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8 California, ex rel. Meredith Williams, Director,  
Department of Toxic Substances Control

PLAINTIFF EXEMPT FROM  
FILING FEES  
GOVERNMENT CODE § 6103

**FILED/ENDORSED**

**FEB 18 2020**

By: R. Gomez  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

14 **PEOPLE OF THE STATE OF**  
15 **CALIFORNIA, EX REL. MEREDITH**  
16 **WILLIAMS, DIRECTOR, DEPARTMENT**  
17 **OF TOXIC SUBSTANCES CONTROL,**

Plaintiff,

v.

19 **GENERAL ENVIRONMENTAL**  
20 **MANAGEMENT OF RANCHO**  
21 **CORDOVA LLC DBA PSC**  
22 **ENVIRONMENTAL SERVICES OF**  
23 **RANCHO CORDOVA, LLC,**  
24 **STERICYCLE ENVIRONMENTAL**  
25 **SOLUTIONS, INC., STERICYCLE, INC.,**  
26 **AND DOES 1 THROUGH 10, INCLUSIVE,**

Defendants.

Case No. **34-2020-00275561**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

(Hazardous Waste Control Law, Health and  
Safety Code § 25100. et seq.)

1 Plaintiff, the People of the State of California, ex rel. Meredith Williams, Director,  
2 Department of Toxic Substances Control (“Department” or “DTSC”), alleges the following:

3 **STATEMENT OF THE CASE**

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

10 2. **Enforcement History**: Defendants have a long and troubled history of violating  
11 the Hazardous Waste Control Law, chapter 6.5 of division 20 of the California Health and Safety  
12 Code and its implementing regulations set forth in the California Code of Regulations, title 22,  
13 division 4.5, section 66260.1 et seq. (“HWCL”) in connection with their operations of the  
14 Facility. As set forth below in detail, the Department found violations of the HWCL at  
15 Defendants’ Facility in 2009, 2011, 2013, 2014, 2015, 2016, 2017, and 2018. Pursuant to a  
16 consent order with the Department entered on October 12, 2010, Defendant GEM admitted to the  
17 2009 violations, agreed to a schedule of compliance, and paid \$574,000 in penalties to the  
18 Department (“2010 Consent Order”). The Department and Defendants settled the 2011-2017  
19 violations in a Final Judgment on Consent and Permanent Injunction entered by this Court on  
20 October 19, 2018 (“2018 Final Judgment”) pursuant to which Defendants paid the Department  
21 \$1,412,000 in civil penalties and agreed to be bound by the injunctive terms in the 2018 Final  
22 Judgment. *People of the State of California v. GEM and Stericycle*, Sacramento Superior Court,  
23 Case No. 34-2017-00221348. As part of the 2018 Final Judgment, Defendants stipulated that the  
24 violations alleged in the 2017 Complaint (“2017 Complaint”) against Defendants for violations  
25 identified by the Department between 2011-2017 are deemed proven and may be considered as a  
26 basis for, inter alia, enhanced penalties in any future HWCL enforcement or the Department’s  
27 determination in a permitting proceeding, decision, and/or process (2018 Final Judgment at ¶13).

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1 A copy of the 2010 Consent Order, 2017 Complaint, and 2018 Final Judgment are  
2 attached as Exhibits A, B, and C, respectively, to this Complaint.

3 3. **The Current Action:**

4 The Department inspectors conducted an inspection at the Facility on June 25-  
5 26, 2018 (“2018 Inspection”), reviewed the Facility’s documents and identified, once again, that  
6 Defendants violated the HWCL by mismanaging hazardous waste, including many serious and  
7 repeat violations as described below.

8 4. The Department hereby seeks injunctive relief and civil penalties against the  
9 Defendants for the violations identified in this Complaint pursuant to Health and Safety Code  
10 sections 25181, 25184, 25188, 25189, and 25189.2, and enhanced civil penalties against the  
11 Defendants for repeat and continued violations of the HWCL.

12 **PLAINTIFF**

13 5. The Department is a state agency organized and existing pursuant to section  
14 58000 et seq. of the California Health and Safety Code. The Department is the state agency  
15 responsible for administering and enforcing the HWCL.

16 6. Meredith Williams is the Director of the Department.

17 7. Health and Safety Code sections 25181, subdivision (a), and 25182 authorize  
18 the Attorney General of the State of California, at the request of the Department, to commence an  
19 action in the name of the People of the State of California for civil penalties and injunctive relief  
20 under the HWCL. The Department has requested the Attorney General to apply to this Court for  
21 injunctive relief and civil penalties pursuant to Health and Safety Code sections 25181, 25184,  
22 25188, 25189, and 25189.2 for violations of the HWCL by Defendants.

23 **DEFENDANTS**

24 8. Based on information and belief, Defendant GEM has owned and operated the  
25 Facility from at least 2009 to at least the date of the 2018 Inspection and did and does business  
26 under the name PSC Environmental Services of Rancho Cordova, LLC.

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9. Based on information and belief, Defendant Stericycle Environmental or Defendant Stericycle, Inc., or both, owned and/or operated the Facility from on or about 2014 to at least the date of the 2018 Inspection.

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

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

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

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

## JURISDICTION AND VENUE

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

15. This Complaint has been filed within five (5) years of the Plaintiff discovering the HWCL violations alleged herein.

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

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1           17. This action is an unlimited civil case because the amount of penalties requested  
2 exceeds twenty-five thousand dollars (\$25,000) and because none of the Plaintiff's causes of  
3 action meets the criteria for limited civil cases in the Code of Civil Procedure.

#### 4                           **STATUTORY AND REGULATORY BACKGROUND**

5           18. The State of California has enacted a comprehensive statutory and regulatory  
6 framework for the generation, handling, treatment, transport, and disposal of hazardous wastes.  
7 The framework contained in the HWCL mandates a "cradle to grave" registration, tracking,  
8 storage, treatment, and disposal system for the protection of the public from the risks posed by  
9 hazardous wastes and for the protection of the environment—i.e., soil, air, surface water,  
10 groundwater—from contamination by hazardous wastes and their constituents. All terms defined  
11 in the Complaint shall be interpreted as provided in, and consistent with, the HWCL.

12           19. Pursuant to Health and Safety Code sections 25101, subdivision (d) and 25159-  
13 25159.9, California administers the HWCL in lieu of federal administration of the federal  
14 Resource Conservation and Recovery Act ("RCRA"), which is codified at 42 United States Code  
15 section 6901 et seq. Federal law prohibits California from imposing any requirements less  
16 stringent than those authorized under RCRA. (42 U.S.C. § 6929.) Certain provisions in the  
17 HWCL are stricter than the analogous provisions in RCRA.

18           20. The HWCL provides that the Department shall adopt, and revise when  
19 appropriate, standards and regulations for the management of hazardous waste to protect, inter  
20 alia, the public health and environment. (Health & Saf. Code § 25150.) Accordingly, the  
21 Department has promulgated regulations setting forth numerous and extensive environmental and  
22 health protective requirements for the day-to-day operation of hazardous waste generators,  
23 transporters, and owners and operators of hazardous waste facilities. (See Cal. Code. Regs. tit.  
24 22, § 66260.1 et seq.)

25           21. The HWCL, at Health and Safety Code section 25201, subdivision (a), provides  
26 that an owner or operator of a hazardous waste facility may not "accept, treat, store, or dispose of  
27 a hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous  
28 waste facilities permit or other grant of authorization from the Department to use and operate the

1 facility, area, or site...”

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

5 23. The HWCL requires that the owner and operator of a hazardous waste facility  
6 comply with the provisions of the facility’s hazardous waste permit.

7 a. Health and Safety Code section 25202, subdivision (a) requires the owner or  
8 operator of a hazardous waste facility who holds a hazardous waste facilities permit to “comply  
9 with the conditions of [that] permit.”

10 b. California Code of Regulations, title 22, section 66270.30 subdivision (a)  
11 requires that the “permittee comply with the conditions of the permit” and specifies that any  
12 “noncompliance . . . constitutes a violation of the [HWCL] and is grounds for” enforcement.

### 13 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

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

20 25. Effective January 1, 2018, the HWCL authorizes the Court to impose a civil  
21 penalty of up to seventy thousand dollars (\$70,000) per day for each violation of a separate  
22 provision of the HWCL. For continuing violations, the HWCL authorizes the Court to impose a  
23 penalty of up to seventy thousand dollars (\$70,000) for each day that a violation continues. (see,  
24 e.g., Health & Saf. Code, §§ 25189, subd. (b) and 25189.2, subd. (b).)

25 26. In addition, Health and Safety Code section 25188 provides that a person  
26 subject to an order under Health and Safety Code section 25187 who does not comply with that  
27 order shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for  
28 each day of noncompliance.

27. Defendants are subject under Health and Safety Code section 25187 to comply with the Imminent and Substantial Endangerment Determination and Enforcement Order that was issued by the Department in 2013 (“2013 ISE Order”) after two fires and an explosion occurred at the Facility resulting from the mismanagement of hazardous waste by Defendant GEM as more fully described in Paragraphs 37-42.

28. Health and Safety Code sections 25181 and 25184, authorizes and directs the Court to enjoin any ongoing or potential violation of the HWCL.

29. Section 25181 of the Health and Safety Code provides:

“when the Department determines that any person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of the HWCL or any rule, regulation, covenant, standard, requirement or order issued, promulgated or executed thereunder, and when requested by the [D]epartment, . . . the Attorney General may apply to the superior court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the [D]epartment that the person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.”

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

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

## GENERAL ALLEGATIONS

### The Facility:

31. The Facility is situated on a 4.5-acre parcel adjacent to White Rock Road and is identified by Sacramento County Assessor Parcel Number 072-0530-001. The Facility includes, but is not limited to, an administrative building, a lab, truck parking, a loading and unloading area, five hazardous waste management units known as Areas A, B, C, and D, and a drum crusher unit. The drum crusher unit is currently undergoing regulatory closure as required by California Code of Regulations, title 22, division 4.5, chapter 14, article 7 (Closure and Post-Closure).

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1           32. At the times relevant to this Complaint, one or more of the Defendants owned  
2 and/or operated the Facility and continue to own and operate the Facility.

3           33. Defendants have operated and continue to operate the Facility as an active  
4 permitted hazardous waste management facility. The Facility has a permitted capacity of  
5 approximately 82,320 gallons of hazardous waste. The Facility's current hazardous waste permit,  
6 ("Permit"), which also incorporates by reference the Part A and Part B permit application  
7 ("Permit Part A" and "Permit Part B"), was issued by the Department on April 25, 2007 and was  
8 subsequently modified. The Permit expired on April 25, 2017.

9           34. Defendants continue to operate the Facility pending the Department's review of  
10 a permit renewal application submitted to the Department in October 2016.

11           35. Under the Permit, Defendants are authorized by the Department to engage in  
12 the following hazardous waste management activities at the Facility: (1) sampling, (2) storage, (3)  
13 packaging and re-packaging, (4) bulking and consolidation of containers, and (5) container  
14 crushing and equipment flushing, in accordance with the conditions set forth in the Permit.

15           **Defendants' History of HWCL Violations at the Facility Between 2009 – 2017**  
16 **Including Fires and an Explosion Due to Mixing of Incompatible Hazardous Waste and**  
17 **Intentional Conduct**

18           36. Pursuant to the terms of the 2010 Consent Order, Defendant GEM admitted to  
19 HWCL violations, including the storage of incompatibles, and paid five hundred seventy-four  
20 thousand dollars (\$574,000) in penalties. Defendants have repeatedly stored incompatible  
21 hazardous waste at the Facility in violation of the HWCL. The Department identified violations  
22 for the storage of incompatible hazardous waste in 2009, 2011, 2013, 2015, 2016, and most  
23 recently during the 2018 inspection of the Facility.

24           37. Since 2011, one (1) explosion and three (3) fires have occurred at the Facility  
25 due to the mixing of incompatible hazardous waste and/or intentional conduct by Defendants  
26 while managing hazardous waste. The explosion occurred on March 8, 2011, when Defendant  
27 GEM mixed incompatible hazardous waste by bulking soluble organics with twenty-two (22)  
28 gallons of nitric acid into a drum, resulting in a violent and uncontrolled reaction. The reaction

1 caused an explosion that ruptured the drum and launched it approximately fifteen (15) feet in the  
2 air, spraying hot, concentrated acid throughout most of the Facility's repackaging area. The  
3 explosion also released vapors and hazardous waste to the surrounding environment.

4 38. The first fire at the Facility occurred on August 2, 2011, when Defendant GEM  
5 mixed incompatible hazardous waste by consolidating oxidizing pool chemicals, including acids  
6 and oxidizers, into a 55-gallon drum, and then closed the drum's lid. Shortly thereafter, the drum  
7 began to emit a yellowish-green gas. The drum pressurized sufficiently to blow the lid off the  
8 drum, and the drum caught fire. The fire spread to consume a total of four (4) plastic drums of  
9 hazardous waste. The local fire department subsequently arrived and extinguished the fire, but  
10 their response efforts resulted in two firefighters being sent to the local hospital for observation.

11 39. The second fire at the Facility occurred in March 2013. Beginning on February  
12 28, 2013, Defendant GEM mixed incompatible waste by consolidating hazardous waste solids  
13 and trash into a roll-off bin. On March 3, 2013, the bin that Defendant GEM mixed hazardous  
14 waste in began to smolder. A passerby observed flames coming from the Facility and called the  
15 fire department who arrived and extinguished the fire. The fire, which burned for five hours and  
16 released smoke and potentially toxic constituents into the environment, was caused by an  
17 exothermic reaction that occurred from mixing incompatible wastes.

18 40. In response to the 2011 explosion and 2011 and 2013 fires, the Department  
19 issued the 2013 ISE Order to Defendant GEM, ordering Defendant GEM to immediately cease  
20 the bulking and consolidation of all hazardous waste operations at the Facility until the  
21 Department authorized Defendant GEM to resume operations because of the "... continuing  
22 inability of Respondent [Defendant GEM] to take precautions sufficient to prevent fires,  
23 explosions, or other violent or non-violent reactions that could potentially release hazardous  
24 wastes to the environment ..." (2013 ISE Order at p. 5.) A copy of the 2013 ISE Order is  
25 attached as Exhibit D to this Complaint. The 2013 ISE Order applies to Defendant GEM, "and its  
26 officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and  
27 assignees, including but not limited to individuals, partners, and subsidiary and parent  
28 corporations." (2013 ISE Order at p.10.).

1           41. Defendant GEM was authorized to resume bulking and consolidation operations  
2 at the Facility on October 21, 2013 after it agreed to revise its existing Standard Operating  
3 Procedures (“SOP”) and modify the Permit to institute a safety protocol to prevent the  
4 reoccurrence of fires and explosions due to incompatibles being mixed together. Permit Part B,  
5 section V, Attachment V8-A, “Container Process Form-Permit Specific” (“Permit Process Form”)  
6 was part of the revised SOP and embodies the safety protocol that was developed in response to  
7 the 2013 ISE Order to prevent the reoccurrence of fires and explosions. The Permit Process Form  
8 is attached as Exhibit E to this Complaint.

9           42. The safety protocol required Defendants to conduct screening and/or testing for  
10 incompatible wastes prior to bulking or consolidating wastes together, to record the screening  
11 and/or testing results on the Permit Process Form, and to have a chemist or facility management  
12 personnel review the screening and/or test results to determine whether bulking or consolidation  
13 can occur. Review and approval by the chemist or facility management would be evidenced by  
14 their respective signature on the Permit Process Form.

15           43. The third fire at the Facility occurred on August 7, 2017. The fire occurred  
16 when two (2) employees intentionally poured liquid naphthalene (flammable) onto paper and lit  
17 the paper on fire with a lighter where other employees were also consolidating hazardous waste  
18 and where other ignitable hazardous waste was located.

19           44. The Department also inspected the Facility in 2014, 2015, 2016, and 2017. The  
20 Department found that Defendants violated the HWCL during each of these inspections. The  
21 Department filed the 2017 Complaint, which included the violations at the Facility identified by  
22 the Department between 2011 and 2017. As noted above, the violations alleged in the 2017  
23 Complaint were resolved pursuant to the terms of the 2018 Final Judgment.

24           **Current Action for Violations of the HWCL in 2018 by Defendants**

25           45. The Department’s 2018 inspection of the Facility again found multiple  
26 instances of serious and/or repeat HWCL violations by Defendants, including,

27           a. Fifty (50) instances of stored and/or failed to properly segregate  
28 incompatible hazardous waste from one another,

- b. One hundred forty-two (142) instances of failing to use the safety protocol to prevent incompatibles from being mixed together during bulking activities as required by the Permit and 2013 ISE order,
- c. Forty-seven (47) instances of storing hazardous waste beyond the Facility's 10-day storage limit,
- d. At least twenty (20) instances of failing to mark when hazardous waste containers became empty,
- e. Incorrectly labeling hazardous waste during storage,
- f. Failing to remove spills, leaks, and/or liquids from secondary containment systems,
- g. Storing hazardous waste in containers that were not in good condition (e.g., some of the containers had structural defects) during storage, and
- h. Forty-two (42) instances of failing to use the required air pollution control device (i.e., an organic air scrubber) designed to vent organic vapors, e.g., flammable vapors when bulking organic hazardous waste.

**FIRST CAUSE OF ACTION  
REPEAT VIOLATION**

(Management of Incompatible Wastes in Violation of Health & Saf. Code  
§ 25202, subd. (a), Cal. Code Regs., title 22, §§  
66264.177, subds. (a) and (c) and 66270.30, subd. (a))

46. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

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1           48. California Code of Regulations, title 22, section 66264.177 subdivision (c)  
2 provides that, a “container holding a hazardous waste that is incompatible with any waste or other  
3 materials transferred or stored nearby in other containers, piles, open tanks, or surface  
4 impoundments shall be separated from the other materials or protected from them by means of a  
5 dike, berm, wall, or other device.”

6           49. Health and Safety Code section 25202, subdivision (a) and California Code of  
7 Regulations, title 22, section 66270.30, subdivision (a) provides that the owner and/or operator of  
8 a hazardous waste facility who holds a hazardous waste facilities permit is required to comply  
9 with the conditions of the hazardous waste permit.

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

12           51. Sections VI(E)(8) and VIII(H)(1)(h) of the Permit Part B prohibit containers of  
13 incompatible wastes from being placed within the same cell in Area B. In addition, section  
14 VIII(H)(1)(h) of the Permit Part B requires that containers of incompatible waste stored in  
15 different cells in Area B, be segregated in accordance with California Code of Regulations, title  
16 22, section 66264.177, subdivision (c).

17           52. Sections VI(G)(1) and (4) of the Permit Part B prohibits the storage of  
18 incompatible material within Area C. Section VIII(H)(1)(h) of the Permit Part B states that Area  
19 C will follow the requirements [segregation requirements] specified in Section V, Paragraph  
20 (G)(3)(a) of the permit.

21           53. Defendants violated Health and Safety Code section 25202, subdivision (a) and  
22 California Code of Regulations, title 22, sections 66264.177, subdivisions (a) and (c), and  
23 66270.30, subdivision (a) and the Permit by failing to appropriately separate incompatible  
24 hazardous waste by means of a dike, berm, wall, or other device as follows:

25           a. On or prior to June 25, 2018, Defendants failed in at least nine (9) instances to  
26 properly separate containers of incompatible wastes such as oxidizers and flammable liquids, by a  
27 dike, berm, wall or other device in Areas B and C. (Health & Saf. § 25202, subd. (a) and Cal.  
28 Code Regs., tit. 22, §§ 66270.30, subd. (a) and 66264.177, subd. (c).)



1           b.     On June 25, 2018, the Department requested the Facility’s daily inspection logs  
2 (“daily logs”) from January 2018 through June 2018. After reviewing the daily logs provided by  
3 the Defendants, the Department also determined that Defendants failed to separate containers of  
4 incompatible hazardous waste at least an additional forty-one (41) times in Areas A, B, and C  
5 between January 2018 and June 2018. (Health & Saf. § 25202, subd. (a) and Cal. Code Regs., tit.  
6 22, §§ 66270.30, subd. (a) and 66264.177, subd. (c).)

7           c.     This is the seventh inspection of the Facility in which the Department found  
8 that Defendant(s) improperly stored and/or failed to properly segregate incompatible hazardous  
9 waste. Defendant(s) previously stored incompatible hazardous waste together in violation of the  
10 HWCL and the Permit Part B at the Facility in 2009, 2011, 2013, 2015, 2016, and 2017, which at  
11 times resulted in fires and explosions at the Facility.

12           54.   Each violation of Health and Safety Code section 25202 subdivision (a),  
13 California Code of Regulations, title 22, sections 66264.177, subdivisions (a) and (c), and  
14 66270.30, subdivision (a) subjects Defendants to a separate penalty for each day during which  
15 each violation occurred or continued, according to proof at trial, pursuant to Health and Safety  
16 Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section  
17 25189.2, subdivision (b).

18           55.   Pursuant to the terms of the 2018 Final Judgment, the Department further seeks  
19 enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017  
20 violations alleged in the 2017 Complaint are deemed proven and may be used in a future  
21 enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

22           56.   The Department is further entitled to injunctive relief to prevent future  
23 violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

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**SECOND CAUSE OF ACTION  
REPEAT VIOLATION**

(Failure to Follow Safety Protocol Encapsulated in Permit Process Form for the Management of Ignitable, Reactive, or Incompatible Hazardous Wastes and Improper Bulking 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)

57. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

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

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

61. The Schedule of Compliance, section 4.2.1 of the 2013 ISE Order issued pursuant to Section 25187 required Defendants to revise its Permit and SOP to implement a safety protocol to prevent fires and explosions or other violent or non-violent reactions that could potentially release hazardous waste to the environment by ensuring incompatible wastes are not bulked or consolidated together.

62. The Schedule of Compliance, section 4.3 of the 2013 ISE Order issued pursuant to Section 25187 provides that after the Department approves the safety protocol, Defendants will implement the plans.

63. Permit Part B sections V(C)(10), V(D)(1), V(G)(1), and the Permit Process Form are part of the safety protocol instituted and required to be followed to ensure “safe and appropriate methods of handling of wastes within the facility” and ensure proper oversight for bulking and consolidation of hazardous waste.

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1           64. The Permit Process Form encapsulates the safety protocol Defendants are  
2 required to follow, including documenting the physical state of the hazardous waste, performing a  
3 radioactivity screen, conducting commingled hazardous waste compatibility testing before  
4 bulking hazardous waste and obtaining the signature of a chemist or facility manager who has  
5 reviewed and approved the Permit Process Form to ensure that the safety protocol has been  
6 followed, no evidence of an incompatible reaction was observed, and that bulking or  
7 consolidation is appropriate. The commingled hazardous waste compatibility test involves  
8 pouring small amounts of liquid from each source container to be bulked, into a separate, small  
9 container, where the liquids are stirred, and the mixture must sit for a set period time. If any  
10 incompatible reactions (e.g., signs of heat or bubbling) are observed, those reactions are noted on  
11 the Permit Process Form as potential incompatible reactions, and the waste intended to be bulked  
12 will not be bulked.

13           65. Between January 1, 2018 and June 25, 2018, Defendants violated Health and  
14 Safety Code section 25202, subdivision (a), California Code of Regulations, title 22, sections  
15 66270.30, subdivision (a) and 66264.17, subdivisions (a) and (b), and the 2013 ISE Order by  
16 failing to perform and/or document compliance with the safety protocol, including the comingled  
17 compatibility testing and/or failing to obtain written approval by the chemist or facility  
18 management prior to bulking wastes on at least one hundred and forty-two (142) occasions.

19           66. Only six (6) months earlier, on July 28, 2017, Defendants represented to the  
20 Department that it had “reinstalled” the Permit Process Form in response to a similar violation  
21 where Defendants had failed to obtain the approval of the facility chemist prior to bulking  
22 hazardous waste. In a letter to DTSC on July 28, 2017, Defendants informed the Department they  
23 had “reinstalled the permit sample form that includes signatures as a gesture of cooperation.  
24 GEM is planning to re-work the associated approval methods and documentation to preclude  
25 future misunderstandings.” (“7/28/17 Letter” at p. 3). A copy of the 7/28/17 Letter is attached as  
26 Exhibit F to the Complaint.

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28     ///

1           67. Each violation of Health and Safety Code section 25202, subdivision (a) and  
2 California Code of Regulations, title 22, sections 66270.30, subdivision (a), 66264.17,  
3 subdivision (a) and (b), subjects Defendants to a separate penalty for each day during which each  
4 violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code  
5 section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2  
6 subdivision (b).

7           68. Failure to comply with the terms of the 2013 ISE Order subjects Defendants to  
8 costs and penalties for any costs incurred by the Department resulting from Defendants failure to  
9 comply.

10           69. Health and Safety Code section 25188 provides that any person subject to a  
11 Schedule of Compliance issued pursuant to Section 25187 who does not comply with that  
12 schedule shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000)  
13 for each day of noncompliance.

14           70. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks  
15 enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017  
16 violations alleged in the 2017 Complaint are deemed proven and may be used in a future  
17 enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

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

### 20                           **THIRD CAUSE OF ACTION**

21           (Failure to Use Air Pollution Control Device in Violation of Health & Saf.  
22 Code § 25202, subd. (a), and Cal. Code Regs., tit. 22, § 66270.30, subd. (a))

23           72. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

26           74. Section VIII(E)(1)(b) of the Permit Part B requires that Defendants use the  
27 appropriate scrubber, an air pollution control device, during bulking operations. This requirement  
28

1 helps to vent or capture vapors from the hazardous waste management operations before vapors  
2 can build up in the room, be released outside of the Facility, or be harmful to employees.

3 75. Between January 2018 and June 2018, Defendants violated Health and Safety  
4 Code section 25202, subdivision (a) and California Code of Regulations, title 22, section  
5 66270.30, subdivision (a) by failing to use the organic scrubber at the Facility as required by the  
6 Permit at least 42 times while bulking organic hazardous waste, e.g., flammable waste inside  
7 Area C.

8 76. Each violation of Health and Safety Code section 25202, subdivision (a) and  
9 California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects Defendants to  
10 a separate penalty for each day during which each violation occurred or continued, according to  
11 proof at trial, pursuant to Health and Safety Code sections 25189, subdivisions (a) and (b) or in  
12 the alternative, Health and Safety Code section 25189.2, subdivisions (a) and (b).

13 77. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks  
14 enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017  
15 violations alleged in the 2017 Complaint are deemed proven and may be used in a future  
16 enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

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

19 **FOURTH CAUSE OF ACTION**  
20 **REPEAT VIOLATION**

21 (Improper Storage of Hazardous Waste in Area A in Violation of Health & Saf. Code,  
22 § 25202, subd. (a), Cal. Code Regs., tit. 22, § 66270.30, subd (a))

23 79. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

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27 ///

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1           81. Permit Part IV, Unit Area A and sections VI(D) and VIII(E)(1)(b) of the Permit  
2 Part B specifies that Area A is a temporary staging area for receiving, inspecting, repackaging,  
3 and preparation of containerized waste for shipping. Hazardous waste containers can only be  
4 stored in Area A for no longer than ten (10) days.

5           82. Between January 2018 and June 2018, Defendants violated the Health and  
6 Safety Code section 25202, subdivision (a), California Code of Regulations, title 22, section  
7 66270.30, subdivision (a), and the Permit by storing hazardous waste containers in Area A for  
8 longer than ten (10) days on at least forty-seven (47) separate days.

9           83. This is the fourth inspection of the Facility in which the Department found that  
10 Defendant(s) improperly stored hazardous waste for longer than the ten (10)-day limit in Area A.  
11 Defendant(s) previously stored hazardous waste containers for longer than the allowed ten (10)  
12 days in Area A in violation of the HWCL, Permit, and Permit Part B in 2014, 2016, and 2017.

13           84. Each violation of Health and Safety Code, section 25202, subdivision (a) and  
14 California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects Defendants to  
15 a separate penalty for each day during which each violation occurred or continued, according to  
16 proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the  
17 alternative, Health and Safety Code section 25189.2, subdivision (b).

18           85. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks  
19 enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017  
20 violations alleged in the 2017 Complaint are deemed proven and may be used in a future  
21 enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

22           86. The Department is further entitled to injunctive relief to prevent future  
23 violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

24                                   **FIFTH CAUSE OF ACTION**  
25                                   **REPEAT VIOLATION**

26                   (Failure to Properly Mark Containers in Violation of Health & Saf. Code § 25202, subd.  
27                   (a), and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a), 66266.80, subd. (a))

28           87. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

5           89. California Code of Regulations, title 22, section 66266.80, subdivision (a)  
6 requires spent lead-acid storage batteries or their components be managed as hazardous waste  
7 (unless specifically exempted in California Code of Regulations, title 22, Chapter 16, Article 7).

8           90. Section VIII(D)(1)(f)(2) of the Permit Part B specifies that containers must be  
9 labeled with the Department of Transportation (DOT) hazard class and proper shipping  
10 description.

11           91. On, and prior to, June 25 and 26, 2018, Defendants violated Health and Safety  
12 Code section 25202, subdivision (a), California Code of Regulations, title 22, sections 66270.30,  
13 subdivision (a), 66266.80, subdivision (a), and the Permit Part B by: (1) improperly affixing a  
14 universal waste label to two fifty-five gallon drums containing “Automotive Type” spent lead  
15 batteries instead of identifying the batteries as hazardous waste; and (2) mislabeling  
16 formaldehyde solution as a DOT Class 6 and Class 8 DOT hazardous material instead of a Class 3  
17 DOT flammable material.

18           92. This is the third inspection of the Facility in which the Department found that  
19 Defendant(s) improperly labeled hazardous waste, including waste Automotive Type spent lead  
20 acid batteries. In addition to the 2018 violations, Defendant(s) previously improperly labeled  
21 hazardous waste containers in violation of the HWCL and the Permit Part B in 2014 and 2016.

22           93. Each violation of Health and Safety Code section 25202, subdivision (a) and  
23 California Code of Regulations, title 22, sections 66270.30 subdivision (a) and 66266.80  
24 subdivision (a) subjects Defendants to a separate penalty for each day during which each  
25 violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code  
26 section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2,  
27 subdivision (b).

28       ///

94. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

95. The Department is further entitled to injunctive relief to prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

## SIXTH CAUSE OF ACTION REPEAT VIOLATION

(Failure to Properly Mark Empty Containers in Violation of Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a) and 66261.7, subd. (f))

96. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

98. California Code of Regulations, title 22, section 66261.7, subdivision (f) provides that a container larger than five (5) gallons in capacity shall be marked with the date it has been emptied.

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

100. On or prior to June 25, 2018, Defendants violated Health and Safety Code section 25202, subdivision (a), California Code of Regulations, title 22, section 66270.30, subdivision (a), and Permit Part B by failing to mark approximately twenty to forty (20-40) empty containers larger than five (5) gallons in capacity that once held hazardous waste with the dates the containers were emptied.

101. This is the fifth inspection of the Facility in which the Department found that Defendant(s) failed to mark containers to identify them as empty. Defendant(s) previously failed to mark containers to identify them as empty in violation of the HWCL and Permit Part B in



2011, 2015, 2016, and 2017.

102. Each violation of Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22, sections 66270.30, subdivision (a) and 66261.7, subdivision (f) subjects Defendants to a separate penalty for each day during which each violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

103. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

104. The Department is further entitled to injunctive relief to prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

**SEVENTH CAUSE OF ACTION  
REPEAT VIOLATION**

(Failure to Properly Manage Containers in Violation of Health and Safety Code § 25202 subd. (a), California Code of Regulations, title 22, §§ 66264.171, 66264.173 subd. (b), and 66270.30 subd. (a))

105. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

106. California Code of Regulations, title 22, sections 66264.171 and 66264.173 subdivision (b) provide that containers holding hazardous waste must be in good condition and cannot be stored in a manner that may cause the containers to leak and if containers holding hazardous waste begin to leak, the owner and/or operator shall transfer the hazardous waste to a container in good condition.

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

///

108. Section VIII(H)(1)(b) of the Permit Part B requires that if a container holding waste is found to be damaged during receiving or any phase of storage or processing, the operator will overpack, transfer, or re-package the container.

109. On and prior to June 25, 2018, Defendants violated California Code of Regulations, title 22, sections 66264.171 and 66264.173, subdivision (b) by storing hazardous waste in Areas B and C in seven (7) separate containers with structural defects. Containers were torn, dented, or damaged.

110. This is the second inspection of the Facility in which the Department found that Defendant(s) used containers that were not in good condition. In addition to the 2018 violations, Defendant(s) previously stored hazardous waste in containers that were not in good condition in violation of California Code of Regulations, title 22, sections 66264.171 in 2016.

111. Each violation of California Code of Regulations, title 22, sections 66264.171 and 66264.173 subdivision (b) subjects Defendants to a separate penalty for each day during which each violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code 25189.2, subdivision (b).

112. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

113. The Department is further entitled to injunctive relief to and prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

### **EIGHTH CAUSE OF ACTION**

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

114. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

116. On and prior to June 25, 2018, Defendants violated California Code of Regulations, title 22, section 66264.173, subdivision (a) by failing to ensure that at least five (5) containers of hazardous waste in Area C were closed.

117. Each violation of California Code of Regulations, title 22, section 66264.173 subdivision (a) subjects Defendants to a separate penalty for each day during which each violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code 25189.2, subdivision (b).

118. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

119. The Department is further entitled to injunctive relief to prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

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

(Failure to Remove Spilled or Leaked Hazardous Waste in a Timely Manner as Necessary in Violation of Cal. Code Regs., title 22, § 66264.175, subd. (b)(5))

120. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

121. California Code of Regulations, title 22, section 66264.175, subdivision (b)(5) provide that the containment system shall be operated to drain and remove liquids resulting from leaks, spills, or precipitation and that spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area in as timely a manner is necessary.

122. From at least January 2018 through June 2018, Defendants violated California Code of Regulations, title 22, section 66264.175, subdivision (b)(5) by failing to operate the containment system(s) in Area C to remove spilled or leaked waste or accumulated precipitation in a timely manner.

123. Each violation of California Code of Regulations, title 22 sections 66264.175, subdivision (b)(5) subjects Defendants to a separate penalty for each day during which each

violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

124. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

125. The Department is further entitled to injunctive relief to prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

#### **TENTH CAUSE OF ACTION**

(Failure to Properly Stack and Palletize Containers in Violation of  
Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22,  
§ 66270.30 subd. (a))

126. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

128. Sections VI(E)(7) and VIII(E)(1)(b) of the Permit Part B require that Defendants store containers on pallets and only allows for double stacking of containers in Area B.

129. On or prior to June 25, 2018, Defendants violated Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22, section 66270.30, subdivision (a) by triple stacking containers in Area B, Cell 5.

130. On or prior to June 25, 2018, Defendants also violated Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22, section 66270.30, subdivision (a) by stacking five-gallon buckets on top of other containers instead of placing them on pallets. In addition, Defendants' daily logs note three (3) of containers stacked improperly or on broken pallets.

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131. Each violation of Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects Defendants to a separate penalty for each day during which each violation occurred or continued, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivisions (a) and (b) or in the alternative, Health and Safety Code section 25189.2, subdivisions (a) and (b).

132. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017 violations alleged in the 2017 Complaint are deemed proven and may be used in a future enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

133. The Department is further entitled to injunctive relief to prevent future violations of the HWCL pursuant to Health and Safety Code section 25181, subdivision (a).

#### **ELEVENTH CAUSE OF ACTION**

(Storage of Containers in Unauthorized Areas in Violation of  
Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22,  
§ 66270.30 subd. (a))

134. Paragraphs 1 through 45 are re-alleged as if fully set forth herein.

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

136. Section V(G)(3)(a) of the Permit Part B prohibits the storage of DOT class 6 poisonous liquid hazardous waste in Area B, Cell 5. Area B, Cell 5 is intended for Flammable Solids, including Water Reactives.

137. Section V(G)(3)(a) of the Permit Part B prohibits the storage of DOT Class 3 flammable hazardous waste in Area B, Cell 4. Area B, Cell 4 is intended for corrosives (alkaline) oxidizers and organic peroxides. At the time of the inspection, Area B, Cell 4 contained both corrosives (alkaline) and oxidizers.

138. On and prior to June 25, 2018, Defendants violated Health and Safety Code section 25202, California Code of Regulations, title 22, section 66270.30, subdivision (a), and Permit Part B by storing DOT Class 6 poisonous liquid hazardous waste (barium sulfate and

1 insulin) with flammable solids and water reactives in Area B, Cell 5 and by storing DOT Class 3  
2 flammable hazardous waste with oxidizers in Area B, Cell 4.

3 139. Each violation of Health and Safety Code section 25202, subdivision (a) and  
4 California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects Defendants to  
5 a separate penalty for each day during which each violation occurred or continued, according to  
6 proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the  
7 alternative, Health and Safety Code section 25189.2, subdivision (b).

8 140. Pursuant to the terms of the 2018 Final Judgment, the Department further seeks  
9 enhanced penalties against Defendants in this action. Defendants stipulated that the 2011-2017  
10 violations alleged in the 2017 Complaint are deemed proven and may be used in a future  
11 enforcement action as a basis for enhanced penalties. (2018 Final Judgment ¶ 13).

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

#### 14 **REQUEST FOR RELIEF**

15 142. The Department requests that the Court grant the relief that follows:

16 a. Enter judgment that Defendants have violated the HWCL as set forth in the  
17 First through Eleventh Causes of Action;

18 b. Enter judgment that Defendants are liable to the Department for civil penalties  
19 for the violations set forth in the First through Eleventh Causes of Action as authorized by Health  
20 and Safety Code section 25189 or, in the alternative, by Health and Safety Code section 25189.2,  
21 in an amount according to proof;

22 c. Enter judgment that Defendants are liable to the Department for enhanced civil  
23 penalties for the violations set forth in the First through Eleventh Causes of Action. In the 2018  
24 Final Judgment, Defendants stipulated that the 2011-2017 violations alleged in the 2017  
25 Complaint are deemed proven and may be used in a future enforcement action as a basis for  
26 enhanced penalties. (2018 Final Judgment ¶ 13);

27 ///

28 ///

1           d.     Enter judgment that Defendants are liable to the Department for costs and  
2 penalties under Health and Safety Code section 25188 and pursuant to section 5.15 of the 2013  
3 ISE Order;

4           e.     Enter permanent injunctions and other orders enjoining Defendants from  
5 violating the HWCL, the Permit, and the 2013 ISE Order and requiring Defendants to otherwise  
6 comply with the HWCL, the Permit, and the 2013 ISE Order;

7           f.     Grant the Department its costs of suit herein; and

8           g.     Grant such other and further relief as the court deems just and proper.

9     Dated: February 14, 2020

Respectfully Submitted,

10                   XAVIER BECERRA  
11                   Attorney General of California  
12                   MARGARITA PADILLA  
13                   Supervising Deputy Attorney General

14                   ORIGINAL SIGNED BY ROSE FUA

15                   ROSE B. FUA  
16                   Deputy Attorney General  
17                   Attorneys for Plaintiff People of the State  
18                   of California, ex rel. Department of Toxic  
19                   Substances Control

# **EXHIBIT A**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*



STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Docket HWCA 20091998  
Consent Order

General Environmental Management of  
Rancho Cordova, LLC, dba PSC  
Environmental Services of Rancho  
Cordova, LLC

Health and Safety Code  
Section 25187

11855 White Rock Road  
Rancho Cordova, CA 95742

EPA ID: CAD980884183

Respondent.

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1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and General Environmental Management of Rancho Cordova, LLC, dba PSC Environmental Services of Rancho Cordova, LLC (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 11855 White Rock Road, Rancho Cordova, CA 95742 (Site).

1.3. Inspection. The Department inspected the Site on March 11, 19, and 23, 2009.

1.4. Authorization Status. The Department authorized Respondent to manage hazardous waste by a Hazardous Waste Facility Permit (HWFP) issued on March 21, 2007.

1.5. Jurisdiction Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent(s) or the Site, except to the extent provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations described below.

## 2. VIOLATIONS ALLEGED

2. The Department alleges the following violations:

2.1. Respondent violated Health & Safety Code, section 25202, subdivision (a), and section 25200.19, subdivision (c)(3); California Code of Regulations section 66270.30, subdivision (a); and, HWFP, Part V, subsection II, in that on numerous occasions Respondent exceeded the permitted facility limit of 82,302 gallons of waste in containers (other than roll-off bins). Respondent also stored hazardous waste on transport vehicles which, if unloaded, would exceed the permitted capacity of the originating unit at the hazardous waste facility.

2.2. Respondent violated Health & Safety Code, section 25202, subdivision (a); California Code of Regulations, title 22, section 66270.30, subdivision (a); and, HWFP Operations Plan Section VI (C), in that on multiple occasions Respondent stored hazardous waste in the Loading and Unloading Areas overnight. Respondent's Operation Plan specifies that waste will not be left in the Loading and Unloading Area, outside of a truck, overnight.

2.3. Respondent violated Health & Safety Code, section 25201, subdivision (a); section 25202, subdivision (a); and, California Code of Regulations, title 22, 66270.30, subdivision (a); and, HWFP Operation Plan Section VIII(F)(1), in that on multiple occasions Respondent stored hazardous waste in loaded trailers outside the boundary of the permitted facility. Respondent also moved loaded transport vehicles out of the Loading and Unloading Areas before the generator or transporter signed the manifests.

2.4. Respondent violated Health & Safety Code, section 25200.19, subdivision (c)(1), in that on numerous occasions hazardous waste moved into the Loading and Unloading Area was not moved directly between trucks and the authorized units and was left in the Loading and Unloading Area for more than that incidental period of time that is necessary to safely and effectively move the waste between the transport vehicle and the authorized unit. The area was used for more than just the loading and unloading of trucks. Containers in the Loading and Unloading Area were generally sampled, fingerprinted, marked and labeled, and then placed into the appropriate hazardous waste management unit for storage.

2.5. Respondent violated California Code of Regulations, title 22, section 66264.177, subdivision (c), in that a drum labeled as "oxidizer" was stored on a wooden

pallet without secondary containment in Unit C while Respondent staff were consolidating flammable hazardous waste nearby.

### 3. SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1.1. Respondent has returned to compliance in regard to violations alleged.

3.1.2. Respondent shall maintain records documenting the volumes of hazardous waste within the facility and shall maintain the ability to provide documentation of the volume of hazardous waste at the facility from the effective date of the Order to present day of operation as part of the facility's operating record pursuant to California Code of Regulations, title 22, 66264.73 until closure of the facility. The hazardous waste volume may be substantiated either by maintaining daily hard copy reports or by maintaining the ability to generate and print a report from the electronic operating record for any date. The report shall list the volume of waste in each individual permitted unit, the loading and unloading area, inbound trailers, outbound trailers, and the total facility, each separately. The report shall assume all containers are full for the purpose of calculating compliance with permitted unit and total facility capacity. The total volume of waste at the facility shall include waste loaded on inbound or outbound trailers that are at the facility, and listed on a Hazardous Waste Manifest specifying the facility as the Generator or Designated Facility. Respondent shall, within sixty days of the effective date of this Order, submit a permit modification request to

include the above as part of the operating record requirement of its hazardous waste facility permit.

3.1.3. Respondent shall, at all times, comply with its Operation Plan, Sections VIII.E.1.b and VI.D.6.b, which state that incoming waste will be moved into Area A for processing and outgoing waste will be moved into Area A for staging. These hazardous waste handling processes shall not take place in the Loading and Unloading Area. Respondent shall conduct hazardous waste unloading and loading operations in accordance with Section VI-4 of the Operations Plan and California Health & Safety Code Section 25200.19.

3.1.4. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent to:

Paul S. Kewin  
Supervising Hazardous Substances Scientist I  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by the appropriate Branch Chief, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department shall relieve Respondent of its obligation to obtain required formal approvals.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- (a) Modify the document and approve the document as modified, or
- (b) Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site, in the surrounding area, or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as is needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended by the term of such Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of Respondent's operations, except as provided in this Order. Notwithstanding

compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare, or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data, and Document Availability.

3.9.1. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and/or its authorized representatives to take duplicates or splits of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports,

and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that were submitted by Respondent pursuant to the violations set forth above, and/or this schedule for compliance, and were approved by the Department are hereby incorporated into this Order.

3.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.



3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

#### 4. OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Captions and Headings. Captions and headings used herein are for convenience only and shall not be used in construing this Order.

4.6. Severability. If any provision of this Order is found by a court of competent jurisdiction to be illegal, invalid, unlawful, void or unenforceable, then such provision shall be enforced to the extent that it is not illegal, invalid, unlawful, void, or unenforceable, and the remainder of this Order shall continue in full force and effect.

4.7. Entire Agreement. This Order contains the entire and only understanding between the Parties regarding the subject matter contained herein and shall supercede any and all prior and/or contemporaneous oral or written negotiations, agreements, representations and understandings and may not be amended, supplemented, or modified, except as provided in this Order. The Parties understand and agree that in entering into this Order, the Parties are not relying on any representations not expressly contained in this Order.

4.8. Counterparts. This Order may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

4.9. Non-Waiver. The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

## 5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$600,000 which includes \$26,000 as reimbursement of the Department's costs incurred in connection with this matter.

5.2. Payment is due as follows:

- a. \$200,000, of which \$174,000 is penalty and \$26,000 is reimbursement, is due and payable within 30 days from the effective date of this order.
- b. \$200,000 is due and payable on December 31, 2010.
- c. \$200,000 is due and payable on April 8, 2011.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st Floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Paul S. Kewin  
Unit Chief  
Enforcement & Emergency Response Program  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

and

Joseph F. Smith  
Senior Staff Counsel  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, MS 23A  
P.O. Box 806  
Sacramento, California 95812-0806

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

## 6. PUBLIC COMMENT

6. This Order shall be subject to a public comment period for not less than 30 days after execution by the parties. DTSC may modify or withdraw its consent to the Order if comments received disclose facts or considerations that indicate that the Order is inappropriate, improper, or inadequate.

## 7. EFFECTIVE DATE

7. The Effective Date of the Order shall be the last day of the public comment period set forth in Section 6 above, unless the Department notifies the Respondent within five days of the end of the public comment period of its intent to modify or withdraw its consent to the Order.

Dated: September 29, 2010

Signature: Original signed by Deborah S. Huston

Print: Deborah S. Huston, General Counsel and Secretary  
General Environmental Management of  
Rancho Cordova, LLC  
Respondent

Dated: October 12, 2010

Original signed by Gale Filter

Gale Filter  
Deputy Director  
Enforcement and Emergency Response  
Program  
Department of Toxic Substances Control

# **EXHIBIT B**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*

FILED BY FAX

FILED

Superior Court Of California,  
Sacramento

EXEMPT FROM FILING FEES  
GOVERNMENT CODE § 6103

amccanu

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

Case Number:

34-2017-00221348

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8 *California, ex rel. Barbara A. Lee, Director,*  
*Department of Toxic Substances Control*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

14 **PEOPLE OF THE STATE OF**  
15 **CALIFORNIA, EX REL. BARBARA A. LEE,**  
16 **DIRECTOR, DEPARTMENT OF TOXIC**  
17 **SUBSTANCES CONTROL,**

18 v.

19 **GENERAL ENVIRONMENTAL**  
20 **MANAGEMENT OF RANCHO**  
21 **CORDOVA LLC DBA PSC**  
22 **ENVIRONMENTAL SERVICES OF**  
23 **RANCHO CORDOVA, LLC,**  
24 **STERICYCLE ENVIRONMENTAL**  
25 **SOLUTIONS, INC., STERICYCLE, INC.,**  
26 **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



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

## JURISDICTION AND VENUE

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

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

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

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

## STATUTORY AND REGULATORY BACKGROUND

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

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

## ENFORCEMENT AUTHORITY UNDER THE HWCL

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

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

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

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

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

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

## GENERAL ALLEGATIONS

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

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

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

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

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

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

35. Since 2011, one explosion and three fires have occurred at the Facility due to the mismanagement of hazardous waste by Defendants. The explosion occurred on March 8, 2011, 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

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

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

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

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

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

(Failure to Maintain and Operate in a Manner that Minimizes the Possibility of a Fire, Explosion or Any Unplanned Release of Hazardous Waste in Violation of Cal. Code Regs., title 22, §§ 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)

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

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).)



Defendants:

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

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

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

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

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

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

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

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

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

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

- b. On and prior to August 4, 2011, GEM stored incompatible waste in at least six separate incidents. These wastes include oxidizers and flammables, cyanides, acids, and spontaneously combustible material and corrosives, next to each other, in Area C. (Health & Saf. Code § 25202, subd. (a), Cal. Code Regs., tit. 22, §§ 66264.177, subd. (c) and 66270.30, subd. (a).)
- c. On March 25, 2013, GEM failed to take adequate precautions to prevent incompatible hazardous waste from being bulked from loose packs or lab packs into 55-gallon drums in Area C. For instance, it failed to follow its best safety practice, to utilize the commingled compatibility test procedure. (Cal. Code Regs., tit. 22, § 66264.17, subd. (a).)

Defendants:

- d. On May 6, 2015, Defendants failed in at least five instances to properly separate containers of incompatible wastes such as organic peroxides and oxidizers from corrosives and also to separate inorganic acids from organic acids by a dike, berm, wall or other device in Area B. (Health & Saf. § 25202, subd. (a) and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a), 66262.17, subd. (b), and 66264.177, subd. (c).)
- e. On May 10, 2016, Defendants failed to separate multiple containers of incompatible hazardous waste in at least three instances in the Loading and Unloading Area and in Area A, including placing many incompatibles in a truck without proper separation. (Health & Saf. § 25202, subd. (a) and Cal. Code Regs., tit. 22, §§ 66270.30, subd. (a) and 66264.177, subd. (c).)

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

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



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

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

#### **SIXTH CAUSE OF ACTION**

(False Statements and/or Representations in Waste Labels in Violation of 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)

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

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

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

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

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

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

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

4                                   **SEVENTH CAUSE OF ACTION**

5                                   (Failure to Provide and Document Employee Training in  
6 Violation of Cal. Code Regs., title 22, § 66264.16, Health & Saf.  
Code § 25188, and 2013 ISE Order Against Defendants)

7           99. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

8           100. California Code of Regulations, title 22, section 66264.16, subdivision (a), provides  
9 the owner or operator of a hazardous waste facility shall ensure that all facility personnel  
10 successfully complete a program of classroom instruction or on-the-job training that teaches them  
11 to perform their duties in a way that ensures the facility's compliance with the requirements of  
12 HWCL and its implementing regulations.

13           101. California Code of Regulations, title 22, section 66264.16, subdivision (b) provides  
14 all facility personnel shall successfully complete the program required in subdivision (a) within  
15 six months after the date of their employment or assignment to a facility, or to a new position at a  
16 facility.

17           102. California Code of Regulations, title 22, section 66264.16, subdivision (c) provides  
18 all facility personnel shall take part in an annual review of the initial training required in  
19 subsection (a) of this section.

20           103. California Code of Regulations, title 22, section 66264.16, subdivision (d) provides  
21 the owner or operator of a facility shall maintain training documents and records at the facility.

22           104. Pursuant to Health and Safety Code section 25187, subdivision (a), the Department  
23 issued the 2013 ISE Order to Defendant GEM on April 3, 2013 with a Schedule of Compliance.

24           105. Section 5.16 of the 2013 ISE Order provides that "[t]his Order shall apply to and be  
25 binding upon Respondent [GEM], and its officers, directors, agents, employees, contractors,  
26 consultants, receivers, trustees, successors, and assignees, including but not limited to individuals,  
27 partners, and subsidiary and parent corporations."

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.

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

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

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

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

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

#### **EIGHTH CAUSE OF ACTION**

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

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

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

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

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.

128. Section VIII(I)(2) of the Permit Part B requires Defendants to inspect the concrete base in the Loading and Unloading Areas and in Areas A, B, C, and D for damage, cracks and erosion.

129. On and prior to March 9, 2011, 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 properly seal the resin coating on the surface of the ramp into Area A of the Facility.

130. On and prior to May 10, 2016, Defendants violated Health and Safety Code, section 25202, subdivision (a), and California Code of Regulations, title 22, sections 66264.175, subdivision (b)(1) and 66270.30, subdivision (a) by not fixing the cracks in the Loading and Unloading Area and in Area D despite having noted the cracks in its inspection log.

131. Each violation of Health and Safety Code, section 25202, subdivision (a) and California Code of Regulations, title 22, sections 66270.30, subdivision (a) and 66264.175, subdivision (b)(1) subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

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

### TENTH CAUSE OF ACTION

(Failure to Construct and Give Notice of Temporary Storage Cells in Violation of Health & Saf. Code § 25202 subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd. (a) Against Defendant GEM)

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

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

1           135. Section VI(E)(1) of the Permit Part B requires Defendant GEM to construct  
2 temporary storage cells using visqueen and sandbags and to provide notification to the  
3 Department before relocating containers and performing maintenance on the storage cells in Area  
4 B.

5           136. On and prior to March 25, 26, and April 9, 2013, Defendant GEM violated Health  
6 and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22,  
7 section 66270.30, subdivision (a) by not providing visqueen under containers and sandbags  
8 around containers containing ignitable, corrosive, and toxic waste and by failing to notify the  
9 Department of the maintenance being performed on the storage cells in Area B of the Facility.

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

14           138. 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                                   **ELEVENTH CAUSE OF ACTION**

18           (Improper Storage of Hazardous Waste in Area A and Loading and Unloading Area in  
19 Violation of Health & Saf. Code, §§ 25188, 25202, subd. (a), 25200.19, subd. (c)(1), Cal.  
Code Regs., tit. 22, § 66270.30, subd (a), and 2010 Consent Order Against Defendants)

20           139. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

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

25           141. Health and Safety Code section 25200.19, subdivision (c)(1) provides that “[a]s part  
26 of a loading or unloading operation conducted within the boundary of a hazardous waste facility,  
27 the hazardous waste shall not be held longer than 10 days outside of an authorized unit at the  
28 facility.”

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

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

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

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

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

### THIRTEENTH CAUSE OF ACTION

(Failure to Inspect Containers for Proper Labeling and Marking in Violation of Health & 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)

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

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

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

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

162. California Code of Regulations, title 22, section 66266.81, subdivision (a)(1)(6)(D), requires that the owner or operator of a hazardous waste facility to store spent lead-acid storage batteries in accordance with the packaging requirements of Title 49 CFR section 173.260 and to label the packaged batteries with the date they were received.

163. Section VIII(I) (2)(b)(7) of the Permit Part B specifies that Defendants must inspect and properly label all containers contained within the Facility.

164. On and prior to March 18, 2014, and March 19, 2014, Defendant GEM violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, section 66270.30, subdivision (a) by improperly affixing a universal waste label to a used oil drum. Used oil is a hazardous waste not a universal waste.

165. On and prior to May 10, 2016, and May 11, 2016, Defendants violated Health and Safety Code section 25202, subdivision (a), and California Code of Regulations, title 22, sections 66270.30, subdivision (a), 66262.31, and 66262.32, subdivision (b)(2) by failing to properly label two pallets of automobile lead acid type batteries, and 66266.81, subdivision (a)(1)(6)(D) by failing to label two drums of automobile lead acid type batteries.

166. Each violation of Health and Safety Code section 25202, subdivision (a) and California Code of Regulations, title 22, sections 66270.30 subdivision (a), 66262.31, 66262.32 subdivision (b)(2), and 66266.81, subdivision (a)(1)(6)(D) subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

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

## FOURTEENTH CAUSE OF ACTION

(Failure to Mark Containers with Accumulation Start Dates in Violation of Health & Saf. Code, § 25202, subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd. (a) Against Defendants)

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

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.

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

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

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

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

#### **SIXTEENTH CAUSE OF ACTION**

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

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

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

183. On and prior to May 6, 2015, and May 12, 2015 Defendants failed to provide in the Closure Plan an accurate estimate of the total inventory of hazardous waste ever onsite over the 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       207. Each violation of Health and Safety Code sections 25200.19, subdivision (a) and  
2       25202, subdivision (a) and California Code of Regulations, title 22, section 66270.30, subdivision  
3       (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health  
4       and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code  
5       section 25189.2, subdivision (b).

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

9                                   **TWENTY-FIRST CAUSE OF ACTION**

10                   (Failure to Use Protective Equipment in Violation of Health & Saf. Code § 25202,  
                          subd. (a) and Cal. Code Regs., tit. 22, § 66270.30 subd. (a) Against Defendants)

11       209. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

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

16       211. Section VIII(B)(1) of the Permit Part B provides that employees handling hazardous  
17       waste must wear personal protective equipment.

18       212. On and prior to June 27, 2017, Defendants' employees failed to wear personal  
19       protective equipment (hard hats).

20       213. Each violation of Health and Safety Code section 25202, subdivision (a) and  
21       California Code of Regulations, title 22, section 66270.30, subdivision (a) subjects each  
22       Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code  
23       section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2,  
24       subdivision (b).

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

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           223. Section VIII(I)(2)(b)(7) of Permit Part B requires Defendants to inspect containers of  
2 universal waste to ensure they are properly labeled.

3           224. On or before May 6, 2015, Defendants failed to inspect containers to ensure they  
4 were properly labeled.

5           225. Each violation of Health and Safety Code section 25202, subdivision(a) and  
6 California Code of Regulations, title 22, sections 66270.30, subdivision (a) and 66273.34,  
7 subdivision (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant  
8 to Health and Safety Code section 25189, subdivisions (a) and (b) or in the alternative, Health and  
9 Safety Code section 25189.2, subdivisions (a) and (b).

10          226. 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).

13                                   **TWENTY-FOURTH CAUSE OF ACTION**

14                                   (Failure to Provide for the Management of Recovered Fire Materials in  
15 Violation of Cal. Code Regs., tit. 22, § 66264.56, subd. (g) Against Defendants)

16          227. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

17          228. California Code of Regulations, title 22, section 66264.56, subdivision (g), requires  
18 the emergency coordinator of a hazardous waste facility to provide for treating, storing, or  
19 disposing of recovered waste or any other material that results from a fire at the facility.

20          229. On August 7, 2017, the emergency coordinator of the Facility did not provide for the  
21 treating, storing, or disposing of any material caused by the fire. Defendants could not account  
22 for the disposition of the materials caused by the fire.

23          230. Each violation of California Code of Regulations, title 22, section 66264.56  
24 subdivision (g) subjects each Defendant to a separate penalty, according to proof at trial, pursuant  
25 to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety  
26 Code section 25189.2, subdivision (b).

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

#### **TWENTY-FIFTH CAUSE OF ACTION**

(Failure to Make Hazardous Waste Determination in Violation of Cal. Code Regs., tit. 22, § 66262.11, subd. (a) Against Defendants)

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

233. California Code of Regulations, title 22, section 66262.11, subdivision (a), requires the generator of a waste to determine if that waste is hazardous.

234. On August 7, 2017, a fire occurred at the facility when hazardous waste, identified on the hazardous waste manifest as naphthalene, was poured onto paper and the paper and hazardous waste was deliberately ignited by the Defendants. The fire was controlled, in part, by use of an absorbent. Defendants failed to make a hazardous waste determination for the materials set on fire or those used in the cleanup in the fire.

235. Each violation of California Code of Regulations, title 22, section 66272.11 subdivision (a) subjects each Defendant to a separate penalty, according to proof at trial, pursuant to Health and Safety Code section 25189, subdivision (b) or in the alternative, Health and Safety Code section 25189.2, subdivision (b).

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

#### **TWENTY-SIXTH CAUSE OF ACTION**

(Failure to Follow Permit Contingency Plan in Violation of Health & Saf. Code § 25202, subd. (a) and Cal. Code Regs., tit. 22, § 66270.30, subd. (a) Against Defendants)

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

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

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

4                                   **TWENTY-NINTH CAUSE OF ACTION**

5                                   (Failure to Follow Permit Transfer and Ownership Change  
6                                   Requirements in Violation of Cal. Code Regs. tit. 22, §§ 66270.40,  
7                                   subds. (a) and (b)(2) and 66270.42.5 subd. (c)(1) Against Defendants)

8           253. Paragraphs 1 through 39 are re-alleged as if fully set forth herein.

9           254. California Code of Regulations, title 22, section 66270.40, subdivision (a) provides  
10 that a permit may be transferred to a new owner or operator only if the permit has been modified  
11 or revoked and reissued.

12           255. California Code of Regulations, title 22, section 66270.42.5, subdivision (c)(1),  
13 requires the Department's prior written approval and compliance with Class 1\* permit  
14 modification procedures before a change in ownership or operational control of a hazardous waste  
15 facility can occur.

16           256. California Code of Regulations, title 22, section 66270.40, subdivision (b)(2) requires  
17 the new owner or operator of a permitted hazardous waste facility to submit a revised permit  
18 application no later than 90 days prior to the change. It also requires a written agreement between  
19 the current and new permittees with a specific date for transfer of permit responsibility, coverage,  
20 and liability between the current and new permittees, to be submitted to the Department. It  
21 further requires that there be no gap in the financial requirements of article 8 of chapter 14 of  
22 division 4.5 of the California Code of Regulations during the transition between the old and new  
23 permittee.

24           257. Based on information and belief, Defendants Stericycle acquired ownership and/ or  
25 operational control of the Facility from Defendant GEM in or around April 2014.

26           258. Defendants Stericycle acquired ownership and/or operational control of the facility  
27 from Defendant GEM without complying with the procedures of a Class 1\* permit modification  
28 and without prior written approval from the Department.

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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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.

Respectfully Submitted,

Original signed by Rose B. Fua

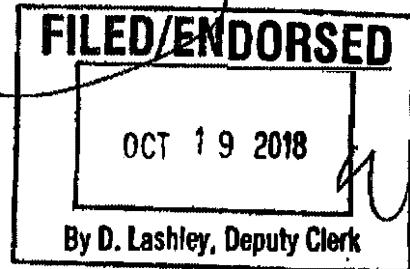
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# **EXHIBIT C**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*

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*Attorneys for Plaintiff People of the State of  
California, ex rel. Barbara A. Lee, Director,  
California Department of Toxic Substances Control*

EXEMPT FROM FILING FEES  
GOVERNMENT CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA, EX  
REL. BARBARA A. LEE, DIRECTOR,  
CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL,

Plaintiff,

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,

Defendants.

Case No. 34-2017-00221348

~~PROPOSED~~ FINAL JUDGMENT ON  
CONSENT AND PERMANENT  
INJUNCTION

Dept: 35  
Judge: Alan G. Perkins  
Trial Date: None Set  
Action Filed: October 26, 2017

(Code of Civil Procedure § 664.6)

Having reviewed the Stipulation for Entry of Order and Final Judgment on Consent (the  
"Stipulation") executed by Plaintiff, the People of the State of California, ex rel. Barbara A. Lee,  
Director of the California Department of Toxic Substances Control ("DTSC"), and Defendants  
General Environmental Management of Rancho Cordova, LLC, dba PSC Environmental Services  
of Rancho Cordova, LLC; Stericycle Environmental Solutions, Inc.; and Stericycle, Inc., and



1 good cause appearing herein, the Court finds that the settlement between the Plaintiff and the  
2 Defendants as set forth in the Stipulation is fair and in the public interest. Accordingly, the Court  
3 approves the Stipulation, a true and correct copy of which is attached as Exhibit A, and enters the  
4 Final Judgment on Consent and Permanent Injunction as set forth in the Stipulation.

5

6 IT IS SO ORDERED.

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Dated:

*October 19, 2018*

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Original signed by Alan G. Perkins

Hon. Judge of the Superior Court

Alan G. Perkins



## **Exhibit A**

to

**[Proposed] Final Judgement on Consent and Permanent Injunction**

**Case No. 34-2017-00221348**

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8 California Department of Toxic Substances Control

**EXEMPT FROM FILING FEES  
GOVERNMENT CODE § 6103**

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA:

10 COUNTY OF SACRAMENTO

11  
12 **PEOPLE OF THE STATE OF CALIFORNIA, EX**  
REL. BARBARA A. LEE, DIRECTOR, OF THE  
13 CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL

14  
15 Plaintiff,

16 v.

17 **GENERAL ENVIRONMENTAL**  
**MANAGEMENT OF RANCHO**  
18 **CORDOVA LLC dba PSC**  
**ENVIRONMENTAL SERVICES OF**  
19 **RANCHO CORDOVA, LLC;**  
20 **STERICYCLE ENVIRONMENTAL**  
**SOLUTIONS, INC.; STERICYCLE, INC.;**  
21 **AND DOES 1 THROUGH 10, INCLUSIVE**

22 Defendants

Case No. 34-2017-00221348

**STIPULATION FOR ENTRY OF ORDER  
AND FINAL JUDGMENT ON CONSENT**  
(Code of Civ. Proc., § 664.6)

Dept.: 35  
Judge: Hon. Alan G. Perkins  
Trial Date: None set  
Action Filed: October 26, 2017

23  
24 Plaintiff, the People of the State of California, ex rel. Barbara A. Lee, Director of the  
25 California Department of Toxic Substances Control ("DTSC") and Defendants General  
26 Environmental Management of Rancho Cordova, LLC, dba PSC Environmental Services of  
27 Rancho Cordova, LLC, Stericycle Environmental Solutions, Inc., and Stericycle, Inc.

(collectively "GEM and Stericycle") enter into this Stipulation for Entry of Order and Final Judgment on Consent ("Stipulation") and stipulate as follows:

**1. THE COMPLAINT**

DTSC filed this enforcement action on October 26, 2017, against GEM and Stericycle for Permanent Injunction and Civil Penalties ("Complaint") under the California Hazardous Waste Control Law ("HWCL") (Health & Saf. Code, § 25100 et seq.) and its implementing regulations,

California Code of Regulations, title 22, division 4.5, section 66260.1, et seq. ("Title 22") in connection with GEM and Stericycle's HAZARDOUS WASTE TREATMENT and STORAGE FACILITY located at 11855 White Rock Road, Rancho Cordova, California (referred to as the "FACILITY").

As set out more fully in the Complaint, DTSC alleges that, in operating the FACILITY, GEM and/or Stericycle violated the HWCL and Title 22 numerous times from 2011 to 2017 as described in the Complaint.

**2. AGREEMENT TO SETTLE DISPUTE**

DTSC and GEM and Stericycle, collectively "the Parties," enter into this Stipulation pursuant to a compromise and settlement and mutually consent to the entry by this Court of the agreed-upon Order and Final Judgment on Consent ("Final Judgment"), which is the form attached to this Stipulation as Exhibit 1. The Parties are each represented by counsel. This Stipulation and the Final Judgment were negotiated in good faith and at arms' length by the Parties to avoid expensive and protracted litigation regarding the alleged violations of the HWCL and Title 22. Except as set forth in Paragraph 13 below, the Parties agree that nothing in this Stipulation and Final Judgment constitutes an adjudication of any fact or issue of law and GEM and Stericycle do not admit any fact, liability, or violation of the law.

**3. DEFINITIONS**

Except where otherwise expressly defined in this Stipulation, all terms shall be interpreted as set forth in, and consistent with, the HWCL and Title 22. The following terms used in this Stipulation and the Final Judgment shall have the meaning(s) set forth below:

1 3.1 "BULKING," "BULK," and "BULKED" shall have the same definition as provided  
2 for in the PERMIT Part B, section V(G)(1), Waste Analysis Plan.

3 3.2 "CONSOLIDATING," "CONSOLIDATE," and "CONSOLIDATION" shall have the  
4 same definition as provided for in the PERMIT Part B, section V(G)(1), Waste Analysis Plan.

5 3.3 "EFFECTIVE DATE" is the date the Final Judgment in this matter is entered by the  
6 Court.

7 3.4 "FACILITY" as used herein refers to the HAZARDOUS WASTE TREATMENT and  
8 STORAGE FACILITY located at 11855 White Rock Road, Rancho Cordova, California. The  
9 FACILITY is a "HAZARDOUS WASTE FACILITY" as defined in Health and Safety Code  
10 section 25117.1.

11 3.5 "FACILITY MANAGER" is the person that was hired to perform and performs the  
12 job requirements, essential functions, and principal activities of the "FACILITY MANAGER"  
13 and/or "LOCATION MANAGER" at the FACILITY as described in the PERMIT Part B, section  
14 IX, Training Plan.

15 3.6 "GEM AND STERICYCLE EMPLOYEES" means both permanent and temporary  
16 employees who perform HAZARDOUS WASTE MANAGEMENT activities at the FACILITY  
17 including, but not limited to, the FACILITY MANAGER, SUPERVISOR/LEADMAN, and  
18 LEAD CHEMIST/CHEMIST.

19 3.7 "GENERAL MANAGER" is the person that was hired to perform and performs the  
20 following activities of the "GENERAL MANAGER" at the FACILITY as described in the  
21 PERMIT Part B, section X, Emergency Action and Contingency Plan: (1) places and answers  
22 phone calls and communications to and from the fire department, police department, contractor  
23 personnel, and corporate management, (2) is responsible for health and safety aspects of  
24 emergency management, including determining appropriate personal protective equipment (PPE);  
25 monitoring, and decontamination requirements, and (3) is responsible for responding to the press  
26 and public inquiries as well as writing and/or delivering press releases regarding any ongoing  
27 incident.



1 3.8 "HANDLE," "HANDLING," and "HANDLED" means "MANAGE" as defined in  
2 Paragraph 3.10.

3 3.9 "HAZARDOUS WASTE" shall have the definition as provided for in Health and  
4 Safety Code section 25117 and the same meaning as the term is used in California Code of  
5 Regulations, title 22, section 66261.3 and sections 66261.20 through 66261.24.

6 3.10 "HAZARDOUS WASTE MANAGEMENT," "MANAGE," and "MANAGEMENT"  
7 shall have the definition as set forth in Health and Safety Code section 25117.2.

8 3.11 "INCOMPATIBLE WASTE" as defined in California Code of Regulations, title 22;  
9 section 66260.10 means a HAZARDOUS WASTE which is unsuitable for (a) placement in a  
10 particular device or facility because it may cause corrosion or decay of containment materials  
11 (e.g., container inner liners or tank walls); or (b) comingling with another WASTE or material  
12 under uncontrolled conditions because the comingling might produce (1) heat or pressure, (2) fire  
13 or explosion, (3) violent reaction, (4) toxic dusts, mists, fumes, or gases, or (5) flammable fumes  
14 or gases. Appendix V of Chapter 14, Article 19 of Title 22 provides examples of potentially  
15 INCOMPATIBLE WASTES, WASTE components, and materials.

16 3.12 "LEAD CHEMIST/CHEMIST" is the person that was hired to perform the job  
17 requirements, essential functions, and principal activities of the "LEAD CHEMIST" and/or  
18 "CHEMIST" at the FACILITY as described in the PERMIT Part B, section IX, Training Plan.

19 3.13 "PERMIT" as used herein refers to the current HAZARDOUS WASTE FACILITY  
20 PERMIT, which incorporates by reference the Part A and Part B permit application, issued by  
21 DTSC to the FACILITY on April 25, 2007 and all subsequent modifications that have been made  
22 or may be subsequently approved by DTSC.

23 3.14 "STORAGE," "STORE," "STORED," and "STORING" means the holding of  
24 HAZARDOUS WASTE for a temporary period, at the end of which the HAZARDOUS WASTE  
25 is TREATED, disposed of or STORED elsewhere as set forth in California Code of Regulations,  
26 title 22, section 66260.10.

27 3.15 "SUPERVISOR/LEADMAN" is the person identified in the PERMIT Part B, section  
28 IX, Training Plan.

1 3.16 "TREATMENT," "TREAT," and "TREATING" means any method, technique, or  
2 process which changes or is designed to change the physical, chemical, or biological character or  
3 composition of any HAZARDOUS WASTE or any material contained therein, or removes or  
4 reduces its harmful properties or characteristics for any purpose including, but not limited to,  
5 energy recovery, material recovery or reduction in volume as set forth in California Code of  
6 Regulations, title 22, section 66260.10.

7 3.17 "WASTE" and "WASTES" shall have the definition as set forth in Health and Safety  
8 Code section 25124.

9 **4. JURISDICTION AND VENUE**

10 The Parties agree and hereby stipulate that, for purposes of this Stipulation, this Court has,  
11 subject matter jurisdiction over the matters alleged in the Complaint and personal jurisdiction  
12 over GEM and Stericycle, and that venue in this Court is proper under Health and Safety Code  
13 sections 25181 and 25183.

14 **5. WAIVER OF HEARING AND TRIAL AND ENTRY OF JUDGMENT**

15 By signing and entering into this Stipulation, GEM and Stericycle waive their right to a  
16 hearing and a trial on the matters alleged in the Complaint and waive their right to appeal.

17 **6. APPLICATION OF THIS STIPULATION AND THE FINAL JUDGMENT**

18 This Stipulation and the Final Judgment shall apply to and be binding on: (1) DTSC and  
19 any successor agency; and (2) GEM and Stericycle, and their officers, directors, managers, GEM  
20 AND STERICYCLE EMPLOYEES, agents, contractors, representatives, and any successors and  
21 assigns in their official capacity.

22 **7. MATTERS COVERED**

23 7.1 Except as otherwise provided in this Stipulation, this Stipulation and the Final  
24 Judgment are a final and binding resolution and settlement of the HWCL and Title 22 violations  
25 specifically alleged by DTSC against GEM and Stericycle in the Complaint. The matters  
26 described in the previous sentence are "Covered Matters." Any claim, violation, or cause of  
27 action that is not a Covered Matter is a "Reserved Claim." DTSC reserves its authority to pursue  
28 Reserved Claims as set forth in Paragraph 12 herein.

7.2 Nothing in this Stipulation or the Final Judgment shall limit the rights of DTSC against GEM/Stericycle under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C., § 9601 et seq.), the California Hazardous Substance Account Act (Health & Saf. Code, § 25300 et seq.), or corrective action under Health and Safety Code section 25187, subd. (b) concerning a release of HAZARDOUS WASTE or a HAZARDOUS constituent into the environment, or for violations of the HWCL not included under Covered Matters in:

Paragraph 7.1.

7.3 DTSC further reserves all rights to enforce the injunctive terms of this Stipulation.

#### 8. GENERAL INJUNCTIVE PROVISIONS.

GEM and Stericycle shall be, and are, permanently enjoined as follows:

Pursuant to the provisions of Health and Safety Code sections 25181 and 25184, GEM and Stericycle shall comply with the HWCL and Title 22, at, and in connection with, the operations of the FACILITY. In addition, GEM and Stericycle will comply with the PERMIT, this Stipulation, and the Final Judgment. To the extent this Stipulation requires more of GEM and Stericycle than the HWCL and/or the PERMIT, GEM and Stericycle agree to comply with this Stipulation and the Final Judgment. GEM and Stericycle also agree not to assert the PERMIT as a defense against any violation of this Stipulation and the Final Judgment or violation of the HWCL. GEM and Stericycle also agree not to assert the HWCL as a defense against any violation of this Stipulation and the Final Judgment. DTSC may enforce this Stipulation and Final Judgment as stated in Paragraph 12, including any injunctive relief, by any means authorized under law, including, but not limited to, suspension or revocation of the PERMIT or seeking contempt of court.

#### 9. SPECIFIC INJUNCTIVE PROVISIONS.

9.1 HAZARDOUS WASTE Determination. GEM and Stericycle shall make a HAZARDOUS WASTE determination for all WASTE generated at the FACILITY as required by California Code of Regulations, title 22, section 66262.11, subdivision (a).

9.2 Up-to-Date Emergency Coordinator Contact Information. GEM and Stericycle shall keep the list of names, addresses, and phone numbers of all persons qualified to act as the

1 FACILITY's emergency coordinator up to date as required by California Code of Regulations,  
2 title 22, section 66264.52, subdivision (d).

3 9.3. PERMIT Modification When List of Emergency Coordinator Changes. GEM and  
4 Stericycle shall immediately amend the FACILITY's Contingency Plan and submit a PERMIT  
5 modification to DTSC whenever the list of emergency coordinators changes as required by  
6 California Code of Regulations, title 22, section 66264.54, subdivision (d).

7 9.4. Minimize Releases. GEM and Stericycle shall maintain and operate the FACILITY  
8 to minimize the possibility of a fire, explosion, or unplanned sudden or non-sudden release of  
9 HAZARDOUS WASTE or HAZARDOUS WASTE constituents to air, soil, or surface water as  
10 required by California Code of Regulations, title 22, section 66264.31, including, but not limited  
11 to: separating INCOMPATIBLE WASTE, not releasing HAZARDOUS WASTE at or outside the  
12 FACILITY, and removing liquids and spills from secondary containment and spilled  
13 HAZARDOUS WASTE at the FACILITY as soon as the liquids and spills are observed by GEM  
14 AND STERICYCLE EMPLOYEES.

15 9.5. TREATING, STORING, or Disposing of Recovered WASTE or Material. GEM and  
16 Stericycle shall ensure that the FACILITY's emergency coordinator provides for TREATING,  
17 STORING, or disposing of recovered WASTE or any other material that results from a release,  
18 fire, or explosion at the FACILITY as required by California Code of Regulations, title 22,  
19 section 66264.56, subdivision (g).

20 9.6. Use and MANAGEMENT of Containers. GEM and Stericycle shall use and  
21 MANAGE HAZARDOUS WASTE containers as required by California Code of Regulations,  
22 title 22, sections 66264.171 through 66264.179.

23 a. Prohibition on Using Damaged Containers. GEM and Stericycle shall not STORE  
24 HAZARDOUS WASTE in containers that are not in good condition as required by California  
25 Code of Regulations, title 22, sections 66264.171.

26 b. Closing Containers. GEM and Stericycle shall close containers holding  
27 HAZARDOUS WASTE during transfer and STORAGE, except when it is necessary to add or  
28 remove WASTE as required by California Code of Regulations, title 22, section 66264.173.

subdivision (a). A container holding HAZARDOUS WASTE shall not be opened, HANDLED, transferred or STORED in a manner which may rupture the container or cause it to leak as required by California Code of Regulations, title 22, section 66264.173, subdivision (b).

c. Separation of INCOMPATIBLE WASTE. GEM and Stericycle shall separate a container holding a HAZARDOUS WASTE that is incompatible with any WASTE or other materials transferred or STORED nearby in other containers by means of a dike, berm, wall, or

other device as required by California Code of Regulations, title 22, section 66264.177 subdivision (c).

d. Prohibition on Placing INCOMPATIBLE WASTE in Same Container. GEM and Stericycle shall not place INCOMPATIBLE WASTE or INCOMPATIBLE WASTES and other materials in the same container except for the purpose of conducting commingled compatibility testing as described in the PERMIT Part B, section V (Waste Analysis Plan), Attachment V-2 (Standard Operating Procedure, Area C; Standard Operating Procedure, Area D; and GEM Laboratory Standard Operating Procedures).

e. Unwashed Containers. GEM and Stericycle shall not place HAZARDOUS WASTE in an unwashed container that previously held an INCOMPATIBLE WASTE or material as required by California Code of Regulations, title 22, section 66264.177, subdivision (b).

f. Compatibility of HAZARDOUS WASTE with Containers. GEM and Stericycle shall use a container made of or lined with materials which will not react with, and are otherwise compatible with, the HAZARDOUS WASTE to be transferred or STORED, so that the ability of the container to contain the HAZARDOUS WASTE is not impaired, as required by California Code of Regulations, title 22, section 66264.172.

g. Marking Containers. GEM and Stericycle shall mark each container of HAZARDOUS WASTE clearly with the date of acceptance within 24 hours of receiving the WASTE, as required by PERMIT Part B, section VI(B)(6).

h. Marking Empty Containers. GEM and Stericycle shall also label/mark empty containers as "empty" with the date the containers were emptied, as required by California Code of Regulations, title 22, section 66261.7, subdivision (f).

1 9.7 Precautions. GEM and Stericycle shall take precautions to prevent accidental ignition  
2 or reaction of ignitable or reactive WASTE, as required by California Code of Regulations, title  
3 22, section 66264.17, subdivision (a).

4 9.8 Identifying INCOMPATIBLE WASTE. GEM and Stericycle shall identify  
5 INCOMPATIBLE WASTE and shall use California Code of Regulations, title 22, chapter 14,  
6 article 19, Appendix V, to help identify INCOMPATIBLE WASTE. Appendix V only provides

7 examples of potentially INCOMPATIBLE WASTE and is not intended to be exhaustive.

8 9.9 Prohibitions Regarding INCOMPATIBLE WASTE. GEM and Stericycle shall not  
9 STORE, MANAGE, TREAT, BULK, or CONSOLIDATE INCOMPATIBLE WASTE in Area C  
10 or Area D or within the same STORAGE cell in Area B, as required by PERMIT Part B, sections  
11 VI(E)(8), VI(G)(7), VI(I)(2), and VIII(H)(1)(h).

12 9.10 BULKING and CONSOLIDATION. GEM and Stericycle shall not BULK  
13 HAZARDOUS WASTE in Areas A and B. GEM and Stericycle shall comply with the DTSC-  
14 approved PERMIT Part B Standard Operating Procedures developed for Areas C and D to ensure  
15 INCOMPATIBLE WASTE is not BULKED or CONSOLIDATED from loose packs, lab packs,  
16 or other containers into drums or other containers in Area C and/or roll off bins or other  
17 containers in Area D, as required by PERMIT Part B, sections V(C)(10), V(D)(1), and V(G)(1).

18 9.11 Required Approval Before BULKING. GEM and Stericycle shall obtain written  
19 authorization from the LEAD CHEMIST/CHEMIST or "qualified personnel" as defined in the  
20 PERMIT Part B, section V, Attachment V-5 (Qualifications of Personnel Performing Testing)  
21 before BULKING HAZARDOUS WASTE and shall maintain any documents related to the  
22 BULKING of HAZARDOUS WASTE as part of the FACILITY's operating record for a  
23 minimum of five (5) years, as required by PERMIT Part B, section V(G)(1) and the Imminent and  
24 Substantial Endangerment Determination and Enforcement Order issued to GEM by DTSC on  
25 April 3, 2013.

26 9.12 Prohibitions Regarding Reactive WASTE. GEM and Stericycle shall not STORE,  
27 MANAGE, TREAT, BULK, or CONSOLIDATE reactive WASTE, as defined in California Code  
28 of Regulations, title 22, section 66261.23, at the FACILITY.

1       9.13 Prohibition Regarding Disposal of HAZARDOUS WASTE. GEM and Stericycle  
2 shall not dispose of HAZARDOUS WASTE except at an authorized point as required by Health  
3 and Safety Code sections 25201, 25203, and 25189.5, subdivision (a);

4       9.14 Aisle Space. GEM and Stericycle shall maintain aisle space adequate to allow the  
5 unobstructed movement of personnel, fire protection equipment, spill control equipment, and  
6 decontamination equipment as required by California Code of Regulations, title 22, section

7 66264.35. GEM and Stericycle shall ensure that the labels on each container are facing the  
8 walkway of the aisle and are easily visible for inspection by DTSC and GEM AND  
9 STERICYCLE EMPLOYEES walking down the aisles.

10       9.15 Notifying DTSC of Maintenance. GEM and Stericycle shall notify DTSC at least 48  
11 business hours before performing maintenance in either Area A or Area B, which requires GEM  
12 and Stericycle to construct temporary STORAGE cells using polyethylene plastic sheeting such  
13 as visqueen and sandbags around containers containing ignitable, corrosive, or toxic WASTE in  
14 the Loading and Unloading Area.

15       9.16 Maintaining and Repairing Cracks. GEM and Stericycle shall maintain and repair  
16 cracks in concrete floors or secondary containment structures at the FACILITY as required by  
17 California Code of Regulations, title 22, section 66264.175, subdivision (b)(1);

18       9.17 PERMIT and PERMIT Part B Requirements. GEM and Stericycle shall comply with  
19 the conditions of the PERMIT as required by Health and Safety Code section 25202, subdivision  
20 (a) and California Code of Regulations, title 22, section 66270.30, subdivision (a), this  
21 Stipulation, and the Final Judgment, including but not limited to:

22       a. Maintaining the resin coatings applied to surfaces in Areas A, B, and C as required by  
23 PERMIT Part B, sections VI(D)(1), VI(E)(1), and VI(G)(1), and installing and maintaining a  
24 resin coating applied to the surfaces in Area D as required by this Stipulation.

25       b. STORING HAZARDOUS WASTE for no more than ten (10) days in Area A of the  
26 FACILITY from the day it first arrived at the FACILITY as required by the PERMIT, Part IV  
27 and PERMIT Part B, section VI(D). Area A is a temporary STORAGE area for receiving,  
28 inspecting, repackaging, and preparation of containerized WASTE for shipping.

c. Moving HAZARDOUS WASTE directly between the transport vehicle in the Loading and Unloading Area and Areas A, B, C, and D ("authorized units") as required by Health and Safety Code section 25200.19(c)(1) and PERMIT Part B, section VI(c). GEM and Stericycle shall not hold HAZARDOUS WASTE for any time off the transport vehicle and outside of the authorized units, except for that incidental period of time that is necessary to safely and effectively move the WASTE from the transport vehicle to the authorized units or from the

authorized units to the transport vehicle. The "incidental period of time" shall mean a period of time that shall not exceed 12 hours.

d. Keeping inbound and outbound HAZARDOUS WASTE that is being received or shipped by the FACILITY in a transport vehicle in the Loading and Unloading Area for no more than ten (10) days as required by Health and Safety Code section 25200.19(c)(1), and PERMIT Part B, section VI(C).

e. Not accepting and/or STORING at the FACILITY any HAZARDOUS WASTE destined for other facilities other than outbound WASTE generated by GEM and Stericycle as required by PERMIT Part B, section VI(C).

f. Requiring GEM AND STERICYCLE EMPLOYEES HANDLING HAZARDOUS WASTE to wear personal protective equipment, including, but not limited to, hard hats as required by PERMIT Part B, section VII(B)(1).

g. Notifying DTSC within 24 hours of discovery of a release, including, but not limited to, fires and explosions involving HAZARDOUS WASTE within the FACILITY as required by PERMIT, section VI.

h. Following the FACILITY's Contingency Plan after a fire occurs at the FACILITY, including, but not limited to evacuating the FACILITY, notifying supervisors, the emergency coordinator, and the GENERAL MANAGER, and placing debris and materials used in the clean-up of the fire, which are presumed to be HAZARDOUS WASTE, in proper containers, labeled and MANAGED, appropriately as required by PERMIT Part B, section X(I)(3)(a) and Attachment X-2.



1 9.18 Change in Titles. GEM and Stericycle must notify DTSC 48 hours prior to changing  
2 the title of the FACILITY representative responsible for compliance with training identified in  
3 Paragraph 9.27 or the "GENERAL MANAGER," LEAD CHEMIST/CHEMIST," or  
4 "SUPERVISOR/LEADMAN" as those terms are defined in Paragraph 3 of this Stipulation.

5 9.19 Change in Ownership or Operational Control. GEM and Stericycle shall obtain  
6 DTSC's prior written approval and comply with DTSC's PERMIT modification procedures

7 before a change in ownership or operational control of the FACILITY occurs as required by  
8 California Code of Regulations, title 22, sections 66270.40, subdivisions (a) and (b)(2) and  
9 66270.42.5, subdivision (c)(1). No later than 90 days prior to the change of ownership or  
10 operational control of the FACILITY, GEM and Stericycle shall submit to DTSC a revised  
11 PERMIT application and a copy of the written agreement between the current and prospective  
12 new permittees that includes a specific date for transfer of PERMIT responsibility, coverage, and  
13 liability between the current and prospective new permittees.

14 9.20 Closure Plan. GEM and Stericycle shall have a "Closure Plan" approved by DTSC  
15 that includes an estimate of the maximum inventory of HAZARDOUS WASTES on-site over the  
16 active life of the FACILITY and a detailed description of the methods to be used during partial  
17 closures and final closure, including, but not limited to, methods for removing, transporting,  
18 TREATING, STORING, or disposing of all HAZARDOUS WASTES, and identification of the  
19 type(s) of the off-site HAZARDOUS WASTE MANAGEMENT units to be used, if applicable as  
20 required by California Code of Regulations, title 22, section 66264.112, subdivision (b)(3).

21 9.21 Financial Assurance. GEM and Stericycle shall maintain adequate financial  
22 assurance for the FACILITY, as required by California Code of Regulations, title 22, sections  
23 66264.140 et seq.

24 9.22 Daily Inspections of the FACILITY. GEM and Stericycle shall conduct daily  
25 inspections of all areas of the FACILITY where HAZARDOUS WASTE is accumulated,  
26 TREATED, or STORED, and record the inspection findings and any responses by GEM and  
27 Stericycle in written inspection logs. The inspection logs shall be maintained at the FACILITY  
28 and made available upon request to DTSC and the Sacramento County Environmental

1 Management Department. The inspection logs shall be reviewed and signed by the FACILITY  
2 MANAGER or designee daily and s/he will be responsible for ensuring that any deficiencies  
3 noted during a daily inspection have been corrected as required by the HWCL, the PERMIT, this  
4 Stipulation, and/or the Final Judgment. Within two calendar days of the completion of the  
5 correction of any deficiencies noted during a daily inspection, the resolution or remedy for those  
6 deficiencies shall be noted in the log.

7 a. The daily inspections shall ensure that HAZARDOUS WASTE at the FACILITY is  
8 MANAGED in accordance with the HWCL, including, but not limited to, California Code of  
9 Regulations, title 22, sections 66261.7, 66264.17, 66264.31, 66264.35, 66264.73, 66264.171,  
10 66264.172, 66264.173, 66264.174, 66264.175, 66264.176, 66264.177, 66266.81, 66270.30,  
11 66273.31-39, and chapter 14, article 19, Appendix V and Health and Safety Code section  
12 25200.19.

13 b. Review of WASTE Types. The daily inspection shall include a review of WASTE  
14 types STORED at the FACILITY to determine if INCOMPATIBLE WASTE is unlawfully  
15 STORED together. If INCOMPATIBLE WASTE is found to be unlawfully STORED together,  
16 the written inspection log shall describe how the HAZARDOUS WASTE was segregated or  
17 otherwise HANDLED to prevent incompatibility.

18 c. Review of Spills and/or Releases. If HAZARDOUS WASTE spills and/or releases  
19 are discovered at the FACILITY, GEM and Stericycle shall respond appropriately and  
20 consistently with the HWCL, and as required by the PERMIT, this Stipulation, and the Final  
21 Judgment.

22 9.23 Daily Inspections of the Loading and Unloading Area. GEM and Stericycle shall  
23 conduct daily inspections of the Loading and Unloading Area for cracks and STORAGE of  
24 INCOMPATIBLE WASTE.

25 9.24 Locations of Video Cameras. Within 30 days of the entry of the Final Judgment,  
26 GEM and Stericycle shall provide DTSC with a FACILITY map identifying the locations of  
27 video cameras in Areas A, B, C, and D and the Loading and Unloading Area (Video Camera  
28 FACILITY Map). If GEM and Stericycle make any changes to the location of any video camera

1 in Areas A, B, C, or D or the Loading and Unloading Area, GEM and Stericycle must submit a  
2 revised Video Camera FACILITY Map within seven (7) days after a change has been made.

3 9.25 Retention of Audio and Video Footage: GEM and Stericycle shall maintain all audio  
4 and video footage used by the FACILITY to monitor Areas A, B, C, and D and the Loading and  
5 Unloading Area for a minimum of one (1) year and shall make the audio and video footage  
6 available to DTSC, upon request.

7 9.26 Training. GEM and Stericycle shall not allow GEM AND STERICYCLE  
8 EMPLOYEES who started their employment at the FACILITY before the EFFECTIVE DATE to  
9 STORE, MANAGE, TREAT, BULK, or CONSOLIDATE HAZARDOUS WASTE until he/she  
10 completes all the training attached as Exhibit 2 to this Stipulation except for the five trainings and  
11 testing identified in Paragraph 9.26(b) of this Stipulation. GEM AND STERICYCLE  
12 EMPLOYEES will have 30 days from the date of entry of the Final Judgment to complete the  
13 five trainings and testing in Paragraph 9.26(b). GEM and Stericycle shall not allow GEM AND  
14 STERICYCLE EMPLOYEES who commence their employment at the FACILITY on or after the  
15 EFFECTIVE DATE to STORE, MANAGE, TREAT, BULK, or CONSOLIDATE  
16 HAZARDOUS WASTE until he/she completes all the training attached as Exhibit 2 to this  
17 Stipulation and the testing identified in Paragraph 9.26(b)(3) except for the training identified in  
18 section 9.26(b)(1) - California Compliance School. GEM AND STERICYCLE EMPLOYEES  
19 will have up to six months from the date of commencement of their employment to complete the  
20 California Compliance School training.

21 a. Program of Classroom Instruction. GEM and Stericycle shall ensure that all GEM  
22 AND STERICYCLE EMPLOYEES successfully complete a program of classroom instruction  
23 that teaches them to perform their duties at the FACILITY in connection with the  
24 MANAGEMENT of HAZARDOUS WASTE in a way that ensures compliance with the  
25 requirements of the PERMIT, the HWCL, California Code of Regulations, title 22, sections  
26 66264.16 and 66273.36, and the additional requirements in this Stipulation and the Final  
27 Judgment. This program of classroom instruction shall be supervised by a person trained in  
28 HAZARDOUS WASTE MANAGEMENT procedures, including, but not limited to the HWCL,

1 and shall include instruction that teaches GEM AND STERICYCLE EMPLOYEES  
2 HAZARDOUS WASTE MANAGEMENT procedures that are relevant to the positions in which  
3 they are employed at the FACILITY.

4 b. GEM and Stericycle shall within 30 days of entry of the Final Judgment provide the  
5 following five trainings and testing identified in this section and provide documentation that the  
6 training was conducted in a timely manner within 45 days of entry of the Final Judgment:

7 1. California Compliance School. GEM and Stericycle shall provide training in  
8 Modules 1 through 5 from the California Compliance School for all GEM AND STERICYCLE  
9 EMPLOYEES who HANDLE HAZARDOUS WASTE at the FACILITY. Employees who are  
10 hired after the California Compliance School training is initially provided must take the  
11 California Compliance School training before they STORE, MANAGE, TREAT, BULK or  
12 CONSOLIDATE HAZARDOUS WASTE at the FACILITY, or within six months of hire,  
13 whichever occurs first.

14 2. 8 Hours of Incompatibility Training. GEM and Stericycle shall provide at least eight  
15 (8) hours of training every six months to GEM AND STERICYCLE EMPLOYEES on  
16 identifying, STORING, and separating INCOMPATIBLE WASTE, and explaining the dangers of  
17 STORING incompatibles together. At a minimum, this training shall include the following  
18 elements:

19 (i) basic chemistry and identification of INCOMPATIBLE WASTE/chemicals including  
20 the type(s) of chemical reactions associated with INCOMPATIBLE WASTE/chemicals.

21 (ii) Department of Transportation (DOT) requirements including site specific procedures  
22 for loading and unloading trucks.

23 (iii) California Code of Regulations, PERMIT requirements, and site-specific procedures,  
24 used for HANDLING and MANAGING INCOMPATIBLE WASTE in Areas A, B, C, D, and the  
25 Loading and Unloading Area, including testing procedures to identify potential  
26 INCOMPATIBLE WASTE in Area C.

27 (iv) GEM and Stericycle shall provide training in utilizing the United States  
28 Environmental Protection Agency (USEPA) Chemical Compatibility Chart (EPA 600/2-80-076

1 April 1980, or any subsequent revisions); California Code of Regulation, title 22, chapter 14,  
2 article 19, Appendix V, Examples of Potentially INCOMPATIBLE WASTE table; and Code of  
3 Federal Regulations, title 49, part 177, subparts A (Carriage by Public Highway) including, but  
4 not limited to, section 177.848, i.e., DOT Segregation of Hazardous Materials table. The USEPA  
5 Chemical Compatibility Chart; California Code of Regulations, title 22, chapter 14, Appendix V,  
6 ~~Examples of Potentially INCOMPATIBLE WASTE table; and DOT Segregation of Hazardous~~

7 Materials table shall be posted in Areas A, B, C, and D so that GEM AND STERICYCLE  
8 EMPLOYEES working in these PERMITTED areas of the FACILITY can refer to them when  
9 HANDLING HAZARDOUS WASTE.

10 (v) the history of violations/incidents at FACILITY involving INCOMPATIBLE  
11 WASTE.

12 (vi) applicable portions of the Emergency Contingency Plan and site-specific safety  
13 procedures including personal protective equipment and other safety equipment utilized in the  
14 event of an INCOMPATIBLE WASTE incident at the FACILITY.

15 3. Testing After 8 Hours of Incompatibility Training. GEM and Stericycle shall conduct  
16 testing after the 8 Hours of Incompatibility Training is provided to demonstrate that training  
17 participants are able to MANAGE INCOMPATIBLE WASTES consistent with the requirements  
18 of the HWCL. A GEM and Stericycle Employee who receives a score of 90 percent on a test will  
19 have passed the test. A GEM and Stericycle Employee who receives a score between 70 and 90  
20 percent must retake the test until a minimum score of 90 percent is obtained. A GEM Stericycle  
21 Employee who receives a score below 70 percent must retake the training and the test. The  
22 testing results will be provided to DTSC after each training.

23 4. 4 Hours Universal WASTE Training. GEM and Stericycle shall provide at least four  
24 (4) hours of training every six months on the HANDLING and MANAGEMENT of universal  
25 WASTE to GEM AND STERICYCLE EMPLOYEES.

26 5. Area C and Area D Standard Operating Procedures (SOP) Training. GEM and  
27 Stericycle shall provide Area C and Area D SOP Training, specifically compatibility training for  
28 BULKING and CONSOLIDATION of lab packs, loose packs, and solid WASTE in roll-off bins.

1 Thereafter, GEM and Stericycle will provide the Area C and Area D SOP Training every six  
2 months after entry of the Final Judgment. That training shall include, but not be limited to, the  
3 following according to each SOP:

4 (i) the scope and application of the procedure.

5 (ii) significance of the procedure.

6 (iii) the apparatus used.

7 (iv) reagents and materials.

8 (v) sample collection, preservation and HANDLING procedure.

9 (vi) BULKING and CONSOLIDATION procedures, including checking the pH,  
10 radioactivity and physical characteristics of the material as required by Table V-2 of the  
11 Waste Analysis Plan.

12 (vii) Quality Control Procedures the physical attributes of the WASTE and the procedures  
13 taken for CONSOLIDATION, and test container usage.

14 6. HAZARDOUS WASTE Operations and Emergency Response (HAZWOPER) 8-hour  
15 Supervisor Training. In addition to the PERMIT required training, which requires GEM and  
16 Stericycle to provide at least eight (8) hours of HAZWOPER supervisor training to  
17 SUPERVISOR/LEADMAN who have limited HANDLING of HAZARDOUS WASTE, GEM  
18 and Stericycle shall provide at least eight (8) hours of HAZWOPER supervisor training annually  
19 (every 365 days) for SUPERVISOR/LEADMAN who directly HANDLE HAZARDOUS  
20 WASTE, including but not limited to HANDLING that does and does not involve  
21 CONSOLIDATION and/or BULKING of HAZARDOUS WASTES.

22 c. Subsequent Revisions to Training Materials. GEM and Stericycle shall provide  
23 DTSC with all PERMIT and Stipulation and Final Judgment related training materials, including  
24 any subsequent revisions to training materials, 65 days prior to using them. DTSC may review  
25 and comment on the adequacy of the training materials. If DTSC reviews the training materials  
26 and determines them to be inadequate, DTSC will identify the deficiencies and request that GEM  
27 and Stericycle revise the training materials. GEM and Stericycle will remain responsible for the  
28 adequacy of the training and shall not be relieved of the requirements of the Stipulation and Final

1 Judgment. DTSC's action or inaction with regard to the training materials shall neither impair  
2 nor waive DTSC's authority to enforce the PERMIT, HWCL or the Stipulation and the Final  
3 Judgment.

4 9.27 FACILITY Representative Responsible for Compliance with Training. Within five  
5 (5) days of entry of the Final Judgment, GEM and Stericycle shall provide the name and position  
6 title of the GEM and Stericycle Employees that shall act as the authorized representative of GEM

7 and Stericycle and who shall be responsible for ensuring compliance with the training  
8 requirements under the HWCL, the PERMIT, and this Stipulation and the Final Judgment.

9 9.28 Verification of Training:

10 a. Initial Verification:

11 (1) GEM and Stericycle shall, within 30 days of the entry of the Final Judgment, provide  
12 documentation to DTSC demonstrating that all GEM AND STERICYCLE EMPLOYEES  
13 employed at the FACILITY on or before the EFFECTIVE DATE who STORE, MANAGE,  
14 TREAT, BULK, CONSOLIDATE, or otherwise come into contact with HAZARDOUS WASTE  
15 in the scope of their duties related to the operations of the FACILITY have completed all the  
16 trainings set forth in the attached Exhibit 2 to this Stipulation except for the five trainings and  
17 testing identified in section 9.26(b) of this Stipulation. For the 9.26(b) trainings and testing,  
18 GEM and Stericycle shall provide documentation that training and testing was completed within  
19 45 days of entry of the Final Judgment.

20 (2) For all GEM AND STERICYCLE EMPLOYEES hired after the EFFECTIVE  
21 DATE, before allowing GEM and STERICYCLE EMPLOYEES to engage in HAZARDOUS  
22 WASTE MANAGEMENT, GEM and Stericycle must provide documentation to DTSC that all  
23 the trainings set forth in Exhibit 2 to this Stipulation have been completed. GEM and Stericycle  
24 shall provide documentation that California Compliance School training was completed no later  
25 than 6 months and 15 days after the person was initially hired.

26 (3) The person identified in Paragraph 9.27 will certify under penalty of perjury under the  
27 laws of the State of California that the documentation provided to DTSC regarding the initial  
28 verification is true and correct.

1       b. Subsequent Verification: Every six months from entry of the Final Judgment, and  
2 continuing for five (5) years, GEM and Stericycle shall submit to DTSC a training table that  
3 includes the names of all GEM AND STERICYCLE EMPLOYEES that supervise, STORE,  
4 MANAGE, TREAT, BULK or CONSOLIDATE HAZARDOUS WASTE, including, but not  
5 limited to SUPERVISOR/LEADMAN and those who act as a SUPERVISOR/LEADMAN. The  
6 table must identify all the training set forth in Paragraph 9.26 of this Stipulation and in Exhibit 2  
7 to this Stipulation. The table shall include the GEM AND STERICYCLE EMPLOYEES' date of  
8 hire and date of termination, if applicable. The table shall also include the GEM AND  
9 STERICYCLE EMPLOYEES' initial training and each subsequent annual/refreshers training for  
10 the previous three years. With each submittal to DTSC, GEM and Stericycle shall provide the  
11 following:

- 12       (1) supporting documentation, including certificates and/or training sign-up sheets.  
13       (2) the syllabus used for the eight (8) hours of Incompatibility Training;  
14       (3) course outlines that describe (a) RCRA HAZARDOUS WASTE Generator Training,  
15 (b) Four (4) Hours of Universal WASTE Training, (c) Emergency Response Procedures and  
16 Contingency Plan Training, (d) PERMIT Training, and (2) Area C and Area D SOP Training.

17       9.29 Certification That All GEM AND STERICYCLE EMPLOYEES Have Received  
18 Training. Every six months after entry of the Final Judgment, the person identified in Paragraph  
19 9.27 will certify under penalty of perjury under the law of the State of California to DTSC that all  
20 GEM AND STERICYCLE EMPLOYEES who STORE, MANAGE, TREAT, BULK or  
21 CONSOLIDATE HAZARDOUS WASTE have received the training required under the HWCL,  
22 the PERMIT, and this Stipulation and the Final Judgment, within the time periods required.

23       9.30 Retention of Training Records. GEM and Stericycle shall retain training records on  
24 GEM AND STERICYCLE EMPLOYEES, including all records associated with Paragraph 9.26  
25 of this Stipulation until closure of the FACILITY is certified by DTSC; training records for  
26 terminated GEM AND STERICYCLE EMPLOYEES shall be kept for at least three years from  
27 the date of termination.  
28



1       9.31 Environmental Compliance Assurance Contractor. Within forty-five (45) calendar  
2 days of the entry of the Final Judgment, GEM and Stericycle shall employ and maintain for a  
3 period of five (5) years a third-party contractor knowledgeable in the California environmental  
4 laws that are the subject of this Stipulation and the Final Judgment, as an "Environmental  
5 Compliance Assurance Contractor." Prior to selecting the Environmental Compliance Assurance  
6 Contractor, GEM and Stericycle shall provide the name and curriculum vitae or otherwise present

7 the qualifications of the proposed Compliance Assurance Contractor to DTSC. The  
8 Environmental Compliance Assurance Contractor's responsibility shall be to manage GEM and  
9 Stericycle's compliance with the injunctive terms in this Stipulation and the Final Judgment.  
10 GEM and Stericycle shall remain responsible for the actions of said contractor and shall not  
11 otherwise be relieved of any requirements set forth in the PERMIT, this Stipulation, or the Final  
12 Judgment. The duties of the Environmental Compliance Assurance Contractor shall include:

- 13       a.     undertaking good faith efforts to assess GEM and Stericycle's compliance with  
14 applicable laws and regulations,
- 15       b.     advising GEM AND STERICYCLE EMPLOYEES on compliance with all applicable  
16 laws and regulations and to correct any noted deficiencies or violations, and
- 17       c.     collecting and maintaining copies of all written advisements of violation, including a  
18 Notice or Summary of Violation ("NOVs" and "SOVs") and inspection reports, issued or  
19 performed by any local, state, or federal agency that identifies any violation of any environmental  
20 protection law, relating to the FACILITY for a period of five (5) years.

21       9.32 Annual Reports. Beginning one year after the entry of the Final Judgment, and  
22 continuing for five (5) years from the entry of the Final Judgment, GEM and Stericycle's  
23 Environmental Compliance Assurance Contractor shall submit to DTSC, an annual status report,  
24 describing:

- 25       a.     the efforts by GEM and Stericycle to comply with the terms of this Stipulation and  
26 the Final Judgment,
- 27       b.     the occurrence of a reportable event or reportable events as defined in Health and  
28 Safety Code section 25508.1, NOVs or SOVs issued to GEM and Stericycle for the FACILITY,

c. any actions taken by the FACILITY in response to a reportable event and NOV/SOVs, and

d. any penalties paid by GEM and Stericycle with respect to such NOV/SOVs.

Each annual report shall be signed by GEM and Stericycle's Environmental Compliance Assurance Contractor, one corporate officer from GEM, one corporate officer from Stericycle Environmental Solutions, Inc.; and one corporate officer from Stericycle, Inc., under penalty of perjury under the laws of the State of California.

9.33 Environmental Audits. Within forty-five (45) calendar days of the entry of the Final Judgment, GEM and Stericycle shall select and retain the services of an independent third-party auditor who is qualified to conduct HAZARDOUS WASTE audits to determine compliance with the HWCL, the PERMIT, this Stipulation, and the Final Judgment and shall be either a Registered Environmental Assessor or Professional Engineer, licensed in California, and knowledgeable and experienced in environmental regulations, including the HWCL ("Auditor"). Prior to selecting the auditor, GEM and Stericycle shall provide the name and curriculum vitae or otherwise present the qualifications of the proposed Auditor to DTSC.

a. The Auditor will use the "Hazardous Waste Generator Inspection Report," attached hereto as Exhibit 3, as guidance for a HAZARDOUS WASTE audit protocol that will be used by the Auditor to determine whether GEM and Stericycle are meeting the requirements of the HWCL, PERMIT, this Stipulation, and the Final Judgment. In addition to any other audit objectives deemed appropriate by GEM and Stericycle, the environmental compliance audits shall evaluate GEM and Stericycle's compliance with the HWCL, PERMIT, and the requirements of this Stipulation and the Final Judgment. The HAZARDOUS WASTE compliance audits shall also evaluate the implementation and effectiveness of GEM and Stericycle's HAZARDOUS WASTE compliance program intended to maintain compliance with the HWCL, PERMIT, and this Stipulation and the Final Judgment.

b. The Auditor shall conduct three (3) HAZARDOUS WASTE compliance audits of the FACILITY, each at 18-month intervals. The first will be conducted 18 months after entry of the

Final Judgment, the second will be 36 months after entry of the Final Judgment, and the third will be 54 months after entry of the Final Judgment.

9.34 Narrative Audit Reports. For each audit, the Auditor shall also prepare and submit a narrative HAZARDOUS WASTE audit report to GEM and Stericycle, with a copy to DTSC, due within 60 calendar days after each of the three audit deadlines stated in Paragraph 9.33(b). The HAZARDOUS WASTE audit reports referenced above shall include, but not be limited to, a complete description and discussion of all audit objectives, scope, and criteria, audit activities, audit findings and audit conclusions, recommendations and shall identify and discuss all audit evidence considered or relied upon to support the audit conclusions. The HAZARDOUS WASTE audit reports shall also contain a brief description of any written advisements or violation, including formal NOV's or SOV's and inspection reports directed to GEM and Stericycle by any local, state, or federal agency that identifies any violation of any environmental protection law relating to the MANAGEMENT of any hazardous material or HAZARDOUS WASTE. Such reports shall also include, but not be limited to, a brief description of the disposition of any such noted violations, including whether GEM and Stericycle paid any fines, costs or other payments and what corrective measures taken by GEM and Stericycle to correct any deficiencies raised in the HAZARDOUS WASTE audit reports, if any, were taken by GEM and Stericycle. This requirement is not intended to be and shall not be construed as a "cure period" and does not relieve GEM and Stericycle of their obligation to promptly correct any deficiency or violation as required by the HWCL, the PERMIT, or this Stipulation and Judgment.

9.35 Compliance Audits are Not Binding on DTSC. The Parties agree that the HAZARDOUS WASTE compliance audits and corresponding audit reports are not binding on DTSC. DTSC in no way delegates or waives its enforcement authority. Furthermore, DTSC's action or inaction with respect to the audits shall neither impair nor waive DTSC's authority to enforce the HWCL, the PERMIT, or this Stipulation and the Final Judgment.

1       **10. CIVIL PENALTIES**

2       **10.1 SETTLEMENT PAYMENT**

3       a.     GEM and Stericycle shall pay DTSC a total of \$1,412,400 in civil penalties within  
4     thirty (30) days of the EFFECTIVE DATE.

5       b.     This payment shall be made by cashier's check, payable to the "Department of Toxic  
6     Substances Control" and bearing the notation "GEM and Stericycle, Inc. and Case No. 34-2017-  
7     00221348," and mailed to:

8     Cashier  
9     Accounting Office, MS-21A  
10    Department of Toxic Substances Control  
11    P.O. Box 806  
12    Sacramento, California 95812-0806

13       c.     An electronic (e.g., Adobe PDF) copy or paper photocopy of the payment shall be  
14     sent, at the same time, to those persons identified in Paragraph 11.

15       **10.2 LATE PAYMENT**

16       GEM and Stericycle shall pay a late payment of \$10,000 per day for each day the payment  
17     is late. In addition, GEM and Stericycle shall pay DTSC post-judgment interest as provided in  
18     Code of Civil Procedure section 685.010 (10%) from the date of default. Further, GEM and  
19     Stericycle is obligated to pay costs incurred by DTSC in enforcing the money judgment against  
20     GEM and Stericycle, in this matter, including, but not limited to reasonable attorney's fees.

21       **11. NOTICES**

22       11.1 All notices under this Stipulation and the Final Judgment shall be in writing and shall  
23     be sent to:

24     Denise Tsuji  
25     Branch Chief  
26     Department of Toxic Substances Control  
27     Enforcement and Emergency Response Division  
28     8800 Cal Center Drive  
29     Sacramento, CA 95826-3200  
30     Email: Denise.Tsuji@dtsc.ca.gov

1 Brooke O'Hanley Selzer  
2 Senior Attorney  
3 Office of Legal Counsel  
4 Department of Toxic Substances Control  
5 700 Heinz Ave.  
6 Berkeley, CA 94710  
7 Email: [Brooke.Selzer@dtsc.ca.gov](mailto:Brooke.Selzer@dtsc.ca.gov)

8 Rose B. Fua  
9 Deputy Attorney General  
10 1515 Clay Street, Suite 2000  
11 P.O. Box 70550  
12 Oakland, CA 94612-0550  
13 Email: [rose.fua@doj.ca.gov](mailto:rose.fua@doj.ca.gov)

14 Legal Department  
15 GEM/Stericycle, Inc.  
16 28161 N. Keith Drive  
17 Lake Forest, IL 60045

18 Matt Marra  
19 SVP, Safety, Health & Compliance  
20 28161 N. Keith Drive  
21 Lake Forest, IL 60045  
22 Email: [Matt.Marra@STERICYCLE.com](mailto:Matt.Marra@STERICYCLE.com)

23 James D. Treloar  
24 Vice President, TSDF Operations  
25 28161 N. Keith Drive  
26 Lake Forest, IL 60045  
27 Email: [James.Treloar@STERICYCLE.com](mailto:James.Treloar@STERICYCLE.com)

28 11.2 Each Party may change its respective representative(s) for purposes of notice by providing the name and address of the new representative, in writing, to those persons identified in Paragraph 11.1. All notices or other communications required or permitted under the Final Judgment that are addressed as provided in this Paragraph are effective upon delivery if delivered personally or by overnight mail, or, if delivered by certified mail, are effective five (5) calendar days following deposit with the United States mail, postage prepaid, if delivered by mail, or are effective the next court day that electronic mail is sent before 5 p.m. (PST) to the electronic mail addresses of the designated recipient for notice concurrent with sending the notice by United States mail.

1 11.3 All notices, approvals, and decisions of DTSC under the terms of this Stipulation or  
2 the Final Judgment shall be communicated to GEM and Stericycle in writing. No oral advice,  
3 guidance, suggestions, or comments by employees or officials of DTSC or people or entities  
4 acting on behalf of GEM and Stericycle, regarding matters covered in this Stipulation or the Final  
5 Judgment, shall be construed to relieve GEM and Stericycle of its obligations under this  
6 Stipulation or the Final Judgment.

7 11.4 Nothing in this Stipulation or the Final Judgment shall be interpreted or applied to  
8 relieve GEM and Stericycle of its existing obligations to provide copies of documentation to a  
9 local agency or Certified Unified Program Agency (CUPA) as required by statute, regulation, or  
10 requirement.

11 **12. RESERVATION OF AUTHORITY**

12 12.1 Other than "Covered Matters" as defined in paragraph 7.1, nothing herein is intended,  
13 nor shall it be construed, to preclude DTSC, or any state, county, or local agency, department,  
14 board, or entity from exercising its authority under any law, statute, or regulation.

15 12.2 Nothing in this Stipulation or the Final Judgment in any way waives or limits any  
16 authority DTSC has under the HWCL, to 1) enforce the Final Judgment, 2) use the violations in  
17 the Complaint to seek enhanced penalties in any subsequent administrative or civil action to show  
18 a pattern or course of conduct or a history of non-compliance, and 3) use the violations in the  
19 Complaint in a permitting proceeding, decision, and/or process.

20 12.3 Nothing in the foregoing is intended to or shall be construed as limiting or precluding  
21 DTSC from pursuing all of its remedies to enforce this Stipulation and the Final Judgment or  
22 from initiating an enforcement action against GEM and/or Stericycle seeking injunctive relief or  
23 penalties for the period of time GEM and/or Stericycle violated the terms of this Stipulation or the  
24 Final Judgment or from initiating an enforcement action against GEM and/or Stericycle for any  
25 violations of the HWCL or Title 22 except as provided by section 7, Matters Covered.

26 12.4 A decision by DTSC not to enforce any provision of this Stipulation or the Final  
27 Judgment shall neither be deemed a waiver of the provision, nor in any way affect the validity of  
28 this Stipulation, the Final Judgment, or DTSC's enforcement authority. A decision by DTSC not

1 to enforce any provision of this Stipulation or the Final Judgment shall not preclude DTSC from  
2 exercising its statutory authority to enforce the same or other provisions.

3 12.5 GEM and Stericycle covenant not to pursue any civil or administrative claims against  
4 DTSC or against any governmental unit of the State of California, any counties or municipalities  
5 in the State of California, or against their officers, employees, representatives, agents, or attorneys  
6 for actions taken against GEM and Stericycle arising out of or related to Covered Matters.

### 7 13. VIOLATIONS DEEMED PROVEN

8 GEM and Stericycle agree that, solely for purposes of subsection (a) and (b) below  
9 (hereinafter "Defined Situations"):

10 (a) a future DTSC enforcement action for new violations (i.e., not within Matters  
11 Covered) at the FACILITY; and/or

12 (b) a permitting proceeding, decision, and/or process regarding GEM and/or Stericycle as  
13 an applicant for or holder of a HAZARDOUS WASTE facilities PERMIT and/or HAZARDOUS  
14 WASTE transporter registration, including, but not limited to, any decision made pursuant to  
15 Health and Safety Code section 25186 and/or process arising from Health and Safety Code  
16 section 25200.21,

17 the violations alleged in the Complaint will be deemed proven without any need for  
18 testimony or other evidence. GEM and Stericycle each agree that the violations alleged in the  
19 Complaint may be used by DTSC in the Defined Situations, inter alia, as a basis for enhanced  
20 penalties or permitting proceeding(s), decision(s) and/or process(es). Further, GEM and  
21 Stericycle agree that, in any of the Defined Situations, neither GEM nor Stericycle will dispute  
22 the facts underlying the violations alleged in the Complaint or DTSC's use of the violations  
23 alleged in the Complaint as a basis for enhanced penalties or for permitting proceeding(s) and/or  
24 decision(s) and/or process(es). If DTSC seeks to use the violations alleged in the Complaint,  
25 GEM and Stericycle each also agree that, in any of the Defined Situations, they will not assert any  
26 defenses based on the passage of time, including, but not limited to, laches, estoppel, and statute  
27 of limitations.

1           **14. NO LIABILITY OF DTSC**

2           DTSC shall not be liable for any injury or damage to persons or property resulting from acts  
3 or omissions by GEM and/or Stericycle or its agents, servants, employees, representatives, or  
4 other persons acting in concert or participating with GEM and Stericycle, in carrying out  
5 activities pursuant to this Stipulation or the Final Judgment in this matter, nor shall DTSC be held  
6 as a party to or guarantor of any contract entered into by GEM and Stericycle or its agents.

7 servants, employees, representatives, or other persons acting in concert or participating with GEM  
8 and Stericycle, in carrying out the requirements of this Stipulation or the Final Judgment in this  
9 matter.

10           **15. FUTURE REGULATORY CHANGES**

11           Nothing in this Stipulation or the Final Judgment shall excuse GEM and/or Stericycle from  
12 meeting any more stringent requirements that may be imposed by applicable law or by changes in  
13 the applicable law.

14           **16. FUTURE PERMIT CHANGES**

15           Nothing in this Stipulation or the Final Judgment entered by the Court in this matter shall  
16 preclude DTSC from requiring more stringent requirements in GEM/Stericycle's PERMIT for  
17 this FACILITY.

18           **17. INTEGRATION**

19           This Stipulation constitutes the entire agreement between the Parties with respect to the  
20 Covered Matters and may not be amended or supplemented except as provided for in this  
21 Stipulation or the Final Judgment. No oral representations have been made or relied on other than  
22 as expressly set forth herein.

23           **18. INTERPRETATION OF THIS STIPULATION AND THE FINAL**  
24 **JUDGMENT**

25           This Stipulation and the Final Judgment shall be deemed to have been drafted equally by  
26 the Parties hereto. The Parties agree that the rule of construction holding that ambiguity is  
27 construed against the drafting party shall not apply to the interpretation of this Stipulation and the  
28 Final Judgment.



1           **19. CONTINUING JURISDICTION**

2           The Parties agree that this Court has continuing jurisdiction to interpret and enforce the  
3 provisions of this Stipulation and the Final Judgment and to address any other matters arising out  
4 of or regarding this Stipulation and the Final Judgment.

5           **20. AMENDMENTS TO THIS STIPULATION AND THE FINAL JUDGMENT**

6           This Stipulation and the Final Judgment may be amended or supplemented only pursuant to  
7 a written agreement signed by the Parties, followed by written approval by the Court, or by order  
8 of the Court following the filing of a duly noticed motion.

9           **21. COSTS AND ATTORNEYS' FEES**

10          Except as otherwise provided in this Stipulation, each Party to this Stipulation and the Final  
11 Judgment shall bear its own costs and attorneys' fees.

12          **22. AUTHORITY TO ENTER THIS STIPULATION**

13          Each signatory to this Stipulation certifies that he or she is fully authorized by the Party he  
14 or she represents to enter into this Stipulation, to execute it on behalf of the Party represented, and  
15 to legally bind that Party.

16          **23. COUNTERPARTS**

17          This Stipulation may be executed in several counterpart originals, each of which taken  
18 together shall constitute an integrated document.

19          **24. ENTRY OF THE FINAL JUDGMENT PURSUANT TO STIPULATION**

20          Pursuant to Code of Civil Procedure section 664.6, the Parties further stipulate that, upon  
21 approval of this Stipulation by the Court, the Court may enter the Final Judgment in this matter in  
22 the form set forth in the attached Exhibit 1. If the Court does not approve this Stipulation and the  
23 agreed upon Final Judgment in the form and substance proposed in Exhibit 1 hereto, each Party  
24 reserves the right to withdraw both this Stipulation and the proposed Final Judgment, upon  
25 written notice to all Parties and the Court.

1 IT IS SO STIPULATED.

2 Dated: October 15, 2018

For the California Department of Toxic  
Substances Control

3  
4 Original signed by Keith Kihara

5 KEITH KIHARA

CHIEF

6 ENFORCEMENT AND EMERGENCY RESPONSE  
7 DIVISION

HAZARDOUS WASTE MANAGEMENT PROGRAM

8 Dated: October 15, 2018

9 For General Environmental Management of  
10 Rancho Cordova, LLC, dba PSC Environmental  
11 Services of Rancho Cordova, LLC, Stericycle  
Environmental Solutions, Inc., Stericycle, Inc.

Original signed by Charles A. Alutto

12 CHARLES A. ALUTTO

CHIEF EXECUTIVE OFFICER

13 APPROVED AS TO FORM:

14 Dated: October 17, 2018

XAVIER BICERRA

ATTORNEY GENERAL OF CALIFORNIA

Original signed by Margarita Padilla

16 MARGARITA PADILLA

17 SUPERVISING DEPUTY ATTORNEY GENERAL

ROSE B. FUA

DEPUTY ATTORNEY GENERAL

18 Attorneys for Plaintiff, People of the State of  
19 California, ex rel. Barbara A. Lee, Director,  
20 California Department of Toxic Substances  
Control

21  
22 Dated: October 12, 2018

DANIEL P. BRUNTON

23  
24 DANIEL P. BRUNTON

LATHAM & WATKINS, LLP

25 Attorney for Defendants General Environmental  
26 Management of Rancho Cordova, LLC, dba PSC  
27 Environmental Services of Rancho Cordova,  
Stericycle Environmental Solutions, Inc.,  
Stericycle, Inc.

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1 IT IS SO STIPULATED.

2 Dated: October \_\_\_, 2018

For the California Department of Toxic  
Substances Control

3  
4  
5 KEITH KIHARA

CHIEF

ENFORCEMENT AND EMERGENCY RESPONSE

DIVISION

HAZARDOUS WASTE MANAGEMENT PROGRAM

6  
7  
8 Dated: October 15, 2018

For General Environmental Management of  
Rancho Cordova, LLC, dba PSC Environmental  
Services of Rancho Cordova, LLC; Stericycle  
Environmental Solutions, Inc.; Stericycle, Inc.

Original signed by Charles A. Alutto

9  
10  
11  
12 CHARLES A. ALUTTO

CHIEF EXECUTIVE OFFICER

13 APPROVED AS TO FORM:

14 Dated: October \_\_\_, 2018

XAVIER BECERRA

ATTORNEY GENERAL OF CALIFORNIA

15  
16  
17 MARGARITA PADILLA

SUPERVISING DEPUTY ATTORNEY GENERAL

ROSE B. FUA

DEPUTY ATTORNEY GENERAL

Attorneys for Plaintiff, People of the State of  
California, ex rel. Barbara A. Lee, Director,  
California Department of Toxic Substances  
Control

18  
19  
20  
21 Dated: October 12, 2018

DANIEL P. BRUNTON

Original signed by Daniel P. Brunton

22  
23  
24 DANIEL P. BRUNTON

LATHAM & WATKINS, LLP

Attorney for Defendants General Environmental  
Management of Rancho Cordova, LLC, dba PSC  
Environmental Services of Rancho Cordova,  
LLC; Stericycle Environmental Solutions, Inc.;  
Stericycle, Inc.

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**Exhibit 1**

**to**

**Stipulation for Entry of Order and Final Judgement on Consent**

**Case No. 34-2017-00221348**

XAVIER BECERRA  
Attorney General of California  
MARGARITA PADILLA, State Bar No. 99966  
Supervising Deputy Attorney General  
ROSE B. FUA, State Bar No. 119757  
Deputy Attorney General  
1515 Clay Street, 20th Floor  
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E-mail: [Rose.Fua@doj.ca.gov](mailto:Rose.Fua@doj.ca.gov)  
*Attorneys for Plaintiff, People of the State of  
California, ex rel. Barbara A. Lee, Director,  
California Department of Toxic Substances Control*

**EXEMPT FROM FILING FEES  
GOVERNMENT CODE § 6103**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA, EX  
REL. BARBARA A. LEE, DIRECTOR,  
CALIFORNIA DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL,

Plaintiff,

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;

Defendants.

Case No. 34-2017-00221348

**[PROPOSED] FINAL JUDGMENT ON  
CONSENT AND PERMANENT  
INJUNCTION**

Dept: 35  
Judge: Alan G. Perlman  
Trial Date: None Set  
Action Filed: October 26, 2017

(Code of Civil Procedure § 664.6)

Having reviewed the Stipulation for Entry of Order and Final Judgment on Consent (the  
"Stipulation") executed by Plaintiff, the People of the State of California, ex rel. Barbara A. Lee,  
Director of the California Department of Toxic Substances Control ("DTSC"), and Defendants  
General Environmental Management of Rancho Cordova, LLC, dba PSC Environmental Services  
of Rancho Cordova, LLC; Stericycle Environmental Solutions, Inc.; and Stericycle, Inc., and

1 good cause appearing herein, the Court finds that the settlement between the Plaintiff and the  
2 Defendants as set forth in the Stipulation is fair and in the public interest. Accordingly, the Court  
3 approves the Stipulation, a true and correct copy of which is attached as Exhibit A, and enters the  
4 Final Judgment on Consent and Permanent Injunction as set forth in the Stipulation.

5

6 IT IS SO ORDERED.

7

8 Dated:

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Hon. Judge of the Superior Court

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## Exhibit 2

to

Stipulation for Entry of Order and Final Judgement on Consent  
Case No: 34-2017-00221348

Injunctive Relief Training Requirements by Job Category				
Training Topic	No Handling of HW ***	Limited Handling of HW***	Direct Handling of HW, No Consolidation and/or Bulking***	Direct Handling of HW, Consolidates Chemical Waste and/or Bulks Waste ***
HAZWOPER (8 CCR 5193) 40-hour		I	I	I
HAZWOPER 8-hour supervisor		I	I/S	I/S
HAZWOPER 8-hour refresher		R	R	R
IIPP	I	I	I	I
Emergency Response Procedures and Contingency Plan		I/R	I/R	I/R
Confined Space		I	I/R as required	I/R as required
First Aid/CPR			I/R as required	I/R as required
DOT Hazardous Materials Regulations and DOT Security Plan Training	I/R every 3 years	I/R every 3 years	I/R every 3 years	I/R every 3 years
Physicals	I	I	I/Annual	I/Annual
Permit Part B Training for all Roles not involving Consolidation and/or Bulking	I (job specific)	I/R	I/R	I/R
Permit Part B Training for all roles involving Consolidation and/or Bulking				I/R
RCRA Hazardous Waste Generator Training (66264.16)		I/R	I/R	I/R
8 Hours Chemical Compatibility and Storage, Chemical Identification and Classification, Segregation and Basic Chemistry Training		I/R/S (every 6 months)	I/R/S (every 6 months)	I/R/S (every 6 months)
Contingency Plan Outline/Overview	I/R	I/R	I/R	I/R
Respiratory Protection Program			I/R	I/R
Respirator Fit Testing			I/R as required	I/R as required
Laboratory Chemical Hygiene Plan		I**	I**	I**
Three days of California Compliance School Modules 1-5		I/S	I/S	I/S
4 Hours Universal Waste Training		I/R/S (every 6 months)	I/R/S (every 6 months)	I/R/S (every 6 months)
Area C and Area D SOP Training		I/R/S (every 6 months)	I/R/S (every 6 months)	I/R/S (every 6 months)

I = Initial (required)

R = Refresher (annual except where noted)

S = As Required by the Stipulation

\*\* = Chemist and Laboratory Technicians Only

\*\*\* = Including Managers, Supervisors, Employees, Contractors and Temporary Employees



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**Exhibit 3**

to

**Stipulation for Entry of Order and Final Judgement on Consent**

**Case No. 34-2017-00221348**

AGENCY  
Certified Unified Program Agency (CUPA)  
Address, City, California ZIP  
Telephone: (XXX) XXX-XXXX Fax: (XXX) XXX-XXXX

## HAZARDOUS WASTE GENERATOR INSPECTION REPORT - A

Facility Name \_\_\_\_\_ Date \_\_\_\_\_  
Site Address \_\_\_\_\_ Time In \_\_\_\_\_ Time Out \_\_\_\_\_  
Owner/Operator \_\_\_\_\_ Phone \_\_\_\_\_ Misc. \_\_\_\_\_  
Type of Inspection \_\_\_\_\_ Inspection Consolidation \_\_\_\_\_ EPA ID # \_\_\_\_\_  
Routine \_\_\_\_\_ Re-inspection/Follow-up \_\_\_\_\_ Combined Routine Inspection \_\_\_\_\_  
Complaint \_\_\_\_\_ Focused \_\_\_\_\_ Integrated or Multi-Media Inspection \_\_\_\_\_  
Other \_\_\_\_\_ CUPA Facility ID# \_\_\_\_\_

CONSENT TO INSPECT GRANTED BY (Name / Title): \_\_\_\_\_  
Inspection may involve obtaining photographs, review and copying of records, and determination of compliance with hazardous waste handling requirements.

I - Class I Violation, II - Class II Violation, M - Minor Violation

		Page of						
I	II	M	Code	HAZARDOUS WASTE REQUIREMENTS	Y	N	N/A	COMMENTS/NOTES/DOCUMENT(S) REVIEWED MISSING INFORMATION/UNRESOLVED ISSUES
Recordkeeping/documentation								
			GR01	Generator has an EPA ID number				
			GR02	Hazardous waste determination made for all wastes. Analysis Generator Knowledge				
			GR03	Contingency plan information posted near phone				
			GR04	Facility personnel demonstrate training/awareness				
			GR05	Manifest/Consolidated Manifest receipts complete				
			GR06	A legible copy of manifest mailed to DTSC				
			GR07	TSD signed copy of manifest available w/in 35 days of waste shipment. Exception Report submitted				
			GR08	Bills of Lading/receipts available				
			GR09	LDRs available and complete				
			GR10	Onsite recycling reported using UPCP				
Container/tank management								
			GC01	Containers are in good condition				
			GC02	Containers are closed except when adding/removing				
			GC03	Empty containers are empty				
			GC04	Containers inspected weekly				
			GC05	Tanks inspected daily				
			GC06	Satellite containers at or near point of generation				
			GC07	Satellite containers under control of operator				
			GC08	One container per waste stream at satellite area				
			GC09	Exclude recyclable materials stored in accordance with local ordinance/hazardous materials codes				
Accumulation Time Limits								
			GA01	Waste is accumulated not more than 90/180/270				
			GA02	Satellite wastes accumulated for less than 1 year				
			GA03	Empty containers managed within one year				
			GA04	Universal waste accumulated less than one year				
			GA05	Used oil filters offsite within 180 (1 year if < 1 ton)				
			GA06	Pb-acid batteries offsite within 180 (1 yr. if < 1 ton)				
Labeling/Markings								
			GL01	Containers are properly labeled				
			GL02	Satellite containers have 2nd ASD marked once full				
			GL03	Excluded recyclable materials marked properly				
			GL04	Universal waste container properly labeled				
			GL05	Used oil filters marked "drained used oil filters"				
			GL06	Date written on spent lead acid batteries				
			GL07	"Used Oil" marked on all used oil tanks/containers				
			GL08	Tank marked with "haz waste", contents, start date				
			GL09	Empty containers marked with date emptied				
Treatment, Transport and Disposal/Other								
			GT01	Have permit/authorization to do treatment				
			GT02	Waste sent with authorized transport (gen. eligible)				
			GD01	Waste disposed of to authorized point/party				
			GH01	Failed to properly handle appliance wastes				

### POST INSPECTION INSTRUCTIONS:

- Refer to the back of this inspection report for regulatory citations and corrective actions
- Correct the violation(s) noted above by \_\_\_\_\_
- Within 5 days of correcting all of the violations sign and return a copy of this page to: CUPA, address, city, CA, zip: ATTN: \_\_\_\_\_

Signature (that all violations have been corrected as noted)

Date

CODE	Description of Violation (Regulatory/statutory citation) Corrective actions to be taken for minor violations (marked in the "M" column on front)
GR01	The facility failed to obtain an EPA ID number [Title 22, CCR, 66262.12] For a California EPA ID # contact the Department of Toxic Substances Control at 1-800-618-6942. For a EPA ID # call 415-495-8895. Write the number in the space marked "EPA ID # _____" on the front of this page.
GR02	The facility failed to make a waste determination for the waste based on your knowledge (you can use MSDS or other documents for help) or have the waste sampled and sent to a state certified laboratory for analysis. If sampling is conducted tell the lab to analyze for _____ noted in the [Title 22, CCR, 66262.11]
GR03	The facility did not have the name and phone number of the emergency coordinator, the location of fire extinguishers and spill control equipment, or the fire department telephone number posted next to the telephone. [Title 22, CCR, 66262.34(d)(2)] Prepare and post the above information next to a phone.
GR04	Facility personnel did not demonstrate that they were familiar with proper waste handling procedures due to [Title 22, CCR, 66262.34(d)(2)] Provide training to personnel regarding _____
GR05	The facility failed to properly complete a hazardous waste manifest. Manifest # _____ was missing. [Title 22, CCR, 66262.23(a)(1)]. Correct the information on this manifest in Box(es) _____, Initial and date. Submit a letter to DTSC, QISS, P.O. Box 806 First St., Sacramento, CA 95812-0806 stating the manifest #, the ship date, your EPA ID #, the Box # and correction made and your signature. (Correction for more than one manifest may be included in the same letter)
GR06	Facility failed to submit a copy of the manifest to DTSC within 30 days of shipment. [Title 22, CCR, 66262.23(a)(4)] New manifests do not have "mail to" address on the form any longer. Requirement to submit to State still exists. Copies (photocopy or original) after TSD copy is received should be sent to DTSC Generator Manifests, P.O. Box 400, Sacramento, CA 95812-0400. No proof of submission is required. Inspectors may look at HWTS to determine if copies have been received (look for "Y" in the "Paired" column to start), but be aware that data entry to HWTS may lag by up to 6 months.
GR07	TSDF copies should be received within 35 days of shipment. If not, generators should contact TSDF to determine status. If copy not received within 45 days (or 60 days for <100kg/mo), an exception report should be submitted to DTSC. [Title 22, CCR, 66262.42]
GR08	The facility failed to have copies of receipts for the removal of lead acid batteries/66266.130- oil filters. The facility shall contact _____ and request copies of receipts between _____ & _____ [HSC 25160.2-Consolidated manifests/ 66266.81(a)(6)(B)-
GR09	The facility failed to complete or maintain a Land Disposal Restriction notification for manifest # _____ [Title 22, CCR, 66262.34(a)(4)]. The facility shall determine if its waste is subject to LDR requirements, and if so, ensure that a LDR is prepared and submitted with each shipment of waste.
GR10	The facility did not submit a recycling report [HSC 25143.10]. The facility shall complete and submit the UPCR form "Recyclable Materials Report". The form can be found at <a href="http://www.calrec.ca.gov/publications/title27/default.htm#/hwrecyc.pdf">www.calrec.ca.gov/publications/title27/default.htm#/hwrecyc.pdf</a>
GC01	The facility failed to maintain containers holding hazardous waste in good condition. The container of _____ was [Title 22, CCR, 66262.34(a)(1)(A)] The contents of the container of _____ shall immediately be transferred to a container in good condition
GC02	The facility failed to keep containers closed except when adding/removing waste. The container of _____ was observed open [Title 22, CCR, 66262.34(a)(1)(A)]. The facility shall immediately close all containers and ensure that containers remain closed except when adding or removing waste.
GC03	The facility is handling contaminated containers empty when they are not. A container of _____ was noted as not meeting the definition of empty. [Title 22, CCR, 66261.7] The facility shall mark the container as hazardous waste or consolidate the contents of the _____ container.
GC04	The facility could not demonstrate that containers were being inspected weekly. [Title 22, CCR, 66262.34(a)(1)(A)] The facility shall develop and implement a plan that ensures that all containers holding waste are inspected weekly.
GC05	The facility could not demonstrate that tanks were being inspected daily. [Title 22, CCR, 66262.34(a)(1)(A)] The facility shall keep a log showing that tanks holding waste are inspected daily.
GC06	Containers utilizing satellite accumulation rules were not at or near the point of generation. [Title 22, CCR, 66262.34(e)(1)(A)] The facility shall move the container holding _____ to a location that is at or near the point of generation or shall ensure that the waste is removed within 90/180/270 days of first drop of waste being added. If the facility generates less than 100 kg, the clock does not start until 100 kg are generated.
GC07	Containers utilizing satellite accumulation rules were not under the control of an operator. [Title 22, CCR, 66262.34(e)(1)(A)] The facility shall ensure that an operator is at or near the point of accumulation or shall ensure that the waste is removed within 90/180/270 days of first drop of waste being added.
GC08	The facility kept more than one satellite container of _____ at a satellite accumulation area. [Title 22, CCR, 66262.34(e)(1)] The facility shall immediately remove all but one container from the accumulation area or shall demonstrate that it is not practical or safe to do such.
GC09	The facility stored excluded recyclable materials not in accordance with local ordinance/fire code/hazardous materials codes [HSC 25143.9(c)]. The facility shall return to code by: _____
GA01	The facility accumulated waste for greater than allowed time limits (Storage without a permit). A container of _____ marked on it. [Title 22, CCR, 66262.34(b)] The facility shall immediately arrange for the removal of the waste, and shall supply a copy of the manifest or bill of lading demonstrating removal within _____ days. Find an start date of _____
GA02	The facility held satellite accumulation wastes for greater than one year. [Title 22, CCR, 66262.34(e)(1)(B)] See GA01 above for corrections.
GA03	The facility failed to properly handle contaminated containers within 1 year. [Title 22, CCR, 66261.7(c)] See GA01 above for corrections.
GA04	The facility held universal wastes for greater than one year. [Title 22, CCR, 66273.15(a) or 66273.35(a)] See GA01 above for corrections.
GA05	The facility held drained used oil filters for greater than 180 days/one year. [Title 22, CCR, 66266.130(e)(4)] See GA01 above for corrections.
GA06	The facility held lead acid batteries for greater than 180 days/one year. [Title 22, CCR, 66266.81(a)(6)] See GA01 above for corrections.
GL01	The facility failed to properly label all containers. Containers, contents and missing information are noted on the front of this page. [Title 22, CCR, 66262.34(f)] The facility shall clearly mark all containers with the following: 1) the words "Hazardous waste"; 2) composition and physical state; 3) hazard property; 4) name and address of the generator; and 5) accumulation start date.
GL02	The facility failed to mark the date the container was moved from the satellite accumulation area. [Title 22, CCR, 66262.34(e)(1)(B)] The facility shall mark all satellite accumulation with the date waste is first added as well as the date the container is full.
GL03	The facility failed to mark tanks/container(s) of excluded recyclable materials properly [HSC 25143.9(a)] The tanks/container(s) of materials shall be clearly marked with the words "Excluded recyclable material" instead of "hazardous waste".
GL04	The facility failed to mark a container of universal waste properly. [Title 22, CCR, 66273.14 for SQH or 66273.34 for LQH]. The facility shall immediately mark all containers holding universal waste with the words "Universal Waste".
GL05	The facility failed to mark a container of drained used oil filters with the words "drained used oil filters". [Title 22, CCR, 66266.130(e)(D)] The facility shall mark all filter containers with the words "drained used oil filters".
GL06	The facility failed to mark the date on which the battery was received. [Title 22, CCR, 66266.81(a)(6)(D)] The facility shall mark the date on each battery.
GL07	The facility failed to mark a tank/container of used oil destined for recycling with the words "used oil" [HSC 25143.9(a)] Clearly mark all tanks and containers with the words "used oil".
GE08	The facility failed to mark the tank of _____ with the _____ [Title 22, CCR, 66234(f)] The facility shall clearly mark the tank with _____
GL09	The facility failed to mark contaminated containers with the date emptied. [Title 22, CCR, 66261.7(f)] Clearly mark all containers with the date emptied.
GR01	The facility failed to remove _____ from an appliance prior to crushing, baling, shredding, sawing or disposing of the appliance [HSC 25212(a)]. The facility must submit to DTSC an application to be certified as a "Certified Appliance Recycler"
GT01	The facility failed to obtain a permit or other authorization for treatment of hazardous waste. [HSC 25189.5(d)]
GT02	The facility failed to use a registered transporter/used a transporter of consolidated waste when they were not eligible [HSC 25165(a)(2)(60)]
GD01	The facility disposed of hazardous waste at an unauthorized point. [HSC 25189.5(a)]

**GENERATOR INSPECTION OBSERVATIONS PAGE**

- Wasser restriction

### Accumulation Areas

90/180/270 days

**Other.**

### Onsite Recycling

**Certified Appliance Recycler that removes/handles**

### General Facility Observations

Guide to violations and violation codes found on back of the inspection report

100 kg  $\approx$  27 gallons liquid  $\approx$  220 lbs. solid; 1000 kg  $\approx$  270 gallons liquid  $\approx$  2200 lbs. solid

Code	Regulation, description, guidance
GR01	Facility failed to get an EPA ID #. All generators (except silver only) must have an EPA ID #. If a facility generates more than 100 kg of RCRA waste in any month they need a Federal EPA ID, otherwise they need a California EPA ID.
GR02	Facility failed to make a waste determination. Facilities must make waste determinations for all wastes. They can apply generator knowledge, but it must be based on knowledge of the waste or process. Guidance can be given regarding lab testing, indicating test methods or generic test names (e.g. fish bioassay or CAM-17 WET or pH) and certified labs for use.
GR03	Incomplete contingency plan info. Facilities that generate less than 1000 kg/month may post the following information by the phone in place of generating a written contingency plan: 1) emergency contact name and phone number, 2) fire department phone number, and 3) location of extinguishers and spill equipment.
GR04	Personnel not adequately trained. Facilities that generate less than 1000 kg/month only have to demonstrate that staff are familiar with waste handling procedures, not prepare a written training program or records of completion. Systemic problems with labeling, open containers or other waste handling procedures may be reason to use this citation.
GR05	Failure to complete the manifest/incomplete consolidated manifest receipt. Generators are responsible for Boxes 1-3 & 5-15. Consolidated Manifest receipts must include the following information: Facility Name, EPA ID number, type and quantity of waste, receiving facility name and address, manifest number, transporters name, signatures of generator and transporter.
GR06	Facility failed to submit manifest copy. Each manifest contains 6 copies, two of which must be returned to DTSC (one by the generator). The generator now needs to photocopy their original manifest and send it to DTSC, GISS, P.O. Box 400, Sacramento, CA 95812-0400. Inspectors may only confirm this is being done by asking the facility if it has been done.
GR07	Failed to submit exception report. Facilities need to notify DTSC when they don't get a copy of the manifest back from the TSDF within 45 days of shipment. Within 60 days of this date, the report should be sent to DTSC.
GR08	No copies of bills of lading/receipts. Many wastes (oil filters, antifreeze, oil/water sludges, oily solids, brake fluid, paint related waste, photo solutions, hydroxide sludges, PERC, asbestos, ink, lab packs from K-12 schools, fuel filters) can be shipped under consolidated manifests or (lead acid batteries and universal wastes) bills of lading. Transporters must leave a receipt with the generator at pick up of these wastes. The receipts need to be kept 3 years.
GR09	No LDR. LDR notifications must go with all RCRA wastes. Look for LDRs for each waste with a federal waste code in Box 13 of the manifest. LDRs should show what the waste (or code) is and the minimum treatment standard.
GR10	Failed to submit a recycling report. Facilities that recycle more than 100 kg of waste for re-use onsite have to fill out the report form. Onsite recycling includes reuse of wastewater in plating baths, antifreeze recycling units, and re-circulating solvent sinks. Facilities may need help determining which exemption applies to them when filing the form.
GC01	Containers in poor condition. Containers holding waste should be free of severe rust, major dents, and not leaking.
GC02	Containers not closed. Containers must be kept closed unless adding or removing waste.
GC03	Empty containers not empty. Empty containers must not have a steady stream of liquid escape when inverted or solids must be scraped clear as much as practical. Empty containers may still have some waste in them after emptying from settling of residues ensure the facility took measures to make the container empty (i.e. inverted it over new drum).
GC04	Not inspecting containers weekly. While inspections are required, logs are not required to be kept. Look for signs that containers aren't being inspected such as improper labeling, open containers or containers in poor condition.
GC05	Tanks not inspected daily. Written tank inspection logs are not required. Only applies to operating days (day tank is being used). Tank inspections should include condition of containment (including dryness), spill control, and corrosion.
GC06	Claiming satellite, but not at or near point of generation. Inspectors discretion for definition of "at or near". Wastes not at or near don't qualify for 1-year satellite accumulation rule; must be held to 90/180/270 day accumulation times.
GC07	Satellite: Not under control of operator. Containers should be able to receive regular attention from a human being.
GC08	More than one container per wastestream. Satellite accumulation rules allow only one container, up to 55 gallons in size, per satellite area for each waste stream unless it can be shown that it is not practical or safe.
GC09	Excluded recyclable material storage. These wastes are excluded, and not subject to Title 22 storage or accumulation rules, they are materials. Use fire code and local ordinance to govern storage (i.e. containment, occupancy segregation) unless no local ordinance exists, then default to Title 22 tank regs.

GA01	Accumulation greater than time limits (Storage without a permit). If the facility generates >100 kg/mo. (total waste), clock starts with first drop. If the facility generates <1000 kg/mo. (total) AND never has >6000 kg onsite AND ships >200 miles they get 270 days to accumulate. If generating <1000 kg/mo. (total) AND never has >6000 kg onsite they get 180 days. If generating >1000 kg/mo. (total), they get 90 days to accumulate. If <100 kg/mo., get 180/270 days from the time they reach the 100 kg total waste. If > 1 kg/mo. of Acutely/Extremely hazardous, treat like >1000 kg. of "regular" waste.
GA02	Satellite accumulation for greater than one year. Satellite wastes can be held for one year from first drop OR 90/180/270 days from time container is full, whichever comes first.
GA03	"Empty" containers held greater than one year. Empty containers should be sent offsite for scrap value, reconditioning, reuse or refill if greater than 5 gallons. Those ≤5 gallons may be disposed of to a solid waste facility (with the trash).
GA04	Universal waste greater than one year. Universal wastes (fluorescent light tubes, non-lead-acid batteries, mercury switches, thermostats, aerosol cans and intact CRTs) may be stored onsite for up to one year.
GA05	Oil filters greater than 180 days/yr. A facility can hold up to one ton (≈4 drums of crushed or 8 drums of uncrushed) of filters for one year. If the one ton limit is reached, the filters should be sent off within 180 days of the date the first filter was added to each container.
GA06	Lead-acid batteries greater than 180 days/1 year. A facility can hold up to one ton (≈65 batteries) of batteries for one year. If the one ton limit is reached the batteries should be sent off within 180 days of the date on the first battery collected.
GL01	Labeling. The facility shall clearly mark all containers with the following: 1) the words "Hazardous waste"; 2) composition and physical state; 3) hazard property (e.g. toxic); 4) name and address of the generator, and 5) accumulation start date.
GL02	Marking satellite full date. Once a satellite container is full, it is subject to the 90/180/270 day or 1 yr. ceiling, whichever comes first. The "full date" indicates the beginning of this time period, while the "original date" is used for the 1 yr. limit.
GL03	Marking "excluded recyclable materials". Recyclable materials do not have to put the same information on containers or tanks as wastes. During accumulation of materials containers need to be marked with the words "excluded recyclable materials" in place of "hazardous waste". All other labeling requirements remain. If the material is being sent offsite, the materials (DOT) labeling and placarding must be followed.
GL04	Marking Universal Waste. Universal waste containers must be marked "Universal Waste (type)" OR "Waste (type)" OR "used (type)". (Type) is Batteries, mercury thermostats, lamps, aerosol cans. CRTs can be marked "CRTs" or "CRT glass".
GL05	Oil Filter marking. Filters must be marked with the words "Drained Used Oil Filters" and the date the first filter is added to the container.
GL06	Lead Acid Battery marking. Each battery must be marked with the date it is received or determined to no longer be usable. Damaged batteries must have the date written on the outside of the container holding the damaged battery.
GL07	Used oil marking. All tanks and containers that hold used oil destined for offsite recycling must be marked with the words "used oil". Used Oil containers do not have to have the physical state or hazardous properties marked on them.
GL08	"Empty" container marking. Contaminated containers that are empty (see GC03) must be marked with the date they are emptied unless being sent for refilling. (All other packaging or product information should be removed or obscured.)
GL09	Tanks properly labeled. Tanks must be marked with the words "Hazardous Waste", the contents of the tank, and the accumulation start date.
GH01	Uncertified appliance recycler. Businesses must be certified by DTSC before removing PCB capacitors, mercury switches, CFCs, oil, or sodium azide canisters from major appliances. Each item MUST be removed prior to baling, crushing, shredding, etc. Appliances may be sent by an unregistered location to a certified recycler with first being processed. Once removed, all removed items must be handled as Hazardous Wastes.
GT01	Illegal Treatment. A permit or authorization (PBR/CA/CE) is needed to treat hazardous waste. Treatment is defined as method, technique or process that changes the physical, chemical or biological character or composition of a waste AND causes the waste become non- or less hazardous. Many activities have been specifically exempted from this: (1) adding absorbent that changes only the physical state of the waste, (2) dilution that does not result in a less hazardous waste, (3) mixing like wastes for consolidation prior to offsite shipment, and (4) without adding heat, chemicals or pressure (a) sieving or filtering liquids to remove solid fractions; (b) phase separation during accumulation; or (c) evaporation of water.
GT02	Failed to use registered transporter/used consolidated manifest when not eligible. Consolidated transporters need to have registered with DTSC. List of registered transporters can be found at 916-255-4368 or at <a href="http://www.dtsc.ca.gov/database/Transporters/Trans000.cfm">http://www.dtsc.ca.gov/database/Transporters/Trans000.cfm</a> . The facility must generate <1000 kg/mo. total waste (excluding used oil) to be eligible.
GD01	Illegal disposal. Hazardous wastes must be sent to an authorized treatment, storage or disposal facility. Application of wastes to land is prohibited.

# **EXHIBIT D**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of

General Environmental Management of  
Rancho Cordova, LLC, dba PSC  
Environmental Services, LLC  
11855 White Rock Road  
Rancho Cordova, California 95742

ID Number: CAD980884183

Respondent

Docket HWCA 20125570

IMMINENT AND SUBSTANTIAL  
ENDANGERMENT DETERMINATION  
AND ENFORCEMENT ORDER

Health and Safety Code, section  
25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) issues this Imminent and Substantial Endangerment Determination and Enforcement Order (Order) to General Environmental Management of Rancho Cordova, LLC, dba PSC Environmental Services, LLC (hereafter referred to as "Respondent").

1.2. Site. Respondent operates a hazardous waste storage and treatment facility, located at 11855 White Rock Road, Rancho Cordova, California, EPA ID Number: CAD 980884183 (Site). The storage and treatment facility includes, but is not limited to, an administrative building, a lab, truck parking, and five (5) waste management units. The facility is situated on a 4.5 acre parcel identified by Sacramento County Assessor Parcel map number 072-0530-001. The Site is located in an area that is primarily industrial or open space and adjacent to White Rock Road, a public street. The Department estimates the closest residence to be about a mile from the Site. A map of the Site is attached as Exhibit A.



1.3. Permit/Interim Status. Respondent operates an active permitted hazardous waste storage and treatment facility that is authorized to engage in sampling, storage, packaging, re-packaging, bulking and consolidation in containers of RCRA, non-RCRA, and Toxic Substance Control Act (TSCA) waste, container crushing and equipment flushing. The Site has a permitted capacity of approximately 82,320 gallons of hazardous waste. The permitted activity is conducted within five (5) waste management units known as areas A, B, C and D and a drum crusher unit. After storage, bulk liquid and containerized hazardous wastes are transferred off-site to an end user (recycler) or an off-site permitted disposal facility.

1.4. Jurisdiction.(a) Health and Safety Code section 25187, subdivision (a)(1), authorizes the Department to order an action necessary to correct violations and assess a penalty whenever the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto. Health and Safety Code section 25187, subdivision (h), authorizes the Department to issue an Order that takes effect upon issuance if the Department finds that the violations identified in the Order may pose an imminent and substantial endangerment to the public health or safety or the environment.

#### FINDINGS OF FACT

2.1. Repackaging and bulking operations are forms of consolidation.

2.2. Area C is a building that is permitted for sampling and consolidation of hazardous waste, as specified in the permit.

2.3. Area D is located outdoors and is permitted for sampling and consolidation of hazardous waste, as specified in the permit.

2.4. Respondent handles, stores, consolidates and otherwise manages a wide variety of hazardous waste at the Site, as identified in Part A of Respondent's Permit application, including incompatible wastes types identified in California Code of Regulations title 22, section 66264.801, appendix V.

2.5. The accidental mixing of incompatible hazardous wastes or

materials during consolidation at the Site may cause a fire, explosion or other violent reaction that releases uncontrolled toxic materials in sufficient quantities to threaten human health or the environment. In addition to causing fires, explosions and other violent reactions, mixing incompatible hazardous wastes together during consolidation operations at the Site can also create toxic vapors or gases, or cause container failures, which could result in the release of corrosive waste and other hazardous waste constituents.

2.6. On March 8, 2011, Respondent performed a consolidation operation in Area C involving a 55-gallon drum containing approximately 25 gallons nitric acid. This operation resulted in a violent and uncontrolled reaction. The reaction caused an explosion that ruptured the drum and launched it approximately 15 feet in the air, releasing vapors and hazardous waste to the surrounding environment. Respondent's March 16, 2011, letter to the Department reported that the reaction was likely caused by the mixing of incompatible waste, believed to be water soluble organics mixed with acids.

2.7. On August 2, 2011, Respondent performed a consolidation operation in Area C. The operation caused a fire that burned and destroyed four, 55 gallon drums of hazardous waste, which released toxic smoke to the surrounding environment. As a result of the fire, two firefighters from the Sacramento Metropolitan Fire District were sent to the local hospital for observation. Respondent mailed a report which described the fire event to the Department on August 15, 2011. According to Respondent's report, at approximately 10:40 AM an employee finished consolidation operations of pool chemical tablets into a 55-gallon drum and then closed the drum's lid. Approximately five minutes after consolidation, Respondent's employees observed green-yellow gas/smoke coming from the drum, and the drum begin to pressurize. Respondent then evacuated employees from Area C. During the evacuation, the drum pressurized enough to force the lid off the drum. Approximately 5 minutes after the evacuation of Area C, two of Respondent's employees returned to Area C after equipping themselves with personal protective equipment, including self-contained

breathing apparatus (SCBA). These employees attempted to extinguish a small fire found burning in the drum with a small dry chemical fire extinguisher. However, the two employees were unable to extinguish the fire and after using the contents of one fire extinguisher they left Area C. Shortly thereafter, the fire department arrived and restricted all personnel from the active area until the fire was extinguished.

2.8. On February 28, 2013, Respondent consolidated hazardous waste solids from twenty-five, 55 gallon drums and 2,893 pounds of trash into a roll-off bin in Area D, which is located outdoors. On March 2, 2013, Respondent consolidated ten more 55 gallon drums of hazardous waste solids into the roll-off bin. On March 3, 2013, at approximately 6 AM a passerby reported observing flames coming from the site and called the local fire department. The fire department responded to the Site and then extinguished the fire found in the roll-off bin at approximately 6:45 AM. Respondent hand delivered a report, dated March 15, 2013, to the Department on March 18, 2013, the report indicates that the likely cause of the fire was an exothermic reaction that occurred from the mixing of incompatible wastes during the consolidation operation in the roll-off bin. Based on security camera footage, the roll-off bin began to smolder on March 3, 2013 at approximately 1:30 AM. Therefore, the time period over which the fire occurred at the Site is approximately five hours. The fire burned the consolidated hazardous waste which was stored in the roll-off bin, releasing smoke and potentially toxic constituents into the environment.

#### DETERMINATION OF VIOLATIONS AND IMMINENT AND SUBSTANTIAL ENDANGERMENT

The Department has determined that:

3.1. Respondent violated California Code of Regulations, title 22, section 66264.31 and section 66264.177, subsection (a), on or about March 8, 2011, in that Respondent failed to operate and maintain the facility in a manner to prevent the possibility of explosion or unplanned release of hazardous waste by placing incompatible wastes, or incompatible wastes and materials in the same container,

without taking sufficient precautions to prevent accidental ignition or reaction.

3.2. Respondent violated California Code of Regulations, title 22, section 66264.31 and section 66264.177, subsection (a), on or about August 2, 2011, in that Respondent failed to operate and maintain the facility in a manner to prevent the possibility of a fire or unplanned release of hazardous waste by placing incompatible wastes, or incompatible wastes and materials in the same container, without taking sufficient precautions to prevent accidental ignition or reaction.

3.3. Respondent violated California Code of Regulations, title 22, section 66264.31 and section 66264.177, subsection (a), on or about March 3, 2013, in that Respondent failed to operate and maintain the facility in a manner to prevent the possibility of a fire, explosion or unplanned release of hazardous waste by placing incompatible wastes, or incompatible wastes and materials, in the same container, without taking sufficient precautions to prevent accidental ignition or reaction..

3.4. The hazardous wastes at the Site pose a public health risk if released, should human contact with the hazardous constituents or surrounding contaminated area occur. The continuing inability of Respondent to take precautions sufficient to prevent fires, explosions, or other violent or non-violent reactions that could potentially release hazardous wastes to the environment during consolidation operations in Area C or Area D, as required by California Code of Regulations, title 22, section 66264.31 and section 66264.177, subsection (a), presents an imminent and substantial endangerment to human health and safety and the environment.

#### SCHEDULE FOR COMPLIANCE

4. Based on the foregoing Determination of Violations and Imminent and Substantial Endangerment Determination, IT IS HEREBY ORDERED THAT:

4.1. Immediately upon issuance of this Order, Respondent shall cease all hazardous waste consolidation operations, i.e., repackaging, bulking and other consolidation activities, conducted at the Site until the Department authorizes Respondent in writing to resume them pursuant to paragraph 4.3.

4.2. Within 60 days from the date of issuance of this Order, Respondent

shall submit to the Department for its review and approval:

4.2.1. A work plan that describes in detail the changes and additions that Respondent shall make to the existing Standard Operating Procedures to implement additional precautions to prevent fires, explosions, or other violent or non-violent reactions that could potentially release hazardous waste to the environment during consolidation operations at the facility. At a minimum, the work plan shall address the following: (1) procedures to identify incompatible waste, including but not limited to, review and documentation of records, manifests, waste profiles, and work orders pertaining to consolidation, (2) test methods, used to identify incompatible waste for both RCRA wastes and non-RCRA wastes (3) quality control practices and procedures used to ensure that adequate levels of precision and accuracy are maintained to prevent consolidation of incompatible wastes at all levels of operation, (4) protocols for separating and otherwise managing incompatible waste to prevent mixing of them during consolidation operations, (5) oversight procedures at the facility to ensure incompatible wastes are not mixed together, and (6) the proposed schedule for implementing the identified changes and additions to the Standard Operating Procedures and subsequently incorporating the revised Standard Operating Procedures into the facility permit pursuant to the Department's permit modification regulations.

4.2.2. A detailed training plan on the management of incompatible wastes and other related hazardous waste management practices including, but not limited to, requirements for handling reactive and/or ignitable waste, and QA/QC practices for identifying incompatible wastes. The training plan shall describe: (1) the level of training for each person that holds a position that is responsible for hazardous waste management, (2) how often the training will be given, (3) who will provide each level of training, (4) each position for which the training is required, (5) records (e.g. a certification of completion) for each person that he or she has successfully completed the training and has demonstrated the necessary understanding and skills required to be competent in the course areas covered by the training, and (6) the proposed schedule for implementing the training plan and subsequently incorporating the revised

Standard Operating Procedures into the facility permit pursuant to the Department's permit modification regulations. The training plan shall include a syllabus for each training course identified in the plan which describes the training elements covered by each course.

4.2.3. The name of the responsible corporate officer at the Site who shall ensure the work plan is implemented and that persons/positions detailed in the training plan have been properly trained.

4.3. After the Department has approved the work plan and training plan, Respondent shall implement the plans pursuant to the schedules therein. Respondent may resume consolidation operations as specified in the Department's approval letter(s).

#### OTHER PROVISIONS

5.1. Pursuant to Health and Safety Code Section 25187.2 Respondent shall reimburse the Department for the Department's cost incurred in overseeing the work required by this Order.

5.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent to:

Mr. Paul Kewin, Division Chief  
Enforcement and Emergency Response Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

5.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Enforcement and Emergency Response Program, State Oversight and Enforcement Branch Chief or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

5.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as it deems necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

5.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

5.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating a further imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this paragraph shall be extended for the term of the Stop Work Order.

5.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

5.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The



Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

5.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either, comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

5.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

5.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to



this Order are incorporated in this Order upon approval by the Department.

5.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

5.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

5.14. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

5.15. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188, and other applicable provisions of law.

5.16. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

5.17. Time Periods:

5.17.1. "Days" for purposes of this Order means calendar days.

5.17.2. All times for performance for compliance schedules described in paragraphs nos. 4.1 and 4.2 shall be calculated from the date of Respondent's receipt of this Order

5.17.3. All times for performance for compliance schedules described in paragraph no. 4.3 shall be calculated from the date of Respondent's receipt of the Department's approval, unless otherwise specified therein.

#### RIGHT TO A HEARING

6. Any Respondent may request a hearing to challenge the Order.

Appeal procedures are described in the attached Statement to Respondent. Under Health and Safety Code section 25187, a request for a hearing shall not stay the effect of this Order.

EFFECTIVE DATE

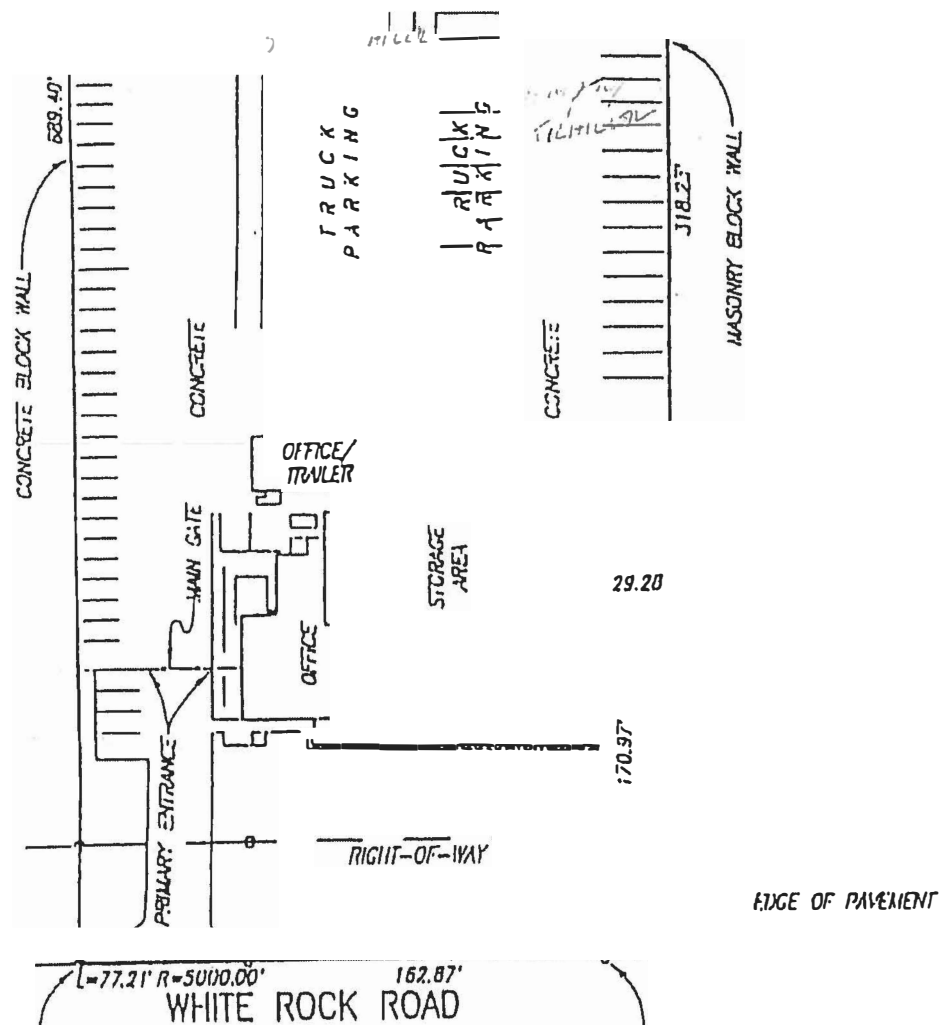
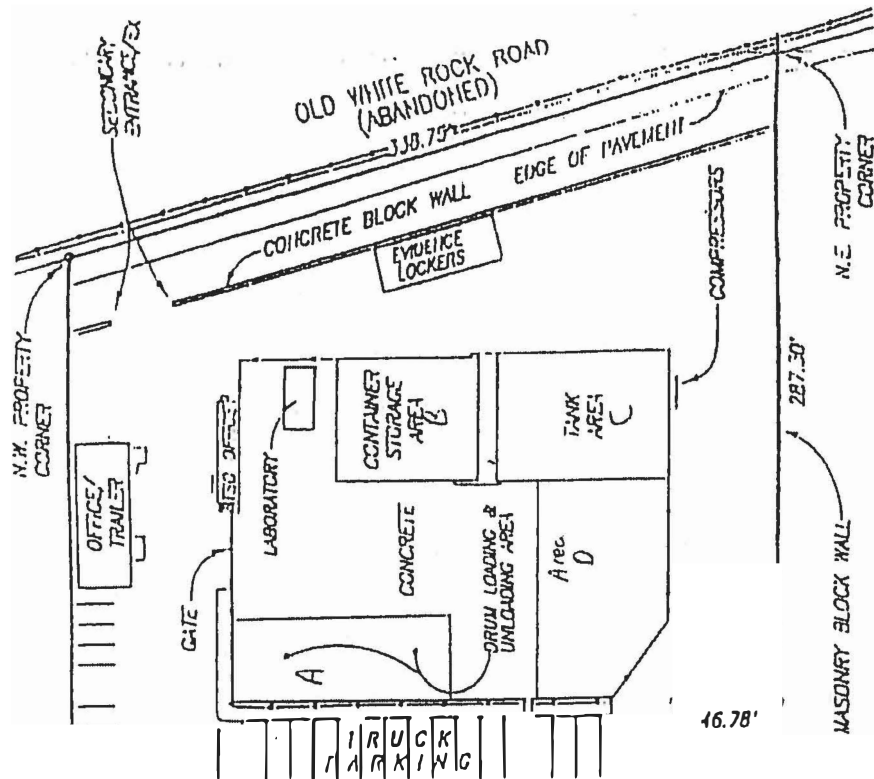
7. Pursuant to Health and Safety Code section 25187, subdivision (h), this Order is effective immediately upon date of issuance indicated below.

Date of Issuance: April 3, 2013

Original signed by Brian Johnson

\_\_\_\_\_  
Brian Johnson  
Deputy Director  
Enforcement and Emergency Response Division

General Environmental Management of Rancho Cordova  
 Imminent and Substantial Endangerment Determination and Enforcement Order  
 HWCA 20125570  
 Exhibit A



# **EXHIBIT E**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*

Date: \_\_\_\_\_

Shift: \_\_\_\_\_

Technicians: \_\_\_\_\_

Type: ☐ Consolidation / Lab Pack  
☐ Consolidation / Loose Pack  
☐ Bulking / Liquids or Solids (REQUIRES  
**Commingled Compatibility Test**)

# of New Containers Created:

Proper Shipping Name and/or  
Hazard Class of Material being Processed:

[illegible]

**Chemist's Signature to Proceed (REQUIRED):**

# **EXHIBIT F**

**Complaint for Civil Penalties and Injunctive Relief**

*People v. GEM and Stericycle*



July 28, 2017

Mail certification #9590940224026249434770

Mr. Dan Pineschi  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826

Re: Response to Summary of Violations  
General Environmental Management of Rancho Cordova, LLC  
11855 White Rock Road, Rancho Cordova, California 95742  
EPA ID No. CAD980884183

Dear Mr. Pineschi:

General Environmental Management of Rancho Cordova, LLC, ("GEM") respectfully submits this response to the Department's Summary of Violations (SOV) dated June 27, 2017. This submittal includes a description of actions taken in response to Department observations. Actions taken do not constitute admission by GEM of alleged violations, and GEM reserves the right to further discuss allegations and provide additional information. (Please note that italicized passages are excerpts from Department's Summary of Violations)

#### **SUMMARY OF VIOLATIONS**

##### **NON-MINOR VIOLATIONS, page 2**

*On or about June 27, 2017 GEM violated California Health and Safety Code 25202(a) and California Code of Regulation, Title 22, section 66270.30(a) in that GEM failed to comply with Section VIII-B(1) of the permit part B. DTSC Staff observed employees not wearing protective equipment (e.g. hard hats) as direct by GEM LLC Facility Mgmt.*

*Corrective Action: GEM operation staff must be provided with and use the proper protective equipment during waste receiving, inspecting, sampling, analyzing, processing and shipping as directed by the GEM facility management.*

#### **GEM Response**

GEM respectfully requests that the Department withdraw this violation allegation or document as an Issue/Concern. The department inspection team received the visitor safety instructions prior to the inspection which included the fact that "hard hats" were no longer required in the active area. As the physical inspection began, Mr. Pineschi noticed and pointed out that a sign in Area A indicated hard hats are required in the area. The sign was inadvertently left in place when Facility Management decreed the change to minimize unwarranted PPE use because there are no overhead hazards to personnel.

Department staff alleges that GEM violated subdivision VIII.B.(1) of its Operation Plan, which, in summary, indicates that facility management will provide direction to operation staff regarding the proper protective equipment to be used while conducting TSDF operations. The Department's interpretation of the posted sign as a direction from facility management is understandable, but

mistaken. GEM facility management made the determination in October, 2016, that hard hats were not required personal protective equipment in the facility due to a lack of head injury hazards. This change in facility PPE requirements was communicated to all employees, and also is reflected in visitor safety communications, which Department staff completed prior to this inspection.

**Corrective Action:**

GEM, LLC respectfully contends that no violation regarding “hard hat” use occurred. GEM had previously changed visitor card safety requirements and per Mr. Pineschi’s request, signage reflecting the use of PPE in Area A was revised as shown in the photograph below.



**SUMMARY OF VIOLATIONS**

**NON-MINOR VIOLATIONS, page 3**

*On or about June 27, 2017 GEM violated California Health and Safety Code section 25202(a), and Code of Regulation title 22 section 66270.30(a) in that GEM failed to operate Area C according to conditions of the Permit Part B sections V-C(10) in that facility management or the facility chemist failed to approve of the intent to bulk waste using the appropriate process form.*

**GEM Response**

GEM respectfully contends that no violation of the referenced regulatory or permit sections has occurred. The permit does not expressly stipulate use of the permit enclosed form example. Section V.A, page 2 of the Operation Plan includes the following paragraph:

“The forms referenced within this Waste Analysis Plan are typical forms developed for use by the facility. These forms may change to equivalent or alternate forms as regulations, customer needs, operations, or company policy dictate.”

This excerpt from the permit is clear that internal forms can be changed as necessary. There are no permit conditions that indicate otherwise. GEM did not change the form’s specific information, and in this case the difference is a signature on the form itself. As it stands, the permit discusses the form example and approval for processing separately. Further, the form is only one portion of the approval process. GEM contends that approval may also be managed and approved through other steps in our procedures such as during receiving procedures and use of internal assigned containers numbers. GEM believes that use of the version of the form





which did not have a signature line does not constitute failure to approve intent to bulk. (See Attachment A, sample forms)

GEM requests the alleged violation be changed to minor issues/concerns.

**Corrective Action:**

GEM has reinstalled the permit sample form that includes signatures as a gesture of cooperation. GEM is planning to re-work the associated approval methods and documentation to preclude future misunderstandings.

**SUMMARY OF VIOLATIONS**

**NON-MINOR VIOLATIONS, page 4**

*On or about June 27, 2017 GEM violated California Health and Safety Code, section 25202(a) and California Code of Regulation title 22 section 66264.3(a) in that GEM failed to comply with section VIII-E-2 of the Permit Part B. DTSC observed approximately 200 Drums located behind the Facility that were not labeled with an empty date.*

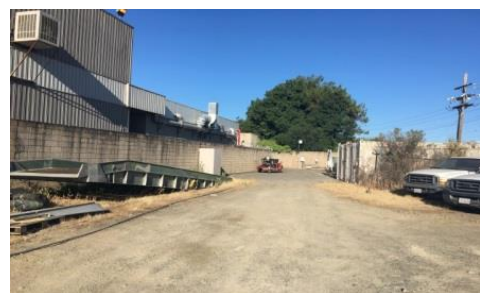
**GEM Response**

GEM notes that the Department's documented observation occurred "behind" the Facility. The Facility operator is GEM, LLC. GEM is the property owner however it is GEM's contention that the permitted area is not the complete property address. The active permitted TSDF area is surrounded and separated from all other property address activity by a secured chain link fence. The transporter operating outside the active TSDF area is responsible for that outer area. The empty drum loads are delivered to and managed by that division. GEM respectfully requests that the department rescinds this alleged violation of the permit.

**Corrective Action:**

Stericycle Specialty Waste Solutions, Inc. is glad to discuss with the department and has informed GEM that the drums were labeled immediately, on June 27, 2017. The empty drums were shipped off site the following week. (Photographs included)

GEM has taken no corrective action. Please note that all empty drums managed in the permitted area were labeled appropriately at the time of inspection.





## **SUMMARY OF VIOLATIONS**

### **NON-MINOR VIOLATIONS, page 5:**

*On or about June 27, 2017 GEM violated California Health and Safety Code, section 25202(a) and California Code of Regulation Title 22 Section 66270.30(a) in that GEM failed to comply with section VI-D-2 of the permit Part B. DTSC observed three containers of corrosive waste marked with acceptance dates of 6/13/17, 6/16/17, and 3/28/17. The containers were stored longer than 10 days in Area A.*

### **GEM Response**

GEM did not store waste in Area A beyond the permitted 10 days. The waste containers noted by the Department personnel were repackaged containers created in Area A. If the created containers are not full, the containers are stored in Area B where waste may be added periodically until full and ready for shipment. Containers are stored in Area B until a shipment plan is developed and implemented. The containers are moved to Area A in preparation for outbound shipment, which is allowed by permit. The container with the March label date would not have been dismissed otherwise during weekly inspections. The containers were staged in Area A just prior to the inspection for shipment, and consequently received updated shipping labels the day of the inspection. GEM researched the allegation and found that the labels utilized were incidentally printed with accumulation start dates of March 28, 2017 however the labels were not actually used until June 2017. The technician neglected to annotate the appropriate date on the label during repack. Subsequently, the drums were shipped June 28, 2017. Containers scheduled for shipment are routinely pulled from storage areas and staged in Area A where containers are accounted for and outbound shipping labels are attached. The staging, prep and loading typically requires one to two days. GEM does not have the container movement dates documented at this time.

### **Corrective Action:**

To preclude any future misunderstandings for inspectors, GEM is adding a container movement date to the outbound shipment report that will document when the containers are moved to Area A staging for outbound shipments. GEM is evaluating procedures to include preprinting labels with no dates to ensure TSDF personnel date labels appropriately, as containers are created.

## **SUMMARY OF VIOLATIONS**

### **NON-MINOR VIOLATIONS, page 6**

*On or about June 27, 2017 GEM violated Health and Safety Code section 25202(a) and California Code of Regulation title 22 section 66270.30(a) in that GEM failed to comply with Section VIII-E(1)(b) of the Permit Part B by ensuring containers located in Area B are marked and labeled as required at all times while they contain hazardous waste. DTSC observed five boxes and one bucket of Class 1.4 Hazardous Waste without accumulation start dates marked on the containers, located in cell 6.*

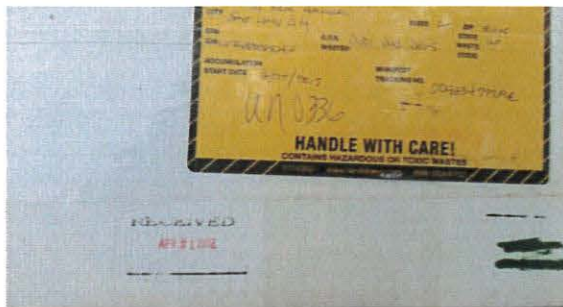


### GEM Response

GEM notes the annotated SOV discusses accumulation dates however the finding discussed in Area B during the inspection noted the containers were missing permit directed "acceptance" dates. All container labels observed contained accumulation dates. Acceptance dates for containers are part of the waste receiving activity following the permit conditions. GEM investigated this issue and finds that during receiving activities, those containers were overlooked and not stamped with the receiving dates.

### GEM Corrective Action:

GEM reviewed the manifest files and stamped each container with the appropriate acceptance dates. GEM is adding a Quality Control notation to the Waste Receiving documents to further aid Waste Receivers in complying with the permit during receiving activity. The issue has been addressed with the Supervisor and receiving teams. Sample photographs included. (manifest copies/photos attachment B)



### Closing

GEM management would also like to thank Mr. Pineschi and Ms. Aung for their assistance and professionalism during the inspection.

Please contact Darla M. Adams, Field Compliance Manager, via telephone at (310) 912-0183 or via email at [Darla.Adams@stericycle.com](mailto:Darla.Adams@stericycle.com) if you have any further questions or require additional information.

Sincerely,

For General Environmental Management of Rancho Cordova, LLC,

Original signed by James D. Treloar

James D. Treloar  
Vice President, Compliance  
Stericycle, Inc.

### ATTACHMENTS

GEM of Rancho Cordova, LLC | Stericycle Environmental Solutions, Inc.  
11855 White Rock Rd | Rancho Cordova, CA | 95742  
T: 916-951-0980 F: 916-351-1707 W: | [www.stericycle.com](http://www.stericycle.com)



Attachments: Sample Forms

Label corrections, Manifest copies/Corresponding photographs

cc: Ms. Renee Lane, Southwest Regional Manager  
Stericycle Environmental Solutions, Inc./GEM of Rancho Cordova, LLC  
11855 White Rock Rd  
Rancho Cordova, CA 95742

Mr. Alex Baillie, Supervisory Environmental Scientist  
Enforcement and Emergency Response Division  
Hazardous Waste Program  
Statewide Emergency Response & Sacramento Enforcement Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Ms. Nyein Aung, Environmental Scientist  
Hazardous Waste Management Program  
Statewide Emergency Response and Sacramento Enforcement Branch  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, CA 95826