

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

CERTIFIED MAIL NO. 7007 2560 0001 766-0 7648
RETURN RECEIPT REQUESTED

MAY 05 2010

Mr. Mac Esfandi, President
Bowman Plating Company, Inc.
2631 East 126th Street
Compton, California 90222

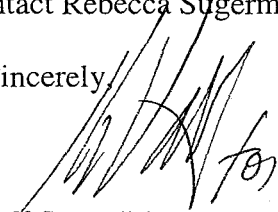
Re: In the matter of Bowman Plating Company, Inc.
U.S. EPA Docket No. RCRA-09-2010- 0007

Dear Mr. Esfandi:

Enclosed is a copy of the fully executed Consent Agreement and Final Order which contains the terms of the settlement reached with the United States Environmental Protection Agency (EPA).

When the EPA receives the final payment of the penalty identified in the Consent Agreement and Final Order this case will be closed. If you have any questions regarding the rules, regulations and statutes which govern the proceedings terminated by the enclosed Consent Agreement and Final Order, please contact Rebecca Sugerman at (415) 972-3893.

Sincerely,


Jeff Scott, Director
Waste Management Division

Enclosure

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FILED

2010 MAY -5 PM 2:28

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY U.S. EPA REGION IX
REGIONAL HEARING CLERK
REGION IX

In the matter of)	U.S. EPA Docket No.
)	RCRA- 9-2010- 0007
Bowman Plating Company, Inc.)	
)	
EPA ID No. CAD 008475964)	CONSENT AGREEMENT AND
)	FINAL ORDER PURSUANT TO
Respondent.)	40 C.F.R. SECTIONS 22.13 AND
)	22.18

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 3008(a)(1) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6928(a)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 Code of Federal Regulations ("C.F.R.") Part 22, as revised by 64 Fed. Reg. 141 (July 23, 1999). Complainant is the United States Environmental Protection Agency, Region 9 ("EPA"). Respondent is Bowman Plating Company, Inc. (Respondent or "Bowman").
2. Respondent owns and operates a facility located at 2631 East 126th Street, in Compton, California, 90222 (the "Facility"). The Facility's EPA Identification Number is CAD008475964. Respondent is a metal finishing company that performs a number of activities on aerospace parts including, but not limited to, non-destructive testing, cleaning and applying anodize finished, chemical conversion and paint coatings to aluminium, titanium, and/or stainless steel alloys for the aerospace industry.
3. This Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 ("CA/FO"), simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent failed to: (1) perform waste determinations, a violation of 22 California Code of Regulations ("C.C.R.") § 66262.11 [see also 40 C.F.R. § 262.11]; (2) obtain a permit for storage of hazardous waste, a violation of 22 C.C.R. § 66270.1 [see also 40 C.F.R. § 270.1]; (3) maintain and operate the facility to minimize the possibility of any unplanned release, a violation of 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 [see also 40 C.F.R. § 262.34(a) and 40 C.F.R. § 265.31]; (4) prepare a manifest for transport or hazardous waste, a violation of 22 C.C.R. § 66262.20(a) [see

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also 40 C.F.R. § 262.20(a)(1)]; (5) develop and implement a personnel training program, a violation of 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.16 [see also 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 265.16]; (6) maintain a complete contingency plan, a violation of 22 C.C.R. § 66265.52(e) [see also 40 C.F.R. § 265.52(e)]; (7) close containers of hazardous waste, a violation of 22 C.C.R. § 66265.173 [see also 40 C.F.R. § 265.173]; (8) maintain copies of land disposal restriction (LDR) notifications, a violation of 22 C.C.R. § 66268.7(a)(2) [see also 40 C.F.R. § 268.7(a)(2)]; and (9) perform weekly inspections of hazardous waste storage areas, a violation of 22 C.C.R. § 66265.174 [see also 40 C.F.R. § 265.174]. These are all in violation of Section 3001 *et seq.* of RCRA, 42 U.S.C. § 6921 *et seq.*, and state regulations adopted pursuant thereto.¹

B. JURISDICTION

4. On August 1, 1992, the State of California received authorization to administer the hazardous waste management program in lieu of the federal program pursuant to ' 3006 of RCRA, 42 U.S.C. § 6926, and 40 C.F.R. Part 271. The authorized program is established pursuant to the Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, and the regulations promulgated thereunder at Title 22, Division 4.5 of the California Code of Regulations, 22 C.C.R. §§ 66001 *et seq.* The State of California has been authorized for all the regulations referenced in this CA/FO.
5. Respondent is a "person" as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
6. Respondent is the "operator" of a facility as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
7. Respondent's hazardous waste manifests indicate it is a large quantity "generator" of hazardous waste as defined in 22 C.C.R. § 66260.10 [40 C.F.R. § 260.10].
8. Respondent is or has been engaged in "storage" of hazardous waste as defined in 22 C.C.R. § 66260.10 [see also 40 C.F.R. § 260.10].
9. Respondent generates and accumulates, or has generated and accumulated, materials that are "wastes" as defined in 22 C.C.R. §§ 66260.10 and 66261.2 [see also 40 C.F.R. §§ 260.10 and 261.2].
10. At the Facility, Respondent generates and accumulates, or has generated and accumulated, "hazardous waste" as defined in California Health & Safety Code § 25117,

¹ All citations to the "C.C.R." refer to Division 4.5 of Title 22 of the current California Code of Regulations. EPA is enforcing California hazardous waste management program requirements as approved and authorized by the United States on August 1, 1992 (*see* 57 FR 32726, July 23, 1992) and September 26, 2001 (66 FR 49118, September 26, 2001). Corresponding Federal citations are provided in brackets.

and 22 C.C.R. §§ 66260.10 and 66261.3 [see also RCRA § 1004(5), and 40 C.F.R. §§ 260.10 and 261.3]. These hazardous wastes include, but are not limited to, plating wastewater treatment sludges (F006, D007), paint filters and paint wastes (D007), spent cyanide plating baths and solids (D002, D003, D007, and F008), spent paint remover (D002, F003) and spent paint solvent (D001, F005).

11. On April 1, 2008, an unannounced RCRA Compliance Evaluation Inspection (“CEI”) was conducted by inspectors from the United States EPA. Based upon the findings EPA made during the inspection, and additional information obtained subsequent to the inspection, EPA determined that Respondent had violated California Health & Safety Code § 25100 *et seq.* and the regulations adopted pursuant thereto, as approved and authorized by the United States.
12. Section 3006 of RCRA, 42 U.S.C. § 6926 provides, *inter alia*, that authorized state hazardous waste programs are carried out under Subtitle C of RCRA. Therefore, a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C of RCRA.
13. A violation of California’s authorized hazardous waste program, found at H&SC § 25100 *et seq.*, constitutes a violation of Subtitle C of RCRA and, therefore, a person who violates California’s authorized hazardous waste program is subject to the powers vested in the EPA Administrator by Section 3008 of RCRA, 42 U.S.C. § 6928.
14. Section 3008 of RCRA, 42 U.S.C. § 6928, authorizes the EPA Administrator to issue orders requiring compliance immediately or within a specified time for violation of any requirement of Subtitle C of RCRA, Section 3001 of RCRA *et seq.*, 42 U.S.C. § 6921 *et seq.*
15. The Administrator has delegated the authority under Section 3008 of RCRA to the EPA Regional Administrator for Region 9, who has redelegated this authority to the Director of the Waste Management Division.

C. ALLEGED VIOLATIONS

COUNT I

Failure to Perform Waste Determination

16. Paragraphs 1 through 15 above are incorporated herein by this reference as if they were set forth here in their entirety.
17. 22 C.C.R. § 66262.11 states that a facility which generates waste, as defined by 22 C.C.R. § 66261.2 must determine if the waste is a hazardous waste [see also 40 C.F.R. § 262.11].
18. At the time of the EPA inspection, the EPA Inspectors observed approximately seven (7) partially filled 55-gallon containers of unknown waste materials outside the east side of the facility, a gallon of expired shelf-life paint located in a paint storage room, and

approximately seven (7) full 5 and 10-gallon containers of unknown wastes within the "Transfer Area." Bowman had not determined if wastes accumulated in the containers were hazardous.

19. After the inspection, at EPA's direction, Bowman characterized the wastes, and determined that the expired shelf-life paint container and the wastes located in the "Transfer Area" were hazardous.
20. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.11 [*see also* 40 C.F.R. § 262.11].

COUNT II

Storage of Hazardous Waste Without a Permit

21. Paragraphs 1 through 20 above are incorporated herein by this reference as if they were set forth here in their entirety.
22. 22 C.C.R. § 66270.1(c) requires that each person owning or operating a facility where hazardous waste is transferred, treated, stored, or disposed must have a permit. At the time of the inspection, Respondent did not have a permit or grant of interim status to store hazardous waste under 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].
23. 22 C.C.R. § 66262.34(a) provides that a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain conditions. 22 C.C.R. § 66262.34(f) requires that generators label containers with the words "hazardous waste" and with the date accumulation of the waste begins, and the label must be visible for inspection [*see also* 40 C.F.R. § 262.34(a)]. Large quantity generators who accumulate waste longer than 90 days or fail to label containers of hazardous waste appropriately fail to meet the requirements of 22 C.C.R. § 66262.34, and are subject to the permitting requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. § 270.1].
24. On April 1, 2008, the EPA Inspectors observed containers of hazardous waste that were not labelled, as required.
25. The inspectors observed two 220-gallon totes of acetone/oily wastes that were labelled improperly. Although Bowman documented that the waste was disposed of within 90 days, the accumulation start dates were incorrectly marked, as June 10, 2006 and June 8, 2007.
26. Respondent's failure to meet the requirements set forth or referenced by 22 C.C.R. § 66262.34 subject it to the permit requirements of 22 C.C.R. § 66270.1 [*see also* 40 C.F.R. §§ 262.34 and 270.1]. Therefore, EPA alleges that Respondent stored hazardous waste without a permit, a violation of 22 C.C.R. § 66270.1(c) [*see also* 40 C.F.R. § 270.1(c)].

COUNT III

Failure to Maintain and Operate the Facility to Minimize the Possibility of any Unplanned Release

27. Paragraphs 1 through 26 above are incorporated herein by this reference as if they were set forth here in their entirety.
28. 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 provide that facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment [*see also* 40 C.F.R. § 262.34(a) and 40 C.F.R. § 265.31].
29. On April 1, 2008, the EPA Inspectors observed accumulated drag-out in the facility's plating area and secondary containment areas. Deteriorated and damaged concrete was observed within secondary containment areas.
30. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.31 [*see also* 40 C.F.R. § 262.34(a) and 40 C.F.R. § 265.31].

COUNT IV

Failure to Prepare a Manifest for Transport or Hazardous Waste

31. Paragraphs 1 through 30 above are incorporated herein by this reference as if they were set forth here in their entirety.
32. 22 C.C.R. § 66262.20(a) states that a generator who transports, or offers for transportation, hazardous waste for off-site transfer, treatment, storage, or disposal shall prepare a Manifest, DTSC Form 8022 A (4/97), and if necessary, the EPA continuation Form 8700-22A [*see also* 40 C.F.R. § 262.20(a)(1)].
33. On April 1, 2008, the EPA Inspectors observed that waste paint related materials (e.g., paint filters, masking tape, brushes, etc.) were being disposed of in the general trash.
34. After the inspection, at EPA's direction, Bowman characterized the wastes described above, and determined the wastes were hazardous waste, with concentrations of barium and/or chromium above the toxicity levels set out in 40 C.F.R. § 261.24.
35. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.20(a) [*see also* 40 C.F.R. § 262.20(a)(1)].

COUNT V

Failure to Develop and Implement a Personnel Training Program

36. Paragraphs 1 through 35 above are incorporated herein by this reference as if they were set forth here in their entirety.

37. 22 C.C.R. § 66262.34(a) provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain requirements, including 22 C.C.R. § 66265.16(a), which requires that facility personnel successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the general facility standards set forth in the regulations [*see also* 40 C.F.R. §§ 262.34(a)(4)]. 22 C.C.R. § 66265.16(c) requires that facility personnel must take part in an annual review of initial training required by 22 C.C.R. § 66265.16(a) [*see also* 40 C.F.R. §§ 265.16(a) and 265.16(c)]. 22 C.C.R. § 66265.16(d) requires owners or operators to maintain records that document that the training or job experience required have been given to and completed by facility personnel.
38. At the time of the inspection, Bowman could not provide records documenting the type and amount of training given to each person filling a position listed in the regulations.
39. After the inspection, Respondent submitted some documentation regarding training, but it was not sufficient to meet the requirements.
40. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(a)(4) and 22 C.C.R. § 66265.16 [*see also* 40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 265.16].

COUNT VI

Failure to Maintain a Complete Contingency Plan

41. Paragraphs 1 through 40 above are incorporated herein by this reference as if they were set forth here in their entirety.
42. 22 C.C.R. § 66262.34(a) provides that a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status provided the generator meets certain requirements, including the contingency plan and emergency procedures at 22 C.C.R. §§ 66265.51 and 66265.52. 22 C.C.R. § 66265.51 requires that each owner or operator shall have a contingency plan for the facility designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. 22 C.C.R. § 66265.52 details the required content of the contingency plan. 22 C.C.R. § 66265.52(d) states that the plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator, and this list must be kept up to date.
43. During the CEI, EPA Inspectors found that the contingency plan did not include a list of emergency equipment maintained at the facility. Additionally the plan did not identify the location(s) of the emergency equipment location(s) and did not include a brief description of capabilities of each piece of emergency equipment.
44. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66265.52 [*see also* 40 C.F.R. § 265.52].

COUNT VII

Failure to Properly Manage Satellite Accumulation Containers

45. Paragraphs 1 through 44 above are incorporated herein by this reference as if they were set forth here in their entirety.
46. 22 C.C.R. § 66262.34(e)(1)(D) and 22 C.C.R. § 66265.173(a) provide that a satellite container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste [*see also* 40 C.F.R. § 262.34(c)(1)(i) and 40 C.F.R. § 265.173(a)].
47. 22 C.C.R. § 66262.34(f)(1), (2), and (3) requires that a satellite container holding hazardous waste shall be marked/labeled with the words "Hazardous Waste" [*see also* 40 C.F.R. § 262.34(c)(1)(ii)] and with the following information: accumulation start date, composition and physical state of the waste, and statements which call attention to the particular hazardous properties of the waste (e.g., flammable).
48. On April 1, 2008, the EPA Inspectors observed open satellite accumulation containers located within the Painting Room Area containing acetone and paint wastes were observed by the inspectors. The inspectors noted that no wastes materials were being added to or removed by the painters or other facility personnel during the inspection.
49. On April 1, 2008, the EPA Inspectors observed open hazardous waste containers located within the "Transfer Area", when no waste was being added or removed.
50. Therefore, EPA alleges that Respondent has violated 22 C.C.R. § 66262.34(e)(1)(D), 22 C.C.R. § 66262.34(f)(1), (2), and (3), and 22 C.C.R. § 66265.173(a) [*see also* 40 C.F.R. § 262.34(c)(1), (c)(i), and (c)(ii), and 40 C.F.R. § 265.173(a)];

COUNT VIII

Failure to meet Land Disposal Restriction Recordkeeping Requirements

51. Paragraphs 1 through 50 above are incorporated herein by this reference as if they were set forth here in their entirety.
52. 22 C.C.R. § 66268.7(a)(2) requires generators to maintain a copy of the LDR notification for each hazardous waste stream generated which does not meet the land disposal treatment requirements [*see also* 40 C.F.R. § 268.7(a)].
53. During the inspection and in responses provided after the inspection, Bowman could not provide LDR notifications for hazardous wastes generated by the facility.
54. Therefore EPA alleges that Respondent has violated 22 C.C.R. § 66268.7(a)(2) [*see also* 40 C.F.R. § 268.7(a)].

Count IX

Failure to Perform Weekly Inspections of the Hazardous Waste Storage Area

55. Paragraphs 1 through 54 above are incorporated herein by this reference as if they were set forth here in their entirety.
56. 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174] requires that owners or operators must inspect areas where containers of hazardous waste are stored at least weekly looking for leaks and for deterioration caused by corrosion or other factors.
57. On April 1, 2008, Facility personnel indicated to the EPA Inspectors that they had not been conducting weekly inspections of the hazardous waste storage area.
58. Therefore EPA alleges that Respondent has violated 22 C.C.R. § 66265.174 [*see also* 40 C.F.R. § 265.174].

D. CIVIL PENALTY

59. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as adjusted by the Debt Collection Improvement Act of 1996 (61 Fed. Reg. 69360 (Dec. 31, 1996)) authorizes a civil penalty of up to \$27,500 per day per violation for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring between January 31, 1997 and March 15, 2004. The Civil Monetary Penalty Inflation Adjustment Rule (69 Fed. Reg. 7121 (Feb. 13, 2004)) authorizes a civil penalty of up to \$32,500 per day per violation for violations occurring after March 15, 2004 and a civil penalty of up to THIRTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS (\$37,500) per day for violations of Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*, occurring after January 12, 2009. Based upon the facts alleged herein and upon those factors which EPA must consider pursuant to Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), and the RCRA Civil Penalty Policy, including the seriousness of the violations, any good faith efforts by Respondent to comply with applicable requirements, and any economic benefit accruing to Respondent, as well as such other matters as justice may require, EPA proposes that Respondent be assessed FORTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$48,500.00) as the civil penalty for the violations alleged herein. The proposed penalties were calculated in accordance with the "June 2003 RCRA Civil Penalty Policy." Under the penalty policy, EPA uses a penalty assessment matrix to determine a gravity-based penalty. That penalty amount is then adjusted to take into account multi-day violations, the economic benefit gained from non-compliance, where appropriate, and case-specific circumstances.

E. ADMISSIONS AND WAIVERS OF RIGHTS

60. For the purposes of this proceeding, Respondent admits to the jurisdictional allegations set forth in Section B of this CA/FO and agrees not to contest EPA's jurisdiction and authority to enter into and issue this CA/FO and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction and authority to compel compliance with this CA/FO in any enforcement proceedings, either administrative or judicial, or to impose sanctions for violations of this CA/FO.

61. Respondent neither admits nor denies any allegations of fact or law set forth in Section C of this CA/FO, and this CA/FO and Respondent's compliance with it shall not be construed as an admission by Respondents of any wrongdoing or liability. Notwithstanding the foregoing, Respondent hereby waives any rights Respondent may have to contest the allegations set forth in this CA/FO, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth in this CA/FO, including without limitation a hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b), and hereby consents to the issuance of this CA/FO without adjudication. In addition, Respondent hereby waives any rights Respondent may have to appeal the Final Order attached to this Consent Agreement and made part of this CA/FO.

F. PARTIES BOUND

62. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns, until such time as the civil penalty required under Sections D and G has been paid in accordance with Section G, and any delays in performance and/or stipulated penalties have been resolved. At such time as those matters are concluded, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
63. No change in ownership or corporate, partnership or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
64. The undersigned representative of Respondent hereby certifies that he or she is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PAYMENT OF CIVIL PENALTY

65. Respondent consents to the assessment of and agrees to pay a civil penalty of FORTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$48,500.00) in full settlement of the federal civil penalty claims set forth in this CA/FO.
66. Respondent shall submit payment of the FORTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$48,500.00) in accordance with the payment plan specified in Paragraph 67 of this CA/FO. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed with the Regional Hearing Clerk. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the EPA docket number of this action. Payment shall be made by certified or cashier's check payable to ATreasurer of the United States@ and sent to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000.

At the time payment is made, a copy of the check shall be sent to:

Danielle Carr
Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105

and

John Schofield (WST-3)
Waste Management Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105.

67. The first payment is \$8,083.34 due within 30 days of the effective date of this CA/FO. Subsequent payments are \$8,144.06, due monthly after the date of the first payment for five month.
68. In accordance with the Debt Collection Act of 1982 and U.S. Treasury directive (TFRM 6-8000), each payment must be received by the due date set forth in this CA/FO to avoid additional charges. If payment is not received by the due date, interest will accrue from the Effective Date of this CA/FO at the current rate published by the United States Treasury as described at 40 C.F.R. § 13.11. A late penalty charge of \$15.00 will be imposed after thirty (30) calendar days with an additional \$15.00 charge for each subsequent 30-day period. A 6% per annum penalty will further apply on any principal amount not paid within ninety (90) calendar days of its due date. Respondent further will be liable for stipulated penalties as set forth below for any payment not received by its due date.
- H. DELAY IN PERFORMANCE/STIPULATED PENALTIES
69. In the event Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as set forth below: For failure to submit a payment to EPA by the time required in this CA/FO: ONE HUNDRED DOLLARS (\$100) per day for first to fifteenth day of delay, FIVE HUNDRED DOLLARS (\$500) per day for sixteenth to thirtieth day of delay, and ONE THOUSAND DOLLARS (\$1,000) per day for each day of delay thereafter.
70. All penalties owed to EPA under this Section shall be due within thirty (30) days of receipt of a notification of noncompliance. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R. §13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

71. All penalties shall be made payable by certified or cashier's check to "Treasurer of the United States" and shall be remitted as described in Paragraph 66.
72. The payment of stipulated penalties shall not alter in any way Respondent's obligation to complete the performance required hereunder.
73. The stipulated penalties set forth in this Section do not preclude EPA from pursuing any other remedies or sanctions which may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this CA/FO.

J. RESERVATION OF RIGHTS

74. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO, except as to those civil penalties for the violations and facts alleged herein. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO, including without limitation, the assessment of penalties under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c). This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under RCRA (except as to those civil penalties for the violations and facts alleged herein); the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); or any other statutory, regulatory or common law enforcement authority of the United States.
75. Compliance by Respondent with the terms of this CA/FO shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, State or federal laws and regulations.
76. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement actions should EPA determine that such actions are warranted except as they relate to Respondent's liability for federal civil penalties for the specific alleged violations and facts as set forth in Section C of this CA/FO.
77. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, State or federal permits.

K. OTHER CLAIMS

78. Nothing in this CA/FO shall constitute or be construed as a release from nor an admission by Respondents of any other claim, cause of action or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

L. MISCELLANEOUS

79. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

80. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.

81. The Effective Date of this CA/FO is the date the Final Order, signed by the Regional Judicial Officer, is filed by the Regional Hearing Clerk.

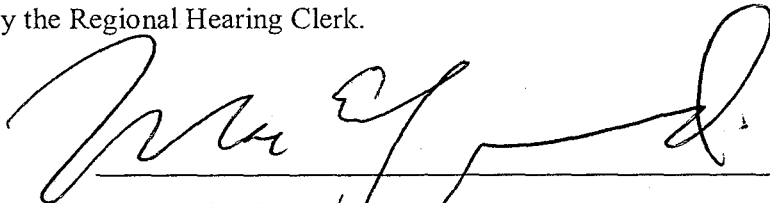
IT IS SO AGREED

3/26/10

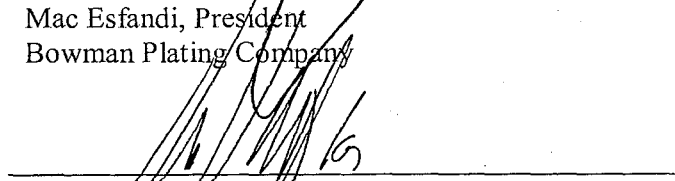
Date

5310

Date



Mac Esfandi, President
Bowman Plating Company



Jeff Scott, Director
Waste Management Division
U.S. Environmental Protection Agency, Region 9

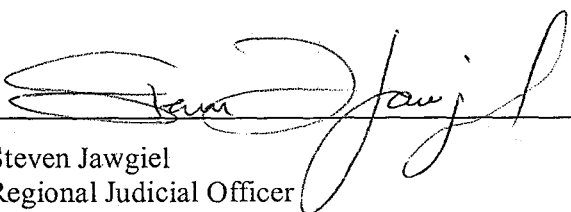
FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. Sections 22.13 and 22.18 (U.S. EPA Docket No. RCRA-9 -2010- ~~CC~~7) be entered and that Bowman Plating Company, Inc. pay a civil penalty of (\$48,500.00) due in accordance with the payment plan specified in Paragraph 67 of this Consent Agreement and Final Order. Payment must be made pursuant to Section G of the Consent Agreement.

This Final Order shall be effective upon filing by the Regional Hearing Clerk.

05/05/10

Date


Steven Jawgiel
Steven Jawgiel
Regional Judicial Officer
United States Environmental Protection Agency,
Region 9

CERTIFICATE OF SERVICE

I hereby certify that on the date below, the original copy of the foregoing Complaint, Consent Agreement and Final Order, was filed with the Regional Hearing Clerk, Region IX, and that copies were sent by:

Certified Mail, Return Receipt Requested to:

Mr. Mac Esfandi, President
Bowman Plating Company, Inc.
2631 East 126th Street
Compton, California 90222

5/5/10

Date

J. Palentino

FOR: Steven Armsey
Regional Hearing Clerk
Office of Regional Counsel, Region IX