

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

IN THE MATTER OF:

Wicked Creations
13832 West Street
Garden Grove, CA 92843

**Proposed Findings of Fact and
Conclusions of Law
Order No. R8-2024-0038**

The California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board or Board), having held a public hearing on October 25, 2024, to hear evidence and comments on the allegations contained in Administrative Civil Liability Complaint No. R8-2024-0038 (Complaint), and having considered and deliberated on the evidence received during the public hearing and in the record, and having considered all comments received, orders Wicked Creations (Discharger) to pay administrative civil liability in the amount of seven thousand three hundred and seventy-six dollars (\$7,376) and finds as follows:

1. Industrial facilities that discharge stormwater associated with industrial activities are required to obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 2014-0057-DWQ, NPDES No. CAS000001 (General Permit). General Permit coverage is required for industrial facilities with Standard Industrial Classification (SIC) codes listed in 40 Code of Federal Regulations section 122.26(b)(14) and in Attachment A of the General Permit. Furthermore, dischargers subject to the General Permit may qualify for a conditional exclusion from specific requirements if they submit a No Exposure Certification (NEC) demonstrating that their facilities have no exposure of industrial activities and materials to stormwater discharges.
2. Wicked Creations is located at 13832 West Street (Facility), in the city of Garden Grove, and is identified as an industrial facility engaged in manufacturing hardware, not elsewhere classified. This industrial activity is described in SIC code 3429. Since SIC code 3429 is listed on Attachment A to the General Permit as an industrial activity which requires General Permit coverage, Wicked Creations must obtain coverage under the General Permit.
3. Santa Ana Water Board staff received the Discharger's information from the City of Garden Grove regarding two businesses, United Metal Concepts and Wicked Creations, operating at the same address without General Permit coverage.
4. On December 6, 2023, Santa Ana Water Board staff attempted to conduct a joint inspection of the Facility with the City of Garden Grove to evaluate the need to obtain General Permit coverage. Staff were denied access to the site by Ms. Ashley Miles, a

Facility representative. From the public right-of-way, Santa Ana Water Board staff observed industrial material, equipment, and waste stored outdoors fully exposed to stormwater on the north side of the Facility's exterior. Additionally, Staff observed metal shavings and sediment track out from the Facility onto West Street, entering the local municipality's separate storm sewer system (MS4). Staff pursued a separate enforcement action against United Metal Concepts, a business with the same listed address as Wicked Creations with similar employees. However, Staff terminated enforcement based on the City of Garden Grove's information that United Metal Concepts closed in October 2023.

5. On December 6, 2023, Santa Ana Water Board staff hand-delivered a Notice of Non-Compliance (NNC) to Wicked Creations for the failure to obtain General Permit coverage. Ms. Miles signed receipt of the enforcement document. The NNC required the Discharger to apply for General Permit coverage no later than January 4, 2024.
6. On January 4, 2024, a second NNC was issued to Wicked Creations explaining that the Facility required coverage under the General Permit but had yet to obtain permit coverage. The second NNC required the Discharger to obtain regulatory coverage by February 3, 2024.
7. On January 9, 2024, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the second NNC.
8. On January 25, 2024, Santa Ana Water Board staff contacted United Metal Concepts' main telephone number regarding the active NNCs for United Metal Concepts and Wicked Creations. The automated answering system identified the number as associated with United Metal Concepts. Ms. Miles answered the phone and denied the number was associated with United Metal Concepts and stated only Wicked Creations was operating. Staff reiterated the final deadline and provided information on how to obtain General Permit coverage.
9. On January 29, 2024, Santa Ana Water Board staff contacted the Discharger via Wicked Creations' main telephone number. Ms. Esveidi Gomez, a Facility representative, answered the phone and verified that the number was associated with Wicked Creations. Staff reminded Ms. Gomez of the NNCs and final deadline. When asked, Ms. Gomez identified Ms. Miles as the Facility's office manager, rather than the receptionist as Ms. Miles self-identified, and stated she would remind Ms. Miles about the final deadline.
10. On February 1, 2024, Santa Ana Water Board staff left a voicemail via Wicked Creations' main telephone number. Staff requested an update regarding the Facility's permit coverage application status and reiterated the final deadline of February 3, 2024. No return phone call was received.
11. On February 2, 2024, Santa Ana Water Board staff spoke again with Ms. Gomez and reiterated the final General Permit coverage deadline. Ms. Gomez stated she relayed

Staff's message from the January 29th phone call to Ms. Miles and did not have any additional information. Ms. Gomez stated she would again relay the information to Ms. Miles.

12. On February 14, 2024, Santa Ana Water Board staff left a voicemail via Wicked Creations' main telephone number requesting a status update. No return phone call was received.
13. On March 27, 2024, the Assistant Executive Officer of the Santa Ana Water Board issued Conditional Settlement Offer No. R8-2024-0038 to Wicked Creations, inviting the Discharger to participate in an Expedited Payment Program relating to violations of the General Permit, which would have provided the opportunity for the Discharger to resolve the alleged violations by paying a Mandatory Minimum Penalty of five thousand nine hundred and ninety-eight dollars (\$5,998), including staff costs. In addition, Staff advised the Discharger that they are still required to obtain permit coverage under the General Permit. The Discharger was given a deadline of April 25, 2024, to respond to the Conditional Settlement Offer.
14. On April 2, 2024, Santa Ana Water Board staff received the United States Postal Service certified mail return receipt for the Conditional Settlement Offer.
15. On April 22, 2024, Santa Ana Water Board staff left a voicemail via Wicked Creations' main telephone number and requested an update on the Discharger's status in obtaining General Permit coverage and reiterated the Conditional Settlement Offer waiver deadline of April 25, 2024.
16. On April 24, 2024, Santa Ana Water Board staff again left a voicemail via Wicked Creations' main telephone number and again requested a status update and reminded them of the deadline.
17. On June 7, 2024, Santa Ana Water Board staff again attempted an inspection of Wicked Creations. From the public right-of-way, Staff observed industrial material, equipment, and waste stored outdoors fully exposed to stormwater on the north side of the Facility's exterior. Additionally, Staff observed sediment track out from the Facility onto West Street. Santa Ana Water Board staff was again denied consent to inspect by Ms. Miles. Ms. Miles informed Staff that the Facility would obtain General Permit coverage but would not be paying the mandatory monetary penalty.
18. On July 29, 2024, the Assistant Executive Officer of the Santa Ana Water Board issued Mandatory Minimum Penalty Complaint R8-2024-0038 (incorporated into this Order as Attachment A) to the Discharger which imposed a mandatory monetary penalty in the amount of five thousand dollars (\$5,000) plus staff costs of two thousand three hundred and seventy-six dollars (\$2,376), pursuant to Water Code section 13399.33, subdivisions (a)(1) and (d).

19. As of October 25, 2024, the Discharger has not obtained General Permit coverage and continues to operate without the required General Permit coverage.
20. The Santa Ana Water Board concludes that the Discharger violated the General Permit by failing to gain General Permit coverage and is liable for \$7,376 in mandatory monetary penalties pursuant to Water Code sections 13399.33(a)(1) and (d). By adopting this Order, the Santa Ana Water Board incorporates the findings in Complaint No. R8-2024-0038 and affirms the penalty specified therein. Staff costs are enumerated in a declaration and summary of billing costs that are part of the administrative record.
21. This Order on Complaint No. R8-2024-0038 is effective and final upon issuance of the Santa Ana Water Board. Payment must be received by the Santa Ana Water Board no later than thirty (30) days from the date on which this Order is issued.
22. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA), in accordance with California Code of Regulations, title 14, section 15321(a), because it is an enforcement action by a regulatory agency.
23. Any aggrieved person may petition the State Water Board to review this action by the Santa Ana Water Board in accordance with Water Code section 13320 and the State Water Board's regulations. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions are available at the Water Board's Petition website and will also be provided upon request.

IT IS HEREBY ORDERED THAT:

1. Pursuant to Water Code section 13399.33(a) and (d), the California Regional Water Quality Control Board, Santa Ana Region imposes a mandatory monetary penalty in the amount of five thousand dollars against Wicked Creations and requires Wicked Creations to pay staff costs incurred in the enforcement matter of two thousand three hundred and seventy-six dollars for a total liability of seven thousand three hundred seventy-six dollars (\$7,376).
2. Wicked Creations shall make a payment of \$7,376 to the Waste Discharge Permit Fund within 30 days from the Santa Ana Water Board's adoption of this Order. Wicked Creations must make a check payable to "State Water Resources Control Board – Waste Discharge Permit Fund" with a reference to MMP Order R8-2024-0038 and send the check to the following address:

State Water Resources Control Board
Division of Administrative Services, Accounting Branch
PO Box 1888
Sacramento, CA 95812-1888

3. If the Discharger fails to make the specified payment to the Waste Discharge Permit Fund within the time limit specified in this Order, the Santa Ana Water Board's Executive Officer is hereby authorized to collect as any other civil judgement the full amount due under the settlement in any matter permitted by California law, including a referral to the Attorney General's Office.

I, Jayne Joy, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of an order imposing civil liability assessed by the California Regional Water Quality Control Board, Santa Ana Region on October 25, 2024.

Jayne Joy, P.E.
Executive Officer
Santa Ana Regional Water Quality Control Board

Attachment A: Mandatory Minimum Penalty Complaint R8-2024-0038