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9 California, ex rel. Deborah O. Raphael, Director,  
California Department of Toxic Substances Control  
10

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF FRESNO  
13

14 **PEOPLE OF THE STATE OF**  
15 **CALIFORNIA, ex rel. Deborah O. Raphael,**  
16 **Director, California Department of Toxic**  
**Substances Control,**

17 Plaintiff,

18 v.

19 **MOORE QUALITY GALVANIZING, L.P.,**  
20 **a California Limited Partnership, CRAIG**  
21 **BRIDGES, and Does 1 to 10,**

22 Defendants.

Case No.

**COMPLAINT FOR CIVIL PENALTIES**  
**AND INJUNCTIVE RELIEF**

(Calif. Health and Safety Code sections  
25181, 25184, 25189 and 25189.2)

23  
24  
25 The People of the State of California, ex rel. Deborah O. Raphael, Director, Department of  
26 Toxic Substances Control ("the Department"), allege as follows:  
27  
28

1 STATEMENT OF THE CASE

2 1. Defendant Moore Quality Galvanizing L.P. (“Moore”) and Defendant Craig Bridges  
3 (“Bridges”) operate a metal galvanizing facility located at 3001, Falcon Drive, Madera, California  
4 (the “facility”). Defendants generate, handle, treat, store, and/or dispose of hazardous waste at  
5 the facility.

6 2. While managing hazardous wastes, Defendants violated numerous provisions of the  
7 California Hazardous Waste Control Law, Chapter 6.5 of Division 20 of the California Health  
8 and Safety Code, sections 25100 et seq. (“HWCL”) and implementing regulations, California  
9 Code of Regulations, Title 22, Chapter 10, 66260.1, et seq. Defendants violated hazardous waste  
10 regulations including, but not limited to, failing to perform adequate tank system assessments,  
11 failing to close and properly label containers of hazardous waste, failing to label tanks, failing to  
12 maintain adequate secondary containment systems, failing to perform facility inspections  
13 including daily tank inspections, failing to properly train employees, and failing to maintain its  
14 facility in a manner to prevent releases of hazardous waste by allowing hazardous zinc dross and  
15 floor sweep to be spread around the facility both inside and out.

16 3. The Department hereby seeks civil penalties from and injunctive relief against  
17 Defendants for violations of the HWCL and its implementing regulations.

18 PLAINTIFF

19 4. The Department is a public agency of the State of California organized and existing  
20 under and pursuant to Health and Safety Code section 58000 et seq. Deborah O. Raphael is the  
21 Director of the Department.

22 5. Pursuant to sections 25181 and 25182 of the Health and Safety Code, the Attorney  
23 General of the State of California is authorized, at the request of the Department, to commence an  
24 action in the name of the People for civil penalties and injunctive relief under the HWCL. The  
25 Department has asked the Attorney General to apply to this Court for civil penalties and an  
26 injunction enjoining Defendants from continuing violations of the HWCL.

1 DEFENDANTS

2 6. Moore operates a metal galvanizing facility. It performs various galvanizing  
3 processes that generate hazardous wastes, including corrosive (i.e., alkaline and acidic) wastes  
4 (California Code of Regulations, title 22, section 66261.22), wastes containing dissolved metals  
5 (California Code of Regulations, title 22, section 66261.23), paint waste (California Code of  
6 Regulations, title 22, section 66261.21), waste oil and other inorganic solid waste.

7 7. Moore is a California limited partnership, a "person," as defined at Health and Safety  
8 Code section 25118. Moore is an "owner" and/or "operator" of a hazardous waste facility, and a  
9 generator of hazardous waste at its Facility, as defined in California Code of Regulations, title 22,  
10 section 66260.10.

11 8. When reference is made in this complaint to any act of Moore, such allegation shall  
12 mean that each defendant did such acts or that employees or representatives of Moore did or  
13 authorized such acts or recklessly failed to adequately or properly supervise, control or direct  
14 Moore employees or representatives while engaged in the management, direction, operation or  
15 control of the affairs of Moore and did so while acting within the course and scope of their  
16 employment or agency.

17 9. Defendant Bridges is, and at all relevant times herein was, an individual who is an  
18 operator of Moore. Bridges identified himself as Moore's General Manager. Bridges personally  
19 managed and arranged for the transportation and disposal of hazardous waste. Bridges has been  
20 the individual in charge of, and directly responsible for, Moore's operations and he has had the  
21 ultimate authority to control the disposal of Moore's hazardous waste. Bridges' responsibilities at  
22 Moore have included, but are not limited to, managing the business operations of Moore;  
23 arranging and providing periodic onsite training to Moore's employees; serving as a designated  
24 emergency coordinator; exercising responsibility for labeling tanks and containers with  
25 appropriate hazard warnings, conducting waste determinations for waste profiles, arranging for  
26 the shipment of zinc ash and dross waste to be recycled offsite; and preparing hazardous waste  
27 manifests for waste shipments offsite. The Department is informed and believes and thereon  
28 alleges that Bridges is responsible for the overall operations of Moore, that Bridges controls the

1 hazardous waste management activities at Moore, and that Bridges took actions that caused some  
2 or all of the violations alleged herein and that Bridges' authority, control, and actions at Moore  
3 are such that Bridges could have taken action to prevent some or all of the violations alleged  
4 herein.

5 10. Defendants Does 1-10 are the officers, agents, employees, servants or others acting in  
6 interest or concert with Moore and Bridges. The Department is ignorant of the true names of  
7 defendants sued herein as Does 1-10. 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 JURISDICTION AND VENUE

11 11. This court has jurisdiction pursuant to California Constitution, Article 6, section 10.  
12 The violations principally took place at Moore's place of business in Madera, California. Under  
13 Health and Safety Code section 25183 venue is proper either in the county where the violations  
14 occurred or in the nearest county in which the Attorney General has an office. Fresno County is  
15 the nearest county in which the Attorney General has an office.

#### 16 STATUTORY AND REGULATORY AUTHORITY UNDER THE HWCL

17 12. The State of California has enacted a comprehensive statutory and regulatory  
18 framework for the generation, handling, treatment, transport, and disposal of hazardous wastes  
19 known as the Hazardous Waste Control Law. (Health and Saf. Code sec. 25100, et seq.) The  
20 HWCL's implementing regulations specify requirements for the tracking, storage, treatment, and  
21 disposal of hazardous waste to protect the public from the risks posed by improper management  
22 of hazardous wastes. (Cal. Code Regs, tit. 22, § 66260.1, et seq.)

23 13. The HWCL authorizes the Court to issue civil penalties under two distinct and  
24 alternative provisions. Section 25189 of the Health and Safety Code creates liability for any  
25 negligent or intentional violation of the HWCL. Section 25189.2 is a strict liability provision,  
26 which creates liability for any violation of the HWCL. A person may not be held liable for  
27 separate civil penalties imposed under sections 25189 and 25189.2 for the same act. (Health &  
28 Saf. Code § 25189.2(d).)



1 The Department's inspector observed numerous violations of the HWCL. At the conclusion of  
2 the inspection, the Department's inspector provided Moore with a statement of violations (the  
3 "Summary of Violations") and a Summary of Observations.

4 20. Based on the inspection of July 23, 2008, the Department prepared a detailed  
5 Inspection Report dated September 3, 2008, which gave a narrative description of the  
6 observations of the inspector, along with photographs, and which included the violations noted in  
7 the Summary of Violations that the Department provided to Moore on the day of the inspection.

8 21. The Inspection Report set forth a list of violations observed or noted on July 23,  
9 2008, including the following:

- 10 a. failure to perform tank assessments for two baghouse tank systems;
- 11 b. failure to have secondary containment systems for three baghouse tank systems;
- 12 c. failure to conduct daily tank inspections on three tank systems and maintain  
13 records of daily inspections;
- 14 d. failure to maintain and operate the facility in a manner to minimize the  
15 possibility of fire and release of hazardous waste to the environment;
- 16 e. failure to perform a complete waste determination on spent shot and spent  
17 absorbent prior to disposal;
- 18 f. failure to dispose of floor sweep in properly labeled containers;
- 19 g. failure to properly label containers and tanks to indicate hazardous waste;
- 20 h. failure to train employees in hazardous waste regulations, failure to provide  
21 annual training to two designated emergency coordinators in 2007 and 2008, and failure to  
22 develop and maintain a written description of both introductory and continuing training to be  
23 given to employees;
- 24 i. failure to provide notification and certification of tank closure for the process  
25 tanks and baghouse tanks that were closed;
- 26 j. failure to maintain complete weekly container inspection reports;
- 27 k. storage of hazardous waste (baghouse dust) for more than 90 days from January  
28 26, 2007, until November 6, 2007;

1           l.     failure to update or revise the contingency plan’s list of emergency coordinators  
2 in that no emergency contact was provided for night shift;

3           m.    failure to submit information and documentation regarding activities involving  
4 excluded recyclable materials;

5           n.     failure to train employees using a paint can puncture device;

6           o.     failure to submit required documentation to the Madera County CUPA;

7           p.     failure to complete a report documenting hazardous waste minimization  
8 implemented by a generator of hazardous waste; and

9           q.     failure to closed two tote containers of hazardous waste with a lid.

10          22.    On or about May 14, 2009, the Department conducted an additional inspection of the  
11 Moore facility for compliance with the HWCL. A representative from the Madera County  
12 CUPA, also participated in the inspection. The Department’s inspector observed additional  
13 iolations of the HWCL. At the conclusion of the inspection, the Department’s inspector provided  
14 Moore with a statement of violations (the “Summary of Violations”).

15          23.    Based on the inspection of May 14, 2009, the Department prepared a detailed  
16 Inspection Report dated August 10, 2009, which gave a narrative description of the observations  
17 of the inspector, along with photographs, and which included the violations noted in the Summary  
18 of Violations that the Department provided to Moore on the day of the inspection.

19          24.    The Inspection Report set forth a list of violations observed or noted on May 14,  
20 2009, including the following:

21           a.     storage of hazardous waste for more than 90 days without a permit or grant of  
22 authorization; and

23           b.     failure to maintain and operate the facility in a manner to minimize the  
24 possibility of fire and release of hazardous waste to the environment, in that zinc contaminated  
25 soil was found deposited at the facility in the vicinity of the equipment storage and sand blast  
26 area.

1 FIRST CAUSE OF ACTION

2 (Failure to Maintain and Operate to Minimize the Possibility of Fire  
3 and Release to the Environment as Required by  
4 California Code of Regulations, Title 22, section 66265.31)

5 25. Paragraphs 1 through 24 are realleged as if fully set forth herein.

6 26. California Code of Regulations, Title 22, section 66265.31, as made applicable to  
7 Defendants through section 66262.34, requires that facilities maintain and operate in a manner  
8 that minimizes the possibility of fire and release of hazardous waste to the environment.

9 27. Defendants failed to maintain or operate the facility in a manner to minimize the  
10 possibility of release of hazardous waste to the environment. Numerous spills and releases were  
11 observed by the Department. In particular, piles of zinc dross, floor sweep and zinc ash were  
12 found around the facility, inside the building and outside on the ground. Tire tracks and  
13 footprints were visible in the zinc ash and dross indicating that the hazardous waste was being  
14 tracked around the facility by equipment and employees, with the potential for being tracked off-  
15 site. According to Material Safety Data Sheets, the zinc ingots used at the hot galvanizing tank  
16 contain zinc at concentrations well above the criterion for hazardous waste, and therefore the zinc  
17 dross from hot galvanizing tank contained zinc at concentrations above the criterion for hazardous  
18 waste. Sample data taken by defendants of the soil and piles of dust showed concentrations of  
19 heavy metals that exceeded criteria in California Code of Regulations, title 22, section 66261.24  
20 and therefore were hazardous waste.

21 28. A spill by the acid strip tank in Building No. 1 had been covered with absorbent and  
22 left to dry out. The spill had animal feces in the absorbent indicating that the spill had not been  
23 cleaned up immediately, but rather had been left for some extended period of time.

24 29. Contaminated soil was found deposited at the facility in the vicinity of the equipment  
25 storage and sand blast area. Sample data of the contaminated soil from the equipment storage  
26 area showed concentrations of heavy metals that exceeded criteria in California Code of  
27 Regulations, title 22, section 66261.24 for toxicity and therefore was hazardous waste.



1 California Code of Regulations, Title 22, sections 66260.200 and 66261.3. A generator who  
2 incorrectly determines that a hazardous waste is nonhazardous and fails to manage the waste  
3 pursuant to the provisions governing the management of hazardous waste is in violation of the  
4 requirements and is subject to enforcement action.

5 38. Defendants managed spent shot removed from blast machine or spilled on the floor  
6 around the blast machine as non-hazardous waste and disposed to the garbage. In addition,  
7 Defendants disposed of floor sweep to the garbage and zinc ash to the scrap bin. The floor sweep  
8 included zinc dross, zinc ash and spent absorbents used on spills which were collected together  
9 when the floor was swept. Sampling data from the spent shot, floor sweep and zinc ash showed  
10 concentrations of heavy metals that exceeded criteria in California Code of Regulations, title 22,  
11 section 66261.24 and therefore were hazardous waste.

12 39. Defendants failed to make a complete waste determination that its spent shot, floor  
13 sweep, and zinc ash was a hazardous waste regulated under California regulations, thereby  
14 violating California Code of Regulations, Title 22, section 66260.200.

#### 15 FOURTH CAUSE OF ACTION

16 (Failure to Train Employees, Keep Training Records, and Provide Information and

17 Notification of Training to the CUPA in Accordance with

18 California Code of Regulations, title 22, sections 66265.16(a), 66265.16(c), and  
19 66265.16(d)(3) and California Health and Safety Code section 25201.16(h)(8))

20 40. Paragraphs 1 through 24 are realleged as if fully set forth herein.

21 41. California Code of Regulations, Title 22, section 66265.16, as made applicable to  
22 Defendants through section 66262.34, requires that all facility personnel complete a program of  
23 training that teaches them to perform their duties in a way that ensures the facility's compliance  
24 with hazardous waste regulations within six months after the date of their employment or  
25 assignment to the facility. Additionally, facility personnel are required to complete such training  
26 annually. Section 66265.15 requires that a hazardous waste facility maintain a written description  
27 of the type and amount of both introductory and continuing training for each employee position at  
28 the facility related to hazardous waste management. The owner or operator of the facility shall

1 also maintain records of the job title for each employee at the facility, and the name of the  
2 employee filling each job. Health and Safety Code section 25201.16, subdivision (h)(8) requires  
3 a universal waste handler to ensure, through a training program, that each employee is familiar  
4 with the procedure for sorting and processing universal waste aerosol cans and proper waste  
5 handling and emergency procedures.

6 42. Defendants failed to train employees in hazardous waste regulations. Defendants  
7 failed to provide annual training to the two designated emergency coordinators in 2007 and 2008,  
8 and failed to develop and maintain a written description of the type and amount of both  
9 introductory and continuing training to be given to each person, including provisions to train new  
10 employees within six months of the date of hire. Defendants failed to provide a training program  
11 to ensure each employee was familiar with the procedure for sorting and processing universal  
12 waste aerosol cans and proper waste handling and emergency procedures.

13 43. Defendants failed to maintain training records for the designated emergency  
14 coordinators and trainers for the other employees. Defendants failed to ensure that training was  
15 provided to new hires within six months of hire.

16 44. Defendants' failure to train employees, keep training records, and provide  
17 information and notification of training to the CUPA constituted a violation of California Code of  
18 Regulations, title 22, section 66265.16 and Health and Safety Code section 25201.16.

#### 19 FIFTH CAUSE OF ACTION

20 (Failure to Close Hazardous Waste Containers as Required Pursuant to  
21 California Code of Regulations, title 22, section 66265.173(a))

22 45. Paragraphs 1 through 24 are realleged as if fully set forth herein.

23 46. Pursuant to California Code of Regulations, title 22, section 66265.173(a), as made  
24 applicable to Defendants through section 66262.34 and Health and Safety Code section 25143.9,  
25 containers holding hazardous waste must be kept closed during transfer and storage, except when  
26 waste is being added or removed.



1 54. Defendants' storage of hazardous waste beyond the 90-day limit for storage without a  
2 permit or authorization is violation of Health and Safety Code section 25201(a) and California  
3 Code of Regulations, title 22, section 66262.34(a).

4 SEVENTH CAUSE OF ACTION

5 (Failure to Complete a Report Documenting Hazardous Waste  
6 Management Approaches to be Implemented by a Generator  
7 Pursuant to Health and Safety Code section 25244.20)

8 55. Paragraphs 1 through 24 are realleged as if fully set forth herein.

9 56. Health and Safety Code section 25244.20 requires that each large quantity generator  
10 prepare a hazardous waste management performance report documenting hazardous waste  
11 minimization approaches implemented by the generator. The hazardous waste management  
12 performance report is required to contain certain information and to be submitted for review and  
13 certification by a registered engineer.

14 57. Health and Safety Code section 25244.21 requires that the facility to maintain the  
15 original hazardous waste management performance report and have it available for inspection.

16 58. Defendants failed to complete a hazardous waste management performance report as  
17 required by Health and Safety Code section 25244.20. Defendants therefore did not have the  
18 required report available for inspection by the Department.

19 EIGHTH CAUSE OF ACTION

20 (Failure to Submit Information Regarding Excluded Recyclable Materials  
21 Activities as required under Health and Safety Code sections 25143.10)

22 59. Paragraphs 1 through 24 are realleged as if fully set forth herein.

23 60. Health and Safety Code sections 25143.10 requires that any person who recycles  
24 more than 100 kilograms per month of recyclable material under a claim that the material  
25 qualifies for an exclusion or exemption pursuant to Health and Safety Code section 25143.2 to  
26 submit information and documentation to the CUPA regarding materials that are being handled as  
27 excluded recyclable materials which would otherwise have to be disposed of as hazardous waste.  
28



1 registered in California in accordance with section 66270.11(d) attesting that the system has  
2 sufficient structural integrity, is acceptable for transferring, storing, and treating hazardous waste,  
3 and that the tanks and containment system are suitably designed to achieve the requirements of  
4 article 10 in Chapter 15 of the California Code of Regulations. This assessment shall be obtained  
5 prior to placing the tank system in service, and shall be kept on file at the facility.”

6 69. California Code of Regulations, title 22, section 66260.10, as incorporated by  
7 reference in sections 66262.34, defines “tank system” as a hazardous waste transfer, storage or  
8 treatment tank and its associated ancillary equipment and containment devices. California Code  
9 of Regulations, title 22, section 66260.10, defines “tank” to mean a stationary device, designed to  
10 contain an accumulation of hazardous waste, which is constructed primarily of nonearthen  
11 materials and which provides structural support.

12 70. Moore used baghouse tanks and tank systems to capture dust and spent blast shot  
13 from its operations. Sample data indicated that both the dust and spent blast shot contained heavy  
14 metal concentrations that exceeded criteria in California Code of Regulations, title 22, section  
15 66261.23 and therefore were hazardous waste. All of the tanks, pumps, pipes, plumbing, and any  
16 secondary containment comprising these tank systems which were used to hold, store, convey, or  
17 treat hazardous wastes were tank systems and were subject to the tank assessment requirements.

18 71. As of July 23, 2008, Moore did not have a written tank system assessment certified  
19 by an independent, qualified, professional engineer registered in California for its hazardous  
20 waste tanks and tank systems.

21 72. Moore violated California Code of Regulations, title 22, section 66265.192 in that  
22 Moore utilized hazardous waste baghouse tanks and tank systems without a written tank system  
23 assessment reviewed and certified by a professional engineer for each of its tanks and tank  
24 systems.

## 25 ELEVENTH CAUSE OF ACTION

26 (Failure to Maintain Adequate Secondary Containment Systems

27 Required by California Code of Regulations, Title 22, sections 66265.193(a))

28

1 73. Paragraphs 1 through 24 are realleged as if fully set forth herein.

2 74. California Code of Regulations, title 22, section 66265.193(a), as made applicable to  
3 Moore through section 66262.34, requires the owner or operator of a hazardous waste  
4 management facility to provide and maintain adequate secondary containment for its tank  
5 systems. Secondary containment systems are required to be designed, installed, and operated to  
6 prevent any migration of wastes out of the system to the soil, groundwater or surface water at any  
7 time during the use of the tank system.

8 75. On or about July 23, 2008, Moore failed to maintain an adequate secondary  
9 containment system. In particular, Moore failed to provide secondary containment for two of its  
10 baghouse tank systems. The two baghouse tank systems were located outside the facility  
11 buildings and were exposed to environmental elements. Zinc dust and spent shot were found  
12 around the tank systems, indicating that releases had already occurred.

13 76. Failure to provide secondary containment for the two tank systems was a violation of  
14 California Code of Regulations, Title 22, section 66265.193.

15 TWELFTH CAUSE OF ACTION

16 (Failure to Perform Daily Tank Inspections for Tank Systems as Required by  
17 California Code of Regulations, Title 22, section 66265.195)

18 77. Paragraphs 1 through 24 are realleged as if fully set forth herein.

19 78. California Code of Regulations, Title 22, section 66265.195, as made applicable to  
20 Moore through section 66262.34, imposes a requirement that hazardous waste tank systems be  
21 inspected on a daily basis and that the facility maintains records of such inspections in the  
22 operating record of the facility.

23 79. Moore failed to make daily inspections of its baghouse tank system in Building No. 2  
24 which tank system contained primarily zinc ash and dust, and a second baghouse tank system  
25 used primarily for spent shot which was a hazardous waste containing chrome and lead. Zinc  
26 dust was found around the tank used primarily for zinc ash and dust, and spent shot was observed  
27 around the spent shot tank.

28

1 80. Moore failed to make daily inspections of its tank systems and to maintain records of  
2 such inspections in violation of California Code of Regulations, Title 22, section 66265.195.

3 THIRTEENTH CAUSE OF ACTION

4 Failure to Provide Notification and Certification of Tank Closure as Required by  
5 California Code of Regulations, title 22, section 67383.3.

6 81. Paragraphs 1 through 24 are realleged as if fully set forth herein.

7 82. California Code of Regulations, title 22, section 67383.3 prescribes the requirements  
8 for onsite cleaning and closure of a tank system and requires that a facility provide notification of  
9 tank closure and certification of the closure by appropriate professional.

10 83. Moore failed to provide notice or certification of closure for a baghouse tank that was  
11 closed in 1999. The baghouse tank was not decontaminated prior to storage. The unused tank  
12 was left outside where exposure made a release of hazardous waste to the environment possible.  
13 Moore ignored the closure requirement for nine years, after which time the tank was rusted to the  
14 point that it was no longer usable.

15 84. Moore failed to provide notice or certification of closure in violation of California  
16 Code of Regulations, Title 22, section 67383.3.

17 REQUEST FOR RELIEF

18 The Department requests that the Court grant the relief as follows:

19 1. Enter judgment that Defendants and Does 1-10 have violated the Hazardous Waste  
20 Control Law as described in the First through Thirteenth Causes of Action;

21 2. Enter judgment that Defendants and Does 1-10 are liable for civil penalties for those  
22 violations as authorized by Health and Safety Code section 25189 or, in the alternative, by Health  
23 and Safety Code section 25189.2, according to proof;

