CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

In the matter of:

Excellent Coatings, Inc.
1285 Distribution Way
Vista, CA 92081-8817

WDID No. 9 37I019114

Complaint No. R9-2006-0077
for
Administrative Civil Liability

June 6, 2006

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Excellent Coatings, Inc., located at 1285 Distribution Way, Vista, California, is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to Section 13399.3 of the California Water Code (CWC).

2. On October 26, 2004 Excellent Coatings, Inc. submitted a Notice of Intent for coverage under Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (General Permit).

3. Order No. 97-03-DWQ requires the submittal of an annual monitoring report by July 1 of each year. Enrolled facilities are required to sample storm water runoff during two storm events per year.

ALLEGATIONS

4. Excellent Coating Inc. failed to submit the Fiscal Year (FY) 2004-05 annual monitoring report in violation of Monitoring and Reporting Requirement Section B.14 of Order No. 97-03-DWQ.

MAXIMUM LIABILITY

5. Section 13385(a)(2) of the California Water Code provides that any person who violates waste discharge requirements issued pursuant to the Federal Clean Water Act shall be civilly liable. Section 13385(c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars ($10,000) for each day of violation.

6. Based on non-submittal of the FY 2004-05 annual report, Excellent Coating Inc. is alleged to have violated the General Permit for 334 days

(from July 2, 2005 to May 31, 2006). The total maximum liability for this violation is $3,340,000.

7. Section 13399.33(c) of the California Water Code requires that the Regional Board impose a mandatory minimum penalty of $1,000 for any person who fails to submit an annual report in accordance with Section 13399.31 of the Water Code.

8. Section 13385(e) specifies factors that the Regional Board shall consider in establishing the amount of civil liability. These factors include: nature, circumstance, extent, and gravity of the violation, and, with respect to the discharger, the ability to pay, any prior history of violations, the degree of culpability, economic benefit or savings, if any, resulting from the violation, and other matters that justice may require. At a minimum, liability shall recover any economic benefit derived from the violation.

9. The FY 2004-05 annual report is the first report required to be submitted by Excellent Coatings Inc. since filing a Notice of Intent in October 2004. Failure to provide the annual report circumvents the regulations, deprives the Regional Board of knowledge of the facilities efforts to control storm water runoff, and removes an effective mechanism to determine which best management practices should be employed at an industrial facility to reduce or prevent pollutants in storm water discharges. Notices of Violation (NOVs) were issued to Excellent Coatings Inc. on August 5, 2005 and September 19, 2005 notifying the discharger that the annual report had not been submitted. By failing to respond to the NOVs, Excellent Coatings Inc. has exhibited a high degree of culpability with regards to this violation.

10. After consideration of the factors listed in paragraph 8, above, it is recommended that the Regional Board impose civil liability against Excellent Coatings Inc. in the amount of three thousand five hundred dollars ($3,500) for failure to submit the FY 2004-05 annual monitoring report.

Dated this sixth day of June 2006.

JOHN H. ROBERTUS
Executive Officer