



Linda S. Adams
Secretary for
Environmental Protection

California Regional Water Quality Control Board San Diego Region

Supporting Document No. 7

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Arnold Schwarzenegger
Governor

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August 1, 2006

CERTIFIED-RETURN RECEIPT REQUESTED
7003 1680 0000 7397 7141

Mr. Gil Lackritz
Excellent Coatings Inc.
1285 Distribution Way
Vista, California 92081-8817

In reply refer to:
CA:10-0019114.02:Rstewart

Dear Mr. Lackritz

REGIONAL BOARD HEARING: ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R9-2006-0077

This letter is in response to your letter dated July 21, 2006. We understand that you wish to have a public hearing on Administrative Civil Liability (ACL) Complaint No. R9-2006-0077, in which the Regional Board alleges that you failed to submit the annual storm water monitoring report for Fiscal Year 2004-05.

We further understand you are not refuting the failure to submit the report, but hope to plea for a reduced penalty based on personal hardships experienced by several key personnel and an extreme negative cash flow which will be exacerbated by a monetary penalty.

The hearing has been scheduled as Item No. 18 at the Regional Board's August 16, 2006 meeting. The meeting begins at 9:00 a.m. We cannot estimate the start time of any of the agenda items. The Regional Board generally conducts agenda items in consecutive order.

In order for the Regional Board to fully understand the facts of the case and the merits of your defense, it is necessary to request specific information regarding your position. These include:

Personnel Issues: The following is a description of the information necessary to determine the personnel hardships claimed as part of your defense:

1. Number of employees at the facility during the reporting period (July 1, 2004 - June 30, 2005).
2. An organization chart identifying personnel involved in environmental compliance.
3. Identification and documentation of key personnel's departure.

4. Identification of employees with personal hardships and length of time these hardships kept employees from duties related to environmental compliance.

Financial Hardship: The discharger has the burden of proof of demonstrating lack of ability to pay and must provide the information needed to support this position.

If there is strong evidence that administrative civil penalties would result in widespread hardship to the service population or undue hardship to the discharger, it may be reduced on the grounds of ability to pay. This adjustment can be used to reduce the administrative civil liability to an amount that the discharger can reasonably pay and still bring operations into compliance. The Regional Board may also consider increasing penalties to assure that the enforcement action would have a similar deterrent effect for a business or public agency that has a greater ability to pay.

The following is a description of the financial information needed to determine your ability or inability to pay for penalties or related environmental expenditure.

For a corporation please submit the following documentation:

1. Federal income tax returns for the last three years, specifically:
 - IRS Form 1120 for C Corporations
 - IRS Form 1120 S for S Corporations
 - IRS Form 1065 for partnerships
2. A completed and signed IRS Form 8821. This allows IRS to provide the Regional Board with a summary of the firm's tax returns that will be compared to the submitted income tax returns. This prevents the submission of fraudulent tax returns.
3. The following information can be substituted if income tax returns cannot be made available:
 - Audited Financial Statements for last three years;
 - A list of major accounts receivable with names and amounts;
 - A list of major accounts payable with names and amounts;
 - A list of equipment acquisition cost and year purchased;
 - Ownership in other companies and percent of ownership for the last three years;
 - Income from other companies and amounts for the last three years.

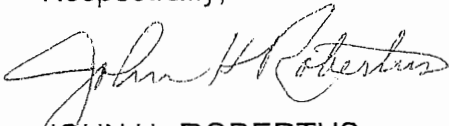
In addition to the above requested information, please complete and return the attached questionnaire. The information must be submitted to the Regional Board no later than **12:00 p.m. on August 10, 2006** to provide sufficient time to review prior to the public hearing. All information must be submitted with the signed certification below:

Under penalties of perjury, I declare that this financial statement submitted by me as a responsible officer of the organization is a true, correct, and complete statement of all organization income and assets, real and personal, whether held in the company name or otherwise to the best of my knowledge and belief. I further understand that I will be subject to prosecution by the United States Government to the fullest extent possible under the law should I provide any information that is not true, correct, and complete to the best of my knowledge.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding this matter please contact Rebecca Stewart at (858) 467-2966 or via e-mail at RStewart@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

JHR:mpm:mja:rls

Enclosure: Financial Data Request Form

Financial Data Request Form

(Use Additional Sheets Where Needed)

- 1. Business Name: _____
- 2. For Profit Not for Profit
- 3. Business Address: _____
Street

City State Zip

NOTE: Attach Schedule of all Business Addresses

- 4. Foreign Domestic
- 5. Legal Form of Business Organization during the last 5 years
 Corporation Proprietorship
 Subchapter S Corporation Partnership
 Trust Other:

- 6. State of Incorporation _____ Date of Incorporation _____
- 7. Name of Registered Agent: _____
- 8. Address of Registered Agent: _____
Street

City State Zip

Phone Number (with area code)