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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

AUG 18 2011

John A. Clarke, Executive Officer/Clerk
BY Raul Sanchez, Deputy

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA *ex rel.* CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL,

Plaintiffs,

v.

ADVANCED CLEANUP TECHNOLOGIES, INC. a Corporation, and Does 1-20,

Defendants.

Case No. BC464611

FIRST AMENDED COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF

The People of the State of California *ex rel.* the California Department of Toxic Substances Control (the "Department"), allege the following:

STATEMENT OF THE CASE

1. Defendant Advanced Cleanup Technologies, Inc. ("ACTP") is a generator and operates a transporter business located at 18414 South Santa Fe Avenue, Rancho Dominguez, CA

1 90221 (the "Facility"). ACTI generates, transports, manages, handles, and/or stores hazardous
2 waste at the Facility. The Facility is a hazardous waste facility under California Health & Safety
3 Code section 25117.1.

4 2. ACTI violated the California Hazardous Waste Control Law, Chapter 6.5 of
5 Division 20 of the California Health and Safety Code, section 25100 et seq. ("HWCL") and the
6 implementing regulations, California Code of Regulations, Title 22, section 66260.1, et seq. in
7 handling hazardous waste at its Facility.

8 3. The Department hereby seeks civil penalties from, and injunctive relief against
9 ACTI for its violations of the HWCL and its implementing regulations.

10
11 **PLAINTIFF**

12 4. The Department is a public agency of the State of California organized and
13 existing under and pursuant to Health and Safety Code section 58000 et seq.

14 5. Pursuant to sections 25181 and 25182 of the Health and Safety Code, the Attorney
15 General of the State of California is authorized, at the request of the Department, to commence an
16 action in the name of the People for civil penalties and injunctive relief under the HWCL. The
17 Department has asked the Attorney General to apply to this Court for an injunction enjoining
18 ACTI from continuing violations of the HWCL.

19
20 **DEFENDANTS**

21 6. Defendant ACTI is an "owner" and/or "operator," of a hazardous waste facility, as
22 defined at California Code of Regulations, title 22, section 66260.10. ACTI is also a generator
23 hazardous waste at its Facility and a transporter of hazardous waste from its Facility.. ACTI is a
24 registered hazardous waste transporter pursuant to California Code of Regulations, title 22,
25 section 66263.11.

26 7. ACTI is a California corporation, a "person" as defined at Health and Safety Code
27 section 25118.

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1 State Hazardous Waste Management Program, 66 FR 49118 (September 26, 2001).) Federal law
2 prohibits California from imposing “any requirements less stringent than those authorized under
3 [RCRA].” (42 U.S.C. section 6929.)

4 13. California state law – the HWCL – has a more inclusive definition of hazardous
5 waste than does federal law. Hazardous wastes that are regulated under California law but not
6 federal law are known as “non-RCRA hazardous wastes.” (Health and Safety Code, section
7 25117.9.)

8 14. Transporters of hazardous waste that accumulate hazardous waste on site are
9 subject to the applicable standards and permit requirements specified in California Code of
10 Regulations, title 22, section 66263.10. ACTI is a registered transporter of hazardous waste;
11 accordingly, ACTI is subject to these requirements.

12 13 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

14 15. The HWCL authorizes the Court to impose civil penalties under two distinct and
15 alternative provisions. Section 25189 of the Health and Safety Code creates liability for any
16 negligent or intentional violation of the HWCL. Section 25189.2 is a strict liability provision,
17 which creates liability, on a strict liability basis, for any violation of the HWCL. These statutes
18 provide for penalties of up to \$25,000 per day per violation.

19 16. Section 25181 of the Health and Safety Code authorizes the superior court to grant
20 “a permanent or temporary injunction, restraining order, or other order” when the Attorney
21 General, at the request of the Department, applies for an order enjoining violations of the HWCL
22 or of any rule or requirement issued thereunder, and the Department shows that the person against
23 whom the order is sought has violated or will violate those provisions. Violation of each
24 provision of the HWCL is a separate violation, subject to penalty under Health and Safety Code
25 section 25189 or section 25189.2

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1 21. Beginning at an undetermined time, and continuing through at least October 28,
2 2010, ACTI stored hazardous waste at the Facility without a permit from the Department. ACTI
3 failed to meet the conditions set forth in California Code of Regulations, title 22 section 66263.18
4 by storing containers of manifested hazardous waste at the Facility for greater than ten days in an
5 industrial area. Failure to comply with section 66263.18 subjects ACTI to the storage
6 requirements set forth in California Health and Safety Code section 25201 subdivision (a). At the
7 following times relevant to this First Amended Complaint, ACTI stored the following hazardous
8 wastes at the Facility for greater than 10 days without obtaining the requisite hazardous waste
9 storage permit or other authorization from the Department:

10 a. ACTI stored non-RCRA hazardous waste, which consisted of solid absorbent and
11 debris contaminated with diesel oil, from February 1, 2010 until March 2, 2010, a period of
12 approximately 29 days, as set forth by Manifest Document Number 000279827 JJK.

13 b. ACTI stored non-RCRA hazardous waste, which consisted of solid absorbent and
14 debris contaminated with diesel oil, from February 1, 2010 until March 2, 2010, a period of
15 approximately 29 days as set forth by Manifest Document Number 000280872 JJK.

16 c. ACTI stored hazardous waste, which included mercury, from May 4, 2010 until
17 May 28, 2010, a period of approximately 24 days as set forth by Manifest Document Number
18 000279527 JJK.

19 d. ACTI stored hazardous waste, which included non-RCRA hazardous waste solids
20 (soil) from February 26, 2010 until March 17, 2010, a period of approximately 19 days as set
21 forth by Manifest Document Number 002978731 FLE.

22 e. ACTI stored hazardous waste, which included non-RCRA hazardous waste solids
23 (soil) from February 26, 2010 until March 16, 2010, a period of approximately 18 days as set
24 forth by Manifest Document Number 002978732 FLE.

25 f. ACTI stored hazardous waste, which included hazardous waste combustible liquid,
26 n.o.s. (jeta contaminated water), from July 28, 2010 until August 12, 2010, a period of
27 approximately 15 days as set forth by Manifest Document Number 000279875 JJK.

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1 g. ACTI stored hazardous waste, which included non-RCRA hazardous waste solids
2 (soil) from February 26, 2010 until March 12, 2010, a period of approximately 14 days as set
3 forth by Manifest Document Number 002978726 FLE.

4 h. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
5 which consisted of soil contaminated with hydrocarbons, from October 15, 2009 until May 26,
6 2010, a period of approximately 224 days as set forth by Manifest Document Number 000280851
7 JJK.

8 i. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid
9 contaminated with ethyl mercaptan from November 24, 2009 until May 26, 2010, a period of
10 approximately 185 days as set forth by Manifest Document Number 000279838 JJK.

11 j. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
12 which consisted of soil contaminated with hydrocarbons, from September 2, 2009 until March 26,
13 2010, a period of approximately 202 days as set forth by Manifest Document Number 003055448
14 JJK.

15 k. ACTI stored hazardous waste, which included non-RCRA hazardous waste liquid,
16 which consisted of oily water, from July 25, 2009 until September 4, 2009, a period of
17 approximately 41 days as set forth by Manifest Document Number 003055472 JJK.

18 l. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
19 which consisted of absorbent contaminated with hydrocarbons from July 23, 2009 until August
20 31, 2009, a period of approximately 38 days as set forth by Manifest Document Number
21 003055463 JJK.

22 m. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
23 which consisted of absorbent contaminated with hydrocarbons from July 23, 2009 until August
24 31, 2009, a period of approximately 38 days as set forth by Manifest Document Number
25 003055464 JJK.

26 n. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
27 which consisted of an oily rag and debris from October 21, 2009 until November 16, 2009, a
28 period of approximately 25 days as set forth by Manifest Document Number 000279849 JJK.

1 o. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
2 which consisted of: (i) oil, sump water and sludge; (ii) non-RCRA hazardous waste solids (silica
3 beads); (iii) non-RCRA hazardous waste solids (empty drums); and (iv) non-RCRA hazardous
4 waste solids (absorbent rags and debris contaminated with hydrocarbons) from October 21, 2009
5 until November 16, 2009, a period of approximately 25 days as set forth by Manifest Document
6 Number 000280843 JJK.

7 p. ACTI stored hazardous waste, which consisted of: (i) a corrosive solid basic,
8 inorganic (chlorinated alkaline cleaner/sodium hydroxide); (ii) a non-RCRA hazardous waste
9 liquid (rinse water contaminated with iodine solution); (iii) a non-RCRA hazardous waste solid
10 (absorbent contaminated with iodine solution); and (iv) a non-RCRA hazardous waste, solid
11 (wood, debris, and PPE contaminated with iodine) from July 3, 2009 until July 20, 2009, a period
12 of approximately 17 days as set forth by Manifest Document Number 003055366 JJK.

13 q. ACTI stored non-RCRA hazardous waste (oily water) from August 6, 2009 until
14 August 20, 2009, a period of approximately 14 days as set forth by Manifest Document Number
15 000280826 JJK.

16 22. ACTI is liable for civil penalties under Health and Safety Code section 25189 for
17 its violations of Health and Safety Code sections 25201(a), as described in paragraph 21 (a)-(q)
18 above.

19 20 **REQUEST FOR RELIEF**

21 The Department requests that the Court grant the relief that follows:

22 1. Enter judgment that ACTI has violated the HWCL as described in the First Cause
23 of Action;

24 2. Award civil penalties for ACTI's violation of the HWCL as authorized by Health
25 and Safety Code section 25189 or, in the alternative, by Health and Safety Code section 25189.2,
26 of not less than \$35,200;

27 3. Enter a permanent injunction or other order requiring ACTI to comply with the
28 HWCL and/or the regulations adopted thereunder;

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4. Grant the Department its costs of suit herein; and

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

Date: August 17, 2011

Respectfully submitted;

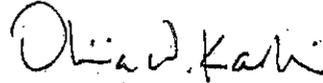
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