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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

US EPA - REGION IX
HEARING CLERK

| | | |
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| IN THE MATTER OF: |) | |
| |) | |
| Sav-On Plating, Inc., |) | U.S. EPA Docket No. |
| Respondent. |) | CWA-09-2013-0001 |
| |) | |

ORDER GRANTING COMPLAINANT'S MOTION TO APPROVE FINAL ORDER

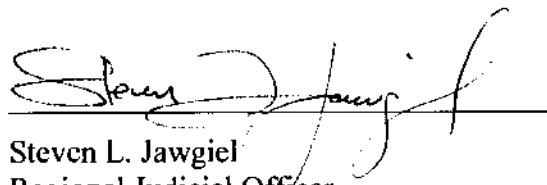
By motion filed February 19, 2013, the United States Environmental Protection Agency (Complainant) seeks approval of the parties' Consent Agreement and Proposed Final Order.

Consolidated Rules of Practice at 40 C.F.R. § 22.45 set forth the rules governing public notice and comment in proceedings under sections 309(g) of the Clean Water Act. As stated in the parties' Consent Agreement and Proposed Final Order, Complainant assessed the penalties in this matter pursuant to section 309(g) of the Clean Water Act. Therefore, Complainant is subject to the mandatory notice and public comment requirements of 40 C.F.R. § 22.45. Complainant's Motion to Approval of Consent Agreement and Final Order establishes Complainant complied with the 40 C.F.R. § 22.45 requirements. The record also shows Complainant received no comments in response to its public notice.

IT IS THEREFORE ORDERED THAT:

Complaint's Motion To Approve Final Order is GRANTED.

Dated: February 19, 2013



Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

FILED

NANCY J. MARVEL
Regional Counsel

2013 FEB 20 AM 11: 27

JULIA JACKSON
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U.S. Environmental Protection Agency, Region IX
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San Francisco, CA 94105
(415) 972-3948

US EPA - REGION IX
HEARING CLERK

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

| | | |
|----------------------|---|--------------------------|
| In The Matter Of: |) | U.S. EPA Docket No. |
| |) | CWA-09-2013-0001 |
| |) | |
| Sav-On Plating, Inc. |) | CONSENT AGREEMENT |
| |) | AND FINAL ORDER |
| |) | |
| |) | |
| <u>Respondent.</u> |) | |

I. CONSENT AGREEMENT

A. INTRODUCTION

1. This civil administrative enforcement action was initiated pursuant Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §1319(g), and 40 C.F.R. Part 22, "Consolidated Rules of the Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits."
2. Complainant is the United States Environmental Protection Agency, Region IX ("EPA"). Respondent is Sav-On Plating, Inc., based in Paramount, California ("Respondent" or "Sav-On").
3. EPA institutes this proceeding against Sav-On for alleged violations of the CWA's pretreatment requirements. CWA §307(d), 33 U.S.C. § 1317(d). This Consent Agreement and Final Order ("CA/FO") simultaneously commences and concludes this matter in accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b).

4. The Respondent agrees that settlement of this matter without litigation is consistent with the provisions and objectives of the CWA and applicable regulations, that it is in the public interest, and that it is the most appropriate means of resolving this matter. The Respondent and EPA seek approval of the Consent Agreement and move for issuance of the accompanying Final Order.
5. NOW THEREFORE, before the taking of any testimony, without adjudication of any issue of fact or law, and upon consent and agreement of the parties to this Consent Agreement and Order, it is hereby AGREED, STIPULATED, and ORDERED:

B. ADMISSIONS AND WAIVERS

6. For purposes of this proceeding, Respondent admits and agrees that the EPA Administrator and Region IX Administrator have jurisdiction and authority over the subject matter of the action commenced in this CA/FO and over Respondent pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. §§ 22.4 and 22.38. Further, for the purposes of this proceeding, Respondent admits to the jurisdictional allegations of facts and law set forth herein. Respondent consents to 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.
7. Respondent neither admits nor denies any allegations of fact or law set forth in the herein. Respondent hereby waives any rights Respondent may have to contest the allegations set forth herein, waives any rights Respondent may have to a hearing on any issue relating to the factual allegations or legal conclusions set forth herein, including without limitation a hearing pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), 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.
8. This Consent Agreement contains the elements of a complaint required by 40 C.F.R. §§ 22.14(a)(1)-(3) and (8).

C. STATUTORY AND REGULATORY AUTHORITY

9. The objective of the Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. 33 U.S.C. § 1251(a).

Pretreatment Program

10. CWA Section 307, 33 U.S.C. § 1317, establishes the federal pretreatment program for regulating the introduction of wastewater from non-domestic sources into publicly owned

treatment works ("POTW"). For purposes of CWA Section 307, the term POTW includes the municipal wastewater treatment plant or works (including the reclamation plant) and its tributary sewer or conveyance systems. 40 C.F.R. § 403.3(q).

11. CWA section 307(d), 33 U.S.C. § 1317(d), prohibits the introduction of industrial pollutants into a POTW in violation of any pretreatment standards established pursuant to CWA section 307(b), 33 U.S.C. § 1317(b).
12. CWA Section 307(b), 33 U.S.C. § 1317(b), directs EPA to publish regulations to establish pretreatment standards governing the introduction of industrial pollutants into POTWs. Pursuant to CWA Section 307(b), EPA promulgated pretreatment standards for discharges of process wastewater from anodizing operations at 40 C.F.R. Part 413.44.
13. A violation of the pretreatment standards at 40 C.F.R. § 413.44 is a violation of CWA section 307(d), 33 U.S.C. § 1317(d).

D. GENERAL ALLEGATIONS

14. Sav-On owns and operates a facility that specializes in barrel plating of small parts. Sav-On performs electroplating and conversion coating at 15523 Illinois Avenue, Paramount, California, 90723 (the "Facility").
15. At all times relevant to this action, Sav-On was a company incorporated in the State of California, and thus a "person" under Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
16. The facility discharges rinses and any dragout from plating and chemical coating operations, used burnishing soap solutions, rinses, and spillage from the burnishing department, spent chromating solutions, soak cleaners and acids and therefore introduces pollutants within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6), into the Los Angeles County Sanitation District's ("LACSD") sewer system and the Joint Water Pollution Control Plant ("the POTW").
17. The LACSD, the POTW and its tributary sewer systems are all POTWs under 40 C.F.R. § 403.3(g) and CWA Section 307(b).
18. The POTW discharges to Santa Monica Bay and the Pacific Ocean. Both Santa Monica Bay and the Pacific Ocean are Waters of the United States under 40 C.F.R. § 122.2, which implements CWA section 502(7), 33 U.S.C. § 1362(7).
19. The Facility operates under a discharge permit issued by LACSD.

Pretreatment Violations at the Facility

20. As part of its production processes, the Facility generates and discharges less than 5000 gallons per day of combined sanitary and industrial wastewater to the LACSD sewer system and ultimately to the POTW and Santa Monica Bay. As an LACD industrial user who discharges process wastewater from anodizing operations, the Facility is subject to the standards at 40 C.F.R. § 413.44.
21. From September 2008 - June 2009, Sav-On committed five violations of the standards for cyanide at 40 C.F.R. § 413.44.
22. The violations of the pretreatment standards at 40 C.F.R. § 413.44 are violations of CWA Section 307(d), 33 U.S.C. § 1317(d).

E. CIVIL PENALTY

23. Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), authorizes the administrative assessment of civil penalties in an amount not to exceed \$10,000 per day for each day during which the violation continues, up to a maximum penalty of \$125,000. Pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and 40 C.F.R. Part 19, violations that occurred between January 30, 1997 and March 15, 2004 are subject to a penalty of up to \$11,000 per day of violation, up to a maximum penalty of \$137,500. Violations that occurred after March 15, 2004 are subject to a penalty of up to \$11,000 per day of violation, up to a maximum penalty of \$157,500. Based upon the facts alleged herein and upon those factors which the Complainant must consider pursuant to CWA Section 309(g)(3), 33 U.S.C. § 1319(g)(3), EPA has determined that it is appropriate to assess, and Respondent has, without admission, agreed to pay to the United States, a civil administrative penalty in the amount of \$15,000.00.
24. Payment of the penalty must be received in accordance with one of the acceptable methods of payment in Paragraph 25 on or before **thirty (30) calendar days** after the effective date of the CA/FO. The date by which payment must be received by the United States shall be the "due date" for the payment.
25. Respondent shall make payment under this CA/FO in accordance with any of the acceptable methods of payment listed in the attached "EPA Region 9 Collection Information" sheet (Attachment A), which is incorporated by reference as part of this CA/FO. Concurrent with payment of the penalty, Respondent shall provide written notice of payment, referencing the title and docket number of this case and attach a photocopy of the penalty payment, via certified mail to each of the following:

Anna Yen
Environmental Engineer
Clean Water Act Compliance Office
U.S. EPA, Region IX
75 Hawthorne Street (Mail Code: WTR-7)
San Francisco, California 94105

Bryan Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX
75 Hawthorne Street (Mail Code: ORC-1)
San Francisco, CA 94105

26. If the penalty is not paid when due, interest shall accrue on any overdue amount from the first date after the due date through the date of payment, at the interest rate established by the Secretary of the Treasury under 31 U.S.C. § 3717. In addition, a late payment handling charge of fifteen dollars (\$15.00) will be assessed for each thirty (30) day period (or any portion thereof) following the due date in which the balance remains unpaid. Payment of any interest and late handling charges shall be made in accordance with Paragraph 25 above.
27. Failure by Respondent to pay the full penalty when due entitles EPA and the United States to bring a civil action to recover the amount assessed. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. In such an action, Respondent shall pay (in addition to any assessed penalty, interest, and monthly handling charges) attorney fees, costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of Respondent's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter. CWA Section 309(g)(9), 33 U.S.C. §1319(g)(9).
28. The civil penalty, and any interest, late handling fees, or late penalty payments provided for in the CA/FO, shall not be deducted from Respondent's, or any affiliated entity's, federal, state or local taxes.

F. PARTIES BOUND

29. This CA/FO shall apply to and be binding upon Respondent and its agents, successors and assigns and upon all persons acting under or for Respondent, until such time as the civil penalty required under Section E has been paid. Once the civil penalty has been paid, this CA/FO shall terminate and constitute full settlement of the violations alleged herein.
30. 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.
31. Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of a substantial portion of Respondent's assets and shall notify EPA within seven (7) days prior to such transfer, until the termination of this CA/FO.

32. The undersigned representative of Respondent hereby certifies s/he is fully authorized by Respondent to enter into this CA/FO, to execute and to legally bind Respondent to it.

G. PUBLIC NOTICE

33. This Consent Agreement is subject to the requirements of CWA Section 309(g)(4), 33 U.S.C. § 1319(g)(4), and 40 C.F.R. § 22.45(b), which provide for a thirty (30) day public notice of, and a reasonable opportunity for comment on, the Consent Agreement.

34. EPA reserves the right to withdraw from or withhold its consent to this Consent Agreement if public comment discloses material information that was not considered by EPA in entering into this Consent Agreement. In such case, Respondent's obligations under this document shall terminate, and EPA may pursue any and all enforcement options as provided by law. If no comment is timely received during the thirty (30) day comment period regarding the Consent Agreement, EPA shall file the Final Order.

35. This CA/FO shall take effect on the date the Final Order is filed with the Regional Hearing Clerk, and shall terminate when Respondent has complied with this CA/FO in full.

H. GENERAL PROVISIONS

36. The Respondent knowingly and voluntarily enters into this Consent Agreement in full and final settlement of the civil administrative penalty liabilities for the specific alleged CWA violations alleged herein. Respondent has read the CA/FO, understands its terms, finds it to be reasonable, and consents to its terms and issuance of the Final Order, without admission of any factual or legal allegations.

37. This CA/FO, inclusive of all exhibits and attachments, is the entire agreement between EPA and the Respondent to resolve EPA's civil penalty claim against Respondent for the specific CWA violations alleged herein.

38. This CA/FO, and Respondent's full compliance with it, shall in no way affect the right of EPA or the United States to pursue any and all injunctive or other equitable relief or criminal sanctions for any violations of law, including but not limited to the right to bring further actions for matters not specifically alleged herein.

39. This CA/FO is not a permit, and it does not constitute a waiver, suspension or modification of the requirements of any federal, state, or local permit, or statute, ordinance, regulation, or order, including but not limited to any CWA requirements, permits or orders.

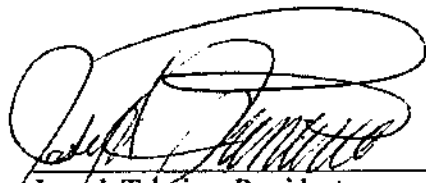
40. This CA/FO shall in no way affect the right of EPA or the United States against any third party (person/entity not a party to this CA/FO) or the right of any third party against Respondent. This CA/FO does not create any right in or grant any cause of action to any third party.

41. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, and the right to seek recovery of any costs and attorney's fees incurred by EPA in any actions against Respondent for noncompliance with this CA/FO.
42. Except as set forth in Paragraph 27, EPA and the Respondent shall each bear their own costs and attorneys fees incurred in this proceeding.
43. Respondent agrees not to contest the validity of any terms and conditions set forth in this CA/FO in any action to enforce, or arising from, the CA/FO. Respondent waives, without any admission, any right to contest any issue of fact or law herein, or to seek a hearing, judicial review, or appeal of the Final Order.
44. This CA/FO shall take effect on the date the Final Order is filed with the Regional Hearing Clerk, and shall terminate when Respondent has complied with this CA/FO in full.

IT IS SO AGREED.

For Sav-On Plating, Inc.:


11/26/2012
Date



Joseph Trimino, President
Sav-On Plating, Inc.

For U.S. Environmental Protection Agency, Region IX:

12/7/12
Date



~~John Kemmer~~ Nancy Woo, Acting Director
Water Division
U.S. Environmental Protection Agency, Region IX

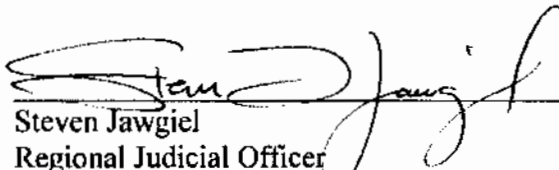
II. FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18, U.S. EPA Docket No. CWA-09-2013-0001, be entered and that Respondent, Sav-On Plating, Inc., pay a civil penalty of **\$15,000.00**. Payment shall be made pursuant to **Paragraph 25** of the CA/FO within thirty (30) days of the Effective Date. A copy of the check or payment documentation shall be sent to the EPA Region IX addresses specified in Section E of this Consent Agreement and Final Order pursuant to 40 C.F.R. § 22.18 at such time as payment is made.

This Final Order shall be effective immediately.

02/19/13

Date



Steven Jawgiel
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Sav-On Plating, Inc. (Docket #: CWA-09-2013-0001) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

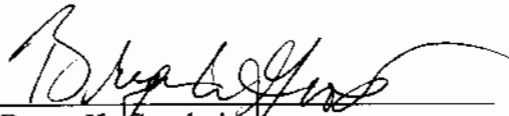
A copy was mailed via CERTIFIED MAIL to:

Mr. Joseph Trimino
President
Sav-On Plating, Inc.
15523 Illinois Avenue
Paramount, CA 90723

CERTIFIED MAIL NUMBER: 7010 2780 0000 8388 8082

A copy was hand-delivered to the following U.S. EPA case attorney:

Julia Jackson, Esq.
Office of Regional Counsel
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105



Bryan K. Goodwin
Regional Hearing Clerk
U.S. EPA, Region IX

2/26/18

Date