

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL
SETTLEMENT CONFIDENTIAL

In the Matter of:

Van Nuys Plating, Inc.
Dbas: Van Nuys Plating
6109 Vesper Avenue
Van Nuys CA 91401

EPA ID # CAD008387060

Respondent.

Docket HWCA 2010 2728

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1 Parties. The California Department of Toxic Substances Control (Department) and Van Nuys Plating Inc., doing business as Van Nuys Plating (Respondent) (collectively, the Parties) enter into this Consent Order (Order) and agree as follows:

1.2 Site. Respondent generates, treats and stores hazardous waste at 6109 Vesper Avenue, Van Nuys, California 91401 (Site).

1.3 Inspection. The Department inspected the Site on September 1 and 2 and October 28, 2009.

1.4 Authorization Status. The Los Angeles County Fire Department, Health Hazardous Materials Division, acting in its capacity as the Certified Unified Program Agency (CUPA), previously issued a tiered permit to Respondent, which authorized Respondent to treat a conditionally exempt specified waste stream (CESW). Respondent alleges it began recycling 100 percent (100%) of the waste on-site on September 1, 2001. On April 1, 2009, Respondent informed the CUPA

that Respondent recycled one hundred percent (100%) of the waste on-site. Based on this recycling information, the CUPA determined the material was excluded from the definition of waste pursuant to Health and Safety Code section 25143.2 (d)(1). Consequently, the CUPA decided that the tiered permit was not required and the CUPA voided the permit. However, for the waste to qualify for this exclusion, Respondent was required to meet the conditions in Health and Safety Code sections 25143.2(f) (1) and 25143.9. During an inspection on September 1, 2009, the Department found that Respondent failed to meet the conditions for the exclusion and thus it was necessary, pursuant to Health and Safety Code section 25201, for Respondent to hold a permit or some other form of authorization in order to operate the treatment (recycling) system. During the inspection, DTSC directed the Respondent to cease using those treatment systems unless and until Respondent obtained a permit for treatment. Respondent complied with DTSC's direction. On October 28, 2009, DTSC also issued a Summary of Violations (SOV) that required Respondent to not treat (recycle) without an appropriate permit. On December 1, 2009, based on information submitted by Respondent, the Department determined that Respondent had come into compliance with the conditions of the exclusion specified in Health and Safety Code sections 25143.2 (f)(1) and 25143.9. On November 16, 2011, the Department and the U.S. Environmental Protection Agency (U.S. EPA) Region 9, inspected the Site and learned that the Respondent had stopped using the previous type of treatment system and had started using an alternative process, which is phase separation of rinse waters (hazardous waste) during storage or

accumulation in tanks or containers, unaided by the addition of heat or chemicals. This type of phase separation does not require a permit pursuant to Health and Safety Code section 25123.5(b)(1)(B)(2) if other specific conditions are met.

1.5 Jurisdiction. Jurisdiction exists pursuant to Health and Safety Code section 25187, which authorizes the Department to order action necessary to correct violations and to 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.

1.6 Full Settlement. This Order shall constitute full settlement of the violations alleged below, but does not limit the Department from taking appropriate enforcement action concerning other violations. The Parties, and each of them, agree that this Order, and all the terms contained herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7 Hearing. Respondent waives any right to a hearing in this matter.

1.8 Admissions. By entering into this Consent Order, Respondent admits the violations alleged in Section 2.

2. VIOLATIONS ALLEGED

2. 1 The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code sections 25201(a), 25189.2 (d), and California Code of Regulations, title 22, section

66262.34 (a) (1)(A) in that on or before September 1, 2009, Respondent failed to obtain permit authorization for two onsite treatment systems—treatment of cyanide aqueous wastes, and onsite treatment of metal bearing aqueous wastes. (Even though these wastes were not discharged to the Public Owned Treatment Works (POTW) and they were recycled on site, Health and Safety Code section 25201(a) requires a permit for such systems if the operator does not qualify for the recycling exclusion.) Respondent failed to operate with the necessary permit authorization because Respondent did not meet the requirements of Health and Safety Code sections 25243.2 (f) (1) and 25143.9, which are the required conditions for the recycling exclusion, to wit:

a) On or before September 1, 2009, Respondent failed to store hazardous wastes and hazardous materials in tanks or containers meeting regulatory requirements for adequate secondary containment as specified in California Code of Regulations, title 22, section 66265.193 and Health and Safety Code section 25143.9(c). Holding tanks with treated effluent were of a single wall concrete vault construction. Several cracks and gaps were observed along the secondary containment concrete block wall surrounding the wastewater treatment unit. Therefore the tank systems failed to have adequate secondary containment to prevent releases of hazardous waste.

b) On or before September 1, 2009, Respondent violated Health and Safety Code section 25143.9(a) because Respondent failed to properly label each treatment tank in accordance with applicable generator requirements , including labeling with the words, “Excluded Recyclable Material.” pursuant to Health and

Safety Code section 25143.9(a).

c) On or before September 1, 2009, Respondent violated Health and Safety Code sections 25143.2(f), and 25143.10 in that Respondent failed to file a report with the CUPA, or maintain a log or other records sufficient to demonstrate to the CUPA and/or the Department, when requested, that the hazardous wastes were being properly recycled, and that conditions of the recycling exclusion found at Health and Safety Code section 25143.2(d) (1) were being met.

2.1.2 Respondent violated California Code of Regulations section 66265.191, in that on or before September 1, 2009, Respondent failed to determine if each treatment tank was leaking or fit for use, to wit: Respondent had no records on file to show that tank assessments were conducted for any of the treatment system tanks. Respondent failed to obtain and keep on file at the Site a written tank assessment that had been reviewed and certified by an independent, qualified, professional engineer, registered in California, in accordance with California Code of Regulations, title 22, section 66270.11(d). According to Respondent, some tanks were at least 20 years old. Several tanks appeared to be bulging and had UV damage. Some treatment tanks had been repaired, but no assessments were performed after the repairs were made.

2.1.3. On or before September 1, 2009, Respondent violated California Code of Regulations, title 22, section 66265.31 because Respondent failed to maintain the facility in a manner sufficient to minimize releases of hazardous wastes, to wit:

a) (i) Cadmium cyanide crystals (hazardous wastes) were observed under and on top of boardwalks adjacent to cadmium cyanide tanks, (ii) plating chemistry crystals were observed adjacent to alkaline cleaning lines, and (iii) debris was observed below the boardwalk adjacent to the cyanide pump. These conditions could allow waste to be tracked outside the facility or to acidic areas of the shop.

b) Deposition of elevated levels of heavy metals including copper, zinc and nickel were detected (using a XRF field portable X-ray fluorescence analyzer) on the public sidewalk and ground directly outside of the polishing room exterior window.

SCHEDULE FOR COMPLIANCE

3.1 Respondent shall comply with the following:

3.1.1 Respondent has already complied with the Department's requirement to discontinue operation of the former hazardous waste treatment unit that was addressed in the 2009 inspection. Effective immediately,

(a) Respondent shall not treat hazardous waste onsite unless and until it obtains proper authorization. If Respondent wants to operate a hazardous waste treatment unit onsite, Respondent shall notify the CUPA, and obtain appropriate authorization prior to operating the treatment unit.

(b) Respondent currently conducts phase separation of rinse waters that does not require authorization based on Respondent's assertion that heat or chemicals are not added to the rinse waters. If Respondent wants to add heat or chemicals or observes addition of heat or chemicals during phase separation, Respondent shall immediately notify the Department and CUPA and Respondent shall prevent further addition of heat or chemicals until Respondent has obtained

appropriate permit authorization.

(c) In order to qualify for the recycling exclusion found at Health and Safety Code section 25143.2 (d)(1) for the purposes of recycling plating rinse waters, Respondent shall comply with all conditions specified in Health and Safety Code section 25143.2(d)(1), including but not limited to, compliance with Health and Safety Code section 25143.9. In addition, the Respondent shall comply with Health and Safety Code section 25143.10 as applicable.

3.1.2

(a) Respondent shall not conduct phase separation or any other treatment in tanks unless and until Respondent demonstrates in writing to the Department within sixty (60) days of the Effective Date of this Order that Respondent has obtained and keeps on file at the Site, a written assessment reviewed and certified by an independent, qualified, professional engineer, registered in California, in accordance with California Code of Regulations, title 22, section 66270.11(d), that attests to the integrity of each settling tank or treatment tank currently in use. For each existing tank in use, Respondent shall determine that the tank is not leaking or is unfit for use. This assessment shall determine that the tank is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be transferred, stored or treated, to ensure that the tank will not collapse, rupture, or fail. At a minimum, this assessment shall consider the following:

(1) Design standard(s), if available, according to which the tank and ancillary equipment were constructed;

- (2) Hazardous characteristics of the waste(s) that have been or will be handled;
- (3) Existing corrosion protection measures;
- (4) Documented age of the tank system, if available, (otherwise, an estimate of the age); and
- (5) Results of a leak test, internal inspection, or other tank integrity examination.

(b) Effective immediately, Respondent shall properly repair any cracks and gaps in the secondary containment area where hazardous materials and recycled rinse waters are stored.

(c) Within sixty (60) days of the Effective Date of this Order, Respondent shall replace the existing wood fencing along the property boundary with a mason or reinforced concrete wall in order to maintain Site security and prevent any release of hazardous materials or wastes from migrating off Site.

3.1.3

(a) Effective immediately, Respondent shall, within each regular work shift, remove, clean and properly dispose of any plating chemistry and spilled hazardous materials and debris in the plating work areas above and below the boardwalks , and in accordance with standards outlined in the Department's guidance document on wet floor plating operations, titled, "*Regulatory Status of Wet Floors At Electroplating Facilities*", in order to prevent potential trafficking of plating wastes to the public street

(b) Effective immediately, Respondent shall remove, clean and properly

dispose of any polishing dust contaminating the interior floor of the polishing room, exterior wall surfaces, the sidewalk and the parkway outside the polishing room on Vesper Avenue.

(c) Within thirty (30) days of the Effective Date of this Order, Respondent shall remove and seal the exterior window facing Vesper Avenue in order to prevent any accidental release of polishing dust containing heavy metals to the public street.

3.1.4 Effective immediately, Respondent shall operate in a manner that prevents recurrences of the violations alleged herein.

3.1.5 Respondent shall make all payments at the time and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability: Nothing in this Consent 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, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

4.2 Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties, and /or damages 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, receivers, trustees, employees,

contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

4.4. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

5. PENALTY

5. 1. Respondent agrees to pay the Department the total sum of \$10,500.00.

5.2. Payment of the total sum specified above in paragraph 5.1 will be divided in (3) equal payments of the amount of \$3,500.00 and is due on March 15, April 15, and May 15, 2012. Respondent's checks shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher 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:

Roberto Kou
Acting Branch Chief
Department of Toxic Substances Control
Enforcement and Emergency Response Program
9211 Oakdale Avenue
Chatsworth, California 91311

5.4. If Respondent fails to make payment as provided above, Respondent further agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1, and to pay all cost incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. Effective Date: The effective date of this Order is the date it is signed by the Department.

Dated: February 21, 2012

Original signed by David Mark Rumph
Signature of Respondent's Representative

David Mark Rumph
Typed or Print Name and Title of Respondent's Representative

Dated: February 21, 2012

Original signed by Roberto Kou
Roberto Kou, Acting Branch Chief
Department of Toxic Substances Control
Enforcement and Emergency Response Program