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Superior Court of California
County of Los Angeles

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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.

CSC AUTO SALVAGE AND DISMANTLING, INC., d/b/a EXPRESS METALS RECYCLING,

Defendant.

Case No. **21STCV12061**

COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

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

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

STATEMENT OF THE CASE

1. Defendant CSC Auto Salvage and Dismantling, Inc., d/b/a Express Metals Recycling ("Defendant" and together with DTSC, "Parties") is now, and at all times mentioned in this Complaint was, a California Corporation, Entity Number C3080160, doing business in the State of California as a metal recycler. Defendant owns and operates a metal recycling facility located at 12207 Branford Street, Sun Valley, California 91352 ("Facility"). In conducting its operations at the Facility, Defendant violated the California Hazardous Waste Control Law (Health & Saf. Code, § 25100 et seq.) and its implementing regulations, California Code of Regulations, title 22, section 66260.1 et seq. ("Title 22") (collectively, "HWCL"), by, *inter alia*: accepting, storing, and treating hazardous waste without a permit or other grant of authorization from DTSC; failing to minimize the release of hazardous wastes or hazardous waste constituents to the air, soil or surface water; receiving major appliances and removing Materials Requiring Special Handling (MRSH) without being a Certified Appliance Recycler (CAR); failing to determine if heavy metal contaminated dirt and dusts, and MRSH, accumulated at the Facility were hazardous wastes; treating major appliances before removing all MRSH, and removing ballasts, capacitators, and compressors without a permit or grant of authorization from DTSC; failing to retain records onsite for a period of three years demonstrating Defendant's compliance with the HWCL provisions governing the management of MRSH; failing to contain electronic devices in a manner to prevent breakage and release of components into the environment; failing to clean-up and place in containers spilled residual printed circuit boards or those that might reasonably be expected to cause a release to the environment under reasonably foreseeable condition; and failing to place labels on containers of hazardous waste.

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

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THE PARTIES

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

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 Defendant.

6. Defendant is a "person," as defined in Health and Safety Code section 25118. Defendant is also a "generator" and an "owner or operator" as those terms are defined in California Code of Regulations, title 22, section 66260.10.

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

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 Facility alleged in this Complaint occurred in the County of Los Angeles.

9. Starting on September 29, 2017, the Parties entered into a series of tolling agreements, which collectively tolled the statute of limitations for the causes of action alleged in this Complaint from September 29, 2017 to March 29, 2021. Also, 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. Thus, this Complaint is timely filed within the applicable statute of limitations in Code of Civil Procedure section 338.1.

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

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

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

13. Health and Safety Code section 25124, subdivision (a), defines a "'waste' [as] any solid, liquid, semisolid, or contained gaseous discarded material that is not excluded by this chapter or by regulations adopted pursuant to this chapter." Health and Safety Code section 25124, subdivision (b), defines a "discarded material" to include any material that is, among other things: (1) relinquished, by being disposed of, burned or incinerated, or accumulated, stored, or treated before, or in lieu of, being relinquished by being disposed of, burned, or incinerated; (2) recycled, or accumulated, stored, or treated before recycling; (3) poses a threat to public health or

the environment and is either mislabeled or not adequately labeled or packed in deteriorated or damaged containers; or (4) considered inherently wastelike, as specified in regulations adopted by DTSC.

14. A "hazardous waste" is a waste that meets any of the criteria established by DTSC. (Health & Saf. Code, §§ 25117 and 25141.) Those criteria consist of lists of particular hazardous wastes, and characteristics of hazardous wastes—including ignitability, corrosivity, reactivity, and toxicity. (Cal. Code Regs., tit. 22, §§ 66261.20 to 66261.24.)

15. A "universal waste" means a hazardous waste not fully regulated as a hazardous waste under the HWCL, including batteries, electronic devices, mercury-containing equipment, lamps, cathode ray tubes and tube glass, aerosol cans, and photovoltaic modules. (Health & Saf. Code, § 25123.8 and Cal. Code Regs., tit. 22, §§ 66273.9 and 66261.9, subd. (a).) A "universal waste handler" includes, but is not limited to, a person who generates universal waste, owns or operates a facility that receives and accumulates universal waste, or owns or operates a facility authorized to treat universal waste. (Cal. Code Regs., tit. 22, § 66273.9.)

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

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

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

19. A person who generates a waste must determine if the waste is hazardous using the methods outlined in California Code of Regulations, title 22, sections 66262.11 and 66260.200. If the waste is hazardous, the generator must manage it in accordance with the statutes and

regulations governing generators of hazardous wastes. (Cal. Code Regs., tit. 22, §§ 66262.11, subd. (d), and 66260.200, subd. (c).)

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

21. Universal waste handlers who handle electronic devices must manage such devices in a way that prevents releases of the universal waste or its components to the environment under reasonably foreseeable conditions, including, but not limited to, by containing any electronic device in a manner that prevents breakage and release of components to the environment. (Cal Code Regs., tit. 22, § 66273.33.5, subd. (a)(1)(B)1.a.)

22. Universal waste handlers who handle residual printed circuit boards must manage them in a manner that prevents a release to the environment, including, but limited to, placing residual printed circuit boards in a container, if the residual printed circuit board is spilled or might reasonably be expected to cause a release to the environment under reasonably foreseeable conditions. (Cal. Code Regs., § 66273.71, subd. (f)(1)(C).)

23. For any hazardous waste accumulated and stored, the waste must be contained and the containers must be labeled to show, among other things: the date upon which accumulation began; the words "hazardous waste"; the composition and physical state of the waste; and the name and address of the person producing the waste. (Cal. Code Regs., tit. 22, § 66262.34, subd. (f).)

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

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

25. A Certified Appliance Recycling ("CAR") is a person or entity engaged in the business of removing and properly managing MRSH from discarded major appliances and is certified by DTSC pursuant to Health and Safety Code section 25211.4. (Health & Saf. Code, § 25211, subd. (a).) A person is prohibited from removing MRSH from a major appliance unless that person is a CAR. (*Id.*, § 25211.1, subd. (a).) A person who transports, delivers, or sells discarded major appliances to a scrap recycling facility shall provide evidence that he or she is a CAR and shall certify, on a form prepared by DTSC and provided to the facility at the time of transaction that all MRSH has been removed from the appliances pursuant to Health and Safety Code section 25212, subdivision (a). Information on the form must include, but is not limited to, the appliance recycler certificate number, the appliance recycler's hazardous waste identification number, the number and types of appliances included in the shipment, and the facilities to which the MRSH removed from the appliances were sent or to be sent. If the appliances have been crushed, baled or shredded by the CAR, the requirement to include the number and types of appliances included in the shipment on the form does not apply. (Health & Saf. Code, § 25211.2, subd. (a).)

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

27. The HWCL authorizes the Court to impose civil penalties for each separate violation and, for continuing violations, for each day that the violations continue, under two distinct and alternative provisions. Health and Safety Code section 25189, subdivision (b), imposes liability for any negligent or intentional violation of the HWCL and any permit, rule, regulation, standard, or requirement issued or adopted thereunder. Health and Safety Code section 25189.2, subdivision (b), is a strict liability provision, which imposes liability for any violation of the HWCL and any permit, rule, regulation, standard, or requirement issued or adopted thereunder. A

person may not be held liable for both a civil penalty imposed under Health and Safety Code section 25189 and under section 25189.2 for the same act. (Health & Saf. Code, §§ 25189, subd. (g), and 25189.2, subd. (f).) For violations occurring after January 1, 2018, Health and Safety Code sections 25189 and 25189.2 authorize the Court to impose civil penalties of up to $70,000 for each separate violation or, for continuing violations, for each day that the violations continue. For violations occurring before January 1, 2018, like those alleged in the First through Ninth Causes of Action of this Complaint, the statutory maximum under the HWCL was $25,000 for each separate violation or, for continuing violations, for each day that the violations continue.

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

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

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

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

GENERAL ALLEGATIONS

31. During all times relevant to the allegations set forth in the Complaint, Defendant conducted metal shredding and/or recycling activities, including, but not limited to shredding, cutting, shearing, crushing, sorting, and baling of metals at the Facility. Defendant accepted and continues to accept various metal waste items, including, but not limited to, end-of-life

automobiles and appliances. Defendant also handles major appliances with MRSH. Defendant did not and does not have a hazardous waste facilities permit or other grant of authorization from DTSC to accept, treat, or store hazardous waste.

32. DTSC conducted inspections of the Facility on October 16 and 17, 2012 ("2012 inspection"); December 5, 2014 ("2014 inspection"); and March 21 and 22, 2017 ("2017 inspection"). During each of the inspections, DTSC discovered violations of the HWCL at the Facility.

33. During the 2012 inspection, DTSC found that Defendant had received major appliances at the Facility, without being a CAR and without the person delivering the major appliances to the Facility being a CAR. DTSC also discovered hazardous waste heavy metal contaminated dirt and dusts accumulated in piles and on the ground throughout the Facility, and on equipment, including on an Eddy current conveyor belt and a ramp located in the west corner of the Facility; major appliances, from which MRSH, including, but not limited to, devices including mercury and polychlorinated biphenyls ("PCBs"), and compressors, ballasts and capacitors containing oils, had not been removed; motor vehicles, from which hazardous waste liquids such as used oil, antifreeze and gasoline had not been removed; and un-containerized e-waste, such as computers, printers, and circuit boards, being stored in piles on the ground at the Facility. Analytical results of samples taken by DTSC of soil and debris at the Facility revealed that the soil and debris exceeded hazardous waste regulatory thresholds for cadmium, copper, lead, mercury, PCBs, and zinc. Defendant was found not to have made a hazardous waste determination for any of these discovered wastes. Defendant was found to have engaged in crushing, baling, shredding, sawing, and shearing of major appliances before removing MRSH, which prevented the subsequent removal of MRSH from these items. Defendant was also found to have failed to retain records onsite for a period of three years demonstrating Defendant's compliance with the HWCL provisions governing the management of MRSH

34. During the 2014 inspection, DTSC found that Defendant had, from April to August 2014, treated hazardous waste by physically separating hazardous waste soil and debris in a trommel and shaker table at the Facility. Defendant also treated output produced by the metal

shredder at the Facility by using rotary magnets, an Eddy current chamber, and a shaker table to separate recoverable metal from metal shredder residue. DTSC also discovered that from August to December 2014, Defendant had stored at least nine (9) rolloff bins of hazardous waste soil and metal shredder output at the Facility, without labelling the bins as containing hazardous waste. DTSC also discovered the Defendant has accepted at least one (1) 55-gallon drum containing hazardous waste grinding sludge, which was dumped onto a metal pile at the Facility. Analytical results of a sample taken by DTSC from the drum revealed that the grinding sludge exceeded hazardous waste regulatory thresholds for antimony, chromium, copper, and nickel. DTSC also found that Defendant had placed major appliances onto an uncovered and non-containerized pile without first removing MRSH from the appliances. Defendant was found not to have made a hazardous waste determination for any of these discovered wastes.

35. During the 2017 inspection, DTSC again found heavy metal contaminated soil and debris stored in piles on the ground at the Facility, and that Defendant had used magnetic separation equipment and an Eddy current system to physically separate recyclable metal from the hazardous waste contaminated soil and debris. Analytical results of samples taken by DTSC of soil and debris at the Facility revealed that the soil and debris exceeded hazardous waste regulatory thresholds for cadmium, copper, lead, mercury and zinc. Defendant was found not to have made a hazardous waste determination for any of these discovered wastes.

36. On November 1, 2012, DTSC issued a Summary of Violations ("SOV") informing Defendant of the violations observed during the 2012 inspection. On June 22, 2017, DTSC issued a Report of Investigation ("ROI") and an SOV informing Defendant of the violations observed during the 2017 inspection. On September 20, 2017, DTSC issued an ROI and SOV Addendum informing Defendant of the violations observed during the 2014 inspection.

37. On June 10, 2020, DTSC issued to Defendant a Corrective Action Consent Agreement ("CACA") pursuant to its authority under Health and Safety Code sections 25187 and 25200.14. The cover letter to the CACA noted that the 2012, 2014 and 2017 inspections revealed that releases or potential releases of hazardous waste or hazardous waste constituents into the environment had occurred at the Facility, and that corrective action was required of Defendant to

investigate and remediate all actual or potential releases of hazardous waste or hazardous waste constituents from solid waste management units or areas of concern at the Facility. In a letter dated August 12, 2020, Defendant informed DTSC that it would not enter into the CACA.

FIRST CAUSE OF ACTION

(Illegal Acceptance, Storage, and Treatment of Hazardous Waste)
(Health & Saf. Code, §§ 25201, subd. (a), 25154, 25189, subd. (e), and 25189.2, subd. (d))

38. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

39. In relevant part, Health and Safety Code section 25201, subdivision (a), provides that no owner or operator of a storage facility, treatment facility, transfer facility, resource recovery facility, or disposal site shall accept, treat or store hazardous waste at the facility, area, or site, unless the owner or operator holds a hazardous waste facility permit or other grant of authorization from DTSC. Health and Safety Code section 25189, subdivision (e), provides, in relevant part, that it is unlawful to intentionally or negligently treat or store, or negligently cause the treatment or storage, of hazardous waste at an unauthorized point. Health and Safety Code section 25189.2, subdivision (d) also, in relevant part, states that it is unlawful to treat or store, or to cause the treatment or storage, of hazardous waste at an unauthorized point. Defendant does not have a permit or other authorization from DTSC to accept, treat or store hazardous waste at the Facility.

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

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

42. Health and Safety Code section 25123.5 defines treatment of a hazardous waste to include any method, technique, or process which is designed to change the physical, chemical, or

biological character or composition of the hazardous waste, or which removes or reduces its harmful properties or characteristics for any purpose.

43. On or about October 16 and 17, 2012, at the Facility Defendant unlawfully accepted, treated, and stored on the ground hazardous waste heavy metal contaminated dirt and dusts, which contained MRSH; motor vehicles, which contained MRSH and hazardous waste liquids such as used oil, antifreeze, and gasoline; and electronic waste such as computers, printers, and circuit boards, in violation of Health and Safety Code sections 25201, subdivision (a), 25189, subdivision (e), 25189.2, subdivision (d), and 25154.

44. From April to August of 2014, at the Facility Defendant treated hazardous waste by physically separating hazardous waste soil and debris in a trommel and shaker table and associated equipment, and treated metal shredder aggregate by using rotary magnets, Eddy current chambers, and a shaker to separate recoverable metal from the aggregate and metal shredder residue. During this same timeframe, Defendant accepted a 55-gallon drum containing hazardous waste metal grinding sludge, which was dumped onto a scrap metal receiving pile. These are violations of Health and Safety Code sections 25201, subdivision (a), 25189, subdivision (e), 25189.2, subdivision (d), and 25154.

45. From August to December of 2015, at the Facility Defendant stored nine (9) roll-off bins of hazardous waste oil and metal shredder aggregate, also in violation of Health and Safety Code sections 25201, subdivision (a), 25189, subdivision (e), 25189.2, subdivision (d), and 25154.

46. On or about March 21 and 22, 2017, at the Facility Defendant treated and stored hazardous waste by using magnetic separation equipment and an Eddy current system to physically separate recyclable metal from the hazardous waste contaminated soil and debris, in violation of Health and Safety Code sections 25201, subdivision (a), 25189, subdivision (e), 25189.2, subdivision (d), and 25154.

47. Pursuant to Health and Safety Code section 25189, subdivision (e), Defendant is liable for civil penalties of up to $25,000 for each instance of intentional or negligent illegal acceptance, treatment, or storage of hazardous waste or, in the alternative, pursuant to Health and

Safety Code section 25189.2, subdivision (d), each instance of strict liability illegal acceptance, treatment, or storage of hazardous waste. Health and Safety Code sections 25189, subdivision (e), and 25189.2, subdivision (d) authorize the Court to impose civil penalties for each separate violation or, for continuing violations, for each day that the violations continue.

48. Pursuant to Health and Safety Code section 25181, subdivision (a), Defendant should also be enjoined by the Court from continuing to operate the Facilities in violation of this requirement.

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

49. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

50. Under California Code of Regulations, title 22, section 66265.31, hazardous waste transfer, treatment, storage, and disposal facilities shall be maintained and operated to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

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

52. On or about October 16 and 17, 2012, Defendant failed to manage heavy metal contaminated dirt and dusts that had accumulated in piles, on equipment, and on the ground throughout the Facility; piles of un-containerized printed circuit boards on the ground at the Facility; and other hazardous and/universal wastes, including ballasts containing oil, compressors containing oil, capacitors, and various types of batteries, including lead acid, and consumer type Ni-Cd and/or alkaline batteries found at the Facility, in a manner to minimize the possibility of release of hazardous waste or hazardous waste constituents to the air, soil, or surface water, in

violation of California Code of Regulations, title 22, sections 66265.31 and 66262.10, subdivision (h).

53. On or about December 5, 2014, Defendant failed to maintain and operate the Facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment by accepting at least one (1) 55-gallon drum containing hazardous waste grinding sludge, which was dumped onto a metal pile at the Facility, and by placing large appliances onto an uncovered and non-containerized pile at the Facility without first removing MRSH from the appliances, in violation of California Code of Regulations, title 22, sections 66265.31 and 66262.10, subdivision (h).

54. On or about March 21 and 22, 2017, Defendant failed to maintain and operate the Facility to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment by storing heavy metal contaminated soil and debris in piles on the ground at the Facility, in violation of California Code of Regulations, title 22, sections 66265.31 and 66262.10, subdivision (h).

55. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is 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.

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

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THIRD CAUSE OF ACTION

(Receiving Major Appliances and Removing Materials Requiring Special Handling (MRSH) Without Being a Certified Appliance Recycler (CAR))
(Health & Saf. Code, §§ 25211.2 and 25211.4)

57. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

58. Health and Safety Code section 25211.2, subdivision (a), requires a person who transports, delivers, or sells discarded major appliances to a scrap recycling facility to provide evidence that he or she is a CAR and certify, on a form prepared by DTSC and provided to the facility at the time of the transaction, that all MRSH been removed from the appliances. Health and Safety Code section 25211.4, subdivision (a), requires that any person wishing to operate as a CAR a have certificate issued by DTSC. Health and Safety Code section 25211.1 prohibits the removal of MRSH from a major appliance by a person other than a CAR.

59. On or about October 16 and 17, 2012; December 5, 2014; and March 21 and 22, 2017, Defendant received and accepted major appliances from a person who was not a CAR and without being a CAR, and removed MRSH from such major appliances, in violation of Health and Safety Code sections 25311.1, 25211.2, subdivision (a), and 25211.4, subdivision (a).

60. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent failure to comply with the CAR and MRSH removal requirements or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to comply with the CAR and MRSH removal requirements. 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.

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

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FOURTH CAUSE OF ACTION

(Failure to Make Hazardous Waste Determination)
(Cal. Code Regs., tit. 22, §§ 66260.200, subd. (c) and 66262.11)

62. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

63. 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.

64. On or about October 16 and 17, 2012, Defendant failed to determine if the heavy metal contaminated dirt and dusts accumulating in piles on the ground, on equipment, and throughout the yard at the Facility were hazardous wastes. In addition, Defendant failed to determine whether some of the MRSH at the Facility, including, but not limited to, compressors, ballasts and capacitors containing oils, were hazardous wastes, in violation of California Code of Regulations, title 22, sections 66260.200, subdivision (c), and 66262.11.

65. On or about December 5, 2014, Defendant failed to determine if the output from its metal shredder and other materials at the Facility were a hazardous waste, including, but not limited to, at least nine (9) rolloff bins of hazardous waste soil and metal shredder output at the Facility, in violation of California Code of Regulations, title 22, sections 66260.200, subdivision (c), and 66262.11.

66. On or about March 21 and 22, 2017, Defendant failed to determine if heavy metal contaminated soil and debris stored in piles on the ground at the Facility were a hazardous waste, in violation of California Code of Regulations, title 22, sections 66260.200, subdivision (c), and 66262.11.

67. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant 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

25189.2, subdivision (b), each instance of strict liability failure to make a hazardous waste determination. 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.

68. Pursuant to Health and Safety Code section 25181, subdivision (a), Defendant should also be enjoined by the Court from continuing to operate the Facilities in violation of this requirement.

FIFTH 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) and 25201, subd. (a))

69. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

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

71. On or about October 16 and 17, 2012, Defendant treated major appliances without first removing all of the MRSH, including, but not limited to, devices containing mercury and PCB's, and processed these appliances by crushing, baling, sawing or shearing, which prevented the subsequent removal of the MRSH, in violation of Health and Safety Code section 25212, subdivision (a). Additionally, ballasts, capacitors, and compressors were removed by Defendant without a permit or grant of authorization from DTSC, in violation of Health and Safety Code section 25201, subdivision (a).

72. On or about December 5, 2014, Defendant placed major appliances onto an uncovered and non-containerized pile without first removing MRSH from the appliances, in violation of Health and Safety Code section 25212, subdivision (a).

73. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent processing of major appliances containing MRSH in a manner that could result in the release, or prevent the

removal, of MRSH and without a permit or grant of authorization from DTSC or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability processing major appliances containing MRSH in a manner that could result in the release, or prevent the removal, of MRSH and without a permit or grant of authorization from DTSC. 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.

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

SIXTH CAUSE OF ACTION

(Failure to Retain Records Demonstrating Compliance with MRSH Management Requirements)
(Health & Saf. Code, §§ 25211.2 and 25211.3)

75. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

76. Health and Safety Code sections 25211.2 and 25211.3 requires that a CAR, or a person not certified as CAR who transports, delivers, or sells discarded major appliances to a scrap recycling facility, retain records onsite for a period of three years that demonstrate compliance with the HWCL provisions governing the management of MRSH.

77. On or about October 16 and 17, 2012, Defendant failed to retain records onsite for a period of three years demonstrating Defendant's compliance with the HWCL provisions governing the management of MRSH, in violation of Health and Safety Code sections 25211.2 and 25211.3.

78. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent failure to retain MRSH management compliance records or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to retain MRSH management compliance retain records. 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.

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

SEVENTH CAUSE OF ACTION

(Failure to Contain Electronic Devices in a Manner to Prevent Breakage and Release of Components to the Environment)
(Cal. Code Regs., § 66273.33.5, subd. (a)(1)(B)1.a)

80. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

81. California Code of Regulations, title 22, section 66273.33.5, subdivision (a)(1)(B)1.a, requires a universal waste handler to contain any electronic device in a manner that prevents breakage and release of components into the environment.

82. On or about October 16 and 17, 2012, Defendant, as a universal waste handler, violated California Code of Regulations, title 22, section 66273.33.5, subdivision (a)(1)(B)1.a, by storing uncontained electronic waste such as computers, printers, and circuit boards on the ground at the Facility.

83. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent failure to contain electronic devices in a manner to prevent breakage and release of components to the environment or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to contain electronic devices in a manner to prevent breakage and release of components to the environment. 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.

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

EIGHTH CAUSE OF ACTION

(Failure to Manage Residual Printed Circuit Board in a Manner That Prevents a Release to the Environment)
(Cal. Code Regs., § 66273.71, subd. (f)(1)(C))

85. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

86. California Code of Regulations, title 22, section 66273.71, subdivision (f)(1)(C), requires that a removed residual printed circuit board be managed by a universal waste handler in a manner that prevents a release to the environment.

87. On or about October 16 and 17, 2012, Defendant, as a universal waste handler, violated California Code of Regulations, title 22, section 66273.71, subdivision (f)(1)(C), by storing uncontained circuit boards on the ground at the Facility.

88. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent failure to handle a removed residual printed circuit board in a manner that prevents a release to the environment or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to handle a removed residual printed circuit board in a manner that prevents a release to the environment. 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.

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

NINTH CAUSE OF ACTION

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

90. Paragraphs 1 through 37 above are incorporated by reference as though fully set forth herein.

91. California Code of Regulations, title 22, section 66262.34, subdivision (f)(3), requires that containers of hazardous waste be labeled with the words, "Hazardous Waste," as well as that

the containers be labeled with other information, including accumulation start dates and periods, the composition of the waste, the hazardous properties of the name and address of the producer of the waste.

92. On or about December 5, 2014, Defendant violated California Code of Regulations, title 22, sections 66262.34, subdivision (f)(3), by failing to label as "Hazardous Waste" at least nine (9) rolloff bins of hazardous waste soil and metal shredder output at the Facility.

93. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendant is liable for civil penalties up to $25,000 for each instance of intentional or negligent failure to label containers of hazardous waste or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each instance of strict liability failure to label containers of hazardous waste. 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.

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

PRAYER FOR RELIEF

DTSC requests that the Court grant the following relief:

1. Enter judgment that Defendant violated the HWCL, as alleged in the First through Ninth Causes of Action;

2. Enter judgment that Defendant is liable for civil penalties according to proof for those violations set forth in the First through Ninth Causes of Action as authorized by Health and Safety Code section 25189 or, in the alternative, by Health and Safety Code section 25189.2;

3. Enter temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders requiring Defendant to comply with the HWCL;

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4. Grant DTSC its costs of suit herein against Defendant; and

5. Grant such other and further relief as the Court deems just and proper.

Dated: March 29, 2021

Respectfully Submitted,

MATTHEW RODRIQUEZ
Acting Attorney General of California

DENNIS L. BECK, JR.
Supervising Deputy Attorney General
Attorneys for Plaintiff, People of the State of California, ex rel. Meredith Williams, Director of the California Department of Toxic Substances Control