

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

In the matter of:)	Complaint No. R8-2002-0013
)	for
Miguel Martinez, Owner)	Mandatory Penalties
Century Circuit Services)	
654 E. Young Street)	
Santa Ana, CA 92705)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on January 23, 2002, at the City Council Chambers, City of Corona. 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 mandatory penalties by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Penalties Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Century Circuit Services (hereinafter Century Circuits), located at 654 E. Young Street, in Santa Ana, has been in business for several years and has not submitted a Notice of Intent to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit).
5. Facilities that discharge storm water associated with industrial activity requiring a General Permit are listed by category in 40 CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit. Century Circuits produces printed circuit boards and/or performs electroplating services, and these activities are described by Standard Industrial Classification (SIC) codes 3672 and 3471. Century Circuits is a category xi discharger; and Permit coverage is required if industrial processes, materials, or equipment come into contact with storm water and if this storm water discharges from the facility as surface runoff.
6. On June 12, 2001, Board staff (staff) inspected Century Circuits to assess the nature of industrial operations and whether storm water discharges associated with industrial activity occur at the site. During that inspection, staff informed Mr. Carlos Hernandez, the manager of Century Circuits, that based on exposure of materials, wastes and equipment to storm water runoff, Century Circuits was required to obtain coverage under the General Permit by filing a Notice of Intent. A Notice of Noncompliance was issued on June 22, 2001, via certified mail and to the attention of Mr. Hernandez, requiring Century Circuits to submit a

Notice of Intent to obtain coverage under the General Permit, and detailing conditions observed at the site which were in violation of General Permit requirements.

7. Century Circuits did not respond to the June 22, 2001, Notice of Noncompliance. Staff telephoned Century Circuits on or about August 10, 2001, and spoke to Miguel Martinez, the business owner, since apparently Mr. Hernandez was out of the office for several weeks. Staff informed Mr. Martinez that another Notice of Noncompliance would be issued, and emphasized the importance of filing the Notice of Intent by August 22, 2001, in order to avoid mandatory penalties.
8. A second Notice of Noncompliance was issued on August 15, 2001, via certified mail to the attention of Miguel Martinez, requiring Century Circuits to immediately file a Notice of Intent to obtain coverage under the General Permit. To date, Century Circuits has not submitted a Notice of Intent or a Notice of Nonapplicability that specifies any basis that coverage under an NPDES permit is not required.
9. On October 17, 2001, Administrative Civil Liability Complaint No. 01-101 was issued to Century Circuits. Subsequently, an employee from Century Circuits contacted Board staff and indicated that Century Circuits wanted to waive its right to a hearing and requested for an installment payment option for the assessed amount. A revised waiver form that included an installment payment option was sent to Century Circuits. Board staff contacted Century Circuits a number of times regarding this Complaint. To date, Century Circuits has not submitted the waiver form or the assessed amount. The Regional Board did not hold a hearing within 60 days of issuance of Complaint No. 01-101. Therefore, Complaint No. 01-101 is being reissued as Complaint No. R8-2002-0013.
10. Pursuant to Section 13399.30(c)(2) of the California Water Code, 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 Notice of Noncompliance was sent, the Board shall impose the penalties described in subdivision (a) of Section 13399.33 of the California Water Code.
11. Pursuant to Section 13399.33(a) of the California Water Code, the Regional Board shall impose mandatory penalty administratively in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof, unless the Board makes express findings based on specific factors listed in Section 13399.33(a)(2).
12. After consideration of the factors specified in Section 13399.33(a)(2), the Executive Officer proposes that mandatory penalty be imposed on Century Circuits by the Board in the amount of \$5,000.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of mandatory penalty proposed under Paragraph 11, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998, or Michael Adackapara, at (909) 782-3238. For legal questions, contact the Regional Board's staff counsel, Jorge Leon at (916) 341-5180.

Date

Gerard J. Thibeault
Executive Officer

In the matter of:)
)
Century Circuit Services)
654 E. Young Street)
Santa Ana, CA 92705)
)
Attention: Miguel Martinez)

Complaint No. R8-2002-0013
for
Mandatory Penalties

WAIVER OF HEARING

I agree to waive Century Circuit Services' right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2002-0013.

I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of \$5,000. I understand that I am giving up Century Circuit Services' right to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Century Circuit Services

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
January 23, 2002

ITEM: 14

SUBJECT: Mandatory Penalty Complaint (MPC) No. R8-2002-0013, Century Circuit Services, Santa Ana, Orange County

BACKGROUND

On October 17, 2001, the Executive Officer issued Administrative Civil Liability Complaint (ACL) No. 01-101 to Century Circuit Services (Century Circuits) for alleged violations of the State General Permit for Storm Water Runoff Associated with Industrial Activity (General Permit). In the ACL, the Executive Officer proposed an assessment of \$5,000 for the alleged violations. The Regional Board did not hold a hearing within 60 days of issuance of Complaint No. 01-101. Therefore, on January 8, 2002, Complaint No. 01-101 was reissued as Complaint No. R8-2002-0013.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to affirm, reject, or modify the proposed mandatory penalty complaint against Century Circuits.

MPC No. R8-2002-0013 was issued by the Executive Officer to Century Circuits for failing to file a Notice of Intent (NOI) under the General Permit.

DISCUSSION

The General Permit regulates the discharge of storm water from industrial sites, as required under Section 402(p) of the Federal Clean Water Act. Coverage under the permit is obtained by filing a NOI, site map, and fee (annual fee of \$250) with the State Water Resource Control Board. Century Circuits is located at 654 East Young Street in the City of Santa Ana. Century Circuits produces printed circuit boards and/or performs electroplating services, and these activities are described by Standard Industrial Classification (SIC) codes 3672 and 3471. Century Circuits is a Category xi discharger. For Category xi dischargers, permit coverage is required if industrial processes, materials, or equipment are exposed to storm water, and if this storm water discharges from the facility as surface runoff.

On June 12, 2001, Board staff (staff) inspected Century Circuits to assess the nature of industrial operations and whether storm water discharges associated with industrial activity occur at the site. During that inspection, it was determined that, due to exposure of materials, wastes, and equipment to storm water, permit coverage was required for Century Circuits. Staff informed Mr. Carlos Hernandez, the manager of Century Circuits, that Century Circuits was required to obtain coverage under the General Permit by filing a NOI. A Notice of Noncompliance was issued on June 22, 2001, via certified mail, requiring Century Circuits to submit a NOI for coverage under the General Permit,

and detailing conditions observed at the site that were in violation of General Permit requirements.

Century Circuits did not respond to the June 22, 2001, Notice of Noncompliance. Staff telephoned Century Circuits on August 10, 2001, and spoke to Miguel Martinez, the business owner. Staff informed Mr. Martinez that another Notice of Noncompliance would be issued and emphasized the importance of filing the NOI by August 22, 2001, in order to avoid mandatory penalties.

A second Notice of Noncompliance was issued on August 15, 2001, via certified mail, requiring Century Circuits to immediately file a NOI to obtain coverage under the General Permit. These Notices of Noncompliance were issued in accordance with Section 13399.30 of the Water Code. To date, Century Circuits has not submitted a NOI or a Notice of Nonapplicability that provides any basis for not obtaining coverage under the General Permit.

California Water Code Section 13399.33(a)(1) provides that a mandatory penalty shall be administratively imposed by the Regional Board in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof, unless the Board makes express findings based on specific factors listed in Section 13399.33(a)(2).

On October 17, 2001, Administrative Civil Liability Complaint No. 01-101 was issued to Century Circuits. Subsequently, an employee from Century Circuits contacted Board staff and indicated that Century Circuits wanted to waive its right to a hearing and requested an installment payment option for the assessed amount. A revised waiver form that included an installment payment option was sent to Century Circuits. Subsequently Board staff contacted Century Circuits a number of times regarding this Complaint. To date, Century Circuits has not submitted the waiver form or the assessed amount. The Regional Board did not hold a hearing within 60 days of issuance of Complaint No. 01-101. Therefore, Complaint No. 01-101 was reissued as Complaint No. R8-2002-0013.

The factors that the Board is required to consider under Section 13399.33(a)(2) are discussed below.

1. Nature, Circumstances, Extent and Gravity of the Violations

The discharger was made aware of the requirements of the General Permit to file a NOI and to develop and implement a storm water pollution prevention plan (SWPPP) to control the discharge of pollutants in storm water runoff. The discharger has not complied with any of these requirements.

2. Ability to Pay the Proposed Assessment

The discharger has not provided any information to indicate that it would have difficulty paying the proposed assessment.

3. Prior History of Violations

An inspection of the facility indicated that there was a significant potential for the facility to have discharged contaminated storm water from the facility to the nearby storm drains. Century Circuits had been notified during the inspection and subsequently by certified mail and by phone to obtain coverage under the General Permit. To date, Century Circuits has not complied with the General Permit.

4. Degree of Culpability

Century Circuits did not respond to the repeated oral and written warnings to come into compliance. The storm water regulations are applicable to all industrial activities. All dischargers, including Century Circuits, are responsible for compliance with the Clean Water Act. Century Circuits is fully culpable for violating the terms and conditions of the General Permit, which implements the Clean Water Act.

5. Economic Benefit or Savings, if any, Resulting from the Violations

By failing to file a NOI and by failing to comply with the requirements of the General Permit, Century Circuits gained a significant economic advantage over their competitors. It appears that the employees were not properly trained to handle spills, leaks, and general housekeeping. Economic savings from these violations are estimated as follows:

Annual fee for coverage under the General Permit	= \$250/yr
Cost to develop and implement proper SWPPP on a year-round basis	= \$3,000
Cost to train employees	= \$1,000
Total cost savings	= \$4,000+ $\overline{\$250(\text{recurring cost})}$

STATEWIDE ENFORCEMENT POLICY

On April 18, 1996, the State Water Resources Control Board adopted a State Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are consistent, predictable, and fair. The above-described mandatory penalty complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

After consideration of the above factors, staff recommends that the Board affirm the mandatory assessment of \$5,000 specified in the Mandatory Penalties Complaint issued by the Executive Officer on January 8, 2002.