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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

MAR 18 2013

John A. Clarke, Executive Officer/Clerk
BY *Ishaylia Chambers* Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES

10 BC503093

11 PEOPLE OF THE STATE OF CALIFORNIA,
12 ex rel. Deborah O. Rafael, Director, the
13 Department of Toxic Substances Control,

Case No.

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

14 Plaintiff,

15 v.

16 CHEMICAL WASTE MANAGEMENT,
INC., DOES 1-20,

17 Defendants.

18
19 Plaintiff People of the State of California, ex rel. Deborah O. Raphael, Director of the
20 Department of Toxic Substances Control (the "Department"), allege the following:

21 STATEMENT OF THE CASE

22 1. Chemical Waste Management, Inc. ("Defendant" or "CWM") owns and operates
23 the Waste Management Kettleman Hills Facility, a Class I Permitted Treatment, Storage and
24 Disposal Facility (TSDF) ("the Facility" or "KHF") located at 35251 Old Skyline Road,
25 Kettleman City, CA 93239. CWM operates the Facility pursuant to Hazardous Waste Facility
26 Permit Number 02-SAC-03 issued by the Department, effective June 16, 2003 ("2003 Permit").

27 2. While storing, handling, managing, treating and disposing of hazardous waste at
28 the Facility, CWM violated the California Hazardous Waste Control Law, Chapter 6.5 of

1 Division 20 of the California Health and Safety Code, section 25100 et seq. ("HWCL"), and its
2 implementing regulations, California Code of Regulations, title 22, division 4.5, et. seq., and Part
3 VI(1) of its 2003 Permit.

4 3. The Department hereby seeks civil penalties from, and injunctive relief against,
5 Defendant for its violations of the HWCL and its implementing regulations, and Part VI(1) of its
6 2003 Permit.

7 **PLAINTIFF**

8 4. The Department is a public agency of the State of California organized and
9 existing under and pursuant to Health and Safety Code section, 58000 et seq.

10 5. Pursuant to sections 25181 and 25182 of the Health and Safety Code, the Attorney
11 General of the State of California is authorized, at the request of the Department, to commence an
12 action in the name of the People for civil penalties and injunctive relief under the HWCL. The
13 Department has asked the Attorney General to apply to this court for penalties and an injunction
14 enjoining Defendant from continuing violations of the HWCL.

15 **DEFENDANT**

16 6. CWM owns and operates the Facility, which is a commercial hazardous waste
17 treatment, storage and disposal facility, as defined by the Environmental Protection Agency in 40
18 C.F.R. Part 261, and by the Department in California Code of Regulations, title 22, chapter 30,
19 section 66261. CWM accepts many types and categories of hazardous waste at the Facility.
20 Hazardous waste arrives at the Facility in bulk or containers.

21 7. The Facility is located in Kings County, CA, north of State Highway 41,
22 approximately two and a half miles from Interstate Highway 5. The Department is informed and
23 believes and thereon alleges that the property on which the Facility is located is owned by CWM
24 and is approximately 1600 acres, of which 499 acres of that property are currently used for the
25 management of hazardous waste.

26 8. CWM is a corporation, which is a "person" as defined at Health and Safety Code
27 section 25118.

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1 9. When reference is made in this Complaint to any act of CWM, such allegation
2 shall mean that CWM did such acts or that employees or representatives of CWM did or
3 authorized such acts or failed to adequately or properly supervise, control, or direct CWM
4 employees or representatives while engaged in the management, direction, operation, or control
5 of the affairs of CWM and did so while acting within the course and scope of their employment
6 or agency.

7 10. Defendants Does 1-20 are the officers, agents, employees, or others acting in
8 interest or concert with CWM. The Department is ignorant of the true names of defendants sued
9 herein as Does 1-20. When the names of these defendants have been ascertained, the Department
10 will seek leave to amend the Complaint to substitute the true name of each Doe defendant in place
11 of the fictitious name.

12 **JURISDICTION**

13 11. This court has jurisdiction pursuant to California Constitution Article VI, section
14 10 and Health and Safety Code section 25181(a).

15 **STATUTORY AND REGULATORY AUTHORITY UNDER THE HWCL**

16 12. The State of California has enacted a comprehensive statutory and regulatory
17 framework for the generation, handling, treatment, transport, and disposal of hazardous wastes
18 known as the Hazardous Waste Control Law. (Health and Saf. Code § 25100, et seq.) The
19 HWCL's implementing regulations specify requirements for the tracking, storage, treatment, and
20 disposal of hazardous waste to protect the public from the risks posed by improper management
21 of hazardous wastes. (Cal. Code Regs, tit. 22, § 66260.1, et seq.)

22 13. The HWCL authorizes the Court to issue civil penalties under two distinct and
23 alternative provisions. Section 25189(b) of the Health and Safety Code creates liability for any
24 negligent or intentional violation of the HWCL. Section 25189(f) provides that each civil penalty
25 imposed for any separate violation pursuant to Section 25189 shall be separate and in addition to
26 any other civil penalty imposed pursuant to this section or any other provision of law. Section
27 25189.2 is a strict liability provision, which creates liability for any violation of the HWCL. A
28 person may not be held liable for separate civil penalties imposed under sections 25189 and

1 25189.2 for the same act. (Health & Saf. Code, § 25189.2(f).)

2 14. Sections 25181 and 25184 of the Health and Safety Code authorize and direct the
3 court to enjoin any ongoing or potential violation of the HWCL.

4 15. Section 25181 of the Health and Safety Code provides that when the Department
5 determines that any person has engaged in, is engaged in, or is about to engage in any acts or
6 practices which constitute or will constitute a violation of any provision of the HWCL or any rule
7 or requirement issued or promulgated thereunder, and when requested by the Department, the
8 Attorney General may make application to the superior court for an order enjoining such acts or
9 practices, or for an order directing compliance, and upon a showing by the Department that such
10 person has engaged in or is about to engage in any such acts or practices, a permanent or
11 temporary injunction, restraining order, or other order may be granted.

12 16. Health and Safety Code section 25184 provides that in civil actions brought
13 pursuant to the HWCL in which an injunction or temporary restraining order is sought:

14 "...it shall not be necessary to allege or prove at any stage of the
15 proceeding that irreparable damage will occur should the temporary
16 restraining order, preliminary injunction, or permanent injunction
17 not be issued; or that the remedy at law is inadequate, and the
18 temporary restraining order, preliminary injunction, or permanent
19 injunction shall issue without such allegations and without such
20 proof."

21 **HAZARDOUS WASTE MANAGEMENT AND**
22 **ENFORCEMENT HISTORY AT THE FACILITY**

23 17. CWM is currently authorized under its 2003 Permit to treat, store and dispose of
24 hazardous wastes at the Facility. The 2003 Permit became effective June 16, 2003 and expires on
25 June 30, 2013. CWM also has a permit issued by the California Integrated Waste Management
26 Board (now the California Department of Resources Recycling and Recovery) to receive
27 municipal solid wastes into its converted landfill, Unit B-19 at the Facility.

28 18. On April 9-10, 2012 and April 12-13, 2012, the Department initiated an inspection
of the Facility. At the conclusion of this initial part of the inspection, the Department issued a
Summary of Observations. Robert Henry signed the Summary of Observations in his capacity as
Senior District Manager on behalf of CWM. On July 3, 2012, the Department issued a Summary

1 of Violations for the violations observed during the inspection. On August 22, 2012, the
2 Department issued a detailed Inspection Report.

3 19. As a follow-up to the April 9-10 and April 12-13 inspection, on June 29, 2012, the
4 Department issued an information request to CWM for copies of reports and related documents
5 for releases of hazardous waste and/or hazardous constituents that occurred at the Facility
6 between July 1, 2008 and June 29, 2012. On July 27, 2012, CWM provided records in response
7 to the Department's information request. Based on the Department's review of the records
8 provided by CWM, and the violations observed by the Department when reviewing these records,
9 the Department issued a second Summary of Violations to CWM on October 22, 2012.

10 **FIRST CAUSE OF ACTION**
11 **(Failure to comply with applicable land disposal restrictions)**
12 **(California Code of Regulations, title 22, § 66268.40(a)(1))**

13 20. Paragraphs 1 through 19 are realleged as if fully set forth herein.

14 21. California Code of Regulations, title 22, section 66268.40(a)(1) sets forth
15 treatment standards for hazardous wastes.

16 22. CWM failed to comply with applicable land disposal restrictions by failing to
17 properly treat a shipment of hazardous waste prior to disposal into its landfill B-18. CWM
18 processed waste of 44,900 pounds using a gross weight of 30,880 pounds on December 12, 2011.
19 This processing error resulted in an insufficient quantity of reagent being used to treat the
20 shipment of hazardous waste disposed into landfill B-18.

21 23. CWM is liable for civil penalties under Health and Safety Code section 25189 for
22 its violation of California Code of Regulations, title 22, section 66268.40(a)(1), as described in
23 paragraph 22 above.

24 **SECOND CAUSE OF ACTION**
25 **(Failure to reconcile a significant manifest discrepancy within 15 days of discovery)**
26 **(California Code of Regulations, title 22, § 66264.72(c))**

27 24. Paragraphs 1 through 19 are realleged as if fully set forth herein.

28 25. California Code of Regulations, title 22, section 66264.72(c) requires that, upon
discovering a significant discrepancy in quantity or type of hazardous waste designated on a
hazardous waste manifest, the owner or operator shall attempt to reconcile the discrepancy with

1 the waste generator or transporter. If the discrepancy is not resolved within 15 days after
2 receiving the waste, the owner or operator shall immediately submit to the Department a letter
3 describing the discrepancy, its attempts to reconcile the discrepancy, and a copy of the manifest at
4 issue.

5 26. CWM failed to reconcile a significant hazardous waste manifest discrepancy
6 within 15 days of CWM's discovery of the discrepancy. A drum of waste batteries at the Facility
7 was identified in manifest number 003905728FLE as "BATTERIES, DRY, CONTAINING
8 POTASSIUM HYDROXIDE, Solid/8UN/3. PGIII." During preparation of the drum for offsite
9 shipment, CWM discovered the contents of the drum were not those identified on the manifest.
10 The drum contained lead acid batteries, which were not identified under the manifested profile
11 number. CWM discovered the significant discrepancy on December 23, 2011, and but did not
12 send the significant manifest discrepancy resolution letter to the Department, until March 26,
13 2012. Accordingly, the manifest discrepancy was neither resolved within 15 days of discovery,
14 nor was the required letter describing the discrepancy and attempts at reconciliation submitted to
15 the Department as required under California Code of Regulations, title 22, section 66264.72(c).

16 27. CWM is liable for civil penalties under Health and Safety Code section 25189 for
17 its violation of California Code of Regulations, title 22, section 66264.72(c), as described in
18 paragraph 26 above.

19 **THIRD CAUSE OF ACTION**
20 **(Failure to report discovery of releases of hazardous waste and/or hazardous constituent)**
21 **(Health and Safety Code § 25202(a);**
22 **California Code of Regulations, title 22, § 66270.30(a)**
23 **Hazardous Waste Facility Permit Number 02-SAC-03))**

24 28. Paragraphs 1 through 19 are realleged as if fully set forth herein.

25 29. CWM operates the Facility pursuant to the 2003 Permit. The Department issued
26 the 2003 Permit to CWM pursuant to Health and Safety Code section 25200 California Code of
27 Regulations, title 22, section 66270.30(a).

28 30. Part VI(1) of the 2003 Permit states:

In the event the Permittee identifies an immediate or potential threat to human health
and/or the environment, discovers new releases of hazardous waste and/or hazardous constituents,

1 or discovers new Solid Waste Management Units (SWMUs) not previously identified, the
2 Permittee shall notify DTSC orally within 24 hours of discovery and notify DTSC in writing
3 within 10 days of such discovery summarizing the findings including the immediacy and
4 magnitude of any potential threat to human health and/or the environment.

5 31. CWM is the Permittee under the 2003 Permit. CWM violated Part VI(1) of its
6 2003 Permit by failing to report the discovery of releases of a hazardous waste/hazardous
7 constituent to the Department orally within 24 hours, and in writing within 10 days, of such
8 discovery summarizing the findings including the immediacy and magnitude of any potential
9 threat to human health and/or the environment as follows:

10 31.1. On or about August 7, 2008, approximately 2 quarts of hazardous waste consisting
11 of contaminated soil were spilled at the CWM Facility Sample Rack, according to a CWM
12 Spill/Release report for this incident. The hazardous waste manifest for this released material
13 classified the waste as a "Non-RCRA hazardous waste."

14 31.2. On or about October 10, 2008, approximately 2 quarts of hazardous waste
15 consisting of sand blast grit were spilled in the vicinity of the closed B 15 landfill, according to a
16 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
17 material classified the waste as a "hazardous waste - solid."

18 31.3. On or about October 20, 2008, approximately 5 gallons of hazardous waste
19 containing fluorochemicals were spilled at the CWM Facility Sample Rack, according to a CWM
20 Spill/Release report for this incident. The hazardous waste manifest for this released material
21 classified the waste as a "Non-RCRA hazardous waste-liquid."

22 31.4. On or about November 14, 2008, approximately 1 gallon of fertilizers/herbicides
23 was spilled at the CWM Facility Sample Rack, according to a CWM Spill/Release report for this
24 incident. The hazardous waste manifest for this released material classified the waste as a "Non-
25 RCRA hazardous waste-solid."

26 31.5. On or about January 12, 2009, approximately 1 quart of hazardous waste
27 containing polychlorinated biphenols (PCBs) was spilled at the CWM Facility Sample Rack,
28 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for the

1 released material classified the waste as a "PCB."

2 31.6. On or about January 26, 2009, approximately ½ pound of sulfur tank bottoms was
3 spilled in the vicinity of the closed B. 15 landfill, according to a CWM Spill/Release report for
4 this incident. The hazardous waste manifest for this released material classified the waste as a
5 "Waste Sulfur."

6 31.7. On or about January 27, 2009, approximately 1 gallon of hazardous waste
7 containing solidified fuel oil was spilled at the CWM Facility Sample Rack, according to a CWM
8 Spill/Release report for this incident. The hazardous waste manifest for this released material
9 classified the waste as a "Non-RCRA hazardous waste."

10 31.8. On or about January 27, 2009, approximately 1 gallon of hazardous waste
11 consisting of drill cuttings/asbestos was spilled at the CWM Facility Sample Rack, according to a
12 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
13 material classified the waste as a "Non-RCRA hazardous waste."

14 31.9. On or about February 3, 2009 (5:05 pm), approximately ½ gallon of hazardous
15 waste containing sump material/PCB was spilled at the CWM Facility Sample Rack, according to
16 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
17 material classified the waste as a "PCB solid."

18 31.10. On or about February 3, 2009 (11:40 am), approximately 1 gallon of hazardous
19 waste containing sump material/PCB was spilled at the CWM Facility Sample Rack, according to
20 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
21 material classified the waste as a "PCB solid."

22 31.11. On or about February 3, 2009 (5:30 pm), approximately ½ gallon of hazardous
23 waste containing sump material/PCB was spilled at the CWM Facility Sample Rack, according to
24 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
25 material classified the waste as a "PCB solid."

26 31.12. On or about March 3, 2009 (approx. 2:00 pm), approximately 1 gallon of
27 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
28 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this

1 released material classified the waste as an "Environmentally Hazardous Substances - solid."

2 31.13. On or about March 3, 2009 (approx. 2:00 pm), approximately 1 gallon of
3 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
4 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
5 released material classified the waste as an "Environmentally Hazardous Substances - solid."

6 31.14. On or about March 3, 2009 (approx. 2:00 pm), approximately 1 gallon of
7 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
8 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
9 released material classified the waste as an "Environmentally Hazardous Substances - solid."

10 31.15. On or about March 3, 2009 (approx. 2:00 pm), approximately 1 gallon of
11 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
12 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
13 released material classified the waste as an "Environmentally Hazardous Substances - solid."

14 31.16. On or about March 3, 2009 (approx. 3:00 pm), approximately 1 gallon of
15 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
16 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
17 released material classified the waste as an "Environmentally Hazardous Substances - solid."

18 31.17. On or about March 3, 2009 (approx. 4:00 pm), approximately 1 gallon of
19 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
20 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
21 released material classified the waste as an "Environmentally Hazardous Substances - solid."

22 31.18. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
23 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
24 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
25 released material classified the waste as an "Environmentally Hazardous Substances - solid."

26 31.19. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
27 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
28 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this

1 released material classified the waste as an "Environmentally Hazardous Substances - solid."

2 31.20. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
3 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
4 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
5 released material classified the waste as an "Environmentally Hazardous Substances - solid."

6 31.21. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
7 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
8 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
9 released material classified the waste as an "Environmentally Hazardous Substances - solid."

10 31.22. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
11 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample
12 Rack, according to a CWM Spill/Release report for this incident. The hazardous waste manifest
13 for this released material classified the waste as an "Environmentally Hazardous Substances -
14 solid."

15 31.23. On or about March 3, 2009 (approx. 5:00 p.m.), approximately 1 gallon of
16 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
17 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
18 released material classified the waste as an "Environmentally Hazardous Substances - solid."

19 31.24. On or about March 3, 2009 (approx. 5:00 pm), approximately 1 gallon of
20 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample
21 Rack, according to a CWM Spill/Release report for this incident. The hazardous waste manifest
22 for this released material classified the waste as an "Environmentally Hazardous Substances -
23 solid."

24 31.25. On or about March 6, 2009 (approx. 8:30 am), approximately 1 gallon of
25 hazardous waste consisting of site cleanup waste was spilled at the CWM Facility Sample Rack,
26 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
27 released material classified the waste as "Non-RCRA Hazardous Waste - Solid."

28 31.26. On or about March 6, 2009 (approx. 8:30 am), approximately ½ gallon of

1 hazardous waste consisting of solidified fuel oil and debris waste was spilled at the CWM Facility
2 Sample Rack, according to a CWM Spill/Release report of this incident. The hazardous waste
3 manifest for this released material classified the waste as "Non-RCRA Hazardous Waste – Solid."

4 31.27. On or about March 17, 2009, approximately 2 quarts of hazardous waste
5 consisting of lead-containing soil was spilled at the CWM Facility Sample Rack, according to a
6 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
7 material classified the waste as an "Environmentally Hazardous Substances - solid."

8 31.28. On or about May 7, 2009, approximately 1 quart of hazardous waste consisting of
9 demolition waste/asbestos was spilled at the CWM Facility Sample Rack, according to a CWM
10 Spill/Release report for this incident. The hazardous waste manifest for this released material
11 classified the waste as "Asbestos."

12 31.29. On or about July 15, 2009, approximately 2 quarts of hazardous waste consisting
13 of oily sludge were spilled at the CWM Facility Sample Rack, according to a CWM Spill/Release
14 report for this incident. The hazardous waste manifest for this released material classified the
15 waste as a "Non-RCRA hazardous waste."

16 31.30. On or about September 9, 2009, approximately 1 quart of hazardous waste
17 consisting of sand blast grit with lead was spilled at the CWM Facility Sample Rack, according to
18 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
19 material classified the waste as a "Non-RCRA hazardous waste."

20 31.31. On or about September 23, 2009, approximately 5 to 8 gallons of hazardous waste
21 consisting of grease/sludge were spilled in the vicinity of the Drum Storage Unit, according to a
22 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
23 material classified the waste as a "Non-RCRA hazardous waste."

24 31.32. On or about November 3, 2009, approximately 2 quarts of hazardous waste
25 consisting of oily solids/debris were spilled at the CWM Facility Sample Rack, according to a
26 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
27 material classified the waste as a "Non-RCRA hazardous waste."

28 31.33. On or about November 10, 2009 (approx. 4:00 pm), approximately 1 pint of

1 hazardous waste consisting of lead-containing soil was spilled in the vicinity between the Guard
2 House and Site Maintenance, according to a CWM Spill/Release report for this incident. The
3 hazardous waste manifest for this released material classified the waste as an "Environmentally
4 Hazardous Substances -Solid."

5 31.34. On or about November 10, 2009 (approximately 3:00 p.m.), approximately 1 quart
6 of hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample
7 Rack, according to a CWM Spill/Release report for this incident. The hazardous waste manifest
8 for this released material classified the waste as an "Environmentally Hazardous Substance -
9 Solid."

10 31.35. On or about November 10, 2009 (approx. 3:30 pm), approximately 1 quart of
11 hazardous waste consisting of lead-containing soil was spilled at the CWM Facility Sample Rack,
12 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
13 released material classified the waste as an "Environmentally Hazardous Substance - Solid."

14 31.36. On or about November 10, 2009 (approx. 4:00 pm), approximately 1 quart of
15 hazardous waste consisting of lead-containing soil was spilled in the vicinity between the Guard
16 House and Site Maintenance, according to a CWM Spill/Release report for this incident. The
17 hazardous waste manifest for this released material classified the waste as an "Environmentally
18 Hazardous Substance -Solid."

19 31.37. On or about November 10, 2009 (approx. 4:00 pm), approximately 1 pint of
20 hazardous waste consisting of lead-containing soil was spilled in the vicinity between the Guard
21 House and Site Maintenance, according to a CWM Spill/Release report for this incident. The
22 hazardous waste manifest for this released material classified the waste as an "Environmentally
23 Hazardous Substance-Solid."

24 31.38. On or about November 10, 2009 (approx. 2:00 pm) , approximately 1 quart of
25 hazardous waste consisting of lead-containing soil was spilled in the vicinity between the Guard
26 House and Site Maintenance, according to a CWM Spill/Release report for this incident. The
27 hazardous waste manifest for this released material classified the waste as an "Environmentally
28 Hazardous Substance - Solid."

1 31.39. On or about November 19, 2009, approximately 1 quart of hazardous waste
2 consisting of oily water/sludge was spilled at the CWM Facility Sample Rack, according to a
3 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
4 material classified the waste as a "Non-RCRA hazardous waste."

5 31.40. On or about January 22, 2010, approximately 2 pounds of hazardous waste
6 consisting of sulfur filter cake were spilled in the vicinity of the closed B 15 landfill, according to
7 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
8 material classified the waste as a "Non-RCRA hazardous waste - Solid."

9 31.41. On or about January 25, 2010, approximately 2 gallons of hazardous waste
10 consisting of demolition debris were spilled at the CWM Facility Sample Rack, according to a
11 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
12 material classified the waste as a "Non-RCRA hazardous waste."

13 31.42. On or about February 2, 2010, approximately 2 gallons of hazardous waste
14 consisting of contaminated soil were spilled at the CWM Facility Sample Rack, according to a
15 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
16 material classified the waste as a "Non-RCRA hazardous waste."

17 31.43. On or about March 1, 2010, approximately 1 gallon of hazardous waste consisting
18 of paint and glue was spilled at the CWM Facility Sample Rack, according to a CWM
19 Spill/Release report for this incident. The hazardous waste manifest for this released material
20 classified the waste as a "Non-RCRA hazardous waste."

21 31.44. On or about March 8, 2010, approximately 1 gallon of hazardous waste consisting
22 of contaminated debris was spilled at the CWM Facility Sample Rack, according to a CWM
23 Spill/Release report for this incident. The hazardous waste manifest for this released material
24 classified the waste as a "hazardous waste."

25 31.45. On or about March 30, 2010, approximately 1 pint of hazardous waste consisting
26 of demolition debris was spilled at the CWM Facility Sample Rack, according to a CWM
27 Spill/Release report for this incident. The hazardous waste manifest for this released material
28 classified the waste as a "Non-RCRA hazardous waste."

1 31.46. On or about April 1, 2010, approximately 1 gallon of hazardous waste consisting
2 of concrete grindings with lead was spilled at the CWM Facility Sample Rack, according to a
3 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
4 material classified the waste as a "hazardous waste."

5 31.47. On or about April 8, 2010, approximately 2 gallons of hazardous waste consisting
6 of debris was spilled at the CWM Facility Sample Rack, according to a CWM Spill/Release
7 report for this incident. The hazardous waste manifest for this released material classified the
8 waste as a "Non-RCRA hazardous waste."

9 31.48. On or about May 6, 2010, approximately ½ gallon of hazardous waste consisting
10 of oily solids was spilled at the CWM Facility Sample Rack, according to a CWM Spill/Release
11 report for this incident. The hazardous waste manifest for this released material classified the
12 waste as a "Non-RCRA hazardous waste."

13 31.49. On or about June 9, 2010, approximately 1 pound of hazardous waste consisting of
14 catalyst fines was spilled in the vicinity of the closed B 15 landfill, according to a CWM
15 Spill/Release report for this incident. The hazardous waste manifest for this released material
16 classified the waste as a "Non-RCRA hazardous waste."

17 31.50. On or about July 7, 2010, approximately ½ gallon of hazardous waste consisting of
18 site cleanup waste was spilled at the CWM Facility Sample Rack, according to a CWM
19 Spill/Release report for this incident. The hazardous waste manifest for this released material
20 classified the waste as a "Non-RCRA hazardous waste."

21 31.51. On or about September 17, 2010, approximately 5 pounds of hazardous waste
22 consisting of soil with paint was spilled in the vicinity of the closed B 15 landfill, according to a
23 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
24 material classified the waste as a "Non-RCRA hazardous waste."

25 31.52. On or about November 10, 2010, approximately ½ gallon of hazardous waste
26 consisting of wash water with metals was spilled at the CWM Facility Sample Rack, according to
27 a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
28 material classified the waste as a "Non-RCRA hazardous waste."

1 31.53. On or about December 29, 2010, approximately 1 pint of hazardous waste
2 consisting of water treatment sludge was spilled in the vicinity of the In Bound Scale, according
3 to a CWM Spill/Release report for this incident. The hazardous waste manifest for this released
4 material classified the waste as a "Hazardous Waste."

5 31.54. On or about January 21, 2011, approximately ½ gallon of hazardous waste
6 containing asbestos was spilled at the CWM Facility Sample Rack, according to a CWM
7 Spill/Release report for this incident. The hazardous waste manifest for this released material
8 classified the waste as a "Waste Asbestos."

9 31.55. On or about February 1, 2011, approximately ¼ gallon of hazardous waste
10 containing asbestos was spilled at the CWM Facility Sample Rack, according to a CWM
11 Spill/Release report for this incident. The hazardous waste manifest for this released material
12 classified the waste as a "Waste Asbestos."

13 31.56. On or about February 22, 2011, approximately ¼ gallon of hazardous waste
14 consisting of lead-containing soil was spilled at the CWM Facility Sample Rack, according to a
15 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
16 material classified the waste as an "Environmentally Hazardous Substance - Liquid."

17 31.57. On or about March 2, 2011, approximately 1 pint of hazardous waste consisting of
18 friable asbestos was spilled at the CWM Facility Sample Rack, according to a CWM
19 Spill/Release report for this incident. The hazardous waste manifest for this released material
20 classified the waste as a "Waste Asbestos."

21 31.58. On or about March 16, 2011, approximately ½ pint of hazardous waste consisting
22 of crude oil residue was spilled at the CWM Facility Sample Rack, according to a CWM
23 Spill/Release report for this incident. The Generator Profile for this released material classified
24 the waste as a "Environmentally Hazardous Substance - Solid."

25 31.59. On or about May 16, 2011, approximately ½ pint of hazardous waste consisting of
26 oil field debris was spilled at the CWM Facility Sample Rack, according to a CWM Spill/Release
27 report for this incident. The hazardous waste manifest for this released material classified the
28 waste as a "Non-RCRA hazardous waste."

1 31.60. On or about August 4, 2011, approximately 1 quart of hazardous waste containing
2 catalyst with copper was spilled at the CWM Facility Sample Rack, according to a CWM
3 Spill/Release report for this incident. The hazardous waste manifest for this released material
4 classified the waste as a "Non-RCRA hazardous waste."

5 31.61. On or about October 10, 2011, approximately ½ pint of hazardous waste consisting
6 of geothermal scale was spilled at the CWM Facility Sample Rack, according to a CWM
7 Spill/Release report for this incident. The hazardous waste manifest for this released material
8 classified the waste as an "Environmentally Hazardous Substance - Liquid."

9 31.62. On or about November 23, 2011, approximately ½ pint of hazardous waste
10 consisting of NORM scale was spilled at the CWM Facility Sample Rack, according to a CWM
11 Spill/Release report for this incident. The hazardous waste manifest for this released material
12 classified the waste as an "Environmentally Hazardous Substance - Liquid."

13 31.63. On or about November 25, 2011 (approx. 2:00 pm), approximately ½ pint of
14 hazardous waste consisting of NORM scale was spilled at the CWM Facility Sample Rack,
15 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
16 released material classified the waste as an "Environmentally Hazardous Substance - Solid."

17 31.64. On or about November 25, 2011 (approx. 3:00 pm), approximately ½ pint of
18 hazardous waste consisting of NORM scale was spilled at the CWM Facility Sample Rack,
19 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
20 released material classified the waste as an "Environmentally Hazardous Substance - Solid."

21 31.65. On or about November 25, 2011 (approx. 3:30 pm), approximately ½ pint of
22 hazardous waste consisting of NORM scale was spilled at the CWM Facility Sample Rack,
23 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
24 released material classified the waste as an "Environmentally Hazardous Substance - Solid."

25 31.66. On or about November 25, 2011 (approx. 3:30 pm), approximately ½ pint of
26 hazardous waste consisting of NORM scale was spilled at the CWM Facility Sample Rack,
27 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
28 released material classified the waste as an "Environmentally Hazardous Substance - Solid."

1 31.67. On or about November 25, 2011 (approx. 4:00 pm), approximately ½ pint of
2 hazardous waste consisting of NORM scale was spilled at the CWM Facility Sample Rack,
3 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
4 released material classified the waste as an “Environmentally Hazardous Substance - Solid.”

5 31.68. On or about November 28, 2011, approximately ½ pint of hazardous waste
6 consisting of NORM scale was spilled at the CWM Facility Sample Rack, according to a CWM
7 Spill/Release report for this incident. The hazardous waste manifest for this released material
8 classified the waste as an “Environmentally Hazardous Substance - Solid.”

9 31.69. On or about November 30, 2011, approximately 1 pint of hazardous waste
10 consisting of filter cake was spilled at the CWM Facility Sample Rack, according to a CWM
11 Spill/Release report for this incident. The hazardous waste manifest for this released material
12 classified the waste as a “Non-RCRA hazardous waste.”

13 31.70. On or about December 29, 2011, approximately ¾ pint of hazardous waste
14 consisting of geothermal debris was spilled at the CWM Facility Sample Rack, according to a
15 CWM Spill/Release report for this incident. The hazardous waste manifest for this released
16 material classified the waste as a “Non-RCRA hazardous waste.”

17 31.71. On or about February 9, 2012, approximately 1 gallon of hazardous waste
18 consisting of wastewater filter cake was spilled in the vicinity of the closed B-15 landfill,
19 according to a CWM Spill/Release report for this incident. The hazardous waste manifest for this
20 released material classified the waste as a “Non-RCRA hazardous waste.”

21 31.72. On or about May 24, 2012, approximately 1 pint of hazardous waste consisting of
22 wastewater filter cake was spilled at the CWM Facility Sample Rack, according to a CWM
23 Spill/Release report for this incident. The hazardous waste manifest for this released material
24 classified the waste as a “Non-RCRA hazardous waste.”

25 32. CWM is liable for civil penalties under Health and Safety Code section 25189 (b)
26 or section 25189.2 (b) for each and every violation of Part VI(1) of its 2003 Permit as described
27 in paragraph 31.1– 31.72 above.

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1 **REQUEST FOR RELIEF**

2 The Department requests that the Court grant the relief that follows:

3 1. Enter judgment that CWM has violated the HWCL and its implementing
4 regulations, the California Code of Regulations, and its 2003 Permit as described in the First
5 through Third Causes of Action;

6 2. Enter judgment that CWM is liable for civil penalties for those violations as
7 authorized by Health and Safety Code section 25189(b) and (e) or, in the alternative, by Health
8 and Safety Code section 25189.2(b), according to proof;

9 3. Enter a permanent injunction or other order requiring CWM to comply with the
10 HWCL (and its permit) and/the regulations adopted thereunder;

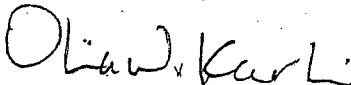
11 4. Grant the Department its costs of suit herein; and

12 5. Grant such other and further relief as the court deems just and proper.

13 Dated: March 15, 2013

14 Respectfully Submitted,

15 KAMALA D. HARRIS
16 Attorney General of California
17 MARGARITA PADILLA
18 Supervising Deputy Attorney General

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21 Deputy Attorney General
22 *Attorneys for Plaintiff*
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