

**State of California
California Regional Water Quality Control Board
Santa Ana Region
September 13, 2013**

Staff Report

ITEM: 10

SUBJECT: Order No. R8-2013-0045 Affirming Mandatory Minimum Penalty Complaint No. R8-2013-0036, Classic Plating Inc., City of Anaheim

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region ("Regional Board") is whether to affirm, reject or modify proposed Order No. R8-2013-0045, imposing an assessment of \$17,475 against Classic Plating Inc.

BACKGROUND

On May 7, 2013, the Division Chief issued Mandatory Minimum Penalty Complaint ("MMP" or "Complaint") No. R8-2013-0036 (copy attached) to Classic Plating Inc. for alleged violations of the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ ("General Permit"). In the Complaint, the Division Chief proposed an assessment of \$17,475 for failing to obtain coverage under the General Permit for the industrial site located at 2985 East Mira Loma Avenue, Suite U, in the City of Anaheim.

DISCUSSION

The General Permit regulates the discharge of storm water from certain categories of industrial facilities as required under Section 402(p) of the Federal Clean Water Act. The facilities subject to the General Permit are described in 10 categories in Attachment 1 of the General Permit by type of facility or by Standard Industrial Classification (SIC) Codes. Facilities described by SIC Code in Category 10 require coverage under the General Permit conditioned upon having industrial materials, products, wastes, or processes exposed to storm water.

Classic Plating Inc. is a metal plating shop occupying several suites located at 2985 East Mira Loma Avenue in the City of Anaheim. The shop engages in metal plating, polishing, and buffing. These activities are described by SIC Code 3471. SIC Code 3471 is found in Category 10 of Attachment 1 of the General Permit. Classic Plating Inc. was initially required to be covered due to exposure of intermediate metal products temporarily stored outside, exposure of areas where products are transported outside between the suites, and an area where products are loaded and unloaded outside.

Regional Board staff initially contacted Classic Plating Inc. on August 4, 2010 while performing inspections in the area. During this initial visit, Regional Board staff observed wooden pallets, incoming and outgoing metal products, and other industrial materials stored outside uncovered. Regional Board staff met with the President of Classic Plating Inc., Shafiqul Alam, and explained that the exposed materials triggered the need for coverage under the General Permit. Mr. Alam requested until September 1, 2010, and later, until October 1, 2010 to eliminate exposure. During a return visit on October 4, 2010, Regional Board staff found the site conditions largely unchanged.

Consequently, Regional Board staff issued the first Notice of Noncompliance by Certified Mail, to Classic Plating Inc. on October 7, 2010, requesting, in part, that a Notice of Intent be submitted to the State Water Resources Control Board by November 7, 2010. This Notice was returned "unclaimed" and was then hand-delivered by Regional Board staff to Eduardo Valdez, an employee of Classic Plating Inc., on November 8, 2010. There was no response from Classic Plating to the November 8, 2010 Notice of Noncompliance.

On February 8, 2011, Regional Board staff returned and again met with Mr. Alam. During this visit, Regional Board staff observed that long-term storage of industrial materials had been discontinued. However, short-term storage and intra-shop transport of final and intermediate products continued to occur outside. This traffic resulted in pollutants being tracked into areas exposed to storm water.

Regional Board staff hand-delivered a second Notice of Noncompliance to Classic Plating on April 29, 2011. The April 29, 2011 Notice of Noncompliance also stated that the failure to submit the Notice of Intent, following the first October 7, 2010 Notice of Noncompliance, was a violation of California Water Code Section 13399.30(2) and could subject them to a \$5,000 Mandatory Minimum Penalty. The April 29, 2011 Notice of Noncompliance requested, in part, that a Notice of Intent be submitted to the State Water Resources Control Board (State Board) by May 29, 2011. However, Regional Board staff did not follow up on its efforts to enroll Classic Plating Inc. until March 1, 2013.

On March 1, 2013, Regional Board staff visited Classic Plating Inc. to confirm its continued operation and ownership by Mr. Alam. Regional Board staff found the facility still in business and industrial pollutants were still exposed to storm water from the facility operations. Mr. Alam was contacted by telephone that day and he asked for an additional month to enroll. Regional Board staff explained that a final Notice of Noncompliance would be issued, giving Mr. Alam one more month to enroll under the General Permit.

A third Notice of Noncompliance was then sent to Classic Plating Inc. on March 5, 2013, marked as "Final Notice". The March 5, 2013 Notice of Noncompliance notified Classic Plating Inc. of the continued violations of California Water Code Section 13399.30(2) and that the Mandatory Minimum Penalty for failure to submit an NOI would be \$15,000, for the three (3) years of noncompliance, as required by the California Water Code. The

March 5, 2013 Notice of Noncompliance required that a Notice of Intent be submitted by April 4, 2013.

As of August 27, 2013, Classic Plating Inc. has not submitted the required Notice of Intent.

WATER CODE VIOLATIONS AND PENALTIES

California Water Code Section 13399.33(a)(1) requires that the Regional Board impose a minimum penalty of \$5,000 per year, or fraction thereof, for failing to submit a Notice of Intent following the receipt of two notices from the Regional Board and after a period of 60-days commencing with the issuance of the first notice. Nearly three years has elapsed since Regional Board staff issued the first notice to Classic Plating Inc. resulting in a mandatory penalty amount of \$15,000. A total of three notices have been provided in addition to three personal communications with the president of Classic Plating Inc. regarding the necessity of enrolling under the General Permit. Section 13399.33(d) allows the Regional Board to recover staff costs incurred as part of attempts to compel compliance. Staff costs have been calculated to be \$2,475.

CONSISTENCY WITH THE STATEWIDE ENFORCEMENT POLICY

On November 19, 2009, the State Water Resources Control Board adopted the State Water Quality Enforcement Policy (effective May 20, 2010) establishing that the "Water Boards shall strive to be fair, firm, and consistent in taking enforcement actions throughout the State, while recognizing the unique facts of each case." Regional Board staff regards Classic Plating Inc.'s failure to submit a Notice of Intent following written notice as a Class III violation, constituting a negligent submission of information. It is important to note that the Complaint did not address the unauthorized discharges of storm water associated with industrial activity that have occurred since Classic Plating Inc. received the first Notice of Noncompliance.

With the exception of the timeframe for its issuance, the Complaint is consistent with the State Water Quality Enforcement Policy ("Policy"). The exception stems from the Policy statement that "The Water Boards should issue [mandatory minimum penalties] within 18 months of the time that the violations qualify". Classic Plating Inc. has qualified for a mandatory minimum penalty since the issuance of the second Notice of Noncompliance on April 29, 2011.

According to the Policy, a mandatory minimum penalty should have been issued before November 2012. The principal cause of the delay has been various and repeated oral statements by Mr. Alam regarding the prolonged negative impacts of the recent recession on his business. For a while, Regional Board staff purposefully suspended efforts to enroll Classic Plating Inc. and other businesses in order to avoid expending staff resources to enroll businesses that, based on self-reports, appeared to have a high probability of closing.

Based on Mr. Alam's oral statements of financial hardship during a meeting with Board staff on May 14, 2013, Regional Board staff told Mr. Alam that the Board might be able to reduce the assessed amount based on a number of factors, including his inability to pay. Mr. Alam waived his right to a hearing on this matter within 90 days of issuance of the Order No. R8-2013-0036. Mr. Alam was told to provide information that would support his claim of financial hardship. A follow-up letter was mailed to Mr. Alam on May 14, 2013 requesting that he provide evidence of financial hardship for Classic Plating Inc., which would allow the Regional Board to make express finding to support any reduction in the proposed penalty amount.

Since Mr. Alam did not provide the information requested in the May 14, 2013 letter, a telephone message was also left with him on June 25, 2013 requesting the same information. When the information was not received, the hearing on Order No. R8-2013-0045 was postponed and a written request was mailed on July 9, 2013. The request was repeated in a third letter to Mr. Alam mailed on July 29, 2013 containing revised Hearing Procedures. The third letter requested that the information be submitted by August 23, 2013. No financial information was provided by Mr. Alam by the August 23, 2013 deadline.

RECOMMENDATION

Regional Board staff recommends that the Board adopt Order No. R8-2013-0045 affirming the assessment of \$17,475.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:

Classic Plating Inc.)	Order No. R8-2013-0045
2985 East Mira Loma Avenue)	For
Suite U)	Mandatory Minimum Penalty
Anaheim, CA 92806)	
_____)	

The California Regional Water Quality Control Board, Santa Ana Region (hereafter, Regional Board), held a hearing on September 13, 2013 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2013-0036, dated May 7, 2013 and on the recommendation for the imposition of penalties and staff costs pursuant to Water Code Sections 13399.33(a)(1) and 13399.33(d) in the amount of \$17,475. The Regional Board finds as follows:

1. Classic Plating Inc. is a metal plating shop located at 2985 East Mira Loma Avenue, Suite U, in the City of Anaheim, California (hereinafter the "site").
2. Most industrial facilities that discharge storm water associated with industrial activities are required to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Oder No. 97-03-DWQ, NPDES Permit No. CAS000001 (hereinafter "General Permit"). The facilities that are required to get coverage are listed by industrial category and by Standard Industrial Classification (SIC) Codes in 40CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit.
3. Metal plating, polishing and buffing activities are described by Standard Industrial Classification ("SIC") Code 3471. SIC Code 3471 is among those activities where coverage under General Permit is conditioned on industrial materials or activities being exposed to storm water.
4. Classic Plating Inc. was initially contacted by Regional Board staff on August 4, 2010 while Regional Board staff was performing inspections in the area. Regional Board staff met with Mr. Shafiqul Alam who identified himself as the business owner. During the visit, Regional Board staff observed wooden pallets and other industrial materials stored outside uncovered. Incoming and/or outgoing metal products were also stored outside exposed to storm water. Regional Board staff explained to Mr. Alam the need to obtain coverage under

the General Permit. Mr. Alam indicated that the exposed materials were not critical to his business and requested time to dispose of materials and modify his practices to eliminate exposure to storm water. Mr. Alam requested until September 1, 2010 to eliminate exposure but later asked that this date be moved to October 1, 2010.

5. Regional Board staff returned to Classic Plating Inc. on October 4, 2010 and found the site conditions largely unchanged from the August 4, 2010 visit.
6. On October 7, 2010, Regional Board staff sent a Notice of Noncompliance ("NNC") by Certified Mail, to Classic Plating Inc. requesting, in part, that a Notice of Intent be submitted to the State Water Resources Control Board by November 7, 2010. The October 7, 2010 NNC was returned "unclaimed" but was hand-delivered by Regional Board staff to Eduardo Valdez, an employee at Classic Plating Inc., on November 8, 2010.
7. On February 8, 2011, Regional Board staff visited Classic Plating Inc. and met with Mr. Alam. During that visit, Regional Board staff observed that long-term storage of industrial materials had been discontinued. However, short-term outside storage and intra-shop transportation of final and intermediate products continued to occur, resulting in tracking of pollutants in areas exposed to storm water. After a long discussion, Mr. Alam indicated that they were unable to modify the facility or practices to prevent industrial activities from being exposed to storm water. Based on exposure of industrial activities and/or materials to storm water, Classic Plating Inc. was requested to obtain coverage under the General Permit.
8. By April 29, 2011, Regional Board records did not indicate that Classic Plating Inc. had submitted an NOI and a second NNC was hand-delivered by Regional Board staff that day. The April 29, 2011 NNC also notified Classic Plating Inc. that the failure to submit the NOI following the first October 7, 2010 NNC was a violation of Water Code Section 13399.30(2) and could subject them to a \$5,000 Mandatory Minimum Penalty. The April 29, 2011 NNC requested, in part, that an NOI be submitted to the State Board by May 29, 2011.
9. On March 1, 2013, Regional Board staff visited Classic Plating Inc. to confirm its continued operation and ownership by Mr. Alam. While Mr. Alam was not at the facility, Regional Board staff spoke with him by telephone, explained the reasons why Classic Plating Inc. still needed to be covered under the General Permit and the likelihood of a mandatory minimum penalty. Mr. Alam asked for an additional month to enroll and Regional Board staff explained that a final NNC would be issued, giving Mr. Alam one more month to enroll under the General Permit.
10. A NNC was sent to Classic Plating Inc. on March 5, 2013 marked as a "Final Notice". The March 5, 2013 NNC notified Classic Plating Inc. of the continued violations of California Water Code Section 13399.30(2) and that the Mandatory

Minimum Penalty for failure to submit an NOI would be \$15,000, for the three (3) years of noncompliance. The March 5, 2013 NNC required that an NOI be submitted to the State Board by April 4, 2013.

11. On May 7, 2013, the Division Chief issued Mandatory Minimum Penalty Complaint R8-2013-0036, in the amount of \$17,475, to Classic Plating Inc. The penalty amount is based on the Mandatory Minimum Penalty amount and the recovery of staff costs of enforcement.
12. California Water Code Section 13399.33(a)(1) allows the Regional Board to reduce the Mandatory Minimum Penalty amount where the Regional Board makes express findings setting forth the reasons for its failure to impose the mandatory penalty based on the specific factors required to be considered pursuant to Section 13399.33(a)(2).
13. Classic Plating Inc. has been provided the opportunity to provide information supporting any claim for a reduction in the penalty amount based on the factors outlined in California Water Code Section 13399.33(a)(2) as communicated to them in a letters dated May 15, 2013, July 9, 2013, and July 29, 2013 and in a telephone message from Regional Board staff on June 25, 2013.
14. As of August 23, 2013, Classic Plating Inc. has not provided any supporting information to consider any reduction in the assessed amount. In the absence of such information, the Regional Board is required to assess the mandatory minimum penalty as specified in Complaint No. R8-2013-0036.
15. By adopting this Order, the Regional Board incorporates the findings in Mandatory Minimum Penalty Complaint No. R8-2013-0036 and affirms the penalty specified therein.
16. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 *et seq.*) in accordance with Section 15321, Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13399.33(c) and (d), a penalty, including staff costs, shall be imposed on Classic Plating Inc. in the amount of \$17,475, as proposed in Mandatory Minimum Penalty Complaint No. R8-2013-0036 for the violations cited, payable as set forth below.

1. Classic Plating Inc. is liable for the assessed amount and shall pay \$17,475 to the Waste Discharge Permits Fund by October 14, 2013.

The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30-days of the Regional Board's adoption of this Order.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on September 13, 2013.

Date

Kurt V. Berchtold
Executive Officer



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

May 7, 2013

Shafiqul Alam
Classic Plating Inc.
2985 East Mira Loma Avenue, Suite U
Anaheim, CA 92806

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**MANDATORY MINIMUM PENALTY ("MMP") COMPLAINT, CLASSIC PLATING INC.
COMPLAINT NO. R8-2013-0036**

Dear Mr. Alam:

Enclosed is a certified copy of Mandatory Minimum Penalty Complaint No. R8-2013-0036 (hereinafter "Complaint"). The Complaint alleges that Classic Plating Inc. is alleged to have violated California Water Code (hereinafter "CWC") Sections 13376 and 13399.30(a)(2) and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001 ("General Permit") by failing to obtain coverage under the General Permit for the industrial site located at 2985 East Mira Loma Avenue, Suite U, in the City of Anaheim, California.

The Complaint proposes that a penalty in the amount of seventeen thousand, four hundred and seventy-five dollars (\$17,475) be imposed. The penalty amount is comprised of mandatory minimum penalties and staff costs as authorized by CWC Section 13399.33(a)(1) and CWC Section 13399.33(d).

A public hearing on this matter is scheduled for the Regional Board meeting on July 19, 2013. A tentative order, the staff report regarding this Complaint and the meeting agenda will be mailed to you not less than 10 days prior to the hearing.

Pursuant to California Water Code Section 13323, you have the option to waive your right to a hearing. Should you waive your right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign and submit the enclosed Waiver Form with a check for seventeen thousand, four hundred and seventy-five dollars (\$17,475) made payable to the Waste Discharge Permit Fund. The Waiver Form, the check, and any other correspondence regarding this Complaint should be sent to the Regional Board office in the enclosed pre-printed envelope by May 31, 2013.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

May 7, 2013

If you do not wish to waive your right to a hearing, a pre-hearing meeting is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Adam Fischer (951) 320-6363 or email: adam.fischer@waterboards.ca.gov prior to May 31, 2013. A Hearing Procedure pertaining to this Complaint is also enclosed.

A Hearing Procedure pertaining to this Complaint is also enclosed. The Hearing Procedure sets forth important requirements and deadlines for participation in the hearing. Additionally, a Fact Sheet describing the Complaint process is available at:

http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

The Fact Sheet describes the complaint process and explains what Classic Plating Inc. can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Adam Fischer at (951) 320-6363.

Please read the Hearing Procedure carefully. The Board may adopt an Order requiring that you pay a penalty.

If you have any questions about the Complaint or the enclosed documents, please contact Adam Fischer at (951) 320-6363 (email at adam.fischer@waterboards.ca.gov), Mark Smythe at (951) 782-4998 (email at mark.smythe@waterboards.ca.gov) or me at (951) 782-3238 (email at michael.adackapara@waterboards.ca.gov). All legal questions should be directed to Cris Carrigan at (916) 341-5889 (cris.carrigan@waterboards.ca.gov), Director, Office of Enforcement.

Sincerely,



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

Enclosures: Complaint No. R8-2013-0036; Hearing Procedure; Waiver Form; Pre-printed Envelope; Exhibit 1: Notice of Noncompliance dated October 7, 2010; Exhibit 2: Notice of Noncompliance dated April 29, 2011; and Exhibit 3: Notice of Noncompliance dated March 5, 2013

cc: Board Members
Executive Officer (Regional Board Advisory Team)
State Water Resources Control Board, Office of Chief Counsel – David Rice
(Regional Board Advisory Team Attorney)

State Water Resources Control Board, Division of Water Quality – Diana
Messina
State Water Resources Control Board, Office of Enforcement – Cris Carrigan
(Regional Board Prosecution Team Attorney)
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Ken Greenberg
Orange County, Public Works – Richard Boon
City of Anaheim, NPDES Coordinator – Keith Linker



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

**WAIVER FORM
FOR ADMINISTRATIVE CIVIL LIABILITY COMPLAINT**

By signing this waiver, I affirm and acknowledge the following:

I am duly authorized to represent the Classic Plating Inc. (hereinafter "Discharger") in connection with Mandatory Minimum Penalty Complaint No. R8-2013-0036 (hereinafter the "Complaint"). I am informed that California Water Code Section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served [with the Complaint]. The person who has been issued a complaint may waive the right to a hearing."

OPTION 1

(Check here if the Discharger waives the hearing requirement and will pay the liability in full.)

- a. I hereby waive any right the Discharger may have to a hearing before the Regional Board.
- b. I certify that the Discharger will remit payment for the proposed civil liability in the full amount of seventeen thousand, four hundred and seventy-five dollars (\$17,475) by check that references "Complaint No. R8-2013-0036" made payable to the State Water Pollution Cleanup and Abatement Account. Payment must be received by the Regional Board office no later than May 31, 2013 or the Regional Board may adopt an Order requiring payment.
- c. I understand the payment of the above amount constitutes a proposed settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period. Should the Regional Board receive significant new information or comments from any source (excluding the Regional Board's Prosecution Team) during this comment period, the Regional Board's Division Chief may withdraw the Complaint, return payment, and issue a new Complaint. I understand that this proposed settlement is subject to approval by the Executive Officer of the Regional Board, and that the Regional Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in the Discharger having waived the right to contest the allegations in the Complaint and the imposition of civil liability.
- d. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the

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Complaint may subject the Discharger to further enforcement, including additional civil liability.

OPTION 2

(Check here if the Discharger waives the 90-day hearing requirement in order to engage in settlement discussions.)

I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint, but I reserve the ability to request a hearing in the future. I certify that the Discharger will promptly engage the Regional Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, the Discharger requests that the Regional Board delay the hearing so that the Discharger and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Board to agree to delay the hearing. Any proposed settlement is subject to the conditions described above under "Option 1."

OPTION 3

(Check here if the Discharger waives the 90-day hearing requirement in order to extend the hearing date and/or hearing deadlines. Attach a separate sheet with the amount of additional time requested and the rationale.)

I hereby waive any right the Discharger may have to a hearing before the Regional Board within 90 days after service of the Complaint. By checking this box, the Discharger requests that the Regional Board delay the hearing and/or hearing deadlines so that the Discharger may have additional time to prepare for the hearing. It remains within the discretion of the Regional Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the Matter of:)	
)	
Classic Plating Inc.)	Complaint No. R8-2013-0036
2985 East Mira Loma Avenue)	for
Suite U)	Mandatory Minimum Penalty and Staff
Anaheim, CA 92806)	Costs
)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Classic Plating Inc. is alleged to have violated California Water Code (hereinafter "CWC") Sections 13376 and 13399.30(a)(2), and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001 (hereinafter "General Permit") by failing to obtain coverage under the General Permit to discharge storm water associated with industrial activity for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter "Regional Board"), must impose a mandatory minimum penalty under CWC Section 13399.33.
2. A hearing concerning this Complaint will be held before the Regional Board within 90 days of the date of issuance of this Complaint, unless, pursuant to CWC Section 13323, you waive your right to a hearing. The hearing on this matter is scheduled for the Regional Board's regular meeting on July 19, 2013, at the City Council Chambers of Loma Linda, 25541 Barton Road, City of Loma Linda, California. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of the penalty by the Regional Board.
3. If a hearing is held on this matter, the Regional Board will consider whether to affirm, reject, or modify the proposed penalty amount or whether to refer the matter to the Attorney General for recovery of the penalty amount. If this matter proceeds to a hearing, the Prosecution Team reserves the right to seek an increase in the penalty amount to cover the costs of enforcement incurred subsequent to the issuance of this Complaint through hearing. The enforcement costs may be recovered pursuant to CWC Section 13399.33(d).

THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

4. Most industrial facilities that discharge storm water associated with industrial activities are required to obtain coverage under the General Permit. The facilities that are required to get permit coverage are listed by industrial category and by Standard Industrial Classification (SIC) codes in 40 CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit.
5. Classic Plating Inc. is a metal plating shop located at 2985 East Mira Loma Avenue, Suite U, in the City of Anaheim, California (hereinafter the "site"). Metal plating, polishing and buffing activities are described by SIC code 3471. SIC code 3471 is among those activities where coverage under the General Permit is conditioned on industrial materials or activities being exposed to storm water.
6. Classic Plating Inc. was initially contacted by Regional Board staff on August 4, 2010 while performing inspections in the area. Regional Board staff met with Mr. Shafiqul Alam who identified himself as the business owner. During the visit, Regional Board staff observed wooden pallets and other industrial materials stored outside uncovered. Incoming and/or outgoing metal products were also stored outside exposed to storm water. Regional Board staff explained to Mr. Alam the need to obtain coverage under the Permit. Mr. Alam indicated that the exposed materials were not critical to his business and requested time to dispose of materials and modify his practices to eliminate exposure to storm water. Mr. Alam requested until September 1, 2010 to eliminate exposure but later asked that this date be moved to October 1, 2010.
7. Regional Board staff returned to Classic Plating Inc. on October 4, 2010 and found the site conditions largely unchanged from the August 4, 2010 visit.
8. On October 7, 2010, Regional Board staff sent a Notice of Noncompliance ("NNC") to Classic Plating Inc. requesting, in part, that a Notice of Intent be submitted to the State Water Resources Control Board by November 7, 2010. The October 7, 2010 NNC was returned "unclaimed"; it was then hand-delivered by Regional Board staff to Eduardo Valdez, an employee at Classic Plating Inc., on November 8, 2010.
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10. By April 29, 2011, Regional Board records did not indicate that Classic Plating Inc. had submitted an NOI and a second NNC was hand-delivered by Regional Board staff that day. The April 29, 2011 NNC also notified Classic Plating Inc. that the failure to submit the NOI following the first October 7, 2010 NNC was a violation of California Water Code Section 13399.30(2) and could subject them to a \$5,000 Mandatory Minimum Penalty. The April 29, 2011 NNC requested, in part, that an NOI be submitted to the State Water Resources Control Board by May 29, 2011.
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12. An NNC was sent to Classic Plating Inc. on March 5, 2013, marked as a "Final Notice". The March 5, 2013 NNC notified Classic Plating Inc. of the continued violations of California Water Code Section 13399.30(2) and that the Mandatory Minimum Penalty for failure to submit an NOI would be \$15,000. The March 5, 2013 NNC required that an NOI be submitted to the State Water Resources Control Board by April 4, 2013.
13. As of the date of this Complaint, Classic Plating Inc. has not submitted an NOI.

PROPOSED MANDATORY MINIMUM PENALTY AND ASSESSMENT OF COSTS

14. Pursuant to Section 13399.30(c)(2) of the CWC, if a discharger fails to submit the required Notice of Intent to the Regional Board within 60 days from the date on which the original NNC was sent, the Regional Board shall impose the penalties described in subdivision (a) of Section 13399.33 of the CWC.
15. Pursuant to Section 13399.33(a)(1) of the CWC, the Board shall administratively impose a penalty in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof if a discharger, as described in CWC Section 13399.30, fails to obtain coverage under the General Permit after receiving two NNCs pursuant to CWC Section 13399.30, subdivisions (a)(2) and (b), unless the Regional Board makes express findings setting forth the reasons for its failure to do so based on the specific factors set forth in CWC Section 13399.33(a)(2).
16. The specific factors set forth in CWC Section 13399.33(a)(2) include the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, any prior history of violations, the degree of culpability, economic

benefits or savings resulting from the violation, and other matters as justice may require. These considerations shall be balanced against the need for the regulatory costs of environmental protection to be borne equally by dischargers throughout the state, and the need for predictability of enforcement when making business decisions.

17. The economic savings by the discharge as a result of failure to comply with the General Permit since August 2010 has been calculated by Regional Board staff to be \$8,300 based on unpaid permit fees, three years of sample collection/analysis and employee costs for implementing minimal source control Best Management Practices.
18. Based on an initial NNC being received by Classic Plating Inc. on November 8, 2010, Classic Plating Inc. has been in noncompliance for 2.42 years as of the date of this Complaint. Pursuant to Section 13399.33(a)(1), the mandatory minimum penalty amount is \$15,000.
19. CWC Section 13399.33(d) provides for staff cost recovery for enforcement actions under Sections 13399.33(a), (b) and (c) of the CWC. Staff spent approximately sixteen and a half (16.5) hours for this enforcement action resulting in total Staff cost of \$2,475 (16.5 hrs @ \$150/hr= \$2,475). The total liability, including staff costs, is \$17,475 (\$15,000 mandatory penalty+\$2,475 in staff costs).

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached Waiver Form and mail it, together with a check or money order payable to the Waste Discharge Permit Fund, for the amount of seventeen thousand four hundred and seventy-five dollars (\$17,475). These documents should be mailed to this office in the enclosed pre-printed envelope by **May 31, 2013**.

If you have any questions, please contact Adam Fischer at (951) 320-6363, or Mark Smythe at (951) 782-4998. For legal questions, contact Cris Carrigan, Director of Enforcement, at (916) 341-5889.

05-07-2013
Date


Michael J. Adackapara
Division Chief



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

HEARING PROCEDURE
FOR MANDATORY MINIMUM PENALTY COMPLAINT
NO. R8-2013-0036
ISSUED TO
Classic Plating Inc.
2985 East Mira Loma Avenue
Suite U
Anaheim, CA 92806
Orange County

SCHEDULED FOR July 19, 2013

PLEASE READ THIS HEARING PROCEDURE CAREFULLY. FAILURE TO COMPLY WITH THE DEADLINES AND OTHER REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF YOUR DOCUMENTS AND/OR TESTIMONY.

Background

On May 8, 2013, the Division Chief for the Santa Ana Regional Water Quality Control Board issued a Mandatory Minimum Penalty Complaint (hereinafter "Complaint") pursuant to California Water Code Section 13323 against Classic Plating Inc. (hereinafter "Discharger") alleging that it violated California Water Code (hereinafter "CWC") Sections 13376 and 13399.30(a)(2), and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001 (hereinafter "General Permit") by failing to obtain coverage under the General Permit to discharge storm water associated with industrial activity. The Complaint proposes that a mandatory minimum penalty and staff costs in the amount of \$17,475 be imposed as authorized by Water Code Section 13399.33. A hearing is currently scheduled to be held before the Regional Board during its July 19, 2013 meeting.

Purpose of Hearing

The purpose of the hearing is to consider relevant evidence and testimony regarding the Complaint and any proposed Order. At the hearing, the Regional Board will consider whether to issue an administrative civil liability order assessing the proposed liability, or a higher or lower amount, or reject the proposed liability. The public hearing on July 19, 2013 will commence at 9:00 a.m. or as soon thereafter as practicable, or as announced in the Regional Board meeting agenda. The meeting will be held at the City Council Chambers of Loma Linda, 25541 Barton Road, City of Loma Linda, California. Any proposed Order and an agenda for the meeting will be issued at least ten days before the meeting and posted on the Regional Board's web page at:

http://www.waterboards.ca.gov/santaana/board_info/agendas/index.shtml.

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

The agenda will include the final hearing date and location, and the start time for the meeting. Since the exact start time for this item is unpredictable, all interested parties are urged to be present from the start of the Board meeting.

Hearing Procedures

The hearing will be conducted in accordance with this hearing procedure. A copy of the general procedures governing adjudicatory hearings before the Regional Board may be found at Title 23 of the California Code of Regulations, Section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with Section 648, subdivision (d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648 and herein, subdivision (b), Chapter 5 of the Administrative Procedures Act (commencing with Section 11500 of the Government Code) does not apply to this hearing.

THE PROCEDURES AND DEADLINES HEREIN MAY BE AMENDED BY THE ADVISORY TEAM AT ITS DISCRETION. ANY OBJECTIONS TO THE HEARING PROCEDURE MUST BE RECEIVED BY THE REGIONAL BOARD'S ADVISORY TEAM BY MAY 31, 2013 OR THEY WILL BE WAIVED. FAILURE TO COMPLY WITH THE DEADLINES AND REQUIREMENTS CONTAINED HEREIN MAY RESULT IN THE EXCLUSION OF DOCUMENTS AND/OR TESTIMONY.

Hearing Participants

Participants in this proceeding are designated as either "parties" or "interested persons." Designated parties to the hearing may present evidence and cross-examine witnesses and are subject to cross-examination. Interested persons generally may not submit evidence, cross-examine witnesses, or be subject to cross-examination, but may present policy statements. Policy statements may include comments on any aspect of the proceeding, but may not include evidence (e.g., photographs, eye-witness testimony, monitoring data). Interested persons who would like to submit evidence may do so if the evidence is submitted in accordance with the procedures and deadlines for submitting evidence described below. Interested persons who present evidence may be subject to cross-examination. Both designated parties and interested persons may be asked to respond to clarifying questions from the Regional Board, staff or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties in this proceeding:

- (1) Regional Board Prosecution Team
- (2) Classic Plating Inc., also referred to as the Discharger

Requesting Designated Party Status

Persons who wish to participate in the hearing as a designated party must request party status by submitting a request in writing (with copies to the existing designated parties) so that it is received by 5 p.m. on May 15, 2013 by Advisory Team Attorney David Rice, david.rice@waterboards.ca.gov. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), the information required of designated parties as provided below, and a statement explaining why the party or parties designated above do not adequately represent the person's interest. Any opposition to the

request must be received by the Advisory Team, the person requesting party status, and all parties by 5 p.m. on May 23, 2013. The parties will be notified by 5 p.m. on June 10, 2013 in writing whether the request has been granted or denied.

Primary Contacts

Advisory Team: **David Rice (email: david.rice@waterboards.ca.gov)**
Phone: 916-341-5182
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Prosecution Team: **Mark Smythe, Section Chief**
(email: mark.smythe@waterboards.ca.gov)
Phone: 951-782-4998
Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Discharger: **Shafiqul Alam (a.k.a. Mohammad Shafiqul Alam)**
Email: (unknown)
Phone: 951-801-1900
Classic Plating Inc.
2985 East Mira Loma Avenue
Suite U
Anaheim, CA 92806

Separation of Functions

To help ensure the fairness and impartiality of this proceeding, the functions of those who will act in a prosecutorial role by presenting evidence for consideration by the Regional Board (Prosecution Team) have been separated from those who will provide advice to the Regional Board (Advisory Team).

Members of the Advisory Team are: David Rice, Staff Counsel, State Water Resources Control Board and Kurt Berchtold, Executive Officer, Santa Ana Regional Water Quality Control Board.

Members of the Prosecution Team are: Cris Carrigan, Director, Office of Enforcement, State Water Resources Control Board; Michael Adackapara, Division Chief, Santa Ana Regional Water Quality Control Board; Mark Smythe, Coastal Storm Water Unit Chief; and Adam Fischer, Environmental Scientist, Santa Ana Regional Water Quality Control Board.

Any members of the Advisory Team who normally supervise any members of the Prosecution Team are not acting as their supervisors in this proceeding, and vice versa. Members of the Prosecution Team may have acted as advisors to the Regional Board in other, unrelated matters, but they are not advising the Regional Board in this proceeding. Members of the Prosecution Team have not had any ex parte communications with the members of the Regional Board or the Advisory Team regarding this proceeding.

Ex Parte Communications

The designated parties and interested persons are forbidden from engaging in ex parte communications regarding this matter with members of the Advisory Team or members of the Regional Board. An ex parte contact is any written or verbal communication pertaining to the investigation, preparation, or prosecution of the Complaint between a member of a designated party or interested person on the one hand, and a Regional Board member or an Advisory Team member on the other hand, unless the communication is copied to all other designated parties (if written) or made in a manner open to all other designated parties (if oral). Communications regarding non-controversial procedural matters are not ex parte contacts and are not restricted. Communications among one or more designated parties and interested persons themselves are not ex parte contacts.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: Each designated party shall have a combined 20 minutes to present evidence, cross-examine witnesses (if warranted), and provide a closing statement; and each interested person shall have 3 minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team so that it is received no later than July 8, 2013. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Regional Board Chair (at the hearing) upon a showing that additional time is necessary.

Submission of Evidence and Policy Statements

The following information must be submitted in advance of the hearing:

1. All evidence (other than witness testimony to be presented orally at the hearing) that the Designated Party would like the Regional Board to consider. Evidence and exhibits already in the public files of the Regional Board may be submitted by reference as long as the exhibits and their location are clearly identified in accordance with Title 23, CCR, Section 648.3.
2. All legal and technical arguments or analysis.
3. The name of each witness, if any, whom the designated party intends to call at the hearing, the subject of each witness' proposed testimony, and the estimated time required by each witness to present direct testimony.
4. The qualifications of each expert witness, if any.
5. If the Discharger intends to argue an inability to pay the civil liability proposed in the Complaint (or an increased or decreased amount as may be imposed by the Regional Board), the Discharger should submit supporting evidence as set forth in the "ACL Fact Sheet" under "Factors that must be considered by the Board."

The Prosecution Team shall submit 15 hard copies of its information and one electronic copy of the information to Advisory Team Attorney David Rice so that it is received by 5 p.m. on June 10, 2013.

The remaining designated parties shall submit 15 hard copies of their information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on June 24, 2013.

Any designated party that would like to submit information that rebuts the information previously submitted by other designated parties shall submit 15 hard copies of their rebuttal information and one electronic copy of the information to Advisory Team Attorney David Rice so that they are received by 5 p.m. on July 8, 2013. Rebuttal information shall be limited to the scope of the information previously submitted by the other designated parties. Rebuttal information that is not responsive to information previously submitted by other designated parties may be excluded.

If the total amount of information submitted by any party is less than 15 pages, that party may submit the information by e-mail, rather than in writing. In addition to the foregoing, each designated party shall submit (1) one copy of the above information to each of the other designated parties so that it is received by 5 p.m. on the deadline specified above.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as possible, but no later than July 2, 2013. Interested persons do not need to submit written non-evidentiary policy statements in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, Section 648.4, the Regional Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Regional Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Regional Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A copy of such material intended to be presented at the hearing must be submitted to the Advisory Team by July 12, 2013 for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Request for Pre-hearing Conference

A designated party may request that a pre-hearing conference be held before the hearing in accordance with Water Code Section 13228.15. A pre-hearing conference may address any of the matters described in subdivision (b) of Government Code Section 11511.5. Requests must contain a description of the issues proposed to be discussed during that conference, and must be submitted to the Advisory Team, with a copy to all other designated parties, as early as practicable.

Evidentiary Objections

Any designated party objecting to written evidence or exhibits submitted by another designated party must submit a written objection to the Advisory Team and all other designated parties so that it is received by 5 p.m. on July 8, 2013. The Advisory Team will notify the parties about further action to be taken on such objections and when that action will be taken.

Evidentiary Documents and File

The Complaint and related evidentiary documents are on file and may be inspected or copied at the Regional Board office at 3737 Main Street, Suite 500, Riverside, CA 92501 by contacting August Carter (email: august.carter@waterboards.ca.gov; phone: 951-782-7961). This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Regional Board Chair. Many of these documents are also posted on-line at:
http://www.waterboards.ca.gov/santaana/public_notices/enforcement_actions.shtml.

Although the web page is updated regularly, to assure access to the latest information, you may contact Adam Fischer (adam.fischer@waterboards.ca.gov).

Questions

Questions concerning this proceeding may be addressed to the Advisory Team Attorney David Rice (david.rice@waterboards.ca.gov).

IMPORTANT DEADLINES

(Note: the Regional Board is required to provide a hearing within 90 days of issuance of the Complaint (Water Code Section 13323). The Advisory Team will generally adhere to this schedule unless the Discharger waives that requirement.)

May 07, 2013	Prosecution Team issues Complaint to Discharger and Advisory Team, sends Hearing Procedure to Discharger and Advisory Team, and publishes Public Notice
May 15, 2013	Deadline for requests for designated party status
May 23, 2013	Deadline for opposition to requests for designated party status
May 31, 2013	Deadline for objections, if any, to proposed Hearing Procedure
May 31, 2013	Discharger's deadline for waiving right to hearing
June 10, 2013	Advisory Team issues decision on requests for designated party status, if any
June 10, 2013	Prosecution Team's deadline for all information required under "Submission of Evidence and Policy Statements"

June 24, 2013	Remaining Designated Parties' and interested parties deadline for all information required under "Submission of Evidence and Policy Statements"
July 8, 2013	Deadline for requests of additional time
July 8, 2013	All Designated Parties' deadline for rebuttal information and evidentiary objections, if any
July 12, 2013	Deadline for submission of hearing presentation material
July 19, 2013	Public Hearing



Michael J. Adackapara
Division Chief
Regional Board Prosecution Team

05/07/13
Date



California Regional Water Quality Control Board
Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

October 7, 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shafiqul Alam
Classic Plating Inc.
2985 East Mira Loma Avenue
Suite U
Anaheim, CA 92806

EXHIBIT ONE

NOTICE OF NONCOMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-DWQ, NPDES PERMIT NO. CAS000001

Dear Mr. Alam:

NPDES Permit No. CAS000001, General Permit for Storm Water Discharges Associated with Industrial Activities ("General Permit"), generally prohibits the discharge of materials other than storm water from industrial sites. The General Permit requires that coverage be obtained by facilities which have exposure of materials, products, wastes, or processes to storm water, or where certain industrial processes take place. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan ("SWPPP"), which identifies Best Management Practices ("BMPs") designed to reduce or eliminate the discharge of process materials, sediment, and other pollutants to storm drains and/or receiving waters.

On August 4, 2010, Regional Board staff conducted an inspection of the facility located at 2985 East Mira Loma Avenue in the City of Anaheim. During the inspection, Regional Board staff observed the following:

- A large number of wooden pallets and other materials were stored outside exposed to storm water.
- Incoming and/or outgoing products were stored outside exposed to storm water.

Regional Board staff observations during the August 4, 2010 inspection indicate that one or more material handling processes and/or storage, occur outdoors, exposed to storm water. These circumstances require that your facility obtain coverage under the General Permit. However, during the inspection, you explained that none of the observed items were critical to your business and you requested time to dispose of materials and modify your business practices to eliminate exposure to storm water.

California Environmental Protection Agency



October 7, 2010

At your request, Regional Board staff agreed to return on or after September 1, 2010 to re-inspect your facility. You later requested in an e-mail to postpone Regional Board staff's visit to on or after October 1, 2010. Regional Board staff agreed to a postponement.

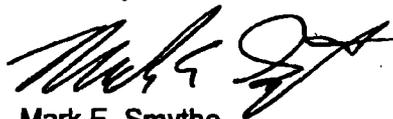
Regional Board staff conducted a follow-up inspection on October 4, 2010 and found the facility largely unchanged. You are consequently in violation of the General Permit. In order to address this violation:

- Submit a Notice of Intent to the State Water Resources Control Board by November 7, 2010. A copy of the General Permit may be obtained at:
www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmt.pdf
- Prepare and fully implement a SWPPP and Monitoring Program per all applicable General Permit requirements.
- Maintain a copy of the SWPPP and Monitoring Plan at the facility at all times.

Please be advised that the failure to obtain coverage under the General Permit, as requested, will result in a mandatory minimum penalty of \$5,000 under Section 13399.33(a)(1) of the California Water Code. Furthermore, continued violations of the General Permit may result in the imposition of administrative civil liability in an amount of up to \$10,000 for each day of violation under Section 13385 of the California Water Code.

If you have any questions regarding this matter, please contact Adam Fischer at afischer@waterboards.ca.gov or at (951) 320-6363.

Sincerely,



Mark E. Smythe
Section Chief
Coastal Storm Water Unit

cc: Orange County RDMD – Grant Sharp
City of Anaheim – Keith Linker

California Environmental Protection Agency





California Regional Water Quality Control Board
Santa Ana Region



Linda S. Adams
*Acting Secretary for
Environmental Protection*

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288
www.waterboards.ca.gov/santaana

Edmund G. Brown Jr.
Governor

April 29, 2011

HAND-DELIVERED

Shafiqul Alam
Classic Plating Inc.
2985 East Mira Loma Avenue
Suite U
Anaheim, CA 92806

EXHIBIT TWO

**NOTICE OF VIOLATION OF CALIFORNIA WATER CODE SECTION 13399.30(2) AND
NOTICE OF NONCOMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER
DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-
DWQ, NPDES PERMIT NO. CAS000001**

Dear Mr. Alam:

NPDES Permit No. CAS000001, General Permit for Storm Water Discharges Associated with Industrial Activities ("General Permit"), generally prohibits the discharge of materials other than storm water from industrial sites. The General Permit requires that coverage be obtained by facilities which have exposure of materials, products, wastes, or processes to storm water, or where certain industrial processes take place. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan ("SWPPP"), which identifies Best Management Practices ("BMPs") designed to reduce or eliminate the discharge of process materials, sediment, and other pollutants to storm drains and/or receiving waters.

On August 4, 2010, Regional Board staff conducted an inspection of the facility located at 2985 East Mira Loma Avenue in the City of Anaheim. During the inspection, Regional Board staff observed a large number of wooden pallets and other materials were stored outside exposed to storm water. In addition, incoming and/or outgoing products were stored outside exposed to storm water.

Regional Board staff observations during the August 4, 2010 inspection indicated that one or more material handling processes and/or storage, occur outdoors, exposed to storm water. These circumstances require that your facility obtain coverage under the General Permit. However, during the inspection, you explained that none of the observed items were critical to your business and you requested time to dispose of materials and modify your business practices to eliminate exposure to storm water.

Regional Board staff conducted a follow-up inspection on October 4, 2010 and found the facility largely unchanged. A Notice of Noncompliance ("NNC") was mailed to you

California Environmental Protection Agency



April 29, 2011

on October 7, 2010, informing you that Classic Plating Inc. was in violation of the General Permit. After that NNC was returned unclaimed, Regional Board staff hand-delivered the NNC to your employee, Eduardo Valdez, on November 8, 2010.

On February 8, 2011, Regional Board staff conducted a follow-up visit and met with you. After much discussion, you indicated that you were unable to modify your facility or your business practices in order to prevent industrial activities from being exposed to storm water. Although some surplus materials had been removed from the site, Regional Board staff continued to observe intermediate and/or final products stored outside. In addition, you indicated that your industrial process involved transporting intermediate products outside between different shops. Subsequently, Classic Plating Inc. is in violation of CWC Section 13399.30(2) and continues to be in violation of the General Permit. In order to address these violations:

- Submit a Notice of Intent to the State Water Resources Control Board by May 29, 2011. A copy of the General Permit may be obtained at: www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmt.pdf
- Prepare and fully implement a SWPPP and Monitoring Program per all applicable General Permit requirements.
- Maintain a copy of the SWPPP and Monitoring Plan at the facility at all times.

Please be advised that the failure to obtain coverage under the General Permit, as requested, will result in a mandatory minimum penalty of \$5,000 under Section 13399.33(a)(1) of the California Water Code. Furthermore, continued violations of the General Permit may result in the imposition of administrative civil liability in an amount of up to \$10,000 for each day of violation under Section 13385 of the California Water Code.

If you have any questions regarding this matter, please contact Adam Fischer at afischer@waterboards.ca.gov or at (951) 320-6363.

Sincerely,



Michael J. Adagapara
Division Chief

cc: Orange County RDMD – Grant Sharp
City of Anaheim – Keith Linker

California Environmental Protection Agency





Santa Ana Regional Water Quality Control Board

March 5, 2013

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Shafiqul Alam
Classic Plating Inc.
2985 East Mira Loma Avenue
Suite U
Anaheim, CA 92806

EXHIBIT THREE

**NOTICE OF VIOLATION OF CALIFORNIA WATER CODE SECTION 13399.30(2) AND
NOTICE OF NONCOMPLIANCE WITH THE GENERAL PERMIT FOR STORM WATER
DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES, ORDER NO. 97-03-DWQ,
NPDES PERMIT NO. CAS000001 – FINAL NOTICE**

Dear Mr. Alam:

NPDES Permit No. CAS000001, General Permit for Storm Water Discharges Associated with Industrial Activities ("General Permit"), generally prohibits the discharge of materials other than storm water from industrial sites. The General Permit requires that coverage be obtained by facilities which have exposure of materials, products, wastes, or processes to storm water, or where certain industrial processes take place. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan ("SWPPP"), which identifies Best Management Practices ("BMPs") designed to reduce or eliminate the discharge of process materials, sediment, and other pollutants to storm drains and/or receiving waters.

On October 7, 2010, Regional Board staff sent Classic Plating Inc. a Notice of Noncompliance ("NNC") informing you that Classic Plating Inc. was in violation of the General Permit. After that NNC was returned unclaimed, Regional Board staff hand-delivered the NNC to your employee, Eduardo Valdez, on November 8, 2010.

On February 8, 2011, Regional Board staff conducted a visit and met with you. Regional Board staff observed intermediate and final products being stored outside and learned that the manufacturing process involved transporting intermediate products outside between different shops. Subsequently, on April 29, 2011, Regional Board staff hand-delivered to Classic Plating Inc. a Notice of Violation. The April 29, 2011 Notice of Violation alleged violations of California Water Code Section 13399.30(2) and informed you that Classic Plating Inc. continues to be in violation of the General Permit.

On March 1, 2013, Regional Board staff conducted another visit and spoke with you by telephone. Regional Board staff observed that long-term outside storage of industrial materials had been discontinued. However, short-term outside storage and intra-shop transportation of final and intermediate products continued to occur. Consequently, as discussed with you during the March 1, 2013 visit, Classic Plating Inc. continues to be in violation of California Water Code

CAROLE H. BESWICK, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | www.waterboards.ca.gov/santaana

Section 13399.30(2) and continues to be in violation of the General Permit. In order to address these violations, you must:

- Submit a Notice of Intent to the State Water Resources Control Board by April 4, 2013. A copy of the General Permit contains the Notice of Intent and may be obtained at:
www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmt.pdf
- Prepare and fully implement a SWPPP and Monitoring Program per all applicable General Permit requirements.
- Maintain a copy of the SWPPP and Monitoring Plan at the facility at all times.

Please be advised that the failure to obtain coverage under the General Permit by **April 5, 2013**, as requested, will result in a **mandatory minimum penalty of \$15,000** under Section 13399.33(a)(1) of the California Water Code. Furthermore, continued violations of the General Permit may result in the imposition of administrative civil liability in an amount of up to \$10,000 for each day of violation under Section 13385 of the California Water Code.

If you have any questions regarding this matter, please contact Adam Fischer at afischer@waterboards.ca.gov or at (951) 320-6363.

Sincerely,



Mark E. Smythe
Section Chief
Coastal Storm Water Unit

cc: Orange County RDMD – Grant Sharp
City of Anaheim – Keith Linker

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Street, Apt. No., or PO Box No.	2985 E. Main Lane Ave. Ste U
City, State, ZIP+4	Anheim CA 92806

PS Form 3800, August 2006 See Reverse for Instructions