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September 14, 2006

Via Facsimile: 913.551.7925

Kelley Hickman, Esq.
Assistant Regional Counsel
United States Environmental Protection Agency - Region VII
901 North 5th Street
Kansas City, KS 66101

Re: C&R Plating, RCRA Pre-Filing Negotiations

CONFIDENTIAL SETTLEMENT COMMUNICATION
Inadmissible in Evidence

Dear Ms. Hickman:

On behalf of C&R Plating ("C&R"), I am writing to provide U.S. EPA additional information for consideration of an appropriate settlement for the alleged violations arising from the EPA's February 7, 2006 compliance inspection. C&R appreciates the opportunity to continue discussing resolution of this matter, and to demonstrate that it is in full compliance with applicable requirements. Specifically, C&R would like to offer for EPA's consideration certain supplemental environmental projects and certain considerations of the company's good faith compliance efforts, in mitigation of the EPA's proposed penalty.

1. Reduction of Penalty Calculation.

With respect to Count I, Failure to Make a Hazardous Waste Determination, we understand that the penalty for this count is related to three waste streams: the wastewater treatment (WWTP) filter cake, sludge from the muriatic acid tanks, and sludge from the caustic soda tank. C&R is reviewing its records and available information to determine the frequency of any disposal of caustic sludge and/or muriatic acid sludge, without processing those sludges through the existing wastewater treatment system. Currently, those sludges and slurries are processed through the facilities' wastewater treatment system.

With regard to the third waste stream that is the basis of this count, the WWTP filter cake, C&R does not believe that it violated any RCRA requirements, due to the fact that in 1999 the KDHE informed C&R that its practices for handling the wastewater treatment plant filter cake were in compliance with applicable RCRA requirements. As we discussed, at the time of the 1999 KDHE inspection, the chromium levels in the filter sludge did not exceed RCRA regulatory thresholds. However, even though there were no changes in the facility's plating processes from 1999 until the present,

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sampling of the filter sludge in February 2006 revealed chromium levels above the RCRA threshold. C&R is accordingly handling the filter sludge as hazardous waste, and will continue to sample the sludge periodically for future hazardous waste determinations.

While C&R certainly recognizes and is abiding by its RCRA obligations, it is unfair to charge it with a "major-moderate" penalty when it did not change its processes and had no reason to think that its filter cake chromium levels would change since the sampling in 1999. While it was suggested during our meeting that the increase in production at the facility may have contributed to an increase in chromium levels, C&R believes that any increase in production would not have changed the concentrations of chromium or any other constituent in the filter cake, or the chemical or physical properties of the filter cake such that a TCLP analysis would change from 1999 to the present simply during increases in production.

Furthermore, we believe the classification of the violation in Count I as "major" overstates the potential for harm presented by C&R's handling of the three waste streams. There is no evidence that we are aware of suggesting that the filter cake or other waste stream sludges that were disposed of in the general waste from the facility presented a "substantial risk of exposure" as described in the "major" category under the RCRA Penalty Policy. Any sludges that were not treated in the wastewater treatment system would have only been sent to a licensed and permitted municipal solid waste landfill. Even if any such wastes contained metals at levels above the RCRA regulatory threshold, we do not believe that it is accurate or fair to characterize the potential risk of exposure posed as being equivalent to the highest levels of exposures from more egregious hazardous waste violations.

2. Good Faith Efforts to Comply and Lack of Willfulness/Negligence

C&R further believes that the EPA should consider C&R's good faith efforts to comply and lack of willfulness and/or negligence in this particular case. Again, C&R's waste handling practices since 1999 have been based primarily upon the KDHE's conclusion in 1999 that C&R's practices were in substantial compliance with RCRA requirements. Based on its knowledge of the processes and the fact that the processes had not changed since 1999, C&R appropriately relied on its knowledge of those processes as the basis for not performing additional hazardous waste determinations since 1999. Moreover, since the EPA's February 2006 inspection, C&R has at all times responded immediately to the EPA's follow-up questions and requests for additional information, and has strived to determine the appropriate methods to immediately attain compliance with RCRA. C&R is implementing appropriate training and education for its employees and is properly storing and manifesting and shipping its hazardous waste, and believes that it is now in full compliance with RCRA requirements. C&R remains committed to working with the EPA and the KDHE at identifying any additional areas for compliance

improvement and looks forward to providing any additional information as may be requested. C&R will be providing you copies of all hazardous waste manifests since the February 2006 inspection.

3. Supplemental Environmental Projects

C&R proposes to install a sludge dryer as part of its existing wastewater treatment system, which will have the affect of reducing the volume of hazardous waste generated at the facility by approximately 75%, based on initial estimates. The sludge dryer would be equipped with a fume scrubber, and would be operated in accordance with any applicable KDHE requirements. The cost to C&R for this dryer is as follows:

Sludge Dryer With Fume Scrubber	$15,500.00
Freight	715.00
Gas Lines	6,600.00
Offloading	250.00
Electrical Installation	1,000.00
Venting	750.00
Set-up and Installation	1,000.00
Miscellaneous Repairs and Maintenance	1,550.00
TOTAL COST	$27,265.00

There will also be an annual operation cost, primarily related to the cost of gas, which C&R is still evaluating.

C&R has also evaluated the cost of installing additional water treatment to significantly reduce, by at least approximately 50%, the rate of water intake and wastewater output at the facility. C&R has the opportunity to install the necessary equipment, which may be either a reverse osmosis unit or a deionization unit, in the near future. Based on discussions with its contractors, C&R estimates the costs associated with either method of water conservation and treatment as follows:

R/O or Deionization Unit	$16,000.00
Freight	700.00
Water Lines	15,000.00
Offloading	500.00
Electrical Installation	500.00
Storage Tanks	10,800.00
Set-up and Installation	1,250.00
Pumps and Expansion Tanks	1,750.00

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Miscellaneous Installation Costs and Additional Equipment Necessary for Modification of Existing Units	2,000.00
TOTAL COST	$48,500.00

Neither of these projects are required by law, and C&R would be performing these projects for the sole purpose of waste reduction and water conservation. These projects represent a substantial investment for a company of C&R's size.

C&R can discuss timelines for installation of this equipment, assuming it is acceptable to EPA as supplemental environmental projects for mitigation of the overall penalty. Because C&R is a small business, and because there is direct benefit to the environment from the installation of this equipment, C&R proposes that EPA mitigate the penalty by 100% of the cost to C&R of implementing this equipment. C&R anticipates that it will, as part of any settlement with EPA, notify EPA of the completion of any necessary milestones toward installation of the equipment. Depending on the amount of mitigation EPA offers for the above factors, payment of a significant penalty would certainly discourage C&R's ability to complete the projects discussed above, and C&R reserves the right to present information concerning its ability to pay a significant penalty.

C&R remains willing to discuss settlement of EPA's claims at your earliest possible convenience, and will provide any additional information necessary to assist EPA in considering this proposal. Please contact me any time discuss this further or if you need further information.

Very truly yours,

Thomas J. Grever
lp

Thomas J. Grever

TJG:lkp

cc: Kevin Cline

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FROM	**IT #**	**MATTER #**
THOMAS J. GREVER, ESQ.	17116	920017
	DATE	
	SEPTEMBER 14, 2006	

5 Pages Transmitted
Original Document
If you experience any problems, please call 816.474.6550 extension 20558.

COMMENTS:

Sorry, Kelley,
I forgot to sign it
for Tom.
Linda Parker
Secretary

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