

Santa Ana Regional Water Quality Control Board

November 6, 2014

Active Plating, Inc.
1411 East Pomona Street
Santa Ana, CA 92705
(By Certified Mail)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Keith Korta
keith@activeplating.com
(By Email Only)

MANDATORY MINIMUM PENALTY COMPLAINT NO. R8-2014-0057, ACTIVE PLATING

Dear Mr. Korta:

Enclosed is a certified copy of Mandatory Minimum Penalty Complaint No. R8-2014-0057 (Complaint). The Complaint alleges that Active Plating has violated California Water Code (Water Code) Section 13399.30 by failing to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit) for the industrial facility located at 1411 East Pomona Street, in the City of Santa Ana, California.

The Complaint proposes that a penalty in the amount of five thousand, nine hundred dollars (\$5,900) be imposed. The penalty amount is comprised of mandatory minimum penalties and staff costs as authorized by California Water Code Sections 13399.33(a)(1) and 13399.33(d).

A public hearing on this matter is scheduled for the Regional Board meeting on January 30, 2015. 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. An agenda for the meeting will be mailed to Active Plating not less than 10 days before the hearing date. A meeting agenda will also be available at: http://www.swrcb.ca.gov/santaana/board_info/agendas.

Pursuant to California Water Code Section 13323, Active Plating has the option to waive its rights to a hearing. Should Active Plating waive its rights to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If Active Plating chooses to waive its rights to a hearing, please sign and submit the enclosed Waiver Form by December 1, 2014. Please make the check payable to

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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

♻️ RECYCLED PAPER

the State Water Pollution Cleanup and Abatement Account for five thousand, nine hundred dollars (\$5,900) and include the Complaint Number (R8-2014-0057) on the memo line. Please send the following information to the appropriate location:

Mail Waiver Form and copy of check to:
RWQCB
Attn: Barbara Barry
3737 Main Street, Suite 500
Riverside, CA 92501

Mail Payment to:
SWRCB – Accounting Office
Attn: Sarah Fong
P.O. Box 1888
Sacramento, CA 95812-1888

If Active Plating does not wish to waive its rights to a hearing, a pre-hearing meeting is recommended. Should you wish to schedule a pre-hearing meeting, please submit your request to Barbara Barry by phone at (951) 248-0375 or by email at Barbara.Barry@waterboards.ca.gov prior to December 1, 2014.

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 process is available at:

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

The Fact Sheet describes the process and explains what Active Plating can expect and its obligations as the process proceeds. If preferred, a hard copy of the Fact Sheet may be obtained by contacting Barbara Barry at (951) 248-0375.

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

If you have any questions regarding the Complaint or the enclosed documents, please contact Barbara Barry by phone at (951) 248-0375 or by email at Barbara.Barry@waterboards.ca.gov or Michelle Beckwith by phone at (951) 782-4433 or by email at Michelle.Beckwith@waterboards.ca.gov. All legal questions should be directed to Paul Ciccarelli, Office of Enforcement, by phone at (916) 322-3227 or by email at Paul.Ciccarelli@waterboards.ca.gov.

Sincerely,



Hope A. Smythe
Division Chief
Regional Board Prosecution Team

Enclosures: MMP Complaint No. R8-2014-0057
Hearing Procedures
Waiver Form

Exhibit 1: NNC dated April 6, 2005
Exhibit 2: Email dated May 6, 2005
Exhibit 3: NNC dated May 8, 2014
Exhibit 4: NNC dated June 12, 2014
Exhibit 5: Call log dated July 3, 2014

cc: Regional Board
Mr. Kurt Berchtold, Executive Officer, RWQCB, Riverside (Regional Board
Advisory Team)
Mr. David Rice, Office of Chief Counsel, SWRCB, Sacramento (Regional Board
Advisory Team Attorney)
Mr. Paul Ciccarelli, Office of Enforcement, SWRCB, Sacramento
Ms. Diana Messina, Division of Water Quality, SWRCB, Sacramento
Mr. Richard Boon, Orange County Public Works
Mr. Tyrone Chesanek, City of Santa Ana NPDES Coordinator

**State of California
California Regional Water Quality Control Board
Santa Ana Region**

IN THE MATTER OF:

Active Plating, Inc.)	Complaint No. R8-2014-0057
1411 East Pomona Street)	for
Santa Ana, CA 92705)	Mandatory Minimum Penalty and Staff
Attn: Keith E. Korta)	Costs
_____)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Active Plating, Inc. (Active Plating) is alleged to have violated California Water Code (Water Code) section 13399.30 by failing to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001 (General Permit) for which the California Regional Water Quality Control Board, Santa Ana Region (Regional Board), must impose a mandatory minimum penalty under Water Code Section 13399.33.
2. Unless waived, a hearing concerning this Complaint will be held before the Regional Board at its regular meeting on January 30, 2015, at a to be determined location. Active Plating, or its 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 Regional Board. An agenda for the meeting will be mailed to Active Plating not less than 10 days before the hearing date. A meeting agenda will also be available at: http://www.swrcb.ca.gov/santaana/board_info/agendas.
3. Active Plating can waive its right to a hearing to contest the allegation contained in this Complaint by signing and submitting the enclosed waiver and paying the liability in full or by taking other actions as described in the waiver form. 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 Water Code Section 13399.33(d).
4. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed mandatory minimum penalties and assessment of costs pursuant to Water Code section 13399.33, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

THIS COMPLAINT IS BASED ON THE FOLLOWING FACTS:

5. Most industrial facilities that discharge storm water associated with industrial activities are required to obtain coverage under the General Permit. General Permit coverage is required for facilities listed by industrial category and by Standard Industrial Classification (SIC) codes in 40 Code of Federal Regulations section 122.26(b)(14) and in Attachment 1 of the General Permit.
6. 40 Code of Federal Regulations section 122.26(b)(14)(xi) and Attachment 1 of the General Permit requires manufacturing facilities under SIC Major Group 34 to obtain a General Permit if industrial materials, equipment, or activities are exposed to storm water. SIC Major Group 34 includes establishments engaged in fabricating ferrous and nonferrous metal products. SIC Industry Group 347 covers establishments engaged in metal coating, engraving, and allied services. SIC code 3471 includes metal electroplating, plating, polishing, anodizing, and coloring.
7. Active Plating, located at 1411 East Pomona Street in the City of Santa Ana, California, is an industrial facility engaged in metal plating. Metal plating is an industrial activity as described in Standard Industrial Classification (SIC) code 3471. Therefore, Active Plating must obtain coverage under the General Permit if industrial materials, equipment, or activities are exposed to storm water.
8. On April 23, 2014, Regional Board staff conducted a curbside inspection of Active Plating. The north side of the site was open and visible from a common use alley. Regional Board staff observed pallets, forklifts, open drums, and other materials stored outdoors and uncovered. Both industrial activities and industrial materials were exposed to storm water, indicating that this facility is required to obtain coverage under the General Permit.
9. After the cursory site visit, Regional Board staff reviewed their records to determine Active Plating's history of compliance with the General Permit. Records show that Regional Board staff conducted a non-filer inspection of Active Plating on March 15, 2005. Staff observed fifty-five gallon drums exposed to storm water without Best Management Practices (BMPs) implementation. A Notice of Non-Compliance (NNC) was issued to Active Plating on April 6, 2005. A copy of the NNC is attached to this Complaint as Exhibit 1.
10. On May 6, 2005, the Regional Board received correspondence from Mr. Keith Korta, owner and operator of Active Plating, stating that they constructed a permanent structure over the raw material chemical storage area and that all fifty-five gallon drums containing filter cake (metal hydroxide) were covered. The May 6, 2005 correspondence from Mr. Korta is attached as Exhibit 2.
11. On May 7, 2014, Regional Board staff met with Mr. Korta to conduct a site inspection. Regional Board staff observed waste bins for trash and filter cakes

stored outdoors and without spill prevention BMPs. Some chemicals were stored with secondary containment, but staining on the concrete under these containers indicated previous spills. The flow path for storm water was unimpeded by berms as previously indicated from previous correspondence with Mr. Korta. Regional Board staff informed Mr. Korta that there was a potential for polluted storm water runoff to leave the site, and therefore the facility needed coverage under the General Permit.

12. On May 8, 2014, Regional Board staff issued Mr. Korta a NNC for failing to obtain coverage under the General Permit (first NNC). The first NNC requested that a Notice of Intent (NOI) be submitted to the State Water Resources Control Board (State Board) by June 9, 2014. The return receipt showed the first NNC was received on May 12, 2014.
13. On June 12, 2014, Regional Board staff received no response to the first NNC, therefore a second NNC was issued. The return receipt showed the second NNC was received on June 16, 2014. In both NNCs, Regional Board staff requested submittal of a NOI and reminded Active Plating of the mandatory minimum penalties for failure to submit the NOI. The second NNC required Active Plating to obtain coverage by July 7, 2014. Both NNCs and their respective return receipts are attached to this Complaint as Exhibits 3 and 4.
14. On July 3, 2014, Regional Board staff called Mr. Korta to confirm receipt of the two NNCs. Mr. Korta stated that he did, in fact, receive the first and second NNC. Regional Board staff reminded Mr. Korta that if the NOI was not submitted to the State Board by July 7, 2014, Active Plating would be subject to mandatory minimum penalties. Mr. Korta acknowledged this and stated that he would take care of it over the weekend. The call log for the conversation is attached as Exhibit 5.
15. To date, the NOI from Active Plating has not been received by the State Board.

LEGAL AUTHORITY

16. Water Code section 13399.30 requires the Regional Board to identify, on an annual basis, dischargers of storm water that have not obtained coverage under the General Permit.

Pursuant to Water Code section 13399.30(a)(2), the Regional Board provides a notice to any person that discharges, proposes to discharge, or is suspected by the Regional Board of discharging storm water associated with industrial activity without coverage under the General Permit. Within 30 days from the date on which the Regional Board sent notice, the discharger shall submit a notice of intent to obtain coverage to the Regional Board.

17. Pursuant to Water Code 13399.30(b), the Regional Board's Division Chief shall send a second notice to a discharger for failing to submit the appropriate notice of intent to the Regional Board¹ within 30 days from the date on which the first notice was sent pursuant to 13399.30(a).
18. Pursuant to Water Code section 13399.30(c)(2), if a discharger fails to submit the required notice of intent to the Regional Board within 60 days from the date on which the first NNC was sent, the Regional Board shall impose the penalties described in 13399.33(a).
19. Active Plating is an industrial facility that engages in metal plating; an industrial activity described in SIC code 3471. For the reasons stated above, storm water discharges from Active Plating's facility must be covered under the General Permit. The Regional Board provided the discharger with the two required notices and to date, the State Board has not received a NOI from the discharger. Therefore, pursuant to Water Code section 13399.30(c)(2), the Regional Board is authorized to impose the penalties proposed herein.

PROPOSED MANDATORY MINIMUM PENALTIES AND ASSESSMENT OF COSTS

20. Pursuant to Water Code section 13399.33(a)(1), the Regional 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 against a discharger who fails to submit the required notice of intent in accordance with Water Code section 13399.30. The Regional Board shall impose this mandatory minimum penalty unless it makes express findings setting forth the reasons for its failure to do so, based on the specific factors required to be considered pursuant to 13399.33(a)(2).
21. Based on the non-submittal of the NOI by July 7, 2014, Active Plating is alleged to have violated the General Permit for 122 days (from July 7, 2014 to November 6, 2014, the date of issuance of this Complaint). Pursuant to Water Code section 13399.33(a)(1), the mandatory minimum penalty amount is \$5,000.
22. Water Code section 13399.33(d) allows for the recovery of costs incurred by the Regional Board for enforcement actions against dischargers who fail to submit the required NOI in accordance with Water Code section 13399.30. Staff spent approximately six (6) hours for this enforcement action resulting in total Staff costs of \$900 (6 hrs @ \$150/hr= \$900). The total liability, including staff costs, is **\$5,900.00** (\$5,000 mandatory penalty+\$900 in staff costs).
23. Issuance of this Complaint is an enforcement action and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Res. Code

¹ The General Permit instructs dischargers of storm water to submit the required notice of intent to the State Water Resources Control Board, not the Regional Board.

Section 21000 et seq.) pursuant to title 14, California Code of Regulations Sections 15308 and 15321, subdivision (a), paragraph (2).

WAIVER OF HEARING

Active Plating may waive its right to a hearing. If Active Plating chooses to do so, please sign the enclosed Waiver Form and return it, together with a check for **\$5,900**. **Indicate "R8-2014-0057" on the check and make it payable to the State Water Pollution Cleanup and Abatement Account.** Send the check to the following address:

State Water Resources Control Board
Division of Administrative Services
Accounting Branch
P.O. Box 1888
Sacramento, CA 95814

The waiver and a copy of the check shall also be mailed to the Regional Board at the following address:

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

If Active Plating waives its right to a hearing and pays the assessed amount, the Regional Board may not hold a hearing regarding this Complaint.

If you have any questions, please contact Barbara Barry at (951) 248-0375. For legal questions, contact Paul Ciccarelli, Office of Enforcement, at (916) 322-3227.

11/6/14
Date


Hope A. Smythe
Division Chief
Regional Board Prosecution Team



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

California Regional Water Quality Control Board
Santa Ana Region

HEARING PROCEDURE
FOR MANDATORY MINIMUM PENALTY COMPLAINT
NO. R8-2014-0057
ISSUED TO
Active Plating
1411 East Pomona Street
Santa Ana, CA 92705
Orange County

SCHEDULED FOR JANUARY 30, 2015

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 November 6, 2014, the Division Chief, acting as head of the Santa Ana Regional Water Quality Control Board (Regional Board) Prosecution Team, issued a Mandatory Minimum Penalty Complaint (Complaint) pursuant to California Water Code (Water Code) Section 13323 against Active Plating alleging that it violated Water Code Section 13399.30 by failing to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit).

The Complaint proposes that the Regional Board impose a mandatory minimum penalty and staff costs in the amount of **five thousand nine hundred dollars (\$5,900)** pursuant to Water Code Section 13399.33. Unless Active Plating pays the proposed liability, a hearing will be held before the Regional Board during its **January 30, 2015** 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 will be held on **January 30, 2015**, and will commence no earlier than 9:00 a.m. or as soon thereafter as practical, or as announced in the Regional Board meeting agenda. The meeting will be held at a to be determined location.

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.swrcb.ca.gov/santaana/board_info/agendas

Hearing Procedure

The hearing will be conducted in accordance with this Hearing Procedure, which has been approved by the Board Chair for the adjudication of such matters. The procedures governing adjudicatory hearings before the Regional Board may be found at California Code of Regulations, title 23, section 648 et seq., and are available at:

<http://www.waterboards.ca.gov>

Copies will be provided upon request. In accordance with Section 648(d), any procedure not provided by this Hearing Procedure is deemed waived. Except as provided in Section 648(b) and herein, Chapter 5 of the Administrative Procedures Act (Gov. Code, § 11500 et seq.) does not apply to this hearing.

Active Plating shall attempt to resolve objections to this Hearing Procedure with the Prosecution Team BEFORE submitting objections to the Advisory Team.

Separation of Prosecutorial and Advisory 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 Board (the Prosecution Team) have been separated from those who will provide legal and technical advice to the Board (the Advisory Team). Members of the Advisory Team are: Kurt Berchtold, Executive Officer and David Rice, Staff Counsel. Members of the Prosecution Team are: Hope Smythe, Division Chief; Barbara Barry, Environmental Scientist; Michelle Beckwith, Senior Environmental Scientist, and Paul Ciccarelli, Staff Counsel.

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. Other members of the Prosecution Team act or 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.

Hearing Participants

Participants in this proceeding are designated as either "Designated Parties" or "Interested Persons." Designated Parties may present evidence and cross-examine witnesses and are subject to cross-examination. Interested Persons may present non-evidentiary policy statements, but may not cross-examine witnesses and are not subject to cross-examination. Interested Persons generally may not present evidence (e.g., photographs, eye-witness testimony, monitoring data). At the hearing, 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 Board Chair.

The following participants are hereby designated as Designated Parties in this proceeding:

1. Regional Board Prosecution Team
2. Active Plating

Requesting Designated Party Status

Persons who wish to participate in the hearing as a Designated Party must request designated party status by submitting a request in writing so that it is received no later than the deadline listed under "Important Deadlines" below. The request shall include an explanation of the basis for status as a Designated Party (i.e., how the issues to be addressed at the hearing affect the person, the need to present evidence or cross-examine witnesses), along with a statement explaining why the parties listed above do not adequately represent the person's interest. Any objections to these requests for designated party status must be submitted so that they are received no later than the deadline listed under "Important Deadlines" below.

Primary Contacts

Advisory Team:

David Rice, Staff Counsel
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812
Phone: (916) 341-5182
David.Rice@waterboards.ca.gov

Prosecution Team:

Michelle Beckwith, Senior Environmental Scientist
Regional Water Quality Control Board – Santa Ana Region
3737 Main Street, Suite 500, Riverside, CA 92501
Phone: (951) 782-4433
Michelle.Beckwith@waterboards.ca.gov

Active Plating:

Keith Korta
Active Plating
1411 East Pomona St.
Santa Ana, 92705
keith@activeplating.com

Ex Parte Communications

Designated Parties and Interested Persons are forbidden from engaging in ex parte communications regarding this matter. An ex parte communication is a written or verbal

communication related to the investigation, preparation, or prosecution of the Complaint between a Designated Party or an Interested Person and a Board Member or a member of the Board's Advisory Team (see Gov. Code, § 11430.10 et seq.). However, if the communication is copied to all other persons (if written) or is made in a manner open to all other persons (if verbal), then the communication is not considered an ex parte communication. Communications regarding non-controversial procedural matters are also not considered ex parte communications and are not restricted.

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 30 minutes to present evidence (including evidence presented by witnesses called by the Designated Party), to cross-examine witnesses (if warranted), and to provide a closing statement. 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 the deadline listed under "Important Deadlines" below. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Board Chair (at the hearing) upon a showing that additional time is necessary. Such showing shall explain what testimony, comments, or legal argument requires extra time, and why it could not have been provided in writing by the applicable deadline.

A timer will be used, but will not run during Board questions or the responses to such questions, or during discussions of procedural issues.

Submission of Evidence and Policy Statements

The Prosecution Team and all other Designated Parties (including Active Plating) must submit the following information in advance of the hearing:

1. All documentary evidence and exhibits to be offered at the hearing.
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. Alternatively, the testimony of any witness may be presented by declaration, so long as that witness will be available for cross-examination at the hearing.
4. The qualifications of each expert witness, if any.

Prosecution Team: The Prosecution Team's information must include the legal and factual basis for its claims against Active Plating; a list of all evidence on which the Prosecution Team relies, which must include, at a minimum, all documents cited in the Complaint, Staff Report, or other material submitted by the Prosecution Team; and the witness information required under items 3-4 for all witnesses, including Board staff.

Designated Parties (including Active Plating): All Designated Parties shall submit comments regarding the Complaint along with any additional supporting evidence not cited by the Regional Board's Prosecution Team no later than the deadline listed under "Important Deadlines" below.

Rebuttal: Any Designated Party that would like to submit evidence, legal analysis, or policy statements to rebut information previously submitted by other Designated Parties shall submit this rebuttal information so that it is received no later than the deadline listed under "Important Deadlines" below. "Rebuttal" means evidence, analysis or comments offered to disprove or contradict other submissions. Rebuttal shall be limited to the scope of the materials previously submitted. Rebuttal information that is not responsive to information previously submitted may be excluded.

Copies: For each evidentiary deadline, each Designated Party shall send one electronic copy of the above materials to each of the other Designated Parties at the address or addresses provided above by 5:00 p.m. on the deadline described above.

Interested Persons: 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 they must be received by the deadline listed under "Important Deadlines" to be included in the Board's agenda package. Interested Persons do not need to submit written comments in order to speak at the hearing.

Prohibition on Surprise Evidence: In accordance with California Code of Regulations, title 23, 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 Board Chair 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.

Presentations: Power Point and other visual presentations may be used at the hearing, but their content shall not exceed the scope of other submitted written material. These presentations must be provided to the Advisory Team at or before the hearing both in hard copy and in electronic format so that they may be included in the administrative record.

Witnesses: All witnesses who have submitted written testimony shall appear at the hearing to affirm that the testimony is true and correct, and shall be available for cross-examination.

Questions

Questions concerning this proceeding may be addressed to the Advisory Team attorney (contact information above).

IMPORTANT DEADLINES

All required submissions must be received by 5:00 p.m. on the respective due date.

November 6, 2014	<ul style="list-style-type: none"> ▪ Prosecution Team issues Complaint and Hearing Procedure on Active Plating and other parties.
December 1, 2014	<ul style="list-style-type: none"> ▪ Active Plating's deadline to submit 90-Day Hearing Waiver Form and payment ▪ Objections due on Hearing Procedure. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
December 11, 2014*	<ul style="list-style-type: none"> ▪ Prosecution Team's deadline for submission of information required under

	<p>"Submission of Evidence and Policy Statements," above.</p> <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
December 13, 2014	<ul style="list-style-type: none"> ▪ Deadline to request "Designated Party" status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
December 16, 2014*	<ul style="list-style-type: none"> ▪ Deadline to submit opposition to requests for Designated Party status. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
December 23, 2014	<ul style="list-style-type: none"> ▪ Advisory Team issues decision on Hearing Procedure objections. ▪ Advisory Team issues decision on requests for designated party status.
December 31, 2014*	<ul style="list-style-type: none"> ▪ Remaining Designated Parties' (including Active Plating's) deadline to submit all information required under "Submission of Evidence and Policy Statements" above. This includes all written comments regarding the Order, and any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections. ▪ Interested Persons' comments are due. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
January 12, 2015*	<ul style="list-style-type: none"> ▪ Prosecution Team's deadline to submit any rebuttal evidence, any rebuttal to legal arguments and/or policy statements, and all evidentiary objections. ▪ Deadline to submit requests for additional time. ▪ If rebuttal evidence is submitted, all requests for additional time (to respond to the rebuttal at the hearing) must be made within 3 working days of <i>this</i> deadline. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons, Prosecution Team Attorney, Advisory Team Attorney</p> <p><u>Electronic and Hard Copies to:</u> Prosecution Team Primary Contact, Advisory Team Primary Contact</p>
January 20, 2015* [†]	<ul style="list-style-type: none"> ▪ Prosecution Team submits Hearing binder on the parties and Board. <p><u>Electronic or Hard Copies to:</u> All other Designated Parties, All known Interested Persons</p> <p><u>Electronic and Hard Copies to:</u> Advisory Team Primary Contact, Advisory Team Attorney</p>
January 30, 2015*	Hearing

* Active Plating has the right to a hearing before the Board within 90 days of receiving the Complaint, but this right can be waived (to facilitate settlement discussions, for example). By submitting the waiver form, Active Plating is not waiving the right to a hearing; unless a settlement is reached, the Board will hold a hearing prior to imposing civil liability. However, if the Board accepts the waiver, all deadlines marked with an "*" will be revised if a settlement cannot be reached.

[†] This deadline is set based on the date that the Board compiles the Board Members' agenda packages. Any material received after this deadline will not be included in the Board Members' agenda packages.

Santa Ana Regional Water Quality Control Board

WAIVER FORM FOR MANDATORY MINIMUM PENALTY COMPLAINT

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

I am duly authorized to represent Active Plating in connection with Mandatory Minimum Penalty Complaint No. R8-2014-0057 (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(s) who have been issued a complaint may waive the right to a hearing."

- (OPTION 1: Check here if Active Plating waives the hearing requirement and will pay the liability in full.)**
- a. I hereby waive any right Active Plating may have to a hearing before the Regional Water Board.
 - b. I certify that Active Plating will remit payment for the proposed penalty in the full amount of **five thousand nine hundred dollars (\$5,900)** by submitting a check made payable to the "State Water Pollution Cleanup and Abatement Account," that references "Complaint No. R8-2014-0057." Payment must be received by the Regional Water Board by **December 1, 2014** or the Regional Water 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 Water Board receive significant new information or comments from any source (excluding the Water Board's Prosecution Team) during this comment period, the Regional Water 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 Regional Water Board (or the Regional Board's delegee), and that the Regional Water Board may consider this proposed settlement in a public meeting or hearing. I also understand that approval of the settlement will result in Active Plating 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 Complaint may subject the Discharger to further enforcement, including additional civil liability.

- (OPTION 2: Check here if Active Plating waives the 90-day hearing requirement in order to engage in settlement discussions.)***

I hereby waive any right Active Plating may have to a hearing before the Regional Water Board within 90 days after service of the complaint, but I reserve the ability to request a hearing in the future. I certify that Active Plating will promptly engage the Regional Water Board Prosecution Team in settlement discussions to attempt to resolve the outstanding violation(s). By checking this box, Active Plating requests that the Regional Water Board delay the hearing so that Active Plating and the Prosecution Team can discuss settlement. It remains within the discretion of the Regional Water 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 Active Plating 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 Active Plating may have to a hearing before the Regional Water Board within 90 days after service of the Complaint. By checking this box, Active Plating requests that the Regional Water Board delay the hearing and/or hearing deadlines so that Active Plating may have additional time to prepare for the hearing. It remains within the discretion of the Regional Water Board to approve the extension.

(Print Name and Title)

(Signature)

(Date)



California Regional Water Quality Control Board

Santa Ana Region



Alan C. Lloyd, Ph.D.
Agency Secretary

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 – FAX (951) 781-6288 – TTY (951) 782-3221
<http://www.waterboards.ca.gov/santaana>

Arnold Schwarzenegger
Governor

April 6, 2005

Active Plating
1411 East Pomona Street
Santa Ana, CA 92705

Certified Mail
Return Receipt Required

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

To Facility Owner or Manager:

NPDES Permit No. CAS000001, General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit), 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 runoff. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), emphasizing Best Management Practices (BMP), designed to reduce/eliminate migration of sediment and other pollutants to storm drains and/or receiving waters.

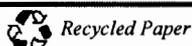
Regional Board staff conducted a cursory inspection of your facility located at 1411 E. Pomona St., on March 15, 2005. The following observations were made during the inspection:

- This facility is not covered under the General Permit; and,
- Numerous 55-gallon drums were observed throughout the facility without any secondary containment or spill prevention BMPs. Adequate BMPs are not being implemented which may result in the commingling of pollutants with storm water and non-storm water flows and the offsite discharge of pollutants to nearby storm drains.

This letter is to notify you that based on the observations, this facility requires coverage under the General Permit. To comply with the General Permit:

- A Notice of Intent must be filed with the State Water Resources Control Board;
- A Storm Water Pollution Prevention Plan (SWPPP) must be developed, be fully implemented and a copy must be maintained at the facility at all times; and,
- General housekeeping and the current practices of storing materials at the facility must be improved to eliminate the potential for commingling of storm water discharges and potential pollutant sources at your facility.

California Environmental Protection Agency



This site is currently in violation of the General Permit, the California Water Code and the federal Clean Water Act. Failure to obtain coverage under the General Permit will result in a mandatory minimum penalty of \$5,000 under Section 13399.33 (a) (1) of the California Water Code. In addition, you must submit a description of the actions taken to remedy the issues addressed above along with a time schedule for the implementation of your facility's SWPPP to this office by May 6, 2005. Failure to submit the requested information may result in further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation.

If you have any questions, please contact Michelle Beckwith by phone at (951) 782-4433 or by email at mbeckwith@waterboards.ca.gov.

Sincerely,

Originally signed on 4/6/05

Mark E. Smythe, Chief
Coastal Storm Water Section

enclosures: General Permit for Storm Water Discharges Associated with Industrial Activities

cc (w/o enclosures): Orange County RDMD – Richard Boon
City of Santa Ana, NPDES Coordinator – Harry Chin



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Address information only

Active Plating
1411 E. Pomona St.
Santa Ana, CA 92705



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CA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
3737 MAIN STREET SUITE 500
SANTA ANA, CA 92705

Attn: MRB

From: Denise Vesely <activeplating@sbcglobal.net>
To: <mbeckwith@waterboards.ca.gov>
Date: 5/6/05 12:30:17 PM
Subject: Reference to letter from California Regional Water Quality Control Board, Dated 04-06-2005

Dear Michelle,

This letter is in reference to a letter from your agency to Active Plating dated 04-06-2005.

I would like to schedule an appointment with a representative from your agency in regards to obtaining a general permit for storm water discharges.

I have had our plant inspected for BMP by your agency with no violations recorded and also corresponded with Ms. Kim Le about what actions were needed to be taken at our facility to avoid any commingling of storm water discharges and potential pollutant sources at our facility, which resulted in constructing a permanent structure over our burned area when our raw material chemicals are stored. Also we have covered any 55 gallon drums which contain the filter cake (metal hydroxide) that we generate from our waste treatment system. I have all past inspection records for your review.

Please advise me on my request for your inspection department to meet with me at our facility.

Thank You,
Keith E. Korta, CEO
Active Plating, Inc.
1411 E. Pomona St.
Santa Ana, CA 92705
714-547-0356



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

May 8, 2014

Active Plating
1411 E Pomona St
Santa Ana, CA 92705

CERTIFIED MAIL
RETURN RECEIPT REQUIRED

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

Dear Mr. Korta:

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 process to storm water runoff. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), emphasizing Best Management Practices (BMP), designed to reduce/eliminate migration of sediment and other pollutants to storm drains and/or receiving waters.

It has come to our attention that Active Plating is operating a facility in the City of Santa Ana at 1411 East Pomona Street and is engaged in plating activities. This activity is best described under Standard Industrial Classification (SIC) Code 3471 – Electroplating, Plating, Polishing, Anodizing, and Coloring. The General Permit requires that facilities engaged in certain facilities, described by SIC Code, obtain coverage where industrial materials or processes are exposed to storm water. On May 7, 2014, Regional Board staff conducted an inspection of your facility and the following observations were made:

- This facility is not currently covered under the General Permit; and,
- Numerous drums, pallets, equipment, and other materials were observed throughout the facility without spill prevention BMPs. Adequate BMPs are not being implemented which may result in the commingling of pollutants with storm water and non-storm water flows and the offsite discharge of pollutants to nearby storm drains.

Based on Regional Board staff observations this letter is to notify you that this facility requires coverage under the General Permit. To comply with the General Permit:

- A Notice of Intent (NOI) must be filed with the State Water Resources Control Board (http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmnt.pdf);
- A Storm Water Pollution Prevention Plan (SWPPP) must be developed, be fully implemented, and a copy must be maintained at the facility at all times and the plan must be implemented; and,

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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

♻️ RECYCLED PAPER

- A spill kit must be obtained and stored nearby to hazardous materials. Staff should also be trained on how to use the spill kit to appropriately clean spills.

This site is currently in violation of the General Permit, the California Water Code and the federal Clean Water Act. Failure to immediately obtain coverage under the enclosed General Permit requirements will result in a mandatory minimum penalty of \$5,000 under Section 13399.33 (a) (1) of the California Water Code. You must submit your NOI by June 9, 2014. Failure to submit the requested information may result in further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation.

If you have any question, please contact Barbara Barry by phone at (951) 248-0375 or e-mail at Barbara.Barry@waterboards.ca.gov.

Sincerely,



Michelle R. Beckwith, Chief
Coastal Storm Water Unit

cc: OC Public Works – Richard Boon
City of Santa Ana, NPDES Coordinator – Souri Amirani

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Total Postage & Fees	\$

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Street or PO **1411 E POMONA ST**
City, State **SANTA ANA, CA. 92705**

PS Form 3849, June 2002

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Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

**ACTIVE PLATING
411 E POMONA ST
SANTA ANA, CA. 92705**

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
D. Vesely

B. Received by (Printed Name) *D. Vesely* C. Date of Delivery *5/12/14*

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

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Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

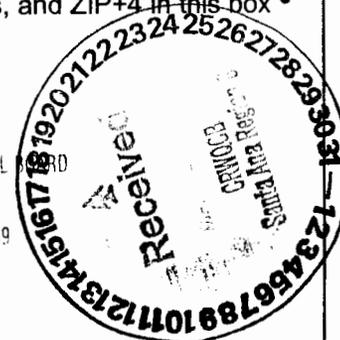
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SANTA ANA REGION
3737 MAIN ST. #500
RIVERSIDE, CA 92501-3339



RMR

05/13





EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

June 12, 2014

Active Plating
1411 E Pomona St.
Santa Ana, CA 92705

CERTIFIED MAIL
RETURN RECEIPT REQUIRED

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

SECOND NOTICE

Dear Mr. Korta:

As you are now aware, 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 process to storm water runoff. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), emphasizing Best Management Practices (BMP), designed to reduce/eliminate migration of sediment and other pollutants to storm drains and/or receiving waters.

A Notice of Non-Compliance was sent to Active Plating on May 8, 2014, via certified mail, requesting that the company file a Notice of Intent to obtain coverage under the General Permit by June 9, 2014. A Notice of Intent was not received by this deadline.

You are required to immediately obtain coverage under the General Permit. Failure to obtain coverage by July 7, 2014 will result in a minimum, mandatory penalty of \$5,000. Failure to submit the requested information may result in further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation and \$10 per gallon for discharges over 1,000 gallons

If you have any question, please contact Barbara Barry by phone at (951) 248-0375 or e-mail at Barbara.Barry@waterboards.ca.gov.

Sincerely,

Michelle R. Beckwith, Chief
Coastal Storm Water Unit

enclosures: Notice of Non-Compliance, dated 5/8/2014

cc w/o enclosures: OC Public Works – Richard Boon
City of Santa Ana, NPDES Coordinator – Tyrone Chesanek

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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

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EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Santa Ana Regional Water Quality Control Board

May 8, 2014

Active Plating
1411 E Pomona St
Santa Ana, CA 92705

CERTIFIED MAIL
RETURN RECEIPT REQUIRED

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

Dear Mr. Korta:

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 process to storm water runoff. Further, the General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), emphasizing Best Management Practices (BMP), designed to reduce/eliminate migration of sediment and other pollutants to storm drains and/or receiving waters.

It has come to our attention that Active Plating is operating a facility in the City of Santa Ana at 1411 East Pomona Street and is engaged in plating activities. This activity is best described under Standard Industrial Classification (SIC) Code 3471 – Electroplating, Plating, Polishing, Anodizing, and Coloring. The General Permit requires that facilities engaged in certain facilities, described by SIC Code, obtain coverage where industrial materials or processes are exposed to storm water. On May 7, 2014, Regional Board staff conducted an inspection of your facility and the following observations were made:

- This facility is not currently covered under the General Permit; and,
- Numerous drums, pallets, equipment, and other materials were observed throughout the facility without spill prevention BMPs. Adequate BMPs are not being implemented which may result in the commingling of pollutants with storm water and non-storm water flows and the offsite discharge of pollutants to nearby storm drains.

Based on Regional Board staff observations this letter is to notify you that this facility requires coverage under the General Permit. To comply with the General Permit:

- A Notice of Intent (NOI) must be filed with the State Water Resources Control Board (http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmnt.pdf);
- A Storm Water Pollution Prevention Plan (SWPPP) must be developed, be fully implemented, and a copy must be maintained at the facility at all times and the plan must be implemented; and,

WILLIAM RUH, CHAIR | KURT V. BERCHTOLD, EXECUTIVE OFFICER

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

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- A spill kit must be obtained and stored nearby to hazardous materials. Staff should also be trained on how to use the spill kit to appropriately clean spills.

This site is currently in violation of the General Permit, the California Water Code and the federal Clean Water Act. Failure to immediately obtain coverage under the enclosed General Permit requirements will result in a mandatory minimum penalty of \$5,000 under Section 13399.33 (a) (1) of the California Water Code. You must submit your NOI by June 9, 2014. Failure to submit the requested information may result in further enforcement action, including civil monetary penalties of up to \$10,000 for each day of violation.

If you have any question, please contact Barbara Barry by phone at (951) 248-0375 or e-mail at Barbara.Barry@waterboards.ca.gov.

Sincerely,



Michelle R. Beckwith, Chief
Coastal Storm Water Unit

cc: OC Public Works – Richard Boon
City of Santa Ana, NPDES Coordinator – Souri Amirani

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City **SANTA ANA, CA. 92705**



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06/17



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1. Article Addressed to:

ACTIVE PLATING
1411 E POMONA ST.
SANTA ANA, CA. 92705

2. 7012 0470 0002 5059 7649

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A. Signature Agent
x. D Vesely Address

B. Received by (Printed Name) Date of Delivery
D Vesely *6-16-14*

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3. Service Type
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 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Call Log – July 3rd, 1:25pm

I called Mr. Korta and asked him if he had received the two Notices of Noncompliance. He said he had. I said that if he did not submit his Notice of Intent to State Board that he would be subject to fines. He said OK, and asked for my email and phone #. He said he would take care of it this weekend, and I said that he could contact me if he needed any help.

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Ser 1411 EAST POMONA STREET

Str SANTA ANA, CA. 92705

or

Cit