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

**ENDORSED
FILED
ALAMEDA COUNTY
MAR 01 2021
CLERK OF THE SUPERIOR COURT
By _____ Deputy**

TANIA PIERCE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

PEOPLE OF THE STATE OF CALIFORNIA, ex. rel., Meredith Williams, Director of the Department of Toxic Substances Control,

Plaintiff,

v.

RIVERBANK OIL TRANSFER, LLC, CALIFORNIA OIL TRANSFER, LLC; and Does 1 through 20,

Defendants.

Case No. *Rg21090333*

COMPLAINT FOR CIVIL PENALTIES AND PERMANENT INJUNCTIVE RELIEF

[Health and Safety Code, §§ 25100 et seq.]

The Plaintiff, the People of the State of California, *ex rel.* Meredith Williams, Director of the Department of Toxic Substances Control, ("Plaintiff") alleges on information and belief:

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1 **NATURE OF THE ACTION**

2 1. This is a civil action for injunctive relief and civil penalties pursuant to California’s
3 Hazardous Waste Control Law (“HWCL”), Chapter 6.5 of Division 20 of the Health and Safety
4 Code, Health and Safety Code section 25100 *et seq.*, and regulations contained in California Code
5 of Regulations, title 22, division 4.5, section 66260.1 *et seq.* (“Title 22 Regulations”). The HWCL
6 and its implementing regulations establish comprehensive cradle to grave standards for the
7 generation, storage, transportation, treatment and disposal of Hazardous Waste in California.

8 2. Plaintiff seeks civil penalties and permanent injunctive relief pursuant to sections
9 25181, 25184, 25189 and 25189.2 of the Health and Safety Code for violations of the HWCL and
10 Title 22 Regulations.

11 **DEFINITIONS**

12 3. For the purposes of this Complaint, the following definitions apply:

- 13 a. “Facility” means the Used Oil transfer facility which is regulated
14 pursuant to hazardous waste permit no. CalEPA ID # CAL000190816 and
15 has a street address of 5300 Claus Road, Building 11, Modesto, California
16 95357.
- 17 b. “Hazardous Waste” has the same meaning as set forth in Health and
18 Safety Code section 25117.
- 19 c. “Hazardous Waste Facility” has the same meaning as set forth in Health
20 and Safety Code section 25117.1
- 21 d. “Hazardous Waste Facility Permit” has the same meaning as set forth in
22 California Code of Regulations, title 22, section 66260.10.
- 23 e. “Hazardous Waste Management” has the same meaning as set forth in
24 Health and Safety Code section 25117.2.
- 25 f. “Offsite” has the same meaning as set forth in in Health and Safety Code
26 section 25117.11, and California Code of Regulations, title 22, section
27 66260.10
- 28 g. “Non-RCRA Hazardous Waste” has the same meaning as set forth in

1 Health and Safety Code section 25117.9.

- 2 h. "Person" has the same meaning as set forth in Health and Safety Code
3 section 25118.
- 4 i. "RCRA Hazardous Waste" has the same meaning as set forth in Health
5 and Safety Code section 25120.2.
- 6 j. "Secondary Containment" means a control measure to prevent the liquid
7 contents of a storage vessel, such as a railcar or other container of Hazardous
8 Waste, from entering the environment if there is an unintended or
9 unanticipated spill or discharge from the storage vessel, and which meets the
10 requirements of California Code of Regulations, title 22, section 66265.193.
- 11 k. "Transporter" has the same meaning as set forth in California Code of
12 Regulations, title 22, section 66260.10.
- 13 l. "Used Oil" has the same meaning as set forth in Health and Safety code
14 section 25250.1, subdivision (a).

15 **THE DEPARTMENT**

16 4. The California Department of Toxic Substances Control ("Department") is the
17 state agency organized and existing pursuant to sections 58000 et seq. of the California Health
18 and Safety Code. The Department is the state agency authorized to administer and enforce the
19 HWCL and the Title 22 Regulations.

20 5. Meredith Williams is the Director of the Department.

21 6. Pursuant to Sections 25181, subdivision (a) and 25182 of the Health and Safety
22 Code, the Attorney General may, at the Department's request, commence an action for civil
23 penalties and injunctive relief pursuant to the HWCL in the name of the people of the State of
24 California. The Department has made such a request to the Attorney General.

25 **DEFENDANTS**

26 7. At all times relevant to the allegations in this Complaint, Defendant Riverbank Oil
27 Transfer, LLC ("Riverbank") operated the Facility. According to the records of the California
28 Secretary of State, Riverbank was a Washington State limited liability corporation that was

1 registered in California on or about October 3, 2000 and whose last statement was filed on
2 October 11, 2016.

3 8. Defendant California Oil Transfer, LLC (“COT”) is a California limited liability
4 corporation. COT is the successor in interest to Riverbank. COT is the current owner and
5 operator of the Facility.

6 9. Riverbank and COT, and each of them, were and are a Person. From
7 approximately October 12, 2014 until approximately February 4, 2017, Riverbank held a
8 Standardized Hazardous Waste Facility Permit, Series C (“Standardized Permit”) issued pursuant
9 to Health and Safety Code sections 25200 and 25201.6 and owned and operated the Facility as a
10 Used Oil transfer facility pursuant to this permit. A copy of the Standardized Permit, which was
11 effective during the time period relevant to the allegations in this Complaint, is attached as
12 Exhibit “A.”

13 10. In this Complaint, when reference is made to any act or omission of Riverbank,
14 such allegations shall include the acts and omissions of owners, officers, directors, agents,
15 employees, contractors, affiliates, and/or representatives of Riverbank, while acting within the
16 course and scope of their employment or agency on behalf of Riverbank during the relevant time
17 periods. David Alvarez owned Riverbank with others, George Lowry, and Steve Huber, but was
18 the owner in charge of the Facility and made all of the key decisions, including all Hazardous
19 Waste Management decisions for the other owners.

20 11. The identities of DOES 1-20 are unknown to Plaintiff at this time. As the identities
21 of DOE defendants become known, Plaintiff will amend this Complaint accordingly. The DOE
22 defendants may have also received distribution of assets from Riverbank after the acts alleged
23 against Riverbank in this Complaint occurred.

24 12. At all times relevant to the facts alleged herein, the Defendants were legally
25 responsible for compliance with the provisions of the HWCL and the Title 22 Regulations in
26 connection with the ownership and operation of the Facility.

27
28

1 **JURISDICTION AND VENUE**

2 13. This Court has jurisdiction pursuant to Article VI, section 10 of the California
3 Constitution, and Health and Safety Code section 25181, subdivision (a).

4 14. Venue is proper in Alameda County Superior Court pursuant to Health and Safety
5 Code section 25183 because Alameda County is the county in which the Attorney General has an
6 office nearest to the county in which the principal office of Defendant COT is located in
7 California.

8 15. Plaintiff and Defendants have executed three agreements which collectively tolled
9 any applicable statute of limitations for the claims asserted in this matter for the period from July
10 10, 2020 through February 15, 2021.

11 **HWCL STATUTORY AND REGULATORY BACKGROUND**

12 16. The State of California has enacted a comprehensive statutory and regulatory
13 framework for the generation, handling, treatment, transport and disposal of Hazardous Waste.
14 The framework contained in the HWCL, and its implementing regulations, mandate a “cradle to
15 grave” registration, tracking, storage, treatment and disposal system for the protection of the
16 public from the risks posed by Hazardous Waste. Except where otherwise expressly defined in
17 this Complaint, all terms shall be interpreted consistent with the HWCL and the Title 22
18 Regulations.

19 17. California administers the HWCL in lieu of federal administration of the federal
20 Resource Conservation and Recovery Act (“RCRA”), which is codified at Title 42 United States
21 Code sections 6901 et seq., pursuant to Health and Safety Code sections 25101, subdivision (d),
22 and 25159-25159.9. Federal law prohibits California from imposing any requirements less
23 stringent than those authorized pursuant to RCRA. (42 U.S.C. § 6929). The HWCL has a more
24 inclusive definition of “hazardous waste” than does federal law. Hazardous Waste that is
25 regulated pursuant to California law but not federal law is referred to as Non-RCRA Hazardous
26 Waste.

27 18. The HWCL charges the Department with the responsibility to adopt standards and
28 regulations for the management of Hazardous Waste to protect the public health and environment.

1 (Health & Saf. Code, § 25150.) Accordingly, the Department has promulgated regulations setting
2 forth numerous and extensive environmental and health-protective requirements for the owners
3 and operators of a Hazardous Waste Facility. (See Cal. Code. Regs., tit. 22, § 66264.1 et seq.)

4 19. Prior to January 1, 2018, pursuant to Health and Safety Code section 25189,
5 subdivision (b), a Person who intentionally or negligently violated a provision of the HWCL, or
6 any permit, rule, regulation, standard, or requirement issued or promulgated pursuant to the
7 HWCL, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for
8 each violation of a separate provision or, for continuing violations, for each day that the violation
9 continued. Effective January 1, 2018, Health and Safety Code section 25189, subdivision (b),
10 was amended so that the applicable civil penalty is not to exceed seventy thousand dollars
11 (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that
12 the violation continues.

13 20. Prior to January 1, 2018, pursuant to Health and Safety Code section 25189.2,
14 subdivision (b), a Person who violated a provision of the HWCL, or a permit, rule, regulation,
15 standard, or requirement issued or adopted pursuant to the HWCL was strictly liable for a civil
16 penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation of a separate
17 provision or, for continuing violations, for each day that the violation continues. Effective
18 January 1, 2018, Health and Safety Code section 25189.2, subdivision (b), was amended so that
19 the applicable civil penalty is not to exceed seventy thousand dollars (\$70,000) for each violation
20 of a separate provision or, for continuing violations, for each day that the violation continues.
21 Health and Safety Code section 25189.2 imposes strict liability on such a Person.

22 21. Pursuant to Health and Safety Code section 25189.2, subdivision (f), a Person may
23 not be held liable for a civil penalty imposed pursuant to section 25189 and for a civil penalty
24 imposed pursuant to section 25189.2 for the same act or failure to act.

25 22. Health and Safety Code section 25181 provides that when the Department
26 determines that any Person has engaged in, is engaged in, or is about to engage in any acts or
27 practices which constitute or will constitute a violation of any provision of the HWCL or any rule
28 or requirement issued or promulgated thereunder, and when requested by the Department, the

1 Attorney General may make application to the superior court for an order enjoining such acts or
2 practices, or for an order directing compliance, and upon a showing by the Department that such
3 Person has engaged in or is about to engage in any such acts or practices, a permanent or
4 temporary injunction, restraining order, or other order may be granted.

5 23. Health and Safety Code section 25184 provides that in any civil action brought
6 pursuant to the HWCL in which a temporary restraining order, preliminary injunction, or
7 permanent injunction is sought, it shall not be necessary to allege or prove at any state of the
8 proceeding that irreparable damage will occur or that the remedy at law is inadequate. Such relief
9 shall issue without such allegations and without such proof.

10 24. Code of Civil Procedure section 338.1 requires that an action for civil penalties
11 authorized under Chapter 6.5 of Division 20 of the Health and Safety Code shall be commenced
12 within five years after the discovery by the agency bringing the action of the facts constituting the
13 grounds for commencing the action. Each and every cause of action alleged in this Complaint is
14 based on facts discovered by the Department on or after June 23, 2016.

15 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS**

16 25. The Facility has an ID Number CAL0001910816.

17 26. At the Facility, Riverbank was authorized by the Standardized Permit to receive
18 Non-RCRA Hazardous Waste including three separately managed Hazardous Waste streams, 1)
19 Used Oil, 2) anti-freeze, and 3) oily wastewater from tank trucks operated by Hazardous Waste
20 Transporters. This Hazardous Waste was pumped by the Facility into railcars for transportation
21 to Offsite Hazardous Waste treatment, storage, recycling, and/or disposal facilities.

22 27. The Standardized Permit authorized three (3) units within the Facility to manage
23 Hazardous Wastes. They are 1) the Rail Side Secondary Containment unit; 2) the Truck Side
24 Secondary Containment unit; and 3) the Drum Storage Area.

25 28. At all times relevant to the claims in this Complaint, the Standardized Permit was
26 in effect.

27 29. Health and Safety Code section 25202, subdivision (a) requires that the owner or
28 operator of a Hazardous Waste Facility who holds a Hazardous Waste Facilities Permit shall

1 comply with the condition of that permit, the requirements of the HWCL, and Title 22
2 Regulations, including which become effective after the issuance of the permit.

3 30. California Code of Regulations, title 22, section 66270.30, subdivision (a) requires
4 that a permittee shall comply with all conditions of the permit. It further provides that any permit
5 noncompliance is grounds “for enforcement action, for permit termination, revocation and
6 reissuance, or modification, or for denial of a permit renewal application.”

7 31. On June 23, 2016, Department staff conducted a Compliance Evaluation
8 Inspection of the Facility.

9 32. A Summary of Violations arising from the inspection was provided by the
10 Department to Riverbank and David Alvarez, on July 7, 2016. The Summary of Violations
11 included a list of seven violations that required correction.

12 33. On August 26, 2016, the Department sent correspondence to Riverbank and David
13 Alvarez, containing an inspection report which identified additional violations at the Facility that
14 were not identified in the July 7, 2016 Summary of Violations.

15 34. David Alvarez, on behalf of Riverbank, responded to the alleged violations issued
16 by the Department and provided information through multiple correspondences dated June 24,
17 2016, August 21, 2016, September 14, 2016, December 9, 2016, March 20, 2017 and April 7,
18 2017.

19 **FIRST CAUSE OF ACTION**

20 **(Storage of Hazardous Waste in Violation of Permit Requirements)** 21 **(Health & Saf. Code § 25202, subd. (a); Cal. Code of Regs., tit. 22, § 66270.30, subd. (a),** 22 **Standardized Permit Section Part II, Spec. Cond. Sec. G)**

23 35. Plaintiff reallege paragraphs 1 through 34, inclusive.

24 36. The Standardized Permit, Part II, Special Conditions Section G, authorized
25 Riverbank to store Hazardous Waste at the Facility only in specified areas with Secondary
26 Containment.

27 37. On June 23, 2016, Riverbank stored a railcar containing 24,216 gallons of Used
28 Oil outside of the permitted Railside Secondary Containment unit. At that time, custody of the
Used Oil had not been transferred to a registered Hazardous Waste Transporter for removal

1 Offsite. Transfer of custody would have been the result of the execution of a Hazardous Waste
2 Manifest which would have formally transferred legal custody of the Used Oil from Riverbank to
3 a registered Hazardous Waste Transporter.

4 38. On February 3, 2017, Department staff reviewed “Railcar Capacity Calculation”
5 sheets that had been submitted by Riverbank to the Department. During that review, the
6 Department staff identified that on seventy-seven (77) separate additional occasions, Riverbank
7 moved railcars that were still in its custody and filled with Hazardous Waste to areas without
8 Secondary Containment. The time period in which the railcars were staged in areas without
9 Secondary Containment ranged up to 17 days.

10 39. During the period from 2014 to 2016, Riverbank stored railcars containing
11 Hazardous Waste in unauthorized areas for a total of 370 days. It was only on or after February
12 3, 2017, that Department staff became aware of the storage in unauthorized areas on those
13 seventy-seven (77) occasions.

14 40. The unauthorized storage of Hazardous Waste in railcars provided Riverbank with
15 the economic opportunity to accept 733,894 gallons of Used Oil that Riverbank should have
16 turned away for lack of adequate storage capacity within areas protected by Secondary
17 Containment.

18 41. In a letter dated August 2, 2016, David Alvarez, on behalf of Riverbank,
19 responded to the violations noted during the June 23, 2016 inspection.

20 42. In that response to the July 7, 2016 Summary of Violations and inspection report,
21 David Alvarez, on behalf of Riverbank, stated that as part of corrective actions that the business
22 “will cease and discontinue the practice of staging filled railcars outside the facility containment
23 area.”

24 43. David Alvarez, on behalf of Riverbank, claimed that the railcar observed on June
25 23, 2016 by Department staff that was improperly relocated outside of the Secondary
26 Containment area, was shipped Offsite on June 23, 2016. David Alvarez, stated that “I accept the
27 responsibility for the situation resulting in this violation and have made specific instructions to
28 the Facility Manager to ensure the same violation will not occur in the future.”

1 52. On February 3, 2017, Department staff reviewed “Railcar Capacity Calculation”
2 sheets that had been submitted by Riverbank to the Department. The Department requested the
3 documents at the December 28, 2016 inspection. During that review, the Department staff
4 identified that on thirty-seven (37) separate, additional occasions during 2014 to 2016 when
5 Riverbank accumulated over 50,000 gallons of Hazardous Waste onsite in railcars. It was only on
6 or after February 3, 2017, that Department staff became aware of the accumulation of Hazardous
7 Waste in excess of 50,000 gallons onsite on those prior thirty-seven (37) occasions.

8 53. During a February 28, 2017 focused compliance inspection, Department staff
9 identified two (2) additional instances on July 6, 2016, and July 18, 2016, based on a review of
10 Riverbank’s records, when Riverbank accumulated over 50,000 gallons of Hazardous Waste on
11 site.

12 54. In a letter dated August 2, 2016, David Alvarez, on behalf of Riverbank,
13 responded to the violations noted during the June 23, 2016 inspection.

14 55. In that letter, David Alvarez, on behalf of Riverbank, admitted that “[t]he failure
15 on my part to assure that the manifest was fully complete on the railcar stored outside Building
16 #11 resulted in the violation noted.” David Alvarez identified specific actions that would be
17 taken by Riverbank to “preclude a similar violation” in the future.

18 56. Riverbank accumulated Hazardous Waste at the Facility at a volume that exceeded
19 the volume allowed by the Standardized Permit, Part II, Special Conditions Section X. Unless
20 enjoined by this Court, Defendants will engage in future exceedances of those volumetric
21 accumulation limits.

22 57. Each intentional or negligent violation by Riverbank of the Standardized Permit,
23 Part II, Special Conditions Section X, subjects Defendants to a civil penalty pursuant to Health
24 and Safety Code section 25189, subdivision (b).

25 58. Each violation by Riverbank of the Standardized Permit, Part II, Special
26 Conditions Section X, subjects Defendants to a civil penalty pursuant to Health and Safety Code
27 section 25189.2, subdivision (b).
28

1 of the Court, Defendants will continue to engage in the course of conduct as alleged herein at the
2 Facility.

3 65. Each intentional or negligent violation by Riverbank of the Standardized Permit,
4 Part II, Special Conditions Section A, subjects Defendants to a civil penalty pursuant to Health
5 and Safety Code section 25189, subdivision (b).

6 66. Each violation by Riverbank of the Standardized Permit, Part II, Special
7 Conditions Section A, subjects Defendants to a civil penalty pursuant to Health and Safety Code
8 section 25189.2, subdivision (b).

9 67. Based on the allegations herein, Plaintiff requests injunctive relief against
10 Defendants, pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
11 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
12 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
13 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

14 **FOURTH CAUSE OF ACTION**

15 **(Storage of Hazardous Waste Containers outside of Permitted Storage Area)** 16 **(Health & Saf. Code, § 25202, subd. (a); Cal. Code Regs., tit. 22, § 66270.30, subd. (a);** 17 **Standardized Permit Section Part II, Spec. Cond. Sec. E)**

18 68. Plaintiff realleges paragraphs 1 through 34, inclusive.

19 69. Standardized Permit Section Part II, Special Conditions Section E identifies the
20 areas at the Facility where containers containing Hazardous Waste may be stored.

21 70. On June 23, 2016, Department staff observed two 55-gallon drums of Hazardous
22 Waste and five 5-gallon buckets of oily waste stored in the truck containment area. This area was
23 not authorized by the Standardized Permit for the storage of Hazardous Wastes. A total of seven
24 containers of oily wastes (that were Hazardous Wastes) were illegally stored in the truck
25 containment area. Each container of Hazardous Waste illegally stored is a separate violation.
26 Unless enjoined by order of the Court, Defendants will continue to engage in the illegal storage of
27 containers as alleged herein at the Facility.

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1 71. Each intentional or negligent violation by Riverbank of Standardized Permit
2 Section Part II, Special Conditions Section E, subjects Defendants to a civil penalty pursuant to
3 Health and Safety Code section 25189, subdivision (b).

4 72. Each violation by Riverbank of Standardized Permit Section Part II, Special
5 Conditions Section E, subjects Defendants to a civil penalty pursuant to Health and Safety Code
6 section 25189.2, subdivision (b).

7 73. Based on the allegations herein, Plaintiff requests injunctive relief against
8 Defendants, pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
9 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
10 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
11 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

12 **FIFTH CAUSE OF ACTION**

13 **(Failure to Identify and Log Problems)**
14 **(Health & Saf. Code, § 25202, subd. (a);**
15 **Cal. Code Regs., tit. 22, § 66264.15 and 66270.30, subd. (a);**
Standardized Permit Section Part II, Spec. Cond. Sec. K)

16 74. Plaintiff realleges paragraphs 1 through 34, inclusive.

17 75. Code of California Regulations, title 22, section 66264.15 set forth general
18 inspection requirements for the owner or operator with a Hazardous Waste Facility Permit.

19 76. Standardized Permit Section Part II, Special Conditions Section K requires the
20 owner and operators of a Hazardous Waste Facility to inspect their facilities and to keep a log of
21 these inspections. The daily inspection log requirements specify that the operator shall identify
22 and log problems and deficiencies with the condition of the containment area.

23 77. Department staff reviewed the daily inspection reports maintained by Riverbank.
24 The reports did not identify deficiencies that were observed by Department staff on June 23,
25 2016, including but not limited to, deterioration to the Secondary Containment, evidence of leaks
26 or spills, or residues of Hazardous Waste in Secondary Containment areas as further described in
27 the Eighth and Ninth Causes of Action, below. Unless enjoined by order of the Court,
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1 Defendants will continue to fail to identify deficiencies in the daily inspection reports as alleged
2 herein at the Facility.

3 78. Each intentional or negligent violation by Riverbank of Standardized Permit Part
4 II, Special Conditions Section K, subjects Defendants to a civil penalty pursuant to Health and
5 Safety Code section 25189, subdivision (b).

6 79. Each violation by Riverbank of Standardized Permit Part II, Special Conditions
7 Section K, subjects Defendants to a civil penalty pursuant to Health and Safety Code section
8 25189.2, subdivision (b).

9 80. Based on the allegations herein, Plaintiff requests injunctive relief against
10 Defendants pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
11 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
12 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
13 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

14 **SIXTH CAUSE OF ACTION**

15 **(Comingling of Separate Waste Streams)**
16 **(Health & Saf. Code, § 25202, subd. (a);**
17 **Cal. Code Regs., tit. 22, § 66270.30, subd. (a);**
18 **Standardized Permit Section Part II, Spec. Cond. Sec. N)**

19 81. Plaintiff realleges paragraphs 1 through 34, inclusive.

20 82. Standardized Permit Section Part II, Special Conditions Section La allows
21 Riverbank to accept and transfer Used Oil, oily water, and used antifreeze.

22 83. Standardized Permit Section Part II, Special Condition P-T requires Riverbank to
23 perform specific tests on Used Oil, oily water and used antifreeze prior to accepting these wastes.

24 84. Standardized Permit Section Part II, Special Condition Q – requires Riverbank to
25 take samples of Used Oil and oily water from tanker trucks to determine the presence of PCBs.
26 Riverbank staff takes two (2) samples. One sample is sent to an Offsite laboratory for analysis
27 and the other sample is maintained at the Facility for purposes of additional analysis, if necessary.

28 85. Riverbank is not required to test Used Oil or oily water for the presence of used
antifreeze (i.e., glycol) under their permit. However, Riverbank’s representative, David Alvarez,

1 stated to Department staff that Riverbank tests the oily water for glycol and if it contains more
2 than 30% glycol Riverbank will not accept the waste. This statement was based on the assertion
3 that the company that recycles the oily water from Riverbank will not accept oily water if it
4 contains more than 30% glycol.

5 86. Standardized Permit Section Part II, Special Conditions Section N requires that the
6 owners and operators of the Facility shall not comingle separate waste streams, including but not
7 limited to used antifreeze and oily water.

8 87. On June 23, 2016, Department staff determined that Riverbank comingled oily
9 water and used antifreeze.

10 88. During the June 23, 2016 inspection, Department staff observed the tanker truck
11 samples maintained by Riverbank. Department staff observed at least one of these samples was
12 green in color and looked like antifreeze (glycol). However, these loads were identified and
13 consolidated into railcars by Riverbank as oily water.

14 89. During the June 23, 2016 inspection, Department staff sampled a railcar containing
15 oily water (Railcar #PROX 4601), as well as a number of tanker truck samples maintained by
16 Riverbank as is required by Permit Section Part II. The tanker truck samples were combined and
17 analyzed as one sample.

18 90. Sample results for the combined tanker truck samples taken by Department staff
19 on June 23, 2016, showed the presence of glycol (26,000 ppm). Sample results from the railcar
20 containing oily water (Railcar # PROX 46101), also showed the presence of glycol (6,800 ppm).
21 The presence of antifreeze in the combined truck samples and in Riverbank's railcar indicates that
22 Riverbank was accepting and commingling two wastestreams (oily water and antifreeze), which
23 is a violation of permit conditions.

24 91. Unless enjoined by order of the Court, Defendants will continue to comingle
25 antifreeze with other waste streams as alleged herein at the Facility.

26 92. Each intentional or negligent violation by Riverbank of Standardized Permit
27 Section Part II, Special Conditions Section N, subjects Defendants to a civil penalty pursuant to
28 Health and Safety Code section 25189, subdivision (b).

1 100. Based on the allegations herein, Plaintiff requests injunctive relief against
2 Defendants pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
3 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
4 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
5 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

6 **EIGHTH CAUSE OF ACTION**

7 **(Failure to Maintain Secondary Containment in Truck Containment Area)**

8 **(Code of Cal. Regs., tit. 22, § 66270.30, subd. (a))**

9 **(Standardized Permit Section Part I, Spec. Cond. Sec. C(2)(b))**

10 101. Plaintiff realleges paragraphs 1 through 34, inclusive.

11 102. Standardized Permit Section Part I, Special Conditions Section C(2)(b) requires
12 that the owners and operators of the Facility must maintain the Secondary Containment in the
13 truck containment area, including the vertical concrete surfaces, with two coats of flexible epoxy.

14 103. On June 23, 2016, Department staff observed that the epoxy coating on the
15 Secondary Containment on the vertical and horizontal concrete surfaces (floor, wall and berm) in
16 the permitted truck containment area of the Facility was chipped and eroded in areas. Unless
17 enjoined by order of the Court, Defendants will continue to engage in inadequate maintenance of
18 its Secondary Containment as alleged herein at the Facility.

19 104. Each intentional or negligent violation by Riverbank of Standardized Permit
20 Section Part I, Special Conditions Section C(2)(b), subjects Defendants to a civil penalty pursuant
21 to Health and Safety Code section 25189, subdivision (b).

22 105. Each violation by Riverbank of Standardized Permit Section Part I, Special
23 Conditions Section C(2)(b), subjects Defendants to a civil penalty pursuant to Health and Safety
24 Code section 25189.2, subdivision (b).

25 106. Based on the allegations herein, Plaintiff requests injunctive relief against
26 Defendants pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
27 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
28

1 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
2 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

3 **NINTH CAUSE OF ACTION**

4 **(Failure to Maintain Container Containment Areas Free of Spills)**
5 **(Code of Cal. Regs., tit. 22, §§ 66264.175, subd. (b)(5))**

6 107. Plaintiff realleges paragraphs 1 through 34, inclusive.

7 108. Riverbank was required to maintain all Secondary Containment areas for
8 containers at the Facility free of spills and accumulated wastes in compliance with California
9 Code of Regulations, title 22, section 66264.175, subdivision (b)(5).

10 109. On June 23, 2016, Department staff observed a buildup of liquid, semi-solid, and
11 solid oily wastes inside three Secondary Containment areas inside Riverbank's truck side
12 containment area. Riverbank should have removed from the sump or collection area leaked waste
13 and accumulated precipitation in as timely a manner as is necessary to prevent overflow of the
14 collection system. The spill residues observed by Department staff in the Secondary Containment
15 areas for the Hazardous Waste containers appeared to be oily wastes. No free-standing liquids
16 were observed, but instead the residues were mixtures of kitty litter and oily wastes.

17 110. Unless enjoined by order of the Court, Defendants will continue to engage in
18 inadequate maintenance of its Secondary Containment free of spills and accumulated wastes as
19 alleged herein at the Facility.

20 111. Each intentional or negligent violation by Riverbank of California Code of
21 Regulations, title 22, section 66264.175, subdivision (b)(5), subjects Defendants to a civil penalty
22 pursuant to Health and Safety Code section 25189, subdivision (b).

23 112. Each violation by Riverbank of California Code of Regulations, title 22, section
24 66264.175, subdivision (b)(5) subjects Defendants to a civil penalty pursuant to Health and Safety
25 Code section 25189.2, subdivision (b).

26 113. Based on the allegations herein, Plaintiff requests injunctive relief against
27 Defendants pursuant to Health and Safety Code sections 25181 and 25184, and civil penalties
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1 against Defendants pursuant to Health and Safety Code section 25189, subdivision (b), or Health
2 and Safety Code section 25189.2, subdivision (b), subject to the provisions of Health and Safety
3 Code section 25189.2, subdivision (f), as set forth in the prayer for relief.

4 **PRAYER FOR RELIEF**

5 Plaintiff requests the following relief:

6 1. Judgment finding that Defendant Riverbank Oil Transfer, LLC violated the HWCL
7 and its implementing regulations as described in the First through Ninth Causes of Action;

8 2. Judgment against Defendant Riverbank Oil Transfer, LLC, and California Oil
9 Transfer, LLC, as the successor in interest to Riverbank Oil Transfer, LLC, for civil penalties in
10 accordance with proof for violations described in the First through Ninth Causes Action pursuant
11 to Health and Safety Code sections 25189, subdivision (b) or Health and Safety Code section
12 25189.2, subdivision (b), subject to the provisions of Health and Safety Code section 25189.2,
13 subdivision (f);

14 3. For an injunction ordering Riverbank Oil Transfer, LLC, and California Oil
15 Transfer, LLC, as successor in interest to Riverbank Oil Transfer, LLC, and its agents,
16 employees, representatives, and all Persons acting, on behalf of, and within the control of
17 California Oil Transfer, LLC, to comply with Chapter 6.5 of Division 20 of the Health and Safety
18 Code (Health & Saf. Code, §25100 *et seq.*) and the regulations promulgated pursuant to this
19 chapter (Cal. Code Reg., tit. 22, § 66260.1 *et seq.*), and with the current Hazardous Waste Facility
20 Permit applicable to the Facility in connection with the handling, storage, treatment and
21 transportation of Hazardous Waste at the Facility; and

22 4. Any additional relief that the Court deems appropriate.
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Dated: March 1, 2021

Respectfully Submitted,

XAVIER BECERRA
Attorney General of California
DAVID A. ZONANA
Supervising Deputy Attorney General

Electronically signed by Reed Sato

REED SATO
Deputy Attorney General
*Attorneys for People of the State of California, ex.
rel. Meredith Williams, Director, Department of
Toxic Substances Control*

Exhibit A



**California Environmental Protection Agency
Department of Toxic Substances Control
Standardized Hazardous Waste Facility Permit**

Facility Name and Location:

*Riverbank Oil Transfer, LLC
5300 Claus Road
Riverbank, California 95367
Stanislaus County*

Facility EPA I.D. No.: CAL 000190816

Effective Date: March 13, 2001

Expiration Date: March 13, 2011

Facility Owner:

Riverbank Oil Transfer, LLC

Date Modified: August 2, 2006 **Modification**

Number: MOD1*-NC1-2006-015

Facility Operator:

Riverbank Oil Transfer, LLC

Property Owner:

United States Army

Pursuant to California Code of Regulations, title 22, division 4.5, section 66270.42, the Series C Standardized Hazardous Waste Facility Permit issued on January 31, 2001, effective March 13, 2001, is hereby modified to increase the rail car capacity allowed in the Rail Side Secondary Containment unit from 24,000 gallons to 30,000 gallons. Other administrative changes were made to the Permit to document the Permit modification history. All pages of the Permit are affected by this modification. Revised pages, labeled as "Revised August 2, 2006," are hereby incorporated into the approved Permit, replacing the original pages. The revised Permit consists of 23 pages including attachments.

//Originally signed by//

Mohinder S. Sandhu, P.E., Chief
Standardized Permitting and Corrective Action Branch
Hazardous Waste Management Program
Department of Toxic Substances Control

August 2, 2006

Date

RIVERBANK OIL TRANSFER, LLC
STANDARDIZED HAZARDOUS WASTE FACILITY PERMIT

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PART I - DESCRIPTION OF THE FACILITY

A. FACILITY OWNER:

Riverbank Oil Transfer, LLC

P.O. Box 2350

Belfair, Washington 98528

FACILITY OPERATOR:

Riverbank Oil Transfer, LLC

P.O. Box 2350

Belfair, Washington 98528

PERMITTEE:

The Permittee as used in this Standardized Permit means the owner and operator listed above.

PROPERTY OWNER:

The United States Department of the Army owns both the land and structures. The Permittee leases the structure and land from the owner.

B. LOCATION:

The Facility comprises a leased parcel with interior and exterior space within the Riverbank Industrial Complex (Industrial Complex) at 5300 Claus Road near Riverbank, California. The Industrial Complex is located at the intersection of Claus Road and Claribel Road (State Route 219) at latitude 37° 43' 4" N and longitude 120° 55' 6"W. The Industrial Complex is a portion of the Riverbank Army Ammunition Plant (Ammunition Plant), which has been designated for industrial/commercial development. The Industrial Complex is zoned M for industrial.

The Facility occupies the ground floor and loading dock of a building designated as Building 11. Building 11 contains approximately 9,120 square feet of interior space. The Facility also includes approximately 9,000 square feet of adjacent land for parking and vehicle staging. Building 11 is located approximately 100 feet from the east boundary of the Ammunition Plant. The Facility is not located within a designated 100-year flood plain area.

C. OPERATIONS:

(1) General description

This Series C Standardized Hazardous Waste Facility Permit (Standardized Permit) authorizes the Permittee to operate a non-Resource Conservation and Recovery Act (non-RCRA) hazardous waste storage and transfer facility in Stanislaus County, California to store and transfer used oil, waste antifreeze, and non-RCRA oily wastewater.

The Facility receives used oil, waste antifreeze, and non-RCRA oily wastewater in tank trucks operated by registered transporters. The waste is pumped into rail cars for transport to off-site treatment,

storage, recycling and/or disposal facilities. The three waste streams are managed separately. The Facility is also authorized for rail-to-truck transfer of this waste in emergency situations such as if a rail car has been loaded and then determined to be unfit for use. See Attachment 1.

(2) Listing of units regulated by this permit

The Facility does not have any tanks. The Facility consists of the ground floor and loading dock of Building 11 which is 56 feet wide by 160 feet long. The central area of the building is raised 3.75 feet from either side. This central platform is where the laboratory, office, washroom, waste transfer pumps, and valves are located. The two lower areas of the building are grade level and located on the east and west sides of the central portion. The two lower areas are both 16 feet wide by 160 feet long. The two lower areas receive trucks and rail cars and provide secondary containment. The Facility also includes approximately nine thousand square feet of adjacent exterior space utilized for vehicle staging.

(a) Rail Side Secondary Containment

The Rail Side Secondary Containment is located on the west side of the building. It is the area where the Permittee receives rail cars. The Rail Side Secondary Containment has a concrete floor. A raised concrete footer runs the length of the building at the outside (west) edge and along the south wall. Metal plates have been fastened to the walls above the footer and sealed to the footer. The inside edge of the containment is the 3.75 foot wall for the raised central platform. The south end of the building has a rail car stopping block. The rail car entrance gate is a solid, double swinging gate with an electronic interlock. The waste transfer pumps cannot operate unless this gate is closed and locked. The gate is fitted with a flexible seal at the bottom. The horizontal and vertical surfaces of the containment are coated with two coats of flexible epoxy.

(b) Truck Side Secondary Containment

The Truck Side Secondary Containment is located on the east side of the building. It is the area where the Permittee receives trucks. The Truck Side Secondary Containment has a concrete floor. A raised concrete footer runs the length of the building at the outside (east) edge. The inside edge of the containment is the 3.75 foot wall for the raised central platform. Trucks can drive through this side. Drive-over concrete berms have been installed on the north and south ends of the truck side to provide secondary containment. The horizontal and vertical surfaces of the containment are coated with two coats of flexible epoxy.

(c) Drum Storage Area

The Drum Storage Area is a designated area on the south end of the raised central platform. The area is flat concrete with no additional permanent secondary containment.

D. STANDARDIZED PERMIT APPLICATION

The Standardized Permit Application, signed July 20, 2000 is hereafter referred to as the "Permittee's Standardized Permit Application." A list of all sections of the Standardized Permit Application is included as Attachment 2. The Standardized Permit Application is, by this reference, made part of this Standardized Permit.

E. REFERENCES AND TERMINOLOGY

- (1) All parts in this Standardized Permit are identified by Roman numerals. Unless explicitly stated otherwise, all cross-references to items in this Standardized Permit shall refer only to items occurring within the same part. All terms used in this Standardized Permit shall have the same meaning as those terms have in the California Health and Safety Code (HSC), Division 20 and Title 22, California Code of Regulations (22, CCR), Division 4.5, unless expressly provided otherwise by this Standardized Permit.
- (2) A Non-RCRA hazardous waste \equiv means all hazardous waste regulated in the state, other than RCRA hazardous waste as defined in HSC Section 25120.2. A hazardous waste regulated in the state is presumed to be RCRA hazardous waste, unless it is determined, pursuant to regulations adopted by the Department of Toxic Substances Control (DTSC), that the hazardous waste is a non-RCRA hazardous waste. (HSC Section 25117.9)
- (3) A RCRA hazardous waste \equiv means all waste identified as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations and appendixes thereto. (HSC Section 25120.2)

F. EFFECT OF PERMIT

- (1) The Permittee shall comply with the provisions of Chapter 6.5 of Division 20 of the HSC and Division 4.5 of Title 22 of the CCR, as well as all the terms and conditions of this Standardized Permit. The issuance of this Standardized Permit by DTSC does not release the Permittee from any liability or duty imposed by federal or State statutes and regulations or local ordinances, except the obligation to obtain this Standardized Permit. In particular, the Permittee shall obtain the permits required by other governmental agencies at the federal, State, and local levels under the applicable land use planning, zoning, hazardous waste, air quality, water quality, and solid waste management laws for the construction and/or operation of the Facility. If there is overlap in the requirements imposed by any of the above permits, the most protective or stringent requirement, as determined by DTSC, shall apply.
- (2) The Permittee is permitted to transfer and store hazardous waste in accordance with the conditions of this Standardized Permit as specified in Parts II and III of this Standardized Permit. Any transfer, storage, and treatment of hazardous wastes not specifically authorized in Parts II or III of this Standardized Permit are strictly prohibited.
- (3) The Permittee shall comply with the conditions of the Standardized Permit, the requirements of Chapter 6.5 of Division 20 of the HSC, and with the regulations adopted by DTSC pursuant to Chapter 6.5 of Division 20 of the HSC, including regulations which become effective after the issuance of the Standardized Permit.
- (4) Compliance with the terms of this Standardized Permit does not constitute a defense to any action brought under any other law governing protection of public health or the environment, including but not limited to one brought for any imminent and substantial endangerment to human health or the environment. Notwithstanding any term or condition in this Standardized Permit, DTSC may adopt or amend regulations which impose additional or more stringent requirements than those existing at the time this Standardized Permit was issued. DTSC may fully enforce both the Standardized Permit and all additional or more stringent requirements against the Permittee, regardless of the time of adoption of such additional or more stringent requirements.

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- (5) Failure to comply with any terms or conditions set forth in the Standardized Permit in the time or manner specified herein will subject the Permittee to possible enforcement action, including, but not limited to penalties pursuant to HSC Section 25187.
- (6) In addition, failure to submit any information required in connection with the Standardized Permit, or falsification and/or misrepresentation of any submitted information, is grounds for termination of the Standardized Permit (22, CCR, Section 66270.43).

G. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

DTSC has prepared a Negative Declaration and De Minimis Impact Finding in accordance with CEQA (Public Resources Code, Section 21000, et seq.) and the State guidelines thereunder.

H. PERMIT MODIFICATION HISTORY

Modifications to this Permit or the Standardized Permit Application identified in Part I.D of this Permit are allowed pursuant to California Code of Regulations, title 22, sections 66270.41, 66270.42, or 66270.42.5. All modifications made to this Permit and/or Standardized Permit Application are listed and described in Appendix A to this Permit.

PART II - SPECIAL CONDITIONS

- A. The Permittee shall not treat, store, or transfer any RCRA hazardous waste.
- B. The Permittee shall not treat any non-RCRA hazardous waste.
- C. The Permittee shall not engage in disposal of hazardous waste at the Facility, including land disposal, either temporarily or permanently.
- D. The Permittee shall not store hazardous waste in excess of one calendar year from the time such waste was first stored.
- E. Drums containing either hazardous waste or non-hazardous waste shall be stored only in the authorized areas designated in Part III of this Standardized Permit. Only waste generated from on-site activities shall be stored in drums. The Permittee shall not receive waste in drums from off-site sources.
- F. The Permittee is authorized to conduct truck-to-rail transfer of wastes described in Condition L of this Part. The Permittee is also authorized to conduct rail-to-truck transfer of hazardous waste described in Condition L of this Part in emergency situations such as if a rail car has been loaded and then determined to be unfit for use. Within three working days of conducting a rail-to-truck transfer of hazardous waste, the Permittee shall notify the Chief of the Standardized Permits and Corrective Action Branch at DTSC in writing.
- G. Hazardous waste management activities authorized under this permit shall only be conducted inside Building 11.
- H. If hazardous waste is present in the rail side of the building, the entrance gate shall be closed, locked, and all associated secondary containment devices shall be in place, except when rail cars are being moved into and out of the building.
- I. The valve on the storm drain outside the northeast corner of the building shall be closed at all times except when actively draining storm water.
- J. In the event any cracks, gaps, or tears are detected in the secondary containment system areas, repairs shall be initiated as soon as possible and completed within one week of discovery. The Permittee shall notify the Chief of the Standardized Permits and Corrective Action Branch at DTSC in writing within twenty-four (24) hours whenever any secondary containment problems are found and shall notify the same DTSC official in writing within seven (7) days of discovery describing the corrective measures that were taken and verifying the problem was corrected.
- K. The following documents are certified for use by the Permittee in accordance with HSC Section 25201.6 (c)(4) and shall be maintained at the Facility at all times until Facility closure is approved by DTSC, and shall be made available to Facility operating personnel, local, State, and federal officials upon request:
 - (1) Contingency Plan and Emergency Preparedness;
 - (2) Facility Management Practices;
 - (3) Facility Siting Information;
 - (4) Inspection Plan;

- (5) "Land Ban" Compliance;
 - (6) Manifesting;
 - (7) Personnel Training;
 - (8) Reporting;
 - (9) Security Plan;
 - (10) Waste Analysis Plan; and
 - (11) Facility Operating Log.
- L. The Permittee is only authorized to receive, transfer, and store non-RCRA wastes. The specific non-RCRA wastes the Facility is authorized to receive, transfer, and store are the following:
- (1) Used Oil as defined in California HSC Section 25250.1(a)(1), which may be described as California Waste Code 221.
 - (2) Non-RCRA oil/water mixture, which may be described as California Waste Code 223.
 - (3) Waste glycol-based antifreeze that has been used or stored and which as a result of such use or storage has been contaminated by physical or chemical impurities, which may be described as California Waste Codes 133, 134, 135, and 343.
 - (4) Non-RCRA oil or antifreeze contaminated debris (e.g., absorbents/adsorbents from spill clean-up, pump trash basket debris, contaminated soil) resulting from on-site operations, which be described as California Waste Codes 223 and 352.
- M. The Permittee shall only receive waste that has been manifested on a uniform hazardous waste manifest and is described as a waste that is authorized under Condition L of this Part and specified in Part III of this Standardized Permit. The Permittee shall sign all manifests for waste received as the designated facility. For outgoing shipments, the Permittee shall prepare and sign, as the generator, new uniform hazardous waste manifests.
- N. The Permittee shall manage separately all waste streams described in Condition L of this Part (e.g., used oil shall not be mixed with non-RCRA oil/water mixture, etc.).
- O. The Permittee shall retain any samples required by this Permit and/or the Waste Analysis Plan for at least 14 days. The holding period begins the day after the sample is collected. Waste samples from waste streams authorized in Condition L of this Part above retained by the Permittee may be mixed with outgoing waste shipments after the completion of a 14-day holding period. This condition does not apply to samples discussed in Condition Q below.
- P. **Used Oil.** The Permittee shall determine, prior to accepting used oil, whether the used oil contains more than 1,000 ppm total halogens by testing each shipment of used oil for total halogens, as specified in 22, CCR, Section 66279.90(a) in accordance with Section 66279.10(a)(3). The Permittee shall also test for flashpoint prior to accepting used oil. In addition to any actions discussed in Item F of Part I of this permit, DTSC may modify this Permit to impose additional waste screening and management conditions based upon halogen testing information.

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- Q. **Used Oil.** Samples of the following waste shall be retained until the Permittee has requested in writing, and obtained written authorization from DTSC for disposal:
- (1) Samples obtained from trucks which contain: (i) polychlorinated biphenyls (PCBs) at a concentration of five (5) parts per million (ppm) or greater; and/or (ii) halogens in excess of one thousand (1,000) ppm; and
 - (2) Samples obtained from railcars where the concentration of PCBs in any individual truck load transferred to the railcar was found to be five (5) ppm or greater.
- R. **Used Oil.** The Permittee shall take a retain sample from each truck load of used oil. A representative sample from each rail car holding used oil shall be collected by the Permittee and analyzed prior to shipment. The rail car sample shall be analyzed for PCBs by a certified laboratory using a test method approved by DTSC with a detection limit of two (2) ppm or below. If the rail car sample results show PCB concentrations at or above three (3) ppm, the Permittee shall analyze all retained samples collected from the trucks/shipments of used oil that were unloaded into the rail car prior to shipment. If the sample from the rail car or any of the retain samples from trucks contain PCBs at a concentration of five (5) ppm or greater, the Permittee shall manage the waste in the rail car as hazardous waste contaminated with PCBs and send it to a facility authorized to manage such a waste. If the samples show less than five (5) ppm PCBs, the rail car load may be managed as used oil. When any sample shows a PCB concentration of five (5) ppm or greater, the Permittee shall report the test results to DTSC within seven (7) days of their availability. The Permittee shall maintain all PCB sampling and analytical records for at least three (3) years. In addition to any actions discussed in Item F of Part I of this permit, DTSC may modify this Permit to impose additional waste screening and management conditions based upon PCB testing information.
- S. **Oil/Water Mixture.**
- (1) Prior to accepting shipments of oil/water mixture, the Permittee shall require a generator profile and certification for all waste in a particular truck. The profile(s) and certification(s) shall verify that the waste is non-RCRA oil/water mixture. The Permittee shall maintain these profiles and certifications for at least three (3) years. The Permittee shall not accept waste portrayed by the transporter and/or generator as non-RCRA oil/water mixture unless the profile and certification described in this condition are provided. In addition to any actions discussed in Item F of Part I of this permit, DTSC may modify this Permit to impose additional waste screening and management conditions based upon analytical results from oil/water testing.
 - (2) The Permittee shall conduct the tests shown in Table 1 below prior to accepting oil/water mixture. The testing would constitute a fingerprint analysis¹ to confirm the identity of the waste

1. Abbreviated waste analysis, often referred to as fingerprint analysis, is conducted generally for parameters (e.g. specific gravity, color, flash point, presence of more than one phase, pH, halogen content, percent water) that will give information that can be used to help verify that the waste received by an off-site facility matches the expected characteristics of that waste. AWaste Analysis At Facilities That Generate, Treat, Store and Dispose of HazardousWaste, OSWER 9938.4-03, April, 1994), Pages 1-13.

specified on the accompanying manifest. The purpose of the manifest is only to verify that each waste arriving is a non-RCRA waste. The oil/water mixture should not exhibit the federal characteristics of corrosivity, ignitability, or toxicity.

One representative composite sample, collected with a coliwasa, should be obtained per truck load. The Permittee must log the results of the tests performed and the documents must be available at the Facility for inspection. Any loads failing the acceptance range shown below shall be rejected and the Permittee shall file a report with DTSC.

Table 1
Testing for Oil/Water Mixture

Hazardous Properties	Field Analysis	Rationale	Acceptable Range
Halogens (solvent contamination)	Method approved by DTSC Branch Chief	The method used must detect the presence of solvents in water.	<1,000 ppm
pH	pH paper or meter	If the pH is less than 2 or greater than 12.5, then the water is considered corrosive.	pH of water phase >2.0 and <12.5
Metals ----- PCBs	none	Generators should certify and submit a waste profile sheet at least once a year or when process changes occur.	Metals TCLP not exceeded annual certification ----- PCBs <50 ppm annual certification

- T. **Anti-Freeze.** The Permittee shall conduct the tests shown in Table 2 below prior to accepting waste antifreeze. One representative sample, collected with a coliwasa, should be obtained per truck load. The facility must log the results of the tests performed and the documents must be available at the facility for inspection. Any loads that fail the acceptance range shown in Table 2 shall be rejected and the Permittee shall file a report with DTSC.

Table 2
Testing for Anti-Freeze

Constituents	Method	Rationale	Acceptable Range
pH	pH paper or meter	to determine if antifreeze exhibits corrosivity	pH >2 and < 12.5
specific gravity	hydrometer	to determine the specific gravity of ethylene glycol	1.0 - 1.2
oil/gasoline	visual of coliwasa tube	to determine the presence of oil and gasoline	<5%

- U. The Permittee shall modify its Waste Analysis Plan to accurately reflect the sampling and testing required in Conditions P, Q, R, S and T and submit the modified Plan to DTSC at least 15 working days prior to the effective date of this permit. Failure to meet this deadline will delay the effective date of the Permit for a period of time commensurate with the delay in the submittal.
- V. The Permittee shall comply with all applicable provisions of 22 CCR, Chapter 14, Article 8 and provide evidence of such compliance prior to the issuance of this Permit. This Permit shall not be effective unless and until such compliance is demonstrated to the satisfaction of DTSC.
- W. For the purpose of calculating Standardized Permit fees in accordance with HSC Section 25205.4 (e) (4) (B), the fee and unit type for this A Series C Standardized Permit shall be for total storage of not more than 50,000 gallons of hazardous waste, at any one time.
- X. At no time shall the volume of material, hazardous waste and nonhazardous waste present at the Facility exceed 50,000 gallons.
- Y. The Operating Log shall provide proof of compliance with Conditions W and X of this Part.
- Z. The Permittee shall submit certification for the Rail Side Secondary Containment in accordance with 22 CCR Section 6264.175 prior to receiving waste in that area.
- AA. **Drum Storage Area.**
 - (1) Drums containing either material, hazardous or non-hazardous waste shall not be stacked more than one drum high at any time.
 - (2) The Permittee may store California Waste Codes 133, 134, 135, 221, 223, 343, and 352 in containers of not greater than 55-gallon capacity, except the Facility may store over-pack drums.
 - (3) Drums containing free liquids must be provided with secondary containment in compliance with Title 22, CCR 66264.175 (b).

- BB. Any falsification on any of the above certifications or documents or any other information submitted to DTSC in connection with this Standardized Permit constitutes a false statement under HSC Section 25189.2 and the Standardized Permit may be revoked and other authorized enforcement action taken at the discretion of DTSC.
- CC. This Standardized Permit authorizes operation of the Facility units and activities listed in Part III subject to the conditions specified herein. The Permittee shall not transfer or store hazardous waste in any unit other than those units specified in Part III pursuant to the limitations discussed in Parts II and III. Any modifications to the designated units or permitted activities requires the written request and written approval of DTSC in accordance with the permit modification procedures set forth in Title 22, CCR, Section 66270.41 or 66270.42.
- DD. This Standardized Permit shall not become effective until the Permittee is granted a local land use permit or other land use authorization (HSC Section 25199.3). If a local land use permit or other authorization is not required, the Permittee shall obtain written notification from the local land use agency, submit a copy to the Chief of the Standardized Permits and Corrective Action Branch at DTSC, and this Standardized Permit shall become effective upon that official's receipt of such submittal. If a local land use permit or other authorization is granted, the Permittee shall submit a copy to the Chief of the Standardized Permits and Corrective Action Branch at DTSC within ten days of issuance.
- EE. The issuance of this Standardized Permit is hereby granted subject to the condition that the Permittee complies with all requirements of HSC, Division 20, Chapter 6.5, all applicable provisions of Title 22, CCR, and all terms and conditions of this Standardized Permit. If the aforesaid conditions are not met, this Standardized Permit may be revoked and other authorized enforcement action taken at the discretion of DTSC.

PART III - FACILITY UNITS

The Facility is not authorized for tanks. All containers larger than 55-gallons except for over-pack drums, shall only consist of trucks or rail cars which are at the Facility temporarily for the purpose of loading or unloading. For purposes of this Permit, the Facility is considered to have three units. The units are the Rail Side Secondary Containment, the Truck Side Secondary Containment and the Drum Storage Area as described below.

A. UNIT NAME: Rail Side Secondary Containment

TYPE OF UNIT:

Secondary containment for rail cars.
The unit has a secondary containment capacity of 33,500 gallons.

WASTE TYPE:

Rail cars temporarily located in the Rail Side Secondary Containment shall only contain:

Used oil as defined in HSC Section 25250.1(a)1; non-RCRA oil/water mixture; waste glycol-based antifreeze that has been used or stored and as a result of such use or storage has been contaminated by physical or chemical impurities.

CALIFORNIA WASTE CODES: 221, 223, 133, 134, 135, and 343

COMMON NAME OF WASTE:

Used oil, non-RCRA oil/water mixture, waste antifreeze.

HAZARDOUS CONSTITUENT OR CHARACTERISTIC OF WASTE: Toxic

LOCATION OF UNIT:

The Rail Side Secondary Containment is located on the west side of the Facility.

PHYSICAL DESCRIPTION OF UNIT:

The Rail Side Secondary Containment is 16 feet wide by 160 feet long. The concrete curbing on the west wall and south end is 11 inches high. The curbing is topped by steel plate anchored to the curbing and side walls. The east wall is 3.75 feet high and is part of the raised central platform. The north end of the Rail Side Secondary Containment is the entrance. The entrance has a double swinging, solid, steel gate with an electronic interlock that must be secured before waste transfer pumps can be activated.

ACTIVITY TYPE:

Storage as defined in HSC Section 25123.3(b)(6)(A) and transfer of used oil, non-RCRA oil/water mixtures, and waste antifreeze.

ACTIVITY DESCRIPTION:

Empty rail cars typically arrive at the Facility and are filled with the wastes described above. The waste is pumped into the rail cars from trucks using stationary pumps and piping located at the facility. Rail cars will be top loaded utilizing an overhead loading arm.

Prior to loading a rail car at this facility a fill cap shall be secured over the top opening. The fill cap shall be attached to the overhead loading arm and shall have affixed a venting port (with attached hose) and an electronic over-fill protection sensor. The sensor shall be connected such that if the rail car reaches its maximum fill level, the pump which has been moving liquids to that car is immediately disabled. The sensors and their associated components shall be explosion proof by design. The fill hose shall be capped at the discharge end when not in use.

DESIGN CAPACITY:

The Rail Side Secondary Containment area shall not contain more than two rail cars simultaneously. The maximum capacity of any rail car shall not exceed 30,000 gallons. The combined capacity of any two rail cars shall not exceed 48,000 gallons.

COMMENTS/SPECIAL CONDITIONS: See Part II-Special Conditions

B. UNIT NAME: Truck Side Secondary Containment

TYPE OF UNIT:

Secondary containment for tank trucks. The unit has a secondary containment capacity of 8800 gallons.

WASTE TYPES:

Trucks temporarily located in the Truck Side Secondary Containment shall only contain:

Used oil as defined in California HSC Section 25250.1(a)1; non-RCRA oil/water mixture; or waste glycol-based antifreeze that has been used or stored and as a result of such use or storage has been contaminated by physical or chemical impurities.

CALIFORNIA WASTE CODES: 221, 223, 133, 134, 135, and 343

COMMON NAMES OF WASTE:

Used oil, non-RCRA oil/water mixture, waste antifreeze.

HAZARDOUS CONSTITUENT OR CHARACTERISTIC OF WASTE: Toxic

LOCATION OF UNIT:

The Truck Side Secondary Containment is located on the east side of the Facility.

PHYSICAL DESCRIPTION OF UNIT:

The Truck Side Secondary Containment is 16 feet wide by 160 feet long (maximum dimensions). Drive over curbing (for truck access) at each end reduces the containment interior dimension to 142 feet. There is a roll up door at each end of the containment area.

ACTIVITY TYPE:

Storage as defined in HSC Section 25123.3(b)(6)(A) and transfer of used oil, non-RCRA oil/water mixtures, and waste antifreeze.

ACTIVITY DESCRIPTION:

Tank trucks containing wastes described above pull into the truck side containment area. The waste is pumped from the trucks into rail cars using stationary pumps and piping located at the Facility.

DESIGN CAPACITY:

The Truck Side Secondary Containment shall not contain more than four trucks simultaneously. The maximum capacity of any truck shall not exceed 8,000 gallons.

COMMENT/SPECIAL CONDITIONS: See Part II-Special Conditions

C. UNIT NAME: Drum Storage Area

TYPE OF UNIT:

The Drum Storage Area is not a constructed unit. It is an area specifically designated for drum storage located near the south end of the raised central platform.

WASTE TYPES:

Debris generated on-site contaminated with used oil as defined in HSC Section 25250.1(a)(1), oil/water mixture and/ or antifreeze. The debris is the result of activities such as spill clean up, pump trash basket cleaning, and other facility maintenance and housekeeping activities.

CALIFORNIA WASTE CODES:

133, 134, 135, 221, 223, 343, and 352

COMMON NAME OF WASTE:

Spill clean-up waste, maintenance waste.

HAZARDOUS CONSTITUENT OR CHARACTERISTIC OF WASTE: Toxic

LOCATION OF UNIT:

The Drum Storage Area is located on the south end of the raised center portion of the building.

PHYSICAL DESCRIPTION OF UNIT:

The Drum Storage Area is a designated area at the south end of the raised center portion of the building.

ACTIVITY TYPE:

Drum storage

ACTIVITY DESCRIPTION:

Storage of drums of 55 gallons or less (except for over-pack drums) of non-RCRA hazardous waste.

DESIGN CAPACITY:

The maximum number of fifty-five (55) gallon drums that may be stored within the Drum Storage Area at any one time is eight (8) drums. The maximum volume of waste that may be stored within the Drum Storage Area at any one time in containers of any size is 440 gallons.

COMMENTS/SPECIAL CONDITIONS: See Part II- Special Conditions

PART IV - CORRECTIVE ACTION

A. AUTHORITY

The Permittee is required to conduct corrective action at the Facility pursuant to HSC Sections 25187, 25200.10, and 25200.14. Corrective action, if required, will be carried out under an order or consent agreement issued to the Permittee pursuant to HSC Section 25187.

Failure to comply with any term or condition set forth in Part IV of the Standardized Permit in the time or manner specified herein will subject the Permittee to possible enforcement action and penalties pursuant to HSC Section 25187.

In addition, failure to submit the information required in Part IV of the Standardized Permit, or falsification and/or misrepresentation of any submitted information, is grounds for revocation termination of this Standardized Permit (HSC Section 25186; 22, CCR Section 66270.43).

B. STATEMENT OF PURPOSE

The corrective action objectives contained in Part IV of the Standardized Permit are provided to ensure that all threats to human health and/or the environment, resulting from the release or potential release of hazardous waste or hazardous constituents at the Permittee's Facility, are addressed in an expedient manner.

C. SUMMARY OF CORRECTIVE ACTIONS

(1) Active Solid Waste Management Units (SWMUs)

- a) Rail Side Secondary Containment
- b) Truck Side Secondary Containment
- c) Drum Storage Area

(2) Closed or Inactive Solid Waste Management Units (SWMUs).

None

(3) List of SWMUs which require interim measures.

None

D. WORK TO BE PERFORMED

- (1) The Phase I Environmental Assessment Checklist submitted to DTSC by the Permittee indicated that no further investigation was warranted at the Permittee's facility. A summary of SWMUs and Corrective Actions required is listed above. After reviewing the Phase I Environmental Assessment Checklist and the findings from DTSC's inspection of the facility, DTSC concurs with the Permittee's finding based upon the submitted information from the Permittee and inspection results. DTSC does not require the Permittee to conduct further investigation at this time based on the information submitted by the Permittee.

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- (2) DTSC may require that the Permittee conduct further investigation of the Facility if any of the following occurs:
- (a) DTSC determines that the information supplied in the Phase I Environmental Checklist is inaccurate, incomplete, falsified, or improperly completed.
 - (b) DTSC has reason to believe that the Permittee's Facility may be adversely affecting human health and/or the environment.
 - (c) The Permittee identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous constituents, or discovers a new SWMU not previously identified.
 - (d) If DTSC determines at a later time that further investigation is warranted, DTSC will modify Part IV of the Standardized Permit. The modifications will specify requirements that the Permittee shall complete as part of the required further investigation.
 - (e) If, at any time, DTSC determines that modification of Part IV of the Permit is necessary, DTSC may initiate a modification of Part IV of the Permit according to the procedures in 22, CCR Sections 66270.41 and 66270.42.

E. POTENTIAL OR IMMEDIATE THREATS/NEWLY IDENTIFIED RELEASES/NEWLY IDENTIFIED SWMUs

- (1) In the event the Permittee identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous constituents, or discovers a new SWMU not previously identified, the Permittee shall notify DTSC orally within 48 hours of discovery and notify DTSC in writing within ten (10) days of such discovery, summarizing the findings including the immediacy and magnitude of any potential threat(s) to human health and/or the environment.
- (2) DTSC may require the Permittee to investigate, mitigate and/or take other applicable action to address any immediate or potential threats to human health and/or the environment from newly identified releases of hazardous waste and/or hazardous constituents, or newly identified SWMUs. Upon written request by DTSC, the Permittee shall submit to DTSC any required documents within the time specified by DTSC. The required documents shall be developed in a manner consistent with guidance to be provided by DTSC.
- (3) DTSC will review the required documents and notify the Permittee in writing of DTSC's approval or disapproval, including any comments and/or modifications. If DTSC determines that immediate action is required, DTSC may orally authorize the Permittee to act prior to DTSC's receipt or approval of any required work plans.

PART V- SAMPLING AND ACCESS

(A) Sampling

- (1) The Permittee shall provide confirmatory samples to DTSC within the time requested by DTSC to determine if there is a threat to human health and/or the environment. The sampling shall be done in accordance with guidance that DTSC supplies to the Permittee.
- (2) The Permittee shall notify DTSC in writing at least fourteen (14) days prior to beginning any confirmatory sampling requested by DTSC. If the Permittee believes it must commence emergency confirmatory sampling without delay, the Permittee may seek emergency telephone authorization from DTSC's Chief of the Standardized Permits and Corrective Action Branch or, if the Branch Chief is unavailable, his/her designee to commence such activities immediately. At the request of DTSC, the Permittee shall provide or allow DTSC or its authorized representative to take split or duplicate samples of all samples collected by the Permittee pursuant to Part IV of this Permit.
- (3) The Permittee shall submit to DTSC upon request the results of all sampling and/or tests or other data generated by its employees, divisions, agents, consultants or contractors pursuant to this Standardized Permit.
- (4) Notwithstanding any other provisions of this Standardized Permit, DTSC retains all information gathering and inspection authority rights including enforcement actions related thereto, under HSC and any other applicable State or federal statutes or regulations.

(B) Access

- (1) DTSC, its contractors, employees, agents, and/or any U.S. EPA representatives are authorized to enter and freely move about the facility pursuant to the entire Permit for the purposes of: interviewing Facility personnel and contractors; inspecting records, operating logs, and contracts relating to the Facility; reviewing progress of the Permittee in carrying out the terms of Part IV of the Permit; conducting such tests, sampling, or monitoring as DTSC deems necessary; using a camera, sound recording, or other documentary-type equipment; verifying the reports and data submitted to DTSC by the Permittee; or confirming any other aspect of compliance with this Standardized Permit and Division 20, Chapter 6.5 of the HSC. The Permittee shall provide DTSC and its representatives access at all reasonable times to the Permittee's Facility and any other property to which access is required for implementation of any provision of this Standardized Permit and any provision of Division 20, Chapter 6.5 of the HSC and shall allow such persons to inspect and copy all records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to the entire Standardized Permit or undertake any other activity necessary to determine compliance with applicable requirements.
- (2) To the extent that work being performed pursuant to Part IV of the Permit must be done on property not owned or controlled by the Permittee, the Permittee shall use its

best efforts to obtain access agreements necessary to complete work required by this Part of the Permit from the present owner (s) of such property within thirty (30) days of approval of any work plan for which access is required. ABest efforts≅ as used in this paragraph shall include, at a minimum, a certified letter from the Permittee to the present owner(s) of such property requesting access agreement(s) to allow the Permittee and DTSC and its authorized representatives access to such property and the payment of reasonable sums of money in consideration of granting access. The Permittee shall provide DTSC with a copy of any access agreement(s). In the event that agreements for the access are not obtained within thirty (30) days of approval of any work plan for which access is required, or of the date that the need for access becomes known to the Permittee, the Permittee shall notify DTSC in writing within fourteen (14) days thereafter regarding both efforts undertaken to obtain access and its failure to obtain such agreements. In the event DTSC obtains access, the Permittee shall undertake approved work on such property.

- (3) Nothing in Part IV of the Standardized Permit shall be construed to limit or otherwise affect the Permittee=s liability and obligation to perform corrective action including corrective action beyond the facility boundary, notwithstanding the lack of access. DTSC may determine that additional on-site measures must be taken to address releases beyond the Facility boundary if access to off-site areas cannot be obtained.
- (4) Nothing in Part IV of the Permit shall limit or otherwise affect DTSC=s right to access and entry pursuant to any applicable State or federal laws and regulations.

PART VI - MODIFICATIONS

A. PERMIT MODIFICATION AT THE REQUEST OF THE PERMITTEE

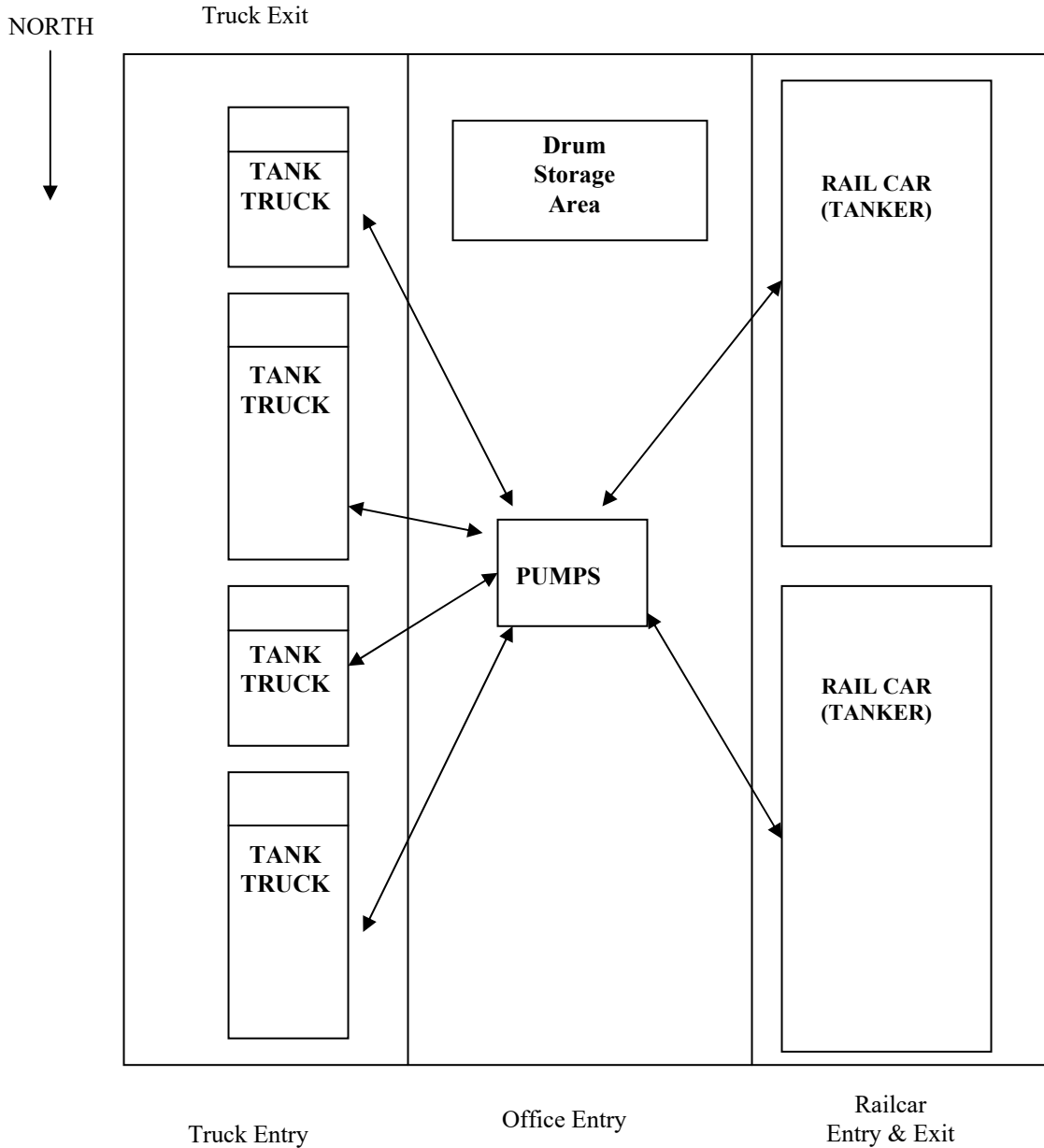
The Permittee must request and obtain a permit modification to revise any portion of this Standardized Permit. To request such a revision, the Permittee must comply with the procedures for permit modifications set forth in 22, CCR Section 66270.42.

B. PERMIT MODIFICATION INITIATED BY DTSC

If at any time DTSC determines that modification of this Standardized Permit is necessary, DTSC may initiate a modification to this Standardized Permit according to procedures in 22, CCR Section 66270.41.

ATTACHMENT 1

PROCESS FLOW DIAGRAM



↔ Arrows represent material flow directions. All materials handled (various oils, oily water) are compatible with each other insofar as they will not have adverse reactions upon coming in contact with one another.

ATTACHMENT 2

Application Sections

Section I	Facility Identification
Section II	Facility Location
Section III	Waste Analysis Plan
Section IV	Facility Design (Containers)
Section V	Facility Design (Tanks)
Section VI	Standardized Permit Closure Plan

Other Information

Standardized Permit Series Determination

Out-of-state used oil recycling facilities

Certifications

Facility Management

Security Plan

Contingency Plan and Emergency Preparedness

Reporting

Inspection

Personal Training

Land Ban Compliance

Manifesting

Facility Siting Information

Environmental Information

Diagrams and Engineering Certifications

APPENDIX A

PERMIT MODIFICATION HISTORY

August 2, 2006

Permit condition Part III.A Design Capacity was modified to increase the allowed maximum capacity of any rail car in the Rail Side Secondary Containment unit from 24,000 gallons to 30,000 gallons at the request of the operator/Permittee as a Class 1* permit modification.

The Permit was also modified to: change the cover page to describe the modification and date; add Part I.H, "Permit Modification History;" add Appendix A, "Permit Modification History;" revise the Index to include the new Permit condition and appendix; and, revise the document headers to increase the total number of pages, indicate the revision date for modified pages of the Permit, and change the font.