

ALABAMA DEPARTMENT  
OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF  
UNIQUE PLATING, INC.

ORDER NO. 90-063-HW

FINDINGS OF FACT

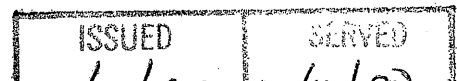
Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 to 22-22A-16 (1984 and 1989 Cum. Supp.), and the Alabama Hazardous Wastes Management and Minimization Act of 1978, Code of Alabama 1975, §§ 22-30-1 to 22-30-20 (1989 Cum. Supp.), the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Unique Plating, Inc. (hereinafter, "UP") is an Alabama corporation which has performed nickel and chromium plating at 401 W. Main Street, Glencoe, Alabama.

2. UP's nickel and chrome plating operation generated hazardous wastes.

3. ADEM Admin. Code R. 335-14-2-.01(g) requires any hazardous waste generator who accumulates more than 1000 kilograms of hazardous waste at any time to comply with the regulations applicable to those who generate between 100 and 1000 kilograms of hazardous waste per month.

4. During various inspections by the Department, UP was found to have accumulated more than 1000 kilograms of hazardous wastes.



5. ADEM Admin. Code R. 335-14-1-.02 defines discharge as, "the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water. Disposal is defined by the same Rule as, "the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters including groundwaters.

6. ADEM Admin. Code R. 335-14-3-.03(5)(d) requires a generator, in the event of a spill, to contain the flow of hazardous waste to the extent possible, and as soon as practicable, to clean up the hazardous waste and any contaminated materials or soils.

7. UP spilled a liquid waste from its wastewater treatment process on June 14, 1988. UP subsequently covered the area of the spill with gravel.

8. Inspections on 3 April 1989, 19 April 1989, 25 April 1989, and 26 June 1989, revealed discharges of hazardous wastes which had either been dumped into or had otherwise migrated to the ditch adjacent to the private residence or had spilled between or adjacent to the building in the process area.

9. The hazardous wastes discharges were not contained to the extent possible or cleaned up as soon as was practicable.

10. UP's failure to clean up the above described hazardous wastes discharges as soon as was practicable violated ADEM Admin. Code R. 335-14-3-.03(5)(d).

11. UP has allowed hazardous wastes to be discharged from the outdoor evaporators and secondary containment area onto the ground between the open shed and the process building and/or has discharged hazardous waste into ditches along the perimeter of the facility and into a ditch adjacent to a private residence which is south of the facility. On 3 April 1989, 19 April 1989, 25 April 1989, and 26 June 1989, ADEM officials observed that hazardous wastes spills had occurred.

12. By disposing of hazardous wastes on site or adjacent to the site, UP is the operator of a disposal facility subject to the requirements of Chapters 14-5, 14-6 and 14-8.

13. UP's discharge of hazardous waste constitutes disposal of hazardous wastes without a permit. Disposal of hazardous wastes without a permit is a violation of ADEM Admin. Code Rules 335-14-8-.01(1)(a)2 and (c).

14. ADEM Admin. Code R. 335-14-3-.03(5)(d) requires a generator of hazardous wastes who accumulates such wastes for 180 days or less without a permit to label or mark clearly all hazardous waste containers with the words "Hazardous Wastes", and the date accumulation begins.

15. UP stored hazardous waste in an idle plating bath container from April 88 to March 89 without dating or labeling such container.

16. UP was observed to have stored hazardous wastes in an unlabeled, undated, partitioned vat on 3 April 1989, 19 April 1989, and 26 June 1989.

17. UP was observed to have an unlabeled, undated drum of hazardous waste on 19 April 1989, 27 April 1989, and 26 June 1989.

18. The storage of hazardous waste in the plating bath, the partitioned vat, and the drum were violations of Rule 14-3-.03(5).

19. ADEM Admin. Code R. 335-14-6-.09 requires that all containers holding hazardous wastes must be closed during storage.

20. UP was observed to have open containers of hazardous wastes on 3 April 1989, 19 April 1989, 27 April 1989, and 26 June 1989.

21. UP's storage of open containers of hazardous waste violated Rule 14-6-.09.

22. ADEM Admin. Code R. 335-14-6-.09(8) prohibits incompatible wastes from being placed in the same container and further requires that incompatible wastes be separated from each other by means of a dike, berm, wall or other device.

23. ADEM Admin. Code R. 335-14-6-.02(8)(b) requires an owner or operator who treats, stores, or disposes of ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials to take precautions to prevent reactions which produce uncontrolled toxic mists, fumes, or gases.

24. UP has stored a hazardous waste which contains cyanide and has a low pH in the same container with a hazardous waste which contains cyanide and has a high pH. The two hazardous

wastes were separated by a metal divider within the container. On April 3, 1989, the container was open at the top and had approximately 3 inches of freeboard between the hazardous wastes and the top edge of the container.

25. The container was stored in an open shed with no walls on two sides.

26. UP has reported to the Department that vandals and neighborhood children have made unauthorized entry into the facility on more than one occasion.

27. The mixing of these two hazardous wastes solutions could produce heat, a violent reaction or uncontrolled toxic mists or fumes that could pose a threat to human health and the environment.

28. On August 15, 1989, ADEM instructed UP by letter to implement the approved disposal plan for the above described hazardous waste containing cyanide.

29. UP was further instructed to submit a manifest and a certification by the design engineer within 45 days that proper disposal had been accomplished.

30. To date, the information listed in number 29 above has not been submitted.

31. UP's handling of the hazardous waste described above is a violation of ADEM Admin. Code Rules 335-14-6-.02(8)(b) and 14-6-.09(8).

32. UP's violations cited herein pose serious threats to the environment and to the health and safety of the public.

33. UP has operated in a negligent or reckless manner.

34. UP has received an economic benefit by not complying with ADEM regulations.

35. UP took no efforts to minimize or mitigate the effects of such violations upon the environment until after enforcement action by ADEM had begun. Such subsequent efforts have been minimal.

36. UP has a history of ongoing violations.

37. UP has the ability to pay a penalty.

#### ORDER

Based on the foregoing FINDINGS OF FACT and pursuant to Code of Alabama 1975, §§ 22-22A-5, and 22-30-1 et seq. (1989 Supp.), it is hereby ORDERED:

A. That within 15 days of receipt or notice of this Order, UP must evaluate the plan submitted to the Department and revised in August 1989 and prepared by a licensed engineer to ensure that said plan provides for the clean up of all hazardous wastes discharges and any soil and water contaminated by hazardous wastes on site as well as in the ditches adjacent to the facility. The evaluation must ensure that the plan includes proper sampling techniques, the correct analytical parameters, the proper clean up method, the proper disposal method for soil and water and a schedule for implementing these activities as well as a description of and time table for implementing a sampling approach that will adequately determine the extent of

contamination emanating from the facility to the surrounding surface area and/or groundwater. If UP determines that no revision is necessary, it must inform the Department within 20 days of notice or receipt of this Order.

B. If UP determines that it must revise its plan, it must submit a revised plan to the Department within 20 days of receipt of this Order.

C. That upon receipt by UP of the Department's comments on the requirements of either 'A' or 'B' above, UP will immediately begin sampling and implementation of the plan.

D. That upon receipt or notice of this Order UP will immediately cease any and all discharges of hazardous wastes.

E. That upon receipt or notice of this Order UP shall immediately cease all non-hazardous waste discharges until such time as it receives an NPDES or SID permit from the Department.

F. That within 30 days of notice or receipt of this Order, UP shall evaluate the plan submitted to the Department for the disposal of its hazardous waste generated by the ongoing operation of its plating process. The evaluation must ensure that the plan will provide an estimate of the amount of hazardous wastes to be generated per month and the approximate length of time such wastes will be stored. Additionally, the plan will specify the waste stream generated, the method of storage, the name and type of carrier used to transport such wastes for disposal, and the location and name of the facility

to be used for disposal. The plan shall also require a record to be kept at the facility which will show wastes shipped, the destination of the wastes, the carrier, and the date of such shipment. Such plan shall be implemented immediately upon approval by the Department. A copy of the plan shall be kept at the facility and the terms of the plan concerning the waste stream generated, method of storage, use of designated carrier, use of designated disposal facility, and record keeping shall be mandatory conditions of UP's handling of hazardous wastes. The plan shall not be modified unless a written approval is received from the Department in response to a written request.

G. That upon approval of the plans described in 'A' or 'B', and 'F' above, UP must dispose of its accumulated hazardous wastes, including soils, surface waters and groundwaters contaminated by hazardous wastes, in accordance with the appropriate disposal plan. Additionally, within 30 days of receipt of this Order, UP shall either comply with all other special requirements of the conditionally exempt small quantity generator found at Rule 14-2-.01(5), or comply with the requirements for generators who generate between 100 and 1000 kilograms of hazardous waste per month found at Rule 14-3-.03, or apply for a permit to treat, store, or dispose of hazardous waste.

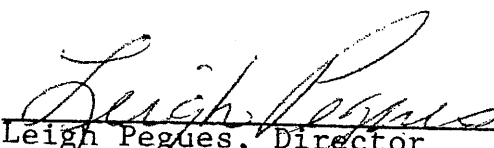
H. That within 30 days of receipt of this Order UP pay Thirty Thousand Dollars (\$30,000.00) as a penalty for the violations contained in the FINDINGS OF FACT.



I. That the failure of UP to comply with any of the provisions of this Order, shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, and other appropriate relief.

J. That the issuance of this Order does not preclude the Department or others from seeking criminal fines or other appropriate sanctions or relief against the Operator for violations stated herein.

ORDERED AND ISSUED this 12th day of February, 1990.

  
Leigh Pegues, Director  
Alabama Department of  
Environmental Management  
1751 Cong. W. L. Dickinson Drive  
Montgomery, AL 36130  
(205) 271-7700

CERTIFICATE OF SERVICE

I, G. Keith Clark, hereby certify that I have served Order No. 90-063-HW upon Unique Plating, Inc. by sending the same, postage paid, through the U.S. Mail, as Certified Mail No. P 070 963 702, with instructions to forward and return receipt requested to:

Jan Lyons  
President and Agent  
Unique Plating, Inc.  
401 W. Main Street  
Glencoe, Alabama 35905

Done this 12th day of February, 1990.

Keith Clark  
G. Keith Clark