California Regional Water Quality Control Board
Santa Ana Region

Terry Tamminen
Secretary for Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
(909) 782-4130 • Fax (909) 781-6288
http://www.swrcb.ca.gov/rwqcb8

Arnold Schwarzenegger
Governor

December 12, 2003

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Veeks
Inca Plastics Molding Company, Inc.
948 E. Belmont Street
Ontario, CA 91761-4549

MANDATORY PENALTY COMPLAINT NO. R8-2003-0133

Dear Mr. Veeks:

We are enclosing a certified copy of Complaint No. R8-2003-0133, proposing a mandatory penalty of $1,000 for violations of the California Water Code and the State's General Permit for Storm Water Discharges Associated with Industrial Activity, Order No. 97-03-DWQ, NPDES No. CAS000001. An invoice for this amount is also enclosed.

If necessary, a public hearing on this matter will be scheduled for the Regional Board meeting on January 22, 2004. The staff report regarding this complaint and the meeting agenda will be mailed to you not less than 10 days prior to the Board meeting.

You have the option to waive your right to a hearing. Should you waive your right to a hearing and pay the proposed assessment, the Regional Board may not hold a public hearing on this matter. If you choose to waive your right to a hearing, please sign the enclosed waiver form and submit the form with a check or money order for $1,000. The check or money order should be made payable to the State Water Resources Control Board. The waiver form, the bottom portion of the invoice and the check or money order should be mailed to Sacramento using the enclosed envelope. All other correspondence regarding this Complaint should be sent to this office at the address on this letterhead.

If you do not wish to waive your right to a hearing, a pre-hearing meeting with Board staff is recommended. Should you wish to schedule a pre-hearing meeting, please call us prior to January 5, 2004. At that time, you may submit information that may not have been previously available to staff regarding this matter.

If you have any questions regarding this complaint, you may contact Mary Bartholomew at (909) 321-4586 or Milasol Gaslan at (909) 782-4419. All legal questions should be referred to our legal counsel, Jorge Leon, at (916) 341-5180.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. R8-2003-0133, Waiver Form, Invoice, and envelope

cc: State Water Resources Control Board, Division of Water Quality – Bruce Fujimoto
State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
U.S. Environmental Protection Agency, Region 9 (WTR-7) – Kathi Moore
San Bernardino County, Storm Water Program, NPDES Coordinator – Naresh Varma
City of Ontario, NPDES Coordinator – Steve Wilson

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:	)	**Complaint No. R8-2003-133**
	)	**for**
Inca Plastics Molding Company, Inc.	)	**Mandatory Penalties**
948 E. Belmont Street	)	
Ontario, CA 91761-4549	)	
	)	
Attention: David Veeks	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.

2. A hearing concerning this Complaint will be held before the Board within ninety days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on January 22, 2004, at the City Council Chambers of Loma Linda. You or your 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 Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.

3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed Mandatory Penalties Complaint or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

4. Inca Plastics Molding Company, Inc. (hereinafter Inca Plastics Molding), located at 948 East Belmont Street in Ontario, is currently regulated under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The facility's WDID Number is 8 36I017417. The General Permit requires submittal of an annual report by July 1 of each year.

5. Prior to the July 1, 2003 deadline, a notice from the State Water Resources Control Board (SWRCB) was mailed to Inca Plastics Molding, indicating that a copy of the blank 2002-2003 Annual Report form could be accessed via the internet, and that a hard copy would only be mailed if requested. Because the annual report was not received by Board staff by the July 1, 2003 deadline, a Notice of Non-Compliance (NNC) was issued to Inca Plastics Molding, by certified mail, on August 1, 2003. The return receipt showed it was received on August 1, 2003. When Board staff received no response to the first NNC, a second NNC was issued on September 17, 2003, again by certified mail, and was received on

September 18, 2003. In the second NNC, Board staff requested submittal of the completed annual report by October 18, 2003. In both NNCs, Board staff requested submittal of the annual report, a statement explaining why the annual report was not submitted by the July 1 deadline, and the measures that would be taken to ensure that future annual reports are submitted on time. Both NNCs also identified the mandatory minimum penalty for failure to submit the annual report.

6. On October 20, 2003, Board staff called Inca Plastics Molding and left a telephone message for Mr. Veeks to remind him about the annual report and about the mandatory penalties for non-submittal of the annual report. On October 21, 2003, Board staff spoke to Bill O'Dell who indicated the annual report was mailed to the Regional Board. The annual report was received in this office on November 5, 2003. This facility violated the General Permit, the Federal Clean Water Act and the California Water Code by failing to submit the annual report by July 1, 2003.

7. 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 the violation occurs.

8. Based on non-submittal of the 2002-2003 Annual Report, the facility is alleged to have violated the General Permit for 126 days (from July 1, 2003 to November 5, 2003, excluding both days). The total maximum liability for this violation is $1,260,000.

9. 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.

10. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that the mandatory minimum penalty of $1,000 be imposed on the facility for the violation cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board for $1,000. The bottom portion of the invoice, the waiver form, and the check or money order should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Mary Bartholomew at (909) 321-4586 or Milasol Gaslan at (909) 782-4419. For legal questions, contact the Regional Board's staff counsel, Jorge Leon at (916) 341-5180.

12-12-03
Date

Gerard J. Thibeault
Executive Officer

In the matter of:	)	**Complaint No. R8-2003-133**
	)	**for**
Inca Plastics Molding Co., Inc.	)	**Mandatory Penalties**
948 E. Belmont Street	)	
Ontario, CA 91761-4549	)	
	)	
Attention: David Veeks	)	

WAIVER OF HEARING

I agree to waive the right of Inca Plastics Molding Company, Inc., to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0133.

I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of $1,000. I understand that I am giving up the right of Inca Plastics Molding Company, Inc., to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

_____ _____

Date for Inca Plastics Molding Company, Inc.