

PART I

GENERAL PERMIT CONDITIONS AND REQUIREMENTS

I.A. EFFECT OF PERMIT

The Secretary of the New Mexico Environment Department (Secretary) issues this Post-Closure Care Permit (Permit) to Sparton Technology, Inc. (Sparton or Permittee), the owner and operator of the Coors Road Plant, Rio Rancho, NM (Site) (EPA ID. No. NMD083212332). This Permit is limited in scope to activities related to the capped surface impoundment area (Facility) and the Site as set forth herein. All corrective action activities at the Facility shall be governed and enforced under the Consent Decree, Civil Action No. Civ 97 0206 LH/JHG, filed May 3, 2000.

This Permit also establishes the general and specific standards limited to the capped surface impoundment area, pursuant to the New Mexico Hazardous Waste Act (HWA), NMSA 1978, Sections 74-4-1 et seq., and the New Mexico Hazardous Waste Management Regulations, 20.4.1.100 NMAC (New Mexico Administrative Code) et seq.

This Permit shall be effective for ten years from the date of issuance by the Secretary and comply with 20.4.1.900 NMAC (incorporating 40 CFR 270.50 (a)).

Compliance with this Permit during its term shall constitute compliance, for purposes of enforcement, with Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 et seq., the HWA, and their implementing regulations, except as otherwise specified at 20.4.1.900 NMAC (incorporating 40 CFR 270.4(a)). Compliance with this Permit shall not constitute a defense to any order issued or any action brought under Sections 74-4-10, 74-4-10.1, or 74-4-13 of the HWA; Sections 3008 (a), 3008 (h), 3013, 7002 (a) (1) (B), or 7003 of RCRA; Sections 104, 106 (a), 107, or 196 (a) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601 et seq.; or any other law providing for protection of public health or the environment. This Permit does not convey any property rights of any exclusive privilege, nor authorize any injury to persons or property, any invasion of other private rights, or any infringement of State or local laws or regulations pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.4 and 270.30 (g)).

This Permit consists of Permit Parts I through IV and Appendix IV-A. The Permittee shall comply with the post-closure care limited to the capped surface impoundment, and other activities and standards as specified in the Permit.

I.B. PERMIT ACTIONS

I.B.1. Permit Modification, Revocation and Reissuance, and Termination

This Permit may be modified, suspended, and/or revoked for cause, as specified in Section 74-4-4.2 of the HWA and 20.4.1.900 and 20.4.1.901.B. NMAC (incorporating 40 CFR 270.41, 270.42, and 270.43). The filing of a request for a Permit modification, suspension, or revocation, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any permit condition pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.4 (a) and 270.30 (f)).

I.B.2. Permit Renewal

The Permittee shall renew this Permit by submitting an application for a new permit at least 180 days before the expiration date of this Permit, in accordance with 20.4.1.900 and 20.4.1.901 NMAC (incorporating 40 CFR 270.10 (h) and 270.30 (b)) and Permit Condition I.E.3. In reviewing any application for a permit renewal, the Secretary shall consider improvements in the state of control and measurement technology and changes in applicable regulations.

I.B.3. Property Rights

This Permit does not convey any property rights of any sort, or any exclusive privilege pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (g)).

I.C. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

I.D. DEFINITIONS

For the purposes of this Permit, terms used herein shall have the same meanings as those in the New Mexico Hazardous Waste Act (HWA), Resource Conservation and Recovery Act (RCRA), and/or their implementing regulations, unless this Permit specifically provides otherwise. Where a term is not defined in HWA, RCRA, pursuant regulations, Environmental Protection Agency (EPA) guidelines or publications, or this Permit, the

meaning associated with such a term shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

“Area of Concern (AOC)” for purposes of this Permit includes any area having a probable release of a hazardous or hazardous constituent which is not from a Solid Waste Management Unit and is determined by the Secretary to pose a current or potential threat to human health of the environment. Such AOCs may require investigations and remedial action as required under Section 3005(c)(3) of RCRA and 20.4.1.900 NMAC (incorporating 40 CFR 270.32(b)(2)) in order to ensure adequate protection of human health and the environment.

“Consent Decree” means the final decision filed in the United States District Court for the District of New Mexico and entitled “The City of Albuquerque and the Board of County Commissioners of the County of Bernalillo *et al.* v. Sparton Technology, Inc.”, Civil Action Number CIV 97 0206 LH/JHG consolidated with CIV 97 0208 JC/RLP, CIV 97 0210 M/DJS, and CIV 97 0981 LH/JHG; all attachments to the Consent Decree, including Attached Work Plans; and all items approved by EPA and NMED pursuant to Section X (Review of Submittals).

“Corporate Office” means the Sparton Technology, Inc. Corporate Office located at 4901 Rockaway Blvd., SE, Rio Rancho NM, 87124-4469.

“Facility” means the capped surface impoundment area owned by Sparton Technology, Inc., and located at 9621 Coors Road NW, Albuquerque, Bernalillo County, New Mexico. EPA ID. No. NM083212332.

“Foreign Source” refers to hazardous waste generated outside the United States of America.

“Hazardous Constituent” means any constituent identified in 20.4.1.200 NMAC (incorporating 40 CFR Part 261, Appendix VIII), any constituent identified in 20.4.1.500 NMAC (incorporating 40 CFR Part 264, Appendix IX), any constituent identified in a hazardous waste listed in 20.4.1.200 NMAC (incorporating 40 CFR Part 261, Subpart D), or any constituent identified in a toxicity characteristic waste in 20.4.1.200 NMAC (incorporating 40 CFR 261.21, and Table 1 contained in that part).

“HWA” means the New Mexico Hazardous Waste Act. NMSA 1978, §§ 74-4-1 *et seq.* (Repl. Pamph. 2001).

“MCLs” means Maximum Contaminant Levels under the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*, and regulations promulgated thereunder.

“Off-Site Source” means a generator of hazardous waste located within the United States of America, but outside the Permittee’s Facility boundary.

“Permit” means the Secretary approved Post-Closure Care Permit consisting of Permit Parts I through IV and Appendices A.1, and A.2.

“Permit Application” means the RCRA Post-Closure Care Permit Application submitted by Sparton Technology, Inc. on September 5, 2000, and all modifications or revisions received by the New Mexico Environment Department Hazardous Waste Bureau as of February 2002.

“Permittee” means Sparton Technology, Inc.

“RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

“Regional Administrator” means the Regional Administrator of EPA Region 6, or designee or authorized representative.

“Secretary” means the Secretary of the New Mexico Environment Department or designee.

“Site” means the land, including the subsurface and groundwater, consisting of an area including the Facility, and the land, including the subsurface and groundwater, in the general vicinity of the Facility, where any hazardous wastes, as defined in RCRA Section 1004, 42 U.S.C. § 6903 (5), or where hazardous constituents, as defined in 20.4.1.100 NMAC (incorporating 40 CFR 260.10) and 20.4.1.200 NMAC (incorporating 40 CFR 261, App. VIII), originated from and have come to be located.

“Solid Waste Management Unit” (SWMU) means any discernible waste management unit or area at a RCRA facility in which solid waste has been placed at any time, and from which the Secretary determines there may be a risk of a release of hazardous constituents, irrespective of whether the unit is or ever was intended for the management of solid or hazardous waste. Placement of solid waste includes one time and accidental events that were not remediated, as well as any unit or area at which solid waste has been routinely and systematically placed.

I.E. DUTIES AND REQUIREMENTS

I.E.1. Duty to Comply

The Permittee shall comply with all conditions and requirements of this Permit, except to the extent and for the duration such noncompliance is authorized by an emergency permit specified in 20.4.1.900 NMAC (incorporating 40 CFR 270.61). Any noncompliance with any condition or requirement of this Permit, other than under the terms of an emergency permit, constitutes a violation of the HWA and/or RCRA and may subject the Permittee, its successors and assigns, officers,

directors, employees, parents, or subsidiaries to an administrative or civil enforcement action, including civil penalties and injunctive relief, under Sections 74-4-10 or 74-4-10.1 of the HWA or Section 3008 (a) and (g) or 3013 of RCRA; to permit modification, termination, suspension, revocation and re-issuance, or denial of a permit application or modification request under Section 74-4-4.2 of HWA; to criminal fines or imprisonment under HWA Section 74-4-11 or Section 3008(d), (e), or (f) of RCRA; or to a combination of the foregoing pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30(a)).

I.E.2. Duty to Reapply

If the Permittee wishes to continue an activity allowed or required by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least 180 days before the expiration date of this Permit, in accordance with all applicable laws unless an extension is granted by the Secretary pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.10 (h) and 270.30(b)). The Secretary shall not grant permission for applications to be submitted later than the expiration date of the existing Permit.

I.E.3. Permit Expiration

This Permit and all conditions herein will remain in effect beyond the expiration date of this Permit until the effective date of the issuance or denial of the succeeding RCRA permit only if the Permittee has submitted a timely and complete application for renewal of this Permit 180 days prior to the expiration date of this Permit, in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.10 (h), 270.13 through 270.29, and 270.51 (d)), and through no fault of the Permittee, the Secretary has not issued a new Permit on or before the expiration date of this Permit.

I.E.4. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (c)).

I.E.5. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (d)).

I.E.6. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the Permittee to achieve compliance with the conditions and requirements of this Permit as related to the capped surface impoundment and concrete sump. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions and requirements of this Permit as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (e)).

I.E.7. Duty to Provide Information

The Permittee shall furnish to the Secretary, within a reasonable time period specified by the Secretary, any relevant information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Secretary, upon request, copies of any records required to be kept by this Permit and pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (h)) and as required by the Consent Decree, 20.4.1.500 NMAC (incorporating 40 CFR 264.100 (g) as required by the Consent Decree, and 40 CFR 264.118. Permit Condition I.E.7 shall not be construed to limit, in any manner, the Secretary's authority under HWA Section 74-4-4.3 or RCRA Section 3007 (a).

I.E.8. Inspection and Entry

Inspection and entry shall be limited to activities related to the capped surface impoundment.

The Permittee shall allow the Secretary, or authorized representatives, upon the presentation of credentials and other documents as may be required by law in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (i)):

I.E.8.a. Entrance to Premises to enter at reasonable times upon the Permittee's premises where the capped surface impoundment is located, or where records must be kept under the conditions of this Permit;

I.E.8.b. Access to Records to have access to and copy, at reasonable times, any records as specified in Section I.E.7

of this Part that must be kept under the conditions of this Permit;

I.E.8.c. Inspection to inspect, at reasonable times, any Facility equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and

I.E.8.d. Sampling to sample or monitor, at reasonable times for the purposes of assuring Permit compliance or as otherwise authorized by RCRA and/or HWA, any substances or parameters limited to the soil in the vicinity of the capped surface impoundment.

Permit Condition I.E.8 shall not be construed to limit in any manner, the Secretary's authority under HWA Section 74-4-4.3, RCRA Section 3007 (a), or any other applicable law.

I.E.9. Monitoring and Records

Monitoring and retention of records shall be in accordance with Sections I.E.7 and II.L of this Permit and Permit Application, and pursuant to all provisions of 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (j)).

I.E.9.a. Monitoring Records Contents records for monitoring information shall be in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (j) (3)).

I.E.10. Reporting Planned Changes

The Permittee shall give notice to the Secretary, as soon as possible, of any planned physical alterations or additions to the Facility in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (1)).

I.E.11 Reporting Anticipated Noncompliance

The Permittee shall give advance notice to the Secretary of any planned changes in the permitted Facility or activity, which may result in noncompliance with these Permit conditions or requirements. For modifications to the existing Facility, the Permittee shall not treat, store, or dispose of hazardous waste in the modified portion of the Facility except as provided in 20.4.1.900 NMAC (incorporating 40 CFR 270.42), pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (2)), until:

- a. The Permittee has submitted to the Secretary by certified mail or hand delivery a letter signed by the Permittee and a registered Professional Engineer stating that the Facility has been constructed or modified in compliance with the Permit and
- b. The Secretary has inspected the modified or newly constructed Facility and finds it is in compliance with the conditions of the Permit; or
- c. Within 15 days of the date of submission of the letter in I.E.11.a above, the Permittee has not received notice from the Secretary of his or her intent to inspect, prior inspection is waived and the Permittee may commence treatment, storage, or disposal of hazardous waste.

I.E.12 Certification of Construction or Modification

Certification of construction or modification of the Facility shall be in accordance with Section I.E.11 above and 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (2)).

I.E.13 Transfer of Permits

The Permittee shall not transfer this Permit to any person except after providing notice to the Secretary and receiving approval from the Secretary for this action. The prospective new owner or operator must file a disclosure statement with the Secretary as specified in HWA Section 74-4-4.7. The Secretary shall require modification or revocation and reissuance of this Permit, as specified by 20.4.1.900 NMAC (incorporating 40 CFR 270.40 (b) and 270.41 (b) (2)), and 20.4.1.901 NMAC, to identify the new Permittee and incorporate such other requirements as may be necessary under the HWA and RCRA and implementing regulations.

Before transferring ownership or operation of the Facility during its post-closure care period, the Permittee shall notify the new owner or operator in writing of all applicable requirements of 20.4.1.900 NMAC (incorporating 40 CFR 270) and this Permit pursuant to 20.4.1.500 and 20.4.1.900 NMAC (incorporating 40 CFR 264.12 (c) and 270.30 (l) (3)).

I.E.14 Twenty-Four Hour Reporting

I.E.14.a. Oral Report – The Permittee shall report orally to the Secretary any noncompliance or incident at the Facility which may endanger human health or safety or the environment. Such report shall be made within 24 hours from the time the Permittee becomes aware of the

circumstances pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (6) (i)), and shall include:

- i. Information concerning the release of any hazardous waste or hazardous constituents which may endanger public drinking water supplies;
- ii. Information concerning the release or discharge of any hazardous waste or hazardous constituents, or of a fire or explosion at the Facility, which could threaten the environment or human health outside the Facility in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (6) (i));
- iii. Name, address, and telephone number of the Permittee and the Facility;
- iv. Date, time, and type of incident;
- v. Name and quantity of materials involved;
- vi. The extent of injuries, if any;
- vii. An assessment of actual or potential hazards to the environment and human health outside the Facility; and
- viii. Estimated quantity and disposition of recovered material that resulted from the incident pursuant to 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (6) (ii)).

I.E.14.b. Written Report –The Permittee shall also submit a written notice to the Secretary within five (5) calendar days of the time the Permittee becomes aware of the noncompliance as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (6) (iii)). The written notice shall contain the following information:

- i. A description of the noncompliance or incident and its cause;
- ii. The period(s) of noncompliance or incident, including exact dates and times, and, if the noncompliance or incident has not been corrected, the anticipated time it is expected to continue; and

- iii. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, incident, or imminent hazard.

The Secretary may waive the five-day written notice requirement in favor of a written report within fifteen calendar days in accordance with 20.4.1.900 NMAC (incorporating 40 CFR 264.30 (l) (6) (iii)).

I.E.15 Other Noncompliance

The Permittee shall report all instances of noncompliance with Permit conditions and requirements not reported under Permit Conditions I.E.9, I.E.10, I.E.14, and II.F.2 at the time monitoring reports are submitted under Permit Condition IV.A.1 as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (10)). The reports shall contain the information listed in Permit Condition I.E.14.

I.E.16. Other Information

Whenever the Permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or in any document to the Secretary, the Permittee shall promptly submit the corrected facts or information in writing to the Secretary as required by 20.4.1.900 NMAC (incorporating 40 CFR 270.30 (l) (11)).

I.F. SIGNATORY REQUIREMENT

The Permittee shall sign and certify, as specified in 20.4.1.900 NMAC (incorporating 40 CFR 270.11 and 40 CFR 270.30 (k)), all applications, reports required by this Permit, or other information required by the Secretary.

I.G. REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE SECRETARY

All reports, notifications, or other submissions which are required by this Permit to be submitted to the Secretary shall be sent by certified mail or hand delivered to:

Bureau Chief
Hazardous Waste Bureau
New Mexico Environment Department
Harold Runnels Building
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, NM 87502-6110

I.H. CONFIDENTIAL INFORMATION

The Permittee may claim confidentiality for any information submitted to or requested by the Secretary, or required by this Permit to the extent authorized by Section 74-4-4.3 (D) of the HWA and 20.4.1.900 NMAC (incorporating 40 CFR 270.12).

I.I. ENFORCEMENT

I.I.1. Waiver of Defenses

In any judicial action brought in New Mexico District Court for the First Judicial District under the HWA, or in the United States District Court for the District of New Mexico under RCRA (or under the HWA asserting supplemental jurisdiction under 28 U.S.C. § 1367), the Permittee waives all objections and defenses it may have to the jurisdiction of either such State or Federal court or to venue in either such State or Federal District courts.

I.I.2. Admissibility of Data

In any administrative or judicial action to enforce a condition of this Permit, the Permittee waives any objection to the admissibility as evidence of any data or information generated pursuant to this Permit.