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Control*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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

Plaintiff,

v.

**SA RECYCLING, A DELAWARE  
LIMITED LIABILITY CORPORATION,**

Defendant.

Case No. **21STCV10331**

**COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF**

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

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BY FAX

1 Plaintiff, the People of the State of California, *ex rel.* Meredith Williams, Director of the  
2 Department of Toxic Substances Control ("DTSC"), alleges as follows:

3 **I. STATEMENT OF THE CASE**

4 1. SA Recycling, LLC ("SA Recycling" or "Defendant") is now, and at all times  
5 mentioned in this Complaint was, a Delaware Limited Liability Corporation doing business in the  
6 State of California as a metal recycler. SA Recycling owns and operates metal recycling facilities  
7 which receive and process automobiles, major household appliances, and other metal items  
8 located at 2035, 2047 and 2104 East 15th St., Los Angeles, California 90021 ("LA Facility") and  
9 1475 Franklin Ave., Pomona, California 91766 ("Pomona Facility") (collectively, the  
10 "Facilities"). In conducting its operations at the Facilities, SA Recycling violated the California  
11 Hazardous Waste Control Law (Health & Saf. Code, § 25100 et seq.) and its implementing  
12 regulations, California Code of Regulations, title 22, section 66260.1 et seq. ("Title 22")  
13 (collectively, "HWCL"), by, *inter alia*: unlawfully storing, treating, or causing the storage and/or  
14 treatment of, hazardous waste; failing to minimize the possibility of any release of hazardous  
15 waste or hazardous waste constituents to the environment; processing major appliances in a  
16 manner that could result in the release, or prevent the removal, of Materials Requiring Special  
17 Handling ("MRSH") from appliances; failing to provide certification that MRSH was removed  
18 from appliances; failing to make a hazardous waste determination on wastes it generates; failing  
19 to use a registered hazardous waste transporter for shipments of hazardous waste; failing to  
20 properly complete hazardous waste manifests; failing to properly label containers of hazardous  
21 waste; and failing to keep containers of hazardous waste closed during storage.

22 2. DTSC seeks injunctive relief against and civil penalties from SA Recycling for  
23 violations of the HWCL pursuant to sections 25181, 25184, 25189, and 25189.2 of the Health and  
24 Safety Code.

25 **II. THE PARTIES**

26 3. DTSC is a public agency of the State of California organized and existing under and  
27 pursuant to Health and Safety Code section 58000 et seq.

28 4. Meredith Williams is the Director of DTSC.

5. Pursuant to Health and Safety Code sections 25181, subdivision (a), and 25182, the Attorney General of California is authorized, at DTSC's request, to commence an action in the name of the People for injunctive relief and civil penalties under the HWCL. DTSC has requested that the Attorney General bring this civil enforcement action for violations of the HWCL committed by SA Recycling.

6. SA Recycling is a “person,” as defined in Health and Safety Code section 25118. SA Recycling is also a “generator” and an “owner or operator” as those terms are defined in section 66260.10 of Title 22.

7. When this Complaint alleges that SA Recycling committed any action, such allegations shall mean SA Recycling committed such acts; SA Recycling's employees or agents performed or authorized such acts while acting within the course and scope of their employment or agency for SA Recycling, or SA Recycling failed to adequately advise or properly supervise, control, or direct SA Recycling employees or agents in the management, direction, operation, or control of the affairs of SA Recycling.

### III. JURISDICTION AND VENUE

8. This Court has jurisdiction pursuant to the California Constitution, article VI, section 10, and Health and Safety Code section 25181. Venue in this Court is proper under Health and Safety Code section 25183. The violations of the HWCL at the LA Facility alleged in this Complaint occurred in the County of Los Angeles. Further, the County of Los Angeles is the county in which the Attorney General has an office nearest to the county in which the principal office of the Defendant is located in Orange, California.

9. The California Judicial Council’s Emergency rule 9 tolled the statute of limitations and repose for civil causes of action that exceed 180 days from April 6, 2020 through October 1, 2020—a total of 178 days. This Complaint is timely filed within the applicable statute of limitations in Code of Civil Procedure section 338.1 and by operation of Emergency rule 9.

#### IV. HWCL STATUTORY AND REGULATORY BACKGROUND

10. The State of California has enacted a comprehensive statutory and regulatory framework for the generation, handling, treatment, transportation, storage, and disposal of

1 hazardous wastes. The HWCL's framework mandates a "cradle-to-grave" registration, tracking,  
2 storage, treatment, and disposal system for the protection of the public from the risks posed by  
3 hazardous wastes. Except where otherwise expressly defined in this Complaint, all terms shall be  
4 interpreted consistent with the HWCL.

5 11. Pursuant to Health and Safety Code sections 25101, subdivision (d), and 25159 to  
6 25159.9, DTSC administers the HWCL in lieu of federal administration of the Resource  
7 Conservation and Recovery Act ("RCRA"), which is codified at 42 United States Code section  
8 6901 et seq. Federal law prohibits California from imposing any requirements less stringent than  
9 those authorized under RCRA. (42 U.S.C. § 6929.) The HWCL has stricter requirements than  
10 RCRA for regulating hazardous waste in California.

11 12. The HWCL requires DTSC to adopt standards and regulations for the management of  
12 hazardous waste to protect the public health and environment. (Health & Saf. Code, § 25150.)  
13 Accordingly, DTSC has promulgated regulations setting forth numerous and extensive  
14 environmental and health-protective requirements for the day-to-day operation of hazardous  
15 waste generators and transporters, as well as owners and operators of hazardous waste facilities.  
16 (See Cal. Code Regs., tit. 22, § 66262.10 et seq.)

17 13. Health and Safety Code section 25124, subdivision (a), defines a "'waste' [as] any  
18 solid, liquid, semisolid, or contained gaseous discarded material that is not excluded by this  
19 chapter or by regulations adopted pursuant to this chapter." Health and Safety Code section  
20 25124, subdivision (b), defines a "discarded material" to include any material that is, among other  
21 things: (1) relinquished, by being disposed of, burned or incinerated, or accumulated, stored, or  
22 treated before, or in lieu of, being relinquished by being disposed of, burned, or incinerated; (2)  
23 recycled, or accumulated, stored, or treated before recycling; (3) poses a threat to public health or  
24 the environment and is either mislabeled or not adequately labeled or packed in deteriorated or  
25 damaged containers; or (4) considered inherently wastelike, as specified in regulations adopted by  
26 DTSC.

27 14. A "hazardous waste" is a waste that meets any of the criteria established by DTSC.  
28 (Health & Saf. Code, §§ 25117 and 25141.) Those criteria consist of lists of particular hazardous



1 wastes, and characteristics of hazardous wastes—including ignitability, corrosivity, reactivity,  
2 and toxicity. (Cal. Code Regs., tit. 22, §§ 66261.20-24.)

3 15. It is unlawful for any person to manage any hazardous waste except as provided in  
4 the HWCL or the regulations adopted pursuant to the HWCL. (Health & Saf. Code, § 25154.)

5 16. An owner or operator of a hazardous waste management facility may not “accept,  
6 treat, store, or dispose of a hazardous waste at the facility, area, or site, unless the owner or  
7 operator holds a hazardous waste facilities permit or other grant of authorization from [DTSC] to  
8 use and operate the facility, area, or site . . . .” (Health & Saf. Code, § 25201, subd. (a).) Health  
9 and Safety Code section 25189.2 also precludes any person from treating or storing, or causing  
10 the treatment or storage of hazardous waste at a point not authorized by law. (*Id.*, § 25189.2,  
11 subd. (d).)

12 17. A person who generates a hazardous waste is subject to the requirements prescribed  
13 in the HWCL. (Cal. Code Regs., tit. 22, § 66262.10, subd. (h).)

14 18. In general, a generator that generates 1,000 kilograms or more of hazardous waste per  
15 month may accumulate that hazardous waste onsite for up to ninety (90) days without  
16 authorization from DTSC, provided that the generator complies with certain requirements,  
17 including, but not limited to, the requirements specified in California Code of Regulations, title  
18 22, section 66262.34. (Health & Saf. Code, § 25123.3, subs. (b) and (c).)

19 19. A person that generates a waste must determine if the waste is hazardous using the  
20 methods outlined in California Code of Regulations, title 22, sections 66262.11 and 66260.200.  
21 If the waste is hazardous, the generator must manage it in accordance with the statutes and  
22 regulations governing generators of hazardous wastes. (Cal. Code Regs., tit. 22, §§ 66262.11,  
23 subd. (d) and 66260.200, subd. (c).)

24 20. Hazardous waste must be managed in a manner to minimize the possibility of any  
25 unplanned release of the hazardous waste or hazardous waste constituents to the air, soil, or  
26 surface water. (Cal. Code Regs., tit. 22, §§ 66265.31 and 66262.10, subd. (h).)

27 21. For any hazardous waste accumulated and stored, the waste must be contained and  
28 the containers must be labeled to show, among other things: the date upon which accumulation

1 began; the words “hazardous waste”; the composition and physical state of the waste; and the  
2 name and address of the person producing the waste. (Cal. Code Regs., tit. 22, § 66262.34, subd.  
3 (f).) Containers and aboveground tanks used to store used oil shall be marked or clearly labeled  
4 with the words “USED OIL.” (*Id.*, § 66279.21, subd. (b).)

5 22. A container holding hazardous waste shall always be closed during transfer or  
6 storage, except when necessary to add or remove waste. (Cal. Code Regs., tit. 22, § 66265.173,  
7 subd. (a).) A container holding hazardous waste shall not be opened, handled, transferred, or  
8 stored in a manner which may rupture the container or cause it to leak. (*Id.*, § 66265.173, subd.  
9 (b).)

10 23. It is unlawful for any person to carry on, or engage in, the transportation of hazardous  
11 wastes unless the person holds a valid registration issued by DTSC, and it is unlawful for any  
12 person to transfer custody of a hazardous waste to a transporter who does not hold a valid  
13 registration. (Health & Saf. Code, § 25163, subd. (a)(1).)

14 24. Any “person generating hazardous waste that is transported, or submitted for  
15 transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall  
16 complete a manifest prior to the time the waste is transported or offered for transportation . . . .”  
17 (Health & Saf. Code, § 25160, subd. (b)(1).) For all shipments of hazardous waste initiated on or  
18 after September 5, 2006, a generator “shall use the Uniform Hazardous Waste Manifest printed  
19 by a source registered with the United States Environmental Protection Agency.” (*Ibid.*)  
20 California Code of Regulations, title 22, section 66262.20 states the same requirements for the  
21 use of Uniform Hazardous Waste Manifests.

22 25. Under the HWCL, used oil filters are to be managed as hazardous waste. (Cal. Code  
23 Regs., tit. 22, § 66266.130, subd. (a).) For the purposes of California Code of Regulations, title  
24 22, section 66266.130, subdivision (c), “used oil filters” are defined as filters which contain a  
25 residue of used oil as defined in Health and Safety Code section 25250.1, subdivision (a), and  
26 which are exempt from regulation as a hazardous waste under RCRA and 40 Code of Federal  
27 Regulations section 261.6, subdivision (a)(3)(iv). (Cal. Code of Regs., tit. 22, § 62666.130, subd.  
28 (b).)

1        26. Used oil filters which are drained for free-flowing oil, and meet the requirements  
2 outlined in California Code of Regulations, tit. 22, section 66266.130, subdivision (c), among  
3 other things, shall not be regulated as hazardous waste. "Free-flowing" is defined as a continuous  
4 stream of oil exiting the filter when the filter is inverted. Oil exiting drop by drop is not  
5 considered to be free-flowing. If the filter is equipped with a device, such as a rubber flap located  
6 inside the filter opening, that impedes the drainage of used oil from the filter, that device shall be  
7 manipulated to allow the oil to exit the filter freely, or the filter punctured, crushed, opened,  
8 drained, or otherwise handled in a manner that will allow the used oil to exit the filter. (Cal. Code  
9 Regs. tit. 22, § 66266.130, subd. (c)(1).)

10       27. A person who treats a used oil filter which has been drained of free-flowing oil in  
11 accordance with California Code of Regulations, title 22, section 66266.130, subdivision (c)(1), is  
12 authorized to treat and store the used oil filters so long as any used oil or other residue generated  
13 in the course of conducting those activities is managed in accordance with the HWCL and its  
14 regulations. (Cal. Code Regs., tit. 22, § 66266.130, subd. (d).)

15       28. A compressed gas cylinder is exempt from regulation under the HWCL when the  
16 pressure in the container approaches atmospheric pressure. (Cal. Code Regs., tit. 22, § 66261.7,  
17 subd. (l).) If a compressed gas cylinder does not approach atmospheric pressure, a determination  
18 of whether that compressed gas cylinder contains hazardous waste or hazardous material must be  
19 made. If the compressed gas cylinder does contain hazardous waste or a hazardous material, then  
20 it must be managed pursuant to the HWCL and its implementing regulations. (*Ibid.*)

21       29. The HWCL also establishes special requirements for items that contain MRSH.  
22 MRSH includes, but is not limited to, used oil, mercury found in switches and temperature  
23 control devices in "major appliances," and any other material that, when removed from a vehicle  
24 or major appliance, is a hazardous waste under the HWCL. (Pub. Resources Code, § 42167.) A  
25 "major appliance" is "any domestic or commercial device, including, but not limited to, a  
26 washing machine, clothes dryer, hot water heater, dehumidifier, conventional oven, microwave  
27 oven, stove, refrigerator, freezer, air-conditioner, trash compactor, and residential furnace."  
28 (Health & Saf. Code, § 25211; Pub. Resources Code, § 42166.) If MRSH is contained within a

1 major appliance, the MRSH must be removed prior to the appliance being crushed, baled,  
2 shredded, sawed, sheared apart, disposed of, or otherwise processed in a manner that might result  
3 in the release, or prevent the removal, of the MRSH. (Health & Saf. Code, § 25212.)

4 30. A person who transports, delivers, or sells discarded major appliances to a scrap  
5 recycling facility shall provide evidence that he or she is a Certified Appliance Recycler ("CAR")  
6 and shall certify, on a form prepared by DTSC and provided to the facility at the time of  
7 transaction that all MRSH has been removed from the appliances pursuant to Health and Safety  
8 Code section 25212, subdivision (a). Information on the form must include, but is not limited to,  
9 the appliance recycler certificate number, the appliance recycler's hazardous waste identification  
10 number, the number and types of appliances included in the shipment, and the facilities to which  
11 the MRSH removed from the appliances were sent or to be sent. If the appliances have been  
12 crushed, baled or shredded by the CAR, the requirement to include the number and types of  
13 appliances included in the shipment on the form does not apply. (Health & Saf. Code, § 25211.2,  
14 subd. (a).)

15 31. A person subject to Health and Safety Code section 25211.2, subdivision (a), must  
16 retain records onsite for a period of three years that demonstrate compliance with the HWCL  
17 provisions governing the management of MRSH. (Health & Saf. Code, § 25211.3)

18 32. The HWCL authorizes the Court to impose civil penalties for each separate violation  
19 and, for continuing violations, for each day that the violations continue, under two distinct and  
20 alternative provisions. Health and Safety Code section 25189, subdivision (b), imposes liability  
21 for any negligent or intentional violation of the HWCL and any permit, rule, regulation, standard,  
22 or requirement issued or adopted thereunder. Section 25189.2, subdivision (b), is a strict liability  
23 provision, which imposes liability for any violation of the HWCL and any permit, rule,  
24 regulation, standard, or requirement issued or adopted thereunder. A person may not be held  
25 liable for both a civil penalty imposed under section 25189 and under section 25189.2 for the  
26 same act. (Health & Saf. Code, §§ 25189, subd. (g), and 25189.2, subd. (f).) For violations  
27 occurring after January 1, 2018, Health and Safety Code sections 25189 and 25189.2 authorize  
28 the Court to impose civil penalties of up to \$70,000 for each separate violation or, for continuing



1 violations, for each day that the violations continue. For violations occurring before January 1,  
2 2018, like those alleged in the First through Tenth Causes of Action, of this Complaint, the  
3 statutory maximum under the HWCL was \$25,000 for each separate violation or, for continuing  
4 violations, for each day that the violations continue.

5 33. Health and Safety Code sections 25181 and 25184 authorize the Court to enjoin any  
6 ongoing or potential violation of the HWCL.

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

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

17 [I]t shall not be necessary to allege or prove at any stage of the proceeding that  
18 irreparable damage will occur should the temporary restraining order, preliminary  
19 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.

## 20 V. GENERAL ALLEGATIONS

21 36. During all times relevant to the allegations set forth in the Complaint, SA Recycling  
22 conducted metal recycling activities, including, but not limited to cutting, shearing, crushing,  
23 sorting, and baling of metals and used fuel and oil filters at the Facilities. SA Recycling accepted  
24 and continues to accept various metal waste items, including, but not limited to, end-of-life  
25 automobiles and appliances. SA Recycling also handles major appliances with MRSH.

26 37. On September 17, 2015, and March 10 and May 20, 2016, DTSC and the Los  
27 Angeles County Fire Department's Health Hazardous Materials Division—the designated  
28

1 Certified Unified Program Agency or "CUPA", as defined in Health and Safety Code section  
2 25501, subdivision (e)(1)—conducted an inspection of the LA Facility.

3 38. During the September 17, 2015 inspection of the LA Facility, DTSC took two sets of  
4 samples of dust, debris, and contaminated soil from a metal pile at the LA Facility for laboratory  
5 testing. One sample exceeded hazardous waste regulatory thresholds for soluble lead. The other  
6 sample exceeded the hazardous waste threshold for total copper.

7 39. During the May 20, 2016 inspection, DTSC took four sets of samples of fuel filters  
8 and shredded oil and fuel filter media from various locations at the LA Facility. Two samples of  
9 shredded oil filter and fuel filter media exceeded hazardous waste regulatory thresholds for  
10 soluble lead.

11 40. On March 25 and May 20, 2016, DTSC issued Summaries of Violations ("SOV") to  
12 SA Recycling for the LA Facility, and issued a Revised SOV on May 7, 2020. The SOVs and  
13 Revised SOV cited violations of the HWCL observed during the September 17, 2015, and March  
14 10 and May 20, 2016 inspections of the LA Facility.

15 41. On February 29, April 8 and May 10, 2016, DTSC and the Los Angeles County Fire  
16 Department's Health Hazardous Materials Division conducted an inspection at the Pomona  
17 Facility.

18 42. On April 8, 2016, DTSC issued an SOV to SA Recycling citing violations of the  
19 HWCL observed during the February 29, 2016 inspection at the Pomona Facility. On July 7,  
20 2016 DTSC issued a Supplemental SOV for the Pomona Facility which cited additional  
21 violations observed during the February 29, April 8, and May 10, 2016 inspections.

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

##### 23 (Illegal Storage of Hazardous Waste)

24 (Health & Saf. Code, §§ 25201, subd. (a), 25154, 25189, subd. (e), and 25189.2, subd. (d))

25 43. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
26 herein.

27 44. In relevant part, Health and Safety Code section 25201, subdivision (a), provides that  
28 no owner or operator of a storage facility shall accept or store hazardous waste at the facility,

1 area, or site, unless the owner or operator holds a hazardous waste facility permit or other grant of  
2 authorization from DTSC. Health and Safety Code section 25189, subdivision (e), provides, in  
3 relevant part, that it is unlawful to store, or to intentionally or negligently store, or cause the  
4 storage of hazardous waste at an unauthorized point. Health and Safety Code section 25189.2,  
5 subdivision (d) also, in relevant part, states that it is unlawful to store, or to cause the storage of  
6 hazardous waste at an unauthorized point. SA Recycling does not have a permit or other  
7 authorization from DTSC to store hazardous waste at the Facilities.

8 45. Similarly, Health and Safety Code section 25154 states that it is unlawful for any  
9 person to manage hazardous waste in a manner not authorized by the HWCL.

10 46. In relevant part, Health and Safety Code section 25123.3, subdivision (b)(4)(A),  
11 provides that a hazardous waste “storage facility” is a facility where hazardous waste is held  
12 onsite for any period of time, unless the hazardous waste is held in a container, tank, drip pad, or  
13 containment building in accordance with DTSC’s regulations.

14 47. Under California Code of Regulations, title 22, section 66262.34, a generator that  
15 generates 1,000 kilograms or more of hazardous waste per month is able to accumulate hazardous  
16 waste on site for 90 days or less from the initial date of generation of the waste without a permit  
17 or grant of interim status from DTSC only if it complies with certain requirements including, but  
18 not limited to, placing the hazardous waste in proper containers or tanks and properly assessing  
19 and labeling the containers or tanks. (See Cal. Code Regs., tit. 22, § 66262.34, subds. (a) and (f).)  
20 If the generator fails to meet all the requirements for the 90-day accumulation period, it is not  
21 authorized to accumulate any hazardous waste at all.

22 48. On or about September 17, 2015, SA Recycling unlawfully stored hazardous soil and  
23 debris in a pile(s) on the concrete floor of the LA Facility. On or about September 17, 2015, and  
24 March 10 and May 20, 2016, SA Recycling stored shredded used oil filter media, a hazardous  
25 waste, in an approximately 10-foot-tall pile at the LA Facility. On or about March 10, 2016, SA  
26 Recycling stored approximately 200 55-gallon drums of undrained oil filters, a hazardous waste,  
27 and used oil, also a hazardous waste, in seven approximately 1,000-gallon storage tanks at the LA  
28 Facility. Between February 29 and May 10, 2016, SA Recycling caused the storage of

1 compressed gas cylinders containing flammable propane gas and oxygen, a hazardous waste, by  
2 shipping them to the Cylinder Depot facility at 5350 G. St., Chino, California 91708, which does  
3 not have a permit or grant of authorization from DTSC to store hazardous waste. These actions  
4 are violations of Health and Safety Code sections 25201, subdivision (a), 25189, subdivision (e),  
5 25189.2, subdivision (d), and 25154.

6 49. Pursuant to Health and Safety Code section 25189, subdivision (e), SA Recycling is  
7 liable for civil penalties of up to \$25,000 for each instance of intentional or negligent illegal  
8 storage or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (d),  
9 each instance of strict liability illegal storage of hazardous waste. Health and Safety Code  
10 sections 25189, subdivision (e) and 25189.2, subdivision (d) authorize the Court to impose civil  
11 penalties for each separate violation or, for continuing violations, for each day that the violations  
12 continue.

13 50. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
14 should also be enjoined by the Court from continuing to operate the Facilities in violation of this  
15 requirement to obtain a permit or other authorization from DTSC prior to storing hazardous  
16 waste.

## 17 **SECOND CAUSE OF ACTION**

18 (Illegal Treatment of Hazardous Waste)

19 (Health & Saf. Code, §§ 25201, subd. (a), 25154, 25189, subd. (e), and 25189.2, subd. (d))

20 51. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
21 herein.

22 52. In relevant part, Health and Safety Code section 25201, subdivision (a), provides that  
23 no owner or operator of a storage facility shall treat hazardous waste at the facility, area, or site,  
24 unless the owner or operator holds a hazardous waste facility permit or other grant of  
25 authorization from DTSC. Health and Safety Code section 25189, subdivision (e), provides, in  
26 relevant part, that it is unlawful to treat, or to intentionally or negligently treat, or cause the  
27 treatment of hazardous waste at an unauthorized point. Health and Safety Code section 25189.2,  
28 subdivision (d) also, in relevant part, states that it is unlawful to treat, or to cause the treatment of,



1 hazardous waste at an unauthorized point. SA Recycling does not have a permit or other  
2 authorization from DTSC to treat hazardous waste at the Facilities.

3 53. Similarly, Health and Safety Code section 25154 states that it is unlawful for any  
4 person to manage hazardous waste in a manner not authorized by the HWCL.

5 54. Health and Safety Code section 25123.5 defines treatment of a hazardous waste to  
6 include any method, technique, or process which is designed to change the physical, chemical, or  
7 biological character or composition of the hazardous waste, or which removes or reduces its  
8 harmful properties or characteristics for any purpose.

9 55. On or about September 17, 2015, and March 10 and May 20, 2016, at the LA Facility,  
10 SA Recycling violated Health and Safety Code sections 25201, subdivision (a), 25189,  
11 subdivision (e), 25154, 25189, subdivision (e), and 25189.2, subdivision (d) in that it treated  
12 undrained used oil filters, a hazardous waste by shredding and separating their components using  
13 a fixed metal shredder, magnet and filter press. On or about those same dates, SA Recycling  
14 further treated used oil, a hazardous waste, separated from the filters by draining the oil through  
15 improvised sieves attached to 55-gallon drums and re-running the solids through a filter press at  
16 the LA Facility.

17 56. Between February 29 and May 10, 2016, at the Pomona Facility, SA Recycling  
18 further violated Health and Safety Code sections 25201, subdivision (a), 25154, 25189,  
19 subdivision (e), and 25189.2, subdivision (d) by transporting compressed gas cylinders containing  
20 flammable propane gas and oxygen, a hazardous waste, to Cylinder Depot for treatment without  
21 Cylinder Depot having a permit or grant of authorization from DTSC to treat hazardous waste.

22 57. Pursuant to Health and Safety Code section 25189, subdivision (e), SA Recycling is  
23 liable for civil penalties up to \$25,000 for each instance of intentional or negligent treatment, or,  
24 in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (d), each  
25 instance of strict liability treatment of hazardous waste. Health and Safety Code sections 25189,  
26 subdivision (e) and 25189.2, subdivision (b) authorize the Court to impose civil penalties for each  
27 separate violation or, for continuing violations, for each day that the violations continue.  
28

1           58. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
2 should also be enjoined by the Court from continuing to operate the Facilities in violation of these  
3 requirements regarding the storage of hazardous waste.

4                                   **IV. THIRD CAUSE OF ACTION**

5                                   (Failure to Minimize the Possibility of Any Release of Hazardous Waste or  
6                                   Hazardous Waste Constituents to the Environment)  
7                                   (Cal. Code Regs., tit. 22, §§ 66262.10, subd. (h), and 66265.31)

8           59. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
9 herein.

10          60. Under California Code of Regulations, title 22, section 66265.31, hazardous waste  
11 transfer, treatment, storage, and disposal facilities shall be maintained and operated to minimize  
12 the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous  
13 waste constituents to air or soil that could threaten human health or the environment. As the  
14 owner and operator of the Facilities, SA Recycling is subject to this regulation.

15          61. Pursuant to California Code of Regulations, title 22, section 66262.10, subdivision  
16 (h), generators who treat, store or dispose of hazardous waste on-site shall comply with applicable  
17 standards set forth in the HWCL.

18          62. On or about September 17, 2015, DTSC inspectors observed hazardous waste soil and  
19 debris in a pile of metal on the concrete floor of the LA Facility. DTSC took samples of the soil  
20 and debris and after testing, determined that they contained hazardous waste or hazardous waste  
21 constituents, including heavy metals exceeding hazardous waste regulatory thresholds.

22          63. On and prior to September 17, 2015, in operating the LA Facility, SA Recycling  
23 failed to minimize the release of hazardous waste or hazardous constituents to the air, soil, or  
24 surface water, which could threaten human health or the environment, in violation of California  
25 Code of Regulations, title 22, sections 66265.31 and 66262.10 in that it failed to containerize,  
26 label and manage the soil and debris as hazardous waste.

27          64. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
28 liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to  
minimize releases or, in the alternative, pursuant to Health and Safety Code section 25189.2,

subdivision (b), each instance of strict liability failure to minimize releases. Health and Safety Code sections 25189 and 25189.2 authorize the Court to impose civil penalties for each separate violation or, for continuing violations, for each day that the violations continue.

65. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling should also be enjoined by the Court from continuing to operate the LA Facility in violation of this requirement.

**FOURTH CAUSE OF ACTION**  
(Failure to Make Hazardous Waste Determination)  
(Cal. Code Regs., tit. 22, §§ 66260.200, subd. (c), 66262.11)

66. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth herein.

67. California Code of Regulations, title 22, section 66262.11 requires a person who generates waste, as defined in California Code of Regulations, title 22, section 66261.2, to determine if the waste is a hazardous waste using the methods specified in that regulation. California Code of Regulations, title 22, section 66260.200, subdivision (c), similarly provides that it is the generator's responsibility to determine if the waste is classified as a hazardous waste.

68. On or around March 10 and May 20, 2016, SA Recycling failed to make hazardous waste determinations as to whether waste generated from shredding oil and fuel filters at the LA Facility met the requirements to be classified as hazardous waste, in violation of California Code of Regulations, title 22, sections 66260.200, subdivision (c), and 66262.11.

69. On May 20, 2016, at the LA Facility, DTSC took and tested samples of shredded oil and fuel filter media, which exceeded hazardous waste thresholds for one or more heavy metals.

70. On or before February 29, 2016, SA Recycling failed to make hazardous waste determinations for compressed gas cylinders that contained flammable propane gas and oxygen that SA Recycling was managing at the Pomona Facility.

71. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to make a hazardous waste determination or, in the alternative, pursuant to Health and Safety Code section

1 25189.2, subdivision (b), each instance of strict liability failure to make a hazardous waste  
2 determination. Health and Safety Code sections 25189 and 25189.2 authorize the Court to  
3 impose civil penalties for each separate violation or, for continuing violations, for each day that  
4 the violations continue.

5 72. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
6 should also be enjoined by the Court from continuing to operate the Facilities in violation of this  
7 requirement to make hazardous waste determinations.

### 8 **FIFTH CAUSE OF ACTION**

9 (Failure to Use Hazardous Waste Manifests)

10 (Health & Saf. Code, § 25160, subd. (b)(1); Cal. Code Regs., tit. 22, § 66262.23)

11 73. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
12 herein.

13 74. Health and Safety Code section 25160, subdivision (b), and California Code of  
14 Regulations, title 22, section 66262.23, subdivision (a), require a generator of waste to prepare  
15 complete and accurate hazardous waste manifests when it transports, or offers for transport,  
16 hazardous waste offsite for treatment, storage, or disposal.

17 75. On or after February 29 through July 14, 2016, SA Recycling failed to use hazardous  
18 waste manifests for two shipments of approximately 135 compressed gas cylinders containing  
19 hazardous waste flammable propane and oxygen from the Pomona Facility.

20 76. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
21 liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to use a  
22 hazardous waste manifest or, in the alternative, pursuant to Health and Safety Code section  
23 25189.2, subdivision (b), each instance of strict liability failure to use a hazardous waste manifest.  
24 Health and Safety Code sections 25189 and 25189.2 authorize the Court to impose civil penalties  
25 for each separate violation or, for continuing violations, for each day that the violations continue.

26 77. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
27 should also be enjoined by the Court from continuing to operate the Pomona Facility in violation  
28 of this requirement.



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**SIXTH CAUSE OF ACTION**  
(Failure to Use a Registered Hazardous Waste Transporter)  
(Health & Saf. Code, § 25163, subd. (a)(1))

78. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth herein.

79. Health and Safety Code section 25163, subdivision (a)(1) states that it is unlawful to transport hazardous waste without valid registration from DTSC, or to transfer custody of a hazardous waste to a transporter without valid registration from DTSC.

80. On or after February 29, 2016, SA Recycling relinquished compressed gas cylinders, containing hazardous waste, to Cylinder Depot for transportation from the Pomona Facility. Cylinder Depot did not hold a valid registration from DTSC to transport hazardous waste.

81. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to use a registered hazardous waste transporter or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to use a registered hazardous waste transporter. Health and Safety Code sections 25189 and 25189.2 authorize the Court to impose civil penalties for each separate violation or, for continuing violations, for each day that the violations continue.

82. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling should also be enjoined by the Court from continuing to operate the Pomona Facility in violation of this requirement.

**SEVENTH CAUSE OF ACTION**  
(Processing Major Appliances Containing MRSH in a Manner that Could Result in the Release, or Prevent the Removal, of MRSH)  
(Health & Saf. Code, § 25212, subd. (a))

83. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth herein.

1           84. In relevant part, Health and Safety Code section 25212, subdivision (a), prohibits  
2 processing major appliances containing MRSH in a manner that could result in the release, or  
3 prevent the removal, of the MRSH.

4           85. During the February 29, 2016 inspection of the Pomona Facility, DTSC observed at  
5 least three microwave ovens still containing MRSH in the pile of appliances being loaded via a  
6 grappler into trailers for shipping offsite for treatment. One of the microwaves was badly  
7 damaged. The use of a grappler, which grasps and moves materials by squeezing them within  
8 powerful metal “jaws” to pick up major appliances from metal piles, can crush or partially-crush  
9 items within their grasp and can cause the release, or prevent the removal, of MRSH within major  
10 appliances. Processing appliances in such a manner could result in the release of the MRSH  
11 within the appliances to the environment, or prevent the removal of the MRSH at a later point.

12           86. SA Recycling violated Health and Safety Code section 25212, subdivision (a), in that  
13 it processed major appliances containing MRSH in a manner that could result in the release, or  
14 prevent the removal, of MRSH.

15           87. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
16 liable for civil penalties up to \$25,000 for each instance of intentional or negligent processing of  
17 major appliances containing MRSH in a manner that could result in the release, or prevent the  
18 removal, of MRSH or, in the alternative, pursuant to Health and Safety Code section 25189.2,  
19 subdivision (b), each instance of strict liability processing major appliances containing MRSH in  
20 a manner that could result in the release, or prevent the removal, of MRSH. Health and Safety  
21 Code sections 25189 and 25189.2 authorize the Court to impose civil penalties for each separate  
22 violation or, for continuing violations, for each day that the violations continue.

23           88. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
24 should also be enjoined by the Court, from continuing to operate the Pomona Facility in violation  
25 of this requirement to not process appliances in a manner that could result in the release, or  
26 prevent the removal, of MRSH.

1 **EIGHTH CAUSE OF ACTION**

2 (Failure to Provide Written Certification that MRSH Has Been Removed)  
3 (Health & Saf. Code, § 25211.2, subd. (a))

4 89. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
5 herein.

6 90. In relevant part, Health and Safety Code section 25211.2, subdivision (a), requires a  
7 CAR to provide written certification that they are a CAR and that that MRSH was properly  
8 removed before the person transports the major appliance to a recycling facility.

9 91. On and prior to April 8 and May 10, 2016, SA Recycling transported major  
10 appliances that SA Recycling had processed at the Pomona Facility to a scrap recycling facility.  
11 On May 10, 2016, during inspection of the Facility, an SA Recycling employee stated that they  
12 did not provide written certification to the receiving scrap recycling facility, at the time of the sale  
13 of appliances, that the MRSH had been removed. On June 17, 2016, via email, an SA Recycling  
14 representative again stated that it does not provide certification of MRSH removal when it  
15 transfers the appliances to the scrap recycling facility. SA Recycling's Pomona Facility is a  
16 CAR.

17 92. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
18 liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to  
19 provide written certification that MRSH has been removed or, in the alternative, pursuant to  
20 Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to  
21 provide written certification that MRSH has been removed. Health and Safety Code sections  
22 25189 and 25189.2 authorize the Court to impose civil penalties for each separate violation or, for  
23 continuing violations, for each day that the violations continue.

24 93. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
25 should also be enjoined by the Court from continuing to operate the Pomona Facility in violation  
26 of this requirement.  
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1 **NINTH CAUSE OF ACTION**

2 (Failure to Place Labels on Containers of Hazardous Waste)  
3 (Cal. Code Regs., tit. 22, §§ 66262.34, subd. (f) and 66279.21)

4 94. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
5 herein.

6 95. In relevant part, California Code of Regulations, title 22, section 66262.34,  
7 subdivision (f) requires that containers of hazardous waste be labeled with the words, "Hazardous  
8 Waste," as well as that the containers be labeled with other information, including accumulation  
9 start dates and periods, the composition of the waste, the hazardous properties of the name and  
10 address of the producer of the waste.

11 96. Similarly, California Code of Regulations, tit. 22, section 66279.21 in relevant part  
12 requires that generators of used oil must label containers and above ground tanks storing used oil  
13 with the words, "Used Oil."

14 97. During its March 10, 2016 inspection of the LA Facility, DTSC observed that SA  
15 Recycling stored (1) approximately 47 55-gallon drums approximately six drip pans and a  
16 hopper/vault containing used oil generated from oil filter recycling without hazardous waste or  
17 used oil labels, in violation of California Code of Regulations, title 22, sections 66262.34,  
18 subdivision (f) and 66279.21 and (2) approximately 200 55-gallon drums of hazardous waste  
19 undrained used oil filters and without hazardous waste labels in violation of California Code of  
20 Regulations, title 22, section 66262.34, subdivision (f).

21 98. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
22 liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to place  
23 labels on containers of hazardous waste or, in the alternative, pursuant to Health and Safety Code  
24 section 25189.2, subdivision (b), each instance of strict liability failure to place labels on  
25 containers of hazardous waste. Health and Safety Code sections 25189 and 25189.2 authorize the  
26 Court to impose civil penalties for each separate violation or, for continuing violations, for each  
27 day that the violations continue.  
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1           99. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
2 should also be enjoined by the Court from continuing to operate the LA Facility in violation of  
3 this requirement.

4                                   **TENTH CAUSE OF ACTION**

5                                   (Failure to Keep Containers of Hazardous Waste Closed During Storage)  
6                                   (Cal. Code Regs. tit. 22, § 66265.173)

7           100. Paragraphs 1 through 42 above are incorporated by reference as though fully set forth  
8 herein.

9           101. Pursuant to California Code of Regulations, title 22, section 66265.173, a container  
10 holding hazardous waste shall always be closed during storage, except as necessary to add or  
11 remove waste. Additionally, it specifies that containers holding hazardous waste shall not be  
12 stored in a manner which may rupture the container or cause it to leak.

13           102. On or about March 10, 2016, SA Recycling stored approximately 144 55-gallon  
14 drums of undrained used oil filters, a hazardous waste, without lids and approximately 47, 55-  
15 gallon drums of used oil and solids with perforated lids or lids which were not sealed at the LA  
16 Facility, in violation of California Code of Regulations, title 22, section 66265.173.

17           103. Pursuant to Health and Safety Code section 25189, subdivision (b), SA Recycling is  
18 liable for civil penalties up to \$25,000 for each instance of intentional or negligent failure to keep  
19 containers of hazardous waste closed during storage or, in the alternative, pursuant to Health and  
20 Safety Code section 25189, subdivision (b), each instance of strict liability failure to keep  
21 containers of hazardous waste closed during storage. Health and Safety Code sections 25189 and  
22 25189.2 authorize the Court to impose civil penalties for each separate violation or, for  
23 continuing violations, for each day that the violations continue.

24           104. Pursuant to Health and Safety Code section 25181, subdivision (a), SA Recycling  
25 should also be enjoined by the Court from continuing to operate the LA Facility in violation of  
26 this requirement.

1 **PRAYER FOR RELIEF**

2 DTSC requests that the Court grant the following relief:

- 3 1. Enter judgment that SA Recycling violated the HWCL, as alleged in the First through  
4 Tenth Causes of Action;
- 5 2. Enter judgment that SA Recycling is liable for civil penalties according to proof for  
6 those violations set forth in the First through Tenth Causes of Action as authorized by Health and  
7 Safety Code section 25189 or, in the alternative, by Health and Safety Code section 25189.2;
- 8 3. Enter temporary restraining orders, preliminary injunctions, permanent injunctions, or  
9 other orders requiring SA Recycling to comply with the HWCL;
- 10 4. Grant DTSC its costs of suit herein against SA Recycling; and
- 11 5. Grant such other and further relief as the Court deems just and proper.
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14 Dated: March 12, 2021

Respectfully Submitted,

15  
16 XAVIER BECERRA  
Attorney General of California  
17 DENNIS L. BECK, JR.  
Supervising Deputy Attorney General  
18

19  
20 /s/ Shannon Clark

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Director of the California Department of  
24 Toxic Substances Control  
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