

**BEFORE THE ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

IN THE MATTER OF:

DOCKET No. 04-___R

**HAZARDOUS SUBSTANCE REMEDIAL ACTION TRUST FUND PRIORITY LIST
ADDITION; UNITED STATES FORGECRAFT
FORT SMITH, SEBASTIAN COUNTY**

**PETITION TO PROMULGATE AN EMERGENCY RULE AND INITIATE STANDARD
RULEMAKING**

Petitioner, the Hazardous Waste Division of the Arkansas Department of Environmental Quality, (hereinafter “ADEQ” or “Department”) and for its Petition to promulgate Emergency Rulemaking and to Initiate Standard Rulemaking to add the United States Forgecraft electroplating facility located in Fort Smith, Sebastian County, Arkansas, to the Investigation and Remediation categories of the Hazardous Substance Remedial Action Trust Fund Priority List (“Priority List”) set forth in the Arkansas Pollution Control & Ecology Commission’s Regulation No. 30 (Hazardous Substance Remedial Action Trust Fund Priority List), Section 30.302.

STATEMENT OF BASIS AND PURPOSE:

1. On March 15, 2004, representatives of the Arkansas Department of Environmental Quality (ADEQ), Hazardous Waste Division, conducted a site visit at the United States Forgecraft facility located at the end of South 3rd Street, Fort Smith, Arkansas. United States Forgecraft is an inactive electroplating facility that filed for Chapter 11 bankruptcy protection on June 11, 2002. An order approving a Chapter 11 plan was confirmed on February 6, 2003. The bankruptcy case was closed on March 24, 2003, but was re-opened under Chapter 11 on February 27, 2004.

2. While in operation, U.S. Forgecraft specialized in metal finishing and plating manufacturing hardware for parachute harnesses, fall protection systems, cargo, and other restraint systems. U.S. Forgecraft is located on the bank of the Poteau River, adjacent to the National Parks Service in Fort Smith, Arkansas.

3. Upon entering the main facility, presumably the laboratory area, the following were discovered: Three (3) drums containing Hydrochloric Acid; (2) Numerous bottles of Formaldehyde; (3) Approximately 15-20 gallons of Silver Nitrate; (4) Approximately 35 gallons of Hydrogen Peroxide; and (5) Several containers of Adokote. Upon entering the plating area, approximately 14 vats were discovered, with plating solution remaining in approximately 7 of these vats.

4. Chemicals that were used by the facility's plating operation as identified by their on site Material Safety Data Sheets (MSDS) book are: Aluminum Sulfate, Ammonium Nitrate Fertilizer, Boric Acid, CAD Glo 50, CAD Oxide, Cadmium Anodes (Balls), Caustic Soda Liquid 50% Diaphragm, CZ-45, Zinc, Chromic Acid (Dry Mixture), Ekolasid 355 Makeup, Hydrogen Peroxide 10%-35%, Metal Cleaner 280-D, Muriatic Acid, Nitric Acid, Olive A, Olive B, Pickleen AS-10 (Dry Mixture), Potassium Chloride, Rodip CD-7, Rodip ZN-235, Rodip ZN-B (Part B), Rodip ZN-B (Part C), Rohcolac Aqueous Coating, Sodash, Sodium Hydrosulfite, Sodium Cyanide, Sparkleen, Sulfuric Acid, Ultraphos 1300 (Phosphate), Yellow 2LC, Zinc Anodes, Zinc Chloride, Zinc Oxides Green Seal, Zinc Purifier, Magnifloc 835A, Sodium Bisulfite ANHY Tech 50, Sodium Hydrosulfite, Sodium Hypochlorite, 12.5% Chlorine (Bleach), and Sulfuric Acid 66BE.

5. The following was discovered within the facility: (1) A drum of Dacromet Sonir-4 (there was an odor coming from this drum); (2) A container of Zinc Phosphate; and (3) Seven (7) tanks associated with the electroplating system containing various types and volumes of electroplating chemicals. Upon entering the Wastewater Treatment Facility the following was discovered: (1) Numerous drums/containers of Caustic Soda, Sodium Hydrosulfite, and Sodium Cyanide; (2) The five wastewater treatment tanks were all full of wastewater solution., and (3) Two (2) underground storage tanks, approximately 12'x 12' x 8' (feet) containing sludge from the wastewater treatment.

6. There is visible evidence of contaminants leaving the facility. A yellow-colored stain was observed on the outside wall of the waste water treatment area, and the paint is peeling off the outside wall at the back of the wastewater treatment area. There was no vegetation growing immediately below the stained area.

7. Although the gate to the facility is locked, the site can be accessed through various points around the perimeter. Roll-up doors are not completely closed, and outside metal walls have been torn to gain access inside. There is evidence someone has been staying in the facility. A sleeping bag was found in the back of the facility and there were drinking cups from area fast food restaurants that did not appear to have been there for a long period of time.

8. Drainage on this site runs through openings in the facility flooring, and any possible contaminants inside are washing out into the Poteau River, directly behind the U.S. Forgecraft site.

9. The current conditions on this site pose a realistic threat of an imminent release of hazardous substances into the environment. Further, U.S. Forgecraft's operations are not in compliance with the provisions of the Arkansas Water and Air Pollution Control Act, Arkansas Code, Annotated (A.C.A) §§ 8-4-401 *et seq.*; the Hazardous Waste Management Act, A.C.A. §§ 8-7-201 *et seq.*; and the regulations promulgated thereunder.

10. The facility must be stabilized to secure the facility to prevent an imminent release. The hazardous substances and hazardous wastes must be properly contained and removed. All waste materials on the site must be characterized. The liquid waste from plating line vats, wastewater treatment tanks, and other storage tanks need to be transferred to appropriate and secure DOT-approved containers and labeled appropriately. The condition of waste containers currently located on the site needs to be assessed; containers in poor condition need to be overpacked or recontainerized. The lids on all containers need to be secured (i.e., covered and closed per manufacturer specifications) to avoid further spillage or releases of hazardous substances and/or hazardous wastes.

11. All waste materials need to be properly disposed based upon the characteristics of that waste. The facility's drainage pathway and outside of the wastewater treatment area near the visible yellow stain needs to be sampled to determine if a release of hazardous substances has occurred which may prove harmful to human health and/or the environment. The soil in the drainage area needs to be removed if sampling results reveal that a release of hazardous substances has occurred which may prove harmful to human health and/or the environment.

12. ADEQ issued an Emergency Order, LIS 04-043, on March 25, 2004 to U.S. Forgecraft to undertake action necessary to abate the imminent threat and substantial endangerment to public health, safety, or welfare or the environment. However, due to the financial status of U.S. Forgecraft, it is unlikely that the company will be capable of taking the appropriate actions in a timely manner, therefore ADEQ must respond to abate the situation.

13. ADEQ response to this type of situation typically proceeds through the authority and monies pursuant to the Emergency Response Trust Fund Act (A.C.A. §§ 8-7-401 *et seq.*). Initial response costs to abate the threat of imminent and substantial endangerment has been estimated at \$250,000. The current balance of available monies in the Emergency Response Trust Fund is insufficient to undertake the necessary actions at this site.

14. The Arkansas Remedial Action Trust Fund Act (A.C.A. §§ 8-7-501 *et seq.*) also provides authority and monies for investigation and remediation of sites such as U.S. Forgecraft. A site must be listed on the Hazardous Substance Remedial Action Trust Fund Priority List (“Priority List”) before any monies from the Remedial Action Trust Fund are expended on a hazardous substance site. A.C.A. § 8-7-509(e)(2) provides the Commission the authority to enact an emergency listing of a site on the Priority List pursuant to the Emergency Rulemaking Procedures set forth at A.C.A. § 8-4-202(e) to enable the Department to expend funds from the Remedial Action Trust Fund. The Department proposes that the U.S. Forgecraft site be added to the investigative and remedial categories of the State Priority List in order to fund a timely response to the hazards posed by current conditions at this site.

15. Therefore the Department requests that the Arkansas Pollution Control & Ecology Commission: (a) adopt an Emergency Rule placing the U. S. Forgecraft site on the State Priority List of the Arkansas Hazardous Substance Remedial Action Trust Fund Priority List, and (b) initiate the standard rulemaking process for adopting, as a permanent rule, the addition of the U.S. Forgecraft site to the aforementioned Hazardous Substance Remedial Action Trust Fund Priority List. Proposed Minute Orders which initiate the requests in this matter are attached at Exhibits “A” and “B.”

WHEREFORE, the Department requests that the Arkansas Pollution Control and Ecology Commission adopt the proposed emergency rulemaking and scheduling minute orders here

attached, and adopt an Emergency Rule and additionally initiate the standard rulemaking process to list the facility on the Hazardous Substance Remedial Action Trust Fund Priority List for investigation and remediation under the provisions of and funding via the Arkansas Remedial Action Trust Fund Act.

Respectfully submitted,

MIKE BATES
Chief, Hazardous Waste Division
Arkansas Department of Environmental Quality
(501) 682-0831