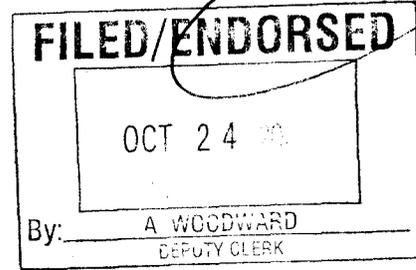


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9
10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SACRAMENTO

12 PEOPLE OF THE STATE OF CALIFORNIA, ex rel.
13 MAUREEN GORSEN, Director, STATE
DEPARTMENT OF TOXIC SUBSTANCES
14 CONTROL,

15 Plaintiffs,

16 v.

17 RIVERBANK OIL TRANSFER, a Washington
18 corporation,

19 Defendant.

Case No.: 07AS02681

**FIRST AMENDED
COMPLAINT FOR CIVIL
PENALTIES, INJUNCTIVE
RELIEF AND RECOVERY OF
COSTS OF INVESTIGATION
(California Hazardous Waste
Control Law, Cal. Health & Saf.
Code §§ 25100 *et seq.*)**

20
21 Plaintiffs, the PEOPLE OF THE STATE OF CALIFORNIA, ex rel. MAUREEN
22 GORSEN, DIRECTOR, DEPARTMENT OF TOXIC SUBSTANCES CONTROL, allege as
23 follows:

24 **GENERAL ALLEGATIONS**

25 1. This action is brought by the People of the State of California, by and through
26 Maureen Gorsen, director of the Department of Toxic Substances Control ("DTSC" or
27 "Department"), to obtain permanent injunctive relief and for civil penalties under the Hazardous
28 Waste Control Law ("HWCL"), sections 25100 *et seq.* of chapter 6.5 of division 20 of the Health

1 and Safety Code.^{1/}

2 **PLAINTIFFS**

3 2. Maureen Gorsen is the Director of the Department. The Department is a
4 public agency of the State of California organized and existing under and pursuant to sections
5 58000 *et seq.* of the California Health and Safety Code. The Department is the state agency
6 responsible for the administration of the HWCL.

7 3. Under sections 25181 and 25182 of the Health and Safety Code, the Attorney
8 General is authorized to commence this action under the HWCL in the name of the People of the
9 State of California at the request of the Department.

10 **DEFENDANTS**

11 4. Plaintiffs are informed and believe and on that basis allege that defendant
12 Riverbank Oil Transfer (“Riverbank”) is, and at all times relevant herein was, a corporation
13 organized under the laws of the State of Washington, with its principal place of business in
14 California at 30677 Huntwood Avenue, Hayward, California. Riverbank owns and operates a
15 hazardous waste transfer facility located at 5300 Claus Road, Riverbank, California, which
16 accepts hazardous waste primarily in the form of used oil from off-site generators and combines
17 the accepted hazardous waste for transportation to off-site treatment and disposal facilities.

18 5. Plaintiffs are informed and believe and on that basis allege that Riverbank
19 acted at all relevant times herein as an “owner and/or operator” of a hazardous waste facility, as
20 defined at section 66260.10 of title 22 of the California Code of Regulations.

21 6. Riverbank is and was at all relevant times a “person” as defined at section
22 25118 of the Health and Safety Code.

23 7. In this complaint, when reference is made to any act of defendant Riverbank,
24 such allegation shall mean that the owners, officers, directors, agents, employees or
25 representatives of Riverbank did, or authorized, such acts, or failed and omitted adequately or
26 properly to supervise, control or direct their employees, representatives or agents while engaged
27

28 1. Unless otherwise noted, all statutory references are to the California Health and Safety
Code.

1 in the management, direction, operation or control of the affairs of the business organization and
2 did so while acting within the course and scope of its employment or agency.

3 **JURISDICTION AND VENUE**

4 8. This court has jurisdiction pursuant to section 10 of article 6 of the California
5 Constitution. Venue is proper in Sacramento County under section 25183 of the Health and
6 Safety Code.

7 9. The amount in controversy in this action is greater than \$25,000.

8 **STATEMENT OF THE ACTION**

9 10. The Department in the name of the People of the State of California seeks
10 relief against defendant under the HWCL; specifically, injunctive relief pursuant to sections
11 25181 and 25184 in the form of an order enjoining violations and directing compliance with the
12 HWCL, and civil penalties pursuant to section 25189 of the Health and Safety Code, or
13 alternatively under section 25189.2, for repeated and continuing violations of the HWCL.

14 **STATUTORY AND REGULATORY BACKGROUND**

15 11. The State of California has enacted a comprehensive statutory and regulatory
16 framework for the handling, treatment, transport and disposal of hazardous wastes for the
17 protection of the public from the risks posed by hazardous wastes. The framework contained in
18 the HWCL and its implementing regulations, found at sections 66260.1 *et seq.* of title 22 of
19 division 4.5 of the California Code of Regulations, mandate a “cradle to grave” registration,
20 tracking, storage, treatment and disposal system for the reduction of risks posed by hazardous
21 wastes. The State of California also has been delegated the authority to administer the federal
22 hazardous waste management program, the Resource Conservation and Recovery Act (“RCRA”)
23 under section 6926 of title 42 of the United States Code. RCRA provides that a state hazardous
24 waste program may be more stringent and broader in scope than the federal program, and,
25 specifically, that a state may identify a broader list of substances regulated as hazardous wastes.
26 40 C.F.R. § 261.3(a)(2)(i). A waste regulated under the state program, but not under the federal
27 program, is termed a “non-RCRA” hazardous waste. In California, shipments of both RCRA
28 and non-RCRA hazardous wastes are tracked using a multi-part “manifest” form that conforms

1 to federal law.

2 12. Absent statutory or regulatory exemption, it is illegal to treat, store, dispose
3 and/or transport hazardous wastes without a Hazardous Waste Facility Permit or other grant of
4 authorization from the Department. Under the HWCL, a “hazardous waste facility” or “facility”
5 is defined as “all land and structures . . . used for the treatment, transfer, storage. . . [or] disposal .
6 . . of hazardous waste.” (Health & Saf. Code, § 25117.1; Cal. Code Regs., tit. 22, § 66260.10.)

7 The permitting requirements are at the heart of the HWCL’s regulatory framework. Section
8 25201(a) of the HWCL provides:

9 [N]o owner or operator of a storage facility, treatment facility, transfer facility,
10 resource recovery facility, or disposal site shall accept, treat, store, or dispose of a
11 hazardous waste facilities permit or other grant of authorization from the
department

12 13. Under the HWCL, the Department “shall impose conditions on each . . .
13 permit specifying the types of hazardous wastes which may be accepted for transfer, storage,
14 treatment or disposal . . . [and] any other conditions . . . that are consistent with the intent of this
15 chapter.” (Health & Saf. Code, § 25200(a).) Regulations promulgated by the Department set
16 forth the requirements to obtain a Hazardous Waste Facility Permit, and the conditions applicable
17 to the permit once issued. (Cal. Code of Regs., tit. 22, div. 4.5, §§ 66270.1-66270.60.) The
18 terms of a Hazardous Waste Facility Permit specifically authorize operation of particular facility
19 treatment, storage, and disposal activities.

20 14. The Department is authorized to issue standardized hazardous waste facility
21 permits to facilities that only treat and/or store non-RCRA hazardous wastes. (Health & Saf.
22 Code, § 25201.6.) The Department has designated several series of standardized permits, based
23 upon the designed storage capacity of a facility. (Health & Saf. Code, § 25201.6(a).) A Series C
24 Standardized Permit is issued for a facility with a designed storage limit that does not exceed
25 50,000 gallons of hazardous waste. (Health & Saf. Code, § 25201.6(a)(3).)

26 15. Section 25189 (b) of the Health and Safety Code makes liable any person who
27 intentionally or negligently violates any provision of the HWCL, or any permit, rule, regulation,
28 standard, or requirement promulgated pursuant to the HWCL, for a civil penalty not to exceed

1 the change, has had the opportunity to inspect the modified facility, and has approved the
2 appropriate permit modifications. Part II (R) of the Standardized Permit applicable to Riverbank
3 requires Riverbank to sample and analyze its railcar hazardous waste loads for polychlorinated
4 biphenyls (PCBs) prior to placing them in the custody of a registered hazardous waste transporter
5 for shipment. The waste is placed in the custody of the transporter when the transporter signs
6 and dates the manifest. Hazardous waste management activities, including transfer of waste and
7 storage in rail cars, are only authorized under the permit to be conducted inside Building 11 of
8 the facility, which meets secondary containment standards. Riverbank's permit also requires
9 analysis of all hazardous waste samples to be conducted by a certified laboratory.

10 26. As an alternative to the allegations in the Second Cause of Action, on or
11 about the time periods set forth in the subparts of this paragraph, despite the requirements of the
12 HWCL regulations and applicable permit conditions, Riverbank failed to comply with the
13 conditions of its permit by transferring custody of the following rail cars of hazardous waste
14 (identified by manifest number) to a transporter for shipment prior to the receipt of a laboratory
15 analysis for PCBs:

16 (1) Manifest Number 21531053, custody transferred on or about January 20, 2004,
17 laboratory analysis received on or about January 21, 2004.

18 (2) Manifest Number 21531055, custody transferred on or about January 22,
19 2004, laboratory analysis received on or about January 26, 2004.

20 (3) Manifest Number 21531057, custody transferred on or about January 26, 2004,
21 laboratory analysis received on or about January 28, 2004.

22 (4) Manifest Number 21531058, custody transferred on or about January 29,
23 2004; laboratory analysis received on or about January 30, 2004.

24 (5) Manifest Number 21531059, custody transferred on or about February 3,
25 2004; laboratory analysis received on or about February 4, 2004.

26 (6) Manifest Number 21531060, custody transferred on or about February 4,
27 2004; laboratory analysis received on or about February 9, 2004.

28 (7) Manifest Number 21531061, custody transferred on or about February 6,

- 1 2004; laboratory analysis received on or about February 9, 2004.
- 2 (8) Manifest Number 21531062, custody transferred on or about February 6,
- 3 2004; laboratory analysis received on or about February 10, 2004.
- 4 (9) Manifest Number 21531063, custody transferred on or about February 12,
- 5 2004; laboratory analysis received on or about February 16, 2004.
- 6 (10) Manifest Number 21531064, custody transferred on or about February 12,
- 7 2004; laboratory analysis received on or about February 16, 2004.
- 8 (11) Manifest Number 21531065, custody transferred on or about February 13,
- 9 2004; laboratory analysis received on or about February 18, 2004.
- 10 (12) Manifest Number 21531066, custody transferred on or about February 17,
- 11 2004; laboratory analysis received on or about February 19, 2004.
- 12 (13) Manifest Number 21531067, custody transferred on or about February 20,
- 13 2004; laboratory analysis received on or about February 24, 2004.
- 14 (14) Manifest Number 21531068, custody transferred on or about February 20,
- 15 2004; laboratory analysis received on or about February 24, 2004.
- 16 (15) Manifest Number 21531069, custody transferred on or about February 24,
- 17 2004; laboratory analysis received on or about February 26, 2004.
- 18 (16) Manifest Number 21531070, custody transferred on or about February 27,
- 19 2004; laboratory analysis received on or about March 2, 2004.
- 20 (17) Manifest Number 21531071, custody transferred on or about February 28,
- 21 2004; laboratory analysis received on or about March 2, 2004.
- 22 (18) Manifest Number 21531074, custody transferred on or about March 8, 2004;
- 23 laboratory analysis received on or about March 9, 2004.
- 24 (19) Manifest Number 21531075, custody transferred on or about March 10,
- 25 2004; laboratory analysis received on or about March 11, 2004.
- 26 (20) Manifest Number 21531076, custody transferred on or about March 12,
- 27 2004; laboratory analysis received on or about March 15, 2004.
- 28 (21) Manifest Number 21531079, custody transferred on or about March 16,

- 1 2004; laboratory analysis received on or about March 17, 2004.
- 2 (22) Manifest Number 21531081, custody transferred on or about March 19,
- 3 2004; laboratory analysis received on or about March 22, 2004.
- 4 (23) Manifest Number 21531078, custody transferred on or about March 22,
- 5 2004; laboratory analysis received on or about March 24, 2004.
- 6 (24) Manifest Number 21531082, custody transferred on or about March 22,
- 7 2004; laboratory analysis received on or about March 24, 2004.
- 8 (25) Manifest Number 21531083, custody transferred on or about March 24,
- 9 2004; laboratory analysis received on or about March 26, 2004.
- 10 (26) Manifest Number 21531084, custody transferred on or about March 26,
- 11 2004; laboratory analysis received on or about March 30, 2004.
- 12 (27) Manifest Number 21531085, custody transferred on or about March 31,
- 13 2004; laboratory analysis received on or about April 1, 2004.
- 14 (28) Manifest Number 21531086, custody transferred on or about March 30,
- 15 2004; laboratory analysis received on or about April 1, 2004.
- 16 (29) Manifest Number 21531087, custody transferred on or about April 1, 2004;
- 17 laboratory analysis received on or about April 5, 2004.
- 18 (30) Manifest Number 21531088, custody transferred on or about April 7, 2004;
- 19 laboratory analysis received on or about April 9, 2004.
- 20 (31) Manifest Number 21531089, custody transferred on or about April 8, 2004;
- 21 laboratory analysis received on or about April 12, 2004.
- 22 (32) Manifest Number 21531090, custody transferred on or about April 14, 2004;
- 23 laboratory analysis received on or about April 15, 2004.
- 24 (33) Manifest Number 21531091, custody transferred on or about April 16, 2004;
- 25 laboratory analysis received on or about April 20, 2004.
- 26 (34) Manifest Number 21531092, custody transferred on or about April 20, 2004;
- 27 laboratory analysis received on or about April 21, 2004.
- 28 (35) Manifest Number 21531093, custody transferred on or about April 20, 2004;

1 laboratory analysis received on or about April 22, 2004.
2 (36) Manifest Number 21531094, custody transferred on or about April 21, 2004;
3 laboratory analysis received on or about April 22, 2004.
4 (37) Manifest Number 21531095, custody transferred on or about April 22, 2004;
5 laboratory analysis received on or about April 26, 2004.
6 (38) Manifest Number 21531096, custody transferred on or about April 23, 2004;
7 laboratory analysis received on or about April 27, 2004.
8 (39) Manifest Number 21531097, custody transferred on or about April 27, 2004;
9 laboratory analysis received on or about April 29, 2004.
10 (40) Manifest Number 21531098, custody transferred on or about April 28, 2004;
11 laboratory analysis received on or about April 30, 2004.
12 (41) Manifest Number 21531099, custody transferred on or about April 30, 2004;
13 laboratory analysis received on or about May 4, 2004.
14 (42) Manifest Number 21531101, custody transferred on or about May 3, 2004;
15 laboratory analysis received on or about May 4, 2004.
16 (43) Manifest Number 21531102, custody transferred on or about May 6, 2004;
17 laboratory analysis received on or about May 10, 2004.
18 (44) Manifest Number 21531103, custody transferred on or about May 6, 2004;
19 laboratory analysis received on or about May 10, 2004.
20 (45) Manifest Number 21531104, custody transferred on or about May 12, 2004;
21 laboratory analysis received on or about May 13, 2004.
22 (46) Manifest Number 21531105, custody transferred on or about May 12, 2004;
23 laboratory analysis received on or about May 14, 2004.
24 (47) Manifest Number 21531107, custody transferred on or about May 19, 2004;
25 laboratory analysis received on or about May 20, 2004.
26 (48) Manifest Number 21531113, custody transferred on or about May 19, 2004;
27 laboratory analysis received on or about May 21, 2004.
28 (49) Manifest Number 21531108, custody transferred on or about May 24, 2004;

1 laboratory analysis received on or about May 26, 2004.
2 (50) Manifest Number 21531109, custody transferred on or about May 27, 2004;
3 laboratory analysis received on or about June 1, 2004.
4 (51) Manifest Number 21531112, custody transferred on or about June 1, 2004;
5 laboratory analysis received on or about June 3, 2004.
6 (52) Manifest Number 21531110, custody transferred on or about June 2, 2004;
7 laboratory analysis received on or about June 4, 2004.
8 (53) Manifest Number 21531111, custody transferred on or about June 3, 2004;
9 laboratory analysis received on or about June 4, 2004.
10 (54) Manifest Number 21531114, custody transferred on or about June 4, 2004;
11 laboratory analysis received on or about June 8, 2004.
12 (55) Manifest Number 21531115, custody transferred on or about June 8, 2004;
13 laboratory analysis received on or about June 10, 2004.
14 (56) Manifest Number 21531118, custody transferred on or about June 10, 2004;
15 laboratory analysis received on or about June 14, 2004.
16 (57) Manifest Number 21531117, custody transferred on or about June 14, 2004;
17 laboratory analysis received on or about June 16, 2004.
18 (58) Manifest Number 21531120, custody transferred on or about June 17, 2004;
19 laboratory analysis received on or about June 18, 2004.
20 (59) Manifest Number 21531121, custody transferred on or about June 22, 2004;
21 laboratory analysis received on or about June 23, 2004.
22 (60) Manifest Number 21531123, custody transferred on or about June 23, 2004;
23 laboratory analysis received on or about June 24, 2004.
24 (61) Manifest Number 21531125, custody transferred on or about June 23, 2004;
25 laboratory analysis received on or about June 24, 2004.
26 (62) Manifest Number 21531124, custody transferred on or about June 25, 2004;
27 laboratory analysis received on or about June 29, 2004.
28 (63) Manifest Number 21531126, custody transferred on or about June 29, 2004;

1 laboratory analysis received on or about July 1, 2004.
2 (64) Manifest Number 21531122, custody transferred on or about June 30, 2004;
3 laboratory analysis received on or about July 2, 2004.
4 (65) Manifest Number 21531128, custody transferred on or about July 7, 2004;
5 laboratory analysis received on or about July 9, 2004.
6 (66) Manifest Number 21531137, custody transferred on or about July 8, 2004;
7 laboratory analysis received on or about July 9, 2004.
8 (67) Manifest Number 21531140, custody transferred on or about July 14, 2004;
9 laboratory analysis received on or about July 15, 2004.
10 (68) Manifest Number 21531129, custody transferred on or about July 19, 2004;
11 laboratory analysis received on or about July 20, 2004.
12 (69) Manifest Number 21531131, custody transferred on or about July 20, 2004;
13 laboratory analysis received on or about July 22, 2004.
14 (70) Manifest Number 21531133, custody transferred on or about July 22, 2004;
15 laboratory analysis received on or about July 26, 2004.
16 (71) Manifest Number 21531130, custody transferred on or about July 27, 2004;
17 laboratory analysis received on or about July 28, 2004.
18 (72) Manifest Number 21531132, custody transferred on or about July 27, 2004;
19 laboratory analysis received on or about July 28, 2004.
20 (73) Manifest Number 21531134, custody transferred on or about July 29, 2004;
21 laboratory analysis received on or about August 2, 2004.
22 (74) Manifest Number 21531135, custody transferred on or about July 30, 2004;
23 laboratory analysis received on or about August 3, 2004.
24 (75) Manifest Number 21531136, custody transferred on or about August 2, 2004;
25 laboratory analysis received on or about August 3, 2004.
26 (76) Manifest Number 21531141, custody transferred on or about August 4, 2004;
27 laboratory analysis received on or about August 5, 2004.
28 (77) Manifest Number 21531142, custody transferred on or about August 11,

1 2004; laboratory analysis received on or about August 12, 2004.
2 (78) Manifest Number 21531143, custody transferred on or about August 10,
3 2004; laboratory analysis received on or about August 12, 2004.
4 (80) Manifest Number 21531144, custody transferred on or about August 13,
5 2004; laboratory analysis received on or about August 16, 2004.
6 (81) Manifest Number 21531145, custody transferred on or about August 17,
7 2004; laboratory analysis received on or about August 18, 2004.
8 (82) Manifest Number 21531146, custody transferred on or about August 16,
9 2004; laboratory analysis received on or about August 18, 2004.
10 (83) Manifest Number 21531147, custody transferred on or about August 19,
11 2004; laboratory analysis received on or about August 20, 2004.
12 (84) Manifest Number 21531149, custody transferred on or about August 18,
13 2004; laboratory analysis received on or about August 20, 2004.
14 (85) Manifest Number 21531151, custody transferred on or about August 24,
15 2004; laboratory analysis received on or about August 25, 2004.
16 (86) Manifest Number 21531155, custody transferred on or about August 24,
17 2004; laboratory analysis received on or about August 25, 2004.
18 (87) Manifest Number 21531148, custody transferred on or about August 25,
19 2004; laboratory analysis received on or about August 27, 2004.
20 (88) Manifest Number 21531155, custody transferred on or about August 30,
21 2004; laboratory analysis received on or about August 31, 2004.
22 (89) Manifest Number 21531156, custody transferred on or about August 30,
23 2004; laboratory analysis received on or about August 31, 2004.
24 (90) Manifest Number 21531153, custody transferred on or about September 1,
25 2004; laboratory analysis received on or about September 3, 2004.
26 (91) Manifest Number 21531152, custody transferred on or about September 7,
27 2004; laboratory analysis received on or about September 8, 2004.
28 (92) Manifest Number 21531154, custody transferred on or about September 7,

1 2004; laboratory analysis received on or about September 9, 2004.
2 (93) Manifest Number 21531166, custody transferred on or about September 9,
3 2004; laboratory analysis received on or about September 13, 2004.
4 (94) Manifest Number 21531165, custody transferred on or about September 13,
5 2004; laboratory analysis received on or about September 15, 2004.
6 (95) Manifest Number 21531162, custody transferred on or about September 15,
7 2004; laboratory analysis received on or about September 17, 2004.
8 (96) Manifest Number 21531163, custody transferred on or about September 15,
9 2004; laboratory analysis received on or about September 17, 2004.
10 (97) Manifest Number 21531161, custody transferred on or about September 21,
11 2004; laboratory analysis received on or about September 22, 2004.
12 (98) Manifest Number 21531159, custody transferred on or about September 23,
13 2004; laboratory analysis received on or about September 27, 2004.
14 (100) Manifest Number 21531160, custody transferred on or about September 23,
15 2004; laboratory analysis received on or about September 27, 2004.
16 (101) Manifest Number 21531157, custody transferred on or about October 1,
17 2004; laboratory analysis received on or about October 4, 2004.
18 (102) Manifest Number 21531168, custody transferred on or about October 1,
19 2004; laboratory analysis received on or about October 4, 2004.
20 (103) Manifest Number 21531158, custody transferred on or about October 4,
21 2004; laboratory analysis received on or about October 5, 2004.
22 (104) Manifest Number 21531171, custody transferred on or about October 11,
23 2004; laboratory analysis received on or about October 12, 2004.
24 (105) Manifest Number 21531172, custody transferred on or about October 13,
25 2004; laboratory analysis received on or about October 14, 2004.
26 (106) Manifest Number 21531170, custody transferred on or about October 13,
27 2004; laboratory analysis received on or about October 15, 2004.
28 (107) Manifest Number 21531173, custody transferred on or about October 15,

- 1 2004; laboratory analysis received on or about October 18, 2004.
- 2 (108) Manifest Number 21531174, custody transferred on or about October 20,
3 2004; laboratory analysis received on or about October 21, 2004.
- 4 (109) Manifest Number 21531175, custody transferred on or about October 20,
5 2004; laboratory analysis received on or about October 21, 2004.
- 6 (110) Manifest Number 21531179, custody transferred on or about October 28,
7 2004; laboratory analysis received on or about October 29, 2004.
- 8 (111) Manifest Number 21531180, custody transferred on or about November 3,
9 2004; laboratory analysis received on or about November 5, 2004.
- 10 (112) Manifest Number 21531181, custody transferred on or about November 3,
11 2004; laboratory analysis received on or about November 5, 2004.
- 12 (113) Manifest Number 21531185, custody transferred on or about November 15,
13 2004; laboratory analysis received on or about November 16, 2004.
- 14 (114) Manifest Number 21531186, custody transferred on or about November 17,
15 2004; laboratory analysis received on or about November 18, 2004.
- 16 (115) Manifest Number 21531187, custody transferred on or about November 18,
17 2004; laboratory analysis received on or about November 22, 2004.
- 18 (116) Manifest Number 21531189, custody transferred on or about November 23,
19 2004; laboratory analysis received on or about December 24, 2004.
- 20 (117) Manifest Number 21531197, custody transferred on or about December 17,
21 2004; laboratory analysis received on or about December 20, 2004.
- 22 (118) Manifest Number 21531198, custody transferred on or about December 22,
23 2004; laboratory analysis received on or about December 25, 2004.
- 24 (119) Manifest Number 24184801, custody transferred on or about December 22,
25 2004; laboratory analysis received on or about December 23, 2004.
- 26 (120) Manifest Number 24184803, custody transferred on or about December 23,
27 2004; laboratory analysis received on or about December 29, 2004.
- 28 (121) Manifest Number 24184802, custody transferred on or about December 27,

1 2004; laboratory analysis received on or about December 29, 2004.
2 (122) Manifest Number 24184804, custody transferred on or about December 30,
3 2004; laboratory analysis received on or about January 4, 2005.
4 (123) Manifest Number 24184809, custody transferred on or about December 30,
5 2004; laboratory analysis received on or about January 4, 2005.
6 (124) Manifest Number 24184805, custody transferred on or about January 5,
7 2005; laboratory analysis received on or about January 7, 2005.
8 (125) Manifest Number 24184806, custody transferred on or about January 7,
9 2005; laboratory analysis received on or about January 11, 2005.
10 (126) Manifest Number 24184807, custody transferred on or about January 11,
11 2005; laboratory analysis received on or about January 13, 2005.
12 (127) Manifest Number 24184810, custody transferred on or about January 13,
13 2005; laboratory analysis received on or about January 17, 2005.
14 (128) Manifest Number 24184811, custody transferred on or about January 17,
15 2005; laboratory analysis received on or about January 19, 2005.
16 (129) Manifest Number 24184812, custody transferred on or about January 20,
17 2005; laboratory analysis received on or about January 21, 2005.
18 (130) Manifest Number 24184813, custody transferred on or about January 24,
19 2005; laboratory analysis received on or about January 25, 2005.
20 (131) Manifest Number 24184839, custody transferred on or about January 25,
21 2005; laboratory analysis received on or about January 26, 2005.
22 (132) Manifest Number 24184814, custody transferred on or about January 27,
23 2005; laboratory analysis received on or about January 28, 2005.
24 (133) Manifest Number 24184816, custody transferred on or about January 31,
25 2005; laboratory analysis received on or about February 1, 2005.
26 (134) Manifest Number 24184817, custody transferred on or about February 2,
27 2005; laboratory analysis received on or about February 4, 2005.
28 (135) Manifest Number 24184819, custody transferred on or about February 7,

1 2005; laboratory analysis received on or about February 9, 2005.
2 (136) Manifest Number 24184818, custody transferred on or about February 8,
3 2005; laboratory analysis received on or about February 9, 2005.
4 (137) Manifest Number 24184820, custody transferred on or about February 10,
5 2005; laboratory analysis received on or about February 11, 2005.
6 (138) Manifest Number 24184821, custody transferred on or about February 14,
7 2005; laboratory analysis received on or about February 15, 2005.
8 (139) Manifest Number 24184822, custody transferred on or about February 15,
9 2005; laboratory analysis received on or about February 17, 2005.
10 (140) Manifest Number 24184823, custody transferred on or about February 16,
11 2005; laboratory analysis received on or about February 18, 2005.
12 (141) Manifest Number 24184824, custody transferred on or about February 22,
13 2005; laboratory analysis received on or about February 23, 2005.
14 (142) Manifest Number 24184826, custody transferred on or about February 23,
15 2005; laboratory analysis received on or about February 25, 2005.
16 (143) Manifest Number 24184825, custody transferred on or about February 25,
17 2005; laboratory analysis received on or about March 1, 2005.
18 (144) Manifest Number 24184827, custody transferred on or about February 28,
19 2005; laboratory analysis received on or about March 2, 2005.
20 (145) Manifest Number 24184829, custody transferred on or about March 2,
21 2005; laboratory analysis received on or about March 4, 2005.
22 (146) Manifest Number 24184828, custody transferred on or about March 3,
23 2005; laboratory analysis received on or about March 4, 2005.
24 (147) Manifest Number 24184836, custody transferred on or about March 7,
25 2005; laboratory analysis received on or about March 9, 2005.
26 (148) Manifest Number 24184834, custody transferred on or about March 9,
27 2005; laboratory analysis received on or about March 11, 2005.
28 (149) Manifest Number 24184837, custody transferred on or about March 9,

1 2005; laboratory analysis received on or about March 11, 2005.
2 (150) Manifest Number 24184835, custody transferred on or about March 14,
3 2005; laboratory analysis received on or about March 15, 2005.
4 (151) Manifest Number 24184838, custody transferred on or about March 15,
5 2005; laboratory analysis received on or about March 17, 2005.
6 (152) Manifest Number 24184840, custody transferred on or about March 15,
7 2005; laboratory analysis received on or about March 16, 2005.
8 (153) Manifest Number 24184843, custody transferred on or about March 18,
9 2005; laboratory analysis received on or about March 22, 2005.
10 (154) Manifest Number 24184841, custody transferred on or about March 22,
11 2005; laboratory analysis received on or about March 23, 2005.
12 (155) Manifest Number 24184842, custody transferred on or about March 22,
13 2005; laboratory analysis received on or about March 24, 2005.
14 (156) Manifest Number 24184844, custody transferred on or about March 24,
15 2005; laboratory analysis received on or about March 28, 2005.
16 (157) Manifest Number 24184845, custody transferred on or about March 24,
17 2005; laboratory analysis received on or about March 28, 2005.
18 (158) Manifest Number 24184846, custody transferred on or about March 30,
19 2005; laboratory analysis received on or about April 1, 2005.
20 (159) Manifest Number 24184847, custody transferred on or about March 31,
21 2005; laboratory analysis received on or about April 1, 2005.
22 (160) Manifest Number 24184848, custody transferred on or about April 5, 2005;
23 laboratory analysis received on or about April 6, 2005.
24 (161) Manifest Number 24184849, custody transferred on or about April 7, 2005;
25 laboratory analysis received on or about April 8, 2005.
26 (162) Manifest Number 24184850, custody transferred on or about April 11,
27 2005; laboratory analysis received on or about April 13, 2005.
28 (163) Manifest Number 24184855, custody transferred on or about April 13,

1 2005; laboratory analysis received on or about April 14, 2005.
2 (164) Manifest Number 24184851, custody transferred on or about April 18,
3 2005; laboratory analysis received on or about April 20, 2005.
4 (165) Manifest Number 24184852, custody transferred on or about April 14,
5 2005; laboratory analysis received on or about April 19, 2005.
6 (166) Manifest Number 24184853, custody transferred on or about April 20,
7 2005; laboratory analysis received on or about April 22, 2005.
8 (167) Manifest Number 24184857, custody transferred on or about April 29,
9 2005; laboratory analysis received on or about May 2, 2005.
10 (168) Manifest Number 24184858, custody transferred on or about April 28,
11 2005; laboratory analysis received on or about May 2, 2005.
12 (169) Manifest Number 24184859, custody transferred on or about May 2, 2005;
13 laboratory analysis received on or about May 4, 2005.
14 (170) Manifest Number 24184860, custody transferred on or about May 4, 2005;
15 laboratory analysis received on or about May 6, 2005.
16 (171) Manifest Number 24184864, custody transferred on or about May 9, 2005;
17 laboratory analysis received on or about May 11, 2005.
18 (172) Manifest Number 24184862, custody transferred on or about May 10, 2005;
19 laboratory analysis received on or about May 11, 2005.
20 (173) Manifest Number 24184865, custody transferred on or about May 12, 2005;
21 laboratory analysis received on or about May 16, 2005.
22 (174) Manifest Number 24184863, custody transferred on or about May 13, 2005;
23 laboratory analysis received on or about May 16, 2005.
24 (175) Manifest Number 24184868, custody transferred on or about May 18, 2005;
25 laboratory analysis received on or about May 20, 2005.
26 (176) Manifest Number 24184867, custody transferred on or about May 19, 2005;
27 laboratory analysis received on or about May 23, 2005.
28 (177) Manifest Number 24184869, custody transferred on or about May 24, 2005;

1 laboratory analysis received on or about May 26, 2005.
2 (178) Manifest Number 24184874, custody transferred on or about May 26, 2005;
3 laboratory analysis received on or about June 1, 2005.
4 (179) Manifest Number 24184870, custody transferred on or about May 31, 2005;
5 laboratory analysis received on or about June 1, 2005.
6 (180) Manifest Number 24184871, custody transferred on or about June 1, 2005;
7 laboratory analysis received on or about June 3, 2005.
8 (181) Manifest Number 24184872, custody transferred on or about June 3, 2005;
9 laboratory analysis received on or about June 7, 2005.
10 (182) Manifest Number 24184873, custody transferred on or about June 8, 2005;
11 laboratory analysis received on or about June 9, 2005.
12 (183) Manifest Number 24184875, custody transferred on or about June 8, 2005;
13 laboratory analysis received on or about June 10, 2005.
14 (184) Manifest Number 24184876, custody transferred on or about June 13,
15 2005; laboratory analysis received on or about June 14, 2005.
16 (185) Manifest Number 24184914, custody transferred on or about June 16,
17 2005; laboratory analysis received on or about June 20, 2005.
18 (186) Manifest Number 24184878, custody transferred on or about June 17,
19 2005; laboratory analysis received on or about June 20, 2005.
20 (187) Manifest Number 24184879, custody transferred on or about June 21,
21 2005; laboratory analysis received on or about June 22, 2005.
22 (188) Manifest Number 24184880, custody transferred on or about June 23,
23 2005; laboratory analysis received on or about June 27, 2005.
24 (189) Manifest Number 24184881, custody transferred on or about June 27,
25 2005; laboratory analysis received on or about June 29, 2005.
26 (190) Manifest Number 24184883, custody transferred on or about June 28,
27 2005; laboratory analysis received on or about June 29, 2005.
28 (191) Manifest Number 24184884, custody transferred on or about July 5, 2005;

1 laboratory analysis received on or about July 7, 2005.
2 (192) Manifest Number 24184886, custody transferred on or about July 7, 2005;
3 laboratory analysis received on or about July 11, 2005.
4 (193) Manifest Number 24184887, custody transferred on or about July 12, 2005;
5 laboratory analysis received on or about July 13, 2005.
6 (194) Manifest Number 24184888, custody transferred on or about July 15, 2005;
7 laboratory analysis received on or about July 18, 2005.
8 (195) Manifest Number 24184889, custody transferred on or about July 15, 2005;
9 laboratory analysis received on or about July 18, 2005.
10 (196) Manifest Number 24184890, custody transferred on or about July 18, 2005;
11 laboratory analysis received on or about July 20, 2005.
12 (197) Manifest Number 24184915, custody transferred on or about July 21, 2005;
13 laboratory analysis received on or about July 22, 2005.
14 (198) Manifest Number 24184892, custody transferred on or about July 25, 2005;
15 laboratory analysis received on or about July 27, 2005.
16 (199) Manifest Number 24184893, custody transferred on or about July 25, 2005;
17 laboratory analysis received on or about July 27, 2005.
18 (200) Manifest Number 24184894, custody transferred on or about July 27, 2005;
19 laboratory analysis received on or about July 29, 2005.
20 (201) Manifest Number 24184960, custody transferred on or about January 3,
21 2006; laboratory analysis received on or about January 4, 2006.
22 (202) Manifest Number 24184961, custody transferred on or about January 6,
23 2006; laboratory analysis received on or about January 9, 2006.
24 (203) Manifest Number 24184962, custody transferred on or about January 11,
25 2006; laboratory analysis received on or about January 12, 2006.
26 (204) Manifest Number 24184963, custody transferred on or about January 11,
27 2006; laboratory analysis received on or about January 12, 2006.
28 (205) Manifest Number 24184964, custody transferred on or about January 12,

1 2006; laboratory analysis received on or about January 16, 2006.

2 (206) Manifest Number 24184965, custody transferred on or about January 17,
3 2006; laboratory analysis received on or about January 18, 2006.

4 (207) Manifest Number 24184966, custody transferred on or about January 19,
5 2006; laboratory analysis received on or about January 20, 2006.

6 (208) Manifest Number 24184967, custody transferred on or about January 24,
7 2006; laboratory analysis received on or about January 25, 2006.

8 (209) Manifest Number 24184968, custody transferred on or about January 24,
9 2006; laboratory analysis received on or about January 25, 2006.

10 (210) Manifest Number 24184978, custody transferred on or about January 26,
11 2006; laboratory analysis received on or about January 30, 2006.

12 27. As an alternative to the Second Cause of Action, each and every violation set
13 forth in this cause of action constitutes a negligent or intentional violation of the Health and
14 Safety Code or of the Department's regulation, for which defendants are subject to civil penalties
15 of up to \$25,000 per day per violation pursuant to section 25189(b) of the Health and Safety
16 Code; or, alternatively, constitutes a non-negligent and non-intentional violation, for which
17 defendants are subject to civil penalties of up to \$25,000 per day per violation pursuant to section
18 25189.2(b), according to proof.

19 **SECOND CAUSE OF ACTION**
20 (Unauthorized Receipt and Storage of
Hazardous Wastes not included in Permit)

21 28. Paragraphs 1 through 23, and paragraph 25, are realleged as if fully set forth
22 herein.

23 29. Health and Safety Code section 25202 requires an owner or operator of a
24 permitted facility to operate in manner that complies with the requirements of the HWCL, with
25 its implementing regulations, and with the conditions of the permit. Under the conditions of
26 Riverbank's permit, any transfer, storage, and treatment of hazardous waste that is not
27 specifically authorized is not permitted. (Part I (F)(2).) The permit specifically allows storage of
28 wastes in rail cars only within Building 11. (Part II.) Storage of hazardous wastes in rail cars

1 outside of the Rail Side Secondary Containment unit at the Riverbank facility is prohibited.

2 30. As an alternative to the allegations in the First Cause of Action, on or about
3 each of the time periods set forth in the subparts of this paragraph, despite the requirements of
4 the HWCL regulations and applicable permit conditions, Riverbank failed to comply with the
5 conditions of its permit by storing the shipments of hazardous waste identified by manifest
6 number in the subparts of this paragraph outside of the area authorized for storage under the
7 permit.

8 (1) Manifest Number 21531053, custody transferred on or about January 20, 2004,
9 laboratory analysis received on or about January 21, 2004.

10 (2) Manifest Number 21531055, custody transferred on or about January 22,
11 2004, laboratory analysis received on or about January 26, 2004.

12 (3) Manifest Number 21531057, custody transferred on or about January 26, 2004,
13 laboratory analysis received on or about January 28, 2004.

14 (4) Manifest Number 21531058, custody transferred on or about January 29,
15 2004; laboratory analysis received on or about January 30, 2004.

16 (5) Manifest Number 21531059, custody transferred on or about February 3,
17 2004; laboratory analysis received on or about February 4, 2004.

18 (6) Manifest Number 21531060, custody transferred on or about February 4,
19 2004; laboratory analysis received on or about February 9, 2004.

20 (7) Manifest Number 21531061, custody transferred on or about February 6,
21 2004; laboratory analysis received on or about February 9, 2004.

22 (8) Manifest Number 21531062, custody transferred on or about February 6,
23 2004; laboratory analysis received on or about February 10, 2004.

24 (9) Manifest Number 21531063, custody transferred on or about February 12,
25 2004; laboratory analysis received on or about February 16, 2004.

26 (10) Manifest Number 21531064, custody transferred on or about February 12,
27 2004; laboratory analysis received on or about February 16, 2004.

28 (11) Manifest Number 21531065, custody transferred on or about February 13,

- 1 2004; laboratory analysis received on or about February 18, 2004.
- 2 (12) Manifest Number 21531066, custody transferred on or about February 17,
- 3 2004; laboratory analysis received on or about February 19, 2004.
- 4 (13) Manifest Number 21531067, custody transferred on or about February 20,
- 5 2004; laboratory analysis received on or about February 24, 2004.
- 6 (14) Manifest Number 21531068, custody transferred on or about February 20,
- 7 2004; laboratory analysis received on or about February 24, 2004.
- 8 (15) Manifest Number 21531069, custody transferred on or about February 24,
- 9 2004; laboratory analysis received on or about February 26, 2004.
- 10 (16) Manifest Number 21531070, custody transferred on or about February 27,
- 11 2004; laboratory analysis received on or about March 2, 2004.
- 12 (17) Manifest Number 21531071, custody transferred on or about February 28,
- 13 2004; laboratory analysis received on or about March 2, 2004.
- 14 (18) Manifest Number 21531074, custody transferred on or about March 8, 2004;
- 15 laboratory analysis received on or about March 9, 2004.
- 16 (19) Manifest Number 21531075, custody transferred on or about March 10,
- 17 2004; laboratory analysis received on or about March 11, 2004.
- 18 (20) Manifest Number 21531076, custody transferred on or about March 12,
- 19 2004; laboratory analysis received on or about March 15, 2004.
- 20 (21) Manifest Number 21531079, custody transferred on or about March 16,
- 21 2004; laboratory analysis received on or about March 17, 2004.
- 22 (22) Manifest Number 21531081, custody transferred on or about March 19,
- 23 2004; laboratory analysis received on or about March 22, 2004.
- 24 (23) Manifest Number 21531078, custody transferred on or about March 22,
- 25 2004; laboratory analysis received on or about March 24, 2004.
- 26 (24) Manifest Number 21531082, custody transferred on or about March 22,
- 27 2004; laboratory analysis received on or about March 24, 2004.
- 28 (25) Manifest Number 21531083, custody transferred on or about March 24,

- 1 2004; laboratory analysis received on or about March 26, 2004.
- 2 (26) Manifest Number 21531084, custody transferred on or about March 26,
- 3 2004; laboratory analysis received on or about March 30, 2004.
- 4 (27) Manifest Number 21531085, custody transferred on or about March 31,
- 5 2004; laboratory analysis received on or about April 1, 2004.
- 6 (28) Manifest Number 21531086, custody transferred on or about March 30,
- 7 2004; laboratory analysis received on or about April 1, 2004.
- 8 (29) Manifest Number 21531087, custody transferred on or about April 1, 2004;
- 9 laboratory analysis received on or about April 5, 2004.
- 10 (30) Manifest Number 21531088, custody transferred on or about April 7, 2004;
- 11 laboratory analysis received on or about April 9, 2004.
- 12 (31) Manifest Number 21531089, custody transferred on or about April 8, 2004;
- 13 laboratory analysis received on or about April 12, 2004.
- 14 (32) Manifest Number 21531090, custody transferred on or about April 14, 2004;
- 15 laboratory analysis received on or about April 15, 2004.
- 16 (33) Manifest Number 21531091, custody transferred on or about April 16, 2004;
- 17 laboratory analysis received on or about April 20, 2004.
- 18 (34) Manifest Number 21531092, custody transferred on or about April 20, 2004;
- 19 laboratory analysis received on or about April 21, 2004.
- 20 (35) Manifest Number 21531093, custody transferred on or about April 20, 2004;
- 21 laboratory analysis received on or about April 22, 2004.
- 22 (36) Manifest Number 21531094, custody transferred on or about April 21, 2004;
- 23 laboratory analysis received on or about April 22, 2004.
- 24 (37) Manifest Number 21531095, custody transferred on or about April 22, 2004;
- 25 laboratory analysis received on or about April 26, 2004.
- 26 (38) Manifest Number 21531096, custody transferred on or about April 23, 2004;
- 27 laboratory analysis received on or about April 27, 2004.
- 28 (39) Manifest Number 21531097, custody transferred on or about April 27, 2004;

1 laboratory analysis received on or about April 29, 2004.
2 (40) Manifest Number 21531098, custody transferred on or about April 28, 2004;
3 laboratory analysis received on or about April 30, 2004.
4 (41) Manifest Number 21531099, custody transferred on or about April 30, 2004;
5 laboratory analysis received on or about May 4, 2004.
6 (42) Manifest Number 21531101, custody transferred on or about May 3, 2004;
7 laboratory analysis received on or about May 4, 2004.
8 (43) Manifest Number 21531102, custody transferred on or about May 6, 2004;
9 laboratory analysis received on or about May 10, 2004.
10 (44) Manifest Number 21531103, custody transferred on or about May 6, 2004;
11 laboratory analysis received on or about May 10, 2004.
12 (45) Manifest Number 21531104, custody transferred on or about May 12, 2004;
13 laboratory analysis received on or about May 13, 2004.
14 (46) Manifest Number 21531105, custody transferred on or about May 12, 2004;
15 laboratory analysis received on or about May 14, 2004.
16 (47) Manifest Number 21531107, custody transferred on or about May 19, 2004;
17 laboratory analysis received on or about May 20, 2004.
18 (48) Manifest Number 21531113, custody transferred on or about May 19, 2004;
19 laboratory analysis received on or about May 21, 2004.
20 (49) Manifest Number 21531108, custody transferred on or about May 24, 2004;
21 laboratory analysis received on or about May 26, 2004.
22 (50) Manifest Number 21531109, custody transferred on or about May 27, 2004;
23 laboratory analysis received on or about June 1, 2004.
24 (51) Manifest Number 21531112, custody transferred on or about June 1, 2004;
25 laboratory analysis received on or about June 3, 2004.
26 (52) Manifest Number 21531110, custody transferred on or about June 2, 2004;
27 laboratory analysis received on or about June 4, 2004.
28 (53) Manifest Number 21531111, custody transferred on or about June 3, 2004;

1 laboratory analysis received on or about June 4, 2004.
2 (54) Manifest Number 21531114, custody transferred on or about June 4, 2004;
3 laboratory analysis received on or about June 8, 2004.
4 (55) Manifest Number 21531115, custody transferred on or about June 8, 2004;
5 laboratory analysis received on or about June 10, 2004.
6 (56) Manifest Number 21531118, custody transferred on or about June 10, 2004;
7 laboratory analysis received on or about June 14, 2004.
8 (57) Manifest Number 21531117, custody transferred on or about June 14, 2004;
9 laboratory analysis received on or about June 16, 2004.
10 (58) Manifest Number 21531120, custody transferred on or about June 17, 2004;
11 laboratory analysis received on or about June 18, 2004.
12 (59) Manifest Number 21531121, custody transferred on or about June 22, 2004;
13 laboratory analysis received on or about June 23, 2004.
14 (60) Manifest Number 21531123, custody transferred on or about June 23, 2004;
15 laboratory analysis received on or about June 24, 2004.
16 (61) Manifest Number 21531125, custody transferred on or about June 23, 2004;
17 laboratory analysis received on or about June 24, 2004.
18 (62) Manifest Number 21531124, custody transferred on or about June 25, 2004;
19 laboratory analysis received on or about June 29, 2004.
20 (63) Manifest Number 21531126, custody transferred on or about June 29, 2004;
21 laboratory analysis received on or about July 1, 2004.
22 (64) Manifest Number 21531122, custody transferred on or about June 30, 2004;
23 laboratory analysis received on or about July 2, 2004.
24 (65) Manifest Number 21531128, custody transferred on or about July 7, 2004;
25 laboratory analysis received on or about July 9, 2004.
26 (66) Manifest Number 21531137, custody transferred on or about July 8, 2004;
27 laboratory analysis received on or about July 9, 2004.
28 (67) Manifest Number 21531140, custody transferred on or about July 14, 2004;

1 laboratory analysis received on or about July 15, 2004.
2 (68) Manifest Number 21531129, custody transferred on or about July 19, 2004;
3 laboratory analysis received on or about July 20, 2004.
4 (69) Manifest Number 21531131, custody transferred on or about July 20, 2004;
5 laboratory analysis received on or about July 22, 2004.
6 (70) Manifest Number 21531133, custody transferred on or about July 22, 2004;
7 laboratory analysis received on or about July 26, 2004.
8 (71) Manifest Number 21531130, custody transferred on or about July 27, 2004;
9 laboratory analysis received on or about July 28, 2004.
10 (72) Manifest Number 21531132, custody transferred on or about July 27, 2004;
11 laboratory analysis received on or about July 28, 2004.
12 (73) Manifest Number 21531134, custody transferred on or about July 29, 2004;
13 laboratory analysis received on or about August 2, 2004.
14 (74) Manifest Number 21531135, custody transferred on or about July 30, 2004;
15 laboratory analysis received on or about August 3, 2004.
16 (75) Manifest Number 21531136, custody transferred on or about August 2, 2004;
17 laboratory analysis received on or about August 3, 2004.
18 (76) Manifest Number 21531141, custody transferred on or about August 4, 2004;
19 laboratory analysis received on or about August 5, 2004.
20 (77) Manifest Number 21531142, custody transferred on or about August 11,
21 2004; laboratory analysis received on or about August 12, 2004.
22 (78) Manifest Number 21531143, custody transferred on or about August 10,
23 2004; laboratory analysis received on or about August 12, 2004.
24 (80) Manifest Number 21531144, custody transferred on or about August 13,
25 2004; laboratory analysis received on or about August 16, 2004.
26 (81) Manifest Number 21531145, custody transferred on or about August 17,
27 2004; laboratory analysis received on or about August 18, 2004.
28 (82) Manifest Number 21531146, custody transferred on or about August 16,

1 2004; laboratory analysis received on or about August 18, 2004.
2 (83) Manifest Number 21531147, custody transferred on or about August 19,
3 2004; laboratory analysis received on or about August 20, 2004.
4 (84) Manifest Number 21531149, custody transferred on or about August 18,
5 2004; laboratory analysis received on or about August 20, 2004.
6 (85) Manifest Number 21531151, custody transferred on or about August 24,
7 2004; laboratory analysis received on or about August 25, 2004.
8 (86) Manifest Number 21531155, custody transferred on or about August 24,
9 2004; laboratory analysis received on or about August 25, 2004.
10 (87) Manifest Number 21531148, custody transferred on or about August 25,
11 2004; laboratory analysis received on or about August 27, 2004.
12 (88) Manifest Number 21531155, custody transferred on or about August 30,
13 2004; laboratory analysis received on or about August 31, 2004.
14 (89) Manifest Number 21531156, custody transferred on or about August 30,
15 2004; laboratory analysis received on or about August 31, 2004.
16 (90) Manifest Number 21531153, custody transferred on or about September 1,
17 2004; laboratory analysis received on or about September 3, 2004.
18 (91) Manifest Number 21531152, custody transferred on or about September 7,
19 2004; laboratory analysis received on or about September 8, 2004.
20 (92) Manifest Number 21531154, custody transferred on or about September 7,
21 2004; laboratory analysis received on or about September 9, 2004.
22 (93) Manifest Number 21531166, custody transferred on or about September 9,
23 2004; laboratory analysis received on or about September 13, 2004.
24 (94) Manifest Number 21531165, custody transferred on or about September 13,
25 2004; laboratory analysis received on or about September 15, 2004.
26 (95) Manifest Number 21531162, custody transferred on or about September 15,
27 2004; laboratory analysis received on or about September 17, 2004.
28 (96) Manifest Number 21531163, custody transferred on or about September 15,

1 2004; laboratory analysis received on or about September 17, 2004.
2 (97) Manifest Number 21531161, custody transferred on or about September 21,
3 2004; laboratory analysis received on or about September 22, 2004.
4 (98) Manifest Number 21531159, custody transferred on or about September 23,
5 2004; laboratory analysis received on or about September 27, 2004.
6 (100) Manifest Number 21531160, custody transferred on or about September 23,
7 2004; laboratory analysis received on or about September 27, 2004.
8 (101) Manifest Number 21531157, custody transferred on or about October 1,
9 2004; laboratory analysis received on or about October 4, 2004.
10 (102) Manifest Number 21531168, custody transferred on or about October 1,
11 2004; laboratory analysis received on or about October 4, 2004.
12 (103) Manifest Number 21531158, custody transferred on or about October 4,
13 2004; laboratory analysis received on or about October 5, 2004.
14 (104) Manifest Number 21531171, custody transferred on or about October 11,
15 2004; laboratory analysis received on or about October 12, 2004.
16 (105) Manifest Number 21531172, custody transferred on or about October 13,
17 2004; laboratory analysis received on or about October 14, 2004.
18 (106) Manifest Number 21531170, custody transferred on or about October 13,
19 2004; laboratory analysis received on or about October 15, 2004.
20 (107) Manifest Number 21531173, custody transferred on or about October 15,
21 2004; laboratory analysis received on or about October 18, 2004.
22 (108) Manifest Number 21531174, custody transferred on or about October 20,
23 2004; laboratory analysis received on or about October 21, 2004.
24 (109) Manifest Number 21531175, custody transferred on or about October 20,
25 2004; laboratory analysis received on or about October 21, 2004.
26 (110) Manifest Number 21531179, custody transferred on or about October 28,
27 2004; laboratory analysis received on or about October 29, 2004.
28 (111) Manifest Number 21531180, custody transferred on or about November 3,

1 2004; laboratory analysis received on or about November 5, 2004.
2 (112) Manifest Number 21531181, custody transferred on or about November 3,
3 2004; laboratory analysis received on or about November 5, 2004.
4 (113) Manifest Number 21531185, custody transferred on or about November 15,
5 2004; laboratory analysis received on or about November 16, 2004.
6 (114) Manifest Number 21531186, custody transferred on or about November 17,
7 2004; laboratory analysis received on or about November 18, 2004.
8 (115) Manifest Number 21531187, custody transferred on or about November 18,
9 2004; laboratory analysis received on or about November 22, 2004.
10 (116) Manifest Number 21531189, custody transferred on or about November 23,
11 2004; laboratory analysis received on or about December 24, 2004.
12 (117) Manifest Number 21531197, custody transferred on or about December 17,
13 2004; laboratory analysis received on or about December 20, 2004.
14 (118) Manifest Number 21531198, custody transferred on or about December 22,
15 2004; laboratory analysis received on or about December 25, 2004.
16 (119) Manifest Number 24184801, custody transferred on or about December 22,
17 2004; laboratory analysis received on or about December 23, 2004.
18 (120) Manifest Number 24184803, custody transferred on or about December 23,
19 2004; laboratory analysis received on or about December 29, 2004.
20 (121) Manifest Number 24184802, custody transferred on or about December 27,
21 2004; laboratory analysis received on or about December 29, 2004.
22 (122) Manifest Number 24184804, custody transferred on or about December 30,
23 2004; laboratory analysis received on or about January 4, 2005.
24 (123) Manifest Number 24184809, custody transferred on or about December 30,
25 2004; laboratory analysis received on or about January 4, 2005.
26 (124) Manifest Number 24184805, custody transferred on or about January 5,
27 2005; laboratory analysis received on or about January 7, 2005.
28 (125) Manifest Number 24184806, custody transferred on or about January 7,

1 2005; laboratory analysis received on or about January 11, 2005.
2 (126) Manifest Number 24184807, custody transferred on or about January 11,
3 2005; laboratory analysis received on or about January 13, 2005.
4 (127) Manifest Number 24184810, custody transferred on or about January 13,
5 2005; laboratory analysis received on or about January 17, 2005.
6 (128) Manifest Number 24184811, custody transferred on or about January 17,
7 2005; laboratory analysis received on or about January 19, 2005.
8 (129) Manifest Number 24184812, custody transferred on or about January 20,
9 2005; laboratory analysis received on or about January 21, 2005.
10 (130) Manifest Number 24184813, custody transferred on or about January 24,
11 2005; laboratory analysis received on or about January 25, 2005.
12 (131) Manifest Number 24184839, custody transferred on or about January 25,
13 2005; laboratory analysis received on or about January 26, 2005.
14 (132) Manifest Number 24184814, custody transferred on or about January 27,
15 2005; laboratory analysis received on or about January 28, 2005.
16 (133) Manifest Number 24184816, custody transferred on or about January 31,
17 2005; laboratory analysis received on or about February 1, 2005.
18 (134) Manifest Number 24184817, custody transferred on or about February 2,
19 2005; laboratory analysis received on or about February 4, 2005.
20 (135) Manifest Number 24184819, custody transferred on or about February 7,
21 2005; laboratory analysis received on or about February 9, 2005.
22 (136) Manifest Number 24184818, custody transferred on or about February 8,
23 2005; laboratory analysis received on or about February 9, 2005.
24 (137) Manifest Number 24184820, custody transferred on or about February 10,
25 2005; laboratory analysis received on or about February 11, 2005.
26 (138) Manifest Number 24184821, custody transferred on or about February 14,
27 2005; laboratory analysis received on or about February 15, 2005.
28 (139) Manifest Number 24184822, custody transferred on or about February 15,

1 2005; laboratory analysis received on or about February 17, 2005.
2 (140) Manifest Number 24184823, custody transferred on or about February 16,
3 2005; laboratory analysis received on or about February 18, 2005.
4 (141) Manifest Number 24184824, custody transferred on or about February 22,
5 2005; laboratory analysis received on or about February 23, 2005.
6 (142) Manifest Number 24184826, custody transferred on or about February 23,
7 2005; laboratory analysis received on or about February 25, 2005.
8 (143) Manifest Number 24184825, custody transferred on or about February 25,
9 2005; laboratory analysis received on or about March 1, 2005.
10 (144) Manifest Number 24184827, custody transferred on or about February 28,
11 2005; laboratory analysis received on or about March 2, 2005.
12 (145) Manifest Number 24184829, custody transferred on or about March 2,
13 2005; laboratory analysis received on or about March 4, 2005.
14 (146) Manifest Number 24184828, custody transferred on or about March 3,
15 2005; laboratory analysis received on or about March 4, 2005.
16 (147) Manifest Number 24184836, custody transferred on or about March 7,
17 2005; laboratory analysis received on or about March 9, 2005.
18 (148) Manifest Number 24184834, custody transferred on or about March 9,
19 2005; laboratory analysis received on or about March 11, 2005.
20 (149) Manifest Number 24184837, custody transferred on or about March 9,
21 2005; laboratory analysis received on or about March 11, 2005.
22 (150) Manifest Number 24184835, custody transferred on or about March 14,
23 2005; laboratory analysis received on or about March 15, 2005.
24 (151) Manifest Number 24184838, custody transferred on or about March 15,
25 2005; laboratory analysis received on or about March 17, 2005.
26 (152) Manifest Number 24184840, custody transferred on or about March 15,
27 2005; laboratory analysis received on or about March 16, 2005.
28 (153) Manifest Number 24184843, custody transferred on or about March 18,

1 2005; laboratory analysis received on or about March 22, 2005.
2 (154) Manifest Number 24184841, custody transferred on or about March 22,
3 2005; laboratory analysis received on or about March 23, 2005.
4 (155) Manifest Number 24184842, custody transferred on or about March 22,
5 2005; laboratory analysis received on or about March 24, 2005.
6 (156) Manifest Number 24184844, custody transferred on or about March 24,
7 2005; laboratory analysis received on or about March 28, 2005.
8 (157) Manifest Number 24184845, custody transferred on or about March 24,
9 2005; laboratory analysis received on or about March 28, 2005.
10 (158) Manifest Number 24184846, custody transferred on or about March 30,
11 2005; laboratory analysis received on or about April 1, 2005.
12 (159) Manifest Number 24184847, custody transferred on or about March 31,
13 2005; laboratory analysis received on or about April 1, 2005.
14 (160) Manifest Number 24184848, custody transferred on or about April 5, 2005;
15 laboratory analysis received on or about April 6, 2005.
16 (161) Manifest Number 24184849, custody transferred on or about April 7, 2005;
17 laboratory analysis received on or about April 8, 2005.
18 (162) Manifest Number 24184850, custody transferred on or about April 11,
19 2005; laboratory analysis received on or about April 13, 2005.
20 (163) Manifest Number 24184855, custody transferred on or about April 13,
21 2005; laboratory analysis received on or about April 14, 2005.
22 (164) Manifest Number 24184851, custody transferred on or about April 18,
23 2005; laboratory analysis received on or about April 20, 2005.
24 (165) Manifest Number 24184852, custody transferred on or about April 14,
25 2005; laboratory analysis received on or about April 19, 2005.
26 (166) Manifest Number 24184853, custody transferred on or about April 20,
27 2005; laboratory analysis received on or about April 22, 2005.
28 (167) Manifest Number 24184857, custody transferred on or about April 29,

1 2005; laboratory analysis received on or about May 2, 2005.
2 (168) Manifest Number 24184858, custody transferred on or about April 28,
3 2005; laboratory analysis received on or about May 2, 2005.
4 (169) Manifest Number 24184859, custody transferred on or about May 2, 2005;
5 laboratory analysis received on or about May 4, 2005.
6 (170) Manifest Number 24184860, custody transferred on or about May 4, 2005;
7 laboratory analysis received on or about May 6, 2005.
8 (171) Manifest Number 24184864, custody transferred on or about May 9, 2005;
9 laboratory analysis received on or about May 11, 2005.
10 (172) Manifest Number 24184862, custody transferred on or about May 10, 2005;
11 laboratory analysis received on or about May 11, 2005.
12 (173) Manifest Number 24184865, custody transferred on or about May 12, 2005;
13 laboratory analysis received on or about May 16, 2005.
14 (174) Manifest Number 24184863, custody transferred on or about May 13, 2005;
15 laboratory analysis received on or about May 16, 2005.
16 (175) Manifest Number 24184868, custody transferred on or about May 18, 2005;
17 laboratory analysis received on or about May 20, 2005.
18 (176) Manifest Number 24184867, custody transferred on or about May 19, 2005;
19 laboratory analysis received on or about May 23, 2005.
20 (177) Manifest Number 24184869, custody transferred on or about May 24, 2005;
21 laboratory analysis received on or about May 26, 2005.
22 (178) Manifest Number 24184874, custody transferred on or about May 26, 2005;
23 laboratory analysis received on or about June 1, 2005.
24 (179) Manifest Number 24184870, custody transferred on or about May 31, 2005;
25 laboratory analysis received on or about June 1, 2005.
26 (180) Manifest Number 24184871, custody transferred on or about June 1, 2005;
27 laboratory analysis received on or about June 3, 2005.
28 (181) Manifest Number 24184872, custody transferred on or about June 3, 2005;

1 laboratory analysis received on or about June 7, 2005.

2 (182) Manifest Number 24184873, custody transferred on or about June 8, 2005;
3 laboratory analysis received on or about June 9, 2005.

4 (183) Manifest Number 24184875, custody transferred on or about June 8, 2005;
5 laboratory analysis received on or about June 10, 2005.

6 (184) Manifest Number 24184876, custody transferred on or about June 13,
7 2005; laboratory analysis received on or about June 14, 2005.

8 (185) Manifest Number 24184914, custody transferred on or about June 16,
9 2005; laboratory analysis received on or about June 20, 2005.

10 (186) Manifest Number 24184878, custody transferred on or about June 17,
11 2005; laboratory analysis received on or about June 20, 2005.

12 (187) Manifest Number 24184879, custody transferred on or about June 21,
13 2005; laboratory analysis received on or about June 22, 2005.

14 (188) Manifest Number 24184880, custody transferred on or about June 23,
15 2005; laboratory analysis received on or about June 27, 2005.

16 (189) Manifest Number 24184881, custody transferred on or about June 27,
17 2005; laboratory analysis received on or about June 29, 2005.

18 (190) Manifest Number 24184883, custody transferred on or about June 28,
19 2005; laboratory analysis received on or about June 29, 2005.

20 (191) Manifest Number 24184884, custody transferred on or about July 5, 2005;
21 laboratory analysis received on or about July 7, 2005.

22 (192) Manifest Number 24184886, custody transferred on or about July 7, 2005;
23 laboratory analysis received on or about July 11, 2005.

24 (193) Manifest Number 24184887, custody transferred on or about July 12, 2005;
25 laboratory analysis received on or about July 13, 2005.

26 (194) Manifest Number 24184888, custody transferred on or about July 15, 2005;
27 laboratory analysis received on or about July 18, 2005.

28 (195) Manifest Number 24184889, custody transferred on or about July 15, 2005;

1 laboratory analysis received on or about July 18, 2005.
2 (196) Manifest Number 24184890, custody transferred on or about July 18, 2005;
3 laboratory analysis received on or about July 20, 2005.
4 (197) Manifest Number 24184915, custody transferred on or about July 21, 2005;
5 laboratory analysis received on or about July 22, 2005.
6 (198) Manifest Number 24184892, custody transferred on or about July 25, 2005;
7 laboratory analysis received on or about July 27, 2005.
8 (199) Manifest Number 24184893, custody transferred on or about July 25, 2005;
9 laboratory analysis received on or about July 27, 2005.
10 (200) Manifest Number 24184894, custody transferred on or about July 27, 2005;
11 laboratory analysis received on or about July 29, 2005.
12 (201) Manifest Number 24184960, custody transferred on or about January 3,
13 2006; laboratory analysis received on or about January 4, 2006.
14 (202) Manifest Number 24184961, custody transferred on or about January 6,
15 2006; laboratory analysis received on or about January 9, 2006.
16 (203) Manifest Number 24184962, custody transferred on or about January 11,
17 2006; laboratory analysis received on or about January 12, 2006.
18 (204) Manifest Number 24184963, custody transferred on or about January 11,
19 2006; laboratory analysis received on or about January 12, 2006.
20 (205) Manifest Number 24184964, custody transferred on or about January 12,
21 2006; laboratory analysis received on or about January 16, 2006.
22 (206) Manifest Number 24184965, custody transferred on or about January 17,
23 2006; laboratory analysis received on or about January 18, 2006.
24 (207) Manifest Number 24184966, custody transferred on or about January 19,
25 2006; laboratory analysis received on or about January 20, 2006.
26 (208) Manifest Number 24184967, custody transferred on or about January 24,
27 2006; laboratory analysis received on or about January 25, 2006.
28 (209) Manifest Number 24184968, custody transferred on or about January 24,

1 2006; laboratory analysis received on or about January 25, 2006.

2 (210) Manifest Number 24184978, custody transferred on or about January 26,
3 2006; laboratory analysis received on or about January 30, 2006.

4 31. As an alternative to the First Cause of Action, each and every violation set
5 forth in this cause of action constitutes a negligent or intentional violation of the Health and
6 Safety Code or of the Department's regulation, for which defendants are subject to civil penalties
7 of up to \$25,000 per day per violation pursuant to section 25189(b) of the Health and Safety
8 Code; or, alternatively, constitutes a non-negligent and non-intentional violation, for which
9 defendants are subject to civil penalties of up to \$25,000 per day per violation pursuant to section
10 25189.2(b), according to proof.

11 **THIRD CAUSE OF ACTION**

12 (Failure to Maintain Operating Record)

13 32. Paragraphs 1 through 31 are realleged as if fully set forth herein.

14 33. Under the HWCL, a hazardous waste facility operator is required to maintain
15 an operating record that includes the location and quantity of hazardous waste managed within
16 the facility. (Cal. Code Regs., tit. 22, § 66264.73(b)(2).)

17 34. Commencing on or about July 2004 and continuing until February 2006,
18 Riverbank violated section 66264.73(b)(2) of the HWCL regulations by failing to maintain an
19 operating log that included the location and quantity of hazardous waste within the facility.

20 35. Each and every violation set forth in this cause of action constitutes a
21 negligent or intentional violation of the Health and Safety Code or of the Department's
22 regulation, for which defendants are subject to civil penalties of up to \$25,000 per day per
23 violation pursuant to section 25189(b) of the Health and Safety Code; or, alternatively,
24 constitutes a non-negligent and non-intentional violation, for which defendants are subject to
25 civil penalties of up to \$25,000 per day per violation pursuant to section 25189.2(b), according to
26 proof.

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1 **FOURTH CAUSE OF ACTION**

2 (Injunctive Relief)

3 36. Paragraphs 1 through 35 are realleged as if fully set forth herein

4 37. The Department contends that defendants have engaged and will continue to
5 engage, unless enjoined by this court, in acts that violate the HWCL and title 22 of the California
6 Code of Regulations.

7 38. Under Health and Safety Code section 25184, it is not necessary to allege or
8 prove that irreparable damage will occur should injunctive relief not be granted, or that the
9 remedy at law is inadequate.

10 39. The Department is entitled to injunctive relief under Health and Safety Code
11 section 25181 against defendant, enjoining defendant from operating and maintaining the facility
12 in a manner that violates the HWCL and the regulations promulgated under the HWCL,
13 including but not limited to enjoining it from transferring custody prior to receipt of proper waste
14 analysis results, and enjoining it from storage without the proper permit or other grant of
15 authorization; and directing defendant to comply with the HWCL and its implementing
16 regulations.

17 **PRAYER**

18 WHEREFORE, Plaintiffs pray that this Court:

19 1. Grant civil penalties of not less than TWENTY-FIVE THOUSAND
20 DOLLARS (\$25,000.00) per day for each violation of the HWCL pursuant to sections 25189(b),
21 or, in the alternative, sections 25189.2(b) and 25189.2(c), in an amount according to proof.

22 2. Grant the plaintiffs their costs of investigation and suit.

23 3. Grant the plaintiffs permanent injunctive relief under the Fourth Cause of
24 Action.

25 4. Grant other and further relief as the nature of the case may require and that the
26 Court deems just and proper.

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Dated: *October 24, 2007*

Respectfully Submitted,

EDMUND G. BROWN JR., Attorney
General of the State of California
THEODORA BERGER,
Senior Assistant Attorney General
SALLY MAGNANI KNOX
Supervising Deputy Attorney General

By Original signed by Sally Magnani Knox
SALLY MAGNANI KNOX
Supervising Deputy Attorney General
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