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By \_\_\_\_\_, Deputy

**Case Number:**

**34-2017-00221348**

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Department of Toxic Substances Control*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

**PEOPLE OF THE STATE OF  
CALIFORNIA, EX REL. BARBARA A. LEE,  
DIRECTOR, DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL,**  
  
**v.**  
  
**GENERAL ENVIRONMENTAL  
MANAGEMENT OF RANCHO  
CORDOVA LLC DBA PSC  
ENVIRONMENTAL SERVICES OF  
RANCHO CORDOVA, LLC,  
STERICYCLE ENVIRONMENTAL  
SOLUTIONS, INC., STERICYCLE, INC.,  
AND DOES 1 THROUGH 10, INCLUSIVE,**

Case No.  
**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**  
  
, (Health and Safety Code sections 25181,  
25184, 25189, and 25189.2)

1 Plaintiff, the People of the State of California, ex rel. Barbara A. Lee, Director, Department  
2 of Toxic Substances Control (“Department”), alleges the following:

3 **STATEMENT OF THE CASE**

4 1. Defendants General Environmental Management of Rancho Cordova, LLC, dba PSC  
5 Environmental Services of Rancho Cordova, LLC; Stericycle Environmental Solutions, Inc.;  
6 Stericycle, Inc.; and DOES 1 through 10 (collectively, “Defendants”), at all times relevant to this  
7 Complaint, owned, operated, and managed the hazardous waste treatment and storage facility  
8 located at 11855 White Rock Road, Rancho Cordova, California (referred to as the “Facility”).

9 2. On and prior to March 8, 2011, and continuing through the present, Defendants have  
10 violated the Hazardous Waste Control Law, chapter 6.5 of division 20 of the Health and Safety  
11 Code (“HWCL”), and its implementing regulations by managing hazardous waste without  
12 complying with the applicable laws and regulations.

13 3. The Department hereby seeks injunctive relief against and civil penalties from  
14 Defendants for violations of the HWCL and its implementing regulations.

15 **PLAINTIFF**

16 4. The Department is a state agency organized and existing pursuant to sections 58000  
17 et seq. of the California Health and Safety Code. The Department is the state agency responsible  
18 for administering and enforcing the HWCL and its implementing regulations set forth in the  
19 California Code of Regulations, title 22, division 4.5, section 66260.1 et seq. (“Title 22”).

20 5. Barbara A. Lee is the Director of the Department.

21 6. Health and Safety Code sections 25181, subdivision (a), and 25182 authorize the  
22 Attorney General of the State of California, at the request of the Department, to commence an  
23 action in the name of the People of the State of California for civil penalties and injunctive relief  
24 under the HWCL. The Department has requested the Attorney General to apply to this Court for  
25 injunctive relief and civil penalties pursuant to Health and Safety Code sections 25181, 25184,  
26 25189, and 25189.2 for violations of the HWCL by Defendants.

1 **DEFENDANTS**

2 7. Based on information and belief, Defendant General Environmental Management of  
3 Rancho Cordova, LLC (“GEM”) owned and operated the Facility from at least 2011 and did  
4 business under the name PSC Environmental Services of Rancho Cordova, LLC.

5 8. Based on information and belief, Defendant Stericycle Environmental Solutions, Inc.  
6 (“Stericycle Environmental”) or Defendant Stericycle, Inc. (“Stericycle, Inc.”), or both, owned  
7 and/or operated the Facility from 2014 to at least the date of the filing of the Complaint.  
8 Stericycle Environmental and Stericycle, Inc. will be collectively referred to as “Stericycle.”

9 9. GEM and Stericycle will collectively be referred to as “Defendants”. Because the  
10 Department does not know when the ownership/operational control of the Facility may have  
11 changed from GEM to Stericycle because neither GEM or Stericycle followed the requirements  
12 for a change in ownership/operational control, the Department is alleging for certain violations  
13 that “Defendants” are responsible.

14 10. When reference is made in this Complaint to any act of Defendants, such allegation  
15 shall mean that the officers, directors, employees, agents, or representatives of Defendants did, or  
16 authorized, such acts or intentionally and/or negligently failed to adequately or properly  
17 supervise, control, or direct their employees and/or agents while engaged in the management,  
18 direction, operation, or control of the affairs of the Facility.

19 11. Defendants are “persons” as that term is defined by Health and Safety Code section  
20 25118.

21 12. The names and capacities, whether individual, corporate, or otherwise, of defendants  
22 named herein as Does 1 through 10, inclusive, are unknown at this time to the Department. The  
23 Department therefore sues said defendants by such fictitious names. The Department will seek  
24 leave to amend this Complaint to show their true names and capacities when the names have been  
25 ascertained. Plaintiff is informed and believes, and on that basis alleges, that each defendant  
26 designated as a DOE defendant is responsible, along with the named Defendants, for the  
27 hazardous waste violations alleged in this Complaint.  
28

1           13. Each reference in this Complaint to “Defendants” refers not only to the named  
2 Defendants, but also all DOE defendants sued under fictitious names.

3   **JURISDICTION AND VENUE**

4           14. This Court has jurisdiction pursuant to California Constitution Article VI, section 10  
5 and Health and Safety Code section 25181.

6           15. Defendants and the Department have agreed to five tolling agreements with respect to  
7 any applicable statute of limitations. Accordingly, none of the violations alleged herein are time-  
8 barred. This Complaint has been timely filed with respect to all violations alleged.

9           16. Venue is proper in this Court pursuant to Health and Safety Code section 25183 in  
10 that the violations at issue occurred at the Facility, which is in Sacramento County.

11           17. This action is an unlimited civil case because the amount of penalties requested  
12 exceeds \$25,000 and because none of the Plaintiff’s causes of action meets the criteria for limited  
13 civil cases in the Code of Civil Procedure.

14   **STATUTORY AND REGULATORY BACKGROUND**

15           18. The State of California has enacted a comprehensive statutory and regulatory  
16 framework for the generation, handling, treatment, transport, and disposal of hazardous wastes.  
17 The framework contained in the HWCL, and its implementing regulations, mandate a “cradle to  
18 grave” registration, tracking, storage, treatment, and disposal system for the protection of the  
19 public from the risks posed by hazardous wastes and for the protection of the environment—i.e.,  
20 soil, air, surface water, groundwater—from contamination by hazardous wastes and their  
21 constituents. Except where otherwise expressly defined in this Complaint, all terms shall be  
22 interpreted consistent with the HWCL and Title 22.

23           19. Pursuant to Health and Safety Code sections 25101, subdivision (d) and 25159-  
24 25159.9, California administers the HWCL in lieu of federal administration of the federal  
25 Resource Conservation and Recovery Act (“RCRA”), which is codified at 42 United States Code  
26 sections 6901 et seq. Federal law prohibits California from imposing any requirements less  
27 stringent than those authorized under RCRA. (42 U.S.C. § 6929.) Certain provisions in the  
28 HWCL are stricter than the analogous provisions in RCRA.

1           20. The HWCL charges the Department with the responsibility to adopt standards and  
2 regulations for the management of hazardous waste to protect the public health and environment.  
3 (Health & Saf. Code § 25150.) Accordingly, the Department has promulgated regulations setting  
4 forth numerous and extensive environmental and health protective requirements for the day-to-  
5 day operation of hazardous waste generators, transporters, owners, and operators of hazardous  
6 waste facilities. (See Cal. Code. Regs. tit. 22, § 66262.1 et seq.)

7           21. The HWCL, at Health and Safety Code section 25201, subdivision (a), provides that  
8 an owner or operator of a hazardous waste management facility may not “accept, treat, store, or  
9 dispose of a hazardous waste at the facility, area, or site, unless the owner or operator holds a  
10 hazardous waste facilities permit or other grant of authorization from the Department to use and  
11 operate the facility, area, or site . . . .”

12           22. The HWCL, at Health and Safety Code section 25200, subdivision (a), authorizes the  
13 Department to issue operating permits, called hazardous waste facilities permits, to the owners  
14 and operators of facilities managing hazardous wastes.

15           23. The HWCL and its implementing regulations each require that the owner and  
16 operator of a hazardous waste facility comply with the provisions of the facility’s hazardous  
17 waste management permit.

- 18           a. Health and Safety Code section 25202, subdivision (a) requires the owner or  
19 operator of a hazardous waste facility who holds a hazardous waste facilities  
20 permit to “comply with the conditions of [that] permit.”
- 21           b. Title 22, section 66270.30 subdivision (a) requires that the “permittee comply  
22 with the conditions of the permit” and specifies that any ‘noncompliance . . .  
23 constitutes a violation of the [HWCL] and is grounds for” enforcement.
- 24           c. Reference made in this Complaint to any section or part of the Permit shall  
25 mean the section(s) or part(s) of the Permit that existed at the time the  
26 violation(s) occurred as alleged in this Complaint.

1 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

2 24. The HWCL authorizes the Court to impose civil penalties under two distinct and  
3 alternative statutory provisions. Section 25189 of the Health and Safety Code creates liability for  
4 any negligent or intentional violation of the HWCL. Section 25189.2 is a strict liability  
5 provision, which creates liability for any violation of the HWCL. A person may not be held liable  
6 for a civil penalty under both section 25189 and section 25189.2 for the same act. (Health & Saf.  
7 Code, § 25189.2, subd. (f).)

8 25. The HWCL authorizes the Court to impose a civil penalty of up to twenty-five  
9 thousand dollars (\$25,000) for each violation of a separate provision of the HWCL and/or  
10 implementing regulations. For continuing violations, the HWCL authorizes the Court to impose a  
11 penalty of up to twenty-five thousand dollars (\$25,000) for each day that a violation continues.  
12 (Health & Saf. Code, §§ 25189, subd. (b) and 25189.2, subd. (b).)

13 26. The HWCL, at Health and Safety Code sections 25181 and 25184, authorizes and  
14 directs the Court to enjoin any ongoing or potential violation of the HWCL.

15 27. Section 25181 of the Health and Safety Code provides that when the Department  
16 determines that any person has engaged in, is engaged in, or is about to engage in any acts or  
17 practices that constitute or will constitute a violation of any provision of the HWCL or any rule or  
18 requirement issued or promulgated thereunder, and when requested by the Department, the  
19 Attorney General may make application to the superior court for an order enjoining such acts or  
20 practices, or for an order directing compliance, and upon a showing by the Department that such  
21 person has engaged in or is about to engage in any such acts or practices, a permanent or  
22 temporary injunction, restraining order, or other order may be granted.

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

25 It shall not be necessary to allege or prove at any stage of the proceeding that  
26 irreparable damage will occur should the temporary restraining order, preliminary  
27 injunction, or permanent injunction not be issued; or that the remedy at law is  
28 inadequate, and the temporary restraining order, preliminary injunction, or permanent  
injunction shall issue without such allegations and without such proof.

1 **GENERAL ALLEGATIONS**

2 29. The Facility is situated on a 4.5-acre parcel adjacent to White Rock Road and is  
3 identified by Sacramento County Assessor Parcel Number 072-0530-001. The Facility includes,  
4 but is not limited to, an administrative building, a lab, truck parking, five hazardous waste  
5 management units known as areas A, B, C, D, and a drum crusher unit. The drum crusher  
6 hazardous waste unit is currently undergoing closure.

7 30. At the times relevant to this Complaint, one or more of the Defendants owned and/or  
8 operated the Facility.

9 31. Defendants have operated and continue to operate the Facility as an active permitted  
10 hazardous waste storage and treatment facility. The Facility has a permitted capacity of  
11 approximately 82,320 gallons of hazardous waste. The Facility’s current hazardous waste permit,  
12 (“Permit”), which also incorporates by reference the Part A and Part B permit application  
13 (“Permit Part A” and “Permit Part B”), was issued by the Department on April 25, 2007 and was  
14 subsequently modified. The Permit expired on April 25, 2017.

15 32. Defendants continue to operate the Facility pending the Department’s review of a  
16 permit renewal application submitted to the Department in October 2016.

17 33. The Facility is authorized by the Department to engage in sampling, storage,  
18 packaging, re-packaging, and bulking and consolidation in containers of RCRA, non-RCRA, and  
19 Toxic Substance Control Act waste, as well as container crushing and equipment flushing. After  
20 storage, bulk liquid and containerized hazardous waste are transferred off-site to an end user  
21 (recycler) or to an off-site permitted disposal facility.

22 34. On October 12, 2010, the Department and Defendant GEM entered into a Consent  
23 Order (“2010 Consent Order”), pursuant to which Defendant GEM admitted to HWCL violations  
24 identified by the Department during the Department’s March 2009 inspection of the Facility.  
25 Defendants have since violated the 2010 Consent Order.

26 35. Since 2011, one explosion and three fires have occurred at the Facility due to the  
27 mismanagement of hazardous waste by Defendants. The explosion occurred on March 8, 2011,  
28 when Defendant GEM consolidated soluble organics with 22 gallons of nitric acid into a drum,

1 resulting in a violent and uncontrolled reaction. The reaction caused an explosion that ruptured  
2 the drum and launched it approximately 15 feet in the air, spraying hot, concentrated acid  
3 throughout most of the Facility's repackaging area. The explosion also released vapors and  
4 hazardous waste to the surrounding environment. The Department commenced an inspection of  
5 the Facility that same day, arriving while the fire trucks were still at the Facility responding to the  
6 explosion. Department staff returned on March 9, 2011, to complete the inspection. The  
7 Department determined that Defendant(s) violated the HWCL and issued a Summary of  
8 Violations that was signed on March 9, 2011 and an Inspection Report that was signed on May  
9 10, 2011.

10 36. The first fire at the Facility occurred on August 2, 2011, when Defendant GEM  
11 consolidated oxidizing pool chemicals, including trichloroisocyanuric acid and hypochlorites, into  
12 a 55-gallon drum, and then closed the drum's lid. Shortly thereafter, the drum began to emit a  
13 yellowish green gas. The drum pressurized sufficiently to blow the lid off the drum, and the drum  
14 caught fire. The fire spread to consume a total of four plastic drums of hazardous waste. The  
15 local fire department subsequently arrived and extinguished the fire, but their response efforts  
16 resulted in two firefighters being sent to the local hospital for observation. In response to this  
17 fire, the Department conducted an inspection of the Facility on August 4, 2011. The Department  
18 determined that Defendant GEM violated the HWCL and issued a Summary of Violations that  
19 was signed on August 4, 2011 and an Inspection Report that was signed on November 9, 2011.

20 37. The second fire at the Facility occurred in March 2013. Beginning on February 28,  
21 2013, Defendant GEM consolidated hazardous waste solids and trash into a roll-off bin. On  
22 March 3, 2013, the bin began to smolder. A passerby observed flames coming from the Facility  
23 and called the fire department who arrived and extinguished the fire. The fire, which burned for  
24 five hours and released smoke and potentially toxic constituents into the environment, was caused  
25 by an exothermic reaction that occurred from mixing incompatible wastes. In response to this  
26 fire, the Department conducted an inspection at the Facility on March 25, 26, and April 9, of  
27 2013. The Department determined that Defendant GEM violated the HWCL and issued a  
28



1 Summary of Violations that was signed on April 11, 2013 and an Inspection Report that was  
2 signed on May 6, 2013.

3 38. In response to the 2011 explosion and 2011 and 2013 fires, the Department issued an  
4 Imminent and Substantial Endangerment Determination and Enforcement Order (“2013 ISE  
5 Order”) to Defendant GEM, ordering Defendant GEM to immediately cease all hazardous waste  
6 consolidation operations at the Facility until the Department authorized Defendant GEM to  
7 resume operations. Defendant GEM was authorized to resume consolidation operations in Area  
8 C and Area D of the Facility on October 21, 2013. Defendants have since violated the 2013 ISE  
9 Order.

10 39. The third fire at the Facility occurred on August 7, 2017. The fire occurred when two  
11 employees deliberately poured liquid naphthalene onto paper and lit the paper on fire with a  
12 lighter. In response, on October 6, 2017, the Department sent an Information Request letter to  
13 Defendants requesting additional information related to the fire at the Facility (“2017 Information  
14 Request”). The Department determined that Defendant(s) violated the HWCL and issued a  
15 Summary of Violations on October 25, 2017.

16 40. In addition to the inspections that the Department conducted and the information it  
17 requested in response to the 2011 explosion and the 2011, 2013, and 2017 fires, the Department  
18 also inspected the Facility in 2014, 2015, 2016, and 2017. The Department determined that  
19 Defendants violated the HWCL during each of these inspections and issued a Summary of  
20 Violations that were signed on March 19, 2014, May 12, 2015, May 11, 2016, and June 27, 2017  
21 and Inspection Reports that were signed on May 6, 2014, July 19, 2015, July 19, 2016, and  
22 August 2, 2017.

### 23 **FIRST CAUSE OF ACTION**

24 (Failure to Maintain and Operate in a Manner that Minimizes the Possibility of a Fire, Explosion  
25 or Any Unplanned Release of Hazardous Waste in Violation of Cal. Code Regs., title 22, §§  
26 66264.31, 66264.175, subd. (b)(5) and (6), 66264.177, subd. (a), and 66264.17, subds. (a) and (b),  
Health & Saf. Code §§ 25189.5, subd. (a) and 25201, subd. (a) Against Defendants)

27 41. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.  
28

1           42. California Code of Regulations, title 22, section 66264.31 provides that facilities must  
2 be maintained and operated to minimize the possibility of a fire, explosion, or an unplanned  
3 sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or  
4 surface water which could threaten human health or the environment.

5           43. California Code of Regulations, title 22, section 66264.177, subdivision (a) provides  
6 that, incompatible wastes, or incompatible wastes and materials, shall not be placed in the same  
7 container, unless California Code of Regulations, title 22, section 66264.17, subdivision (b) is  
8 complied with.

9           44. California Code of Regulations, title 22, section 66264.17, subdivision (a) provides  
10 that the owner or operator of hazardous waste facility shall take precautions to prevent accidental  
11 ignition or reaction of ignitable or reactive waste.

12           45. California Code of Regulations, title 22, section 66264.17, subdivision (b) provides  
13 that “the transfer, treatment, storage, or disposal of ignitable or reactive waste, and the mixture or  
14 commingling of incompatible wastes, or incompatible wastes and materials, shall be conducted so  
15 that it does not: (1) generate extreme heat or pressure, fire or explosion, or violent reaction; (2)  
16 produce uncontrolled toxic mists, fumes, dusts, or gases, in sufficient quantities to threaten human  
17 health and the environment; (3) produce uncontrolled flammable fumes or gases in sufficient  
18 quantities to pose a risk of fire or explosions; (4) damage the structural integrity of the device or  
19 facility containing the waste; or (5) through other like means threaten human health or the  
20 environment.”

21           46. California Code of Regulations, title 22, section 66260.10 defines “incompatible  
22 waste” as “a hazardous waste which is unsuitable for (a) placement in a particular device or  
23 facility because it may cause corrosion or decay of containment materials (e.g. containment inner  
24 liners or walls); or (b) commingling with another waste or material under uncontrolled conditions  
25 because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic  
26 dusts, mists, fumes, or gases or flammable fumes or gases.”

27           47. California Code of Regulations, title 22, section 66264.175, subdivisions (b)(5) and  
28 (6) provide that the containment system shall be operated to drain and remove liquids resulting

1 from leaks, spills, or precipitation and that spilled or leaked waste and accumulated precipitation  
2 shall be removed from the sump or collection area in as timely a manner is necessary.

3 48. Health and Safety Code section 25189.5, subdivision (a) provides that disposal or the  
4 causing of disposal, of any hazardous waste at a facility which does not have a permit is  
5 prohibited.

6 49. Health and Safety Code section 25201, subdivision (a) provides that the owner or  
7 operator of a hazardous waste management facility may not accept, treat, store, or dispose of a  
8 hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste  
9 facility permit or other grant of authorization from the Department to use and operate the facility,  
10 area, or site.

11 50. Defendants have violated the HWCL and its regulations as follows:

12 Defendant GEM:

- 13 a. On March 8, 2011, GEM improperly combined soluble organics with  
14 approximately 22 gallons of nitric acid, which are incompatible hazardous  
15 wastes in a drum. This caused a violent and uncontrolled reaction that caused  
16 an explosion that launched the drum 15 feet into the air in Area C at the  
17 Facility, which sprayed hot concentrated acid throughout most of the  
18 repackaging area and released vapors and hazardous waste to the surrounding  
19 environment. (Cal. Code Regs., tit. 22, §§ 66264.17, subd. (b), 66264.31, and  
20 66264.177, subd. (a).)
- 21 b. On August 2, 2011, GEM improperly consolidated oxidizing pool chemicals  
22 into a 55-gallon drum while conducting a consolidation operation in Area C.  
23 This caused the drum to catch fire, and emit a “yellowish green gas/smoke.”  
24 (Cal. Code Regs., tit. 22, §§ 66264.17, subd. (b), 66264.31, and 66264.177,  
25 subd. (a).)
- 26 c. On March 3, 2013, a fire occurred at the Facility due to the consolidation of  
27 incompatible wastes and/or material in a roll off bin. (Cal. Code Regs., tit. 22,  
28 §§ 66264.31 and 66264.177, subd. (a).)

1           Defendants:

- 2           d.    On May 10, 2016, Defendants released a dust cloud of hazardous waste near a  
3           roll off bin in Area D and outside the permitted area. (Health & Saf. Code §§  
4           25201 and 25189.5, subd. (a), and Cal. Code Regs., tit. 22, § 66264.31.)
- 5           e.    On May 10, 2016, Defendants failed to operate the containment systems in  
6           Area B to remove spilled or leaked waste or accumulated precipitation in a  
7           timely manner. (Cal. Code Regs., tit. 22, §§ 66264.31 and 66264.175, subds.  
8           (b)(5) and (6).)
- 9           f.    On May 10, 2016, Defendants spilled hazardous waste in Area D that was being  
10          tracked throughout the Facility by equipment. (Cal. Code Regs., tit. 22, §  
11          66264.31.)
- 12          g.    On August 7, 2017, Defendants intentionally poured an ignitable hazardous  
13          waste onto paper and lit the paper on fire with a lighter in Area C where other  
14          employees were also consolidating hazardous waste and where other ignitable  
15          hazardous waste was located. (Cal. Code Regs., tit. 22, §§ 66264.17, subd. (a)  
16          and 66264.31.)

17          51.   Each violation of California Code of Regulations, title 22, sections 66264.31,  
18          66264.177, subdivision (a), 66264.17, subdivisions (a) and (b), 66270.30, subdivision (a) and  
19          Health and Safety Code sections 25189.5, subdivision (a), 25201, subdivision (a), and 25202,  
20          subdivision (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant  
21          to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety  
22          Code section 25189.2, subdivision (b).

23          52.   The Department is further entitled to injunctive relief to prevent future violations of  
24          the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
25          subdivision (a).

1 **SECOND CAUSE OF ACTION**

2 (Management of Incompatible Wastes in Violation of Health & Saf. Code  
3 § 25202(a), Cal. Code Regs., title 22, §§ 66264.17, subd. (b), 66264.177,  
4 subds. (a) and (c), and 66270.30, subd. (a) Against Defendants)

5 53. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

6 54. California Code of Regulations, title 22, section 66264.17, subdivision (b) provides  
7 that “the transfer, treatment, storage, or disposal of ignitable or reactive waste, and the mixture or  
8 commingling of incompatible wastes, or incompatible wastes and materials, shall be conducted so  
9 that it does not: (1) generate extreme heat or pressure, fire or explosion, or violent reaction; (2)  
10 produce uncontrolled toxic mists, fumes, dusts, or gases, in sufficient quantities to threaten human  
11 health and the environment; (3) produce uncontrolled flammable fumes or gases in sufficient  
12 quantities to pose a risk of fire or explosions; (4) damage the structural integrity of the device or  
13 facility containing the waste; or (5) through other like means threaten human health or the  
14 environment.”

15 55. California Code of Regulations, title 22, section 66260.10 defines “incompatible  
16 waste” as “a hazardous waste which is unsuitable for (a) placement in a particular device or  
17 facility because it may cause corrosion or decay of containment materials (e.g. containment inner  
18 liners or walls); or (b) commingling with another waste or material under uncontrolled conditions  
19 because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic  
20 dusts, mists, fumes, or gases or flammable fumes or gases.”

21 56. California Code of Regulations, title 22, section 66264.177 subdivision (a) provides  
22 that incompatible wastes or incompatible wastes and materials shall not be placed in the same  
23 container unless section 66264.17 subdivision (b) is complied with.

24 57. California Code of Regulations, title 22, section 66264.177 subdivision (c) provides  
25 that, a container holding a hazardous waste that is incompatible with any waste or other materials  
26 transferred or stored nearby in other containers, piles, open tanks, or surface impoundments shall  
27 be separated from the other materials or protected from them by means of a dike, berm, wall, or  
28 other device.

1           58. Health and Safety Code section 25202, subdivision (a) and California Code of  
2 Regulations, title 22, section 66270.30, subdivision (a) provides that the owner and/or operator of  
3 a hazardous waste management facility who holds a hazardous waste facilities permit is required  
4 to comply with the conditions of the hazardous waste permit.

5           59. Section VI(G)(1) of the Permit Part B prohibits the storage of incompatible material  
6 within Area C.

7           60. Sections VI(E)(8) and VIII(H)(1)(h) of the Permit Part B prohibit containers of  
8 incompatible wastes from being placed within the same cell in Area B.

9           61. Sections VIII(D)(1)(d)(1) and VIII(E)(1)(a) and (b) of the Permit Part B requires the  
10 separation of containers of incompatible hazardous waste in the Loading and Unloading Area and  
11 in Area A.

12           62. Section VIII(H)(1)(h) of the Permit Part B requires that containers located in areas  
13 designated as one-year storage areas be segregated in accordance with California Code of  
14 Regulations, title 22, section 66264.177, subdivision (c).

15           63. Areas B and C are designated as one-year storage areas in the Permit.

16           64. Defendants violated Health and Safety Code section 25202, subdivision (a) and  
17 California Code of Regulations, title 22, sections 66264.17, subdivision (b), 66264.177,  
18 subdivisions (a) and (c), and 66270.30, subdivision (a) in that they failed to take precautions to  
19 appropriately separate incompatible hazardous waste by means of a dike, berm, wall, or other  
20 device as follows:

21           Defendant GEM:

- 22           a. On March 8, 2011, GEM improperly combined soluble organics with  
23 approximately 22 gallons of nitric acid in a drum, which are incompatible  
24 wastes. This caused a violent and uncontrolled reaction that caused an  
25 explosion that launched the drum 15 feet into the air in Area C at the Facility,  
26 which sprayed hot concentrated acid throughout most of the repackaging area  
27 and released vapors and hazardous waste to the surrounding environment. (Cal.  
28

1 Code Regs., tit. 22, §§ 66264.17, subd. (b), 66264.31, and 66264.177, subd.  
2 (a).)

3 b. On and prior to August 4, 2011, GEM stored incompatible waste in at least six  
4 separate incidents. These wastes include oxidizers and flammables, cyanides,  
5 acids, and spontaneously combustible material and corrosives, next to each  
6 other, in Area C. (Health & Saf. Code § 25202, subd. (a), Cal. Code Regs., tit.  
7 22, §§ 66264.177, subd. (c) and 66270.30, subd. (a).)

8 c. On March 25, 2013, GEM failed to take adequate precautions to prevent  
9 incompatible hazardous waste from being bulked from loose packs or lab packs  
10 into 55-gallon drums in Area C. For instance, it failed to follow its best safety  
11 practice, to utilize the commingled compatibility test procedure. (Cal. Code  
12 Regs., tit. 22, § 66264.17, subd. (a).)

13 Defendants:

14 d. On May 6, 2015, Defendants failed in at least five instances to properly  
15 separate containers of incompatible wastes such as organic peroxides and  
16 oxidizers from corrosives and also to separate inorganic acids from organic  
17 acids by a dike, berm, wall or other device in Area B. (Health & Saf. § 25202,  
18 subd. (a) and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a), 66262.17, subd.  
19 (b), and 66264.177, subd. (c).)

20 e. On May 10, 2016, Defendants failed to separate multiple containers of  
21 incompatible hazardous waste in at least three instances in the Loading and  
22 Unloading Area and in Area A, including placing many incompatibles in a  
23 truck without proper separation. (Health & Saf. § 25202, subd. (a) and Cal.  
24 Code Regs., tit. 22, §§ 66270.30, subd. (a) and 66264.177, subd. (c).)

25 65. Each violation of Health & Safety Code section 25202 subdivision (a), California  
26 Code of Regulations, title 22, sections 66264.17, subdivision (b), 66265.177, subdivisions (a) and  
27 (c), and 66270.30, subdivision (a) subjects each Defendant to a separate penalty, according to  
28

1 proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the  
2 alternative, Health and Safety Code section 25189.2, subdivision (b).

3 66. The Department is further entitled to injunctive relief to prevent future violations of  
4 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
5 subdivision (a).

6 **THIRD CAUSE OF ACTION**

7 (Failure to Use Clean Containers for the Storage of Hazardous Waste in Violation  
8 of Cal. Code Regs., title 22, § 66264.177, subd. (b) Against Defendant GEM)

9 67. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

10 68. California Code of Regulations, title 22, section 66264.177, subdivision (b) provides  
11 that, hazardous waste shall not be placed in an unwashed container that previously held an  
12 incompatible waste or material.

13 69. On August 4, 2011 and March 26, 2013, Defendant GEM violated California Code of  
14 Regulations, title 22, section 66264.177, subdivision (b) in that it failed to utilize clean containers  
15 for the storage of hazardous waste.

16 70. Each violation of California Code of Regulations, title 22, section 66264.177,  
17 subdivision (b), subjects Defendant GEM to a separate penalty, according to proof at trial,  
18 pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health  
19 and Safety Code 25189.2, subdivision (b).

20 71. The Department is further entitled to injunctive relief to prevent future violations of  
21 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
22 subdivision (a).

23 **FOURTH CAUSE OF ACTION**

24 (Management of Ignitable, Reactive, or Incompatible Hazardous Wastes And Improper Bulking  
25 in Violation of Health & Saf. Code, §§ 25202, subd. (a), 25188 and Cal. Code Regs., tit. 22, §§  
66270.30, subd. (a), 66264.17, subds. (a) and (b), and 2013 ISE Order Against Defendants)

26 72. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

27 73. Health and Safety Code section 25202, subdivision (a) and California Code of  
28 Regulations, title 22, section 66270.30, subdivision (a) provides that the owner and/or operator of



1 a hazardous waste management facility who holds a hazardous waste facilities permit is required  
2 to comply with the conditions of the hazardous waste permit.

3 74. California Code of Regulations, title 22, section 66264.17, subdivision (a) requires  
4 that an owner and/or operator of a facility take precautions to prevent accidental ignition or  
5 reaction of ignitable or reactive waste.

6 75. California Code of Regulations, title 22, section 66264.17, subdivision (b) requires  
7 that an owner and/or operator of a facility prevent reactions which generate extreme heat or  
8 pressure, fire or explosions, or violent reactions.

9 76. Section V(C)(10) of the Permit Part B requires written authorization from facility  
10 management or facility chemist before bulking waste in Area C.

11 77. Sections V(D)(1) and V(G)(1) and Attachment V-5 of the Permit Part B require  
12 compatibility testing be performed and written approval by the facility chemist prior to bulking  
13 wastes.

14 78. Section VI(D)(6)(d) of the Permit Part B and Part IV of the Permit provides that no  
15 bulking of hazardous waste is allowed in Area A.

16 79. Pursuant to Health and Safety Code section 25187, subdivision (a) the Department  
17 issued the 2013 ISE Order including a Schedule of Compliance to Defendant GEM on April 3,  
18 2013.

19 80. Section 5.16 of the 2013 ISE Order provides that “[t]his Order shall apply to and be  
20 binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants,  
21 receivers, trustees, successors, and assignees, including but not limited to individuals, partners,  
22 and subsidiary and parent corporations.”

23 81. The Schedule of Compliance, section 4.2.1 of the 2013 ISE Order provides that  
24 Defendant GEM must submit a modification to its Permit Part B to revise its existing Standard  
25 Operating Procedures to implement additional precautions to prevent fires and explosions or other  
26 violent or non-violent reactions that could potentially release hazardous waste to the environment  
27 during consolidation operations at the Facility, including oversight procedures at the Facility to  
28 ensure incompatible wastes are not mixed together. Defendant GEM revised its Standard

1 Operating Procedures to require facility chemist approval prior to conducting any activity  
2 involving consolidation or bulking and submitted a permit modification to the Department to  
3 incorporate this change. The permit modification became effective on October 21, 2013.

4 82. Defendants violated Health and Safety Code section 25202, subdivision (a) and  
5 California Code of Regulations, title 22, section 66270.30, subdivision (a), California Code of  
6 Regulations, title 22, section 66264.17, subdivisions (a) and (b) as follows:

7 Defendant GEM:

- 8 a. On and prior to March 8, 2011, Defendant GEM failed to have compatibility  
9 testing performed in the laboratory and failed to obtain written approval by the  
10 facility chemist prior to bulking wastes in Area C. (Health & Saf. Code §  
11 25202, subd. (a), Cal. Code of Regs. §§ 66264.17, subd. (b) and 66270.30,  
12 subd. (a))
- 13 b. On and prior to March 25, 2013, Defendant GEM failed to take adequate  
14 precautions to prevent incompatible hazardous waste from being bulked in Area  
15 C by failing to follow the Standard Operating Procedure for Area C. For  
16 instance, GEM failed to follow the commingled compatibility test procedure  
17 that it adopted as a “best safety practice” to ensure incompatible hazardous  
18 waste was not being bulked from loose packs or lab packs into 55-gallon drums  
19 in Area C. (Cal. Code Regs., tit. 22, § 66264.17, subd. (a).)

20 Defendants:

- 21 c. On and prior to May 6, 2015, and May 12, 2015, Defendants improperly bulked  
22 approximately 14 containers of used oil and 14 containers of antifreeze in Area  
23 A, where no bulking of hazardous waste is allowed.
- 24 d. On and prior to June 27, 2017, Defendants bulked waste in Area C without  
25 written authorization by the facility chemist. (Health & Saf. Code § 25202,  
26 subd. (a), Cal. Code Regs., tit. 22, § 66270.30, subd. (a), and 2013 ISE Order, §  
27 4.2.1.)

1 83. Each violation of Health and Safety Code section 25202, subdivision (a) and  
2 California Code of Regulations, title 22, section 66270.30, subdivision (a), California Code of  
3 Regulations, title 22, section 66264.17, subdivision (a) and (b), subjects Defendants to a separate  
4 penalty, according to proof at trial, pursuant to Health and Safety Code section 25189,  
5 subdivision (b) or in the alternative, Health and Safety Code section 25189.2 subdivision (b).

6 84. Failure to comply with the terms of the 2013 ISE Order in 2017 subjects each  
7 Defendant to costs, penalties, and/or damages, pursuant to section 5.15 of the 2013 ISE Order.

8 85. Health and Safety Code section 25188 provides that any person subject to a Schedule  
9 of Compliance issued pursuant to Section 25187 who does not comply with that schedule shall be  
10 subject to a civil penalty of not more than twenty-five thousand dollars for each day of  
11 noncompliance.

12 86. The Department is further entitled to injunctive relief to prevent future violations of  
13 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
14 subdivision (a).

15 **FIFTH CAUSE OF ACTION**

16 (Failure to Maintain Adequate Aisle Space in Violation of Cal.  
17 Code Regs., title 22, § 66264.35 Against Defendant GEM)

18 87. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

19 88. California Code of Regulations, title 22, section 66264.35 provides an owner and/or  
20 operator of a facility must maintain aisle space adequate to allow the unobstructed movement of  
21 personnel, fire protection equipment, spill control equipment, and decontamination equipment.

22 89. On and prior to August 4, 2011, Defendant GEM did not maintain aisle space  
23 adequate to allow the unobstructed movement of personnel, fire protection equipment, spill  
24 control equipment, and decontamination equipment in that several drums were stored in front of  
25 the eyewash and safety shower obstructing access to its use.

26 90. Each violation of California Code of Regulations, title 22, section 66264.35 subjects  
27 Defendant GEM to a separate penalty, according to proof at trial, pursuant to Health and Safety  
28

1 Code section 25189, subdivision (b) or in the alternative, Health and Safety Code 25189.2,  
2 subdivision (b).

3 91. The Department is further entitled to injunctive relief to prevent future violations of  
4 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
5 subdivision (a).

6 **SIXTH CAUSE OF ACTION**

7 (False Statements and/or Representations in Waste Labels in Violation of  
8 Health & Saf. Code §§ 25189, subd. (a), 25189.2, subd. (a), 25202, subd. (a),  
and Cal. Code Regs., tit. 22, § 66270.30, subd. (a) Against Defendants)

9 92. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

10 93. The owner and/or operator of a hazardous waste management facility who holds a  
11 hazardous waste facility permit is required to comply with the conditions of the hazardous waste  
12 permit. (Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd.  
13 (a).)

14 94. Health and Safety Code section 25189, subdivision (a) and Health and Safety Code  
15 section 25189.2, subdivision (a), provide in relevant part that any person who intentionally or  
16 negligently makes any false statement or representation in any label shall be liable for a penalty.

17 95. Section VIII(D)(1)(g) of the Permit Part B requires the Defendants to mark or verify  
18 that each container is marked with the following information to ensure efficient tracking and  
19 management within 24 hours of being unloaded at the Facility: 1) uniform hazardous waste  
20 manifest document number and line item number; and 2) acceptance date into the Facility.

21 96. On May 6, 2015, Defendants made false representations on their hazardous waste  
22 labels by affixing outbound labels over waste receipt check-in labels, which consequently  
23 misstated the accumulation start date(s).

24 97. Each violation of Health and Safety Code sections 25189, subdivision (a), 25189.2,  
25 subdivision (a), 25202, subdivision (a) and California Code of Regulations, title 22, section  
26 66270.30, subdivision (a) subjects each Defendant to a separate penalty, according to proof at  
27 trial, pursuant to Health and Safety Code sections 25189, subdivisions (a) and (b) or in the  
28 alternative, Health and Safety Code section 25189.2, subdivisions (a) and (b).



1           106. The Schedule of Compliance, Section 4.2.2 of the 2013 ISE Order provides that  
2 Defendants must submit a detailed training plan describing (1) the level of training for each  
3 person that holds a position that is responsible for hazardous waste management, (2) how often  
4 the training will be given, (3) who will provide each level of training, (4) each position for which  
5 the training is required, (5) records (e.g. a certificate of completion) for each person that he or she  
6 has successfully completed the training and has demonstrated the necessary understanding and  
7 skills required to be competent in the course areas covered by the training, and (6) the proposed  
8 schedule for implementing the training plan.

9           107. The Schedule of Compliance, Section 4.2.3 of the 2013 ISE Order provides  
10 Defendants will provide the name of the responsible corporate officer at the Site who shall ensure  
11 the work plan is implemented and that persons/positions detailed in the training plan have been  
12 properly trained.

13           108. The Schedule of Compliance, Section 4.3 of the 2013 ISE Order provides that after  
14 the Department approves the training plan, Defendants will implement the plans pursuant to the  
15 schedules therein.

16           109. Health and Safety Code section 25188 provides that any person subject to a Schedule  
17 of Compliance issued pursuant to Section 25187 who does not comply with that schedule shall be  
18 subject to a civil penalty of not more than twenty-five thousand dollars for each day of  
19 noncompliance.

20           110. On and prior to March 25, 2013 and March 26, 2013, Defendant GEM failed to  
21 properly train facility personnel and maintain training documents and records pursuant to  
22 California Code of Regulations, title 22, section 66264.16.

23           111. On and prior to March 18, 2014 and March 19, 2014, Defendant GEM failed to  
24 properly train facility personnel and maintain training documents and records pursuant to  
25 California Code of Regulations, title 22, section 66264.16 and the 2013 ISE Order, section 4.2.2  
26 and 4.3.

1 112. On and prior to May 6, 2015 and May 10, 2016, Defendants failed to properly train  
2 facility personnel and or maintain training documents and records pursuant to California Code of  
3 Regulations, title 22, section 66264.16 and the 2013 ISE Order, section 4.2.2 and 4.3.

4 113. On and prior to August 7, 2017, Defendants failed to properly train facility personnel  
5 and or maintain training documents and records pursuant to California Code of Regulations, title  
6 22, section 66264.16 and the 2013 ISE Order, section 4.2.2 and 4.3.

7 114. Each violation of California Code of Regulations, title 22, section 66264.16 subjects  
8 each Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety  
9 section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2,  
10 subdivision (b).

11 115. Failure to comply with the terms of the 2013 ISE Order in 2014, 2015, 2016, and  
12 2017 subjects each Defendant to costs, penalties, and/or damages, pursuant to section 5.15 of the  
13 2013 ISE Order.

14 116. The Department is further entitled to injunctive relief to prevent future violations of  
15 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
16 subdivision (a).

17 **EIGHTH CAUSE OF ACTION**

18 (Failure to Notify the Department of a New Release Within 24  
19 Hours in Violation of Health & Saf. Code, § 25202, subd. (a) and  
20 Cal. Code Regs., tit. 22, § 66270.30, subd. (a) Against Defendants)

21 117. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

22 118. The owner and/or operator of a hazardous waste management facility who holds a  
23 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
24 permit. (Health & Saf. Code § 25202, subdivision (a) and Cal. Code Regs., tit. 22, § 66270.30,  
25 subd. (a).)

26 119. Section VI of the Permit requires Defendants to notify the Department within 24  
27 hours of the discovery of new releases from the Facility.

28 120. Defendant GEM violated Health and Safety Code section 25202, subdivision (a) and  
California Code of Regulations, title 22, section 66270.30, subdivision (a) by failing to notify the

1 Department within 24 hours of discovery of new releases from the fire at the Facility that  
2 occurred on August 2, 2011.

3 121. Defendants violated Health and Safety Code section 25202, subdivision (a) and  
4 California Code of Regulations, title 22, section 66270.30, subdivision (a) by failing to notify the  
5 Department within 24 hours of discovery of new releases from the fire at the Facility that  
6 occurred on August 7, 2017.

7 122. Each violation of Health & Safety Code section 25202, subdivision (a) and California  
8 Code of Regulations, title 22, section 66270.30, subdivision (a) subjects each Defendant to a  
9 separate penalty, according to proof at trial, pursuant to Health and Safety Code section 25189,  
10 subdivision (b) or in the alternative, Health and Safety Code 25189.2, subdivision (b).

11 123. The Department is further entitled to injunctive relief to prevent future violations of  
12 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
13 subdivision (a).

#### 14 **NINTH CAUSE OF ACTION**

15 (Failure to Properly Maintain Resin Coating in Violation of Health &  
16 Saf. Code, § 25202, subd. (a) and Cal. Code Regs., tit. 22, §§  
66270.30, subd. (a) and 66264.175, subd. (b)(1) Against Defendants)

17 124. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

18 125. The owner and/or operator of a hazardous waste management facility who holds a  
19 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
20 permit. (Health & Saf. Code § 25202 subd. (a) and Cal. Code Regs, tit. 22, § 66270.30, subd. (a).)

21 126. California Code of Regulations, title 22, section 66264.175, subdivision (b)(1)  
22 provides that a base for containers should be free of cracks or gaps and sufficiently impervious to  
23 contain leaks, spills, or precipitation.

24 127. Section VI(D)(1) of the Permit Part B requires Defendants to maintain the concrete  
25 floor and containment berm in Area A of the Facility with a properly coated layer of chemical-  
26 resistant phenolic resin.







1           142. On October 12, 2010, the Department and Defendant GEM entered into the 2010  
2 Consent Order to address Defendant GEM’s violations of the HWCL that were identified by the  
3 Department in March 2009.

4           143. Section 4.2 of the 2010 Consent Order provides that “[t]his Order shall apply to and  
5 be binding upon Respondent and its officers, directors, agents, employees, contractors,  
6 consultants, receivers, trustees, successors, and assignees, including but not limited to individuals,  
7 partners, and subsidiary and parent corporations...”

8           144. Section 3.1.3 of the 2010 Consent Order provides that Defendant GEM shall conduct  
9 unloading and loading operations in accordance with Health and Safety Code section 25200.19  
10 and comply with section VIII(E)(1)(a) of the Permit Part B (Operation Plan).

11           145. Section VIII(E)(1)(a) of the Permit Part B specifies that hazardous waste cannot be  
12 stored for more than 10 days in the Loading and Unloading Area.

13           146. Section V(I)(D) of the Permit Part B specifies that Area A is a temporary staging area  
14 for receiving, inspecting, repackaging, and preparation of containerized waste for shipping, and  
15 hazardous waste containers can only be stored in said area for 10 days.

16           147. Defendants violated the HWCL and its regulations and the 2010 Consent Order as  
17 follows:

18           Defendant GEM:

- 19           a. On and prior to March 18-19, 2014, GEM stored eleven hazardous waste  
20 containers in Area A for longer than 10 days. (Health & Saf. Code § 25202,  
21 subd. (a), Cal. Code Regs. tit. 22, § 66270.30, subd. (a).)

22           Defendants:

- 23           b. On and prior to May 10-11, 2016, Defendants stored hazardous waste  
24 containers, including automobile lead acid batteries in Area A for longer than  
25 10 days. (Health & Saf. Code § 25202, subd. (a), Cal. Code Regs. tit. 22, §  
26 66270.30, subd. (a).)
- 27           c. On and prior to May 10-11, 2016, Defendants stored hazardous waste  
28 containers in the Loading and Unloading Area for longer than 10 days. (Health

1 & Saf. Code §§ 25202, subd. (a), 25200.19, subd. (c)(1), 25187, subd. (a), Cal.  
2 Code Regs. tit. 22, § 66270.30, subd. (a), 2010 Consent Order.)

3 d. On and prior to June 27, 2017, Defendants stored hazardous waste containers  
4 with corrosive waste in Area A for longer than 10 days. (Health & Saf. Code §  
5 25202, subd. (a), Cal. Code Regs. tit. 22, § 66270.30, subd. (a).)

6 148. Each violation of Health and Safety Code, sections 25200.19, subdivision (c)(1),  
7 25202, subdivision (a) and California Code of Regulations, title 22, section 66270.30, subdivision  
8 (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health  
9 and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code  
10 section 25189.2, subdivision (b).

11 149. Failure to comply with the terms of the 2010 Consent Order subjects each Defendant  
12 to costs, penalties, and/or damages, pursuant to section 4.1 of the 2010 Consent Order.

13 150. Health and Safety Code section 25188 provides that any person subject to a Schedule  
14 of Compliance issued pursuant to Section 25187 who does not comply with that schedule shall be  
15 subject to a civil penalty of not more than twenty-five thousand dollars for each day of  
16 noncompliance.

17 151. The Department is further entitled to injunctive relief to prevent future violations of  
18 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
19 subdivision (a).

## 20 **TWELFTH CAUSE OF ACTION**

21 (Improper Storage of Universal Waste in Violation of Health & Saf. Code, § 25202  
22 subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd (a) Against Defendant GEM)

23 152. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

24 153. The owner and/or operator of a hazardous waste management facility who holds a  
25 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
26 permit. (Health & Saf. Code, § 25202 subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd  
27 (a).)  
28

1 154. Part IV, Unit A of the Permit and section VI(D) of the Permit Part B specifies that  
2 universal waste can only be stored in Area A of the Facility.

3 155. On and prior to March 18, 2014 and March 19, 2014, Defendant GEM violated  
4 Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title  
5 22, section 66270.30, subdivision (a) by improperly storing seven boxes of universal waste in  
6 Area C.

7 156. Each violation of Health and Safety Code section 25202, subdivision (a) and  
8 California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects Defendant  
9 GEM to a separate penalty, according to proof at trial, pursuant to Health and Safety Code section  
10 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision  
11 (b).

12 157. The Department is further entitled to injunctive relief to prevent future violations of  
13 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
14 subdivision (a).

15 **THIRTEENTH CAUSE OF ACTION**

16 (Failure to Inspect Containers for Proper Labeling and Marking in Violation of Health &  
17 Saf. Code § 25202, subd. (a), and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a),  
66262.31, 66262.32 subd. (b)(2), and 66266.81, subd. (a)(1)(6)(D) Against Defendants)

18 158. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

19 159. The owner and/or operator of a hazardous waste management facility who holds a  
20 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
21 permit. (Health & Saf. Code, § 25202, subd. (a) Cal. Code Regs., tit. 22, § 66270.30, subd. (a).)

22 160. California Code of Regulations, title 22, section 66262.31 requires facility personnel  
23 to label hazardous waste containers in accordance with Title 49 CFR Part 172 before they are  
24 transported off-site.

25 161. California Code of Regulations, title 22, section 66262.32, subdivision (b)(2) requires  
26 that a generator mark each container of 110 gallons or less of hazardous waste offered for offsite  
27 transportation in accordance with the requirements of 49 Code of Federal Regulations section  
28 172.304.



1 169. The owner and/or operator of a hazardous waste management facility who holds a  
2 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
3 permit. (Health & Saf. Code § 25202 subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd.  
4 (a).)

5 170. Section VIII (E)(1)(b) of the Permit Part B requires that containers with hazardous  
6 waste be marked and labeled.

7 171. On and prior to June 27, 2017, Defendants violated Health and Safety Code section  
8 25202, subdivision (a), and California Code of Regulations, title 22, section 66270.30,  
9 subdivision (a) because six containers of hazardous waste in Area B did not have accumulation  
10 start dates.

11 172. Each violation of Health and Safety Code, section 25202, subdivision (a) and  
12 California Code of Regulations, title 22, section 66270.30 subjects each Defendant to a separate  
13 penalty, according to proof at trial, pursuant to Health and Safety Code section 25189,  
14 subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

15 173. The Department is further entitled to injunctive relief to prevent future violations of  
16 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
17 subdivision (a).

18 **FIFTEENTH CAUSE OF ACTION**

19 (Failure to Properly Mark Empty Containers Larger Than Five Gallons in  
20 Violation of Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs.,  
tit. 22, §§ 66270.30, subd. (a) and 66261.7, subd. (f) Against Defendants)

21 174. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

22 175. The owner and/or operator of a hazardous waste management facility who holds a  
23 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
24 permit. (Health & Saf. Code § 25202, subd. (a) and California Code of Regulations, title 22, §  
25 66270.30, subd. (a).)

26 176. California Code of Regulations, title 22, section 66261.7, subdivision (f) provides  
27 that a container larger than five gallons in capacity shall be marked with the date it has been  
28 emptied.

1 177. Section VIII(E)(2) of the Permit Part B requires that empty containers at a hazardous  
2 waste facility must be marked to identify them as empty.

3 178. Defendants failed to mark empty containers to identify them as empty in violation of  
4 Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title  
5 22, sections 66270.30, subdivision (a) and 66261.7, subdivision (f) on and prior to four  
6 inspections: March 8-9, 2011; May 6 and 12, 2015; May 10-11, 2016; and June 27, 2017.

7 179. Each violation of Health and Safety Code section 25202(a) and California Code of  
8 Regulations, title 22, sections 66270.30, subdivision (a) and 66261.7, subdivision (f) subjects  
9 each Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety  
10 Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section  
11 25189.2, subdivision (b).

12 180. The Department is further entitled to injunctive relief to prevent future violations of  
13 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
14 subdivision (a).

15 **SIXTEENTH CAUSE OF ACTION**

16 (Failure to Properly and Accurately Complete the Facility Closure Plan in Violation  
17 of Cal. Code Regs., tit. 22, § 66264.112 subd. (b)(3) Against Defendants)

18 181. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

19 182. California Code of Regulations, title 22, section 66264.112, subdivision (b)(3)  
20 requires that the owner or operator of a hazardous waste facility shall have a Closure Plan that  
21 includes an estimate of the maximum inventory of hazardous wastes ever on-site over the active  
22 life of the facility and a detailed description of the methods to be used during partial closures and  
23 final closure, including, but not limited to, methods for removing, transporting, treating, storing,  
24 or disposing of all hazardous wastes, and identification of the type(s) of the off-site hazardous  
25 waste management units to be used, if applicable.

26 183. On and prior to May 6, 2015, and May 12, 2015 Defendants failed to provide in the  
27 Closure Plan an accurate estimate of the total inventory of hazardous waste ever onsite over the  
28 active life of the Facility and failed to fully and accurately detail the methods to be used during



1 partial and final closure of the Facility, in violation of California Code of Regulations, title 22,  
2 section 66264.112, subdivision (b)(3).

3 184. Each violation of California Code of Regulations, title 22, section 66264.112,  
4 subdivision (b)(3) subjects each Defendant to a separate penalty, according to proof at trial,  
5 pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health  
6 and Safety Code section 25189.2, subdivision (b) of the Health and Safety Code.

7 185. The Department is further entitled to injunctive relief to prevent future violations of  
8 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
9 subdivision (a).

10 **SEVENTEENTH CAUSE OF ACTION**

11 (Failure to Properly Manage Containers in Violation of California Code of  
12 Regulations, title 22, §§ 66264.171 and 66264.173 subd. (b) Against Defendants)

13 186. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

14 187. California Code of Regulations, title 22, sections 66264.171 and 66264.173  
15 subdivision (b) provide that containers holding hazardous waste cannot be stored in a manner that  
16 may rupture or that causes it to leak and if containers holding hazardous waste begin to leak, the  
17 owner and/or operator shall transfer the hazardous waste to a container in good condition.

18 188. On and prior to May 11, 2016, the Department discovered that Defendants stored  
19 hazardous waste in three significantly dented or deformed 5-gallon plastic containers in Area B  
20 and the Loading and Unloading Area.

21 189. Each violation of California Code of Regulations, title 22, sections 66264.171 and  
22 66264.173 subdivision (b) subjects each Defendant to a separate penalty, according to proof at  
23 trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative,  
24 Health and Safety Code 25189.2, subdivision (b).

25 190. The Department is further entitled to injunctive relief to and prevent future violations  
26 of the HWCL and its implementing regulations pursuant to Health and Safety Code section  
27 25181, subdivision (a).  
28

1 **EIGHTEENTH CAUSE OF ACTION**

2 (Failure to Properly Close Containers in Violation of Cal. Code  
3 Regs., tit. 22, § 66264.173 subd. (a) Against Defendants)

4 191. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

5 192. California Code of Regulations, title 22, section 66264.173 subdivision (a) provides  
6 that containers holding hazardous waste shall always be closed during transfer and storage, except  
7 when it is necessary to add or remove waste.

8 193. On and prior to May 10-11, 2016, Defendants failed to ensure that roll-off bins and  
9 containers of hazardous waste in Area D were closed.

10 194. Each violation of California Code of Regulations, title 22, section 66264.173  
11 subdivision (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant  
12 to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety  
13 Code 25189.2, subdivision (b).

14 195. The Department is further entitled to injunctive relief to prevent future violations of  
15 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
16 subdivision (a).

17 **NINETEENTH CAUSE OF ACTION**

18 (Failure to Provide Acceptance Dates on Containers of Hazardous  
19 Waste in Violation of Health & Saf. Code § 25202, subd. (a) and  
20 Cal. Code Regs., tit. 22, § 66270.30 subd. (a) Against Defendants)

21 196. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

22 197. The owner and/or operator of a hazardous waste management facility who holds a  
23 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
24 permit. (Health & Saf. Code § 25202, subd. (a) and Cal. Code of Regs., tit. 22, § 66270.30, subd.  
25 (a).)

26 198. Section VI(B)(6) and VIII(D(1)(d)(1)(g) of the Permit Part B requires Defendants to  
27 provide a tracking label with a date of acceptance within 24 hours of receiving the hazardous  
28 waste.

1 199. On and prior to May 10-11, 2016, Defendants failed to provide a tracking label with a  
2 date of acceptance within 24 hours of receipt for approximately twenty drums in Area A and Area  
3 C.

4 200. Each violation of Health and Safety Code section 25202, subdivision (a) and  
5 California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects each  
6 Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code  
7 section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2,  
8 subdivision (b).

9 201. The Department is further entitled to injunctive relief to prevent future violations of  
10 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
11 subdivision (a).

12 **TWENTIETH CAUSE OF ACTION**

13 (Accepting Hazardous Waste Destined for Other Facilities in Violation  
14 of Health & Saf. Code §§ 25200.19, subd. (a) and 25202, subd. (a) and  
Cal. Code Regs., tit. 22, § 66270.30 subd. (a) Against Defendants)

15 202. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

16 203. The owner and/or operator of a hazardous waste management facility who holds a  
17 hazardous waste facilities permit is required to comply with the conditions of the hazardous waste  
18 permit. (Health & Saf. Code § 25202, subd. (a) and Cal. Code of Regs., title 22, § 66270.30,  
19 subd. (a).)

20 204. Health and Safety Code section 25200.19, subdivision (a) provides in relevant part  
21 that a facility is subject to conditions and limitations in the permit concerning the receipt and  
22 unloading of hazardous wastes from offsite locations.

23 205. Section VI(C) and/or VIII(E)(1)(b) of the Permit Part B only allows storage of  
24 containers at the Facility if they are destined for the Facility or being prepared for outgoing  
25 shipment.

26 206. On and prior to May 10-11, 2016, Defendants accepted and stored drums at the  
27 Facility that were destined for other facilities.  
28



1 **TWENTY-SECOND CAUSE OF ACTION**

2 (Failure to Provide Training on Management of Universal Waste in  
3 Violation of Cal. Code Regs., tit. 22, § 66273.36 Against Defendant GEM)

4 215. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

5 216. California Code of Regulations, title 22, section 66273.36 requires that all personnel  
6 who manage or who supervise those who manage universal waste be provided initial training and  
7 annual training and that a written record be maintained.

8 217. On and prior to March 25, 2013, Defendant GEM failed to provide and document  
9 adequate universal waste training to its employees.

10 218. Each violation of California Code of Regulations, title 22, section 66273.36 subjects  
11 Defendant GEM to a separate penalty, according to proof at trial, pursuant to Health and Safety  
12 Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section  
13 25189.2, subdivision (b).

14 219. The Department is further entitled to injunctive relief to prevent future violations of  
15 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
16 subdivision (a).

17 **TWENTY-THIRD CAUSE OF ACTION**

18 (Failure to Label or Mark Containers of Universal Waste in Violation of  
19 Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22, §§  
20 66270.30, subd. (a) and 66273.34, subd. (a) Against Defendants)

21 220. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

22 221. The owner and/or operator of a hazardous waste management facility who holds a  
23 hazardous waste facility permit is required to comply with the conditions of the hazardous waste  
24 permit. (Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd.  
25 (a))

26 222. California Code of Regulations, title 22, section 66273.34, subdivision (a) requires  
27 universal waste handlers to label or mark universal waste to identify the type of universal waste  
28 and to use the appropriate identifiers.





1 239. Section X(I)(3)(a)(3), (4), and (8) and Attachment X-2 of the Permit Part B  
2 (Emergency Action and Contingency Plan) requires the Facility to take the following actions in  
3 the event of a fire: (1) evacuation, (2) employee notification to his or her supervisor, (3)  
4 notification to the Emergency Coordinator and General Manager by the supervisor(s), (4)  
5 placement of the debris and materials used in the clean-up of the fire, which are presumed to be  
6 hazardous waste, in proper containers, labeled, and managed, appropriately, and (5) verbal  
7 notification to the Department within 24 hours.

8 240. On and after August 7, 2017, Defendants violated sections X(I)(3)(a)(3), (4), and (8)  
9 and Attachment X-2 of the Permit Part B by only performing some of its requirements.

10 241. Each violation of Health and Safety Code section 25202, subdivision (a) and  
11 California Code of Regulations, title 22, section 66272.30, subdivision (a) subjects each  
12 Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code  
13 section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2,  
14 subdivision (b).

15 242. The Department is further entitled to injunctive relief to prevent future violations of  
16 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
17 subdivision (a).

18 **TWENTY-SEVENTH CAUSE OF ACTION**  
19 (Failure to Keep Contingency Plan Up to Date in Violation of Cal.  
20 Code Regs., tit. 22, § 66264.52, subd. (d) Against Defendants)

21 243. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

22 244. California Code of Regulations, title 22, section 66264.52, subdivision (d) requires  
23 that the list of names, addresses, and phone numbers of all persons qualified to act as emergency  
24 coordinator be kept up to date.

25 245. On an prior to August 7, 2017, Defendants violated California Code of Regulations,  
26 title 22, section 66264.52, subdivision (d) by failing to keep its Contingency Plan up to date.  
27 Steven Patrick is identified in the Facility's Contingency Plan as the Facility Manager and the  
28 primary Emergency Coordinator. Greg Harris is identified in the Facility's Contingency Plan as



1 the Area General Manager and an Emergency Coordinate alternate. Neither were employed at  
2 the Facility on the date of the August 7, 2017 fire.

3 246. Each violation of California Code of Regulations, title 22, 66264.52, subdivision (d)  
4 subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health and  
5 Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section  
6 25189.2, subdivision (b).

7 247. The Department is further entitled to injunctive relief to prevent future violations of  
8 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
9 subdivision (a).

10 **TWENTY-EIGHTH CAUSE OF ACTION**  
11 (Failure to Amend Contingency Plan in Violation of Cal. Code  
12 Regs., tit. 22, § 66264.54, subd. (d) Against Defendants)

13 248. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

14 249. California Code of Regulations, title 22, section 66264.54, subdivision (d), requires  
15 the contingency plan be immediately amended, if necessary, whenever the list of emergency  
16 coordinators change.

17 250. On and prior to August 7, 2017, Defendants violated California Code of Regulations,  
18 title 22, section 66264.54, subdivision (d) by failing to amend its Contingency Plan. Steven  
19 Patrick is identified in the Facility's Contingency Plan as the Facility Manager and the primary  
20 Emergency Coordinator. Greg Harris is identified in the Facility's Contingency Plan as the Area  
21 General Manager and an Emergency Coordinate alternate. Neither were employed at the Facility  
22 on the date of the August 7, 2017 fire, and no amendment to the Contingency Plan Emergency  
23 Coordinator list had been made reflecting the departures of Steven Patrick and Greg Harris.

24 251. Each violation of California Code of Regulations, title 22, section 66264.54,  
25 subdivision (d) subjects each Defendant to a separate penalty, according to proof at trial, pursuant  
26 to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety  
27 Code section 25189.2, subdivision (b).  
28



1           259. The Department received no revised permit application and no written agreement was  
2 entered into and submitted to the Department containing a specific date for transfer of permit  
3 responsibility, coverage, and liability between Defendant GEM and Defendants Stericycle.  
4 Defendants did not demonstrate compliance with the financial requirements during and after the  
5 ownership and/or operational change.

6           260. Each violation of California Code of Regulations, title 22, sections 66270.40,  
7 subdivisions (a) and (b)(2) and 66270.42.5, subdivision (c)(1) subjects each Defendant to a  
8 separate penalty, according to proof at trial, pursuant to Health and Safety Code section 25189,  
9 subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

10          261. The Department is further entitled to injunctive relief to prevent future violations of  
11 the HWCL and its implementing regulations pursuant to Health and Safety Code section 25181,  
12 subdivision (a).

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**REQUEST FOR RELIEF**

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

- 1. U Enter judgment that Defendants have violated the HWCL and its implementing regulations as set forth in the First through Twenty Ninth Causes of Action;
- 2. Enter judgment that Defendants are liable for civil penalties for the violations set U forth in the First through Twenty Ninth Causes of Action as authorized by Health and Safety Code sections 25189 and 25189.2, in an amount according to proof;
- 3. U Enter permanent injunctions, or other orders enjoining Defendants from illegally managing hazardous waste in California and requiring Defendants to otherwise comply with the HWCL and the regulations adopted thereunder;
- 4. Grant the Department its costs of suit herein; and
- 5. Grant such other and further relief as the court deems just and proper.

Dated: October 26, 2017

Respectfully Submitted,  
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Attorney General of California  
SUSAN FIERING  
Supervising Deputy Attorney General



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