

IN THE PROVINCIAL COURT OF ALBERTA
CRIMINAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

-and-

**MOORE'S INDUSTRIAL SERVICE LTD. also known as MOORE'S
INDUSTRIAL SERVICE and MOORE'S INDUSTRIAL SERVICES**

AGREED STATEMENT OF FACTS

1. Moore's Industrial Service Ltd. also known as Moore's Industrial Service and Moore's Industrial Services ("Moore's") is charged with:

On or between the 11th day of June 2016 and the 13th day of June 2016, at or near the City of Calgary, in the Province of Alberta, did dispose of waste except at a waste management facility or in a container the contents of which will be taken to a waste management facility, that is subject to the appropriate approval, registration or notice required under the Act or in accordance with the written authorization of the Director contrary to section 176 of the Environmental Protection and Enhancement Act and did thereby commit an offence contrary to s. 227(j) of the Environmental Protection and Enhancement Act evidence of the offence having first come to the attention of the Director on June 13, 2016.

2. Moore's is a closely held Alberta corporation based in Calgary. Moore's operates a 200,000 square foot industrial facility in northeast Calgary. Moore's offers industrial coating services including chrome electroplating. Electroplating is a process which uses an electric current to deposit a coating on metal objects which are immersed in a solution.

Description of Building 3

3. Moore's had several buildings at their facility. Building 3 housed hard chrome electroplating equipment. The plating equipment was housed in a room with a large bay door opening to an outside paved lot. A storm drain was present in the paved lot.
4. Building 3 contained a bank of large electroplating tanks containing chromic acid in the plating room. The tanks were located above deep (8.5 m) vertical culverts. The culverts collected wastewater that drained from plated objects when they were removed from the tanks and rinsed. The rinse water would contain residual chemicals from the plating process. A 60 cm high concrete retaining wall surrounded the tops of the culverts and metal grates were placed on top of the retaining wall.
5. A second bank of culverts was on the other side of the plating room in Building 3 designed for future use. No electroplating had been done in the area with the second bank of culverts. These culverts were blocked off with plywood below the metal grates.
6. A trench covered with a metal grate was embedded in the floor of the plating room in Building 3. The trench connected the sumps from each of the 2 banks of culverts, and, were the fluid levels high enough in the trench, fluid could pass between the two sumps.
7. The floor of Building 3 sloped inwards so that any spilled materials would drain into the sumps.
8. The total volume that could be held by the culverts was designed to be greater than the total volume that could be held within the tanks.
9. Water pipes were located in the plating room that could be used to fill the tanks or for other purposes.
10. Building 3 was equipped with a fire alarm system that was live monitored by a security company. The purpose of the fire alarm system was to alert if a fire occurred. No other sensors or alarms were set on the equipment in Building 3.
11. Moore's had set up this facility in anticipation of growing its business. However, a downturn in the oil and gas industry caused Moore's to suspend the chrome plating operations in Building 3 soon after they had started. The electroplating tanks continued to hold chromic acid.

June 11, 2016 Release

12. During the early morning of Saturday June 11, 2016, a Moore's foreman (the "Foreman") was contacted by the security company monitoring the fire alarm at the Moore's facility. He was advised that the fire alarm in Building 3 had tripped.

The Foreman believed the alarm to be false, but he contacted the Moore's maintenance foreman (the "Maintenance Foreman"). Nobody immediately responded to the fire alarm.

13. The security company monitoring the fire alarm had at least 2 more contacts with Moore's personnel on June 11, 2016 as the fire alarm continued to be tripped.
14. At approximately noon on June 11, 2016, the Foreman drove to the facility. He observed Building 3, but he did not enter Building 3 as he did not see any evidence of a fire. The Foreman had forgotten his keys at the time he travelled to Building 3.
15. On Monday June 13, 2016, Moore's employees arriving for work shortly before 06:00 saw what appeared to be water running out from under the bay door in Building 3. The water was running into a storm drain in the middle of the paved lot outside the building. Inside the building, workers observed the floor to be flooded. Water was spraying from a broken plastic fitting on a 2 inch water pipe. The water supply was quickly turned off to the 2 inch water pipe.
16. The sumps in Building 3 were full. Wastewater from the overflowing sumps was flowing out the bay door. Workers set up 2 pumps to send water to storage tanks within the building and to pump outside the building to the storm drain.
17. As the water was clear, the workers did not think to consider whether any chemicals were within the water prior to starting to pump the water into the storm drain.
18. At about 8 am, the Moore's Health, Safety, and Environment Manager (the "HSE Manager") arrived at work and immediately told the workers to stop pumping into the storm drain. He instructed that a water sample be taken from the sumps close to the electroplating machines and analysed at the company's lab for chromium. The result of that test was 8.85 mg/l total chromium.
19. Shortly after 9 am, the HSE Manager called 911. The Calgary Police Service and Calgary Fire Department responded. Moore's advised the Calgary Fire Department Hazardous Materials Team that about 700 gallons (2,650 litres) of 8 ppm chromic acid had gone into the storm sewer.
20. Samples later taken from the sumps showed Total Chromium readings of between 5.2 and 6.9 mg/l and Hexavalent Chromium readings of between 4.9 and 5.0 mg/l. Canadian drinking water guideline limits for Chromium are 0.05 mg/l. The United States Environmental Protection Agency has established acute exposure guidelines for protection of aquatic life of 0.016 mg/l.
21. Calgary Fire Department checked the storm sewer outfall to Nose Creek west of Deerfoot trail at 24 Ave NE, the place to which the Moore's facility drained. No released substance was recovered at the outfall.

22. Calgary Fire Department reported the matter to Alberta Environment and Parks shortly after 11 am. Alberta Environment and Parks emergency response did not respond as the Calgary Fire Department was not reporting any immediate ascertainable effect from the release.
23. Moore's retained an oilfield service company to remove about 1,500 litres of fluid from 3 storm drains under the direction of a City of Calgary worker. The fluid removal was done at about 16:30 on June 13.
24. City of Calgary storm drains are not waste management facilities. The released fluid was waste as defined in the *Environmental Protection and Enhancement Act* because Moore's had no intention of recycling or keeping the fluid.
25. Moore's management personnel had training on how to respond to spills. Moore's maintenance and other employees did not have training on how to respond to spills. Moore's did have a spill response plan, but the only people who had been trained on the plan were management personnel. Moore's had done some spill drills in the past.

Agreements

26. The Parties agree:

- a. Moore's Industrial Service Ltd. also known as Moore's Industrial Service and Moore's Industrial Services will plead guilty to Count 2 on Information 180647232P1 described in paragraph 1 of this Agreed Statement of Facts.
- b. The facts contained within this Agreed Statement of Facts are fully admitted and acknowledged by Moore's Industrial Service Ltd. also known as Moore's Industrial Service and Moore's Industrial Services and will solely form the facts to be considered by the Court in pronouncing sentence. The parties will be at liberty to make further submissions about those facts to the Court.
- c. Moore's Industrial Service Ltd. also known as Moore's Industrial Service and Moore's Industrial Services agrees to be sentenced on all the facts pursuant to section 725(1)(c) of the Criminal Code of Canada.
- d. The parties will jointly submit that Moore's Industrial Service Ltd. also known as Moore's Industrial Service and Moore's Industrial Services should receive a penalty of \$30,000.00 for Count 2 on Information 180647232P1.
- e. This Agreed Statement of Facts may be filed and relied upon even if signed in counterpart or by facsimile copies of the signatures of any person or both.


CONSENTED TO WITH RESPECT TO FORM AND SUBSTANCE this 20 day of January, 2019.

Alberta Crown Prosecution Service
Per:



Craig A. Kallal
Solicitor for the Specialized Prosecutions Branch
of the Alberta Crown Prosecution Service

Kuefler Stevenson Bennett LLP
Per:



Darius L. Bennett
Solicitor and Agent for Moore's Industrial Service
Ltd. also known as Moore's Industrial Service and
Moore's Industrial Services