Road facility, and because that letter and its attachments seek to improperly impose an "Annual Hazardous Waste Management Business Fee Assessment" against Sparton, a hearing is requested. A copy of the letter and attachments are included as Exhibit "A."

III.
Answer

Sparton Responds to the Letter it Received on May 12, 1999, and its attachments as follows:

Sparton denies the first sentence of that letter. It admits the second and third sentences. It is without sufficient information to admit or deny the fourth sentence, and , therefore denies the same. Sparton admits the fifth sentence. The sixth through eleventh sentences state conclusions of law to which no response is necessary. Sparton admits the twelfth and thirteenth sentences. Sparton denies that the work sheets are accurate or are consistent with the regulations imposing the "Annual Hazardous Waste Management Business Fee Assessment."

IV.
Affirmative Defenses

Sparton's Coors Road facility is not subject to a hazardous waste permit.

Sparton's Coors Road facility is not operated under interim status.

Sparton's Coors Road facility did not engage in any closure during calendar year 1998 or 1999, nor was it undergoing closure during either period.

There was no post closure care activity at Sparton's Coors Road facility in calendar year 1998 or 1999.

The Environment Department did not require any corrective action at Sparton's Coors Road facility in calendar year 1998 or 1999.

To the extent any corrective action was undertaken at Sparton's Coors Road facility in calendar year 1998 or 1999, it was done at the insistence of the United States Environmental Protection Agency and was directed at a single "unit," as that term is used in the Environment Department's regulations.

The Environment Department has not been authorized by the United States Environmental Protection Agency to administer corrective action management units at Sparton's Coors Road facility.

V.
Prayer

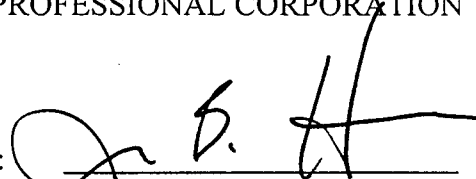
Sparton requests the following relief:

1. That this matter be set for hearing;
2. That upon final hearing hereof an order be entered finding that Sparton is not responsible for an "Annual Hazardous Waste Management Business Fee" at its Coors Road facility;
and,
3. For such other and further relief at law and in equity to which Sparton may show itself justly entitled.

Respectfully submitted,

THOMPSON & KNIGHT
A PROFESSIONAL CORPORATION

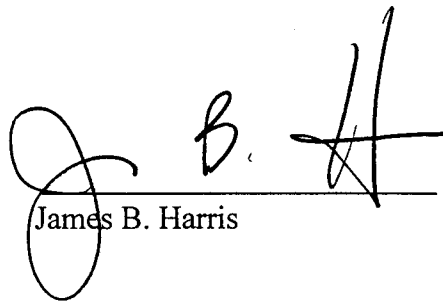
By:



James B. Harris
State Bar No.09065400
1700 Pacific Avenue
Suite 3300
Dallas, Texas 75201-4693
(214) 969-1102 Telephone No.
(214) 969-1751 Fax No.

ATTORNEYS FOR
SPARTON TECHNOLOGY, INC.

I hereby affirm that the information contained in this request for hearing and answer is to the best of the undersigned is knowledge believed to be true and correct.

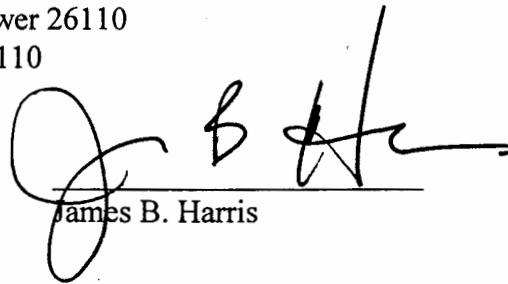


James B. Harris

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Request for Hearing and Answer was placed in U.S. mail, first class postage pre-paid, on June 11, 1999 to:

Richard Mertz
- General Counsel
State of New Mexico Environment Department
Office of the General Counsel
Harold Runnels Building
1190 St. Francis Drive, P.O. Drawer 26110
Santa Fee, New Mexico 87502-6110



James B. Harris



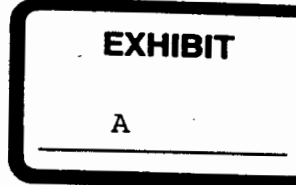
GARY F. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Hazardous & Radioactive Materials Bureau
2044 Galisteo Street
P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-1557
Fax (505) 827-1544



PETER MAGGIORE
SECRETARY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED



May 4, 1999

Mr. Richard D. Mico
Sparton Technology, Inc. - Vice President
4901 Rockaway Boulevard
Rio Rancho, NM 87124

RE: Annual Hazardous Waste Management Business Fee Assessment

Dear Mr. Mico:

The RCRA Permits Management Program (RPMP) and the Corrective Action Program (CAP) of the Hazardous and Radioactive Materials Bureau (HRMB) have completed the first Annual Unit Audit (AUA) of facilities permitted under the New Mexico Hazardous Waste Act to ensure that each facility's permit accurately and appropriately lists the facility's operating, closure, post closure and corrective action units, as required by 20 NMAC 4.2.201.2. Under 20 NMAC 4.2.201.1, the AUA is also used to determine the Annual Hazardous Waste Management Business Fee (AHWMBF) for each facility. Input from each facility was requested in a letter dated January 6, 1999 and signed by Dr. Robert S. (Stu) Dinwiddie, Manager, RPMP.

As a result of the AUA, an Annual Hazardous Waste Management Business Fee of \$ 4,750 is assessed for the Sparton Facility, Albuquerque, New Mexico. Work sheets used for calculation of this fee are enclosed.

Payment is due within sixty (60) days of your receipt of this letter, as required by 20 NMAC 4.2.401. Should the Return Receipt be sent back to HRMB without a date of receipt, the fees are due sixty (60) days from the date of this letter. Payment should be made by certified check or money order payable to the New Mexico Environment Department Hazardous Waste Fund #339. Should you need to request an extension of the sixty (60) day period, the request must be received a minimum of fourteen (14) calendar days prior to the end of the sixty (60) day period. This fourteen (14) day period is necessary to ensure that the facility receives written approval or denial prior to the expiration of the sixty (60) day payment period.

Payments should be mailed to:

Hazardous and Radioactive Materials Bureau
New Mexico Environment Department
2044 Galisteo Street
P.O. Box 26110
Santa Fe, New Mexico 87502
ATTN: Cindy Abeyta


RECEIVED
MAY 12 1999
RICHARD D. MICO

Mr. Richard D. Mico
May 4, 1999
Page 2

HRMB recognizes that there may be disagreement regarding the inclusion of some units on the permit and AUA list. If you disagree with the fee assessed, you may file an Administrative Appeal under the provisions of 20 NMAC 4.2.302.1

If you have any questions you may contact me at (505) 827-1557.

Sincerely,


Benito J. Garcia, Chief
Hazardous and Radioactive Materials Bureau

cc: Norma Silva, HRMB
Cindy Abeyta, HRMB

ANNUAL UNIT AUDIT INVOICE WORKSHEET SUMMARY

FACILITY: Sparton

Unit Type/Description	Fee/Unit	No. of Units	Total Unit Fee
Land Disposal	\$2000.00	2	\$4000.00
Post Closure Care with Corrective Action	\$2000.00	0	\$0.00
Post Closure Care w/o Corrective Action	\$2000.00	0	\$0.00
Land Treatment	\$1500.00	0	\$0.00
Surface Impoundment - Treatment	\$1500.00	0	\$0.00
Incinerator	\$1500.00	0	\$0.00
Boiler or Industrial Furnace	\$1500.00	0	\$0.00
Subpart X - Treatment	\$1500.00	0	\$0.00
Treatment in Tanks	\$1500.00	0	\$0.00
Treatment in Containers	\$1500.00	0	\$0.00
RD & D Treatment	\$1500.00	0	\$0.00
Waste Pile	\$1000.00	0	\$0.00
Surface Impoundment - Storage	\$1000.00	0	\$0.00
Storage in Tanks	\$1000.00	0	\$0.00
Storage in Containers	\$1000.00	0	\$0.00
RD & D Storage	\$1000.00	0	\$0.00
Corrective Action	\$250.00	3	\$750.00
	Total AHWMBF Unit Fee		\$4750.00

**ANNUAL UNIT AUDIT WORKSHEET
CORRECTIVE ACTION UNITS (Billable SWMUs)**

FACILITY: Sparton

Unit ID No.	Unit Type/Description	Fee	Comments
DW - 1	Dry Well	\$250.00	
CS - 1	Container Storage Area 1	\$250.00	
CS - 2	Container Storage Area 2	\$250.00	
	Total Projected Fee	\$750.00	