

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mr. Kevin Hatanaka, an Individual, and  
dba MJ Plating  
21129 Lassen Street  
Chatsworth, CA 91311

Respondent.

Docket HWCA 20115489

ENFORCEMENT ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to Kevin Hatanaka, an Individual, and dba MJ Plating (Respondent).

1.2. Site. Respondent generated, handled, and stored hazardous waste at the following site: 18141 Napa Street, Northridge, CA 91325 (Site).

1.3. Generator. The Respondent generated the following hazardous wastes at its plating shop that performed zinc, cadmium, chromium and cyanide plating: Zinc, Cyanide, Chromium, and Cadmium wastes; and wastewater treatment sludge from electroplating operations.

1.4. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

## DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1. The Respondent violated California Health and Safety Code, section 25201(a) in that on or about July 20, 2011, Respondent conducted storage, treatment, and/or disposal operations without a hazardous waste facilities permit or other grant of authorization from the Department.

2.2. The Respondent violated California Code of Regulations, title 22, section 66265.199 in that on or about July 20, 2011, the Respondent stored incompatible waste and materials in the same tank system. A sodium cyanide container was stored next to chromate wastewater tank which was found to be acidic without being separated by a berm or other device. In addition to placing a container holding hazardous waste that is incompatible with waste or other materials stored nearby in other containers and/or open tanks, the facility used the wet floor tank as the containment device and therefore, placed incompatible waste and materials in the same tank system. The Respondent used the wet floor tank as the containment device for acidic chromate solution, acidic rinse tank, and a sodium cyanide container without separating them by a berm or other such device. California Code of Regulations, title 22, section 66265.177, Appendix V lists groups of potentially incompatible chemicals including acid and water (Group 1-B) and cyanide (group 5-A).

2.3. The Respondent violated California Code of Regulations, title 22, section 66265.31, in that on or about July 20, 2011, the Respondent failed to maintain and operate the Site to minimize the possibility of a release of hazardous waste constituents

to the environment. To wit: spills of plating waste had been allowed to crystallize to a depth of several inches on the bermed plating walk ways and underlying floor.

Specifically, the area near the caustic soap tank, zinc cyanide tank, and cadmium cyanide tank. Human foot prints tracking plating waste were found on the floor outside the bermed plating area. In addition, leakage from the plating shop wet floor tank was found outside the berm near the caustic soap tank and zinc cyanide tank areas.

2.4. The Respondent violated California Code of Regulations, title 22, section 66265.196, in that on or about July 20, 2011, the Respondents' secondary containment for the wet floor tank system was found to be cracked and leaking waste in several locations, including but not limited to the area near the caustic soap tank and the area near the zinc cyanide tank. In addition, a hole had been installed in the secondary containment which defeated the secondary containment structure.

2.5. The Respondent violated California Code of Regulations, title 22, sections 66265.192 and 66265.193, in that on or about July 20, 2011, the Respondent utilized a wet floor tank system for accumulation of plating tank wastes without completing a tank assessment by an independent, qualified, professional engineer, registered in California.

2.6. The Respondent violated California Code of Regulations title 22 section 67383.3 (a), in that on or about July 20, 2011, the Respondent stored, and failed to properly clean out five tanks that contained plating waste prior to using the tanks for storage in the storage room.

2.7. The Respondent violated California Code of Regulations, title 22, section 66265.35, in that on or about July 20, 2011, the Respondent failed to maintain adequate

aisle space for the designated emergency eye wash and shower station used for decontamination equipment, and also failed to maintain aisle space in the storage room. The emergency eye wash and shower station were obstructed by a table and other equipment where access to these emergency stations was inadequate. In addition, the storage room was found to be stacked with used drums, tanks, and chemicals preventing full access to all areas of the room.

2.8. The Respondent violated California Code of Regulations, title 22, section 66265.15(b) (1) and (d), in that on or about July 25, 2010, the Respondent failed to develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, operating and structural equipment that are important to preventing, detecting or responding to environmental or human health hazards, and failed to record inspections in inspection logs.

2.9. The Respondent violated California Code of Regulations, title 22, section 66265.195, in that on or about July 25, 2010, the Respondent failed to conduct daily inspections of hazardous waste tanks.

2.10. The Respondent violated California Code of Regulations, title 22, section 66265.16(d) and (e), in that on or about July 25, 2010, the Respondent failed to maintain the following documents: a written job description for each position related to hazardous waste management, a written description of the type and amount of training that will be given to each person filling a position related to hazardous waste management, and records that document training. The Respondent failed to retain training records for at least three years.

## SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of the Violations, the Department has determined that as of the date of issuance of this Order, the Respondent remains out of compliance with all applicable statutory and regulatory requirements. Should Respondent desire to own and/or operate a plating shop, it must be in compliance with all applicable statutory and regulatory requirements.

3.2. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Unit Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.3. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.4. Compliance with Applicable Laws: Respondent shall carry out this Order in

compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.5. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.6. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.7. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and

conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.8. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.9. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.10. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.11. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.12. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

4.5. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

PENALTY

5.1. Based upon the financial information submitted by the Respondent, and in accordance with California Code of Regulations, title 22, section 66272.68 (d) Ability to Pay, the Department has determined that the Respondent does not have the financial ability to pay the assessed penalty. As a result, Respondent shall pay the Department a total amount of One Hundred Twenty Thousand Dollars (\$120,000) as a penalty and is due and payable on or before July 15, 2016. The Respondent warrants that the information it provided to the Department is current and accurate. The Department reserves its rights to reconsider its decision and demand immediate payment of the assessed penalty in the amount of \$120,000, as well as any accrued interest and attorneys' fees, should it later determine that the information provided by the Respondent was incorrect and/or inaccurate.

5.2. Payment of \$120,000 as specified in paragraph 5.1. is due within 30 days from the effective date of this order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Roberto Kou, Branch Chief  
Enforcement and Emergency Response Division  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, CA 9131

Debra Schwartz, Senior Staff Counsel  
Office of Legal Affairs  
Department of Toxic Substances Control  
9211 Oakdale Avenue  
Chatsworth, CA 91311

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless

Respondent requests a hearing within the twenty-day period.

Date of Issuance June 15, 2016

Original Signed

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Roberto Kou, Branch Chief  
Enforcement and Emergency Response Division  
Department of Toxic Substances Control