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**EXEMPT FROM FILING FEES
GOVERNMENT CODE § 6103**

KAMALA D. HARRIS
Attorney General of California
MARGARITA PADILLA
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*Attorneys for Plaintiff People of the State of
California ex rel. Miriam Barcellona Ingenito,
Acting Director of the Department of Toxic
Substances Control*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

**PEOPLE OF THE STATE OF
CALIFORNIA EX REL. MIRIAM
BARCELLONA INGENITO, ACTING
DIRECTOR OF THE DEPARTMENT OF
TOXIC SUBSTANCES CONTROL,**

Plaintiff,

v.

**SYNERGY ENTERPRISES, INC., AND
DOES 1 - 20,**

Defendants.

Case No. RG14734092

NOTICE OF ENTRY OF JUDGMENT

Trial Date: None set.
Action Filed: July 23, 2014

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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, on July 28, 2014, the Court entered the attached Final Judgment Pursuant to Stipulation.

Dated: August 14, 2014

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
MARGARITA PADILLA
Supervising Deputy Attorney General

✓ Original signed by Laura J. Zuckerman

LAURA J. ZUCKERMAN
Deputy Attorney General

*Attorneys for People of the State of
California ex rel. Miriam Barcellona
Ingenito, Acting Director of the Department
of Toxic Substances Control*

EXHIBIT 1



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FILED
ALAMEDA COUNTY

JUL 28 2014

CLERK OF THE SUPERIOR COURT
By *[Signature]* Deputy
JUL 25 2014

*Attorneys for People of the State of California ex rel.
Miriam Barcellona Ingenito, Acting Director of the
Department of Toxic Substances Control*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

**PEOPLE OF THE STATE OF
CALIFORNIA EX REL. MIRIAM
BARCELLONA INGENITO, ACTING
DIRECTOR OF THE DEPARTMENT OF
TOXIC SUBSTANCES CONTROL,**

Plaintiff,

v.

**SYNERGY ENTERPRISES, INC., AND
DOES 1 - 20,**

Defendants.

Case No. RG14734092
**FINAL JUDGMENT PURSUANT TO
STIPULATION**

(Code of Civil Procedure § 664.6)

Trial Date: None Set
Action Filed: July 23, 2014

Good cause appearing herein, the Court finds that the settlement between Plaintiff People of the State of California *ex rel.* Miriam Barcellona Ingenito, Acting Director of the Department of Toxic Substances Control ("the Department"), and Defendant Synergy Enterprises, Inc. ("Synergy"), is fair and in the public interest. Accordingly, the Stipulation for Entry of Final Judgment ("Stipulation") entered into by the Department and Synergy and filed with this Court, a

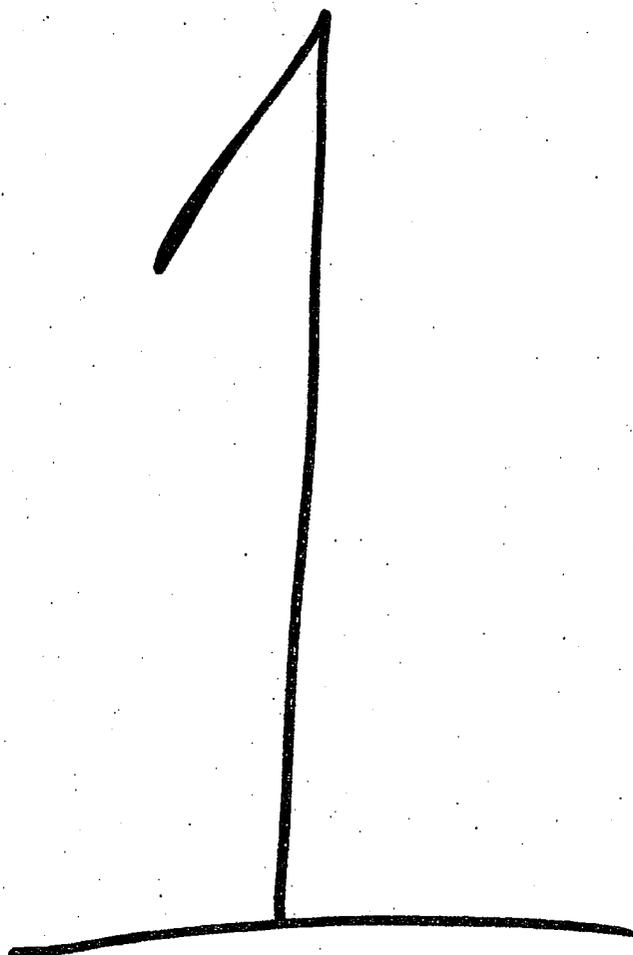
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true and correct copy of which is attached hereto as Attachment 1, is approved, and this Final Judgment Pursuant to Stipulation is entered as provided in the Stipulation.

IT IS SO ORDERED.

Dated: July 28, 2014

Original signed by George C. Hernández, Jr.
George C. Hernández, Jr.
Judge of the Superior Court
GEORGE C. HERNANDEZ, JR.



Attachment 1

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**EXEMPT FROM FILING FEES
GOVERNMENT CODE § 6103**

*Attorneys for Plaintiff People of the State of
California ex rel. Miriam Barcellona Ingenito,
Acting Director of the Department of Toxic
Substances Control*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

**PEOPLE OF THE STATE OF
CALIFORNIA EX REL. MIRIAM
BARCELLONA INGENITO, ACTING
DIRECTOR OF THE DEPARTMENT OF
TOXIC SUBSTANCES CONTROL,**

Plaintiff,

v.

**SYNERGY ENTERPRISES, INC., AND
DOES 1 - 20,**

Defendants.

Case No. RG14734092
**STIPULATION FOR ENTRY OF FINAL
JUDGMENT**

Trial Date: None set.
Action Filed: July 23, 2014

Plaintiff People of the State of California ex rel. Miriam Barcellona Ingenito, Acting
Director of the Department of Toxic Substances Control ("Plaintiff" or "the Department"), and
Defendant Synergy Enterprises, Inc. ("Defendant" or "Synergy") enter into this Stipulation for
Entry of Final Judgment ("Stipulation"), and agree as follows:

1 1. THE FACILITY.

2 Synergy Enterprises, Inc., a registered hazardous waste transporter, provides energy
3 efficiency, solar energy, and environmental services for residential, commercial, and government
4 entities. Synergy's Environmental Services Division specializes in asbestos, lead-based paint,
5 and mold remediation, with 90% of its operations consisting of asbestos abatement. Synergy
6 operates an exempt transfer facility at 28436 Satellite Street, Hayward, Alameda County ("the
7 Facility"). The Department regulates Synergy's operations.

8 2. INVESTIGATION ACTIVITIES.

9 On or about July 26 and 31, 2012, the Department inspected Synergy for compliance with
10 the Hazardous Waste Control Law, Health and Safety Code §§ 25100 et seq. (the "HWCL") and
11 its implementing regulations. The Department discovered violations of the HWCL and the
12 applicable regulations (Cal. Code Regs, tit. 22, Division 4.5, sections 66000 et seq.).

13 3. THE COMPLAINT.

14 On July 23, 2014, the Department filed a Complaint seeking, among other things, civil
15 penalties against Synergy pursuant to the HWCL and its implementing regulations based on the
16 2012 inspection of the Facility. The Department's complaint is attached as Exhibit A
17 ("Complaint"). On November 14, 2012, the Department issued Synergy an inspection report
18 ("2012 Inspection Report") based on its 2012 inspection of the Facility. The 2012 Inspection
19 Report alleges that Synergy violated provisions of the HWCL and its implementing regulations,
20 including violating its status as an exempt transfer facility by transporting hazardous waste to the
21 Facility and holding it for more than ten (10) days in violation of Health & Safety Code section
22 25201, subdivision (a), and failing to properly label approximately 15 containers of hazardous
23 waste in violation of California Code of Regulations, title 22, sections 66262.34, subdivision
24 (f)(1), 66262.34, subdivision (f)(3), and 66262.11.

25 4. AGREEMENT TO SETTLE DISPUTE.

26 The Department and Synergy (the "Parties") enter into the Stipulation pursuant to a
27 compromise and settlement. Each of the parties consents to the entry by the Superior Court of
28 Alameda County (the "Court") of the Final Judgment Pursuant to Stipulation in the substance and

1 form attached hereto as Exhibit B ("Final Judgment"). The Stipulation and Final Judgment were
2 negotiated and executed in good faith and at arms' length by each of the Parties, with their
3 respective counsel, to avoid expensive and protracted litigation regarding alleged violations of the
4 HWCL, and to further the public interest. The Department and Synergy both request entry of
5 judgment on the terms set forth in this Stipulation. Nothing herein shall inure to the benefit of
6 any persons not parties to this Stipulation.

7 **5. JURISDICTION AND VENUE.**

8 The Parties agree that the Court has subject matter jurisdiction over the matters alleged in
9 the Complaint and personal jurisdiction over Synergy. Venue is proper pursuant to Health &
10 Safety Code section 25183.

11 **6. WAIVER OF TRIAL AND ENTRY OF JUDGMENT.**

12 By signing and entering into this Stipulation, Synergy waives its right to a trial on matters
13 alleged in the Complaint. Further, the Parties each request entry of the Judgment on the terms set
14 forth in this Stipulation.

15 **7. MATTERS COVERED BY THIS STIPULATION.**

16 7.1 This Stipulation is a final and binding resolution and settlement of all claims, alleged
17 violations, or causes of action which the Department alleged in the 2012 Inspection Report and in
18 the Complaint against Synergy ("Matters Covered"). This resolution is binding upon Synergy, its
19 officers, directors, shareholders, and employees, and the Department. The provisions of this
20 paragraph become effective when the Final Judgment is entered and Synergy has made full
21 payment of the amount in paragraph 11. Nothing in the Final Judgment shall constitute or be
22 construed as a satisfaction or release from liability for any conditions or claims arising as a result
23 of past, current, or future operations of Synergy, its predecessors in interest, and its officers,
24 directors, shareholders, partners, employees, representatives, and agents except for the Matters
25 Covered. The Department reserves its right to initiate further actions pursuant to its regulatory
26 authority to protect public health or welfare or the environment on matters not within the scope of
27 "Matters Covered," notwithstanding Synergy's compliance with the terms of the Final Judgment.
28

1 7.2 Paragraph 7.1 does not limit the ability of the Department to enforce the terms of this
2 Stipulation or the Final Judgment.

3 8. PARTIES BOUND.

4 The provisions of this Stipulation and the Final Judgment shall apply to and be binding on
5 (1) Synergy, its officers, directors, and employees; and (2) the Department and any successor
6 agency of the Department that may have responsibility for and jurisdiction over the subject matter
7 of the Final Judgment.

8 9. NO WAIVER OF RIGHT TO ENFORCE.

9 The failure of the Department to enforce any provision of the Stipulation or Final Judgment
10 shall neither be deemed a waiver of such provision, nor in any way affect the validity of the Final
11 Judgment or the Department's enforcement authority. The failure of the Department to enforce
12 any such provision of this Stipulation or the Final Judgment shall not preclude it from later
13 enforcing the same or other provisions. No oral advice, guidance, suggestions, or comments by
14 employees or officials of the Department or Synergy, or people or entities acting on behalf of
15 Synergy, regarding matters covered in this Stipulation or the Final Judgment, shall be construed
16 to relieve Synergy of its obligations under this Stipulation or the Final Judgment.

17 10. INJUNCTIVE REQUIREMENTS

18 To ensure Synergy's compliance at all times with Health and Safety Code section 25201,
19 subdivision (a), and the exempt transfer facility requirements set forth in California Code of
20 Regulations, title 22, section 66263.18, subdivision (b)(1), Synergy agrees to do the following:

21 (a) Empty all bags of asbestos waste collected at a work site into the company-controlled
22 dumpster no later than the morning after the company vehicles containing the bags have returned
23 to the Facility from a work site.

24 (b) Immediately after transferring asbestos waste or any other hazardous wastes to the
25 Facility, place the manifest(s) for the hazardous wastes in a secure "in-basket."

26 (c) Update manifests daily into a central control system, placing all manifest numbers
27 with the date the waste arrives in a secure electronic file, backed up on an off-site server (the
28 "cloud").

1 (d) Have all dumpsters at the Facility emptied no less frequently than once weekly by a
2 registered hazardous waste transporter.

3 11. MONETARY SETTLEMENT REQUIREMENTS.

4 Synergy shall pay the Department the sum of One Hundred Ten Thousand Dollars
5 (\$110,000), as and for civil penalties and costs, in settlement of the Department's claims.
6 Payment is due to the Department from Synergy within sixty (60) days of entry of Final
7 Judgment. Of this amount, \$ 95,651.44 is for penalties and \$14,348.56 is for the Department's
8 costs.

9 This payment under the Final Judgment shall be made by cashier's check, payable to the
10 Department of Toxic Substances Control and sent by overnight mail to:

11 Cashier
12 Accounting Office, MS-21A
13 Department of Toxic Substances Control
14 P.O. Box 806
15 Sacramento, CA 95812-0806.

16 The check shall bear on its face the phrase "DTSC # HWCA 20126749 - Synergy."

17 A photocopy of this payment made pursuant to the Final Judgment, including overnight
18 mail tracking information, shall be sent by e-mail or first class U.S. mail, at the same time, to:

19 Rick Robison, Unit Chief
20 Enforcement and Emergency Response Division
21 Berkeley Enforcement Branch
22 Department of Toxic Substances Control
23 700 Heinz Avenue
24 Berkeley, California 94710-2721
25 Email: rick.robison@dtsc.ca.gov

26 Lynn Goldman, Staff Counsel
27 Office of Legal Counsel
28 Department of Toxic Substances Control
1001 I Street
P.O. Box 806
Sacramento, CA 95812-0806
E-mail: lynn.goldman@dtsc.ca.gov

and to:

1 Laura J. Zuckerman
2 Deputy Attorney General
3 State of California Department of Justice
4 Attorney General's Office
5 1515 Clay Street, 20th Floor
6 Oakland, CA 94612
7 E-mail: laura.zuckerman@doj.ca.gov

8 12. NOTICE.

9 All submissions and notices required by the Stipulation and Final Judgment shall be in
10 writing, and shall be sent to:

11 The Department:

12 Rick Robison, Unit Chief
13 Enforcement and Emergency Response Division
14 Berkeley Enforcement Branch
15 Department of Toxic Substances Control
16 700 Heinz Avenue
17 Berkeley, California 94710-2721
18 Fax: (510) 540-3819
19 Email: rick.robison@dtsc.ca.gov

20 Synergy:

21 Mr. Steven R. Shallenberger, President
22 Synergy Enterprises, Inc.
23 28436 Satellite Street
24 Hayward, CA 94545
25 Fax: (801) 224-2537
26 Email: steveshallenberger@gmail.com

27 With simultaneous copy to counsel for Synergy:

28 Mordecai D. Boone, Esq.
Gordon & Rees LLP
275 Battery Street, Suite 2000
San Francisco, CA 94111
Fax: (415) 986-8054
Email: mboone@gordonrees.com

All approvals and decisions regarding any matter requiring approvals or decisions under the terms of this Stipulation and the Final Judgment shall be communicated in writing. Each Party may change its respective representative(s) for purposes of notice by providing the name and

1 address of the new representative, in writing, to all Parties. Any such change will be effective
2 seven (7) calendar days after the date of the written notice.

3 No advice, guidance, suggestions, or comments by employees or officials of the
4 Department regarding submittals or notices shall be construed to relieve Synergy of its obligation
5 to obtain any final written approvals required by the Final Judgment.

6 **13. NO LIABILITY OF THE DEPARTMENT.**

7 Neither the Department nor any of the State of California's agencies, boards, or
8 departments (collectively, "State Entities") shall be liable for any injury or damage to persons or
9 property resulting from acts or omissions by Synergy, its directors, officers, employees, parent
10 companies, affiliates, agents, representatives, or contractors in carrying out activities pursuant to
11 this Stipulation or the Final Judgment, nor shall the Department or any of the State Entities be
12 held as a party to or guarantor of any contract entered into by Synergy, its directors, officers,
13 employees, agents, representatives, parent companies, affiliates, or contractors in carrying out the
14 requirements of this Stipulation or the Final Judgment.

15 **14. COMPLIANCE WITH APPLICABLE LAW.**

16 Synergy shall implement the terms of the Final Judgment entered by the Court in this
17 matter in compliance with all local, State, and federal requirements, including, but not limited to,
18 requirements to obtain permits and to assure worker safety.

19 **15. ACCESS.**

20 Nothing in the Final Judgment is intended to limit in any way the right of entry or
21 inspection that the Department or any other agency may otherwise have by operation of any law.

22 **16. INTEGRATION.**

23 The Stipulation, together with exhibits, and the Final Judgment constitute the entire
24 agreement and understanding of the parties with respect to the entire subject matter hereof, and
25 may not be amended or supplemented except as provided for in this Stipulation or in the Final
26 Judgment. No representations, oral or written, express or implied, other than those expressly set
27 forth herein have been made by any party hereto. No other agreements not specifically referred to
28 herein, oral or written, shall be deemed to exist or to bind either of the Parties.

1 17. AUTHORITY TO ENTER STIPULATION.

2 Each signatory to the Stipulation certifies that he or she is fully authorized by the Party he
3 or she represents to enter into this Stipulation; to execute it on behalf of the Party represented, and
4 to legally bind that Party.

5 18. MODIFICATION OF STIPULATION AND FINAL JUDGMENT.

6 Neither the Stipulation nor the Final Judgment may be modified without written stipulation
7 of the Parties hereto and approval by the Court.

8 19. EFFECT OF STIPULATION AND FINAL JUDGMENT.

9 Except for the settlement of claims provided in Paragraph 7, nothing herein or in the Final
10 Judgment is intended, nor shall it be construed, to preclude the Department, or any state, county,
11 or local agency, department board or entity, or any Certified Unified Program Agency, from
12 taking appropriate enforcement action or otherwise exercising its authority under any law, statute
13 or regulation.

14 20. GOVERNING LAW.

15 The terms of the Final Judgment shall be governed by the laws of the State of California.

16 21. RETENTION OF JURISDICTION.

17 The Parties agree that the Court has continuing jurisdiction to interpret and enforce the
18 provisions of this Stipulation and the Final Judgment.

19 22. EQUAL AUTHORSHIP.

20 This Stipulation and the Final Judgment shall be deemed to have been drafted equally by all
21 Parties hereto. The Parties agree that the rule of construction holding that ambiguity is construed
22 against the drafting party shall not apply to the interpretation of this Stipulation or the Final
23 Judgment.

24 23. COUNTERPARTS.

25 The Stipulation may be executed in several counterparts, each of which shall be deemed an
26 original, and all such counterparts taken together shall constitute an integrated document.
27 Facsimile signature and PDF signatures shall be deemed original for the purposes of this
28 Stipulation.

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Judgment upon written notice to all Parties and the Court.

IT IS SO STIPULATED:

PEOPLE OF THE STATE OF CALIFORNIA EX REL
MIRIAM BARCELLONA INGENITO, ACTING DIRECTOR
OF THE DEPARTMENT OF TOXIC SUBSTANCES
CONTROL

Dated: July 17, 2014

By: Original signed by Maria Soria

MARIA SORIA, BRANCH CHIEF
ENFORCEMENT AND EMERGENCY RESPONSE
DIVISION

SYNERGY ENTERPRISES, INC.

Dated: 4 July, 2014

By: Original signed by Steven Shallenberger.
STEVEN SHALLENBERGER, PRESIDENT

APPROVED AS TO FORM:

KAMALA D. HARRIS
Attorney General of California
MARGARITA PADILLA
Supervising Deputy Attorney General

Dated: July 21, 2014

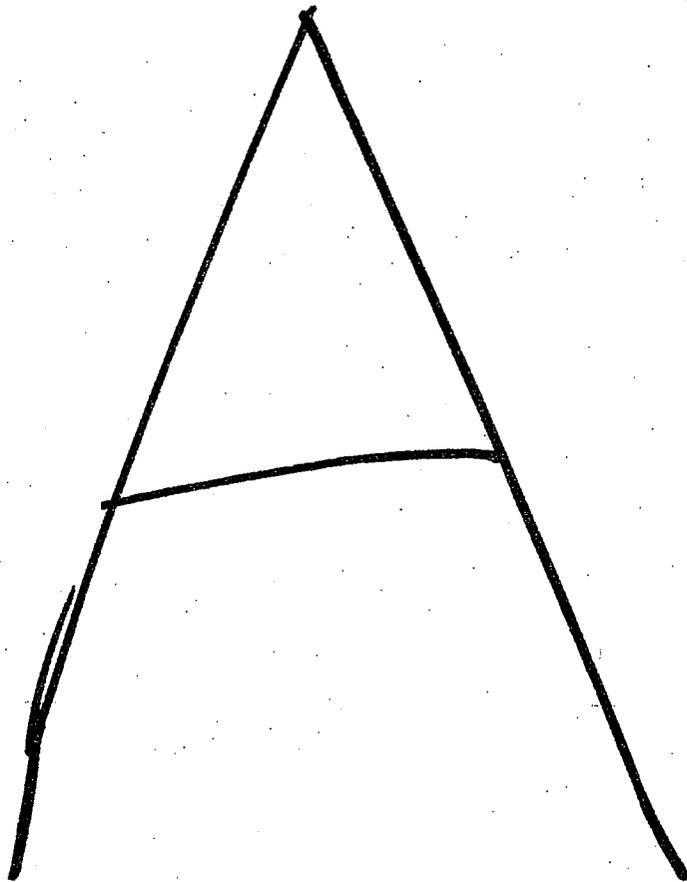
By: Original signed by Laura J. Zuckerman
LAURA J. ZUCKERMAN
Deputy Attorney General
Attorneys for Plaintiff

GORDON & REES LLP

Dated: July 14, 2014

By: Original signed by Mordecai D. Boone
MORDECAI D. BOONE
Attorneys for Defendant Synergy

OK2013508821



1 KAMALA D. HARRIS
Attorney General of California
2 MARGARITA PADILLA
Supervising Deputy Attorney General
3 LAURA J. ZUCKERMAN
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4 State Bar No. 161896
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EXEMPT FROM FILING FEES
GOVERNMENT CODE § 6103

ENDORSED
FILED
ALAMEDA COUNTY

JUL 23 2014

CLERK OF THE SUPERIOR COURT
By Lynetta M. Irvin, Deputy

8 *Attorneys for Plaintiff People of the State of*
9 *California ex rel. Miriam Barcellona Ingenito,*
10 *Acting Director of the Department of Toxic*
11 *Substances Control*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF ALAMEDA

15 PEOPLE OF THE STATE OF
16 CALIFORNIA EX REL. MIRIAM
17 BARCELLONA INGENITO, ACTING
18 DIRECTOR OF THE DEPARTMENT OF
19 TOXIC SUBSTANCES CONTROL,
20
21 Plaintiff,
22
23 v.
24
25 SYNERGY ENTERPRISES, INC., AND
26 DOES 1 - 20,
27
28 Defendants.

Case No. **RG14734092**
COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

(Health and Safety Code § 25201, 25189, and
25189.2)

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

STATEMENT OF THE CASE

1. Defendant Synergy Enterprises, Inc. ("Synergy" or "Defendant"), a registered

1 hazardous waste transporter, at all times relevant to this Complaint operated an exempt transfer
2 facility at 28436 Satellite Street, Hayward, Alameda County (the "Facility"). Defendant handles
3 hazardous waste at the Facility and arranges for it to be transported off-site. The Facility is a
4 hazardous waste facility under California Health and Safety Code section 25117.1.

5 2. While operating the Facility, Defendant violated the California Hazardous Waste
6 Control Law, Chapter 6.5 of Division 20 of the California Health and Safety Code, sections
7 25100 et seq. ("HWCL"), and its implementing regulations, California Code of Regulations, Title
8 22, Division 4.5, by handling hazardous waste in an unsafe manner and without complying with
9 the applicable laws and regulations.

10 3. The Department hereby seeks civil penalties from and injunctive relief against
11 Defendant for its violations of the HWCL and its implementing regulations.

12 **PLAINTIFF**

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

15 5. Miriam Barcellona Ingenito is the Acting Director of the Department.

16 6. Pursuant to sections 25181 and 25182 of the Health and Safety Code, the Attorney
17 General of the State of California is authorized, at the request of the Department, to commence an
18 action in the name of the People for civil penalties and injunctive relief under the HWCL. The
19 Department has asked the Attorney General to apply to this Court for injunctive relief pursuant to
20 Health and Safety Code sections 25181 and 25184 and for an order imposing civil penalties
21 pursuant to Health and Safety Code sections 25189 and/or 25189.2 for violations of the HWCL
22 and its implementing regulations by Defendant.

23 **DEFENDANT**

24 7. The Department is informed and believes, and thereon alleges, that Defendant is a
25 corporation registered to conduct business in the State of California that operates a hazardous
26 waste transfer facility at 28436 Satellite Street, Hayward, Alameda County, California.

27 8. Defendant is a "person" as defined at Health and Safety Code section 25118.

28 Further, Defendant was, at all times relevant to this Complaint, a transporter of hazardous waste,

1 as "transporter" is defined in California Code of Regulations, title 22, section 66260.10. The
2 Department is informed and believes, and thereon alleges, that the Facility is located in an area
3 zoned industrial by the local planning authority.

4 9. When reference is made in this Complaint to any act of Defendant, such allegation
5 shall mean that the owners, officers, directors, agents, employees, contractors, and representatives
6 of Defendant did or authorized such acts or recklessly and/or negligently failed and omitted to
7 adequately or properly supervise, control, or direct Defendant's employees, representatives, or
8 agents while engaged in the management, direction, operation, or control of the affairs of
9 Defendant, and did so while acting within the course and scope of their employment or agency.

10 10. Defendants Does 1-20 are the officers, agents, employees, servants, or others
11 acting in interest or concert with Defendant. The Department is ignorant of the true names of
12 defendants sued herein as Does 1-20. When the names of these defendants have been ascertained,
13 the Department will seek leave to amend the Complaint.

14 JURISDICTION AND VENUE

15 11. This Court has jurisdiction pursuant to Cal. Const., art. VI, § 10, and Health and
16 Safety Code section 25181, subdivision (a). Venue is proper in this Court under Health and
17 Safety Code section 25183 in that the violations took place in Hayward, Alameda County,
18 California, and the principal office of the Defendant in California is in Hayward, in Alameda
19 County.

20 STATUTORY AND REGULATORY BACKGROUND

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

26 13. The HWCL is the California analogue of the federal Resource Conservation and
27 Recovery Act, 42 U.S.C. § 6901 et seq. ("RCRA"). Pursuant to both state and federal law, the
28 Department administers the HWCL in lieu of federal administration of RCRA in California. (See

1 Health & Saf. Code, § 25101, subd. (d); California: Final Authorization of Revisions to State
2 Hazardous Waste Management Program, 66 FR 49118 (September 26, 2001).) Federal law
3 prohibits California from imposing "any requirements less stringent than those authorized under
4 [RCRA]." (42 U.S.C. § 6929.)

5 14. State law – the HWCL – has a more inclusive definition of hazardous waste than
6 does federal law. Hazardous wastes that are regulated under California law but not federal law
7 are known as "non-RCRA hazardous wastes." (Health & Saf. Code, § 25117.9.)

8 15. Persons who store and dispose of hazardous waste are subject to a number of laws
9 and regulations, including, but not limited to, Health and Safety Code section 25100 et seq. and
10 California Code of Regulations, title 22, section 66260 et seq. The Department is informed and
11 believes, and thereon alleges, that Defendant, for all times relevant to this Complaint, stored
12 and/or disposed of hazardous waste in California, and is therefore subject to those requirements.

13 16. Hazardous waste transporters are subject to a number of laws and regulations,
14 including, but not limited to, Health and Safety Code section 25160 et seq. and California Code of
15 Regulations, title 22, Chapter 13 (sections 66263.10 to 66.263.50). The Department is informed
16 and believes, and thereon alleges, that Defendant, for all times relevant to this Complaint,
17 transported hazardous waste and is therefore subject to these requirements in California.

18 17. Transporters of hazardous waste are exempt from California's requirements for a
19 permit for waste storage when, during the normal course of transportation, they hold the
20 hazardous waste at one location for six days or less, or 10 days or less for transfer facilities in
21 areas zoned industrial or agricultural by the local planning authority.

22 ENFORCEMENT AUTHORITY UNDER THE HWCL

23 18. The HWCL authorizes the Court to impose 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, on a strict liability basis, for any violation of the HWCL. Each day of
27 violation of each provision of the HWCL is a separate violation, subject to penalty under Health
28 and Safety Code sections 25189 or 25189.2.

1 THE DEPARTMENT'S INSPECTION OF THE FACILITY

2 19. On or about July 26 and 31, 2012, the Department, through its inspectors, conducted a
3 regulatory inspection of the Facility (the "Inspection"). At the conclusion of the Inspection, the
4 Department issued a Summary of Violations to Defendant. Mr. Edgar Cuevas, Defendant's
5 Operations Manager, signed the Summary of Violations on behalf of Defendant. On November
6 14, 2012, the Department issued an Inspection Report to Defendant.

7
8 FIRST CAUSE OF ACTION
(Unauthorized storage and accumulation of hazardous waste)
(Health & Saf. Code, § 25201, subd. (a))
9 (Cal. Code Regs., tit. 22, § 66263.18)

10 20. Paragraphs 1 through 19 are realleged as if fully set forth herein.

11 21. Health and Safety Code section 25201, subdivision (a), prohibits an owner or
12 operator of a transfer facility from storing hazardous waste at the facility unless the owner or
13 operator has a permit or grant of authorization from the Department.

14 22. California Code of Regulations, title 22, section 66263.18, subdivision (b)(1),
15 excludes a transfer facility located in an agricultural or industrial zone from the permit
16 requirements for waste storage when, during the normal course of transportation, hazardous waste
17 is held for no more than 10 days at the transfer facility. Where the transporter holds the
18 hazardous waste at the transfer facility for more than 10 days, it may do so only with a permit or
19 authorization from the Department.

20 23. Based on a review of Defendant's and the Department's records for the years 2010
21 - 2012, Defendant stored hazardous waste (asbestos) at the Facility for more than 10 days on 951
22 separate instances beginning on or about January 1, 2010. Defendant stored hazardous waste it
23 transported to the Facility for more than a 10-day period on every day during each of the years
24 2010 and 2011, and on every day in 2012 until August 8, 2012. This resulted in 951 instances of
25 storage of hazardous waste without a permit or authorization.

1 physical state of the waste, the hazard property, the name and address of the generator, and the
2 accumulation start date.

3 30. Defendant is liable for civil penalties under Health and Safety Code section 25189
4 or 25189.2 for its violations of California Code of Regulations, title 22, sections 66262.11 and
5 66262.34, subdivisions (f)(1) and (f)(3).

6 **REQUEST FOR RELIEF**

7 The Department requests that the Court grant the following relief:

8 1. Enter judgment that Defendant has violated the HWCL and its implementing
9 regulations as described in the First and Second Causes of Action;

10 2. Enter judgment that Defendant is liable for civil penalties for violations of the
11 HWCL and its implementing regulations on the First and Second Causes of Action, as authorized
12 by Health and Safety Code section 25189, or, in the alternative, by Health and Safety Code
13 section 25189.2, for each day of each violation according to proof;

14 3. Grant the Department its costs of suit herein; and

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

16 Dated: July 23, 2014

Respectfully Submitted,

17 KAMALA D. HARRIS
18 Attorney General of California
19 MARGARITA PADILLA
20 Supervising Deputy Attorney General

21 (Original signed by Laura J. Zuckerman)

22 LAURA J. ZUCKERMAN
23 Deputy Attorney General

24 *Attorneys for Plaintiff People of the State*
25 *of California ex rel. Miriam Barcellona*
26 *Ingenito, Acting Director of the*
27 *Department of Toxic Substances Control*

28 OK2013508821