

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**ADDENDUM NO. 1
TO
CLEANUP AND ABATEMENT ORDER NO. 2000-22**

MKR PROPERTIES INC.

**PALOMAR PLATING COMPANY, INC.
722 W. FOURTH AVENUE
ESCONDIDO, CALIFORNIA
SAN DIEGO COUNTY**

The California Regional Water Quality Control Board, San Diego Region (hereinafter Regional Board) finds that:

1. **CLEANUP AND ABATEMENT ORDER NO. 2000-22.** Except as contradicted or superseded by the findings and directives set forth in this Cleanup and Abatement Order (CAO) Addendum (Addendum No. 1), all of the previous findings and directives of CAO No. 2000-22 remain in full force and effect.
2. **PALOMAR PLATING, INC., ART CEDILLOS, AND FRANK CEDILLOS.** Messrs. Art Cedillos (deceased September 2001) and Frank Cedillos conducted metal plating operations at 722 West Fourth Avenue in the City of Escondido, San Diego County, (Site) as Palomar Plating, Inc., until January 2005. The Cedillos' caused or permitted wastes from metal plating to be deposited in soil at the Site and caused or permitted waste from metal plating to be discharged to ground water underlying the Site.
3. **PROPERTY OWNERSHIP.** From approximately 1975 until January 2005, Palomar Plating, Inc. leased the Site from the Harding Family Trust (Trust). On October 19, 2006 the Trust transferred the title of the Site to MKR Properties, Inc. (MKR). The Regional Board has discretion to hold landowners accountable for discharges, which occur or occurred on the landowner's property based on ownership of the land.
4. **PURCHASER AGREEMENTS.** As a condition of purchasing the property, MKR (hereinafter Discharger) agreed to assume all responsibility and liability pertaining to the discharge of waste in soil and ground water beneath the Site. Additionally, MKR agreed to record an Environmental Restriction and Covenant (effective November 20, 2006) to notify future owners or occupants about the pollutants present in the subsurface.
5. **SITE REMEDIAL ACTION PLAN.** On March 20, 2006, a combined feasibility study and remedial action plan (RAP) was prepared in accordance with an investigative order (Section 13267(b)(1) of the California Water Code) issued by

the Executive Officer of the Regional Board. The feasibility study considers several potentially cost-effective remedial action alternatives to attain Maximum Contaminant Levels (MCLs) in the ground water; however, it does not evaluate the feasibility to attain background water quality conditions pursuant to State Water Resources Control Board Resolution 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. The RAP of the report proposes to construct a permeable reactive barrier (PRB) at the northwest boundary of the site to contain off-site migration of the chlorinated solvent plume.

6. **CEQA EXEMPTION.** This enforcement action is exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15321 (Enforcement Actions by Regulatory Agencies), Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to Sections 13267 and 13304 of the California Water Code, MKR Properties, Inc. (hereinafter referred to as "Discharger") shall comply with the following directives:

A. SUPPLEMENTAL INFORMATION ON THE SITE REMEDIAL ACTION PLAN DATED MARCH 20, 2006

1. ***Supplemental Feasibility Study.*** The Discharger shall prepare and submit by **August 30, 2007** a supplemental feasibility study that evaluates potential remedial alternatives, including cost and effectiveness of each alternative, for the cleanup or remediation of the waste constituents to attain a range of applicable soil and ground water cleanup levels between background water quality conditions and alternative cleanup levels derived by applying the conditions set forth in Title 23, Chapter 15, Article 5, Section 2550.4. Alternative cleanup levels shall not unreasonably affect present and anticipated beneficial uses of waters and not result in water quality less than that prescribed in the Water Quality and Control Plans and Policies adopted by the State and Regional Board. The supplemental feasibility study shall provide a recommendation on (a) the soil and ground water cleanup levels for the Site and (b) the remedial alternative for attaining the cleanup levels.
2. ***Updated Remedial Action Plan.*** The Discharge shall prepare an updated remedial action plan (RAP) based on the Supplemental Feasibility Study required under Directive A.1. The updated RAP shall be submitted to the Regional Board within sixty (60) days following the submission of the supplemental feasibility study, unless otherwise directed in writing by the Regional Board. The updated RAP shall contain the following information:
 - a. **Implementation Activities.** A detailed description of all activities planned to implement the recommended alternative for the cleanup or

remediation of the waste constituents described in the final Remedial Investigation and Feasibility Study (RIFS) and a schedule for their completion; and

- b. Monitoring Activities. A monitoring program to demonstrate the effectiveness of the RAP. The monitoring program shall be effective in determining compliance with the cleanup levels and in determining the success of the remedial action measures.

B. **REMEDIAL ACTION PLAN IMPLEMENTATION**

1. ***RAP Implementation.*** In the interest of minimizing environmental contamination and promoting prompt cleanup, the Discharger may begin implementation of the updated RAP sixty (60) calendar days after submittal to the Regional Board, unless otherwise directed in writing by the Regional Board. Before beginning the RAP implementation activities, the Discharger shall:
 - a. Notify the Regional Board of its intention to begin cleanup; and
 - b. Comply with any conditions set by the Regional Board, including mitigation of adverse consequences from cleanup activities.
2. ***Remedial Action Zone.*** The Discharger shall implement remedial action measures that ensure the waste constituents achieve their respective cleanup levels at all monitoring points and throughout the zone affected by the waste constituents, including any portions thereof that extend beyond the Site boundary, by removing the waste constituents or treating them in place.
3. ***Implementation Schedule.*** Implementation of the RAP shall be completed on a schedule to be established by the Regional Board in a subsequent amendment to CAO No. 2000-22.
4. ***Monitoring and Evaluation.*** The Discharger shall monitor, evaluate, and report the results of implementation of the RAP on a schedule to be established by the Regional Board in a subsequent amendment to this addendum.
5. ***Modify or Suspend Cleanup Activities.*** The Discharger shall modify or suspend cleanup activities when directed to do so by the Regional Board.

C. **CLEANUP AND ABATEMENT COMPLETION VERIFICATION**

1. ***Cleanup and Abatement Completion Report.*** The Discharger shall submit a final Cleanup and Abatement Completion Report verifying completion of the prescribed cleanup and abatement activities through sampling or other monitoring of the soil and ground water for a period of at

least one year. The monitoring period shall begin immediately after the completion of cleanup and abatement measures and be conducted at intervals to be prescribed by the Regional Board based on proposals by the Discharger. The report shall provide a demonstration, based on a sound technical analysis, that the cleanup levels for all waste constituents are attained at all monitoring points and throughout the zone affected by the waste constituents, including any portions thereof that extend beyond the Site boundary.

D. PROVISIONS

1. **Reinstatement as Discharger(s).** Todd Harding (Trustee of the Harding Family Trust and the Lucille J. Harding Trust), Frank Cedillos, and Palomar Plating Company will be required to implement cleanup and abatement to comply with CAO No. 2000-22, as amended, if, in spite of the agreements between Trust and MKR, MKR fails to implement or complete cleanup or abatement in accordance with the terms and conditions of the CAO.
2. **Duty to Comply.** The Discharger shall properly handle, store, treat, and dispose of contaminated soils and ground water in accordance with applicable federal, state, and local laws and regulations. The handling, storage, treatment, or disposal of soil, sediment, and ground water containing waste constituents shall not create conditions of pollution, contamination or nuisance as defined in California Water Code section 13050(m). The Discharger shall, as required by the Regional Board, obtain or apply for coverage under waste discharge requirements or a conditional waiver of waste discharge requirements, for any discharge of waste from the Site that could affect the quality of the waters of the state (i.e., for any discharge of waste to (a) land for treatment, storage, or disposal or (b) waters of the state).
3. **Request to Provide Information.** The Discharger may present characterization data, preliminary interpretations, and conclusions as they become available, rather than waiting until a final report is prepared to facilitate a consensus being reached between the Discharger and the Regional Board regarding technical matters.
4. **Waste Constituent Analysis.** Unless otherwise permitted by the Regional Board, all analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. Specific methods of analysis must be identified. If the Discharger proposes to use methods or test procedures other than those included in the most current version of "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846*" (U.S. Environmental Protection Agency) or 40 CFR 136, "*Guidelines Establishing Test Procedures for the Analysis of Pollutants; Procedures for Detection and Quantification*", the exact methodology must be submitted for review and must be approved by the

Regional Board prior to use. The director of the laboratory whose name appears on the certification shall supervise all analytical work in his/her laboratory and shall sign all reports submitted to the Regional Board under penalty of perjury. The following certification shall be made by the director:

"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, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5. ***Duty to Operate and Maintain.*** The Discharger shall, at all times, properly operate and maintain all facilities and systems of treatment, control, storage, disposal, and monitoring (and related appurtenances) which are installed or used by the Discharger to achieve compliance with this Cleanup and Abatement Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities, which are installed by the Discharger only when the operation is necessary to achieve compliance the conditions of this Cleanup and Abatement Order.
6. ***Duty to Use Qualified Professionals.*** The Discharger shall provide documentation that plans and reports required under this Order are prepared under the direction of appropriately qualified professionals. California Business and Professions Code Sections 6735, 7835 and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of registered professionals. A statement of qualifications and registration numbers, if applicable, of the responsible lead professionals shall be included in all plans and reports submitted by the Discharger. The lead professional shall, if registered, sign and affix their registration stamp to the report, plan or document.
7. ***Corporate Signatory Requirements.*** All reports required under this Order shall be signed and certified by a responsible corporate officer(s) of the Discharger described in paragraph 6.a. of this provision or by a duly authorized representative of that person as described in paragraph 6.b.of this provision.
 - a. Responsible Corporate Officer(s). For the purposes of this provision, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy - or

decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- b. Duly Authorized Representative. A person is a duly authorized representative only if:
- 1) The authorization is made in writing by a person described in paragraph (a) of this provision;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual (A duly authorized representative may thus be either a named individual or any individual occupying a named position.);
and
 - 3) The written authorization is submitted to the Regional Board.
- c. Changes to Authorization. If an authorization under paragraph (b) of this provision is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this provision must be submitted to the Regional Board prior to or together with any reports or information to be signed by an authorized representative.
- d. Certification Statement. Any person signing a document under paragraph a. or b. of this provision shall make the following certification:

"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, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I

am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

8. ***Electronic and Paper Media Reporting Requirements.*** The Discharger shall submit both electronic and paper copies of all reports required under this Cleanup and Abatement Order including workplans, technical reports, and monitoring reports which will include a signed transmittal letter and professional certification. The Discharger shall comply with electronic reporting requirements of Article 5 of Chapter 3, commencing with Section 13195, of the Porter-Cologne Water Quality Control Act, located in Division 7 of the California Water Code, and of Section 3893 of the State Water Resources Control Board regulations in Division 3 of Title 23, California Code of Regulations. The Discharger shall submit complete copies of all reports in PDF format and shall upload all monitoring and technical reports into the state’s Geotracker database (Global ID. = SL209204195).
9. ***Report Submittals.*** All monitoring and technical reports required under this Cleanup and Abatement Order shall be submitted to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353
Attn: Site Cleanup Program Manager
10. ***Duty to Submit Other Information.*** When the Discharger becomes aware that it failed to submit any relevant facts in any report required under this Cleanup and Abatement Order, or submitted incorrect information in any such report, the Discharger shall promptly submit such facts or information to the Regional Board.
11. ***Identify Documents Using Code Number.*** In order to assist the Regional Board in the processing of correspondence and reports submitted in compliance with this Cleanup and Abatement Order, the Discharger shall include the following code number in the header or subject line portion of all correspondence or reports submitted to the Regional Board:

SMCU: 20-0275.05:alot

E. **NOTIFICATIONS**

1. ***Regional Board Concurrence.*** Upon concurrence with the Cleanup and Abatement Completion Report prescribed in Directive C.1 above, the

Regional Board will inform the Discharger(s) and other interested persons in writing that no further remedial work is required at this time, based on available information. This written notice shall constitute Regional Board concurrence with the completed remedial actions .

2. **Cost Recovery.** Pursuant to California Water Code Section 13304(c), the Regional Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by the Order.
3. **Enforcement Discretion.** The Regional Water Board may take any enforcement action authorized by law for violations of the terms and conditions of this Cleanup and Abatement Order.
4. **Enforcement Notification.** The violation or threatened violation of the CAO could subject the violator to civil liability under the enforcement provisions of Porter-Cologne, including, but not limited to, Sections 13268, 13308, and 13350.

I, John H. Robertus, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of the Addendum No. 1 to Cleanup and Abatement Order No. 2000-22 issued on May 29, 2007.

JOHN H. ROBERTUS
Executive Officer