

**New Mexico Environment Department Response to Comments  
For Sparton Technology, Inc. (EPA ID No. NMD083212332)  
Resource Conservation and Recovery Act (RCRA) Draft Permit**

The State of New Mexico, through the New Mexico Environment Department (NMED), is authorized to administer and enforce the state hazardous waste management program under the Hazardous Waste Act (HWA) in lieu of the federal program. NMED is charged with issuing a permit that will ensure that post-closure care of any closed hazardous waste management units is properly conducted and completed to protect human health and the environment.

Sparton Technology Inc. (the Permittee) is the former owner and operator of the Former Coors Road Plant, located at 9621 Coors Boulevard NW, in Bernalillo County, New Mexico. The 2003 Post-Closure Care Permit (the Permit) authorizes the Permittee to conduct post-closure care at a closed hazardous waste management unit. The Permit establishes general and specific standards for these activities, as required pursuant to the HWA and the Hazardous Waste Management Regulations (HWMR).

The NMED issued the Draft Permit for a renewal of the Sparton Post Closure Care Permit for public comment on June 18, 2021. The 60-day public comment period was scheduled to end on August 17, 2021. On August 10, 2021, NMED extended the public comment period to September 16, 2021, at the Permittee's request. All those who submitted written comments or who requested notification of the final decision will be notified of the decision by mail. The Permittee was the only commenter during the 90-day public comment period. The following document provides NMED's written responses to the Permittee's comments submitted by letter dated September 16, 2021.

The NMED is issuing the Final RCRA Renewal Permit for Sparton Technologies after determining that the applicant meets all of the conditions required for a RCRA-regulated facility in accordance with the New Mexico Hazardous Waste Act (74-4 New Mexico Statutory Authority [NMSA] 1978) and its associated Hazardous Waste Management Regulations (HWMR) listed at 20.4.1 New Mexico Administrative Code (NMAC), which incorporates the Resource Conservation and Recovery Act and its implementing federal regulations listed in 40 Code of Federal Regulations (CFR) Parts 260 through 280.

| Comment No. | Comment Letter or Draft Permit Part(s) | Permittee Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | NMED Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Permit Change |
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| 1           | Permittee Comment Letter, Comment 1    | <p>Authority does not exist to issue the Draft Permit because closure occurred more than 30 years ago.</p> <p>Sparton will be filing shortly the certification called for in the current post-closure care permit that results in termination of that permit as result of 30 years having passed since NMED certified closure of the surface impoundment. Given that NMED did not extend the post-closure care period in accordance with 40 C.F.R. §265.118(g), Sparton's post-closure care obligations with respect to the surface impoundment area necessarily end upon NMED's receipt of Sparton's certification under II.N.5 of the current permit.</p> <p>Of course, the termination of Sparton's post-closure care obligations under the current permit for the surface impoundment area has no impact on Sparton's obligations under the Consent Decree for providing appropriate and necessary corrective actions on and off the Property related to past operations at the Property. The only Sparton obligation that would no longer exist is maintaining the cap.</p> | <p>As the opening paragraph states, "The State of New Mexico, through the New Mexico Environment Department (NMED), is authorized to administer and enforce the state hazardous waste management program under the Hazardous Waste Act (HWA)...". And pursuant to 40 CFR 270.32(b)(1), each RCRA permit shall include permit conditions necessary to achieve compliance with RCRA and its regulations. Moreover, "[i]n satisfying this provision, the [Secretary] may incorporate applicable requirements of Parts 264 and 266 through 268 of this chapter....or establish other permit conditions that are based on these parts." 40 CFR 270.32(b)(2) states "each permit...shall contain terms and conditions as the Administrator or State Director determines necessary to protect human health and the environment."</p> <p>40 CFR Part 265 are standards for owners and operators of hazardous waste treatment, storage, and disposal facilities under <i>interim status</i>. The Permittee's interim status ended when the initial post-closure</p> | N/A           |

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|  | <p>Permittee<br/>Comment<br/>Letter,<br/>Comment 1<br/>(continued)</p> |  | <p>care permit was issued on September 29, 2003. Thus, regulations within Part 265 are not applicable to the Permittee.</p> <p>There are two reasons why the post-closure care of the former surface impoundment must remain in effect.</p> <p>First, groundwater beneath the Facility and downgradient of the Facility have not met the cleanup levels established by 20.6.2.3103 NMAC or EPA's Safe Drinking Water Act Maximum Contaminant Levels (MCLs). While the contaminant concentrations in the groundwater have significantly decreased, concentrations levels beneath the Facility do not yet qualify for a certification of completion of post-closure care.</p> <p>Second, the Permittee closed the former surface impoundments with "waste-in-place", following the December 1985 Pond and Drum Storage Areas Closure Plan. Additional information presented within the 1995 initial permit application indicated to NMED that the former surface impoundments may potentially contain contaminants and hazardous waste, including the surface impoundment</p> |
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|  | <p>Permittee<br/>Comment<br/>Letter,<br/>Comment 1<br/>(continued)</p> |  | <p>liner and residual materials, that could pose a threat to human health and the environment if the constructed cap over the former surface impoundments are not maintained.</p> <p>In the 1995 permit application Attachment 5, under “Technical Specifications for Pond and Sump Closure”, Part III, Section 3.03 stated:</p> <p>“Soils defined as potentially contaminated shall be excavated to the lines and grades on the plans. Excavated material shall be placed in the ponds in accordance with provisions of Section 02400 of this specification.”</p> <p>Pursuant to 40 CFR 264.228(b), if some waste residues or contaminated materials are left in place at final closure, the owner or operator must comply with all post-closure requirements contained in §264.117 through 264.120, including maintenance and monitoring throughout the post-closure care period (specified in the permit under §264.117). The owner or operator must maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of</p> |  |
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|   | Permittee<br>Comment<br>Letter,<br>Comment 1<br>(continued) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | settling, subsidence, erosion, or other events (40 CFR 264.228(b)(1)).                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |
| 2 | Permittee<br>Comment<br>Letter,<br>Comment 2                | <p>Even if the Draft Permit could be issued, it cannot include conditions not found in Sparton's current post-closure care permit.</p> <p>EPA's regulations, adopted by NMED, prohibit adding conditions to an existing post closure care permit, unless requested by Sparton or if a specific cause exists for modification. 40 C.F.R. §270.41 ("If cause does not exist under this section, the Director shall not modify or revoke and reissue the permit, except on request of the permittee"). Sparton has not requested any modifications and none of the specific causes found in §270.41(a) exist in the case of Sparton. As a result, NMED is required to reissue Sparton's existing post-closure care permit with no modifications. Attached as Exhibit D is Sparton's existing post-closure care permit that has been "red-lined" to show the modifications included in the Draft Permit that need to be removed.</p> | The permit renewal process is neither a modification to the existing permit, nor a revocation and reissuance of the existing permit. 40 CFR 270.41 refers to Agency-Initiated permit modifications, and therefore is not applicable to a permit renewal. The Permittee's renewal application of the permit was submitted pursuant to 40 CFR 270.10(h)(1). During the permit renewal process, updates to the permit which reflect changes in federal and state regulations, guidance, and policy are not prohibited. | N/A |

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| 3 | Permittee Comment Letter, Comment 3 | <p>Even if the Draft Permit could be issued with modifications, those modification cannot be inconsistent with the Consent Decree or beyond the conditions allowed by 40 C.F.R §270.30 and 40 C.F.R. §270.32.</p> <p>Attached as Exhibit E, is a copy of the Draft Permit with edits by Sparton to insure the Draft Permit is consistent with the Consent Decree and applicable regulations. Each edit is accompanied by a comment explaining the edit. Those comments fall into the following three categories (each category is assigned a key phrase; to the extent further explanation is needed it is included in the comment):</p> <ol style="list-style-type: none"> <li>1. Conditions included for the first time in the Draft permit. As noted above, NMED does not have the authority to make such changes in a renewal. This key phrase is "unauthorized modification."</li> <li>2. Conditions that are inconsistent with the Consent Decree. As noted above, those conditions violate the Consent Decree. This key phrased is "inconsistent with Consent Decree."</li> <li>3. Conditions that are neither required by 40 C.F.R. §270.30 nor 40 C.F.R. §270.32 to achieve compliance with</li> </ol> | <p>See NMED response to Permittee Comment 2 above. A permit renewal is not a permit modification or a permit revocation and reissuance.</p> <p>NMED has prepared a separate table of responses to address the Permittee's individual comments presented in Exhibit E. NMED removed any additional corrective action requirements from the Draft Permit which were not present in the 2003 Sparton Post-Closure Care Permit. NMED concurs that corrective action related activities are specified in the 2000 Consent Decree.</p> <p>40 CFR 270.30 lists permit conditions all RCRA permits must include, but does not in any way limit the information that can be incorporated into a permit. As stated in NMED's response to Comment 1, 40 CFR 270.32 does not limit the conditions that can be incorporated into a permit. Each permit shall contain terms and conditions as the Secretary determines necessary to protect human health and the environment.</p> | N/A |
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|   | Permittee Comment Letter, Comment 3 (continued) | RCRA. This key phrase is "not required by the regulations."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |     |
| 4 | Permittee Comment Letter, Comment 4             | <p>Sparton requests a public hearing regarding any proposed edits rejected by NMED and in support of that request provides the following:</p> <p><b>a.</b> Sparton is the permittee and as such is directly affected by the terms and conditions in the Draft Permit.</p> <p><b>b.</b> Holland &amp; Knight represents Sparton and this request is made by and on behalf of Sparton.</p> <p><b>c.</b> Sparton's objections to the Draft Permit are set forth above and in the edited Draft Permit attached as Exhibit E.</p> <p><b>d.</b> Sparton proposes to raise for consideration at the hearing the following:</p> <p><b>d.i.</b> That the Draft Permit cannot be issued because NMED did not undertake prior to 2016 the analysis required by 40 C.F.R. §265.118 to extend the 30 year life applicable to post-closure care permits, and there is no evidence in the administrative record to support extending the 30 year life, and, if necessary, Sparton is prepared</p> | <p><b>NMED Response to 4.d.i</b></p> <p>See NMED response to Comment 1 regarding citing 40 CFR Part 265. The post-closure care period is extended by 30 additional years due to groundwater contamination levels not yet meeting groundwater standards. The post-closure use of the concrete cap and the asphaltic concrete cap, as described in the Notice of Restriction, must never be allowed to disturb the integrity of the final cover, or the function of the facility's monitoring system, unless the owner or operator can demonstrate to the Secretary, as appropriate, that the disturbances: (a) is necessary to the proposed use of the property and will not increase the potential hazard to human health or the environment; or (b) is necessary to reduce a threat to human health or the environment.</p> | N/A |

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|  | <p>Permittee<br/>Comment<br/>Letter,<br/>Comment 4<br/>(continued)</p> | <p>to establish that the conditions of the Consent Decree make any extension unnecessary.</p> <p><b>d.ii.</b> That the Draft Permit contains conditions not found in Sparton's existing post-closure care permit that Sparton has not requested or agreed to. As such NMED is prohibited by 40 C.F.R. §270.41 from including those conditions in the Draft Permit.</p> <p><b>d.iii.</b> That the administrative record does not establish that conditions in the Draft Permit not found in Sparton's existing post-closure care permit are needed to protect human health and the environment or achieve compliance with any statute and that because of the Consent Decree no such showing is possible and that the surface impoundment area, even without a cap, does not present a threat to human health and the environment because of the notices required by 40 C.F.R. §265.119-120 and §265 subpart G in connection with the previous certified closure and the termination of Sparton's existing post-closure care permit.</p> | <p><b>NMED Response to 4.d.ii</b><br/>See NMED response to Comment 2.</p> <p><b>NMED Response to 4.d.iii</b><br/>See NMED response to Comment 3 regarding removing additional corrective action requirements from the Draft Permit.</p> <p>See NMED response to Comment 1 regarding citing 40 CFR Part 265.</p> <p>NMED disagrees with the Permittee that the former surface impoundments, even without a cover, do not present a threat to human health and environment. The purpose of the constructed cap is to mitigate potential human exposure, as well as to prevent water from percolating through the soil causing any potential residual contaminants in the soil to migrate to the groundwater and enlarge the contaminant plume beneath the facility. Since the former</p> |  |
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|   | Permittee Comment Letter, Comment 4 (continued)           |                                                                                                                                                                                                               | surface impoundments were closed with waste in place, this elicited the need for a constructed cap and post-closure care of the cap. To prevent human exposure and groundwater degradation, maintenance of the cap is essential.                                                                                                              |     |
| 5 | Exhibit E, Permit Part 1. Section 1.1, (Effect of Permit) | Consent Decree covers all groundwater, improper modification of previous permit, not required by regulations.                                                                                                 | NMED removed “plume hydrology area” from the second sentence but retained the references to “Site” as governed and enforced under the Consent Decree.                                                                                                                                                                                         | Yes |
| 6 | Exhibit E, Permit Part 1. Section 1.1, (Effect of Permit) | Correct date is March 3, 2000                                                                                                                                                                                 | NMED corrected the filing date to March 3, 2000.                                                                                                                                                                                                                                                                                              | Yes |
| 7 | Exhibit E, Permit Part 1. Section 1.4 (Definition)        | [Definition of “Contaminant”]<br>Inconsistent with Consent Decree and not required by regulations, and unauthorized modification. This permit addresses hazardous waste in the surface impoundment area only. | NMED removed the definition of “contaminant” and restored Section 1.4 (Definition) to match the terms defined in the 2003 Sparton Post-Closure Care Permit Section I.D (Definition), with updated information.<br><br>NMED included an additional definition for “Regulated Unit” which was not in the 2003 Sparton Post-Closure Care Permit. | Yes |

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| 8  | Exhibit E,<br>Permit Part 1.<br>Section 1.4<br>(Definition)          | [Definition of "Hazardous Constituent"]<br>Not required by regulations.<br>Unauthorized modification. Limited to<br>hazardous waste.                                                            | The 2003 Sparton Post-Closure Care<br>Permit included a definition of<br>"Hazardous Constituent". NMED has<br>retained the definition.                                                                                                                                                             | No  |
| 9  | Exhibit E,<br>Permit Part 1.<br>Section 1.4<br>(Definition)          | [Definition of "Hazardous Waste"] No<br>need for two definitions. The definition<br>for hazardous waste that follows is<br>correct. This definition improperly<br>modifies the existing permit. | NMED removed the first definition of<br>Hazardous Waste for the purpose of<br>corrective action, and updated the<br>second definition of "Hazardous<br>Waste" to mean hazardous waste<br>pursuant to 40 CFR 261.3, inclusive of<br>New Mexico Hazardous Waste Act<br>NMSA 1978, Section 74-4-3(K). | Yes |
| 10 | Exhibit E,<br>Permit Part 1.<br>Section 1.4<br>(Definition)          | [Definitions of "NMED"] Typo, "NMED"<br>does not need to in the definition, it is<br>the term being defined.                                                                                    | NMED removed the definition of<br>"NMED" from the section.                                                                                                                                                                                                                                         | Yes |
| 11 | Exhibit E,<br>Permit Part 1.<br>Section 1.4<br>(Definition)          | [Definition of "NMED"] Duplicates<br>earlier definition creating confusion and<br>unnecessary.                                                                                                  | NMED removed the duplicate<br>definition of "NMED".                                                                                                                                                                                                                                                | Yes |
| 12 | Exhibit E,<br>Permit Part 1.<br>Section 1.5.1<br>(Duty to<br>Comply) | Confusing and unnecessary. This permit<br>only covers the cap. Inconsistent with<br>Consent Decree. Unauthorized<br>modification to existing permit. Not<br>required by regulations.            | NMED removed the phrase "that such<br>actions are specifically covered by<br>the Consent Decree" for clarity.<br>Section 1.5.1 is restored to read as<br>2003 Sparton Post-Closure Care<br>Permit Section I.E.1.                                                                                   | Yes |

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| 13 | Exhibit E,<br>Permit Part 1.<br>Section 1.5.8<br>(Inspection<br>and Entry)      | Inconsistent with Consent Decree,<br>unauthorized modification to existing<br>permit.                             | NMED removed the phrase “and all<br>systems associated with Corrective<br>Action under the Consent Decree”.<br>Inspections performed under this<br>Post-Closure Care Permit are limited<br>to the permitted area (capped surface<br>impoundment).                              | Yes |
| 14 | Exhibit E,<br>Permit Part 1.<br>Section<br>1.5.8.1<br>(Entrance to<br>Premises) | Inconsistent with Consent Decree,<br>unauthorized modification to existing<br>permit.                             | NMED removed the phrase “and all<br>systems associated with Corrective<br>Action under the Consent Decree”.<br>Entrance to premises under this Post-<br>Closure Care Permit is limited to the<br>permitted area (capped surface<br>impoundment).                               | Yes |
| 15 | Exhibit E,<br>Permit Part 1.<br>Section 1.9.1<br>(Waiver of<br>Defenses)        | Unauthorized modification, not required<br>by regulations.                                                        | Since the Waiver of Defenses section<br>in the Draft Permit (Section 1.9.1) is<br>verbatim to 2003 Sparton Post-<br>Closure Care Permit section I.I.1. No<br>revisions were made.                                                                                              | No  |
| 16 | Exhibit E,<br>Permit Part 2.<br>Section 2.3<br>(General<br>Waste<br>Analysis)   | [The Permittee corrected Attachment<br>“C” to Attachment “B” referencing<br>Waste Analysis Plan]                  | The Waste Analysis Plan is correctly<br>referenced as “Attachment C” in the<br>public noticed draft permit.                                                                                                                                                                    | No  |
| 17 | Exhibit E,<br>Permit Part 2.<br>Section 2.4<br>(Security)                       | Unauthorized modification to existing<br>permit, inconsistent with Consent<br>Decree, not required by regulations | NMED rejects the Permittee’s<br>deletion of the phrase “and in Section<br>H.2 of Permit Attachment H”. Section<br>H.2 is a description of the security<br>measures in place at the Facility, and<br>requires the Permittee to repair any<br>deficiencies found during security | No  |

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|    | Exhibit E,<br>Permit Part 2.<br>Section 2.4<br>(continued)                                           |                                                                                                                                                                                                                                      | inspections of the fences, gates, locks, and signs. Reference to Section H.2 of Permit Attachment H within Permit Part 2, Section 2.4 is appropriate. No changes were made.                                                                                                                                                                             |     |
| 18 | Exhibit E,<br>Permit Part 2.<br>Section 2.5<br>throughout<br>(General<br>Inspection<br>Requirements) | Change needed to be consistent with edits.                                                                                                                                                                                           | The Inspection Plan is correctly referenced as "Attachment E" throughout Section 2.5 of the public noticed draft permit.                                                                                                                                                                                                                                | No  |
| 19 | Exhibit E,<br>Permit Part 2.<br>Section 2.5.2<br>(Inspection<br>Frequency)                           | There is no containment system under the existing permit, groundwater addressed by the Consent Decree, so this provision is inconsistent with the Consent Decree and represents an unauthorized modification of the existing permit. | The Permittee's deletion of "the containment system" is replaced with "monitoring wells MW-16 and MW-25". Sparton is not required to inspect the containment system under this Post-Closure Care Permit. However, the Post-Closure Semi-Annual Inspection Checklist (Table E-1) does list inspection items related to monitoring wells MW-16 and MW-25. | Yes |
| 20 | Exhibit E,<br>Permit Part 2.<br>Section 2.5.5<br>(Inspection<br>Records)                             | There is no one at the facility. Records are kept at corporate headquarters. Unauthorized modification to existing permit.                                                                                                           | NMED replaced "Facility" with "Corporate Office" acknowledging that inspection records are kept at Sparton headquarter rather than at the facility grounds, which is currently occupied by a car dealership.                                                                                                                                            | Yes |

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| 21 | Exhibit E, Permit Part 2. Section 2.6 (Personnel Training for Corrective Action Activities) | Unauthorized modification to the existing permit and not authorized by regulations, and no need for this requirement to be in compliance with statutes. | NMED removed “for Corrective Action Activities” from the title of Section 2.6. NMED concurs that corrective action related activities are specified in the 2000 Consent Decree, and therefore it is not necessary to include in the Post-Closure Care Permit. The language in this section is materially restored to the 2003 Sparton Post-Closure Care Permit Section II.F. | Yes |
| 22 | Exhibit E, Permit Part 2. Section 2.7 (Contingency Plan)                                    | Inconsistent with Consent Decree, unauthorized modification to the existing permit; Update reference to “Table C” and Permit Attachment “C”             | NMED retained “off-site containment system”. The emergency coordinators must be notified of any unforeseen emergencies related to the Facility <i>and</i> the Site.<br><br>Original reference to the Contingency Plan as “Attachment D” is also correct.                                                                                                                     | No  |
| 23 | Exhibit E, Permit Part 2. Section 2.8 (Recordkeeping and Reporting)                         | [The Permittee replaced “Facility” with “Corporate Office”.]                                                                                            | The Permittee’s edit is accepted for reasons provided in Comment #20.                                                                                                                                                                                                                                                                                                        | Yes |
| 24 | Exhibit E, Permit Part 2. Section 2.9.1 (General Closure Requirements)                      | This intro and the rest of the section before editing is an unauthorized modification to the existing permit and not needed to comply with any statute. | Section 2.9.1 guides the reader to Attachment G for operational history of the closed surface impoundment. The closure of the surface impoundment was the precursor to post-closure care of the surface                                                                                                                                                                      | No  |

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|    | Exhibit E,<br>Permit Part 2.<br>Section 2.9.1<br>(continued)                        |                                                                                                                                                                                                                                          | impoundments; thus, important and germane to the Permit.                                                                                                                                                                                                                                                                                                                              |     |
| 25 | Exhibit E,<br>Permit Part 2.<br>Section 2.10<br>(General Post-Closure Requirements) | The Consent Decree addresses all corrective actions other than the cap. This section is inconsistent with the Consent Decree, an unauthorized modification to the existing permit and not needed to achieve compliance with any statute. | Section 2.10 is unrelated to the Consent Decree. Section 2.10 contained a brief description of the former waste management units at the Facility; this information is now summarized in Attachments J and K, as referenced within the body of the section.                                                                                                                            | No  |
| 26 | Exhibit E,<br>Permit Part 2.<br>Section 2.10.1<br>(Post-Closure Care Period)        | [The Permittee removed references to Attachment H].                                                                                                                                                                                      | <p>Since Attachment H is the Post-Closure Care Plan, NMED has combined the reference to the Post-Closure Care Plan with Attachment H.</p> <p>NMED updated the post-closure care period from “30-years” to “60-years” after closure of the capped surface impoundment in 1987, unless the post-closure period is shortened or lengthened pursuant to 40 CFR 264.117(a)(1) and (2).</p> | Yes |
| 27 | Exhibit E,<br>Permit Part 2.<br>Section 2.13<br>(Liability Requirements)            | Edits make this section consistent with the Consent Decree.                                                                                                                                                                              | NMED concurs with the Permittee that the Liability Certificate of Insurance is not required due to the Facility being in Post-Closure Care, and is not an operating facility.                                                                                                                                                                                                         | Yes |

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| 28 | Exhibit E, Permit Part 3. Sections 3.1.1 (Surface Impoundment )   | Change needed to make consistent with edits                                                                                                                                                | Attachment H, Section H.2 discusses the maintenance of the chain link fence. Therefore, it is the correct reference in the context of fence maintenance and post-closure security.                                                                                                                                                                     | No  |
| 29 | Exhibit E, Permit Part 3. Sections 3.1.2 (Post-Closure Security)  | Change needed to make consistent with edits                                                                                                                                                | "Attachment H" is the Post-Closure Care Plan. The Post-Closure Care Plan is mentioned in the body of this section.                                                                                                                                                                                                                                     | Yes |
| 30 | Exhibit E, Permit Part 3. Section 3.1.3 (Facility use)            | Inconsistent with Consent Decree which addressed all monitoring and an unauthorized modification of the existing permit                                                                    | NMED removed the mention of the "function of the facility's monitoring system contained under the Consent Decree during the post-closure care period" from this paragraph. Since "Facility" is defined as only the capped surface impoundment, non-disturbance of the cap implies that the Facility monitoring system functions will not be disturbed. | Yes |
| 31 | Exhibit E, Permit Part 3. Section 3.1.4 (Post-Closure Activities) | The plan was included in the original application and approved by NMED. If NMED is proposing to change what has been approved that is an unauthorized modification to the existing permit. | NMED retains reference to the "Permit Attachment" instead of Sparton's edit to "Permit Application". The contents of the post-closure care plan, as submitted in the 2016 revised permit application, is incorporated into the Permit as Permit Attachment H.                                                                                          | No  |

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| 32 | Exhibit E, Permit Part 4. (Corrective Action) | <p>Sections 4 (except perhaps for dispute resolution), 5, 6 , and 7 are an unauthorized modification of the existing permit and do not correctly set forth the requirements of the Consent Decree and are inconsistent with the Consent Decree. For instance, the section of the Consent Decree cited in section 4 speaks for itself and is intended to address a situation where a groundwater problem is discovered after the Consent Decree ends. It does not require that there be an additional three years of monitoring. Moreover, NMED has never identified where in the post-closure care regulations there is a requirement to monitor for three years after corrective action is completed. And even if there were any such requirement is replaced by the six months in the Consent Decree. Basically, the Consent Decree allows NMED to initiate a new corrective action if a problem is discovered after the Consent Decree terminates independent of the Consent Decree or this permit based on other authority NMED may have to address such a situation. Moreover, NMED has failed to identify where regulations require three years of monitoring after performance standards set in a corrective action</p> | <p>NMED concurs with the Permittee that prior to the termination of the Consent Decree, all corrective action related activities shall be governed by the Consent Decree and its attachments. Thus, NMED has revised Permit Part 4, Corrective Action, to read the same as the 2003 Sparton Post-Closure Care Permit Part IV.A. through Part IV.B.1 with one correction in the second paragraph of Section IV.A: NMED removed the phrase “shall be included as a condition of this Post-Closure Care Permit”. The Consent Decree Section VIII, Paragraph 22(c)(ii) does not require corrective action related to the Site to be included as conditions of the Post-Closure Care Permit after termination of the Consent Decree.</p> <p>As a standard practice within the RCRA Corrective Action state government regulatory community across the United States, three years of groundwater monitoring data demonstrating non-exceedances of the applicable state and federal groundwater standards is considered sufficient to demonstrate satisfactory remediation of groundwater contamination.</p> | Yes |
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|    | Exhibit E,<br>Permit Part 4.<br>(continued)                                                                            | document are met.                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                |                                     |
| 33 | Exhibit E,<br>Permit Part 4<br>Section 4.1<br>(Dispute<br>Resolution)                                                  | This section is an unauthorized modification of the existing permit, but Sparton has no objection to including it, if Sparton's other edits are accepted.                                                                                                                                                                                                                       | The public noticed Draft Permit contains no dispute resolution section. However, since Corrective Action Part 4 is restored to read as the 2003 Sparton Post- Closure Care Permit Part IV, the dispute resolution section is now Permit Part 4, Section 4.1.1. | Yes                                 |
| 34 | Exhibit E,<br>Permit Part 4<br>Section 4.1<br>(Corrective<br>Action<br>Requirements<br>Under the<br>Consent<br>Decree) | This entire section (4.1) is inconsistent with the Consent Decree and an unauthorized modification of the existing permit. During the life of the Consent Decree any additional corrective action has to be consistent with the Consent Decree. After the Consent Decree is terminated NMED must look outside this permit or the Consent Decree if corrective action is needed. | See Comment #32 above.                                                                                                                                                                                                                                         | Yes                                 |
| 35 | Exhibit E,<br>Permit<br>Attachments A<br>(Facility<br>Description);                                                    | Attachments have been deleted to be consistent with the edits. The references have been deleted because they are an unauthorized modification of the existing permit and are not necessary to achieve compliance with any statute. Moreover, there is no identification of where the references                                                                                 | <b>Attachment A:</b> The Permittee proposed to delete Permit Attachment A, Facility Description. The Facility Description is required in the Part B permit application, pursuant to 40 CFR 270.14(b)(1). NMED rejects the deletion.                            | See responds to individual sections |

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|  | <p>Attachment D<br/>(Contingency Plan);</p> <p>Attachment F<br/>(Personnel Training Plan);</p> | <p>can be found in the administrative record</p> | <p><b>Attachment D:</b> The Permittee proposed to delete the second paragraph in Attachment D, Contingency Plan. NMED removed this language, as it is not pertinent to the contingency plan for the Facility.</p> <p><b>Attachment F:</b> The Permittee proposed to delete Permit Attachment F, Personnel Training Plan. Although 40 CFR 270.28 does not require a personnel training plan as part of the Part B application required for post-closure care permits, NMED believes that the personnel conducting inspections at the Facility should be duly educated and trained to perform such duties required by the post-closure care plan. NMED has edited Attachment F to focus only on post-closure activities: NMED removed language pertaining to day-to-day operations of the offsite and on-site containment systems; NMED also removed language that pertained to field sampling efforts and review of groundwater sampling results.</p> |  |
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|  | <p>Attachment G<br/>(Closure of the<br/>Former<br/>Hazardous<br/>Waste<br/>Management<br/>Unit)</p> |  | <p><b>Attachment G:</b> The Permittee proposed to delete Permit Attachment G, Closure of the Former Hazardous Waste Management Unit. This information was supplied by Section 4.0 "Solid Waste Management Unit Closure" in the July 13, 2016 Revised Sparton Renewal Application, along with its subsequent Reference Section 5.0, "References". Since the above information was supplied by the Permittee as part of the application, NMED included it in the Permit. NMED believes that documenting the closure activities which took place at the Facility is germane to this Post-Closure Care Permit. For informational purposes only, pursuant to 40 CFR 270.28 and 270.14(b)(13) referenced therein, NMED has included the approved 1985 Closure Plan and NMED's closure certificate approvals (Section G.4), and the Deed Notice of Restriction (Section G.5) as part of this Post-Closure Permit.</p> |  |
|  | <p>Attachment H<br/>(Post-Closure<br/>Care Plan)</p>                                                |  | <p><b>Attachment H:</b> The Permittee proposed to delete Permit Attachment H, the Post-Closure Care Plan. Deletion is rejected pursuant to 40 CFR 270.28 and 270.14(b)(13) referenced therein which requires a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |  |

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|  | Attachment J<br>(Hazardous<br>Waste<br>Management<br>Units)             |  | copy of the post-closure care plan as part of the post-closure care permit.                                                                                                                                                                                                                                                                                |  |
|  | Attachment K<br>(Solid Waste<br>Management<br>Unit/Areas of<br>Concern) |  | <b>Attachment J:</b> The Permittee proposed deleting Permit Attachment J, a description and summary of the status of the former hazardous waste management units (HWMU) at the Facility. For informational purposes only, NMED retained this attachment with some formatting edits, and removed references to the Consent Decree in relation to the HWMUs. |  |
|  | Attachment L<br>(List of<br>Figures)                                    |  | <b>Attachment K:</b> The Permittee proposed to delete Permit Attachment K, a descriptive summary of the Sump, a former solid waste management unit (SWMU), at the Facility. For informational purposes only, NMED retained this attachment to capture the operational and closure history of the former SWMU underneath the capped surface impoundment.    |  |
|  |                                                                         |  | <b>Attachment L:</b> The Permittee proposed to remove Figures 3 and 5-9. NMED believes it is pertinent to include general site information such as the geologic cross section, contaminant plume hydrology, land use, and locations of the groundwater                                                                                                     |  |

NMED Response to Sparton Technology Inc. 2021 Draft Permit Comments

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|  |  |  | monitoring wells in the vicinity of the Facility. NMED received updated figures from the Permittee for Figures 3 and 5-9 and included them as part of this Permit. |  |
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