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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUN 30 2011

John A. Clarke, Executive Officer/Clerk
By SHAUNYA WESLEY, Deputy

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

v.

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

Plaintiffs,

Defendants.

BC 464611

Case No.

**COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF**

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

STATEMENT OF THE CASE

1. Defendant Advanced Cleanup Technologies, Inc. ("ACTI") 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,
22 and a generator and transporter of hazardous waste at its Facility, as defined at California Code of
23 Regulations, title 22, section 66260.10. ACTI is a registered hazardous waste transporter
24 pursuant to California Code of Regulations, title 22, section 66263.11.

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

27 8. When reference is made in this complaint to any act of ACTI, such allegation shall
28 mean that ACTI did such acts or that employees or representatives of ACTI did or authorized

1 such acts or recklessly failed to adequately or properly supervise, control, or direct ACTI
2 employees or representatives while engaged in the management, direction, operation, or control
3 of the affairs of ACTI and did so while acting within the course and scope of their employment or
4 agency.

5 9. Defendants Does 1-20 are the officers, agents, employees, servants, or others
6 acting in interest or concert with ACTI. The Department is ignorant of the true names of
7 defendants sued herein as Does 1-20. When the names of these defendants have been ascertained,
8 the Department will seek leave to amend the complaint to substitute the true name of each Doe
9 defendant in place of the fictitious name.

10 11 **JURISDICTION AND VENUE**

12 10. This Court has jurisdiction pursuant to Cal. Const. Art. 6, section 10 and Health
13 and Safety Code section 25181(a). Venue is proper under Health and Safety Code section 25183.
14 The violations principally took place at ACTI's place of business which is in the County of Los
15 Angeles.

16 17 **STATUTORY AND REGULATORY BACKGROUND**

18 11. The State of California has a comprehensive – “cradle to grave” – statutory and
19 regulatory framework for the generation, handling, treatment, storage, transport, and disposal of
20 hazardous wastes. The HWCL's implementing regulations specify requirements for the tracking,
21 storage, treatment, and disposal of hazardous waste to protect the public from the risks posed by
22 improper management of hazardous wastes. (Cal. Code Regs., tit. 22, section 66260.1 et seq.)

23 12. The HWCL is the California analog of the federal Resource Conservation and
24 Recovery Act, 42 U.S.C. section 6901 et seq. (“RCRA”). Pursuant to state and federal law, the
25 Department administers the HWCL in lieu of federal administration of RCRA in California. (See
26 Health & Safety Code, section 25101, subd. (d); California: Final Authorization of Revisions to
27 State Hazardous Waste Management Program, 66 FR 49118 (September 26, 2001).) Federal law
28 prohibits California from imposing “any requirements less stringent than those authorized under

1 [RCRA].” (42 U.S.C. section 6929.)

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

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

10
11 **ENFORCEMENT AUTHORITY UNDER THE HWCL**

12 15. The HWCL authorizes the Court to impose civil penalties under two distinct and
13 alternative provisions. Section 25189 of the Health and Safety Code creates liability for any
14 negligent or intentional violation of the HWCL. Section 25189.2 is a strict liability provision,
15 which creates liability, on a strict liability basis, for any violation of the HWCL.

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

23 17. Health and Safety Code section 25184 provides, that in civil actions brought
24 pursuant to the HWCL in which an injunction or temporary restraining order is sought:

25
26 . . . it shall not be necessary to allege or prove at any stage of the proceeding that
27 irreparable damage will occur should the temporary restraining order, preliminary
28 injunction, or permanent injunction not be issued; or that the remedy at law is
inadequate, and the temporary restraining order, preliminary injunction, or
permanent injunction shall issue without such allegations and without such proof.

1 other authorization from the Department.

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

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

8 c. ACTI stored hazardous waste, which included mercury, from May 4, 2010 until
9 May 28, 2010, a period of approximately 24 days as set forth by Manifest Document Number
10 000279527 JJK.

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

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

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

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

23 h. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
24 which consisted of soil contaminated with hydrocarbons, from October 15, 2009 until May 26,
25 2010, a period of approximately 224 days as set forth by Manifest Document Number 000280851
26 JJK.

27 i. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid
28 contaminated with ethyl mercaptan from November 24, 2009 until May 26, 2010, a period of

1 approximately 185 days as set forth by Manifest Document Number 000279838 JJK.

2 j. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
3 which consisted of soil contaminated with hydrocarbons, from September 2, 2009 until March 26,
4 2010, a period of approximately 202 days as set forth by Manifest Document Number 003055448
5 JJK.

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

9 l. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
10 which consisted of absorbent contaminated with hydrocarbons from July 23, 2009 until August
11 31, 2009, a period of approximately 38 days as set forth by Manifest Document Number
12 003055463 JJK.

13 m. ACTI stored hazardous waste, which included non-RCRA hazardous waste solid,
14 which consisted of absorbent contaminated with hydrocarbons from July 23, 2009 until August
15 31, 2009, a period of approximately 38 days as set forth by Manifest Document Number
16 003055464 JJK.

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

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

26 p. ACTI stored hazardous waste, which consisted of: (i) a corrosive solid basic,
27 inorganic (chlorinated alkaline cleaner/sodium hydroxide); (ii) a non-RCRA hazardous waste
28 liquid (rinse water contaminated with iodine solution); (iii) a non-RCRA hazardous waste solid

1 (absorbent contaminated with iodine solution); and (iv) a non-RCRA hazardous waste, solid
2 (wood, debris, and PPE contaminated with iodine) from July 3, 2009 until July 20, 2009, a period
3 of approximately 17 days as set forth by Manifest Document Number 003055366 JJK.

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

7 23. ACTI is liable for civil penalties under Health and Safety Code section 25189 for
8 its violations of Health and Safety Code sections 25201(a), as described in paragraph 21 (a)-(q)
9 above.

10 REQUEST FOR RELIEF

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

- 12 1. Enter judgment that ACTI has violated the HWCL as described in the First Cause
13 of Action;
- 14 2. Award civil penalties for those violations as authorized by Health and Safety Code
15 section 25189 or, in the alternative, by Health and Safety Code section 25189.2, according to
16 proof;
- 17 3. Enter a permanent injunction or other order requiring ACTI to comply with the
18 HWCL and/or the regulations adopted thereunder;
- 19 4. Grant the Department its costs of suit herein; and
- 20 5. Grant such other and further relief as the court deems just and proper.

21 Date: June 30, 2011

22 Respectfully submitted,

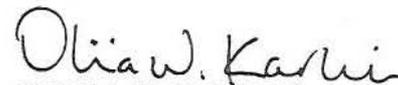
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