

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY**

IN THE MATTER

**Solder Plating, LLC  
dba B & W Plating  
11 North 27th Street  
Van Buren, Arkansas 72956**

LIS No. 21- 070

**EPA ID: ARD982758997  
AFIN: 17-00189**

**CONSENT ADMINISTRATIVE ORDER**

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979, Ark. Code Ann. § 8-7-201 *et seq.*, the Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*, Arkansas Pollution Control and Ecology Commission (APC&EC) Rule No. 23, APC&EC Rule No. 8, and APC&EC Rule No. 7.

The issues herein having been settled by the agreement of Solder Plating, LLC dba B&W Plating (Respondent) and the Division of Environmental Quality<sup>1</sup> (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

**FINDINGS OF FACT**

1. Respondent operates a metal fabrication and finishing facility (Facility) located at 11 North 27th Street, Van Buren, Crawford County, Arkansas.

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<sup>1</sup> Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

2. The Facility offers tin, nickel, and tin-lead alloy electroplating finishes for fabricated copper parts for distribution to its customers within the original equipment manufacturer (OEM) market.

3. Respondent is a Large Quantity Generator of hazardous waste.

4. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes DEQ to assess an administrative civil penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (the Act) and any rule or permit issued pursuant to the Act.

5. Ark. Code Ann. § 8-7-205(1) states, “It shall be unlawful for any person to [v]iolate any provisions of this subchapter or of any rule, permit, or order adopted or issued under this subchapter[.]”

6. On November 20, 2019, DEQ conducted a Compliance Evaluation Inspection (CEI) at the Facility with a follow-up CEI in conjunction with a sampling investigation conducted on December 12, 2019. The CEI Report is incorporated herein by reference. The following violations of APC&EC Rule 23 were identified during the CEI:

- a. DEQ observed two (2) half-cut 55-gallon containers and one (1) cubic yard box container in the center of the facility containing waste facility floor sweepings and wood debris. A waste determination had not been made on the contents of the three (3) containers. Failure to determine if a solid waste is a hazardous waste is a violation of APC&EC Rule No. 23 § 262.11.
- b. DEQ personnel observed multiple 55-gallon containers of hazardous wastewaters generated from the emptying of electroplating baths accumulated in the center of

the facility. In addition, DEQ personnel observed a large quantity of hazardous wastewater treatment sludge (F006), hazardous waste filter cartridges (F006), and other containers of hazardous waste from electroplating operations accumulating within the facility. Respondent estimated that these containers contained approximately 12,384 lbs. (5,617 kg) of hazardous waste.

- i. Many of the containers listed above did not have the date that accumulation of hazardous waste began. Failure to mark the date upon which each period of accumulation begins on a hazardous waste container violates APC&EC Rule 23 § 262.34(a)(2).
  - ii. Many of the containers described above were not labeled with the words "Hazardous Waste." Failure to label or mark clearly hazardous waste containers accumulated on-site with the words, "Hazardous Waste" violates APC&EC Rule 23 § 262.34(a)(3).
- c. DEQ observed one (1) 55-gallon container of hazardous wastewater treatment sludge (F006) dated "1/16/2019." A second 55-gallon container of hazardous waste was dated "7/11/16." Accumulating hazardous waste on-site for greater than ninety (90) days violates APC&EC Rule 23 § 262.34 (b).
- d. DEQ was unable to inspect all hazardous waste containers due to inadequate aisle space. Failure to maintain adequate aisle space to allow for the unobstructed movement of personnel, fire protection equipment, and decontamination equipment to any area of facility operation in an emergency violates APC&EC Rule 23 § 265.35.
- e. Respondent informed DEQ that weekly inspections of the containers in the hazardous waste 90-day storage area have not been conducted. Failure to inspect areas where containers are stored, looking for leaking containers and for

deterioration of containers caused by corrosion or other factors, violates APC&EC Rule 23 § 265.174.

f. DEQ observed several containers of hazardous waste that were open. Failure to keep a container holding hazardous waste closed, except when it is necessary to add or remove waste, violates APC&EC Rule 23 § 265.173(a).

g. DEQ personnel observed obvious signs of corrosion and unknown substances leaking from the building, and conducted an unannounced sampling event on December 12, 2019. Coupled with the high levels of lead observed in soil sample #5, and the facility's historical use of lead electroplating, DEQ determined the facility had not been properly maintained. As a result, hazardous waste constituents were released to the surrounding soil. Failure to maintain and operate the facility in order to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, or surface waste which could threaten human health or the environment, violated APC&EC Rule 23 § 265.31.

7. On July 7, 2020, DEQ notified Respondent of the findings of the investigation.

8. On August 5, 2020, Respondent submitted a response addressing the violations cited in the inspection report.

9. On August 25, 2020, DEQ requested additional information regarding cited significant violations.

10. On October 15, 2020, DEQ notified Respondent that all alleged violations cited during the December 12, 2019 inspection have been corrected.

11. On May 10, 2021, DEQ notified Respondent that the CAO would require a Sampling and Analysis Plan and possible remediation.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit a Sampling and Analysis Plan (SAP) to DEQ designed to determine the extent, type, and concentration of any hazardous substance present at the site.
2. Respondent shall implement the SAP upon receipt of written approval from DEQ and shall submit a report of findings to DEQ according to the dates established in the approved SAP.
3. Within thirty (30) calendar days of receiving written notification from DEQ that the SAP fails to accomplish an adequate determination of the extent, type, or concentration of released hazardous substances or pollutants in the areas investigated, Respondent agrees to amend the SAP to provide for additional sampling and analysis to accomplish the requirements of paragraph 1 of this section. Respondent shall implement said SAP amendment upon DEQ approval and report the findings thereof in accordance with an amended implementation schedule.
4. If it is determined that contamination of the environment has occurred, within thirty (30) calendar days of notification by DEQ, Respondent shall submit a Remedial Action Plan (RAP) to control or remediate such contamination to the extent necessary to protect human health and the environment using a risk-based approach. The RAP shall include an implementation schedule and shall be implemented upon written approval by DEQ.

5. Within thirty (30) calendar days following completion of remediation activities, Respondent shall submit a Completion Report documenting the results of the implementation of the RAP.

6. If DEQ determines the RAP implementation fails to accomplish remediation sufficient to protect human health or the environment, Respondent shall, upon receiving written notification of this failure from DEQ, conduct any additional remedial activities DEQ determines necessary to protect human health and the environment from hazardous substances or pollutants at or from the Site.

7. In compromise and full settlement for instances of noncompliance specified in the Findings of Fact, Respondent agrees to pay the sum of FIFTEEN THOUSAND SIX HUNDRED TWENTY FIVE DOLLARS (\$15,625.00) of which TEN THOUSAND DOLLARS (\$10,000.00) shall be conditionally SUSPENDED by DEQ. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment of the penalty shall be made payable to DEQ and mailed to the attention of:

Division of Environmental Quality  
Fiscal Division  
5301 Northshore Drive  
North Little Rock, AR 72118

If Respondent fully complies with this CAO within eighteen (18) months of the effective date, the SUSPENDED civil penalty of TEN THOUSAND DOLLARS (\$10,000.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of the CAO. If Respondent violates any term of this CAO, the full balance of FIFTEEN THOUSAND SIX HUNDRED TWENTY FIVE DOLLARS (\$15,625.00) shall become immediately due and payable to DEQ. In the event that Respondent

fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection as well as other lawful fees and penalties.

8. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

9. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- (a) First day through the fourteenth day: \$250.00 per day
- (b) Fifteenth day through the thirtieth day: \$1,250.00 per day
- (c) Each day beyond the thirtieth day: \$2,500.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to DEQ by reason of Respondent's failure to comply with this CAO.

10. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

11. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time

for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

12. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

13. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty-day public comment period.

14. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule No. 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.



15. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein as attested by the secretary of said entity. Execution of this CAO by an individual other than a Managing Member of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 22<sup>ND</sup> DAY OF JULY, 2021.

*Becky W. Keogh for BK*  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

SOLDER PLATING (dba B & W PLATING)

BY: *Aaron Toth*  
(Signature)

*Aaron Toth*  
(Typed or printed name)

TITLE: *Plating Manager*

DATE: *7/8/2021*