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November 19, 2019

Lubricating Specialties Attn: Karen Potikyan, Director of Operations 8015 Paramount Blvd Pico Rivera, CA 90660	Lubricating Specialties Company c/o Sydney Thwaites, Agent for Service of Process 8015 Paramount Blvd Pico Rivera, CA 90660
Lubricating Specialties Attn: Karen Potikyan 3365 E Slauson Ave Vernon, CA 90058	Lubricating Specialties Company Attn: General Counsel 8015 Paramount Blvd Pico Rivera, CA 90660
Administrator U.S. Environmental Protection Agency Mail Code: 1101A 1200 Pennsylvania Avenue, N.W. Washington, DC 20460	Executive Officer Regional Water Quality Control Board Los Angeles Region 320 West Fourth Street, Suite 200 Los Angeles, CA 90013
Acting Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA 94105	Executive Director State Water Resources Control Board 1001 I Street Sacramento, CA 95814

Re: Notice of Violation and Intent to File Suit under the Clean Water Act

To Whom It May Concern:

Brodsky & Smith, LLC ("Brodsky Smith") represents [redacted] a citizen of the State of California. This letter is to give notice that Brodsky Smith, on Hall's behalf, intends to file a civil action against Lubricating Specialties Company d/b/a Lubricating Specialties ("Lubricating Specialties") for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at Lubricating Specialties' facility located at 3365 E Slauson Ave, Vernon, CA 90058 (the "Facility").

[redacted] is a citizen of the State of California who is concerned with the environmental health the Los Angeles River, and uses and enjoys the waters of the Los Angeles River, its inflows, and other areas of the overall Los Angeles River Watershed, of which the Los Angeles River is a part. [redacted]s use and enjoyment of these waters are negatively affected by the pollution caused by Lubricating Specialties' operations. Additionally, [redacted]acts in the interest of the general public to prevent pollution in these waterways, for the benefit of their ecosystems, and for the benefits of all individuals and communities who use these waterways for various recreational, educational, and spiritual purposes.

This letter addresses Lubricating Specialties' unlawful discharge of pollutants from the Facility via indirect flow into the Los Angeles River and the overall Los Angeles River Watershed.[1] Specifically, investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the National Pollutant Discharge Elimination System ("NPDES") General Permit No CAS000001 [State Water Resources Control Board] Water Quality Orders No. 2014-0057-DWQ (the "Industrial Stormwater Permit" or the "IGP") and 92-12-DWQ (as amended by Order No. 97-03-DWQ) (the "Previous Industrial Stormwater Permit").[2]

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to Lubricating Specialties of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and the Intent to File Suit, Personal privacy Ex. (b)(6) intends to file suit in federal court against Lubricating Specialties under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Personal privacy Ex. (b)(6) is willing to discuss effective remedies for the violations noticed in this letter. We suggest that Lubricating Specialties contact Personal privacy Ex. (b)(6) s attorneys at Brodsky & Smith within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court, and service of the complaint shortly thereafter, even if discussions are continuing when the notice period ends.

I. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility

Lubricating Specialties' Facility is located at 3365 E Slauson Ave, Vernon, CA 90058. At the Facility, Lubricating Specialties operates as a contract blender and packager of lubricating oils and greases. At the Facility, the following industrial activities occur: (i) blending lubricating oils; (ii) blending greases; (iii) packaging lubricating oils; (iv) packaging greases; (v) liquid storage; (vi) warehousing; (vii) distribution; and (viii) export services. Other activities carried out in the regular course of business at the facility include storage of fuel and other oils, maintenance, equipment storage, and waste storage. Repair and maintenance activities carried out at the facility include, but are not limited to, electrical, plumbing, roofing, asphalt, concrete, and utilities repairs as well as janitorial duties. Possible pollutants from the Facility include total suspended solids ("TSS"), waste oils, lubricants, fuel, trash, debris, hazardous materials, oil and grease ("O&G"), pH, heavy metals such as zinc, as well as other pollutants. Stormwater from the Facility discharges, indirectly, into the Los Angeles River and overall Los Angeles River Watershed.

B. The Affected Water

The Los Angeles River and overall Los Angeles River Watershed are waters of the United States. The CWA requires that water bodies such as the Los Angeles River and overall Los Angeles River Watershed meet water quality objectives that protect specific "beneficial uses." The beneficial uses of the Los Angeles

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[1] Lubricating Specialties' Notice of Intent ("NOI") filed with the Los Angeles Regional Water Quality Control Board ("LARWQCB") lists the receiving waters of the Facility as the "Los Angeles River" via indirect flow. Upon investigation, it is Personal privacy Ex. (b)(6) s knowledge and belief that the most immediate receiving water of the Facility is the Los Angeles River, via indirect flow, which thereafter ultimately flows downriver and reaches the Pacific Ocean.

[2] On April 1, 2014, the State Water Resources Control Board adopted an updated NPDES General Permit for Discharges Associated with Industrial Activity, Water Quality Order No. 2014-57-DWQ, which has taken force or effect on its effective date of July 1, 2015. As of the effective date, Water Quality Order No. 2014-57-DWQ has superseded and rescinded the prior Industrial Stormwater Permit except for purposes of enforcement actions brought pursuant to the prior permit.

River and overall Los Angeles River Watershed include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the Los Angeles River and overall Los Angeles River Watershed, and threatens the beneficial uses and ecosystem of these watersheds, which includes habitats for threatened and endangered species.

II. THE FACILITY'S VIOLATIONS OF THE CLEAN WATER ACT

It is unlawful to discharge pollutants to waters of the United States, such as the Los Angeles River and overall Los Angeles River Watershed, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

Lubricating Specialties has submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit since as early as 1992. However, information available to Hall indicates that stormwater discharges from the Facility have violated several terms of the Industrial Stormwater Permit and the CWA. Apart from discharges that comply with the Industrial Stormwater Permit, the Facility lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

A. Discharges in Excess of BAT/BCT Levels

The Effluent Limitations of the Industrial Stormwater Permit prohibit the discharge of pollutants from the facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants[3] and best conventional pollutant control technology ("BCT") for conventional pollutants.[4] Industrial Stormwater Permit § I(D)(32), II(D)(2); Previous Industrial Stormwater Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum pollutant concentration present if an industrial facility is employing BAT and BCT, as listed in Attachment 1 to this letter.[5] These benchmark values are reiterated and incorporated into the Industrial Stormwater Permit. *See* Industrial Stormwater Permit § XI(B) Tables 1-2.

Additionally, the Previous Industrial Stormwater Permit notes that effluent limitation guidelines for several named industrial categories have been established and codified by the Federal Government. *See* Previous Industrial Stormwater Permit pp. VIII. The Previous Industrial Stormwater Permit mandates that for facilities that fall within such industrial categories, compliance with the listed BAT and BCT for the specified pollutants listed therein must be met in order to be in compliance with the Previous Industrial Stormwater Permit. *Id.* Lubricating Specialties falls within these named industrial categories and it must have complied with the effluent limitations found therein in order to have been in compliance with the Previous Industrial Stormwater Permit during its effective period. In addition, the Industrial Stormwater Permit requires dischargers to comply with Effluent Limitations "consistent with U.S. EPA's Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "MSGP")". *See* Industrial Stormwater Permit § I(D)(33). The MSGP has specific numeric effluent limitations based upon Standard Industrial Classification ("SIC") codes. Furthermore, these SIC code based benchmark values are

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[3] BAT is defined at 40 C.F.R. § 437.1 *et seq.* Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

[4] BCT is defined at 40 C.F.R. § 437.1 *et seq.* Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

[5] The Benchmark values are part of the EPA's Multi-Sector General Permit ("MSGP") and can be found at: https://www.epa.gov/npdes/final-2015-msgp-documents.

reiterated and incorporated into the Industrial Stormwater Permit. *See* Industrial Stormwater Permit § XI(B) Tables 1-2.[6] Notably, Lubricating Specialties is classified as falling under SIC Code 5171, relating to Petroleum Bulk Stations and Terminals, and SIC Code 2992, relating to Lubricating Oils and Greases, requiring it to be within numerical effluent limitations for (i) pH; (ii) Oil and Grease; and (iii) Total Suspended Solids. Lubricating Specialties also tests for the pollutant parameters of (iv) Zinc and (v) Lead. Based on Lubricating Specialties' self-reporting data and/or lack thereof, Lubricating Specialties has not met this requirement and was in violation of the Previous Stormwater Permit over a period of approximately at least the past five (5) years.

Lubricating Specialties' self-reporting of industrial stormwater discharges and/or lack thereof show a pattern of exceedances of Benchmark values and/or a failure to adequately monitor numerical pollutant discharge values in every instance of self-reporting. *See* Attachment 2. This pattern of a exceedances of benchmark values and/or a lack of self-reporting indicate that Lubricating Specialties has failed and is failing to employ measures that constitute BAT and BCT in violation of the requirements of the Industrial Stormwater Permit and Previous Industrial Stormwater Permit. Hall alleges and notifies Lubricating Specialties that its stormwater discharges from the Facility have consistently contained and continue to contain levels of pollutants that exceed benchmark values for Zinc, including annual and/or instantaneous NAL overages for such parameters within the last five (5) annual reporting periods.

Lubricating Specialties' ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT and BCT based levels of control also demonstrate that Lubricating Specialties has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility. Proper BMPs could include, but are not limited to, moving certain pollution-generating activities under cover or indoors capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce build-up of pollutants on-site, installing filters on downspouts and storm drains, and other similar measures.

Lubricating Specialties' failure to develop and/or implement adequate pollution controls to meet BAT and BCT and the Facility violates and will continue to violate the CWA and the Industrial Stormwater Permit each and every day Lubricating Specialties' discharges stormwater without meeting BAT/BCT. Personal privacy Ex. (b)(6) alleges that Lubricating Specialties has discharged stormwater containing excessive levels of pollutants from the Facility to the Los Angeles River and overall Los Angeles River Watershed during at least every significant local rain event over 0.1 inches in at least the last five (5) years.[7] Attachment 3 compiles all dates in at least the last five (5) years when a significant rain event occurred. Lubricating Specialties is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within at least the past five (5) years.

B. Discharges Impairing Receiving Waters

The Industrial Stormwater Permit's Discharge Prohibitions disallow stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* Industrial Stormwater Permit § III; Previous Industrial Stormwater Permit, Order Part A(2). The Industrial Stormwater Permit also prohibits stormwater discharges to surface or groundwater that adversely impact human health or the environment. *See* Industrial Stormwater Permit § VI(b)-(c); Previous Industrial Stormwater Permit, Order Part C(1). Receiving Water Limitations of the Industrial Stormwater Permit prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards ("WQS") contained in a Statewide Water Quality Control Plan or the applicable Regional Water Board's Basin Plan. *See* Industrial Stormwater Permit § VI(a); Previous Industrial Stormwater Permit at Order Part C(2). Applicable WQS are set forth in

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[6] Of note, Lubricating Specialties acknowledges this requirement in their most current Stormwater Pollution Prevention Plan ("SWPPP"), at Section "Monitoring Implementation Plan", at Table 3, p 21.

[7] Significant local rain events are reflected in the rain gauge data available at: http://www.ncdc.noaa.gov/cdo-web/search.

the California Toxic Rule ("CTR")[8] and Chapter 3 of the Los Angeles Region (Region 4) Water Quality Control Plan (the "Basin Plan").[9] Exceedances of WQS are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan establishes WQS for all Inland Surface and Coastal waters of Los Angeles and Ventura Counties, including but not limited to the following:

- Waters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial users.

- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in natural turbidity attributable to controllable water quality factors shall not exceed 20% where natural turbidity is between 0 and 50 nephelometric turbidity units ("NTU"), and shall not exceed 10% where the natural turbidity is greater than 50 NTU.

- All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life.

- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.

Personal privacy Ex. (b)(6) alleges that Lubricating Specialties' stormwater discharges have caused or contributed to exceedances of Receiving Water Limitations in the Industrial Stormwater Permit and the WQS set forth in the Basin Plan and CTR. These allegations are based on Lubricating Specialties' self-reported data submitted to the Los Angeles Regional Water Quality Control Board. These sampling results indicate that Lubricating Specialties' discharges are causing or threatening to cause pollution, contamination, and/or nuisance; adversely impacting human health or the environment; and violating applicable WQS.

Personal privacy Ex. (b)(6) alleges that each day that Lubricating Specialties has discharged stormwater from the Facility, Lubricating Specialties' stormwater has and/or may have contained levels of pollutants that exceeded one or more of the Receiving Water Limitations and/or applicable WQS in the Los Angeles River and overall Los Angeles River Watershed. Personal privacy Ex. (b)(6) alleges that Lubricating Specialties has discharged stormwater exceeding Receiving Water Limitations and/or WQS from the Facility to the Los Angeles River and overall Los Angeles River Watershed during at least every significant local rain event over 0.1 inches in the last five (5) years. *See* Attachment 3. Each discharge from the Facility that violates a Receiving Water Limitation or has caused or contributed, or caused or contributes, to an exceedance of an applicable WQS constitutes a separate violation of the Industrial Stormwater Permit and the CWA Lubricating Specialties is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within at least the past five (5) years.

C. Failure to Develop and Implement an Adequate Stormwater Pollution Prevention Plan

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP"). *See* Industrial Stormwater Permit, § X(B); Previous Industrial Stormwater Permit § A(1)(a). The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. *See* Industrial Stormwater Permit, § X(B); Previous Industrial Stormwater Permit at Order Part E(2).

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[8] The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31, 682 (May 18, 2000).

[9] The Basin Plan is published by the Los Angeles Regional Water Quality Control Board at: http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.s html.

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all Lubricating Specialties pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *See* Industrial Stormwater Permit, § X(A); Previous Industrial Stormwater Permit Section § A.

Based on information available to Personal privacy Ex. (b)(6), Lubricating Specialties has failed to prepare and/or implement an adequate SWPPP and/or failed to revise the SWPPP to satisfy each of the requirements of § X(A) of the Industrial Stormwater Permit and/or § A Previous Industrial Stormwater Permit. For Example, Lubricating Specialties' SWPPP does not include and/or Lubricating Specialties has not implemented adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with Section A(8) of the Industrial Stormwater Permit, as evidenced by the data in Attachment 2. For example, Lubricating Specialties has clearly failed to create and implement an adequate BMPs as reflected by the repeated NAL exceedances of the pollutant parameter of Zinc in the last five (5) reporting periods. Additionally, Lubricating Specialties' SWPPP does not include and/or Lubricating Specialties has not implemented an adequate Monitoring and Reporting Program, as evidenced by its lack of proper testing of requisite amount of Qualifying Storm Events every year for the past five (5) annual reporting periods.

Accordingly, Lubricating Specialties has violated the CWA each and every day that it has failed to develop and/or implement an adequate SWPPP meeting all of the requirements of § X(A) of the Industrial Stormwater Permit and/or § A Previous Industrial Stormwater Permit, and Lubricating Specialties will continue to be in violation every day until it develops and implements an adequate SWPPP. Lubricating Specialties is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within at least the past five (5) years.

D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program and to Perform Annual Comprehensive Site Compliance Evaluations

The Industrial Stormwater Permit requires facility operators to develop and implement a Monitoring and Reporting Program ("MRP"). *See* Industrial Stormwater Permit, § XI; Previous Industrial Stormwater Permit § B(1) and Order Part E(3). The Industrial Stormwater Permit requires that MRP ensure that each the facility's stormwater discharges comply with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit. *Id.* Facility operators must ensure that their MRP practices reduce or prevent pollutants in stormwater and authorized non-stormwater discharges as well as evaluate and revise their practices to meet changing conditions at the facility. *Id.* This may include revising the SWPPP as required by § X(A) of the Industrial Stormwater Permit and/or §A Previous Industrial Stormwater Permit.

The MRP must measure the effectiveness of BMPs used to prevent or reduce pollutants in stormwater and authorized non-stormwater discharges, and facility operators must revise the MRP whenever appropriate. *See* Industrial Stormwater Permit, § XI; Previous Industrial Stormwater Permit § at Section B. The Industrial Stormwater Permit requires facility operators to visually observe and collect samples of stormwater discharges from all drainage areas. *Id.* Facility operators are also required to provide an explanation of monitoring methods describing how the facility's monitoring program will satisfy these objectives. *Id.*

Lubricating Specialties has been operating the Facility with an inadequately developed and/or inadequately implemented MRP, in violation of the substantive and procedural requirements set forth in Section B of the Industrial Stormwater permit. For example, the data in Attachment 2 indicates that Lubricating Specialties' monitoring program has not ensured that stormwater dischargers are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of the Industrial Stormwater Permit as required by the Industrial Stormwater Permit, § XI and/or the Previous Industrial Stormwater Permit § B. The monitoring has not resulted in practices at the Facility that adequately reduce or prevent pollutants in stormwater as required by Industrial Stormwater Permit, § XI and/or the Previous

Industrial Stormwater Permit § B. Additionally, the Industrial Stormwater Permit requires dischargers to comply with Effluent Limitations "consistent with U.S. EPA's Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "MSGP")". The MSGP has specific numeric effluent limitations based upon Standard Industrial Classification ("SIC") codes. Furthermore, these SIC code based benchmark values are reiterated and incorporated into the Industrial Stormwater Permit. *See* Industrial Stormwater Permit § XI(B) Tables 1-2. Notably, Lubricating Specialties is classified as falling under SIC Code 5171, relating to Petroleum Bulk Stations and Terminals, and SIC Code 2992, relating to Lubricating Oils and Greases, requiring it to be within numerical effluent limitations for (i) pH; (ii) Oil and Grease; and (iii) Total Suspended Solids. Lubricating Specialties also tests for the pollutant parameters of (iv) Zinc and (v) Lead. As previously stated, and in clear violation of the terms of the Industrial Stormwater Permit, Lubricating Specialties has consistently reported benchmark exceedances and/or failed to report testing results for any applicable effluent limitation in their annual reports for the past five (5) annual reporting periods. *See* Attachments 2, 3. Therefore, the data in Attachment 2 indicates that Lubricating Specialties' monitoring program has not effectively identified or responded to compliance problems at the Facility or resulted in effective revision of the BMPs in use or the Facility's SWPPP to address such ongoing problems as required by Industrial Stormwater Permit, § XI and/or the Previous Industrial Stormwater Permit § B.

As a part of the MRP, the Industrial Stormwater Permit specifies that Facility operators shall collect a total of four (4) stormwater samples throughout an annual reporting period. Specifically the Industrial Stormwater Permit requires, "The discharger to collect and analyze samples from two (2) Qualifying Storm Events ("QSEs") within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30)." Industrial Stormwater Permit § XI B(2).[10] Furthermore, should facility operators fail to collect samples from the first storm event of the wet season, they are still required to collect samples from two other storm events during the wet season, and explain in the annual report why the first storm event was not sampled. *Id.* Despite this requirement Lubricating Specialties has failed to submit any QSEs whatsoever for the current 2019-2020 or the 2018-2019 annual reporting periods, has submitted only two (2) QSEs for the 2017-2018 and 2016-2017 annual reporting periods, and has only submitted testing for three (3) QSEs for 2015-2016 annual reporting period, in violation of the requirements under the Industrial Stormwater Permit. Moreover, the testing data submitted for several of the QSEs are deficient, with frequent lapses in submitting the required parameter of pH in all years in which testing was submitted and a failure to submit any testing data for Zinc or Lead in the 2015-2016 annual reporting period. Lubricating Specialties has not submitted adequate explanations for such inadequate and insufficient data.

The Industrial Stormwater Permit also requires dischargers to include laboratory reports with their Annual Reports submitted to the Regional Board. *See* Industrial Stormwater Permit, Fact Sheet § O and/or Previous Industrial Stormwater Permit § B(14). Notably, Lubricating Specialties has failed to submit laboratory reports for has failed to submit any laboratory reports for QSEs during for the current 2019-2020 or the 2018-2019 annual reporting period, has submitted laboratory reports for only two (2) QSEs tested in the 2017-2018 and 2016-2017 annual reporting periods, and has submitted laboratory reports for only one (3) QSEs testing in the 2015-2016 annual reporting period, in violation of the requirements of the Industrial Stormwater Permit. Lubricating Specialties has not submitted adequate explanations for such missing data.

As a result of Lubricating Specialties' failure to adequately develop and/or implement an adequate MRP at the Facility, Lubricating Specialties has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day for at least the past five (5) years. These violations are ongoing. Lubricating Specialties will continue to be in violation of the monitoring and reporting requirement each day that Lubricating Specialties fails to adequately develop and/or implement an effective MRP at the Facility. Lubricating Specialties is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for at least the last five (5) years.

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[11] Under the Previous Industrial Stormwater Permit, only two samplings per year was required, specifically, from "the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season." *See* Previous Industrial Stormwater Permit § B(5)(a). Of note, Lubricating Specialties acknowledge this requirement in their most current SWPPP, at § 8.1.3, p 19.

E. Failure to Comply with Level 1 and Level 2 Exceedance Response Action Requirements

When the Industrial Stormwater Permit became effective on July 1, 2015, all permitted facilities were placed into "baseline status" for all parameters listed in Table 2 of the Industrial Stormwater Permit. Industrial Stormwater Permit § XII(B). Permitted facilities are placed into "Level 1 Status" if sampling indicates that an annual or instantaneous NAL exceedance for an applicable pollutant parameter has occurred. Industrial Stormwater Permit § XII(C). Level 1 status commences on July 1 following the reporting year during which the NAL exceedance(s) occurred, and the discharger enters the Exceedance Response Action ("ERA") process. *Id.* The ERA process requires the discharger to conduct an evaluation, assisted by a Qualified Industrial Storm Water Practitioner (a "QISP"), of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s) by October 1 following the commencement of Level 1 Status. *Id.* The evaluation must also include the identification of the "corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to prevent future NAL exceedances and to comply with the requirements of the General Permit." *Id.* Furthermore, the Industrial Stormwater Permit states, "Although the evaluation may focus on the drainage areas where the NAL exceedance(s) occurred, all drainage areas shall be evaluated." *Id.* If such remediation is not effective, and NAL exceedances for the affected pollutant parameter occurs for a second consecutive annual reporting period, the Facility is placed into "Level 2" status, requiring further remediation, analysis, reporting, and action. *Id.*

Based upon Level 1 and Level 2 status evaluations, a discharger is required, as soon as practicable but no later than January 1 following the commencement of Level 1 or Level 2 status, to prepare a Level 1 ERA Report or Level 2 ERA Action Plan, as applicable. Industrial Stormwater Permit § XII(C)(2). The Level 1 ERA Report and/or Level 2 ERA Action Plan must be prepared by a QSIP and include a summary of the Level 1 and/or Level 2 ERA evaluation(s) and a detailed description of the SWPPP revisions and any additional BMPs for each parameter that exceeded an NAL. *Id.* The SWPPP revisions and additional BMP development and implementation must also be completed by January 1 following the commencement of Level 1 and/or Level 2 status, and the Level 1 or Level 2 status discharger is required to submit via SMARTS the Level 1 ERA Report or Level 2 ERA Action Plan certifying the evaluation has been conducted, and SWPPP revisions and BMP implementation have been completed. *Id.* The certification is also required to provide the QISP's identification number, name, and contact information no later than January 1 following commencement of level 1 status. *Id.*

A permitted discharger's Level 1 status for a parameter will return to Baseline status if a Level 1 ERA Report or Level 2 ERA Action Plan has been completed, all identified additional BMPs have been implemented, and results from four (4) consecutive QSEs that were sampled subsequent to BMP implementation indicate no additional NAL exceedances for that parameter. Industrial Stormwater Permit § XII(C)(2)(b). A permitted discharger will enter "Level 2 status" if there are any NAL exceedances for the same parameter when the discharger is in Level 1 status. Industrial Stormwater Permit § XII(D). Upon entry into Level 2 status, a discharger shall submit a Level 2 ERA Action Plan by January 1 following the reporting year during which NAL exceedance(s) occurred placing the discharger into Level 2 Status. *Id.* Additionally, a permitted discharger in Level 2 Status is required to submit a Level 2 ERA Technical Report on January 1 of the reporting year following the submittal of the Level 2 ERA Action Plan, which shall include, amongst other things a summary and report of the implemented BMPs implemented and their effect on pollution reduction. *Id.*

Lubricating Specialties Facility had NAL annual average exceedances for Zinc during the 2016-2017 and 2017-2018 Annual Reporting periods that resulted in Level 2 status for that pollutant parameter at the Facility. Notably, following this NAL overage, it does not appear that Lubricating Specialties has properly submitted a Level 2 ERA Action Plan which would have been due to be completed by January 1, 2019.[11] In sum, rather than conducting a thorough evaluation to identify the BMPs in the SWPPP that correspond to the NAL exceedances at the Facility, and identify what additional BMPs are needed to prevent

[11] A Level 2 ERA Action Plan must be Submitted by "January 1 following commencement of Level 2 Status for any parameter with sampling results indicating an NAL Exceedance" *See*, IGP §XII(D)(1)(a).

future NAL exceedances, Lubricating Specialties failed to submit a Level 2 ERA Action Plan and did not comply with the Industrial Stormwater Permit and has led to further NAL overages.

As a result of Lubricating Specialties' failure to adequately develop, implement, and/or submit adequate Level 1 ERA Report, Level 2 ERA Action Plans, and/or Level 2 ERA Technical Reports at the Facility, Lubricating Specialties has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA each and every day since January 1, 2019, continuing a pattern of violations stretching back at least five (5) years. These violations are ongoing. Lubricating Specialties will continue to be in violation of the monitoring and reporting requirement each day that Lubricating Specialties fails to adequately develop and/or implement an effective Level 2 ERA Action Plan at the Facility. Lubricating Specialties is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

F. Unpermitted Discharges

Section 301(a) of the CWA prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES Permit issued pursuant to Section 402 of the CWA. *See* 33 U.S.C. §§ 1311(a), 1342. Lubricating Specialties sought coverage for the Facility under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." Industrial Stormwater Permit, § III; Previous Industrial Stormwater Permit, Order Part A(1). Because Lubricating Specialties has not obtained coverage under a separate NPDES permit and has failed to eliminate discharges not permitted by the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA Permit coverage in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a)

IV. PERSON RESPONSIBLE FOR THE VIOLATIONS

Lubricating Specialties Company d/b/a Lubricating Specialties are the persons responsible of the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

Personal privacy Ex. (b)(6)
[redacted]

VI. COUNSEL

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VII. REMEDIES

Personal privacy Ex. (b)(6) intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against Lubricating Specialties for the above-referenced violations. Personal privacy Ex. (b)(6) will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C.

§ 1365(a) and (d), and such other relief as permitted by law. In addition, Personal privacy Ex (b)(6) will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against Lubricating Specialties in this action. The CWA imposes civil penalty liability of up to $51,570 per day per violation for violations occurring after November 2, 2015, and $37,500 per day per violation for violations occurring after January 12, 2009 but before November 2, 2015. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Personal privacy Ex. (b)(6) will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Personal privacy Ex. (b)(6) and Person al Counsel are willing to meet with you during the 60-day notice period to discuss effective remedies for the violations noted in this letter. Please contact me to initiate these discussions.

Sincerely,

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ATTACHMENT 1: EPA BENCHMARKS AND WATER QUALITY STANDARDS FOR DISCHARGES TO FRESHWATER

EPA Benchmarks, Multi-Sector General Permit ("MSGP"), & IGP

Parameter	Units	Benchmark Value	Source
pH	pH Units	Less than 6.0 Greater than 9.0 (Instantaneous)	MSGP; Industrial Stormwater Permit § XI(B) Tables 1-2
Oil & Grease	Mg/L	25 (Instantaneous) 15 (Annual)	MSGP; Industrial Stormwater Permit § XI(B) Tables 1-2
Total Suspended Solids	Mg/L	400 (Instantaneous) 100 (Annual)	MSGP; Industrial Stormwater Permit § XI(B) Tables 1-2
Zinc	Mg/L	0.26** (Annual)	MSGP; Industrial Stormwater Permit § XI(B) Tables 1-2
Lead	Mg/L	0.262** (Annual)	MSGP; Industrial Stormwater Permit § XI(B) Tables 1-2

** The NAL is the highest value used by the U.S. EPA based on their water hardness.

ATTACHMENT 2: TABLE OF EXCEEDENCES FOR LUBRICATING SPECIALTIES

The following table contains each stormwater sampling result which exceeds EPA Benchmarks and/or causes or contributes to an exceedance of CFR and/or Basin Plan Water Quality Standards. All EPA Benchmarks and CFR and/or Basin Plan Water Quality Standards are listed in Attachment 1. All stormwater samples were reported by the Facility during the past five (5) years.

Reporting Period	Sample Date	Parameter	Result	Unit
2018-2019	NO QSE TESTING DATA SUBMITTED			
2017-2018	3/5/2018	Zinc	0.416	Mg/L
2017-2018	1/13/2018	Zinc	0.446	Mg/L
2016-2017	1/24/2017	Zinc	0.443	Mg/L
2016-2017	12/16/2016	Zinc	0.380	Mg/L

* Lubricating Specialties has failed to submit testing results or laboratory reports for all required NALs the requisite four (4) QSEs for the all annual reporting periods within the past five years.

* Lubricating Specialties has recorded both annual average NAL exceedances and instant NAL exceedances for Zinc in the 2017-2018 and 2016-2017 annual reporting periods.

* Lubricating Specialties has failed to submit pH testing for one QSE in the 2017-2018 and 2016-2017 annual reporting periods and for two QSEs in the 2015-2016 annual reporting period. Lubricating Specialties has also failed to submit Zinc and/or Lead testing for the three submitted QSEs in the 2016-2016 annual reporting period.

* As indicated above, Lubricating Specialties has failed to properly comply with the Level 1 and Level 2 ERA requirements to properly address the above listed overages.

ATTACHMENT 3: ALLEGED DATES OF EXCEEDANCES BY LUBRICATING SPECIALTIES
January 1, 2014 – November 19, 2019

Days with precipitation two-tenths of an inch or greater, as reported by NOAA's National Climatic Data Center, Station: Los Angeles Downtown USC, CA US USW00093134 when a stormwater discharge from the Facility is likely to have occurred. http://www.ncdc.noaa.gov/cdo-web/search

2014	2015	2016	2017	2018	2019
2/2	1/10	1/5	1/5	1/8	1/5
2/27	1/11	1/6	1/9	1/9	1/7
2/28	2/22	1/31	1/11	3/2	1/12
3/1	2/28	2/17	1/12	3/10	1/14
3/2	3/1	2/18	1/19	3/15	1/15
4/1	3/2	3/6	1/20	3/16	1/16
10/31	4/7	3/7	1/22	3/21	1/17
11/1	5/8	3/11	1/23	3/22	1/31
11/30	5/14	4/8	2/3	10/12	2/2
12/2	7/18	10/17	2/6	10/13	2/3
12/3	9/15	11/20	2/7	11/22	2/4
12/12	10/5	11/21	2/10	11/29	2/5
12/16	12/13	11/26	2/11	12/5	2/9
12/17	12/19	12/15	2/17	12/6	2/10
12/30		12/16	5/7		2/14
		12/21	10/20		2/15
		12/22			3/2
		12/23			3/6
		12/24			5/16
		12/30			5/19