

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

1 ROB BONTA
Attorney General of California
2 DENNIS L. BECK, JR., SBN 179492
Supervising Deputy Attorney General
3 SPARSH KHANDESHI, SBN 266297
Deputy Attorney General
4 600 West Broadway, Suite 1800
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 738-9061
E-mail: sparsh.khandeshi@doj.ca.gov
7 *Attorneys for Plaintiff, the People of the*
State of California, ex rel. Meredith
8 *Williams, Director, California*
Department of Toxic Substances
9 *Control*

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12
13 **THE PEOPLE OF THE STATE OF**
14 **CALIFORNIA, ex rel. Meredith Williams,**
15 **Director, California Department of Toxic**
Substances Control,

16 Plaintiff,

17 v.

18 **VEOLIA ES TECHNICAL SOLUTIONS,**
19 **LLC, a Delaware Corporation,**

20 Defendant.
21
22
23

Case No.: **22STCV11603**

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

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

24 Plaintiff, the People of the State of California, ex rel. Meredith Williams, Director,
25 California Department of Toxic Substances Control ("DTSC") is filing this complaint against
26 Defendant Veolia ES Technical Solutions, LLC's ("Veolia" or "Defendant") and alleges as
27 follows:
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

I. STATEMENT OF THE CASE

1. DTSC inspected Veolia’s hazardous waste facility at 1704 W. 1st Street, Azusa, California 91702 (“Facility” or “Veolia’s Facility”) in 2015, 2016, 2019, and 2020. The Facility is permitted to store, handle, and treat hazardous waste pursuant to the Veolia ES Technical Solutions, L.L.C., Azusa Facility (CAD008302903) Hazardous Waste Facility Permit (“Permit” or “Veolia’s Permit”) issued by DTSC. (A true and correct copy of the Permit is attached as Exhibit A.) During these inspections, DTSC observed multiple violations of 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. (collectively, “HWCL”) and the Permit. Many of these violations posed a serious risk to human health and the environment.

2. DTSC received a complaint in 2017 that Veolia’s hazardous waste transportation operations, based out of its facility at 9530 Candida Street, San Diego, California 92126 (“Transfer Facility”), had caused the disposal of hazardous waste at a third-party facility that was not permitted to handle such hazardous waste. Upon inspection, DTSC confirmed that Veolia had violated several provisions of the HWCL relating to the transportation of hazardous waste. These violations and the resulting illegal disposal of hazardous waste posed a serious risk to human health and the environment.

3. Through this enforcement action, DTSC is seeking penalties to deter Veolia and other hazardous waste facilities in California from violating the HWCL. DTSC is also seeking injunctive relief to assure that Veolia improves its management of hazardous waste and implements measures to prevent future violations of the HWCL.

II. THE PARTIES

4. DTSC is a public agency of the State of California organized and existing pursuant to Health and Safety Code section 58000 et seq. DTSC is the state agency responsible for administering and enforcing the provisions of the HWCL.

5. Meredith Williams is the Director of DTSC.

///
28

1 6. Veolia is an active Delaware Corporation (Cal. Corp. No. C1885518) engaged in the
2 transportation, recycling, processing, treatment, and storage of regulated and unregulated wastes
3 from commercial, industrial, and household sources. (Permit, Part II – Description of the Facility
4 and Ownership, 5. Description of Facility Operations.) Veolia’s principal office in California is in
5 Los Angeles County, located at 107 South Motor Avenue, Azusa, California 91702.

6 7. Veolia operates the Facility in the County of Los Angeles. Veolia operates the Transfer
7 Facility in the County of San Diego.

8 8. Veolia is a “person” as defined by Health and Safety Code section 25118.

9 9. Veolia is also a “generator,” “transporter,” and an “owner or operator” as those terms
10 are defined in California Code of Regulations, title 22, section 66260.10.

11 **III. JURISDICTION AND VENUE**

12 10. The Superior Court has jurisdiction over the subject matter of this action and the
13 Defendant pursuant to article VI, section 10 of the California Constitution and section 410.10 of
14 the Code of Civil Procedure.

15 11. Venue is proper in this Court, pursuant to sections 395 and 395.5 of the Code of Civil
16 Procedure and section 25183 of the Health and Safety Code, because the alleged violations at
17 Veolia’s Facility occurred in the County of Los Angeles and because Veolia’s principal office in
18 California is located in the County of Los Angeles.

19 **IV. STATUTORY AND REGULATORY REQUIREMENTS**

20 Statutory Background

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

13. DTSC is responsible for adopting 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 comprehensive requirements for the day-to-day operation of hazardous waste generators, hazardous waste transporters, and owners and operators of hazardous waste facilities. (See Cal. Code. Regs., tit. 22, § 66260.1 et seq.)

14. DTSC administers the HWCL, pursuant to authorization received from the United States Environmental Protection Agency, in lieu of the federal regulatory program established by the Resource Conservation and Recovery Act (RCRA). (Health & Saf. Code, §§ 25101, subd. (d), 25159; 42 U.S.C. § 6926.) 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 for regulating hazardous waste than some of the analogous provisions in RCRA.

Regulated Hazardous Waste

15. 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 [the HWCL] or by regulations adopted pursuant to [the HWCL].” A “discarded material” includes any material that is, among other things: (1) relinquished, by being disposed of, burned or incinerated, or accumulated, stored, or treated before 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 “misabeled or not adequately labeled” or “packed in deteriorated or damaged containers”; or (4) “considered inherently wastelike, as specified in regulations adopted by the department.” (*Id.*, subd. (b).)

16. 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 wastes that are, per se, hazardous, (Cal. Code Regs., tit. 22, §§ 66261.30-66261.50), and characteristics – such as ignitability, corrosivity, reactivity, and toxicity – that render wastes as hazardous, though not specifically listed. (*Id.* at §§ 66261.20-24.)

///

///

Regulated Activity

17. The HWCL regulates generators of hazardous waste, the operation of a hazardous waste treatment, transfer, storage, resources recovery, disposal, or recycling facility, and the transportation of hazardous waste.

18. The HWCL defines a “hazardous waste facility” as “all contiguous land and structures, other appurtenances, and improvements on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste. A hazardous waste facility may consist of one or more treatment, transfer, storage, resource recovery, disposal, or recycling hazardous waste management units, or combinations of these units.” (Health & Saf. Code, § 25117.1.)

19. The HWCL defines “hazardous waste management” or “management” as “the transportation, transfer, recycling, recovery, disposal, handling, processing, storage, and treatment of hazardous waste.” (Health & Saf. Code, § 25117.2)

20. The HWCL prohibits an owner or operator of a hazardous waste management facility from “accept[ing], treat[ing], stor[ing], or dispos[ing] 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 the Department to use and operate the facility, area, or site” (Health & Saf. Code, § 25201, subd. (a).)

21. The HWCL requires that the owner and operator of a hazardous waste facility comply with the provisions of the facility’s hazardous waste facilities permit, including without limitation:

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

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

///

1 22. HWCL regulations defines a “generator” of hazardous waste as “any person, by site,
2 whose act or process produces hazardous waste identified in chapter 11 [of Division 4.5 of Title
3 22 of the California Code of Regulations] or whose act first causes a hazardous waste to become
4 subject to regulation.” (Cal. Code Regs., tit. 22 § 66260.10.)

5 23. HWCL regulations define a transporter of hazardous waste as “a person engaged in
6 the offsite transportation of hazardous waste by air, rail, highway, or water.” (Cal. Code Regs., tit.
7 22, § 66260.10.)

8 24. The HWCL governs transporters of hazardous waste and the transportation of
9 hazardous waste through a comprehensive manifest tracking system. (Health and Saf. Code, §
10 25160.)

11 25. A manifest is defined as the shipping document prepared by the generator of the
12 hazardous waste in accordance with the instructions of the appendix of chapter 12 of division 4.5
13 of the title 22 of the California Code of Regulations. (Cal. Code Regs., tit. 22, § 66260.10.)

14 26. Health and Safety Code section 25189.2, subdivision (a), prohibits any person from
15 making a false statement or representation in an application, label, record, report, permit, or other
16 document filed, maintained, or used for purposes of compliance with the HWCL.

17 Enforcement Authority Under the HWCL

18 27. The Attorney General of the State of California (“Attorney General”) has charge of all
19 legal matters in which the State is interested. (Gov. Code, § 12511.) The Attorney General has the
20 express power to protect the environment and natural resources of the State of California. (*Id.* at §
21 12600.)

22 28. The Attorney General is responsible for representing DTSC, in the name of the People
23 of the State of California, in any civil action for injunctive relief or civil penalties under the
24 HWCL. (Health and Saf. Code, §§ 25181, subd. (a), 25182.)

25 29. A designee of the Director of the DTSC has requested the Attorney General initiate a
26 civil action for such relief.

27 30. Effective as of January 1, 2018, Sections 25189 and 25189.2 of the Health and Safety
28 Code authorize civil penalties of up to \$70,000 per violation of the HWCL. A person is liable

1 under section 25189 for negligent or intentional violations of the HWCL. (Health & Saf. Code, §
2 25189.) Section 25189.2 establishes strict liability for violations of the HWCL. (Health & Saf.
3 Code, § 25189.2) Under either section 25189 or 25189.2, each violation of the HWCL, and each
4 day of a continuing violation, is subject to a separate penalty of up to \$70,000. (Health & Saf.
5 Code, §§ 25189, 25189.2.) For violations occurring before January 1, 2018, the statutory
6 maximum under the HWCL was twenty-five thousand dollars (\$25,000) for each separate
7 violation or, for continuing violations, for each day that the violations continue. (Stats. 2017, c.
8 499, § 3.) A person shall not be liable for a civil penalty imposed under Section 25189 and for a
9 civil penalty imposed under Section 25189.2 for the same act or failure to act. (Health & Saf.
10 Code, § 25189, 25189.2) Under either section 25189 or section 25189.2 a person is liable for:

11 A. Any violation of the HWCL, or a permit, rule, regulation, standard, or
12 requirement issued or promulgated pursuant to the HWCL (Health & Saf. Code, §§ 25189, subd.
13 (b), 25189.2, subd. (b)); or

14 B. The disposal, or causing the disposal, of a hazardous waste at a point not
15 authorized according to the provisions of the HWCL; (*Id.* at §§ 25189, subd. (d), 25189.2, subd.
16 (c)); or

17 C. Treating or storing hazardous waste at a point not authorized, or causing the
18 same. (*Id.* at §§ 25189, subd. (e), 25189.2, subd. (d).)

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

21 32. Health and Safety Code section 25181 provides that, when DTSC determines that any
22 person has engaged in any acts or practices which constitute, or will constitute, a violation of any
23 provision of the HWCL or any rule or requirement issued or promulgated thereunder, the
24 Attorney General may make application to the superior court on DTSC's behalf for an order: (1)
25 enjoining such acts or practices or (2) directing compliance. Upon a showing by DTSC that such
26 person has engaged in, or is about to engage in, any such acts or practices a permanent or
27 temporary injunction, restraining order, or other order may be granted. (*Ibid.*)

28 ///

1 33. In civil actions brought pursuant to the HWCL in which an injunction or temporary
2 restraining order is sought, the HWCL provides that:

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

10 (Health & Saf. Code, § 25184.)

11 V. GENERAL ALLEGATIONS

12 34. At all times relevant herein, Veolia owned and operated the Facility.

13 35. Veolia's Permit describes the Facility as:

14 "[A] commercial oil and solvent recycling facility The Facility
15 receives hazardous and non-hazardous waste from off-site sources
16 for the purpose of processing, storage, treatment, recycling, and/or
17 transfer Activities conducted at the Facility include solvent
18 reclamation, fuels blending, waste distillation, used oil recycling,
19 waste consolidation, repackaging, lab-packing and de-packing,
20 universal waste consolidation, and trans-shipment to other facilities.
21 Solvents are reclaimed by means of settling, physical separation,
22 distillation/thin film evaporation, and dewatering. Recycled
23 solvents are sold or exchanged for reuse; non-recyclable wastes and
24 wastes generated by recycling activities are manifested off-site for
25 use as supplemental fuels, for destructive incineration, or for
26 disposal by other means. . . . The Facility receives and ships wastes
27 off-site by tanker truck, truck van, railcar, and in containers such as
28 drums and roll-off bins."

 (Permit, at p. 5.)

 36. Veolia's Facility is a hazardous waste management facility engaged in the acceptance,
treatment and storage of hazardous waste, among other things.

 37. DTSC personnel inspected, and performed associated record reviews of, Veolia's
Facility in 2015, 2016, 2019, and 2020.

 38. On January 9, 2020, the Parties entered into an agreement ("Tolling Agreement") to
toll the applicable statute of limitations for violations of the HWCL, as set forth in Code of Civil

///

1 Procedure section 338.1, and, thus, extend DTSC's deadline for bringing an enforcement action
2 against Veolia, to allow for the Parties to engage in settlement discussions related to alleged
3 HWCL violations DTSC had cited Veolia for during the 2015, 2016, 2019, and 2020 inspections
4 of Veolia's Facility as well as the 2016 violations DTSC cited at Veolia's Transporter Facility.
5 The Parties agreed to extend the tolling period by amendments to the Tolling Agreement entered
6 into between the Parties on July 3, 2021 and August 5, 2021, November 8, 2021, December 8,
7 2021, February 7, 2022, and March 8, 2022. As amended, the Tolling Agreement tolls the period
8 from July 23, 2019, through July 22, 2020, and July 1, 2021, through March 29, 2022.

9 39. In response to the declared state of emergency related to the COVID-19 pandemic, the
10 California Judicial Council adopted California Rules of Court, emergency rule 9. Pursuant to this
11 rule, the statute of limitations and repose for civil causes of action that exceed 180 days or more
12 were tolled from April 6, 2020, until October 1, 2020. (Cal. Rules of Court, emergency rule 9.)

13 *DTSC's Inspections of Veolia's Hazardous Waste Facility*

14 *2015 Facility Inspection*

15 40. DTSC conducted a Focused Compliance Inspection and a Compliance Evaluation
16 Inspection of the Veolia Facility on the following dates: April 28 and 30, May 4 and 14, and June
17 4, 2015 ("2015 Facility Inspection").

18 41. During the 2015 Facility Inspection, DTSC inspectors observed seven tanks labeled as
19 Tanks 61-67 in Unit AA10, the Receiving Tank Farm 2 (TR). During the inspection, Veolia
20 personnel told DTSC's inspectors the following:

21 A. Tanks 65 and 66 were holding methylene chloride and Tank 67 had "fuel run
22 off from the unit."

23 B. "Tanks 65 and 66 are in between tanks and Tank 67 ha[d] Fuel that [was] not a
24 waste."

25 C. The fuel from Tank 67 is shipped out "on a hazardous waste manifest."

26 D. "Intermediate waste" was stored in Tanks 61-67 and the material inside is "not
27 a finished product."

28 ///

1 42. Veolia has not sought a variance to exclude the material stored in Tanks 65-67 from
2 regulation pursuant to Health and Safety Code section 25143, subdivision (c), and California
3 Code of Regulations, title 22, section 66260.210.

4 43. Veolia has not provided DTSC any evidence that it has or had a customer for the
5 material stored in Tanks 65-67 without further treatment or reclamation, or that there is or was a
6 market for the material without further treatment or reclamation.

7 44. Veolia notified DTSC that it emptied Tanks 65, 66, and 67 on October 2, 2016 and
8 took them “out of service.”

9 2016 Facility Inspections

10 45. DTSC conducted a Compliance Evaluation Inspection of the Veolia Facility in 2016
11 on the following dates: June 24, July 19, September 20 and 28, October 11, 12, 20, and 25, and
12 November 1, 2016 (“2016 Facility Inspections”).

13 46. On July 19, 2016, DTSC inspectors observed containers labeled as hazardous waste
14 stored north and south of the forklift pad of Unit AA1, the Truck Dock (Loading/Unloading
15 Area).

16 47. On September 28, 2016, DTSC inspectors observed material in a blind sump within
17 Unit AA-5. Sampling of this material revealed that it was a hazardous waste.

18 48. As part of the 2016 Facility Inspections, DTSC reviewed Veolia’s Operating Record.
19 DTSC’s review revealed several instances of hazardous waste having been stored for more than
20 10 days on a transport vehicle and outside of any permitted area.

21 49. On July 19, 2016, DTSC inspectors observed multiple instances of containers of
22 hazardous waste being stored in stacks of three containers in Unit AC2, the Storage and
23 Processing Unit 1.

24 50. On July 19, 2016, DTSC inspectors observed containers of hazardous waste titled
25 precariously to one side while in storage.

26 51. On July 19, 2016 DTSC inspectors observed multiple containers, labeled as hazardous
27 waste, with contamination on the exterior of the container.

28 ///

52. On September 20, 2016, DTSC inspectors observed accumulated debris and waste material in a drainage area located near the northwest corner of the Unit AC2, the Storage and Processing Unit 1. The material was later determined to be a hazardous waste. The drainage area connects to a pipe that has an outfall outside of the Facility boundary.

53. On October 11, 2016, DTSC inspectors observed that the aisle space between drums labeled as containing hazardous waste stored in Unit AB20, the Production, Process, and Storage Unit 1-South was less than 30 inches wide.

54. Due to the limited aisle space, any necessary emergency response may have been impeded or delayed, thereby exacerbating any potential harm to the environment or employee health resulting from a spill, release, or other emergency.

55. On September 20, 2016, DTSC inspectors observed that the secondary containment for several units were damaged and not maintained free of cracks and gaps.

56. As part of the 2016 Facility Inspection, DTSC inspectors reviewed the Facility's inspection and maintenance logs. The logs for September 29, 2016 and October 11, 2016 reported that there were no deficiencies with any of the secondary containment systems at the Facility.

57. As part of the 2016 Facility Inspection, DTSC inspectors reviewed the Facility's Personnel Training Records. Based on these records, DTSC determined that eight employees had not taken an annual refresher course for Hazardous Waste Management ("HAZWOPER 8 hour") within a year of their prior refresher course.

58. Additionally, Veolia failed to provide any records that Jude Lewis received the required emergency response training (“contingency plan training”) at any time.

2019 Facility Inspection

59. DTSC conducted a Compliance Evaluation Inspection of the Veolia Facility on the following dates: January 22-25 and 28-29, 2019 (“2019 Facility Inspection”).

60. During the 2019 Facility Inspection, DTSC inspectors observed that Unit AC22, the Fluidized Bed Bio-Reactor (“FBBR Unit”), was not built as permitted. Specifically, the inspectors observed three tanks labeled “T-530,” “T-540,” and “T-550” at the Facility.

///

1 61. During the 2019 Facility Inspection, a Facility employee explained that “T-540 is the
2 8,000-gallon fluidized bed-reactor (“FBR”) and T-550 is a 1,000-gallon treated wastewater
3 holding tank.” He further explained T-530 is an oxygenation vessel that directly feeds nutrients,
4 pH control chemicals, and oxygen into the FBR.

5 62. DTSC had originally permitted Veolia to construct the FBBR Unit in 2011. After the
6 FBBR was constructed, Veolia informed DTSC that the Unit, as built, deviated from what DTSC
7 had permitted. DTSC inspected the Unit and confirmed that the Unit was constructed in a manner
8 that was inconsistent with the Permit.

9 63. As a condition of operating the FBBR, DTSC required Veolia to submit: (1) a facility
10 map showing the as-built location of the components of the FBBR Unit, (2) a process-flow
11 diagram for the FBBR as built, and (3) an updated narrative description of the FBBR as built.
12 Veolia was required to provide these items to DTSC by August 15, 2012.

13 64. Veolia provided DTSC with an updated facility map with the as-built location of the
14 components of the FBBR and an updated as-built process-flow diagram of the FBBR on August
15 8, 2012.

16 65. Veolia failed to provide an updated narrative description of the as-built FBBR by the
17 deadline or at any time prior to the 2019 Facility Inspection.

18 66. DTSC’s review of the updated facility map and process-flow diagram for the FBBR
19 Unit confirms that the unit was built and operated in a manner inconsistent with the Permit.

20 67. DTSC’s subsequent review also revealed that prior to the 2019 Facility Inspection,
21 Unit AC22, the Fluidized Bed Bio-Reactor, was last used on January 11, 2019, that Tank T-540
22 was used to treat hazardous waste, and that Tank T-550 was used to store hazardous waste.

23 68. During the 2019 Facility Inspection, Facility personnel informed DTSC’s inspectors
24 that used antifreeze generated by the Facility’s truck maintenance shop was discarded in a used
25 oil drum associated with Waste Information Profile #35394.

26 69. Waste Information Profile #35394 for the used oil drum in the Facility’s truck
27 maintenance shop stated that the drum stored used oil and used antifreeze (ethylene glycol).

28 ///

1 70. As part DTSC's 2019 Facility Inspection, DTSC performed a financial responsibility
2 review of Veolia's Facility on February 11, 2019.

3 71. Veolia uses a surety bond that guarantees performance of closure to comply with the
4 applicable closure cost financial assurance requirements.

5 72. Veolia's surety bond first became effective on August 1, 2010.

6 73. DTSC's review revealed that the cost estimate for closure of the facility, updated for
7 inflation through August 1, 2018, was \$4,850,008.00.

8 74. Veolia's surety bond for the Facility was \$4,764,251.00, and, as of August 1, 2018,
9 that surety bond was deficient in the amount of \$85,757.00.

10 2020 Facility Inspection

11 75. DTSC conducted a Compliance Evaluation Inspection of the Facility on the following
12 dates: January 13, 2020, January 15, 2020, January 17, January 23, and January 31, 2020 ("2020
13 Facility Inspection").

14 76. During the 2020 Facility Inspection, on January 13, 15, 17, and 23, 2020, DTSC
15 inspectors observed that the secondary containment for several units was damaged and not
16 maintained free of cracks and gaps.

17 77. As part of the 2020 Facility Inspection, DTSC inspectors reviewed Veolia's facility
18 inspection and maintenance logs. The logs for January 10, 11, 12 and 16, 2020 reported that there
19 were no problems or issues with the secondary containment systems for Units AA1, the Truck
20 Dock (Loading/Unloading Area), AB20, the Production, Process, and Storage Unit 1 – South, and
21 AA13, the Thin Film Distillation Unit 1.

22 78. During the 2020 Facility Inspection, on January 13, 2020, DTSC inspectors observed
23 a 55-gallon cardboard fiber-drum containing non-RCRA hazardous waste liquid (Benzyl
24 Benzoate, Povidone) leaking waste from the bottom of the drum, staining the bottom of the drum,
25 and dripping onto, and accumulating on, a 55-gallon drum containing non-RCRA hazardous
26 waste located below the leaking drum.

27 Complaint Against Veolia's San Diego Transporter Operations

28 79. On November 17, 2016, DTSC received a complaint from Stericycle, Inc.

1 80. Stericycle's complaint stated that on September 30, 2016 its transporter had picked up
2 a 44-gallon container of regulated medical waste ("RMC") from Veolia's Transporter Facility and
3 brought it to Stericycle's facility in Vernon, CA. Stericycle's complaint further stated that the
4 RMC contained three 5-gallon containers of hazardous waste that had been improperly stored in
5 the RMC, and as a result Stericycle unknowingly autoclaved the improperly stored hazardous
6 waste. Finally, Stericycle stated that the hazardous waste contained in the RMC was most likely
7 volatilized as a result of being autoclaved.

8 81. DTSC's investigation of Stericycle's complaint confirmed these basic facts.

9 82. DTSC's investigation included interviews of personnel at Veolia's Transporter
10 Facility and Reveal Biosciences and the review of various recordkeeping documents kept by
11 Veolia, Stericycle, and Reveal Biosciences.

12 83. On September 30, 2016, Veolia's driver picked up three 5-gallon containers of
13 hazardous waste from Reveal Biosciences in San Diego on manifest 001107804VES.

14 84. According to the manifest 001107804VES, Veolia's driver had picked up one 5-gallon
15 container of spent solvent (xylene) and two 5-gallon containers of used formalin solution.

16 85. Manifest 001107804VES designated Veolia's Facility as the destination for hazardous
17 waste collected from Reveal Biosciences.

18 86. Veolia's driver told DTSC's inspectors that he had placed the three 5-gallon
19 containers of hazardous waste he had picked up from Reveal Biosciences into a grey 44-gallon
20 Stericycle RMC. Veolia's driver explained that he took that action because there was no other
21 way to effectively secure the 5-gallon containers in the back of his truck. Veolia's driver also
22 stated that he had left the three 5-gallon containers he picked up from Reveal Biosciences in the
23 Stericycle RMC. Veolia's driver stated that he did not unload the contents of his truck until
24 October 3, 2015.

25 87. Veolia tracks the medical waste it collects on a "Medical Waste Shipping Form." This
26 form keeps track of the number and the total weight of RMCs that Veolia's transporter picks up
27 from its customers.

28 ///

1 88. Veolia's internal documentation shows that it had collected 58 RMCs from various
2 generators.

3 89. Stericycle's documentation showed that its transporter had picked up 59 RMCs from
4 the Transporter Facility. Stericycle transported these RMCs to its Vernon, CA facility on Bill of
5 Lading MDSG00D2Z0.

6 90. Veolia concluded, based on Stericycle's and Veolia's tracking documents, that
7 Stericycle's transporter picked up the RMC containing the three 5-gallon containers of hazardous
8 waste, described in Paragraphs 83-86, with 58 others from the Transporter Facility in San Diego
9 on October 3, 2015.

10 91. Stericycle, after collecting the RMCs from Veolia, autoclaved them, including the
11 RMC containing the three 5-gallon containers of hazardous waste, using its normal process.

12 92. Stericycle autoclaves RMCs at 325°F.

13 93. Xylene has a boiling point of 281°F.

14 94. Formalin has a boiling point of 212°F.

15 95. After the RMCs were picked up from Veolia and autoclaved by Stericycle, the RMCs
16 were disposed of at Sunshine Canyon Landfill.

17 96. As a result, Veolia did not deliver the three 5-gallon containers of hazardous waste
18 collected from Reveal Biosciences to the Facility.

19 97. Additionally, Veolia did not provide the manifest associated with the three 5-gallon
20 containers of hazardous waste collected from Reveal Biosciences to the transporter that brought
21 the material from Veolia's Transporter Facility to Stericycle's facility.

22 **FIRST CAUSE OF ACTION**

23 (Illegal Storage of Hazardous Waste in Tanks 66, 67, and 68)
24 (Health & Saf. Code, §§ 25201, subd. (a), 25202;
25 Permit, Part III – General Conditions, 2, subds., (a)-(b).)

26 98. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
27 herein.

28 ///

///

1 99. The HWCL prohibits the operator of a permitted hazardous waste facility from storing
2 hazardous waste in any tank not specifically authorized by its permit or in any manner contrary to
3 its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

4 100. Veolia’s Permit prohibits the storage of hazardous waste in any manner and in any
5 tank that is not specifically authorized by the Permit. (Permit, Part III – General Conditions, 2,
6 subds. (a)-(b).)

7 101. A material that is a “spent material” is a waste if it is recycled by being reclaimed.
8 (Cal. Code Regs., tit. 22, § 66261.2, subd. (d)(3).) A “spent material” is any material that has
9 been used and, as a result of contamination, can no longer serve the purpose for which it was
10 produced. (*Id.* at § 66260.10.)

11 102. Waste that is reclaimed, but which does not meet product specifications and must be
12 further reclaimed or treated, remains regulated as a solid waste. (Cal. Code Regs., tit. 22, §
13 66261.2, subd. (g); cf. 40 C.F.R. § 260.30 (c).) A defendant in an enforcement action claiming
14 that a material is not a waste “must demonstrate that there is a known market or disposition of the
15 material, and that they meet the terms of the exclusion or exemption.” (Cal. Code Regs., tit., 22 §
16 66261.2, subd. (g).) “In doing so, they must provide appropriate documentation (such as contracts
17 showing that a second person uses the material as an ingredient in a production process) to
18 demonstrate that the material is not a waste.” (*Ibid.*)

19 103. Pursuant to California’s HWCL regulations, spent halogenated solvents used in
20 degreasing, including without limitation tetrachloroethylene and methylene chloride, are defined
21 as hazardous waste. (Cal. Code Regs., tit 22, § 66261.31, subd. (a).)

22 104. DTSC may grant a variance allowing the exclusion of partially reclaimed material
23 pursuant to section 25143, subdivision (c) of the Health and Safety Code section 25143 and
24 California Code Regulations, title 22, section 66260.210.

25 105. Beginning on an undetermined date prior to April 28, 2015, and continuing until
26 October 3, 2016, Veolia stored partially reclaimed methylene chloride in Tanks 65 and 66.

27 106. Beginning on an undetermined date prior to April 28, 2015, and continuing until
28 October 3, 2016, Veolia stored partially reclaimed fuel runoff in Tank 67.

1 107. Partially reclaimed methylene chloride and fuel run-off are hazardous wastes.
2 108. Tanks 65, 66, and 67 are not authorized to store hazardous waste.
3 109. Accordingly, Veolia stored hazardous waste in tanks not permitted by DTSC for the
4 storage of hazardous waste.
5 110. Veolia's storage of hazardous waste in Tanks 65, 66, and 67 are three separate
6 violations of the HWCL and the Permit, and each violation is subject to penalty.
7 111. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
8 for civil penalties for each violation according to proof based on these intentional or negligent
9 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
10 pursuant to Health and Safety Code section 25189.2.
11 112. Pursuant to Health and Safety Code section 25181, subdivision (a), Veolia should
12 also be enjoined by the Court from continuing to operate the Facility in violation of this
13 requirement.

14 **SECOND CAUSE OF ACTION**
15 (Illegal Storage of Containers of Hazardous Waste North and South of the Truck Dock Area)
16 (Health & Saf. Code, §§ 25201, subd. (a), 25202;
Permit, Part III – General Conditions, 2, subds. (a)-(b).)

17 113. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
18 herein.

19 114. The HWCL prohibits the operator of a permitted hazardous waste facility from
20 storing hazardous waste in any area not specifically authorized by its permit or in any manner
21 contrary to its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

22 115. Veolia's Permit prohibits the storage of hazardous waste in any manner and in any
23 area that is not specifically authorized by the Permit. (Permit, Part III – General Conditions, 2,
24 subds. (a)-(b).)

25 116. On July 19, 2016, DTSC inspectors observed containers labeled as hazardous waste
26 being stored north and south of Unit AA1, the Truck Dock (Loading/Unloading Area).

27 ///

28 ///

1 117. Veolia's Permit does not authorize the storage of hazardous waste in containers in
2 the areas north or south of Unit AA1, the Truck Dock (Loading/Unloading Area).

3 118. Accordingly, Veolia's storage of hazardous waste in containers north and south of
4 Unit AA1, the Truck Dock (Loading/Unloading Area) violates the HWCL and the Permit.

5 119. Each container of hazardous waste stored north and south of Unit AA1, the Truck
6 Dock (Loading/Unloading Area), is a separate violation of the HWCL and the Permit, and each
7 violation is subject to penalty.

8 120. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
9 for civil penalties for each violation according to proof based on these intentional or negligent
10 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
11 pursuant to Health and Safety Code section 25189.2.

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

15 **THIRD CAUSE OF ACTION**

16 (Illegal Holding of Containers of Hazardous Waste on Transport Vehicle)
17 (Health & Saf. Code, § 25200.19; Permit, Part III – General Conditions, 2, subd. (a).)

18 122. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
19 herein.

20 123. Health and Safety Code section 25200.19 governs the loading and unloading of
21 hazardous waste at a facility unless otherwise specified in the facility's hazardous waste permit.

22 124. In the absence of contrary requirements in a facility's hazardous waste permit, Health
23 and Safety Code section 25200.19 prohibits operators of hazardous waste facilities from holding
24 hazardous waste outside of an authorized unit for more than 10 days and operators are required to
25 move hazardous waste directly from a transport vehicle to a permitted hazardous waste unit, or
26 vice versa, except for that incidental period time necessary for the movement of the hazardous
27 waste.

28 ///

1 125. The HWCL also requires the operator of a hazardous waste facility to obtain a permit
2 authorizing its activities and to operate the facility in a manner consistent with its permit. (Health
3 & Saf. Code, § 25201, subd. (a), 25202.)

4 126. Veolia's Permit requires it to comply with the HWCL and its implementing
5 regulations. (Permit, Part III – General Conditions, 2, subd. (a).)

6 127. DTSC's review of Veolia's Operating Record revealed that Veolia, on at least six
7 separate occasions, illegally held containers of hazardous waste on a transport vehicle at the
8 Facility and outside of a permitted unit in excess of 10 days, including without limitation:

9 A. Container FD2541002000001010 on manifest 001083684VES was received at
10 the Veolia Facility on March 23, 2016. This container arrived at the Facility on a transport
11 vehicle. This container remained on that transport vehicle at the Facility, and outside any
12 permitted unit, from March 23, 2016, until April 25, 2016. Accordingly, the container was held
13 on a transport vehicle outside of any permitted unit at the Facility for 34 days.

14 B. Container KH2522496000007010 on manifest 001107083VES was received at
15 the Facility on April 4, 2016. This container arrived at the Facility on a transport vehicle. This
16 container remained on that transport vehicle at the Facility, and outside any permitted unit, from
17 April 4, 2016, until April 25, 2016. Accordingly, the container was held on a transport vehicle
18 outside of any permitted unit at the Facility for 22 days.

19 C. Container 3D2569104000001010 on manifest 009427155FLE was received at
20 the Facility on April 12, 2016. This container arrived at the Facility on a transport vehicle. This
21 container remained on that transport vehicle at the Facility, and outside any permitted unit, from
22 April 12, 2016, until April 25, 2016. Accordingly, the container was held on a transport vehicle
23 outside of any permitted unit at the Facility for 14 days.

24 D. Container KH2541172000005010 on manifest 01107124VES was received at
25 the Facility on April 25, 2016. This container arrived at the Facility on a transport vehicle. This
26 container remained on that transport vehicle at the Facility, and outside any permitted unit, from
27 April 25, 2016, until May 26, 2016. Accordingly, the container was held on a transport vehicle
28 outside of any permitted unit at the Facility for 32 days.

1 E. Container ID2550356999001010 on manifest 000940492VES was received at
2 the Facility on March 29, 2016. This container arrived at the Facility on a transport vehicle. This
3 container remained on that transport vehicle at the Facility, and outside any permitted unit, from
4 March 29, 2016, until April 25, 2016. Accordingly, the container was held on a transport vehicle
5 outside of any permitted unit at the Facility for 32 days.

6 F. Container KG2522443000220 on manifest 001083377VES was received at the
7 Facility on March 7, 2016. This container arrived at the Facility on a transport vehicle. This
8 container remained on that transport vehicle at the Facility, and outside any permitted unit, from
9 March 7, 2016, until March 25, 2016. Accordingly, the container was held on a transport vehicle
10 outside of any permitted unit at the Facility for 19 days.

11 128. Each container of hazardous waste that was held on a transport vehicle at the Facility
12 in excess of the 10-day limit constitutes a separate violation of the HWCL and the Permit.

13 129. Each day that each container of hazardous waste was held on a transport vehicle in
14 excess of the 10-day limit constitutes a continuing violation, and each day of each violation is
15 subject to penalty.

16 130. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
17 for civil penalties for each violation according to proof based on these intentional or negligent
18 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
19 pursuant to Health and Safety Code section 25189.2.

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

23 **FOURTH CAUSE OF ACTION**

24 (Failure to Timely Remove Spilled or Leaked Waste from Secondary Containment System)
(Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit 22, §§ 66264.193, subd.
25 (c)(4), 66264.196, subd. (b)(3)(B); Permit, Part III – General Conditions, 2, subd. (a);
26 Part B Permit, at Section G (the Contingency Plan).)

27 132. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
28 herein.

1 133. The HWCL prohibits the operator of a permitted hazardous waste facility from
2 storing hazardous waste in a location not specifically authorized by its permit, or in any manner
3 contrary to its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

4 134. The HWCL requires that “[s]pilled or leaked waste and accumulated precipitation . . .
5 be removed from [a] secondary containment system within as timely a manner as is necessary to
6 prevent overflow of the containment system, but within no more than 24 hours.” (Cal. Code Regs.
7 tit. 22, § 66264.193, subd. (c)(4); see also Cal. Code Regs. tit 22, § 66264.196, subd. (b)(3)(B).)

8 135. The HWCL and its implementing regulations require that collected material that “is a
9 hazardous waste under chapter 11 of [Division 4.5 of Title 22 of the California Code of
10 Regulations] . . . be managed as hazardous waste in accordance with all applicable requirements
11 of chapters 12 through 15 of [Division 4.5 of Title 22 of the California Code of Regulations.” (*Id.*
12 at 66264.193, subd. (c)(4)(A).)

13 136. Veolia’s Permit requires it to comply with the HWCL and the HWCL’s
14 implementing regulations. (Permit, Part III – General Conditions, 2, subds. (a).)

15 137. Further, Veolia’s Permit requires all employees to report any spill at once (Part B
16 Permit, at p. G-10), to notify the on-site Emergency Coordinator of any spill (*id.*, at p. G-11), and
17 to determine the product involved in the spill (including a hazardous waste analysis). (*Id.* at G-11,
18 G-18).)

19 138. On September 28, 2016, DTSC inspectors observed a black liquid in a sump located
20 within Unit AA5, the Storage Tank Farm 1 (TS) (large cone-bottom).

21 139. DTSC’s inspectors took two samples of the black liquid. The samples were labeled
22 “VEO-Sump-1” and “VEO-Sump-2.”

23 140. The VEO-Sump-2 sample was analyzed for pH using EPA Method #9040.

24 141. The analysis of the VEO-Sump-2 sample revealed that the black liquid had a pH of
25 12.64.

26 142. A waste is considered hazardous if it has a pH value that is greater than or equal to
27 12.5, as determined by a pH meter using either an EPA test method for pH or equivalent test

28 ///

1 method approved by the Department pursuant to the California Code of Regulations, title 22,
2 section 66260.21, subdivision (a)(1).

3 143. “The EPA test method for pH is specified as Method 9040 in ‘Test Methods for
4 Evaluating Solid Waste, Physical/Chemical Methods,’ SW-846, 3rd edition and updates.” (Cal.
5 Code Regs., tit. 22, § 66264.22, subd. (a)(1).)

6 144. On information and belief, the material in the sump had been there in excess of
7 24-hours.

8 145. Accordingly, Veolia had failed to remove the spilled or leaked waste from the sump
9 within 24-hours and had stored hazardous waste in the sump.

10 146. The sump at issue is not permitted for the storage of hazardous waste.

11 147. Veolia’s failure to remove the spilled or leaked waste from the sump within 24-hours
12 is a violation of the HWCL and the Permit and is subject to penalty.

13 148. In the alternative, Veolia’s storage of hazardous waste in the sump is a violation of
14 the HWCL and the Permit and is subject to penalty.

15 149. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
16 for civil penalties for each violation according to proof based on these intentional or negligent
17 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
18 pursuant to Health and Safety Code section 25189.2.

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

22 **FIFTH CAUSE OF ACTION**

23 (Illegal Storage of Containers of Hazardous Waste in Stacks of Three Containers or More)
24 (Health & Saf. Code, §§ 25201, subd. (a), 25202; Permit, Part III – General Conditions, 2, subds.,
(a)-(b) and Part IV – Permitted Units and Activities, 3 (Unit AC2), Special Condition (b).)

25 151. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
26 herein.

27 ///

28 ///

1 152. The HWCL prohibits the operator of a permitted hazardous waste facility from
2 storing hazardous waste in a location not specifically authorized by its permit, or in any manner
3 contrary to its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

4 153. Veolia's Permit prohibits the storage of hazardous waste in any manner that is
5 contrary to or not specifically authorized by the Permit. (Permit, Part III – General Conditions, 2,
6 subds. (a)-(b).)

7 154. Veolia's Permit prohibits the stacking of "containers holding hazardous waste more
8 than two (2) containers high within Unit AC2" (Permit, Part IV – Permitted Units and Activities,
9 3 (Unit AC2), Special Condition (b).)

10 155. During the 2016 Facility Inspection, DTSC inspectors observed multiple instances
11 where Veolia had stored containers of hazardous waste in stacks of three in Unit AC2, the Storage
12 and Processing Unit.

13 156. Specifically, DTSC inspectors observed several instances in Unit AC2, the Storage
14 and Processing Unit, where Veolia had placed a wooden pallet on top of a group of 55-gallon
15 containers stored side-by-side and then placed 5-gallon buckets, stacked two high, on top of the
16 wooden pallet.

17 157. Each instance where Veolia stored containers of hazardous waste in Unit AC2, the
18 Storage and Processing Unit, by stacking three containers on top of each other is a separate
19 violation of the HWCL and the Permit, and is subject to penalty.

20 158. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
21 for civil penalties for each violation according to proof based on these intentional or negligent
22 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
23 pursuant to Health and Safety Code section 25189.2.

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

27 ///

28 ///

1 **SIXTH CAUSE OF ACTION**

2 (Failure to Minimize the Possibility of a Release of Hazardous Waste)
3 (Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, § 66264.31; Permit,
4 Part III - General Conditions, 2, subds. (a)-(b).)

5 160. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
6 herein.

7 161. The HWCL also requires hazardous waste facilities “be . . . operated to minimize the
8 possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous
9 waste constituents to air, soil, or surface water which could threaten human health or the
10 environment.” (Cal. Code Regs., tit 22, § 66264.31.)

11 162. The HWCL also requires the operator of a permitted hazardous waste facility to
12 obtain a permit authorizing its activities and to operate the facility in a manner consistent with its
13 permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

14 163. Veolia’s Permit requires it to comply with the HWCL and its implementing
15 regulations. (Permit, Part III – General Conditions, 2, subd. (a).)

16 164. During the 2016 Facility Inspection, on September 20, 2016, DTSC inspectors
17 observed two containers labeled as hazardous waste titled to one side while in storage. The two
18 containers at issue were numbered “3D 2569104000110” and “KG2522443000220.”

19 A. Container 3D 2569104000110 was on manifest 009427155FLE. The container
20 was identified as holding “Dichloromethane Silver,” and as holding a waste that was flammable
21 and toxic. The container was also marked with waste code “UN1992.”

22 B. The manifest for KG2522443000220 was on manifest 001083377VES. The
23 container was identified as holding “Acetonitrile Methanol,” and as holding a waste that was
24 flammable. The container was also marked with waste code “UN1992.”

25 165. The storage of containers of hazardous waste that are tilted to one side could lead to a
26 spill of hazardous waste.

27 166. Veolia’s storage of containers of hazardous waste in manner that could lead to a spill
28 is a violation of its obligation to minimize the possibility of a release.

///

1 167. During the 2016 Facility Inspection, on July 19, 2016, DTSC inspectors observed
2 multiple containers, labeled as hazardous waste, with contamination on the exterior of the
3 container.

4 168. Hazardous waste contained on the outside of a container could cause a release of
5 hazardous waste to the environment.

6 169. Veolia's failure to clean up hazardous waste contamination from the outside of a
7 container is a separate violation of its obligation to minimize the possibility of a release.

8 170. During the 2016 inspection, on October 25, 2016, DTSC inspectors observed debris
9 and accumulated waste in a drainage area that is connected to a pipe with an outfall on the outside
10 of the facility.

11 171. Testing of the debris and waste material revealed that it had a lead concentration of
12 23 milligrams per liter and a zinc concentration of 430 milligrams per liter.

13 172. Pursuant to the HWCL and its implementing regulations, a waste is considered
14 hazardous if it has:

15 A. A concentration of lead that exceeds 5 milligrams per liter of waste extract as
16 determined using the Waste Extraction Test (Cal. Code Regs. tit. 22, § 66261.24, subd. (a)(2));

17 B. A concentration of zinc that exceeds 250 milligrams per liter of waste extract as
18 determined using the Waste Extraction Test (*Id.* at § 66261.24, subd. (a)(2)); or

19 173. Accordingly, the accumulated waste was hazardous because of its high concentration
20 of lead and zinc.

21 174. Hazardous waste in a drainage area that is connected to a pipe that leads to the
22 outside of the facility threaten the release of hazardous waste to the environment.

23 175. Veolia's acts or omissions that caused the hazardous waste to accumulate in the
24 drainage area violated its obligation to minimize the possibility of a release.

25 176. Each instance where Veolia violated its obligation to minimize the possibility of a
26 release of hazardous waste to the environment is a separate violation of the HWCL and the
27 Permit, and is subject to penalty.

28 ///

1 177. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
2 for civil penalties for each violation according to proof based on these intentional or negligent
3 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
4 pursuant to Health and Safety Code section 25189.2.

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

8 **SEVENTH CAUSE OF ACTION**

9 (Failure to Maintain Adequate Aisle Space Between Stored Containers of Hazardous Waste)
10 (Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal Code Regs., tit. 22, § 66264.35; Permit,
Part III – General Conditions, 2, subd. (a); Permit, Part IV – Permitted Units and Activities,
Unit AB20 Unit-Specific Special Conditions, subd. (b).)

11 179. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
12 herein.

13 180. The HWCL requires the owner or operator of a hazardous waste facility to “maintain
14 aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill
15 control equipment, and decontamination equipment to any area of facility operation in an
16 emergency, unless it is demonstrated pursuant to section 66270.14(b)(6) to the Department that
17 aisle space is not needed for any of these purposes.” (Cal. Code Regs., tit. 22, § 66264.35.)

18 181. The HWCL also requires the operator of a permitted hazardous waste facility to
19 obtain a permit authorizing its activities and to operate the facility in a manner consistent with its
20 permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

21 182. Veolia’s Permit requires it to comply with the HWCL and its implementing
22 regulations and the Permit. (Permit, Part III – General Conditions, 2, subd. (a).)

23 183. Veolia’s Permit also requires it to “maintain a minimum of thirty (30) inches of aisle
24 space between stacks of containers holding or designated to hold hazardous waste within Unit
25 AB20.” (Permit, Part IV – Permitted Units and Activities, 20. Unit AB20 Unit-Specific Special
26 Conditions, subd. (b).)

27 ///

28 ///

184. During the 2016 Facility Inspection, while inspecting Unit AB20, the Production, Process and Storage Unit 1 – South, on October 11, 2016, DTSC inspectors observed that the aisle space between drums labeled as containing hazardous waste was less than 30 inches wide.

185. Veolia’s failure to maintain 30 inches of aisle space between stacks of containers holding hazardous waste is a violation of the HWCL and the Permit and is subject to penalty.

186. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable for civil penalties for each violation according to proof based on these intentional or negligent violations. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

EIGHTH CAUSE OF ACTION

(Failure to Maintain Secondary Containment Systems Free of Crack and Gaps)
(Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, §§ 66264.175, subd. (b)(1), 66264.193, subd. (c)(2); Permit, Part III – General Conditions, 1, 2, subds. (a)-(b); Part B Permit, at pp. D-14, D-22)

188. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth herein.

189. Operators of permitted hazardous waste facilities that include areas authorized to store hazardous waste in containers must comply with the secondary containment requirements of California Code of Regulations, title 22, section 66264.175. Pursuant to these requirements, a containment system for container storage areas shall be designed and operated to have a base that “is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation.” (Cal. Code Regs., tit. 22, § 66264.175, subd. (b)(1).)

190. Operators of permitted hazardous waste facilities that include areas authorized to store hazardous waste in tanks must comply with the secondary containment requirements of the California Code of Regulations, title 22, section 66264.193. Pursuant to these requirements, a secondary containment system for tanks shall be designed and operated to have a base that is

1 “free of cracks or gaps and sufficiently impervious to contain leaks, spills and accumulated
2 precipitation until the collected material is detected and removed.” (Cal. Code Regs., tit. 22, §
3 66264.193, subd. (c)(2).)

4 191. The HWCL also requires the operator of a permitted hazardous waste facility to
5 obtain a permit authorizing its activities and to operate the facility in a manner consistent with its
6 permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

7 192. Veolia’s Permit requires it to comply with the HWCL and its implementing
8 regulations and the Permit. (Permit, Part III – General Conditions, 2, subds. (a)-(b).)

9 193. Veolia’s Permit also requires it to maintain multiple secondary containment systems.
10 (Permit, at pp. 93-95; Part B Permit, at Table D-6; Cal. Code Reg., tit. 22, §§ 66264.175,
11 66264.193.) These include the containment system for the Unit AA1, the Truck Dock
12 (Loading/Unloading Area), Shared Containment A (SC-A), Shared Containment B (SC-B), and
13 Shared Containment C (SC-C). (Permit, at pp. 13, 93-95; Part B Permit, at Table D-6.) Each
14 shared containment system is intended to serve several process units at the facility and prevent
15 spills from these units from reaching groundwater or otherwise reaching the environment.

16 A. SC-A serves:

- 17 i. Unit AA4, Storage and Processing Unit 2 Frac Bay;
- 18 ii. Unit AA5, Storage Tank Farm 1;
- 19 iii. Unit AA9, Receiving Tank Farm 1;
- 20 iv. Unit AA12, Fractionation Distillation Unit 1; and
- 21 v. Unit AB21, Production, Processing, and Storage Unit 2 – North.

22 B. SC-B serves:

- 23 i. Unit AA6, Storage Tank Farm 2;
- 24 ii. Unit AA10, Receiving Tank Farm 2;
- 25 iii. Unit AA11, Storage Tank Farm 5;
- 26 iv. Unit AA13, Thin Film Distillation Unit 1;
- 27 v. Unit AA14, Glass Column Distillation Unit;
- 28 vi. Unit AA16, Cryogenic Unit; and

vii. Unit AB20, Production Processing, and Storage Unit 1 – South.

194. Shared Containment A and B serve as secondary containment for areas that are permitted to store hazardous waste in containers and in tanks. (Permit, at pp. 93-94.)

195. Additionally, Veolia is required to maintain SC-A with a “chemical resistant coating to prevent waste migration in the event of a spill or leak.” (Part B Permit, at D-14.)

196. During the 2016 and 2020 Facility Inspection, DTSC inspectors observed multiple instances of cracks, gaps, peeling chemical resistant coating, or other deterioration of the secondary containment systems for the permitted units at the Facility.

197. During the 2016 Facility Inspection, DTSC inspectors observed that the floor of Unit AA10, the Receiving Tank Farm 2 (TR), was cracked and damaged and that the chemical resistant coating was peeling off.

198. During the 2016 Facility Inspection, DTSC inspectors observed that the secondary containment wall shared by Unit AA5, the Storage Tank Farm 1, and Unit AB20, the Production Processing Unit 1 was damaged.

199. During the 2016 Facility Inspection, DTSC inspectors observed that secondary containment system for Unit AA4, the Storage and Processing Unit 2 (Frac Bay), was damaged, with the containment wall having significant cracks and with portions having broken off. One crack was so severe that it went completely through the containment wall.

200. During the 2020 Facility Inspection, DTSC inspectors observed cracks in the floor of the secondary containment system for Unit AB20, Production, Processing, and Storage Unit 1 – South. The cracks were on the east side of the containment area adjacent to the northeast facing wall of the containment area and in the area adjacent to the southeast corner of Unit AA6, the Storage Tank Farm 2.

201. During the 2020 inspection, DTSC inspectors observed a crack in the floor at the northern portion of the secondary containment system for Unit AA1, the Truck Dock (Loading/Unloading Area).

202. During the 2020 Facility Inspection, DTSC inspectors observed a crack in the floor of the secondary containment system for Unit AA13, the Thin Film Distillation Unit 1.

203. Each separate observation of a damaged secondary containment area at the Facility in 2016 and 2020 is a separate violation of the HWCL and the Permit, and is subject to penalty.

204. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable for civil penalties for each violation according to proof based on these intentional or negligent violations. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

NINTH CAUSE OF ACTION

(False Representation of Condition of Secondary Containment Systems)
(Health & Saf. Code, §§ 25189; 25189.2; 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, § 66264.15, subd. (d); Permit, Part III – General Conditions, 1, 2, subds. (a)-(b); Part B Permit, at Attachment F-1 Tables 6, 8, and 10.)

206. Paragraphs 1 through 97 and 188 through 202 above are incorporated by reference as though fully set forth herein.

207. Operators of permitted hazardous waste facilities that operate units that include secondary containment systems are required to follow the inspection monitoring schedule provided in its Part B Permit Application, which is incorporated into its permit. (Cal. Code Regs., tit. 22, § 66264.15, subd. (b).)

208. Operators of permitted hazardous waste facilities that operate units that include secondary containment systems are required to record inspections in an inspection log or summary. (Cal. Code Regs., tit. 22, § 66264.15, subd. (d).)

209. Veolia is also required to follow the inspection monitoring schedule provided in its Part B Permit Application, which is incorporated into the permit. (Cal. Code Regs., tit. 22, § 66264.15, subd. (b)(1); Permit, at p. 8; Part B Permit, at p. F-2.)

210. The HWCL also requires the operator of a permitted hazardous waste facility to obtain a permit authorizing its activities and to operate the facility in a manner consistent with its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

1 211. Veolia’s Permit requires it to comply with the HWCL and its implementing
2 regulations and the Permit. (Permit, Part III – General Conditions, 2, subds. (a)-(b).)

3 212. Veolia’s Permit requires it to inspect secondary containment areas for container
4 storage and treatment units on a weekly basis. (Permit, Part III – General Conditions, 1; Part B
5 Permit, at Attachment F-1 Tables 6, 8, and 10.)

6 213. Veolia’s Permit requires it to inspect secondary containment areas for storage and
7 treatment tanks or other miscellaneous treatment units on a daily basis. (Part B Permit, at
8 Attachment F-1 Tables 6, 8, and 10.)

9 214. Veolia is required to inspect secondary containment areas for damage, including
10 cracks on the containment walls, berms, and floor. (Part B Permit, at Attachment F-1 Tables 6, 8,
11 and 10.) The inspections are to be conducted by “knowledgeable persons” and are used to
12 “evaluate and assess each item indicating a potential malfunction, equipment deterioration, or
13 operation error through regular observation of the process and procedures.” (*Id.* at F-2.)

14 215. Veolia is required to record inspections in an inspection log or summary. (Permit,
15 Permit, Part III – General Conditions, 1; Part B Permit, at Attachment F-1-3; Cal. Code Regs., tit.
16 22, § 66264.15, subd. (d).) “Inspections are conducted and documented using forms specifically
17 designed to contain all pertinent information.” (Part B Permit, at Attachment F-1-3.) “The
18 inspector is required to enter his/her name, the date and time of the inspection, and any
19 observation on the inspection form.” (*Ibid.*)

20 216. As recounted in paragraphs 188 through 202 above, DTSC inspectors observed
21 multiple instances in 2016 and again in 2020 where Veolia failed to maintain the secondary
22 containment systems at the Facility in good condition.

23 217. DTSC inspectors reviewed Veolia’s inspection logs as part of the 2016 and 2020
24 inspections.

25 218. DTSC’s review of the inspection logs revealed that Veolia had labeled that each of
26 the secondary containment systems at issue were in acceptable condition in the days and weeks
27 prior to DTSC’s 2016 and 2020 inspections.

28 ///

219. Veolia's misrepresentation is a violation of the HWCL and the Permit. Each instance is a separate violation and is subject to penalty.

220. Pursuant to Health and Safety Code section 25189 Veolia is liable for civil penalties for each violation according to proof based on these intentional or negligent violations. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

TENTH CAUSE OF ACTION

(Failure to Provide Required Hazardous Waste Management and Emergency Response Training)
(Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, § 66264.16, subds. (a),
(c); Permit, Part III General Conditions, 2, subds. (a)-(b), (e))

222. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth herein.

223. Operators of permitted hazardous waste facilities must require each of its employees to take initial courses in hazardous waste management training and emergency response training (commonly referred to as “contingency plan training”) as well as annual refresher courses (commonly referred to as “HAZWOPER 8-hour training”). (Cal. Code Regs., tit. 22, § 66264.16, subds. (a), (c).)

224. Operators of permitted hazardous waste facilities must “maintain training records on current personnel until closure of the facility and training records on former employees for at least three years from the date the employee last worked at the facility.” (Cal. Code Regs., tit. 22, § 66264.16, subd. (e).)

225. The HWCL also requires the operator of a permitted hazardous waste facility to obtain a permit authorizing its activities and to operate the facility in a manner consistent with its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

226. Veolia's Permit requires it to comply with the HWCL and its implementing regulations and the Permit. (Permit, Part III – General Conditions, 2, subds. (a)-(b).)

1 227. Veolia must require each of its employees to take initial courses in hazardous waste
2 management training and emergency response training, and on an annual basis the HAZWOPER
3 8-hour training. (Permit, Part III – General Conditions, 1; Part B Permit, at Attachment H-1; Cal.
4 Code Regs., tit. 22, § 66264.16, subds. (a), (c).) Veolia is also required to “maintain training
5 records on current personnel until closure of the facility and training records on former employees
6 for at least three years from the date the employee last worked at the facility.” (Permit, Part III –
7 General Conditions, 1; Part B Permit, at Attachment H-1; Cal. Code Regs., tit. 22, § 66264.16,
8 subd. (e).)

9 228. DTSC’s review of Veolia’s training records revealed that Veolia did not provide
10 eight of its employees with hazardous waste management and emergency response training in the
11 year prior to the 2016 inspection. Specifically:

12 A. Prior to the inspection, Ron Daerr last received HAZWOPER 8-hour training
13 on December 11, 2014. After the inspection, Ron Daerr received the HAZWOPER 8-hour
14 training on October 22, 2016. Ron Daerr’s HAZWOPER 8-hour training was 10 months and 11
15 days overdue.

16 B. Prior to the inspection, Tracy Ford last received HAZWOPER 8-hour training
17 on August 18, 2015. After the inspection, Tracy Ford received HAZWOPER 8-hour training on
18 October 22, 2016. Tracy Ford’s HAZWOPER 8-hour training was 2 months and 4 days overdue.

19 C. Prior to the inspection, Anthony Gonzalez last received HAZWOPER 8-hour
20 training on August 18, 2015. After the inspection, Anthony Gonzalez received the HAZWOPER
21 8-hour training on October 26, 2016. Anthony Gonzalez’s HAZWOPER 8-hour training was 2
22 months and 8 days overdue.

23 D. Prior to the inspection, Jude Lewis last received HAZWOPER 8-hour training
24 on October 1, 2015. After the inspection, Jude Lewis received the HAZWOPER 8-hour training
25 on October 27, 2016, Jude Lewis’ HAZWOPER 8-hour training was 21 days overdue.

26 E. Prior to the inspection, Raphael Lopez last received HAZWOPER 8-hour
27 training on August 18, 2015. After the inspection, Raphael Lopez received the HAZWOPER 8-

28 ///

1 hour training on October 22, 2016. Raphael Lopez's HAZWOPER 8-hour training was 2 months
2 and 4 days overdue.

3 F. Prior to the inspection, Roy Shepard last received HAZWOPER 8-hour training
4 on August 18, 2015. After the inspection, Roy Shepard received the HAZWOPER 8-hour training
5 on October 22, 2016. Roy Shepard's HAZWOPER 8-hour training was 2 months and 4 days
6 overdue.

7 G. Prior to the inspection, Josue Varela last received HAZWOPER 8-hour training
8 on August 18, 2015. After the inspection, Josue Varela received the HAZWOPER 8-hour training
9 on October 22, 2016. Josue Varela's HAZWOPER 8-hour training was 2 months and 4 days
10 overdue.

11 H. Prior to the inspection, Paul VanHolsbeck last received HAZWOPER 8-hour
12 training on September 24, 2015. After the inspection, Paul VanHolsbeck received the
13 HAZWOPER 8-hour training on March 3, 2017. Paul VanHolsbeck's HAZWOPER 8-hour
14 training was 5 months and 7 days overdue.

15 229. Each time that Veolia failed to provide required training to one of its employees
16 constitutes a separate violation of the HWCL and the Permit, and is subject to penalty.

17 230. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
18 for civil penalties according to proof based on this intentional or negligent violation of
19 requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative,
20 Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code
21 section 25189.2.

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

25 ///

26 ///

27 ///

28 ///

1 **ELEVENTH CAUSE OF ACTION**

2 (Operation of Unpermitted Hazardous Waste Treatment and Storage Units)
3 (Health & Saf. Code, §§ 25201, subd. (a), 25202; Permit, Part III – General Conditions, 2, subds.
4 (a)-(b); Permit, Part IV –Unit Specific Conditions, Unit AC22, subds. (d), (e), (f).)

5 232. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
6 herein.

7 233. The HWCL prohibits the operator of a permitted hazardous waste facility from
8 storing hazardous waste in any tank not specifically authorized by its permit, or in any manner
9 contrary to its permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

10 234. Veolia’s Permit prohibits the storage of hazardous waste in any manner and in any
11 tank that is not specifically authorized by the Permit. (Permit, Part III – General Conditions, 2,
12 subds. (a)-(b).)

13 235. Veolia’s Permit authorized it to construct Unit AC22, the Fluidized Bed Bio-Reactor
14 (“FBBR”) in 2011 (Permit, Part IV – Unit Specific Conditions, Unit AC22, at p. 85.) The FBBR
15 was authorized to include a “fixed-film aerobic fluidized bed bioreactor,” which is a 3,419-gallon
16 stainless steel cylindrical tank. (*Id.* at p. 86.) The FBBR, as permitted, also included an above
17 ground tank with a capacity of 20,000 gallons for the accumulation of wastewater prior to
18 processing in the fluidized bed bioreactor. (*Ibid.*) The Permit identifies this tank as “Process and
19 Storage Tank T-504.”

20 236. The Permit prohibited Veolia from using “AC22 until all construction ha[d] been
21 completed and appropriate permit conditions ha[d] been met.” (Permit, Part IV – Unit Specific
22 Conditions, Unit AC 22, subd. (d).) The Permit also authorized DTSC to “delay the Facility from
23 using Unit AC22 if deficiencies ha[d] been noted.” (*Id.* at subd. (e).) Further, Veolia was
24 prohibited from using the FBBR “until it ha[d] received written concurrence from DTSC that the
25 construction ha[d] been adequately completed and the Facility may commence use of Unit
26 AC22.” (*Id.* at subd. (f).)

27 237. The FBBR was not constructed as originally permitted by DTSC.

28 ///

///

1 238. DTSC granted conditional approval to Veolia to operate the FBBR. DTSC's
2 conditions required Veolia to provide DTSC with a revised process flow diagram for the unit,
3 revised diagrams indicating the location of the unit's components, and a revised narrative
4 description of the unit no later than 30 days after Veolia began the start-up process for the unit.

5 239. Veolia did not provide DTSC a revised narrative description of the unit within 30
6 days of beginning the start-up process for the unit.

7 240. Veolia's failure to provide DTSC with the revised narrative description of the FBBR
8 is a violation of the HWCL and the Permit and is subject to penalty.

9 241. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
10 for civil penalties according to proof based on this intentional or negligent violation of
11 requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative,
12 Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code
13 section 25189.2.

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

17 **TWELFTH CAUSE OF ACTION**

18 (Mixing Used Antifreeze with Used Oil)

19 (Health & Saf. Code, §§ 25201, subd. (a), 25202, 25250.7, subd. (a);
20 Permit, Part III – General Conditions, 2, subds. (a)-(b))

21 243. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
22 herein.

23 244. No person who generates, stores, or transfers used oil shall intentionally contaminate
24 used oil with other hazardous waste other than minimal amounts of vehicle fuel. (Health and Saf.
25 Code, § 25250.7, subd. (a).)

26 245. The HWCL also requires the operator of a permitted hazardous waste facility to
27 obtain a permit authorizing its activities and to operate the facility in a manner consistent with its
28 permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

///

1 246. Veolia's Permit requires it to comply with the HWCL and its implementing
2 regulations and the Permit. (Permit, Part III – General Conditions, 2, subds. (a)-(b).)

3 247. During DTSC's 2019 Inspection, DTSC's inspectors observed that Veolia was
4 mixing used antifreeze (ethylene glycol) with used oil.

5 248. Used antifreeze (ethylene glycol) is a hazardous waste based on its toxicity and has
6 been shown through experience or testing to pose a hazard to human health or the environment
7 because of its carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties, or
8 persistence in the environment.

9 249. Veolia's mixing of used antifreeze, a hazardous waste, with used oil is a violation of
10 the HWCL and the Permit and is subject to penalty.

11 250. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
12 for civil penalties according to proof based on this intentional or negligent violation of
13 requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative,
14 Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code
15 section 25189.2.

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

19 **THIRTEENTH CAUSE OF ACTION**

20 (Failure to Maintain Adequate Financial Assurance to Cover Facility Closure Costs)
21 (Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, § 66264.173,
22 subd. (c)(7); Permit, Part III General Conditions, 2, subds. (a)-(b))

23 252. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
24 herein.

25 253. The HWCL requires the operator of a permitted hazardous waste facility to obtain a
26 permit authorizing its activities and to operate the facility in a manner consistent with its permit.
(Health & Saf. Code, § 25201, subd. (a), 25202.)

27 254. Veolia's Permit requires it to comply with the HWCL and its implementing
28 regulations and the Permit. (Permit, Part III – General Conditions, 2, subds. (a)-(b).)

1 255. As a condition of obtaining a Hazardous Waste Facility Permit, operators are
2 required to submit a detailed written estimate of the cost of closing the facility in accordance with
3 all applicable regulatory requirements (“closure costs”). (Cal. Code Regs., tit. 22, §§ 66270.14,
4 subd. (b)(15), 66264.142.)

5 256. Operators of hazardous waste facilities are required to annually adjust the closure
6 cost estimate within 60 days prior to the anniversary date of the establishment of the financial
7 instrument(s) used to comply with section 66264.143 (Code Regs., tit. 22, § 66264.142,
8 subd. (b).)

9 257. Operators of hazardous waste facilities are required to maintain financial assurance
10 in an amount equal to the current closure cost estimate. (Cal. Code Regs., tit. 22, § 66264.143,
11 subds. (a), (c)(6).) Whenever the closure cost increases, operators are required to obtain additional
12 financial assurance by increasing the amount of the surety bond within 60 days and submit
13 documentation of the additional financial assurance to DTSC. (Cal. Code Regs., tit. 22,
14 § 66264.143, subd. (c)(7).)

15 258. Veolia originally established its surety bond to comply with the closure cost financial
16 assurance requirements on August 1, 2010 and that is Veolia’s anniversary date triggering the
17 requirement adjust the closure cost estimate and related requirements to obtain any necessary
18 financial assurances.

19 259. Accordingly, Veolia was required to adjust the closure cost estimate sometime
20 between June 2, 2018 and August 1, 2018. Based on this window, the latest possible deadline for
21 Veolia to obtain any additional necessary financial assurance was September 30, 2018.

22 260. DTSC performed a financial assurance review of Veolia’s Facility on February 11,
23 2019.

24 261. DTSC’s review found that Veolia’s closure cost estimate as of August 1, 2018 was
25 \$4,850,008.00.

26 262. At the time of DTSC’s review Veolia maintained only \$4,764,251.00 of financial
27 assurance for closure costs in the form of a surety bond.

28 263. Veolia’s financial assurance for closure costs was deficient by \$85,757,00.

264. Veolia's failure to recalculate its closure cost estimate within 60-days of the anniversary of when it established its financial assurance for closure costs is a violation of the HWCL and the Permit.

265. Veolia's failure to increase its financial assurance amount to be equal to the current closure cost estimate by September 30, 2018 is a separate violation of the HWCL and the Permit, and is subject to penalty.

266. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable for civil penalties according to proof based on this intentional or negligent violation of requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

FOURTEENTH CAUSE OF ACTION

(Failing to Maintain Containers of Hazardous in Good Condition)
(Health & Saf. Code, §§ 25201, subd. (a), 25202; Cal. Code Regs., tit. 22, § 66264.171;
Permit, Part III – General Conditions, 2, subd. (a).)

268. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth herein.

269. Operators of permitted hazardous waste facilities must comply with the regulations governing the use and management of containers, including without limitation the requirements to maintain containers in good condition and inspect areas used to store the containers of hazardous waste once a week. (Cal. Code Reg., tit. 22, § 66264.171.)

270. The HWCL also requires that hazardous waste facilities “shall be . . . operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.” (Cal. Code Regs., tit 22, § 66264.31.)

///

1 271. The HWCL also requires the operator of a permitted hazardous waste facility to
2 obtain a permit authorizing its activities and to operate the facility in a manner consistent with its
3 permit. (Health & Saf. Code, § 25201, subd. (a), 25202.)

4 272. Veolia's Permit requires it to comply with the HWCL and its implementing
5 regulations. (Permit, Part III – General Conditions, 2, subd. (a).)

6 273. During the 2020 Facility Inspection, on January 13, 2020, DTSC inspectors observed
7 a 55-gallon cardboard fiber-drum containing non-RCRA hazardous waste liquid (Benzyl
8 Benzoate, Providone) leaking waste from the bottom of the drum, staining the bottom of the drum
9 and dripping onto and accumulating on a 55-gallon drum containing non-RCRA hazardous waste
10 located below the leaking drum.

11 274. Veolia's failure to maintain the container of hazardous waste in containers of good
12 condition is a violation of the HWCL and the Permit and is subject to penalty.

13 275. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
14 for civil penalties for each violation according to proof based on these intentional or negligent
15 violations. In the alternative, Veolia is strictly liable for civil penalties according to proof
16 pursuant to Health and Safety Code section 25189.2.

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

20 **FIFTEENTH CAUSE OF ACTION**

21 (Causing the Disposal of Hazardous Waste at an Unpermitted Facility)
22 (Health & Saf. Code, §§ 25189, subd. (d), 25189.2, subd. (c), 25160, subd. (d); Cal. Code Regs.,
tit. 22, § 66263.20, subds. (a)-(c), 66263.21)

23 277. Paragraphs 1 through 97 above are incorporated by reference as though fully set forth
24 herein.

25 278. Any generator of hazardous waste that offers the hazardous waste for transport must
26 complete a manifest for the shipment and designate on that manifest the facility to which the

27 ///

28 ///

1 waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof.
2 (Health & Saf. Code, § 25160; Cal. Code Regs., tit. 22, §§ 66262.20, 66262.23.)

3 279. The generator of the hazardous waste must provide the manifest to the person who
4 will transport the hazardous waste. (Health & Saf. Code, § 25160; Cal. Code Regs., tit. 22 §
5 66262.23, subd. (b).)

6 280. A transporter shall deliver the entire quantity of hazardous waste which that
7 transporter has accepted from a generator or a transporter to (1) the designated facility listed on
8 the manifest; or (2) the alternate designated facility; or (3) the next designated transporter; or (4)
9 the place outside the United States designated by the generator. (Cal. Code Regs., tit. 22, §
10 66263.21)

11 281. A transporter shall not accept hazardous waste from a generator unless it is
12 accompanied by a manifest completed and signed in accordance with applicable requirements for
13 generators. (Cal. Code Regs., tit. 22, § 66262.20.)

14 282. A transporter of hazardous waste shall not cause the disposal of hazardous waste at
15 facility that does not have an HWCL permit authorizing that facility in question to treat, store, or
16 dispose of the hazardous waste at issue. (Health & Saf. Code, §§ 25189, subd. (d), 25189.2, subd.
17 (c).)

18 283. Veolia received three containers of hazardous waste from Reveal Biosciences in San
19 Diego on manifest 001107804VES. One container of hazardous waste held spent xylene solvent.
20 Two containers of hazardous waste held used formalin solution.

21 284. Upon receipt of the three containers of hazardous waste from Reveal Biosciences,
22 Veolia placed the containers in an RMC.

23 285. Veolia provided the RMC containing the hazardous waste to Stericycle to transport
24 to its facility in Vernon, CA.

25 286. Veolia neither disclosed to Stericycle that the RMC contained hazardous waste nor
26 provided Stericycle with the manifest associated with the hazardous waste.

27 287. Stericycle autoclaved the RMC and the three 5-gallon containers of hazardous waste
28 still inside of it.

288. As a result of being autoclaved the hazardous waste contained in the RMC was most likely volatilized and released to the atmosphere.

289. Alternatively, the hazardous waste remained in the RMC and was disposed of at the Sunshine Canyon Landfill.

290. The Sunrise Canyon Landfill is not authorized to receive hazardous waste.

291. As a result of Veolia's acts and omissions, Veolia caused the disposal of hazardous waste at an unpermitted facility.

292. Veolia violated the HWCL by causing the disposal of hazardous waste at an unpermitted facility and is subject to penalty.

293. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable for civil penalties according to proof based on this intentional or negligent violation of requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

SIXTEENTH CAUSE OF ACTION

(Failure to Comply With Manifest)
(Health & Saf. Code, § 25160, subd. (d); Cal. Code Regs., tit. 22, § 66263.20, subds. (a)-(c), 66263.21)

295. Paragraphs 1 through 97 and paragraphs 278 through 289 above are incorporated by reference as though fully set forth herein.

296. As described in paragraph 278 above, Veolia received three containers of hazardous waste from Reveal Biosciences in San Diego on manifest 001107804VES. One container of hazardous waste held spent xylene solvent. Two containers of hazardous waste held used formalin solution.

///

///

297. As described in paragraphs 284 and 285 above, Veolia placed these three containers of hazardous waste in an RMC and provided that RMC to Stericycle for transport to Stericycle's facility in Vernon, CA.

298. Manifest 011070804VES directed Veolia to transport the hazardous waste to Stericycle's Facility.

299. Manifest 011070804VES did not direct or allow Veolia to provide the hazardous waste to Stericycle for transport to Stericycle's facility in Vernon, CA.

300. Veolia failed to comply with manifest 001070804VES by providing the hazardous waste associated with the manifest to Stericycle for transport to Stericycle's facility.

301. Veolia's failure to comply with the manifest is a violation of the HWCL and is subject to penalty.

302. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable for civil penalties according to proof based on this intentional or negligent violation of requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative, Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code section 25189.2.

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

SEVENTEENTH CAUSE OF ACTION

(Failure to Provide Manifest to Transporter of Hazardous Waste)
(Health & Saf. Code, § 25160, subd. (d); Cal. Code Regs., tit. 22, § 66263.20, subds. (a)-(c), 66263.21)

304. Paragraphs 1 through 97 and paragraphs 278 through 289 above are incorporated by reference as though fully set forth herein.

305. A generator of hazardous waste that is transported for offsite handling, treatment, storage, disposal, or any combination thereof shall provide a manifest that is completed in accordance with the Department's regulations to the person who will transport the hazardous

///

1 waste (the “transporter”). (Health & Saf. Code, § 25160, subd. (b).) The transporter must keep
2 this manifest in its possession while transporting the hazardous waste and release the manifest to
3 another transporter or to the owner or operator of the designated facility accepting the waste. (*Id.*,
4 § 25160, subd. (d); Cal. Code Regs., tit. 22, § 66263.20, subds. (a)-(c).)

5 306. As described in paragraph 278 above, Veolia received three containers of hazardous
6 waste from Reveal Biosciences in San Diego on manifest 001107804VES. One container of
7 hazardous waste held spent xylene solvent. Two containers of hazardous waste held used
8 formalin solution.

9 307. As described in paragraphs 284 and 285 above, Veolia placed these three containers
10 of hazardous waste in an RMC and provided that RMC to Stericycle for transport to Stericycle’s
11 facility in Vernon, CA.

12 308. As described in paragraph 286 above, Veolia did not provide Stericycle with the
13 manifest associated with the three containers of hazardous waste.

14 309. Veolia’s failure to provide manifest 01107804VES to Stericycle when Veolia
15 provided the hazardous waste on that manifest to Stericycle is a violation of the HWCL and is
16 subject to penalty.

17 310. Pursuant to Health and Safety Code section 25189, subdivision (b), Veolia is liable
18 for civil penalties according to proof based on this intentional or negligent violation of
19 requirements issued pursuant to Chapter 6.5 of the Health and Safety Code. In the alternative,
20 Veolia is strictly liable for civil penalties according to proof pursuant to Health and Safety Code
21 section 25189.2.

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

25 PRAYER FOR RELIEF

26 **WHEREFORE**, DTSC prays that the Court grant the following relief:

27 A. Enter a judgment that Veolia violated the HWCL and the Permit, as alleged in the
28 First through Seventeenth Causes of Action;

1 B. Order Veolia to pay civil penalties to DTSC according to proof pursuant to the First
2 through Seventeenth Causes of Action as authorized by Health and Safety Code section 25189 or,
3 in the alternative, by Health and Safety Code section 25189.2;

4 C. Enter temporary restraining orders, preliminary injunctions, permanent injunctions, or
5 other orders requiring Veolia to comply with the HWCL;

6 D. Grant DTSC its costs of investigation and enforcement;

7 E. Grant DTSC its costs of suit herein; and

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

9
10 Dated: April 5, 2022

ROB BONTA
Attorney General of California
DENNIS L. BECK, JR.
Supervising Deputy Attorney General

13 ORIGINAL SIGNED

14
15 SPARSH KHANDESHI
Deputy Attorneys General
Attorneys for Plaintiff People of the State of
California, ex rel. Department of Toxic
Substances Control