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8 *California Department of Toxic Substances Control*

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF FRESNO

13
14 **PEOPLE OF THE STATE OF**
15 **CALIFORNIA, ex rel. Barbara A. Lee,**
16 **Director of the CALIFORNIA**
DEPARTMENT OF TOXIC
SUBSTANCES CONTROL,

17 Plaintiff,

18 v.

19
20 **SA RECYCLING LLC, a Delaware**
Corporation,

21 Defendant.

Case No. 17CECG01874

COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES AND
OTHER EQUITABLE RELIEF

(Health & Saf. Code, §§ 25181, 25183,
25184, 25189, and 25189.2)

22
23 Plaintiff, the People of the State of California, ex rel. Barbara A. Lee, Director of the
24 Department of Toxic Substances Control ("DTSC"), alleges as follows:

25 **STATEMENT OF THE CASE**

26 1. SA Recycling LLC ("SA Recycling") is now, and at all times mentioned in this
27 Complaint was, a Delaware corporation doing business in the State of California ("California")
28 as, *inter alia*, a scrap metal recycler. SA Recycling owns and operates a scrap metal sorting and

1 partitioning facility located at 3489 S. Chestnut Avenue, Fresno, CA 93725 (the "SA Recycling
2 Facility").

3 2. In conducting the scrap metal sorting and partitioning operations at the SA Recycling
4 Facility, SA Recycling violated California's Hazardous Waste Control Law ("HWCL") (Health &
5 Saf. Code, § 25100 *et seq.*) and its implementing regulations, Cal. Code Regs., tit. 22, § 66260.1,
6 *et seq.* ("Title 22"), by, *inter alia*, failing to make a hazardous waste determination on wastes it
7 generates, failing to minimize the possibility of any release of hazardous waste or hazardous
8 waste constituents to the environment, and unlawfully storing and causing the disposal of
9 hazardous waste at the SA Recycling Facility.

10 3. DTSC seeks injunctive relief against and civil penalties from SA Recycling for
11 violations of the HWCL and Title 22.

12 **PLAINTIFF**

13 4. DTSC is a public agency of the State of California organized and existing under and
14 pursuant to Health and Safety Code section 58000 *et seq.*

15 5. Barbara A. Lee is the Director of DTSC.

16 6. Pursuant to Health and Safety Code sections 25181 and 25182, the Attorney General
17 of the State of California is authorized, at DTSC's request, to commence an action in the name of
18 the People for injunctive relief and civil penalties under the HWCL. DTSC has requested that the
19 Attorney General bring this civil enforcement action for violations of the HWCL committed by
20 SA Recycling.

21 **DEFENDANT**

22 7. SA Recycling is a "person," as defined in Health and Safety Code section 25118.
23 When this Complaint refers to any action of SA Recycling, such allegation shall mean that SA
24 Recycling committed such acts, or its employees or agents performed or authorized such acts, or
25 failed to adequately advise or properly supervise, control, or direct SA Recycling's employees or
26 agents in the management, direction, operation, or control of the affairs of SA Recycling, and that
27 they did so while acting within the course and scope of their employment or agency for SA
28 Recycling.

1 25189.2 for the same act or failure to act. (Health & Saf. Code, §§ 25189, subd. (g); 25189.2,
2 subd. (f).)

3 11. Health and Safety Code sections 25181 and 25184 authorize and direct the Court to
4 enjoin, among other things, any ongoing or potential violations of the HWCL and its
5 implementing regulations.

6 12. Health and Safety Code section 25181 provides that when DTSC determines that any
7 person has engaged in, is engaged in, or is about to engage in any acts or practices that constitute
8 or will constitute a violation of any provision of the HWCL, or any rule, regulation, permit,
9 covenant, standard, requirement or order issued, promulgated, or executed thereunder, and when
10 requested by DTSC, the Attorney General may apply to the superior court for an order enjoining
11 such acts or practices, or for an order directing compliance. Upon DTSC's showing that a person
12 has engaged in or is about to engage such acts or practices, the Court may issue a permanent or
13 temporary injunction, a restraining order, or other appropriate order.

14 13. Health and Safety Code section 25184 provides that in civil actions brought pursuant
15 to the HWCL in which DTSC seeks an injunction or temporary restraining order:

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

21 **GENERAL ALLEGATIONS**

22 14. During all times relevant to the allegations set forth in the Complaint, SA Recycling
23 conducted scrap metal sorting and salvaging operations at the SA Recycling Facility. At the SA
24 Recycling Facility, SA Recycling accepted various metal waste items, including, but not limited
25 to, end-of-life automobiles and appliances. The SA Recycling Facility also handled Materials
26 Requiring Special Handling ("MSRH"). MRSRH includes, but is not limited to, used oil, mercury
27 found in switches and temperature control devices in major appliances, and any other material
28 that, when removed from a vehicle or major appliance, is a hazardous waste under the HWCL.
(Pub. Res. Code, § 42167.)

1 hazardous waste levels of lead without a permit or DTSC authorization, specifically by storing
2 hazardous waste on the bare ground of its yard and in the warehouse of its SA Recycling Facility
3 in violation of Health and Safety Code section 25201, subdivision (a).

4 42. Pursuant to Health and Safety Code section 25189, subdivision (b), or Health or
5 Safety Code section 25189.2, subdivision (b), DTSC is entitled to penalties against SA Recycling
6 of up to \$25,000 for each day the storage of hazardous waste occurred or continued.

7 43. DTSC is further entitled to injunctive relief to abate existing violations and prevent
8 future violations of the HWCL and Title 22.

9
10 **SIXTH CAUSE OF ACTION**

11 (Failure to Make Hazardous Waste Determination)
12 (Cal. Code Regs., tit. 22, §§ 66260.200, subd. (c), 66262.11)

13 44. DTSC realleges Paragraphs 1 through 17, inclusive.

14 45. California Code of Regulations, title 22, sections 66260.200, subdivision (c), and
15 66262.11, require a generator of waste to determine whether a waste generated at its facility must
16 be managed as a hazardous waste under the HWCL and Title 22.

17 46. Since at least November 20, 2013, SA Recycling failed to make a hazardous waste
18 determination as to whether waste generated at the SA Recycling Facility, including but not
19 limited to, (1) waste such as soil, dirt or debris contaminated with hazardous waste levels of lead
20 from SA Recycling's use of a sweeper; and (2) accumulated piles of waste that included dirt, dust
21 or debris on the warehouse floor containing hazardous waste levels of lead, met the requirements
22 to be classified as hazardous waste, in violation California Code of Regulations title 22, section
23 66260.200, subdivision (c), and 66262.11.

24 47. Under Health and Safety Code, section 25189, subdivision (b) or Health and Safety
25 Code, section 25189, subdivision (b), DTSC is entitled to up to \$25,000 in penalties against SA
26 Recycling for each failure to make a hazardous waste determination, and each day those
27 violations continued.

