



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

SEP 02 2004

Certified Mail No. 7001 2510 0003 5944 6065

Return Receipt Requested

In Reply Refer To: CWA-307-9-04-58

Mr. Peter Kellett
President
P.K. Selective Metal Plating, Inc.
415 Mathew Street
Santa Clara, California 95050

Dear Mr. Kellett:

Enclosed please find a Finding of Violation and Administrative Order, which requires P.K. Selective Metal Plating, Inc. (PK Selective) to comply with the Federal categorical pretreatment standards. The U.S. Environmental Protection Agency (EPA) is issuing this Order to PK Selective in response to EPA's January 14, 2004, compliance inspection of PK Selective.

The enclosed Administrative Order requires that PK Selective comply with all of the Federal categorical pretreatment standards, submit financial information by October 31, 2004, and self-monitor its wastewater discharges to the City of San Jose sewers from receipt of this Order through October 2005.

If you have any questions regarding this matter, please contact Margaret Masquelier of my staff at (415) 972-3536.

Sincerely,

Alexis Strauss
Alexis Strauss

Director *2 Sept. 2004*
Water Division

Enclosure

cc: Mr. Phil McGinnis, City of San Jose
Ms. Lila Tang, San Francisco Bay Regional Water Quality Control Board

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

In the Matter of)	
P.K. Selective Metal Plating, Inc.)	
415 Mathew Street)	
Santa Clara, California 95050)	
)	
San Jose/Santa Clara Water Pollution Control Plant)	FINDING OF VIOLATION
Industrial User)	
San Jose, California)	AND ORDER
)	
Proceedings under Section 308(a))	
and 309(a)(3), (a)(4) and (a)(5)(A))	Docket No. CWA-307-9-04-58
of the Clean Water Act, as amended,)	
33 U.S.C. Section 1318(a) and)	
1319(a)(3), (a)(4) and (a)(5)(A))	

STATUTORY AUTHORITY

The following Finding of Violation and Order (Docket No. CWA-307-9-04-58) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) pursuant to Sections 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Clean Water Act [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)] (hereinafter the Act). This authority has been delegated by the Administrator to the Regional Administrator who has, in turn, delegated it to the Director of the Water Division of EPA Region 9.

FINDING OF VIOLATION

The Director of the Water Division of EPA Region 9 finds that P.K. Selective Metal Plating, Inc. (“PK Selective”), is in violation of Section 307(d) of the Act [33 U.S.C. Section 1317(d)]. This Finding is made on the basis of the following:

1. Section 307(d) of the Act [33 U.S.C. Section 1317(d)] prohibits any owner or operator of any source from introducing pollutants into publicly owned treatment works (POTWs) in violation of any effluent standard or prohibition or pretreatment standard promulgated pursuant to Section 307 of the Act.
2. Pursuant to Section 307(b) of the Act [33 U.S.C. 1317(b)], EPA promulgated general pretreatment standards in 40 CFR 403 for all industrial users and categorical pretreatment standards in 40 CFR Part 433 for metal finishing operations. These general and categorical pretreatment standards include, but are not limited to, the following:
 - a. Pursuant to 40 CFR Part 433, any new source metal finishing operation must comply with the daily-maximum and/or monthly-average discharge limits for cadmium, chromium, copper, lead, nickel, silver, zinc, cyanide and total toxic organics (TTOs) in 40 CFR 433.17 upon commencement of discharge;
 - b. Pursuant to 40 CFR 403.5(b)(2), an industrial discharger may not discharge wastewater with a pH lower than 5.0 unless the sewer system is specifically designed to accommodate such Discharges. In this case, the City of San Jose's sewer system is not designed to accommodate such Discharges;
 - c. Pursuant to 40 CFR 403.6(d), an industrial user may not increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement;
 - d. Pursuant to 40 CFR 403.12(e) and (g), categorical industrial users must self-monitor at least twice per year for all parameters unless required more frequently

by the local pretreatment program. In this case, the local pretreatment program, identified in paragraph 3 of this Order, requires that categorical industrial users monitor two times per year and submit reports with monitoring results on June 30th and December 31st of each year.

3. PK Selective is a corporation and therefore a person within the meaning of Section 502(5) of the Act, [33 U.S.C. Section 1362(5)]. PK Selective operates the facility located at 415 Mathew Street in Santa Clara, California (“the Facility”). The Facility is a non-domestic source and introduces pollutants within the meaning of Section 502(6) of the Act [33 U.S.C. Section 1362(6)] into the San Jose/Santa Clara Water Pollution Control Plant (“City of San Jose”), which is a POTW within the meaning of Section 307(b) and 40 CFR Section 403.3(o). PK Selective is therefore subject to the provisions of the Act, [33 U.S.C. Section 1251 et seq., including Section 307, 33 U.S.C. Section 1317].
4. On January 14, 2004, EPA inspectors conducted a compliance evaluation of the Facility and determined that:
 - a. PK Selective performs plating, etching, cleaning and other surface treatments on metal parts at the Facility. As a result, PK Selective’s electroplating, electroless plating, anodizing, coating, chemical etching, and cleaning operations are subject to the categorical pretreatment standards set forth in 40 CFR Part 433.17 for metal finishing and printed below in Table 1:

Table 1: Federal Discharge Limits for PK Selective

Parameter	Daily Maximum (mg/L)	Monthly Average (mg/L)
Cd	0.11	0.07
Cr	2.77	1.71
Cu	3.38	2.07
Pb	0.69	0.43
Ni	3.98	2.38
Ag	0.43	0.24
Zn	2.61	1.48
CN	**	**
TTO's	2.13	N/a

**Cyanide limits must be determined by calculating the cyanide-bearing flow contribution to the total flow: see 40 CFR 433.12(c)

- b. Wastewater is discharged from PK Selective's processing operations into the City of San Jose's sewers from metal finishing processes (electroplating, electroless plating, anodizing, coating, and chemical etching) and from processes associated with metal finishing (cleaning), and under 40 CFR 433.10(a) all of these sources of wastewater are regulated by the metal finishing standards;
 - c. The entire plating area at PK Selective's was reconfigured after the August 31, 1982, publication date of the proposed rule for metal finishing; therefore PK Selective's metal finishing operations are regulated under the new source metal finishing pretreatment standards set forth in 40 CFR 433.17;
 - d. PK Selective's metal finishing operations currently discharge through the compliance sample point designated in this Order by EPA as CSP, which is located after the final pH adjustment tank.
5. EPA finds PK Selective violated Section 307(d) of the Act [33 U.S.C. Section 1317(d)] in the following manner:
- a. **Dilution of wastestreams as a substitute for treatment:** under 40 CFR

403.6(d), it is prohibited that industrial users in any way attempting to dilute a wastewater discharge as a partial or complete substitute for treatment to achieve compliance with a pretreatment standard or requirement. During the EPA inspection on January 14, 2004, it was observed by the EPA inspector that water rinses were run continuously, whether or not parts were being processed in the rinse tank. In addition, water from the emergency eye wash station was continuously running even though it was not in use, thus diluting the process water discharges from the Facility prior to entering the sewer.

- b. **Discharge of wastewater below a pH of five:** the minimum pH of wastewater an industry is permitted to discharge to a POTW under the Federal pretreatment requirements is five. During the January 14, 2004 inspection, EPA inspected randomly selected pH strip charts that were generated by the Facility in 2003, which continuously record the pH of the effluent wastewater as measured by the Facility's pH meter. EPA observed numerous violations of the Federal and local pH limits on these strip charts.
- c. **Exceedance of the local limit for copper:** the local annual average limit is 0.5 mg/L. According to the City of San Jose, PK Selective violated this limit three times on September 17, 2002, October 31, 2002, and November 30, 2002, with concentrations measured at 0.98 mg/L, 1.0 mg/L, and 0.64 mg/L, respectively. Local limits developed by the City of San Jose are deemed Federally enforceable, per the pretreatment standards at 40 CFR 403.5 (d). As PK Selective violated the local limits developed by the City of San Jose, PK Selective has violated the

Federal requirements under section 307(d) of the Act.

- d. **Incorrect monitoring for cyanide:** From the inspection, EPA understands that PK Selective uses cyanide-bearing solutions in on-site processing operations and that these cyanide-bearing wastestreams are discharged to the sanitary sewer. The cyanide is monitored at the final effluent point and the Federal limits are not adjusted to account for the flow contribution from non-cyanide bearing streams. 40 CFR 433.12(c) requires monitoring for after cyanide treatment and before dilution with other streams or, if samples are collected in the final effluent, the local permit limits and Federal standards must be adjusted based on the dilution ration of the cyanide waste stream to the effluent flow.
- e. **Late self-monitoring reports:** PK Selective must self-monitor for all regulated parameters and report analytical results to the City of San Jose twice a year, in June and December, as required under 40 CFR 403.12(e). PK did not submit the self-monitoring report due in June 2001 on schedule.
- f. **Failing to report violations:** PK Selective is required under 40 CFR 403.12(g)(2) to report any violations of Federal or local limits in wastewater discharge that occur to the City of San Jose within 24 hours of becoming aware of the violations. PK Selective is also required under 40 CFR 403.12(g)(2) to resample, and submit the results of the resampling, within 30 days of discovering the violation to show compliance with the standards. PK Selective had numerous pH violations in 2003, which were discovered during the EPA inspection and not reported to the City of San Jose. Moreover, results were not submitted within 30-days of the

violation showing compliance with the standard.

- g. **Incorrect compliance sampling:** 40 CFR 403.12(g) requires compliance sampling conducted to represent a sampling day's operation and the conditions during a reporting period. PK Selective is not in compliance with this requirement, as wastewater discharged from PK Selective is diluted as a substitute for treatment. Pollutant concentrations, which are monitored prior to discharge to the City of San Jose at CSP, are diluted by excessively running rinses, which causes the measured concentrations to be unrepresentative of the process wastewater discharged to the sewers.

ADMINISTRATIVE ORDER

Taking these Findings into consideration, and considering the potential environmental and human health effects of the violations, and all good faith efforts to comply, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to Section 308(a) and 309(a)(3), (a)(4) and (a)(5)(A) of the Act [33 U.S.C. Sections 1318(a) and 1319(a)(3), (a)(4) and (a)(5)(A)], PK Selective is ordered to comply with the following requirements:

Achieve and Maintain Compliance with Pretreatment Standards

6. Ensure the Facility achieves and maintains consistent compliance with the general pretreatment standards at 40 CFR 403 and the specific categorical pretreatment standards set forth in 40 CFR 433.17.

7. By October 13, 2004, establish a monitoring scheme for cyanide that complies with 40 CFR 433.12(c) and submit a notice of completion to EPA when this requirement is achieved. In this notice of completion, please illustrate and describe how the cyanide will be monitored at PK Selective in future self-monitoring events. Cyanide must be monitored after cyanide treatment and before dilution with other streams or, if samples are collected in the final effluent, the local permit limits and Federal standards must be adjusted based on the dilution ration of the cyanide waste stream to the total effluent process flow.
8. By November 10, 2004, PK Selective shall submit a preliminary engineering plan outlining the steps to maintain consistent compliance at CSP with the categorical pretreatment standards set forth in 40 CFR 433.17 and compliance with the prohibition of dilution as a substitution for treatment at 40 CFR 403.6(d). This preliminary engineering plan shall, at a minimum, include the following:
 - a. A description of the rinsing practices currently used by PK Selective. This description shall include standard operating procedures, tank sizes, rinse water quantity specifications, immersion times, processing schedules, drag-out controls, and any other information that illustrates the details of rinsing operations at PK Selective.
 - b. A detailed description and respective dates of installation of all equipment, construction, additions, modifications and operating procedures used to maintain compliance at sample points with the categorical pretreatment standards set forth in 40 CFR 433.17.
 - c. A Treatment Technology Report, which evaluates and compares the types of

- wastewater treatment technologies that would be effective for treating the wastes generated on-site and which of these will be implemented at PK Selective. This report shall include, but not be limited to, descriptions of the equipment, hardware, management plans, and operating procedures that will be implemented to cease dilution as a substitute for treatment through the retrofitting of on-demand rinsing practices and/or the installation and operation of best available technology treatment, or its equivalent.
- d. A schedule of all corrective actions, not to extend past December 31, 2004, that includes at least the following dates:
- (i) The beginning and ending dates of any construction necessary to maintain compliance at CSP with the categorical pretreatment standards set forth in 40 CFR 433.17;
 - (ii) The dates of any new operating procedures to be put into effect.
- e. An assessment of causes and corrective actions taken pursuant to any future violations, if they occur, identified in the monitoring required by the Self-Monitoring section of this Order.
9. By December 31, 2004, PK Selective shall complete the steps outlined in paragraph 8(d) of this Order.

Historical Data

10. By October 31, 2004, PK Selective shall submit the following financial information:
 - a. The capital costs of (1) the pretreatment equipment at the facility, and (2) any future capital expenditures expected;
 - b. The dates when the pretreatment system began operation and when capital improvements have been made or are expected to be made;
 - c. Projected or actual annual costs of operating and maintaining (O&M costs) the pretreatment system for each year from July 1999 through July 2004;
 - d. Chemical costs for wastewater treatment operations for each year from January 1999 through July 2004, including difference in costs for any new chemicals used from past chemicals used.
11. By October 15, 2004, PK Selective shall submit copies of any self-monitoring reports for the period covering September 1, 1999 to the date of receipt of this order.
12. By October 15, 2004, PK Selective shall submit a pH table. This pH table must summarize all pH values recorded, in five-minute time increments, on the pH strip charts, from January 1, 2000 to September 1, 2004. In any instance where the pH falls below 5 and this is not reflected on the pH table, please include additional lines on the summary table reflecting these data points.

Self-Monitoring

PK Selective shall perform sampling that is representative of its discharge and adequate to determine compliance with the daily and monthly metal finishing pretreatment standards, per 40 CFR 433.17, and be conducted in a manner that is no less stringent than the following

provisions:

13. PK Selective shall take continuous pH readings of the process wastewater discharged through the sample point (CSP) from September 15, 2004 through October 15, 2004. PK shall generate a table that summarizes all pH values recorded, in five-minute time increments, during this time period. For any instance where the pH falls below 5 and this is not reflected on the pH table, please include additional lines on the summary table reflecting these data points. This pH summary table must be submitted by October 31, 2004.
14. Once each week from the receipt of this order for four consecutive weeks, PK Selective shall collect composite and grab samples from the discharges to the sewer at the overall compliance sample point, designated in this Order as CSP, for the following processes: electroplating, electroless plating, anodizing, coating, chemical etching, and cleaning operations. These composites shall be 24-hour, time-weighted composite samples, analyzed for cadmium, chromium, copper, lead, nickel, silver, and zinc. The grab samples shall be analyzed for cyanide and TTOs. Samples shall be collected on consecutive discharge days of the week (e.g. if for the first sampling week a sample is collected on a Wednesday, then for the second sampling week the sample shall be collected on a Thursday.)
15. On October 28, 2004, PK Selective shall submit a self-monitoring report including analytical results of the four samples required under paragraph 14 of this Order.
16. Once each month from October 1, 2004 through October 1, 2005, PK Selective shall collect composite and grab samples from the discharges to sewer at the overall

compliance sample point, CSP. These composites shall be 24-hour, time-weighted composite samples, analyzed for cadmium, chromium, copper, lead, nickel, silver, and zinc. The grab samples shall be analyzed for cyanide and TTOs. Samples shall be collected on consecutive discharge days of the week (e.g. if for the first sampling week a sample is collected on a Wednesday, then for the second sampling week the sample shall be collected on a Thursday.)

17. PK Selective shall submit all monthly self-monitoring results no later than the 28th day of the month following the sampling month. The first monthly report shall be due on November 28, 2004 for the monitoring data from October 1, 2004 through October 31, 2004.
18. Sampling required by this Order shall follow the requirements under 40 CFR 403, 40 CFR 136, and 40 CFR 433. Samples shall be representative of the discharge to the sewers, be preserved in accordance with EPA requirements to preserve sample integrity, and analyses shall be performed using EPA-approved analytical methods.
19. PK Selective shall record the following for each sample:
 - a. The sample results and EPA analytical methods used;
 - b. Date, time, location, and preservation of each sample;
 - c. The chain of custody forms for all samples;
 - d. The flow rate of wastewater discharged into the sewer during the collection of each sample and the average discharge flow rate for that month;
 - e. The hours of operation of the process during the sampling period;
 - f. The detection limits for each pollutant parameter analyzed;

- g. The name of the laboratory used.
20. PK Selective may voluntarily sample more frequently than required by this Order. If additional samples are collected, PK Selective shall also submit the results of the monitoring.

Submissions

21. All reports submitted pursuant to this Order shall be signed by a principal executive officer of PK Selective and shall include the following statement:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I certify that all wastewater samples analyzed and reported herein are representative of the ordinary process wastewater flow from this facility. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
22. This Order is not and shall not be interpreted to be an NPDES permit under Section 402 of the Act [33 U.S.C. Section 1342], nor a control mechanism under 40 CFR 403.8(f)(iii), nor shall it relieve PK Selective of obligations imposed by any Federal, State or local law, including the ordinance for Industrial Waste Discharges for the area tributary to the San Jose/Santa Clara Water Pollution Control Plant.
23. All submissions shall be mailed to the following addresses:
- U.S. ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, California 94105
ATTN: Ms. Margaret Masquelier (WTR-7)
- City of San Jose

Wastewater Protection
Source Control
3099 North 1st Street
San Jose, California 95134
ATTN: Mr. Phil McGinnis


San Francisco Bay Regional Water Quality Control Board
1515 Clay Street Suite 1400
Oakland, California 94612
ATTN: Ms. Lila Tang, NPDES Permit Division

General Provisions

24. Failure to comply with this Order or the Federal categorical standards may subject PK Selective to civil action for appropriate relief, including judicial penalties under CWA section 309(d), 33 U.S.C. §1319(d). Failure to submit information required under CWA section 308 (including information required under this Order), or to comply with the NPDES permit or other CWA provisions, may subject Respondent to actions under CWA section 309(a) (for administrator compliance orders), section 309(b) (for judicial injunctive relief), section 309(d) (for judicial penalties), and/or section 309(g) (for administrative penalties). 33 U.S.C. § 1319(a), (b), (d) and (g). In addition, CWA section 309(c), 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA, and for knowingly making false statements.
25. EPA has promulgated regulations to protect the confidentiality of the business information it receives. These regulations are set forth in 40 CFR Part 2, Subpart B and in the Federal Register at 41 F.R. 36902 (September 1, 1976) and 43 F.R. 40000 (September 8, 1978). A claim of business confidentiality may be asserted in the manner specified by 40 CFR Section 2.203(b) for part or all of the information requested. EPA

specified by 40 CFR Section 2.203(b) for part or all of the information requested. EPA will disclose business information covered by such a claim only as authorized under 40 CFR Part 2, Subpart B. If no claim accompanies the business information at the time EPA receives it, EPA may make it available to the public without further notice. PK Selective may not withhold from EPA any information on the grounds that it is confidential.

26. This request for information is not subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. Sections 3502(4) & (11), 3507, 3512, and 3518. Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons. 44 U.S.C. §1320.5(a).
27. This Order takes effect upon signature.



Alexis Strauss
Director
Water Division

2 Sept. 2004
Date