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November 11, 2016

Mark Sandell Dir. Of Facilities Zephyr Manufacturing a/k/a Zephyr Manufacturing Company 201 Hindry Ave Inglewood, CA 90301	Zephyr Manufacturing Co., Inc. c/o Ray Chin Agent for Service of Process 201 Hindry Ave Inglewood, CA 90301
Earl Houston President Standun Inc 201 Hindry Ave Inglewood, CA 90301	
Gina McCarthy, Administrator U.S. Environmental Protection Agency Mail Code: 1101A 1200 Pennsylvania Avenue, N.W. Washington, DC 20460	Samuel Unger, Executive Officer Regional Water Quality Control Board Los Angeles Region 320 West Fourth Street, Suite 200 Los Angeles, CA 90013
Jared Blumenfeld, Regional Administrator U.S. EPA, Region 9 75 Hawthorne Street San Francisco, CA 94105	Thomas Howard, 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 Jeanelle Jones ("Jones") a citizen of the State of California. This letter is to give notice that Brodsky Smith, on Jones' behalf, intends to file a civil action against Zephyr Manufacturing a/k/a Zephyr Manufacturing Company a/k/a Standun Inc. ("Zephyr") for violations of the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* ("Clean Water Act" or "CWA") at Zephyr's facility located at 201 Hindry Ave., Inglewood, CA 90023 (the "Facility").

Jones is a citizen of the State of California who is concerned with the environmental health of the Ballona Creek, and uses and enjoys the waters of the Ballona Creek, its inflows, and other areas of the overall Ballona Creek Watershed.[1] Jones' use and enjoyment of these waters are negatively affected by the

[1] While Zephyr's Notice of Intent, filed with the Los Angeles Regional Water Quality Control Board, lists the receiving water as "Pacific Ocean", to Jones's best knowledge and belief, the Facility is located approximately 5 miles inland from Pacific Ocean, and is in an area of the Los Angeles City Storm Drain system which drains into Ballona Creek. It is therefore Jones's knowledge and belief that the initial receiving waters is the Ballona Creek.

pollution caused by Zephyr's operations. Additionally, Jones 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 Zephyr's unlawful discharge of pollutants from the Facility via indirect flow into Ballona Creek. 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") 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 Zephyr 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, Jones intends to file suit in federal court against Zephyr under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Jones is willing to discuss effective remedies for the violations noticed in this letter. We suggest that Zephyr contact Jones' 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

Zephyr's Facility is located at 201 Hindry Ave., Inglewood, California. At the Facility, Zephyr operates as a metal fabricator and assembler of tools and fasteners. At the Facility, the following industrial activities occur: (i) raw materials processing; (ii) turning; (iii) milling; (iv) drilling; (v) grinding; (vi) stamping; (vii) forging; (viii) heat treating; (ix) black oxide plating; (x) assembly; and (xi) degreasing. 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, chemical oxygen demand ("COD"), oil and grease, pH, Nitrate plus Nitrite Nitrogen, heavy metals such as aluminum, iron, and zinc, and other pollutants. Stormwater from the Facility discharges, indirectly, into the Ballona Creek via indirect flow through the Los Angeles city storm drain system.

B. The Affected Water

Ballona Creek and Ballona Creek watershed are waters of the United States. The CWA requires that water bodies such as Ballona Creek meet water quality objectives that protect specific "beneficial uses." The beneficial uses of the Ballona Creek include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact

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[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.

recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of the Ballona Creek, 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 Ballona Creek, 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.

Zephyr has submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit since at least 1992. However, information available to Jones 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]

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.* Zephyr 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 2008 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP")". *See* Industrial Stormwater Permit § I(D)(33). The 2008 MSGP has specific numeric effluent limitations based upon Stand Industrial Classification ("SIC") codes. Notably, Zephyr, is classified as falling under SIC codes 3423, 3462, and 3429, relating to Fabricated Metal Products, except Coating, requiring it to be within numerical effluent limitations for (i) Total Aluminum, (ii) Total Iron, (iii) Total Zinc, and (iv) Nitrate plus Nitrite

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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: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf. *See* 73 Fed. Reg. 56, 572 (Sept. 29, 2008) (Final National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Industrial Activities).

Nitrogen. Based on Zephyr's self-reporting data and/or lack thereof, Zephyr has not met this requirement and was in violation of the Previous Stormwater Permit over a period of approximately five (5) years.

Zephyr's self-reporting of industrial stormwater discharges show a pattern of exceedances of Benchmark values and/or failure to adequately numerical pollutant discharge values in every instance of self-reporting. *See* Attachment 2. This pattern of exceedances of benchmark values and lack of self-reporting indicate that Zephyr 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. Jones alleges and notifies Zephyr that its stormwater discharges from the Facility have consistently failed to adequately report numeric pollutant discharge values for the specific pollutants required of facilities falling under SIC codes 3423, 3462, and 3429 in every annual reporting period for the past five (5) years. *See* Attachment 2.

Zephyr's ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT and BCT based levels of control also demonstrate that Zephyr 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.

Zephyr's 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 Zephyr's discharges stormwater without meeting BAT/BCT. Jones alleges that Zephyr has discharged stormwater containing excessive levels of pollutants from the Facility to the Ballona Creek during at least every significant local rain event over 0.2 inches in the last five (5) years.[6] Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. Zephyr is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within 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 the California Toxic Rule ("CTR")[7] and Chapter 3 of the Los Angeles Region (Region 4) Water Quality Control Plan (the "Basin Plan").[8] *See* Attachment 1. 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:

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

[7] 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).

[8] 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.shtml.

- 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.

Jones alleges that Zephyr's 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 Zephyr's self-reported data submitted to the Los Angeles Regional Water Quality Control Board. These sampling results indicate that Zephyr's discharges are causing or threatening to cause pollution, contamination, and/or nuisance; adversely impacting human health or the environment; and violating applicable WQS. For example, Zephyr's sampling results indicate exceedances of WQS for Iron, and also consistently fail to adequately report numeric pollutant discharge values for the specific pollutants required of facilities falling under SIC codes 3423, 3462, and 3429 in every annual reporting period for the past five (5) years. *See* Attachment 2.

Jones alleges that each day that Zephyr has discharged stormwater from the Facility, Zephyr's 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 Ballona Creek. Jones alleges that Zephyr has discharged stormwater exceeding Receiving Water Limitations and/or WQS from the Facility to the Ballona Creek during at least every significant local rain event over 0.2 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 Zephyr is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within 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).

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 Zephyr 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 Jones, Zephyr 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, Zephyr's SWPPP does not include and/or Zephyr 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, or lack thereof, in Attachment 2.

Accordingly, Zephyr 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 Zephyr will continue to be in violation every day until it develops and implements an adequate SWPPP. Zephyr is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within 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.*

Zephyr 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 Zephyr's 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 2008 Multi Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP")". The 2008 MSGP has specific numeric effluent limitations based upon Stand Industrial Classification ("SIC") codes. Notably, Zephyr, is classified as falling under SIC codes 3423, 3462, and 3429, relating to Fabricated Metal Products, except Coating, requiring it to be within numerical effluent limitations for (i) Total Aluminum, (ii) Total Iron, (iii) Total Zinc, and (iv) Nitrate plus Nitrite Nitrogen. As previously stated, and in clear violation of the terms of the Industrial Stormwater Permit, Zephyr has reported exceedances and/or failed to report testing results for any applicable effluent limitation in any of their annual reports for the past five (5) annual reporting periods. *See* Attachments 2, 3. Therefore, the data in Attachment 2 indicates that Zephyr's 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 ('QSE's) 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).[9] 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 Zephyr has submitted the annual report for the 2015-2016 reporting periods with testing data for only three (3) QSEs, and submitted the annual report for the 2013-2014 reporting period with testing data from only one (1) QSE. Additionally, Zephyr has failed to adequately explain why such sampling was not included.

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, Zephyr has not submitted any lab reports with testing data for the 2012-2013 annual reporting period. Additionally, Zephyr has failed to adequately explain why such sampling was not included.

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

E. 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. Zephyr 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 Zephyr 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

Zephyr Manufacturing a/k/a Zephyr Manufacturing Company a/k/a Standun Inc is the person responsible of the violations at the Facility described above.

V. NAME AND ADDRESS OF NOTICING PARTY

Jeanelle Jones
Personal
Inglewood, CA 90302
Personal

VI. COUNSEL

Evan J. Smith, Esquire
esmith@brodsky-smith.com
Ryan P. Cardona, Esquire

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[9] 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).

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VII. REMEDIES

Jones intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against Zephyr for the above-referenced violations. Jones 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, Jones will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d), and 40 C.F.R. § 19.4, against Zephyr in this action. The CWA imposes civil penalty liability of up to $37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4. Jones 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, Jones and her 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,

Evan J. Smith, Esquire
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ATTACHMENT 1: EPA BENCHMARKS AND WATER QUALITY STANDARDS FOR DISCHARGES TO FRESHWATER

A. EPA Benchmarks, 2008 Multi-Sector General Permit ("MSGP")

Parameter	Units	Benchmark Value	Source
Total Aluminum	Mg/L	0.75	2008 MSGP
Total Iron	Mg/L	1.0	2008 MSGP
Total Zinc	Mg/L	0.04-0.26	2008 MSGP
Nitrate plus Nitrite Nitrogen	Mg/L	0.68	2008 MSGP

*Dependent on Freshwater Hardness Range

B. Water Quality Standards – Discharge Limitations and Monitoring Requirements (40 CFR Part 131.38 (California Toxics Rule or CTR), May 18, 2000)

Parameter	Units	Water Quality Objectives		Source
		4- Day Average	1-Hr Average	
Lead	Mg/L	0.0081	0.21	**40 CFR Part 131.38**
Zinc	Mg/L	0.081	0.090	**40 CFR Part 131.38**

ATTACHMENT 2: TABLE OF EXCEEDENCES FOR ZEPHYR

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
2015-2016	03/07/2016	Iron, Total	5.24	Mg/L

* Zephyr's 2015-2016 annual report contained only effluent discharge testing information for Total Iron for two (2) QSEs, effluent discharge testing information for Zinc for one (1) QSE, and did not contain any effluent discharge testing information whatsoever in the entire annual reporting period for the other pollutants that it is mandated to monitor under its SIC codes, namely, Total Aluminum, and Nitrate Plus Nitrite Nitrogen.
* Zephyr's 2014-2015, 2012-2013, and 2011-2012 annual reports did not contain any effluent discharge testing information whatsoever in the entire annual reporting period for the other pollutants that it is mandated to monitor under its SIC codes, namely, Total Aluminum, Total Iron, Total Zinc, and Nitrate Plus Nitrite Nitrogen.
* Zephyr stated in its 2013-2014 Annual Report that it tested for the mandated SIC code pollutants, however it has not submitted any Laboratory Reports indicating that such testing occurred..

ATTACHMENT 3: ALLEGED DATES OF EXCEEDANCES BY ZEPHYR
January 1, 2011 – August 15, 2016

Days with precipitation two-tenths of an inch or greater, as reported by NOAA's National Climatic Data Center, Station: Los Angeles International Airport, CA US, GHCND:USW00023174, when a stormwater discharge from the Facility is likely to have occurred. http://www.ncdc.noaa.gov/cdo-web/search

2011	2012	2013	2014	2015	2016
1/2	1/21	1/24	2/27	1/10	1/5
2/18	1/23	3/8	2/28	1/11	1/6
2/25	3/17	5/7	3/1	2/22	2/17
3/20	3/25	11/21	10/31	3/1	3/6
3/21	4/10	11/29	11/1	7/18	3/7
3/23	4/11	12/7	11/30	9/15	3/11
3/25	4/13		12/2	12/19	5/7
5/17	4/25		12/3	12/22	10/17
10/5	11/17		12/12		
11/6	11/29		12/16		
11/20	11/30		12/30		
12/12	12/18				
	12/24				
	12/26				
	12/29				