

Sarah Spinuzzi (Bar No. 305658)
Email: Sarah@coastkeeper.org
Lauren Chase (Bar No. 3324162)
Email: Lauren@coastkeeper.org
ORANGE COUNTY COASTKEEPER
3151 Airway Avenue, Suite F-110
Costa Mesa, California 92626
Telephone: (714) 850-1965

Attorneys for Plaintiff Orange County Coastkeeper

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ORANGE COUNTY COASTKEEPER, a
California non-profit corporation,

Plaintiff,

v.

HIXSON METAL FINISHING, a
California corporation; FPC
MANAGEMENT, LLC; and REID
WASHBON, an individual, as Trustee of
the Reid Washbon Trust,

Defendants.

Civil Case No. 8:22-cv-00932

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

**(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 *et seq.*)**

Orange County Coastkeeper (“Coastkeeper” or “Plaintiff”), by and through counsel,
hereby alleges:

I. JURISDICTION AND VENUE

1. Plaintiff brings this civil suit under the citizen suit enforcement provision of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (the “Clean Water Act” or the “CWA”). *See* 33 U.S.C. § 1365. This Court has subject matter jurisdiction over the parties and this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C. §§ 1331 and 2201 (an action for declaratory and injunctive relief arising under the Constitution and laws of the United States). On February 23, 2022, Plaintiff issued a 60-day Notice of Violation and Intent To Sue letter (the “Notice Letter”), attached hereto as **Exhibit A** and

1 incorporated by reference herein, to Hixson Metal Finishing (“Hixson”), FPC
2 Management LLC (“FPC”), and Reid Washbon, Trustee of the Reid Washbon Trust
3 (“Trustee”) (collectively, “Defendants”), as the owners and operators of the Hixson Metal
4 Finishing facilities located on Production Place in Newport Beach (the “Facility”). The
5 Notice Letter informed Defendants of the violations of California’s General Permit for
6 Discharges of Storm Water Associated with Industrial Activities (*National Pollution*
7 *Discharge Elimination System (“NPDES”) General Permit No. CAS000001, Water*
8 *Quality Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ, as amended*
9 *by Order No. 2015-0122-DWQ, as subsequently amended by Order 20XX-XXXX-DWQ*
10 *(effective July 1, 2020)* (hereinafter, the “Storm Water Permit” or “Permit”) and the Clean
11 Water Act at the Facility. The Notice Letter informed Defendants of Plaintiff’s intent to
12 file suit against Defendants to enforce the Storm Water Permit and the Clean Water Act.

13 2. The Notice Letter was also sent to the Attorney General of the United States
14 Department of Justice (“USDOJ”), the Administrator of the United States Environmental
15 Protection Agency (“EPA”), the Regional Administrator of EPA Region IX, the Executive
16 Director of the State Water Resources Control Board (the “State Board”), and the
17 Executive Officer of the Regional Water Quality Control Board, Santa Ana Region (the
18 “Santa Ana Regional Board” or “Regional Board”), as required by 40 C.F.R. § 135.2(a)(1)
19 and Section 505(b) of the CWA, 33 U.S.C. § 1365(b)(1)(A).

20 3. More than sixty (60) days have passed since the Notice Letter was sent via
21 certified mail to Defendants and the State and Federal agencies. Plaintiff is informed and
22 believes, and thereon alleges, that neither the EPA, USDOJ, nor the State of California
23 have commenced or are diligently prosecuting an action to redress the violations alleged
24 in the Notice Letter and in this complaint. *See* 33 U.S.C. § 1365(b)(1)(B). This action is
25 not barred by any prior administrative penalty under Section 309(g) of the CWA. 33
26 U.S.C. § 1319(g).

27 4. Venue is proper in the Central District of California pursuant to Section
28 505(a)(1) of the CWA, 33 U.S.C. § 1365(a)(1), because the sources of the violations are

1 located within this judicial district.

2 5. Plaintiff seeks relief for Defendants' substantive and procedural violations of
3 the Storm Water Permit and the Clean Water Act resulting from industrial activities at the
4 Facility.

5 **II. INTRODUCTION**

6 6. This complaint seeks relief for the Defendants' unlawful discharges of
7 pollutants into waters of the United States from industrial operations at the Facility.
8 Specifically, Coastkeeper is informed and believes, and thereon alleges, that Defendants'
9 discharges of pollutants from the Facility enter the Orange County Municipal Separate
10 Storm Sewer System ("MS4") and into nearby Lower Newport Bay (collectively referred
11 to as the "Receiving Waters"), in violation of the substantive and procedural requirements
12 of the Storm Water Permit and the Clean Water Act. These violations have been occurring
13 since at least March 6, 2017, and are ongoing and continuous.

14 7. With every significant rainfall event, millions of gallons of polluted storm
15 water, originating from industrial operations such as the Facility, pour into storm drains
16 and local waterways. The consensus among regulatory agencies and water quality
17 specialists is that storm water pollution accounts for more than half of the total pollution
18 entering surface waters each year. These surface waters, known as receiving waters, are
19 ecologically sensitive areas. These waters are essential habitat for dozens of fish and bird
20 species as well as macro-invertebrate and invertebrate species. Storm water and non-storm
21 water contain sediment, heavy metals, such as aluminum, iron, magnesium, chromium,
22 copper, lead, mercury, nickel, and zinc, as well as high concentrations of nitrate and nitrite,
23 and other pollutants. Exposure to polluted storm water harms the special aesthetic and
24 recreational significance that the surface waters have for people in the surrounding
25 communities. The public's use of the surface waters exposes many people to toxic metals
26 and other contaminants in storm water and non-storm water discharges. Non-contact
27 recreational and aesthetic opportunities, such as wildlife observation, are also impaired by
28 polluted discharges to surface waters such as the Receiving Waters.

1 **III. PARTIES**

2 **A. Orange County Coastkeeper.**

3 8. Orange County Coastkeeper is a non-profit public benefit corporation
4 organized under the laws of the State of California and has over 2,400 members. Orange
5 County Coastkeeper's office is located at 3151 Airway Avenue, Suite F-110, Costa Mesa,
6 California 92626.

7 9. Orange County Coastkeeper is dedicated to the preservation, protection, and
8 defense of the environment, wildlife, and natural resources of Orange County.
9 Coastkeeper's mission is to preserve the region's water resources so they are swimmable,
10 drinkable, and fishable for present and future generations. To further these goals, Orange
11 County Coastkeeper actively seeks federal and state agency implementation of the Clean
12 Water Act, and, where necessary, directly initiates enforcement actions on behalf of itself
13 and its members.

14 10. Members of Orange County Coastkeeper live and own homes in the Lower
15 Newport Bay and the greater watershed and use and enjoy the waters into which the
16 Facility discharges polluted storm water. Members of Orange County Coastkeeper use
17 these waterways to participate in a variety of water sports and other activities including,
18 but not limited to, fishing, swimming, boating, kayaking, bird watching, viewing wildlife,
19 hiking, biking, surfing, wading, standup paddle boarding, walking, running, and engaging
20 in scientific study, including monitoring, restoration, and research activities. The
21 discharge of pollutants from the Facility impairs each of these uses.

22 11. Defendants' failure to comply with the procedural and substantive
23 requirements of the Storm Water Permit and the Clean Water Act including, but not
24 limited to, discharges of polluted storm water from the Facility, failure to report such
25 pollution, and failure to act in accordance with the Storm Water Permit to improve the
26 quality of storm water discharges from the Facility, degrades water quality and harms
27 aquatic life in the Santa Ana River and its tributaries, and impairs Orange County
28 Coastkeeper members' use and enjoyment of these waters, giving Plaintiff standing on

1 behalf of its members.

2 12. The violations of the Storm Water Permit and Clean Water Act at the Facility
3 are ongoing and continuous. Thus, the interests of Coastkeeper's members have been, are
4 being, and will continue to be adversely affected by Defendants' failure to comply with
5 the Storm Water Permit and the Clean Water Act. The relief sought herein will redress the
6 harms to Plaintiff's members caused by Defendants' activities.

7 13. Continuing commission of the acts and omissions alleged herein will
8 irreparably harm Plaintiff's members, for which harm they have no plain, speedy, or
9 adequate remedy at law.

10 **B. The Owners and Operators of the Facility.**

11 14. Hixson Metal Finishing is the current owner and operator of the Facility, and
12 has been the owner and operator of the Facility at all times relevant to this complaint, and
13 is a responsible party under the Clean Water Act.

14 15. Coastkeeper is informed and believes, and thereon alleges, that Hixson is an
15 active California corporation, registered and authorized to do business in California.

16 16. Coastkeeper is informed and believes, and thereon alleges, that Dale W.
17 Young, Jr., located at 829 Production Place, Newport Beach, CA 92663, is the registered
18 agent for service of process for Hixson.

19 17. Coastkeeper is informed and believes, and thereon alleges, that Bruce Greene
20 is the Facility Contact and EHS Manager identified by Hixson in its Notice of Intent
21 ("NOI") for coverage under the Storm Water Permit and is also identified as the Legally
22 Responsible Person in the Facility's Storm Water Pollution Prevention Plan ("SWPPP").

23 18. Coastkeeper is informed and believes, and thereon alleges, that Douglas
24 Greene is identified by Hixson in its Notice of Intent ("NOI") for coverage under the Storm
25 Water Permit as Hixson's President.

26 19. Coastkeeper is informed and believes, and thereon alleges, that FPC
27 Management LLC is the owner of the real property underlying the portion of the Facility

28 at 861 Production Place where Hixson operates industrial activities.

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