

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

ORDER NO. R8-2026-0007

ASSESSING ADMINISTRATIVE CIVIL LIABILITY

**IN THE MATTER OF HIXSON METAL FINISHING
829 PRODUCTION PLACE
NEWPORT BEACH, CA 92663**

This matter comes before the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Santa Ana Water Board) pursuant to Administrative Civil Liability Complaint No. R8-2026-0007 dated January 26, 2026 (Complaint) issued to Hixson Metal Finishing (Discharger). The Complaint alleged that the Discharger is subject to mandatory minimum penalties (MMPs) based on evidence that the Discharger failed to comply with the numeric effluent limitations (NELs) and associated reporting requirements of the *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities*, Order NPDES No. CAS000001 (Permit or Industrial General Permit), as described below, and proposed an administrative civil liability in the amount of \$45,000 pursuant to applicable laws and regulations, including California Water Code sections 13385 and 13385.1. A hearing took place on June 12, 2026, in accordance with the hearing notice and procedures served on the Discharger, as revised, and applicable laws and regulations, including California Code of Regulations, title 23, sections 648-648.8.

The Santa Ana Water Board acted on the Complaint on June 12, 2026. The Santa Ana Water Board hereby finds the following:

BACKGROUND

1. The Santa Ana Water Board is the public agency with primary responsibility for the protection of groundwater and surface water quality for all beneficial uses within the Santa Ana Region of the State of California.
2. The Discharger is subject to the terms of the Industrial General Permit because it conducts an industrial activity for which it is required to enroll in the Permit. The Discharger has been enrolled in the Permit, or its predecessor orders, since June 23, 1993 when it originally submitted its Notice of Intent (NOI) (WDID 8 30I010178).
3. The 2018 amendment to the General Permit (effective July 1, 2020) incorporated Total Maximum Daily Load (TMDL) specific requirements for industrial facilities

discharging to an impaired waterbody, including the implementation of the TMDL Compliance Table in Attachment E. As identified in its NOI, Hixson discharges into Lower Newport Bay, which is an impaired waterbody and has associated TMDL NELs listed in Attachment E of the Industrial General Permit. The NELs listed for Lower Newport Bay are Total Copper (Cu) NEL of 0.00578 milligrams per liter (mg/L), Total Zinc (Zn) NEL of 0.095 mg/L, and Total Lead (Pb) NEL of 0.221 mg/L.

4. Hixson is required to sample for Zn as a requirement of Table 1 in the Industrial General Permit, which requires sampling for applicable parameters based on a facility's Standard Industrial Classification (SIC) Code. Hixson must also sample for Cu and Pb due to these parameters being identified in the Discharger's specific pollutant source assessment. Therefore, the Discharger is required to comply with and report its compliance for the Lower Newport Bay Cu, Zn, and Pb NELs listed in Attachment E.
5. The Industrial General Permit contains monitoring and reporting requirements that require the Discharger to collect and analyze stormwater samples from two Qualifying Storm Events (QSEs) within the first half of each reporting year (July 1 to December 31), and two QSEs within the second half of each reporting year (January 1 to June 30). (Industrial General Permit section XI.B.) The Discharger must collect samples representative of stormwater associated with industrial activities from each drainage area at all of its facility discharge locations.
6. To assess compliance with effluent limitations, Industrial General Permit section XI.B.11.a. requires the Discharger to submit all sampling and analytical results for all individual samples via the Water Boards Stormwater Multiple Application and Report Tracking System (SMARTS) within 30 days of obtaining results for each sampling event. Mr. Douglas Greene is the self-appointed Legally Responsible Person for the Discharger. As the Legally Responsible Person, Mr. Greene is required to certify and upload the sampling data and laboratory report on behalf of the Discharger to SMARTS within 30 days of obtaining all the results for each sampling event. The Ad Hoc monitoring report containing the sampling data for each QSE is a discharge monitoring report pursuant to Water Code section 13385.1 because it is designed to report compliance with applicable NELs.
7. In order to assess compliance with the NELs, Attachment C to the Industrial General Permit provides that dischargers shall compare all sampling and analytical results obtained from each sampling location to the corresponding instantaneous maximum NEL values in the TMDL Compliance Table E-2 per Section V.C.1. of the Industrial General Permit. An instantaneous maximum NEL exceedance occurs when two or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value.
8. During the 2022-2023 reporting period, the Discharger collected samples during three QSEs and certified and submitted the analytical data in SMARTS, as outlined in Table 1, below. The first QSE was sampled on November 8, 2022, and analytical laboratory results were uploaded and submitted in an Ad Hoc Report in SMARTS,

on January 4, 2023. The results from the November 8, 2022 storm event indicated that discharge locations Yard Area (B1/B2), Yard Area (B2/B3), Yard B3/B4, and Drive Area (B4/B5) exceeded the NELs for Cu and Zn.

9. The second QSE was sampled on February 24, 2023, and analytical laboratory results uploaded and submitted in an Ad Hoc Report in SMARTS, on May 3, 2023. The results from the February 24, 2023 storm event indicated that discharge locations Yard Area (B1/B2), Yard Area (B2/B3), Yard B3/B4, and Drive Area (B4/B5) exceeded the NELs for Cu and Zn.
10. The third QSE was sampled on March 10, 2023, and analytical laboratory results uploaded and submitted in an Ad Hoc Report in SMARTS, on May 3, 2023. The results from the March 10, 2023 storm event indicated that discharge locations Yard Area (B1/B2), Yard Area (B2/B3), and Yard B3/B4 exceeded the NELs for Cu and Zn.
11. The Discharger exceeded the instantaneous maximum Cu NEL of 0.00578 mg/L and the instantaneous maximum Zn NEL of 0.095 mg/L for discharge locations Yard Area (B1/B2), Yard Area (B2/B3), Yard B3/B4, and Drive Area (B4/B5) on November 8, 2022, February 24, 2023, and March 10, 2023. The NEL exceedances trigger a violation of the Industrial General Permit per Section V.C.1. Table 1 shows how each of these data points is subject to an MMP as either a serious or chronic MMP.

Table 1								
Discharge Location	Sample Collection Date	Parameter	Result (mg/L)	NEL (mg/L)	Serious MMP Applies	Count Toward Chronic	Chronic MMP Applies	Mandatory Minimum Penalty (MMP)
Yard Area (B1/B2)	11/8/2022	Copper, Total	0.039	0.00578	No	N/A	No	-
Yard Area (B1/B2)	11/8/2022	Zinc, Total	2.0	0.095	No	N/A	No	-
Yard Area (B2/B3)	11/8/2022	Copper, Total	0.1	0.00578	No	N/A	No	-
Yard Area (B2/B3)	11/8/2022	Zinc, Total	0.92	0.095	No	N/A	No	-
Yard B3/B4	11/8/2022	Copper, Total	0.042	0.00578	No	N/A	No	-
Yard B3/B4	11/8/2022	Zinc, Total	0.51	0.095	No	N/A	No	-
Drive Area (B4/B5)	11/8/2022	Copper, Total	0.027	0.00578	No	N/A	No	-
Drive Area (B4/B5)	11/8/2022	Zinc, Total	0.16	0.095	No	N/A	No	-
Yard Area (B1/B2)	2/24/2023	Copper, Total	0.043	0.00578	Yes	1	No	\$3,000
Yard Area (B1/B2)	2/24/2023	Zinc, Total	0.81	0.095	Yes	2	No	\$3,000

Yard Area (B2/B3)	2/24/2023	Copper, Total	0.074	0.00578	Yes	1	No	\$3,000
Yard Area (B2/B3)	2/24/2023	Zinc, Total	0.59	0.095	Yes	2	No	\$3,000
Yard B3/B4	2/24/2023	Copper, Total	0.029	0.00578	Yes	1	No	\$3,000
Yard B3/B4	2/24/2023	Zinc, Total	0.42	0.095	Yes	2	No	\$3,000
Drive Area (B4/B5)	2/24/2023	Copper, Total	0.02	0.00578	Yes	1	No	\$3,000
Drive Area (B4/B5)	2/24/2023	Zinc, Total	0.14	0.095	Yes	2	No	\$3,000
Yard Area (B1/B2)	3/10/2023	Copper, Total	0.017	0.00578	Yes	3	No	\$3,000
Yard Area (B1/B2)	3/10/2023	Zinc, Total	0.17	0.095	Yes	4	Yes	\$3,000
Yard Area (B2/B3)	3/10/2023	Copper, Total	0.034	0.00578	Yes	3	No	\$3,000
Yard Area (B2/B3)	3/10/2023	Zinc, Total	0.33	0.095	Yes	4	Yes	\$3,000
Yard B3/B4	3/10/2023	Copper, Total	0.016	0.00578	Yes	3	No	\$3,000
Yard B3/B4	3/10/2023	Zinc, Total	0.26	0.095	Yes	4	Yes	\$3,000
Drive Area (B4/B5)	3/10/2023	Copper, Total	0.006	0.00578	No	3	No	-
Total MMP for NEL Exceedances:								\$42,000

12. During the 2021-2022 reporting period, the Discharger collected one QSE on March 28, 2022, as outlined in Table 2. The Discharger received the analytical laboratory report on April 22, 2022, however, did not submit the data in SMARTS until June 24, 2022, which was 63 days late. The report should have been uploaded within 30 days of receipt from the laboratory, or no later than May 22, 2022.

13. As seen in Table 2, below, the Discharger failed to submit its Ad Hoc Report as required by the Industrial General Permit. Each period of 30 days is assessed an MMP as detailed below.

2021-2022	Attachment ID No. 3130505/3130506	Copper, Zinc, and Lead	3/28/2022	4/22/2022	6/24/2022	63	1	\$3,000
Total MMP for Reporting Violations:								\$3,000

14. In total, the Discharger is subject to \$45,000 in MMPs pursuant to Water Code sections 13395, subdivisions(h) and (i) for serious and non-serious violations of the Industrial General Permit.
15. Discharger does not dispute that the alleged NEL exceedances and reporting violation occurred.

LEGAL AND REGULATORY CONSIDERATIONS

16. Section 13385 of the Water Code requires the regional boards to assess mandatory minimum penalties for serious or chronic violations.
17. Pursuant to Water Code section 13385 subdivision (h), the Discharger is subject to a mandatory minimum penalty of three thousand dollars (\$3,000) for specific serious violation. The statute provides, in relevant part:

“A mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation. For the purposes of this section, a ‘serious violation’ means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements ...”

18. A serious violation means any waste discharge that violates the effluent limitation contained in the applicable waste discharge requirements for a Group II pollutant by 20 percent. (Wat. Code § 13385(h)(2).) Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations categorizes pollutants as being in Group I or Group II. Per these regulations, Cooper, Zinc, and Lead are Group II pollutants.
19. The Discharger is also subject to chronic MMPs. Pursuant to Water Code section 13385 subdivision (i)(1) a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the Discharger violates the effluent limitation four or more times in any six consecutive month period except that the mandatory minimum penalty is not applicable to the first three violations.
20. Pursuant to Water Code section 13385.1, the failure to file a discharge monitoring report required pursuant to Water Code section 13383 for each complete period of 30 days following the deadline for submitting the report constitutes a serious violation and is also subject to a Mandatory Minimum Penalty per Water Code section 13385, subdivision (h).
21. Pursuant to Water Code section 13385 subdivisions (h) and (i), the Santa Ana Water Board shall administratively impose a penalty of three thousand dollars (\$3,000) for each serious and chronic violation.

22. Pursuant to Water Code section 13385 subdivisions (h) and (i), the Santa Ana Water Board shall administratively impose a penalty of three thousand dollars (\$3,000) for each serious and chronic violation.
23. During the evidentiary hearing, the Discharger raised legal argument that the Santa Ana Water Board was precluded from imposing MMPs because of a Consent Decree that Discharger entered into with a citizen group to resolve Clean Water Act violations on December 12, 2022. (Respondent Exhibit D.) However, citizen suit enforcement actions do not bind the state and MMPs must be imposed separately from citizen suit enforcement. The Santa Ana Water Board's enforcement authority is not limited or modified by the existence of a Consent Decree with a third party. (*United States v. Atlas Powder Co.* (1930) 40 F.2d 136.) Citizen suits are intended to supplement, not supplant, government enforcement actions. (*Gwaltney of Smithfield, Ltd. V. Chesapeake Bay Found., Inc.*, (1987) 484 U.S. 49, 60.) Therefore, the Santa Ana Water Board must assess the MMPs as alleged in the Complaint. (Wat. Code § 13385(h) and (i).)

PROPOSED ADMINISTRATIVE CIVIL LIABILITY

24. The Complaint proposed an administrative civil liability of \$45,000 for the alleged violations subject to MMPs. The amount of the proposed liability is based on the mandatory minimum penalties authorized to be imposed under Water Code section 13385, subdivisions (h) and (i).

ADMINISTRATIVE CIVIL LIABILITY

25. Based on consideration of the above facts, the evidence in this matter, material submitted by the parties, the testimony and arguments presented at hearing, and the applicable law, the Santa Ana Water Board finds that the Discharger is liable for the violations alleged in the Complaint.
26. The Santa Ana Water Board further finds that civil liability shall be imposed administratively against the Discharger in the amount of **\$45,000**, as explained in detail in Tables 1 and 2 contained in this Order.
27. Notwithstanding the issuance of this Order, the Santa Ana Water Board retains the authority to assess additional penalties for violations for which penalties have not yet been assessed or for violations that may subsequently occur.
28. Any person aggrieved by this action of the Santa Ana Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The

State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions will be provided upon request and may be found on the Internet at:
http://www.waterboards.ca.gov/public_notices/petitions/water_quality/

IT IS HEREBY ORDERED, pursuant to Water Code section 13385 and other applicable law, that:

1. Hixson Metal Finishing shall be assessed an Administrative Civil Liability in the amount of forty-five thousand dollars (\$45,000).
2. Payment shall be made no later than 30 days from the date on which this Order is adopted. Hixson Metal Finishing shall send the original signed check, with "ACLO R8-2026-0007" in the memo line, to:

State Water Resources Control Board
Division of Administrative Services
ATTN: Accounting
1001 I Street, 18th Floor
Sacramento, CA 95814

And shall send a copy to:

Santa Ana Regional Water Quality Control Board
ATTN: Kaitlin Diaz
3737 Main Street, Suite 500
Riverside, CA 92501

I, Alan Kuoch, Supervising Engineering Geologist, do hereby certify 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 June 12, 2026:

 Digitally signed by Alan
Kuoch
Date: 2026.06.15 08:45:15
Water Board

Alan Kuoch
Supervising Engineering Geologist