

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Robert Broadbelt

1 ROB BONTA
Attorney General of California
2 LAURA J. ZUCKERMAN
Supervising Deputy Attorney General
3 SOMERSET PERRY, SBN 293316
ADRIANNA LOBATO, SBN 332026
4 Deputy Attorneys General
1515 Clay St., Suite 2000
5 Oakland, CA 94612
Telephone: (510) 879-0852
6 Fax: (510) 622-2270
E-mail: Somerset.Perry@doj.ca.gov
7

8 *Attorneys for Plaintiff People of the State of*
California, ex. rel. Meredith Williams, Director of
9 *the California Department of Toxic Substances*
Control

**EXEMPT FROM FEES PURSUANT
TO GOVERNMENT CODE § 6103**

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES
12 CENTRAL JUDICIAL DISTRICT

13 **21STCV3591 1**

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

Case No.

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

17 Plaintiff,

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

18 v.

19 **CLEAN HARBORS WILMINGTON, LLC, A**
20 **LIMITED LIABILITY COMPANY; CLEAN**
21 **HARBORS ENVIRONMENTAL SERVICES, INC.,**
22 **A CORPORATION; CLEAN HARBORS, INC., A**
CORPORATION; AND DOES 1-10, INCLUSIVE,

23 Defendants.

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

26 **STATEMENT OF THE CASE**

27 1. DTSC brings this action to address violations of the California Hazardous Waste
28 Control Law, Health and Safety Code section 25100 et seq., and its implementing regulations,

1 contained in California Code of Regulations, title 22, division 4.5, section 66260.1 et seq.
2 (collectively, “HWCL”). The HWCL establishes comprehensive “cradle to grave” regulations for
3 the generation, storage, transportation, treatment, and disposal of hazardous waste in California.

4 2. Defendants Clean Harbors Wilmington, LLC, a limited liability company (“CHW”)
5 and Clean Harbors Environmental Services, Inc., a corporation, under the direction and control of
6 their parent company Clean Harbors, Inc. (collectively, “Defendants”), own and operate a facility
7 located at 1737 East Denni Street, Wilmington, California 90744 (“Facility”) for handling and
8 managing hazardous waste.

9 3. In the course of inspections that DTSC conducted at the Facility on November 28 and
10 29, 2018, November 26 and December 10, 2019, and January 3, 2020, and associated reviews of
11 records, DTSC discovered violations of the HWCL committed by Defendants at, and involving,
12 the Facility.

13 4. In this action, pursuant to Health and Safety Code sections 25181, 25184, 25189, and
14 25189.2, DTSC seeks civil penalties and injunctive relief against Defendants for its violations of
15 the HWCL.

16 THE PARTIES

17 5. DTSC is a state agency organized and existing pursuant to Health and Safety Code
18 section 58000 et seq. DTSC is the state agency responsible for administering and enforcing the
19 HWCL.

20 6. Meredith Williams is the Director of DTSC.

21 7. Pursuant to Health and Safety Code sections 25181, subdivision (a), and 25182, the
22 Attorney General of the State of California is authorized, at the request of DTSC, to commence
23 an action for civil penalties and injunctive relief under the HWCL in the name of the People of
24 the State of California. DTSC has made such a request to the Attorney General to apply to this
25 Court for civil penalties and injunctive relief.

26 8. CHW is a limited liability company organized and existing under the laws of the State
27 of Delaware and authorized to conduct business in the State of California. During all times
28

1 relevant to this Complaint, CHW operated the Facility, where its activities resulted in the
2 transportation, disposal, storage, and treatment of hazardous waste.

3 9. Clean Harbors Environmental Services, Inc. is a corporation organized and existing
4 under the laws of the State of Delaware and authorized to conduct business in the State of
5 California. During all times relevant to this Complaint, Clean Harbors Environmental Services,
6 Inc., owned the Facility, where its activities resulted in the transportation, disposal, storage, and
7 treatment of hazardous waste.

8 10. Clean Harbors, Inc. is a corporation organized and existing under the laws of the
9 Commonwealth of Massachusetts and authorized to conduct business in the State of California.
10 During all times relevant to this Complaint, Clean Harbors, Inc. was and is the controlling owner
11 of interests in CHW and Clean Harbors Environmental Services, Inc.

12 11. DTSC is not aware of the true names, identities, or capacities of the defendants sued
13 herein as Does 1 through 10, inclusive, and therefore sues said defendants by such fictitious
14 names. DTSC is informed and believes that, at various relevant times, said Doe defendants, and
15 each of them, participated in, or otherwise were in some manner responsible, for the violations
16 that arose from the facts and occurrences alleged in this Complaint. DTSC will seek leave of the
17 Court to amend this Complaint to state the true names of the fictitiously named defendants once
18 they are discovered.

19 12. Each of the Defendants is a “person,” as that term is defined by Health and Safety
20 Code section 25118. Each of the Defendants also is an “owner,” “operator,” or “owner or
21 operator” as those terms are defined by California Code of Regulations, title 22, section
22 66260.10.

23 13. In this Complaint, when reference is made to any act or omission of Defendants, such
24 allegations shall include the acts and omissions of owners, officers, directors, agents, employees,
25 contractors, affiliates, and/or representatives of Defendants while acting within the course and
26 scope of their employment or agency on behalf of Defendants during the relevant time periods.
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1 **JURISDICTION AND VENUE**

2 14. The Superior Court has jurisdiction pursuant to Article VI, section 10 of the
3 California Constitution, Health and Safety Code section 25181, and Code of Civil Procedure
4 section 410.10.

5 15. Venue is proper in this Court pursuant to Health and Safety Code section 25183,
6 because the violations alleged in this Complaint occurred at the Facility, which is in the city of
7 Wilmington, within the County of Los Angeles.

8 16. This action is an unlimited civil case because the amount of penalties requested
9 exceeds twenty-five thousand dollars (\$25,000), and none of DTSC’s causes of action meet the
10 criteria for limited civil cases in the Code of Civil Procedure.

11 **HWCL STATUTORY AND REGULATORY BACKGROUND**

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

19 18. California administers the HWCL in lieu of the federal Resource Conservation and
20 Recovery Act (“RCRA”), which is codified at 42 United States Code section 6901 et seq.,
21 pursuant to Health and Safety Code sections 25101, subdivision (d), and 25159 through 25159.9.
22 Federal law prohibits California from imposing any requirements less stringent than those
23 authorized under RCRA. (42 U.S.C. § 6929.) The HWCL has stricter requirements for regulating
24 hazardous waste than some of the analogous provisions in RCRA.

25 19. The HWCL vests DTSC with the responsibility to adopt, and revise when
26 appropriate, standards and regulations for the management of hazardous waste to protect public
27 health and environment. (Health & Saf. Code, § 25150.) Accordingly, DTSC has promulgated
28 regulations setting forth extensive environmental health-protective requirements for the day-to-

1 day operation of hazardous waste generators, transporters, and owners and operators of hazardous
2 waste facilities. (Cal. Code. Regs., tit. 22, § 66260.1 et seq.)

3 20. A “hazardous waste” is a waste that meets any of the criteria established by DTSC.
4 (Health & Saf. Code, §§ 25117 and 25141.) The criteria consist of lists of particular hazardous
5 wastes and certain characteristics that wastes can possess and that would make them hazardous.
6 (Cal. Code Regs., tit. 22, §§ 66261.1-66261.126.)

7 21. The HWCL has a more inclusive definition of “hazardous waste” than does federal
8 law. Hazardous wastes that are regulated under California law but not under federal law are
9 known as “non-RCRA hazardous wastes.” (Health & Saf. Code, § 25117.9.)

10 22. The HWCL provides that an owner or operator of a hazardous waste facility may not
11 “accept, treat, store or dispose of a hazardous waste at the facility, area, or site, unless the owner
12 or operator holds a hazardous waste facilities permit or other grant of authorization from [DTSC]
13 to use and operate the facility, area, or site” (Health & Saf. Code, § 25201, subd. (a).) Health
14 and Safety Code section 25202, subdivision (a), requires “the owner or operator of a hazardous
15 waste facility who holds a hazardous waste facilities permit . . . [to] comply with the conditions of
16 the [permit], the requirements of [the HWCL], and with the regulations adopted by [DTSC]
17 pursuant to this chapter.”

18 23. Under California Code of Regulations, title 22, section 66270.30, subdivision (a), a
19 “permittee shall comply with all conditions of [its] permit Any permit noncompliance,
20 except under the terms of an emergency permit, constitutes a violation of the appropriate statute
21 or regulation and is grounds for enforcement action; for permit termination, revocation and
22 reissuance, or modification; or for denial of a permit renewal application.”

23 24. In regards to the storage of incompatible wastes, California Code of Regulations, title
24 22, section 66264.177, subdivision (c), requires that “[a] container holding a hazardous waste that
25 is incompatible with any waste or other materials transferred or stored nearby in other containers,
26 piles, open tanks, or surface impoundments shall be separated from the other materials or
27 protected from them by means of a dike, berm, wall, or other device.” RCRA provides that
28 incompatible wastes are those which, when mixed, “can produce effects which are harmful to

1 human health and the environment,” and identifies caustic and acidic wastes as examples of
2 incompatible wastes. (40 C.F.R. Pt. 264, Appx. V.)

3 25. California Code of Regulations, title 22, section 66264.175, mandates that container
4 transfer and storage areas have a “containment system” which, under subdivision (b)(1), has “a
5 base [underlying] the containers which is free of cracks or gaps and is sufficiently impervious to
6 contain leaks, spills, and accumulated precipitation until the collected material is detected and
7 removed.”

8 26. California Code of Regulations, title 22, section 66264.15, subdivision (d), requires
9 the owner or operator of a facility to “record inspections [of the facility for malfunctions and
10 deterioration, operator errors, and discharges] in an inspection log or summary.” These records
11 are required to include, “[a]t a minimum, . . . the date and time of the inspection, the name of the
12 inspector, a notation of the observations made, and the date and nature of any repairs or other
13 remedial actions.” (*Ibid.*)

14 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

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

22 28. For violations occurring on or after January 1, 2018, the HWCL authorizes the Court
23 to impose a civil penalty of up to seventy thousand dollars (\$70,000) for each violation of a
24 separate provision of the HWCL. (Health & Saf. Code, §§ 25189, subd. (b), and 25189.2, subd.
25 (b).) For continuing violations, the HWCL authorizes the Court to impose a penalty of up to
26 seventy thousand dollars (\$70,000) for each day that a violation continues. (*Ibid.*)

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

1 30. When DTSC determines that any person has engaged in, is engaged in, or is about to
2 engage in any acts or practices which constitute or will constitute a violation of any provision of
3 the HWCL or any rule or requirement issued or promulgated thereunder, and when requested by
4 DTSC, the Attorney General may make application to the Superior Court for an order enjoining
5 such acts or practices, or for an order directing compliance, and upon a showing by DTSC that
6 such person has engaged in or is about to engage in any such acts or practices, a permanent or
7 temporary injunction, restraining order, or other order may be granted. (Health & Saf. Code, §
8 25181, subd. (a).)

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

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

16 **GENERAL ALLEGATIONS**

17 32. At all times relevant to this Complaint, Defendants owned and operated the Facility.
18 The Facility is an offsite hazardous waste storage and treatment facility which accepts hazardous
19 and non-hazardous wastes in bulk or in containers. The hazardous wastes are stored at the Facility
20 prior to being shipped offsite for subsequent storage, treatment, recycling, and/or disposal. Some
21 hazardous wastes may also be treated and discharged to a publicly-owned hazardous waste
22 treatment works. Hazardous wastes accepted at the Facility include extremely hazardous waste,
23 acutely hazardous waste, RCRA hazardous waste, non-RCRA hazardous waste, and special
24 waste. The Facility also accepts universal waste. For these operations, the Facility has seven
25 authorized units, which refers to the specified, delineated areas within the Facility where
26 designated hazardous waste management activities are authorized.

27 33. DTSC initially issued an Interim Status Document to the then-operator of the Facility
28 to allow the continuance of the ongoing operations at the Facility. In 1991, DTSC denied a permit
application by the then-operator of the Facility. In 1995, DTSC issued a hazardous waste permit

1 for the Facility (the “Permit”), and, in September 2011, renewed the Permit for the present
2 operator, CHW. The Permit expired on September 15, 2021. However, CHW had submitted a
3 permit renewal application on March 19, 2021, which DTSC determined to be “administratively
4 complete” on June 30, 2021, and the 2011 permit continues in effect pending completion of
5 DTSC’s review of the permit renewal application.

6 34. Among other provisions, the Permit contains limitations on the amount of hazardous
7 waste that CHW can store at the Facility, as well as restrictions on the types of containers CHW
8 can use for purposes of storage. The Permit prohibits CHW from conducting any hazardous waste
9 transfer, storage, treatment, or other management activity unless it is specifically described in this
10 Permit or otherwise authorized by law.

11 35. DTSC personnel conducted inspections at the Facility on November 28 and 29, 2018
12 (the “2018 Inspections”). After the conclusion of the 2018 Inspections, on or about January 9,
13 2019, DTSC issued a Summary of Violations to CHW. DTSC then issued an Inspection Report to
14 CHW on or about March 8, 2019. During the 2018 Inspections, DTSC personnel made the
15 following observations, confirming that the waste observed was hazardous based on the labels
16 affixed to the respective containers:

- 17 a. DTSC inspectors observed a roll-off bin in Unit 2 and reviewed Manifest No.
18 012236096FLE, which indicated that the bin’s capacity exceeded 20 cubic yards;
- 19 b. DTSC inspectors observed containers that were not roll-off bins being utilized for
20 hazardous waste storage in Unit 2;
- 21 c. DTSC inspectors reviewed the Facility’s Operation Log/Drum Inventory, which
22 indicated that approximately 19,673 gallons of hazardous waste were stored in
23 Unit 2;
- 24 d. DTSC inspectors observed two 40-cubic-yard roll-off bins, a 5,000-gallon portable
25 tank, one pump truck, each containing hazardous waste, and approximately 26,632
26 gallons of containerized hazardous waste stored in unpermitted areas north of
27 Unit 4 and east of Units 3 and 4;

- e. DTSC inspectors observed approximately 28,880 gallons of hazardous waste stored in areas not authorized by the Permit for the storage of hazardous waste;
- f. DTSC inspectors observed erosion of the epoxy layer on the floor near the central sump in Unit 1, Area A, which exposed the concrete base below;
- g. DTSC inspectors observed containers that, when situated together, were too large to be properly stored in the sloped and bermed area of Unit 2; and
- h. In Area G of Unit 1, DTSC inspectors observed three 5-gallon containers of acidic hazardous waste stored on top of a 275-gallon tote of caustic hazardous waste, and also observed a Gaylord box containing Acetic Acid stored nearby without a berm, dike, or wall to separate the incompatible waste. Acidic hazardous wastes are incompatible with caustic wastes.

36. DTSC personnel conducted inspections at the Facility on November 26, 2019, December 10, 2019, and January 3, 2020 (the “2019-2020 Inspections”). After the conclusion of the 2019-2020 Inspections, on or about January 3, 2020, DTSC issued a Summary of Violations to CHW. DTSC then issued an Inspection Report to CHW on or about April 6, 2020. During the 2019-2020 Inspections, DTSC personnel made the following observations:

- a. DTSC inspectors observed six 4-liter plastic containers stored under a fume hood in the on-site laboratory, labeled “Lab Sample Waste,” which did not have hazardous waste labels, and which contained a liquid identified by an employee of CHW as unused test portions of samples collected from incoming, potentially-hazardous waste received at the Facility from offsite generators;
- b. DTSC inspectors observed eroded epoxy coating on the base of, and within the secondary containment area of, Units 3 and 4;
- c. DTSC inspectors observed water accumulated in a blind containment sump in the Unit 4 secondary containment area; and,
- d. In Area G, DTSC inspectors observed a 55-gallon container which was hanging more than three inches over the edge of the pallet on which the container was resting.

1 37. Following the November 26, 2019 inspection, on or about December 4, 2019, a
2 sample from the containers labeled “Lab Sample Waste” was conveyed to DTSC’s
3 Environmental Chemistry Laboratory in Pasadena for testing. The testing indicated that one
4 phase of the waste was below the pH 2.0 hazardous waste characteristic threshold for corrosivity,
5 and that two phases of the waste had a flash point below the 140° Fahrenheit hazardous waste
6 characteristic threshold for ignitability.

7 38. On December 12, 2019, DTSC received daily inspection records from the Facility,
8 dated November 25 and 26, 2019, which did not note the deficiencies identified by DTSC at the
9 Facility during the inspections—including the erosion of the epoxy coating in Units 3 and 4, the
10 hazardous waste liquids improperly stored in the on-site laboratory, the liquid observed in a blind
11 sump in Unit 4, and the container hanging over the edge of a pallet in Area G—nor the date and
12 nature of any repairs or other corrective actions.

13 **FIRST CAUSE OF ACTION**

14 (Failure to Comply with Hazardous Waste Permit)

15 (Health & Saf. Code, § 25202, subd. (a))

16 (Cal. Code Regs., tit. 22, § 66270.30, subd. (a))

17 39. DTSC incorporates Paragraphs 1 through 38 as if fully set forth herein.

18 40. Health and Safety Code section 25202, subdivision (a), requires the owner or operator
19 of a permitted hazardous waste facility who holds a hazardous waste facilities permit to “comply
20 with the conditions of the hazardous waste facilities permit . . . , the requirements of this chapter,
21 and with the regulations adopted by [DTSC] pursuant to this chapter, including regulations which
22 become effective after the issuance of the permit”

23 41. California Code of Regulations, title 22, section 66270.30, subdivision (a), requires
24 the holder of a hazardous waste facilities permit to “comply with all conditions of [its] permit,”
25 and makes “[a]ny permit noncompliance, except under the terms of an emergency permit, . . . a
26 violation of the appropriate statute or regulation and . . . grounds for enforcement action; for
27 permit termination, revocation and reissuance, or modification; or for denial of a permit renewal
28 application.”

1 42. Under the Permit, Part IV, “Permitted Units and Activities, Unit 2, Maximum
2 Capacity,” CHW is prohibited from storing hazardous waste in excess of 60 cubic yards or
3 12,120-gallon equivalent in Unit 2.

4 43. On or before November 28, 2018, Defendants violated the Permit, Part IV, “Permitted
5 Units and Activities, Unit 2, Maximum Capacity,” in that Defendants stored more than 12,120
6 gallons in Unit 2. According to the Drum Inventory Log, approximately 19,673 gallons of waste
7 was in this Unit on November 28, 2018.

8 44. Under the Permit, Part IV, “Permitted Units and Activities, Unit 2, Unit-Specific
9 Special Condition 4,” CHW is required to use only roll-off bins for the storage of hazardous
10 waste in Unit 2.

11 45. Defendants violated the Permit, Part IV, “Permitted Units and Activities, Unit 2,
12 Unit-Specific Special Condition 4,” by storing hazardous waste in containers that were not roll-
13 off bins.

14 46. Under the Permit, Part IV, “Permitted Units and Activities, Unit 2, Maximum
15 Capacity,” the roll-off bins used for the storage of hazardous waste in Unit 2 must “not exceed 20
16 cubic yards or the equivalent to 4,040 gallons.”

17 47. On or before November 28, 2018, Defendants violated the Permit, Part IV, “Permitted
18 Units and Activities, Unit 2, Maximum Capacity,” in that Defendants stored hazardous waste in a
19 roll-off bin with a capacity of 24 cubic yards, in excess of the 20-cubic-yard limit.

20 48. Under the Permit, Part V, “Special Condition 1,” CHW is “prohibited from
21 conducting any hazardous waste transfer, storage, treatment or other management activity unless
22 it is specifically described in this Permit or otherwise authorized by law.” According to the
23 Permit, Part V, “Special Condition 7,” “[f]or the purpose of calculating the permitted maximum
24 capacity limitations for storage and for secondary containment, all containers in the authorized
25 units are assumed to be full, and all hazardous waste that is stored or located in an authorized unit
26 shall be included in the calculation for that unit, including any hazardous waste that is covered by
27 the transfer facility exemption pursuant to California Code of Regulations, title 22, section
28 66263.18.”

1 49. On or before November 28, 2018, Defendants violated the Permit by storing two 40-
2 cubic-yard roll-off bins, a 5,000-gallon portable tank, one pump truck, and approximately 26,632
3 gallons of containerized hazardous waste in unpermitted areas, including north of Unit 4 as well
4 as east of Unit 3 and Unit 4. Applying the Permit’s mandate to assess each container as full,
5 Defendants stored approximately 28,880 gallons of hazardous waste in areas not authorized by
6 the Permit.

7 50. Under the Permit, Part V, “Special Condition 1,” CHW is “prohibited from
8 conducting any hazardous waste transfer, storage, treatment, or other management activity unless
9 it is specifically described in this Permit or otherwise authorized by law.”

10 51. On or before November 26, 2019, Defendants stored six 4-liter plastic containers of
11 hazardous waste identified as “Lab Sample Waste” that were not labeled as “Hazardous Waste”
12 under a fume hood in the Facility’s laboratory without meeting the substantive requirements that
13 would otherwise allow for laboratory waste generated onsite to be managed under the authority of
14 the HWCL.

15 52. The Permit, Part V, “Special Condition 3,” requires that, “[i]n the event that any
16 cracks, gaps or tears are detected in a hazardous waste management unit or a secondary
17 containment system or device, repairs shall be initiated as soon as possible and completed within
18 one week of the discovery of the problem.” Further, CHW must “notify DTSC within 24 hours
19 whenever a crack, gap or tear is found” and “[w]ithin seven days of discovery of the problem, . . .
20 notify DTSC in writing of the corrective measures that have been taken.” (*Ibid.*)

21 53. On or before November 26, 2019, Defendants violated the Permit by failing to notify
22 DTSC by November 27, 2019, that sections of the base coating covering the concrete base in
23 Units 3 and 4 had eroded to a degree that gaps existed, and concrete was exposed, and by failing
24 to notify DTSC by December 3, 2019, of corrective measures that had been taken.

25 54. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendants are
26 liable for civil penalties of up to \$70,000 for each violation of the HWCL or, in the alternative,
27 pursuant to Health and Safety Code section 25189.2, subdivision (b), each strict liability violation
28 of the HWCL. Health and Safety Code sections 25189, subdivision (b), and 25189.2, subdivision

1 (b), authorize the court to impose civil penalties for each separate violation or, for continuing
2 violations, each day that the violations continue.

3 55. DTSC is further entitled to injunctive relief to abate existing violations and to prevent
4 future violations of the HWCL under Health and Safety Code section 25181.

5 **SECOND CAUSE OF ACTION**
6 (Failure to Properly Maintain Containment System)
7 (Cal. Code Regs., tit. 22, § 66264.175, subd. (b)(1))

8 56. DTSC incorporate Paragraphs 1 through 55 as if fully set forth herein.

9 57. Under California Code of Regulations, title 22, section 66264.175, subdivision
10 (b)(1), a containment system must have a “base [underlying] the containers which is free of
11 cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated
12 precipitation until the collected material is detected and removed.”

13 58. On or before November 28, 2018, Defendants failed to repair the epoxy layer on the
14 floor near the central sump in Unit 1, Area A, such that the layer eroded to an extent that exposed
15 the concrete base below the epoxy layer and was not sufficiently impervious to contain leaks,
16 spills, and accumulated precipitation until the collected material was detected and removed.

17 59. On or before November 26, 2019, Defendants failed to ensure that the concrete
18 surface coating in Units 3 and 4 was promptly repaired such that the coating was virtually
19 impermeable to precipitation and wastes and thus sufficiently impervious to contain leaks, spills,
20 and accumulated precipitation until the collected material was detected and removed.

21 60. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendants are
22 liable for civil penalties of up to \$70,000 for each violation of the HWCL or, in the alternative,
23 pursuant to Health and Safety Code section 25189.2, subdivision (b), each strict liability violation
24 of the HWCL. Health and Safety Code sections 25189, subdivision (b), and 25189.2, subdivision
25 (b), authorize the court to impose civil penalties for each separate violation or, for continuing
26 violations, each day that the violations continue.

27 61. DTSC is further entitled to injunctive relief to abate existing violations and to prevent
28 future violations of the HWCL under Health & Safety Code section 25181.

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THIRD CAUSE OF ACTION
(Failure to Record Inspection)
(Cal. Code Regs., tit. 22, § 66264.15, subd. (d))

62. DTSC incorporate Paragraphs 1 through 61 as if fully set forth herein.

63. Under California Code of Regulations, title 22, 66265.15, subdivision (d), the owner or operator is required to “record inspections in an inspection log or summary” including “[a]t a minimum . . . the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.”

64. On or about November 26, 2019, Defendants failed to properly record the problems observed during DTSC’s inspection, specifically failing to record the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

65. Pursuant to Health and Safety Code section 25189, subdivision (b), Defendants are liable for civil penalties of up to \$70,000 for each violation of the HWCL or, in the alternative, pursuant to Health and Safety Code section 25189.2, subdivision (b), each strict liability violation of the HWCL. Health and Safety Code sections 25189, subdivision (b), and 25189.2, subdivision (b), authorize the court to impose civil penalties for each separate violation or, for continuing violations, each day that the violations continue.

66. DTSC is further entitled to injunctive relief to abate existing violations and to prevent future violations of the HWCL under Health and Safety Code section 25181.

FOURTH CAUSE OF ACTION
(Unlawful Storage of Incompatible Waste)
(Cal. Code Regs., tit. 22, § 66264.177, subd. (c))

67. DTSC incorporate Paragraphs 1 through 66 as if fully set forth herein.

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

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

Dated: September 29, 2021

Respectfully Submitted,

ROB BONTA
Attorney General of California
LAURA J. ZUCKERMAN
Supervising Deputy Attorney General

ORIGINAL SIGNED

SOMERSET PERRY
ADRIANNA LOBATO
Deputy Attorneys General

*Attorneys for Plaintiff People of the State of
California, ex. rel. Meredith Williams,
Director of the California Department of
Toxic Substances Control*

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