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10 **THE UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 ANAPLEX CORPORATION,

17 Defendant.

18 Civil Action 2:15-CV-3615

19 **COMPLAINT**

20
21 The United States of America, acting at the request of the
22 Administrator of the United States Environmental Protection Agency ("EPA"),
23 files this complaint and alleges as follows:
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1 **NATURE OF THE ACTION**

2 1. This is a civil action brought by the United States against Anaplex
3 Corporation (“Anaplex”), for injunctive relief and civil penalties for violations of
4 the regulations and requirements applicable to (a) the discharge of pollutants to a
5 publicly owned treatment works and associated treatment plant, and (b) the
6 storage, disposal and management of hazardous wastes. The violations alleged in
7 the complaint occurred at a metal finishing facility, owned and operated by
8 Anaplex, located in Paramount, California.
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11 2. The complaint is filed pursuant to (a) the Clean Water Act
12 (“CWA”), 33 U.S.C. § 1319 and (b) the Federal Solid Waste Disposal Act of 1965
13 as amended by, *inter alia*, the Resource Conservation and Recovery Act of 1976,
14 the Solid Waste Disposal Act Amendments of 1980 and the Hazardous and Solid
15 Waste Amendments of 1984 (hereinafter, this statute, as amended, is called
16 “RCRA”), set forth at 42 U.S.C. §§ 6901-6992k.
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19 **JURISDICTION AND VENUE**

20 3. This Court has jurisdiction over the subject matter of this action
21 pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, 33 U.S.C. § 1319(b), and 42 U.S.C.
22 § 6928(a).
23

24 4. Venue is proper in the Central District of California pursuant to 33
25 U.S.C. § 1319(b), 42 U.S.C. § 6928(a), and 28 U.S.C. §§ 1391 and 1395 because
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1 Anaplex is found in and conducts business in this District, and because the alleged
2 violations occurred within this District.

3
4 **DEFENDANT**

5 5. Anaplex is a corporation.

6 6. Anaplex is incorporated in the state of California.

7 7. Anaplex is an active corporation registered to do business in the
8 state of California.

9
10 **BACKGROUND**

11 **A. The Facility**

12 8. Anaplex is the owner and operator of a metal finishing facility at
13 15547 Garfield Avenue, Paramount, California 90723 (“Facility”).

14 9. The Facility is classified under the Standard Industrial
15 Classification code 3471.

16 10. At the Facility, Anaplex performs metal finishing operations,
17 including electroplating, electroless plating, anodizing, coating and chemical
18 etching.

19 11. During metal finishing operations, the Facility generates
20 wastewater containing pollutants, including, but not limited to, cadmium,
21 chromium, cyanide.

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1 12. The Facility operates an on-site wastewater treatment system to
2 treat some of the wastewater generated during the metal finishing operations by
3 attempting to reduce pollutant levels in the wastewater.
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5 13. The Facility discharges wastewater still containing pollutants into a
6 publicly owned treatment works (“POTW”).

7 14. The POTW into which the Facility discharges contaminated
8 wastewater is owned and operated by the Sanitation Districts of Los Angeles
9 County (“LACSD”).
10

11 15. The pollutants discharged from the Facility into the POTW go to
12 the Joint Water Pollution Control Plant (“JWPCP”), a treatment plant, operated by
13 LACSD.
14

15 16. The JWPCP provides treatment of municipal sewage and industrial
16 waste.
17

18 **B. The Clean Water Act**

19 17. The objective of the CWA is to “restore and maintain the chemical,
20 physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

21 18. The CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any
22 pollutant by any person, except as in compliance with specific sections of the
23 CWA.
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1 19. The term “discharge of a pollutant” is defined as “any addition of
2 any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).

3 20. The term “navigable waters” is defined as “waters of the United
4 States.” 33 U.S.C. § 362(7).

5 21. The CWA establishes a statutory scheme for those sources of
6 pollutants that do not directly discharge to waters of the United States but, rather,
7 discharge into POTWs. 33 U.S.C. § 1317(b)(1).

8 22. A discharge of pollutants into a POTW is known as an indirect
9 discharge.

10 23. An “indirect discharge” is defined as “the introduction of pollutants
11 into a POTW from any non-domestic source regulated under section 307(b), (c) or
12 (d) of the CWA.” 40 C.F.R. § 403.3(i); 33 U.S.C. § 1317(b)-(d).

13 24. An “industrial user” is defined as “a source of indirect discharges.”
14 40 C.F.R. § 403.3(j).

15 25. A “significant industrial user” is defined, in part, as all “industrial
16 users” that are subject to categorical pretreatment standards under 40 C.F.R.
17 § 403.6 and 40 C.F.R. Chapter I, Subchapter N or all “industrial users” that
18 discharge an average of 25,000 gallons per day or more of process wastewater to
19 the POTW. 40 C.F.R. § 403.3(v).

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1 26. Section 307 of the CWA directs EPA to promulgate regulations
2 establishing “pretreatment standards” for indirect discharges into POTWs. 33
3 U.S.C. § 1317(b).

4 27. A “pretreatment standard” is defined as “any regulation containing
5 pollutant discharge limits promulgated by the EPA in accordance with sections
6 307(b) and (c) of the [CWA], which applies to industrial users.” 40 C.F.R.
7 § 403.3(1).
8

9 28. EPA has promulgated pretreatment standards for specific categories
10 of industrial users pursuant to Section 307(b) of the CWA.
11

12 29. The metal finishing industry is one of the categories of industry for
13 which EPA has promulgated pretreatment standards through Effluent Limitations
14 Guidelines (“ELGs”). *See* 40 C.F.R. Part 433.
15

16 30. The categorical pretreatment standards at 40 C.F.R. § 433.17 were
17 established in an ELG as the level of pollutants that could be discharged utilizing
18 the best available technology economically available (“BAT”) for the treatment
19 and control of process wastewater generated within at Metal Finishing plants.
20

21 31. The categorical pretreatment standards impose effluent limitations
22 that are concentration-based and include daily maximums and monthly averages.

23 32. An industrial user cannot increase the use of process water, or in
24 any other way attempt to dilute a discharge, as a partial or complete substitute for
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26

1 adequate treatment to achieve compliance with categorical pretreatment standards.
2 40 C.F.R. § 403.6(d).

3 33. The pretreatment standards for the Metal Finishing Subcategory
4 include a requirement to self-monitor for cyanide that must be conducted after
5 cyanide treatment and before dilution with other streams. Alternatively, samples
6 may be taken of the final effluent, if the sampling results are adjusted based on the
7 dilution ratio of the cyanide waste stream flow to the effluent flow before
8 measured against the applicable ELG. 40 C.F.R. § 433.12(c).

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11 34. Section 307(d) of the CWA prohibits discharges from an industrial
12 user into a POTW in violation of any pretreatment standards. 33 U.S.C. § 1317.

13 35. Any violation of a pretreatment standard is a violation of the CWA.
14 33 U.S.C. § 1317; 40 C.F.R. § 403.6.

15
16 **C. Enforcement of the Clean Water Act**

17 36. EPA may issue administrative orders requiring compliance with the
18 CWA whenever EPA finds that a person is in violation of, *inter alia*, 33 U.S.C.
19 § 1301. *See* 33 U.S.C. § 1319(a).

20
21 37. In order to carry out the objectives of the CWA, including
22 determining whether any person is in violation of any effluent limitation or other
23 limitation, prohibition, or effluent standard, pretreatment standard or standard of
24 performance, EPA may require the owner or operator of any point source to
25

1 provide information as may reasonably be required (i.e., an “information collection
2 request”). *See* 33 U.S.C. § 1318.

3 38. The CWA, 33 U.S.C. § 1319, authorizes the United States to
4 commence a civil action against a source that introduces pollutants into a POTW in
5 violation of the applicable pretreatment standards.
6

7 39. A person who violates the CWA is subject to a civil penalty. 33
8 U.S.C. § 1319(d).

9 40. Under 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties
10 for Inflation, as amended, and pursuant to 28 U.S.C. § 2461, the civil penalty
11 amount shall not exceed \$32,500 per day for each violation occurring after March
12 15, 2004 and before January 12, 2009, and it shall not exceed \$37,500 for
13 violations occurring after January 12, 2009. *See* 74 Fed. Reg. 626-01 (Jan. 7,
14 2009).
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17 **D. The Resource Conservation and Recovery Act**

18 41. RCRA establishes a “cradle-to-grave” hazardous waste handling
19 program, to be administered by EPA or states authorized by EPA. 42 U.S.C.
20 § 6901 *et seq.*

21 42. RCRA’s Subchapter III (RCRA §§ 3001-3023, 42 U.S.C. §§ 6921-
22 6936e, also known as “Subtitle C”) requires EPA to promulgate regulations
23 establishing performance standards applicable to facilities that generate, transport,
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1 treat, store, and/or dispose of hazardous wastes. Together RCRA Subtitle C and
2 the Subtitle's implementing regulations, set forth at 40 C.F.R. Parts 260 -279,
3 comprise EPA's RCRA hazardous waste program.
4

5 43. Pursuant to 42 U.S.C. § 6926(b), States may be authorized by EPA
6 to administer and enforce hazardous waste management programs under RCRA.
7 The State of California is authorized by EPA to administer and enforce its own
8 hazardous waste management program. Section 3008 of RCRA vests EPA with
9 concurrent jurisdiction to enforce the provisions of the federal and authorized state
10 hazardous waste management programs. 42 U.S.C. § 6928(a). EPA is enforcing
11 California hazardous waste management program requirements as approved and
12 authorized by the United States. Corresponding Federal citations are also provided
13 herein.
14

15
16 44. Any person who generates a solid waste must determine if that
17 waste is a hazardous waste. 22 C.C.R. § 66262.11 (40 C.F.R. § 262.11).

18 45. The regulations implementing RCRA define a "generator" as "any
19 person, by site, whose act or process produces hazardous waste identified or listed
20 in Part 261 of this chapter or whose act first causes a hazardous waste to become
21 subject to regulation." 22 C.C.R. § 66260.10 (40 C.F.R. §260.10).
22

23 46. EPA's and California's regulations allow generators to accumulate
24 hazardous waste on site without a permit, so long as they meet certain
25
26

1 requirements, set out in 22 C.C.R. § 66262.34 (40 C.F.R. § 262.34). Pursuant to
2 that section, to be exempt from the permit requirement generators must meet
3 certain conditions, including:
4

- 5 • determine whether generated solid wastes are hazardous, 22
6 C.C.R. § 66262.11 (40 C.F.R. § 262.11);
- 7 • not accumulate hazardous waste on site for longer than 90 days,
8 22 C.C.R. § 66262.34(a) (40 C.F.R. § 262.34(a));
- 9 • label containers of hazardous waste with the words “hazardous
10 waste” and the date waste accumulation begins, 22 C.C.R.
11 § 66262.34(a) (40 C.F.R. § 262.34(a));
- 12 • meet hazardous waste management training requirements, 22
13 C.C.R. § 66265.16(c) (40 C.F.R. 265.16(c));
- 14 • maintain and operate the facility so as to minimize the
15 possibility of any unplanned sudden or non-sudden release of
16 hazardous waste or hazardous waste constituents, 22 C.C.R.
17 § 6265.31 (40 C.F.R. § 265.31);
- 18 • maintain a complete contingency plan, 22 C.C.R. §§ 66265.51–
19 66265.54 (40 C.F.R. §§ 265.51–265.54);
- 20 • close containers holding hazardous waste, when waste is not
21 being added or removed, 22 C.C.R. § 66265.173 (40 C.F.R. §
22 265.173(a)); and
- 23 • meet requirements for storage of hazardous waste in tanks, 22 C.C.R.
24 § 66265.190 (40 C.F.R. § 265.190).

25 47. If a generator of hazardous waste fails to meet any of the conditions
26 referenced in 22 C.C.R. § 66262.34 (40 C.F.R. § 262.34), or treats, stores or

1 disposes of hazardous waste, it must obtain a RCRA permit. 22 C.C.R. 66270.1(c)
2 (40 C.F.R. § 270.1(c)).

3 **E. Enforcement of the Resource Conservation and Recovery Act**

4
5 48. RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes a
6 civil action in the United States District Court for appropriate relief, including
7 temporary or permanent injunction, whenever on the basis of any information, the
8 Administrator of EPA determines that any person has violated or is in violation of
9 any hazardous waste management requirements of RCRA.

10
11 49. The State of California is authorized under RCRA to implement
12 hazardous waste management requirements within the State of California.
13 California's hazardous waste management regulations are set out at 22 C.C.R.
14 §§ 66260.1 – 66279.91.

15
16 50. Under RCRA Section 3006, 42 U.S.C. § 6926, violations of the
17 State of California's RCRA authorized hazardous waste management requirements
18 are federally enforceable pursuant to RCRA Section 3008(a), 42 U.S.C. § 6928(a).

19
20 51. Notice of commencement of the United States' action has been
21 given to the State of California as required by Section 3008(a)(2) of RCRA, 42
22 U.S.C. § 6928(a)(2).

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GENERAL ALLEGATIONS

A. Anaplex’s Wastewater Discharges are Subject to the Clean Water Act.

52. Anaplex is a “person” as that term is defined in the Clean Water Act, 33 U.S.C. § 1362(5).

53. The Facility was nearly completely destroyed in a fire in 2006, which led Anaplex to rebuild the facility, replacing all of its metal finishing tanks and equipment. The source is therefore a “new source” as that term is defined at 40 C.F.R. § 403.3(m).

54. Because the Facility discharges pollutants into a POTW, Anaplex is subject to requirements in the CWA. *See* 40 C.F.R. § 403.1.

55. At all times relevant to this action, the Facility engaged in metal finishing operations that included electroplating, electroless plating, anodizing, coating and chemical etching.

56. At all times relevant to this action, the Facility was subject to the pretreatment standards for discharges from metal finishing operations found at 40 C.F.R. Part 433.

57. At all times relevant to this action, the Facility was subject to the categorical pretreatment standards for discharges from metal finishing operations found at 40 C.F.R. Part 433.17.

1 58. At all times relevant to this action, the POTW was owned and
2 operated by LACSD.

3 59. At all times relevant to this action, the Facility discharged into the
4 POTW.
5

6 60. At all times relevant to this action, the Facility discharged into the
7 POTW through a pipe, which constitutes a “point source” as defined in 33 U.S.C.
8 § 1362(14).
9

10 61. At all times relevant to this action, the JWPCP provided treatment
11 of municipal sewage and industrial waste.

12 62. At all times relevant to this action, Anaplex was a significant
13 industrial user, in part, because the Facility discharged in excess of 25,000 gallons
14 per day of process wastewater into the POTW.
15

16 63. At all times relevant to this action, Anaplex was a significant
17 industrial user because, as a metal finishing plant, the Facility is subject to
18 categorical pretreatment standards for the metal finishing industry at 40 C.F.R.
19 § 433.17.
20

21 **B. EPA Clean Water Act Investigation and Enforcement**

22 64. EPA conducted a Clean Water Act inspection of the Facility on
23 August 25, 2010.

24 // //

1 65. Subsequent to the Facility inspection, EPA reviewed Anaplex's
2 compliance monitoring record from July 2006 to January 2012.

3 66. The compliance monitoring record included Anaplex's self-
4 monitoring reports that were submitted to LACSD as well as sampling conducted
5 by LACSD staff.

6 67. Upon review of the Facility's self-monitoring reports, EPA
7 discovered numerous occasions from July 2006 to January 2012 during which the
8 Facility violated the cadmium, chromium, nickel, zinc and cyanide limits specified
9 in the categorical pretreatment standards applicable to metal finishing operations
10 established at 40 C.F.R. § 433.17.

11 68. Tallied together, the self-monitoring reports contained over 800
12 days of violations of the applicable pretreatment regulations.

13 69. Based on EPA's inspection of the Facility and the review of the
14 self-monitoring reports EPA determined that Anaplex's treatment controls are not
15 BAT.

16 70. As part of the metal finishing operations, Anaplex rinsed or rinses
17 parts in continuously flowing rinse tanks.

18 71. The continuously flowing rinse water does not contain pollutants
19 associated with the metal finishing operations (e.g., the cadmium, chromium,
20 nickel, zinc and cyanide).

1 72. The continuously flowing rinse water enters the rinse tanks even
2 when the rinse tank is not in current operation rinsing parts as part of the metal
3 finishing operation.

4 73. Allowing continuously flowing rinse water to enter the rinse tanks
5 even when the rinse tank is not in current operation results in the combination of an
6 excessive amount of rinse water with the wastewater before entering the treatment
7 system, and so the dilution of the wastewater stream.

8 74. Because the Facility's treatment system is not BAT and the
9 Facility's rinse water practices introduce water to the wastewater stream that is not
10 contaminated before it is discharged, the Facility uses dilution as a substitute for
11 appropriate treatment in violation of 40 C.F.R. § 403.6(d).

12 75. As revealed during EPA's investigation, beginning no later than
13 February 2007 and continuing to January 2011, Anaplex monitored for cyanide
14 after the cyanide had commingled with other waste streams at the Facility.

15 76. LACSD never adjusted Anaplex's categorical pretreatment
16 standards based on the dilution ratio of the cyanide waste stream flow to the entire
17 flow.

18 77. Therefore, the Facility, from at least February 2007 to January
19 2011, was in violation of 40 C.F.R. § 433.12(c) for not properly monitoring for
20 cyanide.

1 78. EPA mailed Anaplex an Inspection Report of EPA's August 25,
2 2010 inspection on December 20, 2010.

3 79. EPA issued a Finding of Violation and Order ("AO") on January 5,
4 2011 pursuant to CWA section 308(a) and 309(a). 33 U.S.C. §§ 1318(a), 1319(a).
5

6 **C. Anaplex is a Generator of Hazardous Waste and is Subject to the**
7 **Resource Conservation and Recovery Act.**

8 80. Anaplex is a "person" as that terms is defined in Section 1004(15)
9 of RCRA, 42 U.S.C. § 6903(15), 22 C.C.R. § 66201.10 (40 C.F.R. § 260.10).

10 81. At all relevant times hereto, Anaplex was a "generator" of
11 "hazardous waste" at the Anaplex Facility, as those terms are defined in 22 C.C.R.
12 § 66260.10 (40 C.F.R. § 260.10) and 42 U.S.C. § 6903(5), respectively.
13

14 82. At all relevant times hereto, Anaplex was the "owner" and/or
15 "operator" of a "facility" as those terms are defined in 22 C.C.R. § 66260.10 (40
16 C.F.R. § 260.10), and as used in 42 U.S.C. § 6934(a).
17

18 83. At all relevant times hereto, the Anaplex facility is a "treatment"
19 and "storage" "facility" as those terms are defined in 42 U.S.C. § 6903(33), (34),
20 22 C.C.R. § 66260.10 (40 C.F.R. § 260.10).
21

22 84. "Treatment" is defined as "any method, technique, or process ...
23 designed to change the physical, chemical, or biological character or composition
24 of any hazardous waste so as to neutralize such waste or so as to render such waste
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1 nonhazardous, safer for transport ... or reduced in volume.” 42 U.S.C. § 6903.

2 85. Anaplex generates solid waste that fits within the definition of
3 hazardous waste, including but not limited to wastewater containing cyanide from
4 electroplating operations.
5

6 86. Because it generates and manages hazardous waste, Anaplex is
7 subject to RCRA requirements. 22 C.C.R. §§ 66260.10, 66262.11, and 66270.1(c)
8 (40 C.F.R. §§ 260.10, 262.11, and 270.1(c)).
9

10 87. RCRA regulations identify those solid wastes which are subject to
11 regulation as hazardous wastes. 22 C.C.R. §§ 261.1–261.126 (40 C.F.R. Part 261).
12 The regulations identify categories of wastes, including wastes that are identified
13 by determining the wastes’ properties (“characteristic waste” – ignitability,
14 corrosivity, reactivity, or toxicity); and wastes that are “listed,” generally wastes
15 from certain sources, for example “spent cyanide plating bath solutions from
16 electroplating operations.”
17

18 88. All RCRA hazardous wastes are assigned an EPA Hazardous Waste
19 Number to be used in complying with RCRA requirements. 40 C.F.R.
20 §§ 261.20(b), 261.30(c).
21

22 **D. EPA Resource Conservation and Recovery Act Investigation**

23 89. EPA conducted a RCRA inspection of the Facility on June 23,
24 2011.
25
26

1 90. On August 22, 2011, EPA sent Anaplex a notice of violation
2 pursuant to RCRA Section 3008 and an information request letter pursuant to
3 RCRA Section 3007(a).

4
5 91. At and subsequent to the inspection, EPA reviewed documentation
6 related to Anaplex, including hazardous waste manifests, reports from hazardous
7 waste inspections conducted by the Los Angeles County Fire Department, and
8 documents submitted by Anaplex.

9
10 92. EPA determined that Anaplex's operations at the Facility generate
11 several hazardous wastes, including but not limited to ignitable waste (RCRA
12 waste number D001), corrosive waste (RCRA waste number D002), waste
13 contaminated with chromium (RCRA waste number D007), waste contaminated
14 with lead (RCRA waste number D008), and spent cyanide plating bath solutions
15 from electroplating operations (RCRA waste number F007).

16
17 93. At the time of the RCRA inspection the RCRA Inspector identified
18 several waste streams, including cyanide plating bath solution (RCRA waste code
19 F007), that Anaplex had not identified as hazardous waste.

20
21 94. Anaplex was generating solid wastes, but failing to determine if
22 those wastes were hazardous, a violation of 22 C.C.R. § 66262.11 (40 C.F.R. §
23 262.11).

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1 95. The RCRA Inspector observed several containers of hazardous
2 waste that were not labeled or marked clearly with the words “hazardous waste.”

3 96. Anaplex staff informed the RCRA Inspector that spent plating bath
4 solution (RCRA waste number F007) often accumulates in the secondary
5 containment for the cyanide plating tanks longer than 90 days.

6 97. During the review of Anaplex’s records, EPA determined that
7 employees had not received the required hazardous waste management training,
8 and could not provide any of the required documentation of training.

9 98. During the RCRA inspection, the RCRA Inspector observed visible
10 cracks and yellow staining around the outside of Anaplex’s secondary
11 containment, indicating that liquid waste had been released through the cracks.

12 99. During the RCRA inspection the RCRA Inspector determined that
13 Anaplex had failed to maintain a complete contingency plan.

14 100. During the inspection, the RCRA Inspector observed several
15 containers of hazardous waste that were open when waste was not being added or
16 removed, including a 55-gallon drum of methyl ethyl ketone waste in the
17 hazardous waste storage area, containers of waste paint and solvent in the
18 dumpster, and a waste container in the lab.

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20 // //

1 and incorporated herein by reference.

2 113. From at least February 2007 to January 2011 Anaplex did not
3 monitor for cyanide before dilution with other waste streams at the Facility, in
4 violation of 40 C.F.R. § 433.12(c). Since LACSD did not adjust Anaplex's
5 permitted discharge levels based on the dilution ratio of the cyanide waste stream
6 flow to the entire flow, Anaplex was in violation of 40 C.F.R. § 433.12(c) for
7 improperly monitoring for cyanide.
8

9 114. Pursuant to 33 U.S.C. §§ 1319(b) and (d), Anaplex is liable for civil
10 penalties of up to \$32,500 per day for each violation that occurred between
11 February 10, 2007 and January 12, 2009 and up to \$37,500 per day for each
12 violation that occurred after January 12, 2009.
13

14 **FOURTH CLAIM FOR RELIEF**

15 *RCRA: Failure to determine whether solid waste generated was hazardous*

16 115. The allegations in Paragraphs 1 through 103 above are re-alleged
17 and incorporated herein by reference.
18

19 116. 22 C.C.R. § 262.11 (40 C.F.R. § 262.11) requires that a person who
20 generates a solid waste must determine if that waste is a hazardous waste.
21

22 117. Anaplex failed to make hazardous waste determinations for several
23 solid wastes it generated, thereby violating 22 C.C.R. § 262.11 (40 C.F.R.
24 § 262.11).
25

1 118. Under Section 3008(g) of RCRA, 42 U.S.C. § 6928 (g) Anaplex is
2 subject to civil penalties up to \$37,500 per day for each violation of RCRA. 40
3 C.F.R. § 19.4.
4

5 **FIFTH CLAIM FOR RELIEF**

6 *RCRA: Storage and treatment of hazardous waste without a permit*

7 119. The allegations in Paragraphs 1 through 103 above are re-alleged
8 and incorporated herein by reference.
9

10 120. Each person owning or operating a facility for the treatment,
11 storage or disposal of hazardous waste must obtain a RCRA permit, unless the
12 generator meets certain conditions for an exemption from the permit requirement.
13 If a generator fails to meet any condition for the exemption, the facility becomes a
14 hazardous waste storage facility subject to all applicable requirements for storage
15 facilities. 22 C.C.R. §§ 66262.34, 66270.1 (40 C.F.R. §§ 262.34, 270.1).
16

17 121. One condition for the permit exemption is that while accumulating
18 hazardous waste on-site, each container and tank must be labeled or marked clearly
19 with the words “Hazardous Waste” (22 C.C.R. § 66262.34 (40 C.F.R. § 262.34)).
20 Anaplex failed to meet this condition as it failed to label or mark both its secondary
21 containment and a 55-gallon drum containing hazardous waste with the words
22 “hazardous waste.”
23

24 // //

1 122. One condition for the permit exemption is that hazardous waste
2 must not be accumulated at the facility for longer than 90 days. 22 C.C.R.
3 § 66262.34(a) (40 C.F.R. § 262.34(a)). Anaplex failed to meet this condition
4 because it accumulated spent plating solution (RCRA waste code F007) in the
5 secondary containment for the cyanide plating tanks for longer than 90 days.
6

7 123. One condition for the permit exemption is that generators, owners
8 and operators must provide a program of classroom instruction or on-the-job
9 training that teaches personnel to perform their duties in a way that ensures the
10 facility's compliance with the requirements for operating a hazardous waste
11 facility. Facility personnel must take part in an annual review of the initial
12 training. 22 C.C.R. § 66265.16 (40 C.F.R. § 265.16)). In addition, generators,
13 owners, and operators of facility's handling hazardous waste must maintain certain
14 records, including: the job title for each position at the facility related to hazardous
15 waste management, and the name of the employee filling each job; a written job
16 description for each position; a written description of the type and amount of both
17 introductory and continuing training that will be given to each person; and records
18 that document the training completed by facility personnel. 22 C.C.R. § 66265.16
19 (40 C.F.R. § 265.16). Anaplex failed to meet this condition because Anaplex had
20 not provided employees with the required training, and could not provide any of
21 the required documentation of training.
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1 124. One of the conditions for the permit exemption is that containers of
2 hazardous waste must be closed except when adding or removing waste. 22 C.C.R.
3 § 66265.173(a) (40 C.F.R. § 265.173(a)). Anaplex failed to meet this condition of
4 the exemption because containers of hazardous waste at the Facility were open
5 when waste was not being added or removed.
6

7 125. One of the conditions for the permit exemption is that the generator
8 must comply with the requirements for owners or operators in 22 C.C.R. chapter
9 15 articles 3 and 4, including the requirement in 22 C.C.R. § 66265.31 (40 C.F.R.)
10 § 265.31) to minimize the possibility of a release. Anaplex failed to meet this
11 condition because there was evidence that hazardous wastewater had leaked from
12 the secondary containment.
13

14 126. One of the conditions for the permit exemption is that the generator
15 must comply with the requirements for owners or operators in 22 C.C.R.
16 § 66265.51(a) to maintain a complete contingency plan (40 C.F.R. § 265.51(a)).
17 Anaplex failed to meet this condition because it failed to maintain a complete
18 contingency plan.
19
20

21 127. One of the conditions for the permit exemption is that the generator
22 may treat hazardous waste in a tank without a permit so long as the tanks meet the
23 applicable requirements of 22 C.C.R. §§ 66265.190 *et seq.* (40 C.F.R. part 265,
24 subpart J), and the waste is not accumulated in the tank longer than 90 days.
25
26

1 Anaplex failed to meet this condition because it was treating hazardous waste in its
2 secondary containment, which did not meet the applicable RCRA requirements for
3 tanks at 22 C.C.R. §§ 66265.190 *et seq.* (40 C.F.R. part 265, subpart J).

4
5 128. Anaplex did not have a RCRA permit for treatment or storage, and
6 Anaplex failed to meet the conditions of the exemption from the permit
7 requirement.

8
9 129. Therefore Anaplex stored and treated hazardous waste in violation
10 of Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), and 22 C.C.R. § 66270.1 (40
11 C.F.R. § 270.1). Under Section 3008(g) of RCRA, 42 U.S.C. § 6928 (g), Anaplex
12 is subject to an injunction and to civil penalties not to exceed \$37,500 per day for
13 each violation. 40 C.F.R. § 19.4.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff, the United States of America, prays that this
17 Court:

18 1. Enjoin Anaplex from operating the Facility in violation of the Clean
19 Water Act, including, but not limited to, the pretreatment standards.

20
21 2. Pursuant to 33 U.S.C. § 1319(b) and (d) and 40 C.F.R. Part 19, assess
22 civil penalties against Anaplex of up to \$32,500 per day for each violation that
23 occurred between February 10, 2007 and January 12, 2009 and up to \$37,500 per
24 day for each violation that occurred after January 12, 2009.
25
26

1 3. Pursuant to 42 U.S.C. § 3008(a)(3) and (g) of and 40 C.F.R. Part 19,
2 assess civil penalties against Anaplex of up to \$37,500 per day for each violation
3 of RCRA that occurred after January 12, 2009.
4

5 4. Order the Defendant to take all steps necessary to redress or mitigate the
6 impact of their violations.
7

8 Respectfully submitted,

9 ELLEN MAHAN
10 Deputy Chief
11 Environmental Enforcement Section
12 Environment and Natural Resources Division
13 United States Department of Justice

14 /s/ Elias L. Quinn _____
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