

## Metal Parts Electroplating Facility: Arkansas Department Of Environmental Quality and Nashville, Arkansas Facility Enter into Elective Site Clean-Up Agreement



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

05/02/2019

The Arkansas Department of Environmental Quality (“ADEQ”) and Jan-Eze Plating Corporation (“JPC”) entered into an April 18th Elective Site Clean-Up Agreement (“ESCA”) See LIS 19-037.

The ESCA addresses JPC’s metal parts electroplating facility (“Facility”) located in Nashville Arkansas.

Various federal and state programs (including Arkansas) use risk-based correction action remediation standards to tailor clean-up levels according to site-specific factors. Such programs often take into account criteria such as to what extent the site is characterized and/or future land use. Typically, superimposed upon these various procedures are site-specific analyses and a requirement that the standards be protective of human health and the environment.

Agencies may be willing, in some circumstances, to provide “blessing” (subject to certain caveats) of a site’s conditions if they deem contaminants adequately delineated and/or isolated from potential exposure. The approval of site conditions will likely be based on a combination of acceptability under applicable screening levels and/or whether the property uses are compatible with these conditions. The incorporation of enforceable institutional controls (i.e., deed restrictions, restrictive covenants or easements) or controls such as barriers (pavement in a certain area, etc.) may be used to ensure continued adherence to the restrictions by the current and future real property owner.

The ESCA states that in 2017 the company considered an offer to sell the company. As a result, it contracted with Pollution Management, Inc. (“PMI”) to prepare a Phase II Environmental Assessment (“EA”).

The EA is stated to have identified Hexavalent Chromium (“HC”) in the soil and groundwater at the Facility. A subsequent investigation was stated to have been undertaken to identify potential sources and corrective action was taken to ensure HC was no longer released to the soil and groundwater. An additional PMI assessment of the Facility mapped the extent and concentration of the HC.

JPC requested on October 1, 2018, through correspondence to ADEQ, entrance into an ESCA to remediate HC from shallow groundwater.

The ESCA provides that ADEQ will undertake a review of the EA for the site. The document further provides that in the event ADEQ determines that additional investigation is needed, a Sampling Analysis Plan ("SAP") will be submitted to the agency to determine the horizontal and vertical extent, rate of migration, type, and concentration of HC present in the environment. An implementation and completion schedule is required and additional work through an amended SAP may be necessary if the agency determines that the investigative objectives have not been obtained.

Remediation may be required if it is determined that contamination of the environment has occurred. This would be addressed through submission to ADEQ of a Remedial Action Plan ("RAP"). The RAP would use a risk-based approach and include an implementation schedule. If the RAP is determined to have failed to accomplish remediation as required, additional work may be mandated by ADEQ. Deed restrictions are referenced as possible if necessary to protect human health and the integrity of any remedial action measures implemented at the Facility.

ADEQ will issue a "No further action determination" upon approval of the Completion Report and receipt of deed restrictions (if required).

A copy of the ESCA can be found [here](#).