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Debbie Raphael, Director  
California Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

(Sent via email and mail)

**Re: Auto Shredder Waste (ASW) – Disposition of DTSC Issued “F” Letters and Co-mingled Waste Properties of Treated Auto Shredder Waste (TASW)**

Dear Ms. Raphael:

You must have already concluded that an examination of the DTSC’s issuance of “F” letters to pre-existing metal shredding operators within the state of California during the years 1986-1992 is long overdue. If you have not, this letter should change your mind. There are several legitimate reasons for re-evaluating the issuance of these irregular letters which confer rights to dispose treated auto shredder waste (TASW) as a non-hazardous waste. The most significant reason is the monumental volume of this waste stream processed for landfilling. The DTSC has produced evidence<sup>1</sup> that the waste is and should be categorized with other hazardous wastes (e.g., waste oil and mixed oil) and if the DTSC were to follow its scientists’ advice, treated auto shredder waste (TASW) would be the single-largest category of hazardous waste in the state.

How significant is the volume of auto shredder waste?

In 2011, CalRecycle records 668,802 tons or 1.3 billion pounds of TASW was buried in primarily three privately-owned for-profit landfills (Altamont, Chiquita Canyon and Simi Valley) in California. This equates to 35 pounds for every man, woman and child in the state<sup>2</sup> every year. If the DTSC were to include TASW in its reports on hazardous waste quantities it would be at the top of the list and constitute 24% of the total statewide generation of hazardous waste. This is not a one-time-event, but every day of every year, large volumes of junkyard waste are hauled to local landfills for disposal as a “beneficial reuse” or “recyclable” material, avoiding certain permitting regulations and disposal fees.

Understanding the numerous irregularities surrounding the “F” letters continued existence is paramount to developing a strategy for properly regulating, monitoring and controlling the hazardous constituents of TASW and I present evidence supporting this conclusion followed by questions for which I request the DTSC to promptly answer. The facts supporting the lackadaisical management of this waste stream are numerous and a person with a modicum of common-sense could easily assess, in military parlance, that this is a target rich environment.

I have included the following regulation which supports my rights for information and participation in the DTSC’s development of an ASW strategy. I find inclusion of the passage necessary as the DTSC has not been consistent in responding to my requests for information.

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<sup>1</sup> California’s Automobile Shredder Waste Initiative Draft Report, DTSC, November 2002

<sup>2</sup> California Department of Finance State Population 2011 – 37,679,000

### **California Code of Regulation, Title 22 Health and Safety Code Section 25103.**

*The Legislature has found that access by the people of this state to public records is a fundamental and necessary right. The Legislature finds that it is necessary to further the public's right of access to public records pertaining to hazardous waste management, information, and cleanup, to assure the fullest opportunity for public participation in permitting and other decisions in order to protect public health and the environment.*

It is truly unfortunate that after two years of repeated requests, I have not received irrefutable scientific proof from the DTSC that TASW is safe – that is safely treated, processed, transported, stockpiled and spread on our kitchen garbage at the end of each day at the landfill where it sits in the open air subject to frequent heavy wind conditions. Furthermore, the DTSC has not produced one shred of evidence that it is developing a work plan to address the historic problems and irregularities of “regulating” this hazardous waste stream.

This is supported by DTSC own words contained in the 2002 *California's Automobile Shredder Waste Initiative* in which it states, “The goals of this initiative were three fold: evaluate the adequacy of the Department of Toxic Substances Control's (DTSC) automobile shredder waste policy; affirm the regulatory status of the automobile shredders operating in California; and ensure compliance by the automobile shredders with the existing statues and regulations.”<sup>3</sup>

What happened?

Problems and irregularities were identified in the initiative and the recommendations included revising and rescinding existing policies. To this day, the initiative remains in draft form and very conveniently sits on a shelf gathering dust.

In a DTSC letter to me dated October 26, 2011, the department led me down the garden path by professing, “DTSC understands that you are frustrated by what you perceive to be a lack of progress on our part. Nonetheless, Director Raphael, since her appointment in May 2011, has been gathering information and directing DTSC staff in its evaluation of the industry, its waste management practices and the impact those practices and the waste itself may have on the environment. DTSC has also been coordinating with other agencies within Cal/EPA that also regulate autos shredder waste and municipal solid waste landfills. As Director Raphael stated in her telephone call to you, this issue has become one of her **HIGHEST PRIORITIES** as Director of DTSC. **AS MORE INFORMATION IS DEVELOPED IT WILL BE MADE AVAILABLE TO YOU AND THE PUBLIC** (emphasis added).

As the wise old saying goes, the proof of the pudding is in the making and in the taste - 16 months later I am starving for a taste. Ten years after the 2002 DTSC Initiative was produced, nothing measureable except for the march of time has transpired.

In the absence of answers from the DTSC and lack of a project framework, I have had to spend two years wading through murky bureaucratic tangles to tease out the details enveloping the decade's long “control” by the DTSC (formerly the Department of Health Services – DHS) of the metal shredder industry. To emphasis the lax approach supporting the department's keep-them-in-the-dark-and-protect-the-shredders motto the DTSC very proudly showcases a webpage devoted to glossy nail polish<sup>4</sup> replete with supporting documents and press video clips of this cosmetic product, but where is the DTSC webpage devoted to the single-largest hazardous waste in the state of California? Where

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<sup>3</sup> Draft Report California's Automobile Shredder Waste Initiative, DTSC, November 2002

<sup>4</sup> <http://www.dtsc.ca.gov/PollutionPrevention/SaferNailProducts.cfm>

are the postings for the 25-years worth of documents, press releases, findings, etc., for auto shredder waste? Why do I have to repeatedly ask for information when the DTSC promised it would make information it developed available?

As previously mentioned, the focus of this letter is on the antiquated “F” letters issued to metal shredders and its relevance to the **billions of pounds** of TASW buried over the past quarter century along with my own investigation into the actual physical properties of TASW and questions on how the taxpayer is paying for the DTSC’s review of the metal shredder operators.

### Background on the DTSC “F” Letters

On March 1, 1984 the California DHS determined that ASW was a non-RCRA hazardous waste as it exceeded regulatory thresholds for several inorganic constituents including lead, cadmium, copper and zinc. The department determined “inline treatment” would allow ASW to qualify for a non-hazardous waste classification and no hazardous waste treatment variance or permit would be required for the stock piled quantities of the junkyard waste. “Inline” as originally approved meant manually spraying silicates on the auto shredder “fluff” before the material fell from the conveyor belt. Or as is spelled out in DHS Policy and Procedure 88-6<sup>5</sup>, “in-line’ is defined as any treatment to material in an industrial process before that material is exhausted or otherwise rendered a waste.” The “F” letters were issued in conjunction with PP 88-6. In 2005 a majority of the department’s policies and procedures were rescinded although PP 88-6 remains in effect to this day and the DTSC acknowledges it is an underground regulation. The “F” letters coupled with PP 88-6 are a toxic duo preventing compliance with the state’s overarching environmental protection mandates.

Seeking regulatory relief, in lieu of a formal “variance”, “F” letters were issued to seven metal shredder operators in the state of California (see Table 1).

**TABLE 1 – “F” Letter Issuance**

	<b>F Letter Date</b>	<b>F Letter Operator</b>	<b>F letter Operator Location</b>	<b>F Letter Treatment Process</b>
1	1986-02-21	Hugo Neu-Proler	Terminal Island	K-20
2	1987-09-24	Clean Steel	Long Beach	K-20
3	1987-12-08	Ferromet	Etiwanda	K-20
4	1988-06-13	Schnitzer	Oakland	K-20
5	1988-12-19	Adams	Anaheim	“generic” silicate mix & cement
6	1989	LMC Corp/Sims	Redwood City	K-20 (polysilicate treatment process) <sup>6</sup>
7	1992	Golden State	Bakersfield	K-20

The basis for the issuance of the infamous and highly-irregular “F” letters was to capitulate to the industry’s zeal of coming up with an easy-out low-cost solution for disposing the enormous stock piles of hazardous shredder waste and to avoid the full permitting process. At the time of the “F” letter issuances, the annual output of auto shredder waste was about 100,000 tons as opposed to the current average of 600,000 tons. The DTSC has buried its head in the sand and continues to ignore the enormous quantities and six-fold increase in annual output of this toxic waste stream.

There appears to be a lack of consensus within the DTSC as to the waste-stream applicability of the “F” letters as in 1) it only applied to existing stock piles of waste, 2) it applied to future generation of ASW, and 3) it applied to both. It is my understanding that the DHS’ remedial solution was based on the federal delisting process and the department agreed to reclassify the existing piles based on

<sup>5</sup> Auto Shredder Waste Policy and Procedure Document #88-6, Official Policy and Procedure, DHS, November 21, 1988

<sup>6</sup> DHS 1989 Report Treatment Levels for Auto Shredder Waste, page 28, “LMC is presently incorporating the use of the K-20 process”

testing results of treated material samples and laboratory reports taken from the stock piled material. The DTSC owes the public an explanation as to the actual reasons surrounding the irregular and long-sustaining "control" of this industry.

From 1986-1992 the DHS conducted reviews of waste samples for each metal operator independent of the others, at separate time periods. "In evaluating each reclassification request submitted by the original operators, the Department took into account the concentration of each of the constituents in the final waste stream, as well as the efficacy of the specific treatment technology which was used on the ASW. Based on its evaluation of the circumstances surrounding each of the auto shredding facilities (case specific, site specific, and treatment specific), the Department reclassified each as nonhazardous waste pursuant to section 66260.200 (f) on its own merits (emphasis added)."<sup>7</sup>

Over 25 years ago a small number of samples were tested for compliance with hazardous waste thresholds. This limited sample pool is the crux as to why the metal shredder industry has been granted the right to engage in the never-ending practice of dumping BILLIONS of pounds of TASW in landfills and this practice is allowed in the absence of effective regulatory oversight and in the absence of the collection of required fees. In 2001, the DTSC distributed an official memo rescinding variances issued without an expiration date, but suspiciously exempted auto shredder waste?<sup>8</sup>

It appears the DTSC is the goose that laid the golden egg for the independent metal shredder operators and laid the groundwork for establishing an exclusive business model for a limited number of operators, and not for the protection of the public's and environment's health and safety.

### **Auto Shredder Waste Treatment Background**

Industry representatives state, "Each of the applications for reclassification was granted based on demonstrated effectiveness of the treatment process.... The ASR [*auto shredder residue*] process, as currently conducted, uses one of two proprietary, soluble polysilicate solutions (with potassium silicate as the active ingredient), and a form of pozzolanic (cementitious) material which functions as an alkaline activator (AA) in the process... Different treatment chemicals are evaluated from time to time, and may be used in lieu of the chemicals described in this report if determined to be more cost-effective.... Two of the three auto shredder facilities in California that treat their ASR use a commercially-available product known as Metbond MCX-90, manufactured by Envirokem Engineering Services, LLC Stockton, California. ...The third auto shredder facility uses a product known as HP Treatment, which is manufactured by C.C.I. Chemical Corporation (formerly Cherokee Chemical), with corporate offices in Vernon, California (C.C.I. 2011).... The California auto shredder facilities that treat ASR use Portland cement, fly ash, lime or similar dry pozzolanic material as the alkaline activator (AA)." ...The amount of silicate necessary to effectively treat the ASR has been established through treatability studies conducted in the past... The treatment process has evolved over time, with an eye towards optimizing the process and allowing use of different, more effective or more economical treatment chemicals.<sup>9</sup>

Industry, by its own admission, is in violation of the "F" letters by 1) using non-authorized treatment chemicals for cost-effectiveness, 2) using silicate amounts "established through treatability studies" that were not approved per the site specific requirements, and 3) changing the treatment process for economic reasons in the absence of DTSC approval.

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<sup>7</sup> Pilorin, Ronald, Senior Hazardous Materials Specialist, DHS letter to John P. Filbert on May 7, 1993

<sup>8</sup> Gin, Watson, DTSC Management Memo #EO-92-008-MM Rescission Document, Validity of "Old" Variances, October 29, 2001

<sup>9</sup> Guatney, Mark and Trezak, George, Treatment of Auto Shredder Residue, May 18, 2012, prepared for California Chapter Institute of Scrap Recycling Industries (ISRI)

In direct contradiction to industry's statements about the alkaline activator, John P. Filbert of Envirokem proclaims, "Technically, every shipment of lime, fly ash, or cement has differences in composition from a manufacturing standpoint (variations in raw materials). These differences in actual chemical composition are also site specific (manufacturers geographic location). The automobile shredder facility may unknowingly receive these different materials from a single supplier (emphasis added)."<sup>10</sup> Fly ash is also listed as a hazardous waste yet it is unknown if the DTSC has requested chain-of-custody paperwork documenting that the use of the fly ash on TASW is non-hazardous. Once staff read the 2012 report and was made aware of the situation they should have acted. The DTSC needs to provide this information to the public.

Mr. Filbert adds more fuel to the fire in his statements on the DHS approved proprietary K-20 treatment material, "the present competitor's liquid product in use today was changed to a 'single component product'. This is not their same 'two-component' product that was used to qualify it in the original permitting process.... Although the present supplier of the liquid chemical may have added their 'A' and 'B' components together in one package, technically, it is a distinct change from their original product (emphasis added)." The DTSC responded to these allegations by stating "any change, including those involving ingredient and/or material processing, in the generation of that waste could affect its resultant characteristics, and therefore, the classification of that waste. The degree to which any of these changes would affect the resultant waste such that the nonhazardous classification would no longer be applicable is not known without evaluating the analytical data gathered from that waste. It is therefore the position of the Department, that any auto shredder facility that already received a nonhazardous classification from the Department, but wishes to use a substitute process such as Metbond, must re-evaluate the resultant treated waste, and apply to the Department for another nonhazardous classification pursuant to Title 22, California Code of Regulations, Section 66260.200 (f) (emphasis added)."<sup>11</sup>

The DTSC response to a question I asked on treatment, includes the statement, "However, DTSC's original analysis of the treatment process, treatment materials and treatment chemical stability verified that the treatment being used by the metal shredding facilities was not simply neutralizing the test method, but was effectively immobilizing and chemically binding the waste constituents."<sup>12</sup> Reprehensibly absent from this response is the fact that DTSC was aware that the original treatment material was no longer in use, and to the best of my knowledge, new test results have not been requested in 25 years or more. (Although the 2002 DTSC Initiative provided testing and found sample results in violation of the "F" letters.) And, as explained further on in this letter, the treatment is not chemically binding the waste constituents on the large pieces of auto waste which contain hazardous constituents. Over and over again, the DTSC points to a decades-old testing of a few samples of material knowing full well the "treatment specific" properties and processes have changed. The DTSC has acted as if all the conditions have been frozen in time and nothing has changed.

As is evidenced in Table 2, the industry statements seem to acknowledge a long-term practice of changing the treatment process without submitting data for DTSC review and in violation of the "F" letters. Moreover, the Department stated in a letter dated October 20, 1992 to Mr. David Long of Diversified Minerals, Incorporated, "if an auto shredding facility wishes to use a treatment process other than one which has already been evaluated, the facility must submit a request for reclassification of its waste to the Department." And in 1993, the DTSC made it clear, "The next step

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<sup>10</sup> Filbert, John P letter to Bob Hoffman, Assistant Director, DTSC dated February 18, 1993. *Note - Mr. Hoffman is now in private practice representing the auto shredders*

<sup>11</sup> Peebler, Diana, Associate Hazardous Materials Specialist, DTSC letter to David Long, Diversified Minerals Incorporated dated October 20, 1992

<sup>12</sup> Brausch, Rick, DTSC Deputy Director for Policy and Legislation, letter to Ms. Alice Sterling dated October 26, 2011

will be for each auto shredding facility to submit to the Waste Evaluation Unit analytical data which demonstrates that there is no statistical difference between the characteristics of the treated ASW currently being generated, and which has been treated with Metbond MCX-90."<sup>13</sup>

### **Treated Auto Shredder Waste Mixed with Waste**

The industry purports in its 2012 report that, "The physical characteristics of ASR range from granular particles (e.g., sand and soil) to identifiable pieces of carpeting, wood, foam or plastic, sometimes exceeding 5 inches in cross section. While historically, California shredders treated only the smaller fractions of ASR (which were referred to as "fines"), the treatment process has evolved over time so that now all but the largest fraction of materials contained in ASR (plus 4-inches) is treated. The plus 4-inch materials are typically returned to the shredder for re-processing" (emphasis added).

In the 1989 DHS report on *Treatment Levels for Auto Shredder Waste*, the proprietary K-20 treatment is described and it details the treatment process, "The treatment process is incorporated into the auto shredding process after the shredded material is screened to separate the larger fluff (greater than 1 inch) from the smaller. The smaller is then fed to a pugmill or blender, along with 3 to 5 percent cement agent, a silicate solution and water. The treated material is passed under a metal separator for further recovery before being stockpiled. The material is then allowed to dry and cure for 2-4 days before testing. The larger nonhazardous material is disposed at a local landfill."

(It shall be noted that staff has stated that the referenced report DOES NOT APPLY TO non-RCRA hazardous treated auto shredder waste BUT it is a reference for the TASW treatment process. How lacking of scientific integrity and inept is it for the DTSC to refer to a 1989 report and not produce a treatment report specific to the largest hazardous waste stream in the state, TASW, after 25 years?)

The DHS further states, "The fluff is treated 'in-line' while both ferrous and non-ferrous metals are still being extracted. If the treatment were to occur after the metals have been extracted, the fluff would be considered waste and the treatment would be considered treatment of a hazardous waste, which requires a permit or variance from the Department" (emphasis added)<sup>14</sup>

In the previously referenced 2002 DTSC Initiative it states, "The majority of shredders operating in California are in violation of the in-line treatment provisions of DTSC's auto shredder policy and procedure. Four the five shredders that treat their shredder waste are not in compliance with the 'in-line treatment' provisions of the policy and procedure."

What is going on?

Any visit to one of the landfills accepting auto shredder waste will prove to the observer that the industry representatives are prone to story-telling and extreme exaggeration while the DTSC continues to act stone deaf and blind. As is evidenced from the photos (below) representing a random sampling of TASW gathered at the Simi Valley Landfill (which receives TASW from the largest shredder in the state), it is astonishingly obvious that;

1. ferrous metal of over 4 inches is not wholly extracted from the eddy-current, shredding process, prior to treatment,
2. the industry has taken the unauthorized liberty of re-defining "elimination techniques" and "treatment techniques",

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<sup>13</sup> Pilorin, Ronald, Senior Hazardous Materials Specialist, DHS letter to John P. Filbert dated May 7, 1993

<sup>14</sup> Brausch, Richard, DHS Toxic Substances Control Program, in letter to David Hu, Project Manager, Jaykim Engineers, dated January 8, 1990

3. large pieces are not returned to the shredder for re-processing,
4. the treatment does not encapsulate and/or is not applied to all pieces,
5. the smaller "fines" easily blow in the wind for wide-range dispersal into the air,
6. pieces are easily identifiable as trash or common waste,
7. treated and untreated pieces are co-mingled as "TASW",
8. the metal shredders are avoiding municipal waste tonnage fees, and
9. larger untreated waste pieces do not qualify for use as alternative daily cover.

TASW used as alternative daily cover at the landfills must comply with CCR Title 27 section 20690 (b) (6) (A) which states, "Auto shredder waste shall be treated pursuant to Title 22, CCR section 66268.106 (a) (1)." The subsequent CCR reference provides a table (Table I-A CCWE) identifying the "non-RCRA auto shredder wastes and the concentrations of their associated hazardous constituents which may not be exceeded by the extract of the waste or treatment residual for the allowable land disposal of such waste or residual."

This adds credence to the doubts expressed by the public and some honest DTSC staff that the hazardous characteristics of TASW are not being mitigated as stipulated in the "F" letters and in compliance with state code.

Treated auto shredder waste is not subject to certain disposal fees, permit fees, and manifest fees yet DTSC staff has spent countless hours on this subject. The taxpayer has had to subsidize the cost of monitoring the irregularities posed by this lucrative industry in the absence of the collection of appropriate fees. Why the DTSC continues to ignore the major health and safety violations posed by the obvious processing, treatment and landfill conditions which refute the department's own declarative statements that this is a hazardous waste requiring a variance, is puzzling to this California taxpayer who naively has entrusted the DTSC to safeguard our health.

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Photos 1-5 – "Treated" Auto Shredder Waste from the Simi Valley Landfill (mostly a pile of junk disguised on paper as TASW to avoid treatment costs, disposal fees and code requirements)



Photo 1



Photo 2



Photo 3



Photo 4 – Simi Valley Landfill TASW



Photo 5 – Enlargement “shredded, treated” ASW

### Metal Shredder Operators’ “F” Letters Treatment Excerpts

The “F” letters specify shredder waste treatment with six of the pre-existing operators approved to treat the waste with a proprietary blend, K-20. The treatment excerpts found in these letters are provided in Table 2.

**Table 2 – “F” Letter Treatment Excerpts**

	<b>F letter Operator<sup>15</sup></b>	<b>F Letter Treatment Excerpt</b>
1	Hugo Neu-Proler (SA Recycling)	Based on the results reported in the said report for <b>K-20</b> treated wastes, the Department has determined that such wastes have mitigating physical and/or chemical characteristics which render it insignificant as a hazardous waste pursuant to Section 66305, Title 22, California Administrative Code (CAC). Therefore this waste is classified as a nonhazardous waste.
2	Clean Steel (Pacific Rail) (Ecology Auto Parts)	Based on the results published in the above-mentioned reports for <b>K-20</b> treated auto shredder waste, the Department has determined such wastes have mitigating physical and/or chemical characteristics which render it insignificant as a hazardous waste pursuant to Section 66305, Title 22, California Administrative Code (CAC). Therefore this waste is classified as a nonhazardous waste.
3	Ferromet (Sims-Pacific Coast Recycling LLC)	Based on the results published in the above-mentioned reports for <b>K-20</b> treated auto shredder waste, the Department has determined such wastes have mitigating physical and/or chemical characteristics which render it insignificant as a hazardous waste pursuant to Section 66305, Title 22, California Administrative Code (CAC). Therefore this waste is classified as a nonhazardous waste.
4	Schnitzer	Based on the results published in the above mentioned reports for <b>K-20</b> treated auto shredder waste, the Department has determined that the waste has mitigating physical and/or chemical characteristics which render it insignificant as a hazard to human health and safety, livestock and wildlife pursuant to Section 66305 (e) Title 22, California Code of Regulation (CCR). Therefore this waste is classified as a nonhazardous waste.
5	Adams (SA Recycling)	This treated auto shredder waste consists of newly generated waste after it has been chemically fixed and solidified with a “ <b>generic</b> ” <b>silicate mix and cement</b> .....Pursuant to Section 66305(e), Title 22, California Code of Regulation (CCR), DHS has determined that the newly generated auto shredder waste from Orange County Steel Salvage, when treated with the “generic” silicate mix and cement, is classified as a nonhazardous waste.
6	LMC Corp/Sims (SA Recycling)	The DHS received a letter dated January 25, 1989, from Dr. George Trezek regarding initial results from using the <b>polysilicate treatment process</b> to mitigate the soluble heavy metals in LMC Metals’ auto shredder waste. ....DHS has reviewed the submitted data and has determined that TASW has mitigating physical and/or chemical characteristics which render TASW insignificant as a hazard to human health and safety, livestock and wildlife pursuant to 22 CCR 66305 (e). Accordingly, TASW generated from LMC is classified as a nonhazardous waste.
7	Golden State (SA Recycling)	According to the application and additional information, this nonhazardous classification is being requested for <u>currently generated TASW’s which are presently stockpiled</u> . ....The fine material (smaller than one inch) is then treated using <b>K-20</b> (potassium-silicate mixture with dispersing agents) in combination with cement or pozzalime. ...The Department has reviewed the submitted data and has determined that the TASW has mitigating physical and/or chemical characteristics which render TASW insignificant as a hazard to human health and safety, livestock and wildlife pursuant to 22 CCR 66260.200 (f). Accordingly, TASW currently generated from Golden State Metals is classified as a nonhazardous waste.

### Repeal of “F” Letters

From September 2008 to September 2009, the DTSC finally found some willpower to address this toxic mess but it collapsed under the industry’s pressure to back off. The Department issued four

<sup>15</sup> 1999 Sims Metal acquired Ferromet companies and the yards later were sold to Pacific Coast Recycling LLC, a Los Angeles-based exporter that uses them as feeder yards for its export operations and is no longer shredding autos; 2004 Clean Steel was purchased by Ecology Auto Parts which partnered with Boston Metals Company to form American National Recycling LLC headquarters in Ontario, CA; 2005 Hugo Neu-Proler merged with Sims; 2007 Adams Steel merged with Sims Group creating SA (Sims Adams) Recycling, LLC; Sims Metal Management is the world’s largest listed metal recycler with approximately 270 facilities and 6,600 employees globally.

notification letters to metal shredders and landfill operators concerning the department's examination to "re-classify" auto shredder waste. The letters are summarized as follows:

September 29, 2008 DTSC Letter to ASW Generators - Notification

- Repeal conditional authorization letters ('f' and 'e') issued in 1988 for ASW classification as non-hazardous waste for certain authorized shredder facilities
- Rescind Procedure 88-6 – regulation of inline treatment process for ASW
- Effective January 1, 2009
- Signature: DTSC Director

February 3, 2009 DTSC Letter to Landfill Owners/Operators – Notification Postponement 1

- Request of automobile shredder industry for more time
- January 1, 2009 Final Decision extension to March 30, 2009
- Signature: DTSC Senior Hazardous Substances Scientist

June 25, 2009 DTSC Letter to Landfill Owners/Operators – Notification Postponement 2

- Request of automobile shredder industry for more time
- March 30, 2009 extension to September 30, 2009
- Signature: DTSC Senior Hazardous Substances Scientist

September 25, 2009 DTSC Letter to Landfill Owners/Operators – Notification Postponement 3

- September 30, 2009 extension to **indefinite time**
- Contingent on **continuing progress in the development of alternative management standards** that are protective of human health and the environment
- Signature: DTSC Hazardous Substances Scientist (many staff levels below the Director)

The DTSC needs to explain to the public why it originally issued the September 29, 2008 letter and what it means by "progress in the development of alternative management standards" stated in the September 2009 letter and why no dates were associated with prospective actions.

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### Questions – F Letters and Treatment

1. Was it the intent of the DHS for the "F" letters to be an open-ended prospective means of reclassifying unlimited amounts of yet-to-be generated, untested metal shredder waste for an indefinite time?
2. Was it the intent of the DHS for the "F" letters to be a retrospective method for addressing the already existing waste stock piles (e.g., reference Golden State Metals "currently generated TASW's which are presently stockpiled")?
3. Was it the intent of the DHS to reclassify the waste piles based on the federal delisting process?
4. What was the exact number of samples tested for each pre-existing metal shredder operator and which serve as the basis for the DHS issuance of "F" letters?
5. Were the conclusions, "therefore the waste is classified as a nonhazardous waste" (Table 2) predicated by the statement specifically stipulating "K-20" treatment?
6. When the DTSC was made aware of the discontinued manufacturing of the K-20 proprietary blend, did the DTSC subsequently require each of the six metal shredders, using this

treatment blend, to submit their new treatment material and treated auto shredder waste samples and testing results in compliance with the referenced state code?

7. Did the DTSC re-issue "F" letters for metal shredder operators changing to a new proprietary blend, Metbond?
8. Did the DTSC re-issue "F" letters for metal shredder operators switching to the proprietary HP Treatment?
9. Did "inline" treatment as originally approved include manually spraying silicates on to auto shredder "fluff" before the material fell from the conveyor belt?
10. Does the authoritative definition of "inline" allow manual application of a treatment?
11. Does the DTSC have knowledge within its staff that metal shredders have manually sprayed treatment on open piles after the waste has left the conveyor belt?
12. What is meant by "inline treatment process" referenced in the September 29, 2008 letter?
13. What are the DTSC's written standards for ASW treatment materials specific to non-RCRA hazardous waste?
14. Can the DTSC produce written proof it has requested and reviewed data on fly ash used to coat TASW to ensure it is not hazardous or adding to the hazardous properties of TASW?
15. If per the industry's own admission, hazardous auto waste is shredded and larger pieces leave the conveyor belt without being properly treated, and supposedly are re-introduced to the shredder, isn't this practice a violation of the authoritative or approved "inline" requirements?
16. When the operators co-mingle the waste stream (extraneous untreated materials with TASW) are they creating a different waste stream category not addressed by the "F" letters and Policy and Procedure 88-6?
17. Can the DTSC produce written proof that it has required the appropriate testing of untreated extraneous shredded materials introduced into the TASW waste stream?
18. How does the DTSC ensure treatment materials and application processes meet standards as opposed to meeting testing requirements?
19. In its communications with CalRecycle, has DTSC alerted this agency to the fact that ordinary and hazardous untreated waste is co-mingled with the TASW in clear violation of the law and not meeting the requirements for and definition of alternative daily cover?
20. Why hasn't the DTDC repealed the "F" letters when known treatment conditions have changed without DTSC approval?

### **Questions – Loss of Revenue**

21. With untreated waste material of over four inches in size comingled in the treated auto shredder waste piles (even though this material is suppose to be sifted out) has the DTSC calculated the revenue lost to the state by allowing this unregulated practice?
22. Has the DTSC alerted CalRecycle to the fact that ordinary and hazardous untreated waste is co-mingled with the TASW and the operators are thereby avoiding the appropriate disposal fees?
23. Has the DTSC calculated the cost to the taxpayer for monitoring this industry, specifically treated auto shredder waste?
24. What revenue stream does the DTSC allocate for work conducted on this subject?

25. How much time did staff spend reviewing the 2012 ISRI report on treatment?
26. What was the calculated expenditure for reviewing the 2012 ISRI report on treatment?

**Questions – Management Standards, Actions and Enforcement**

27. What is meant by a DTSC "highest priority" project in practical terms?
28. Is the study of the metal shredder industry identified by the DTSC in its latest multi-year strategic plan?
29. What are the DTSC's objectives as referenced in the September 25, 2009 letter?
30. What specific actions will the DTSC's take to protect human health and safety to address known flaws in the ASW management standards?
31. What is the scheduled date that the DTSC will reveal to the public alternative management standards that are protective of human health and safety as stated in 2009?
32. What have been the specific actions DTSC's has completed in the past 20 years to adopt rulemaking to replace the acknowledged irregular and inconsistent "F" letters?
33. What is the status of the DTSC's re-classification of ASW from certain authorized shredder facilities as hazardous waste?
34. The ISRI 2012 report admits that the treatment process "has evolved" and with this clear violation of the "F" letters, what remedial or enforcement action has the DTSC taken?
35. Why did the DTSC staff meet with industry to discuss the 30-page ISRI 2012 report and never put their professional comments in writing as a record of the meetings and to share with the public as promised?
36. When will the DTSC create a webpage devoted to Auto Shredder Waste and post all the documents generated and information available on the webpage for public transparency?

I look forward to receiving a response from the DTSC to the questions and concerns raised in this letter in the time afforded by law.

Sincerely,

Alice M. Sterling

Email copy: Assemblyman Wilks; Senator Pavley; Simi Valley Mayor Bob Huber; DTSC Staff - Rick Brausch, Reed Sato, Brian Johnson, others