



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

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TRANSMITTAL LETTER FOR BOARD MEETING OF DECEMBER 16, 2010

COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authority to settle MWRD v. Automatic Anodizing Corporation, EA 74688 et al. consolidated with In Re: Automatic Anodizing Corporation, DA 12238-4.1 (Appeal of Denial of Request for Renewal of Discharge Authorization)

Dear Sir:

Automatic Anodizing Corporation ("Automatic") operates an anodizing facility at 3340 W. Newport Avenue, Chicago, Illinois, which is classified as a Significant Industrial User ("SIU") by the District and is subject to the District's Sewage & Waste Control Ordinance ("Ordinance") and the federal categorical pretreatment standards for the Electroplating Point Source Category (40 CFR 413 et seq.). Further, Automatic operates under a Discharge Authorization ("DA"), issued by the District, which must remain current at all times. DA 12238-4.1 expired on July 8, 2009 and was not renewed by the District because of alleged on-going effluent violations. On July 6, 2009 Automatic, through its consultant, Environment, Inc., timely submitted a request for hearing regarding the District's denial of Automatic's DA Renewal Request.

On July 17, 2009, the District filed its Verified Show Cause Complaint against Automatic, arising out of alleged effluent violations for the period of October 2005 through January 2009. In addition, the District detected additional alleged effluent violations for the period June 1, 2009 through June 11, 2009 and September 8, 2009 through November 30, 2009.

A Pre-Hearing Conference was conducted on September 1, 2009 before Hearing Officer Francis Bongiovanni, wherein upon the District's Motion, Automatic's appeal of the District's denial of its DA Renewal Request was consolidated with the Show Cause matter, and the consolidated matter was continued from time to time until June 9, 2010. At the June 9, 2010 status hearing, Automatic represented that it had completed an extensive investigation of and modifications to its facility and believed it had reached compliance with the District's Ordinance. On October 15, 2010, Automatic submitted its 6-month Continued Compliance Report indicating that it is in compliance with the District's Ordinance. Random District sampling from June 1, 2010 through November 19, 2010, confirms that there are no current Ordinance violations.

Automatic undertook extensive improvements to the operations of its facility at a cost of approximately \$21,662.00, solely for the purpose of resolving its alleged effluent violations going forward. Additionally, the parties entered into settlement negotiations that resulted in Automatic agreeing to pay \$2,690.00 for a one-time Non-Compliance Enforcement Charge and \$10,810.00 in civil penalties, for a total amount of \$13,500.00 to be paid over an eighteen-month period, at 9% simple interest, in full and final settlement of all civil penalties assessed against it in the Show Cause action, contingent upon Board of Commissioners' approval. Automatic will pay the \$13,500.00 in eighteen monthly installments of \$804.57. As of November 23, 2010, Automatic has timely submitted five checks, each in the amount of \$804.57, representing the first five monthly payments, though these checks will not be deposited until after Board of Commissioners' approval.

The Monitoring and Research Department has agreed to issue Automatic a DA through January 31, 2012 upon finalization of the Show Cause settlement, but the DA will be contingent upon Automatic remaining in compliance with the Ordinance, as well as remaining current with the payment plan.

Subject to the approval of the Board of Commissioners, the parties have agreed to a Settlement Agreement indicating there has been a resolution of this matter on the above-stated terms as further set forth therein. The Hearing Officer retained by the Board of Commissioners to adjudicate this matter has approved the settlement on these terms and the Monitoring and Research Department has no objection to same. Therefore, the Acting General Counsel requests that the Board of Commissioners approve the settlement of this case. Further, the Acting General Counsel requests authority to execute such documentation as may be necessary to effectuate the settlement.

Requested, Alan J. Cook, Acting General Counsel, AJC:RMH:BOC:jvs

Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for December 16, 2010