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11 CALIFORNIA SPORTFISHING
12 PROTECTION ALLIANCE

13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 CALIFORNIA SPORTFISHING
16 PROTECTION ALLIANCE, a non-profit
17 corporation,

17 Plaintiff,

18 vs.

19 ANDERSON LANDFILL, INC., a
20 Delaware corporation, USA WASTE OF
21 CALIFORNIA, INC., a Delaware
22 corporation, and MIKE RIVERA, an
individual,

22 Defendants.

Case No. 2:10-CV-00831-WBS-DAD

[PROPOSED] CONSENT AGREEMENT

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387; and, California
Health & Safety Code § 25249.5 *et seq.*)

23 **WHEREAS**, Plaintiff California Sportfishing Protection Alliance (hereinafter
24 “Plaintiff” or “CSPA”) is a non-profit public benefit corporation dedicated to the preservation,
25 protection, and defense of the environment, wildlife, and natural resources of California’s
26 waters;

1 **WHEREAS**, Defendant ANDERSON LANDFILL, INC., a Delaware corporation,
2 (“ALI”) owns and/or operates an approximately 1200-acre sanitary landfill in Anderson,
3 California (the “Facility”);

4 **WHEREAS**, ALI is a wholly-owned subsidiary of Defendant USA Waste of
5 California, Inc. (“USAW”), a Delaware corporation;

6 **WHEREAS**, Defendant MIKE RIVERA is the District Manager for ALI at the
7 Facility;

8 **WHEREAS**, ALI, USAW and Mr. Rivera collectively shall be referred to as the
9 “Defendants;”

10 **WHEREAS**, CSPA and Defendants collectively shall be referred to as the “Parties;”

11 **WHEREAS**, along the southern border of the Facility, the Facility collects and
12 discharges storm water to several unnamed streams that drain to Cottonwood Creek;

13 **WHEREAS**, along the northern border of the Facility, an unnamed creek receives
14 runoff from the Facility and discharges into Anderson Creek;

15 **WHEREAS**, both Cottonwood Creek and Anderson Creek ultimately flow into the
16 Sacramento River, and the Sacramento-San Joaquin Delta (a map of the Facility is attached
17 hereto as **Exhibit A** and incorporated herein by reference);

18 **WHEREAS**, storm water discharges associated with industrial activity are regulated
19 pursuant to the National Pollutant Discharge Elimination System (“NPDES”), General Permit
20 No. CAS000001 [State Water Resources Control Board], Water Quality Order No. 91-13-
21 DWQ (as amended by Water Quality Order 92-12 DWQ and 97-03-DWQ), issued pursuant to
22 Section 402 of the Clean Water Act, 33 U.S.C. § 1342 (hereinafter “General Permit”);

23 **WHEREAS**, on or about February 5, 2010, Plaintiff provided notice of Defendants’
24 alleged violations of the Clean Water Act, and of its intention to file suit against Defendants,
25 to the Administrator of the United States Environmental Protection Agency (“EPA”); the
26 Administrator of EPA Region IX; the Executive Director of the State Water Resources Control
27 Board (“State Board”); the Executive Officer of the Regional Water Quality Control Board,
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1 Central Valley Region (“Regional Board”); and to Defendants, as required by the Act, 33
2 U.S.C. § 1365(b)(1)(A) (true and correct copies of CSPA’s “Clean Water Act Notice Of
3 Violations Letter” is attached as **Exhibit B** and incorporated herein by reference);

4 **WHEREAS**, on or about September 16, 2010, Plaintiff provided notice of Defendants
5 ANDERSON LANDFILL, INC. and USA WASTE OF CALIFORNIA, INC.’s alleged
6 violations of California Health & Safety Code § 25249.5 *et seq.* (referred to as “Proposition
7 65”) (“Proposition 65 Notice Letter”), and of its intention to file suit to the Proposition 65
8 Enforcement Reporting section of the office of the California Attorney General (“California
9 Attorney General”); the District Attorney of each California county containing sources of
10 drinking water potentially impacted by such violations of Proposition 65 as described in the
11 Proposition 65 Notice Letter; and, to ANDERSON LANDFILL, INC. and USA WASTE OF
12 CALIFORNIA, INC., as required by California Health & Safety Code Section 25249.5, *et seq.*
13 (a true and correct copy of CSPA’s “Proposition 65 Notice Of Violations Letter” is attached as
14 **Exhibit C** and incorporated herein by reference);

15 **WHEREAS**, unless otherwise noted, the Clean Water Act Notice Of Violations Letter
16 and the Proposition 65 Notice Of Violations Letter shall hereinafter collectively be referred to
17 as “the Notices”;

18 **WHEREAS**, Defendants deny the occurrence of the violations alleged in the Notices
19 and maintain that they have complied at all times with the provisions of the Clean Water Act
20 and the General Permit, and California Health & Safety Code sections 25249.5 *et seq.*;

21 **WHEREAS**, CSPA filed a complaint (“Complaint”) against Defendants in the United
22 States District Court, Eastern District of California, on April 7, 2010 and filed a First
23 Amended Complaint pursuant to the Parties’ stipulated agreement on November 22, 2010;

24 **WHEREAS**, for purposes of this Consent Agreement only, the Parties stipulate that
25 venue is proper in this Court, and that Defendants do not contest the exercise of jurisdiction by
26 this Court to enter this Consent Agreement, but otherwise preserve all affirmative defenses in
27 the event this Consent Agreement is not entered by this Court;

1 **WHEREAS**, this Consent Agreement shall be submitted to the United States
2 Department of Justice for the 45-day statutory review period, pursuant to 33 U.S.C. § 1365(c)
3 and to the Proposition 65 Enforcement Reporting section of the office of the California
4 Attorney General; and shall thereafter be submitted for approval by the Court, the date of
5 which approval shall be referred to herein as the “Court Approval Date;”

6 **WHEREAS**, at the time the Consent Agreement is submitted for approval to the United
7 States District Court, CSPA shall request a dismissal of the First Amended Complaint with
8 prejudice and the Parties shall stipulate and request that the Court retain jurisdiction for the
9 enforcement of this Agreement as provided herein;

10 **AND WHEREAS**, the Parties agree that it is in their mutual interest to resolve this
11 matter without further litigation.

12 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE PARTIES,**
13 **AND ORDERED AND DECREED BY THE COURT, AS FOLLOWS:**

14 **I. COMMITMENT OF DEFENDANTS**

15 **1. Compliance With General Permit & Clean Water Act.** Beginning immediately, and
16 throughout the term of this Consent Agreement, ALI, as a corporate entity acting by and through its
17 designated agents, representatives and/or employees, shall commence all measures needed to operate
18 the Facility in full compliance with the requirements of the General Permit and the Clean Water Act,
19 subject to any defenses available under the law.

20 **2. ALI’s Implementation of Specific Storm Water Best Management Practices.**
21 Except as otherwise noted herein, within 30 days after the Court Approval Date, ALI shall complete or
22 cause to be completed the implementations of the following storm water control measures/best
23 management practices (“BMPs”):

24 (a) ALI shall continue collecting samples of storm water from established Facility
25 sampling points R-5A and R-5B as appropriate;

26 (b) ALI shall amend the Facility’s SWPPP and SWPPP site map to accurately reflect
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1 the precise geographic location of Facility sampling point R-6 by amending these documents to
2 include the latitude and longitude of sampling point R-6;

3 (c) ALI shall ensure that the edges of the Facility areas of active landfill operations
4 do not themselves become sources of erosion and pollution, and that they are graded in a way that will
5 prevent storm water from creating rills, channels and gullies, especially on the Facility's unpaved
6 access roads;

7 (d) ALI shall implement all erosion control BMPs currently articulated in the
8 Facility's SWPPP and Appendix B to its Storm Water Master Management Plan ("SWMMP")
9 throughout the Facility's network of unpaved access roads, especially those in the more remote
10 southern portions of the Facility;

11 (e) Where new unpaved access roads are built, ALI shall minimize road slopes and
12 shall grade such roads to employ rolling dips and/or water bars (as described in the SWPPP) as needed
13 to adequately reduce the erosion potential of such roads;

14 (f) Throughout the Wet Season (i.e., October 1 through May 31) in each of the two
15 Wet Seasons occurring during the term of this Consent Agreement (i.e., 2011-2012 and 2012-2013),
16 ALI shall assign personnel to monitor local weather reporting in order to identify when the next
17 anticipated qualifying storm event is likely to occur at the Facility; and,

18 (g) ALI shall include a visual monitoring inspection form in the SWPPP and train
19 Facility personnel responsible for conducting visual monitoring of storm water in the proper use of the
20 form.

21 **3. SWPPP Amendments/Additional BMPs.** Within 30 days after the Court Approval
22 Date, ALI shall formally amend the SWPPP for the Facility to incorporate all of the requirements of
23 this Consent Agreement.

24 **4. Sampling Frequency.** ALI shall collect and analyze or cause to be collected and
25 analyzed samples from each discharge point formally designated in the Facility SWPPP from four (4)
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1 Qualifying Storm Events¹ (to the extent that such Qualifying Storm Events occur and to the extent that
2 the discharge point has actual discharge during the qualifying event), in each of the two Wet Seasons
3 occurring during the term of this Consent Agreement (2011-2012 and 2012-2013). The storm water
4 sample results shall be compared with the values set forth in **Exhibit D**, attached hereto, and
5 incorporated herein by reference. If the results of any such samples exceed the parameter values set
6 forth in **Exhibit D**, ALI shall comply with the “Action Memorandum” requirements set forth below.

7 **5. Sampling Parameters.** All samples shall be analyzed for each of the constituents
8 listed in **Exhibit D** by a laboratory accredited by the State of California.² All samples collected from
9 the Facility shall be delivered to the laboratory as soon as possible to ensure that sample “hold time” is
10 not exceeded. Analytical methods used by the laboratory shall be adequate to detect the individual
11 constituents at or below the values specified on **Exhibit D**. Sampling results shall be provided to
12 CSPA within TEN (10) business days of Defendants’ receipt of the laboratory report from each
13 sampling event pursuant to the Notice provisions below. In the event that two consecutive samples
14 from a given discharge point measure any sample parameter (other than pH, Oil & Grease, Specific
15 Conductivity and Total Suspended Solids) as not present in significant quantities³, Defendants shall
16 not be obligated to continue to sample for that parameter at that discharge point for the duration of the
17 agreement.

18 **6. “Action Memorandum” Trigger; CSPA Review Of “Action Memorandum”;**
19 **Meet-and-Confer.** If any sample taken during the two (2) Wet Seasons referenced in Paragraph 4

20 _____
21 ¹ “Qualifying Storm Events” under the General Permit are those events in which (i) the samples taken are
22 preceded by at least three (3) working days during which no storm water discharges from the Facility have
23 occurred; (ii) the samples are collected within the first hour that flow is observed at the Discharge Point being
24 sampled; and (iii) the samples are collected during daylight operating hours.

25 ² CSPA’s agreement to the terms of this Consent Agreement shall not constitute a waiver of CSPA’s right to
26 assert and argue in any future proceeding that the General Permit requires the sampling of additional pollutant
27 parameters at the Facility, including but not limited to arsenic, cadmium, chemical oxygen demand, lead,
28 magnesium, mercury, nitrate + nitrite, selenium, and silver.

³ The phrase “significant quantities” is used herein as defined in the General Permit: “the volume,
concentrations, or mass of a pollutant that can cause or threaten to cause pollution, contamination, or nuisance;
adversely impact human health or the environment; and/or cause or contribute to a violation of any applicable
water quality standards for the receiving water.”

1 above exceeds the evaluation levels set forth in **Exhibit D**, or if ALI fails to collect and analyze
2 samples from four (4) storm events, as qualified in the General Permit, ALI shall prepare a written
3 statement discussing the exceedance(s) and /or failure to collect and analyze samples from four (4)
4 storm events, the possible cause and/or source of the exceedance(s), and additional measures (if any)
5 that will be taken to address and eliminate the problem and future exceedances (“Action
6 Memorandum”). The Action Memorandum shall be provided to CSPA not later than July 15th
7 following the conclusion of each Wet Season. Recognizing that a SWPPP is an ongoing iterative
8 process meant to encourage innovative BMPs, such additional measures may include, but are not
9 limited to, taking confirmation samples and/or taking samples in other locations, further material
10 improvements to the storm water collection and discharge system, changing the frequency of Facility
11 sweeping, changing the type and extent of storm water filtration media or modifying other industrial
12 activities or management practices at the Facility. Such additional measures, to the extent feasible,
13 shall be implemented immediately and in no event later than 60 days after the due date of the Action
14 Memorandum. Within THIRTY (30) days of implementation, the Facility SWPPP shall be amended
15 to include all additional BMP measures designated in the Action Memorandum. CSPA may review
16 and comment on an Action Memorandum and suggest any additional pollution prevention measures it
17 believes are appropriate, including, but not necessarily sampling locations other than currently
18 implemented; however, CSPA’s failure to do so shall not be deemed to constitute agreement with the
19 proposals set forth in the Action Memorandum. Upon request by CSPA, ALI agrees to meet and
20 confer in good faith (at the Facility, if requested by Plaintiff) regarding the contents and sufficiency of
21 the Action Memorandum.

22 **7. Inspections During The Term Of This Consent Agreement.** In addition to any site
23 inspections conducted as part of the meet-and-confer process concerning an Action Memorandum as
24 set forth above, ALI shall permit representatives of CSPA to perform up to three (3) physical
25 inspections of the Facility during the term of this Consent Agreement. These inspections shall be
26 performed by CSPA’s counsel and consultants and may include sampling, photographing, and/or
27 videotaping. CSPA shall provide ALI with a copy of all sampling reports, photographs and/or video
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1 arising from such site inspections. CSPA shall provide at least forty-eight (48) hours advance notice
2 of such physical site inspection, except that Defendants shall have the right to deny access if
3 circumstances would make the inspection unduly burdensome and pose significant interference with
4 business operations or any party/attorney, or the safety of individuals. In such case, ALI shall specify
5 at least three (3) dates within the two (2) weeks thereafter upon which a physical inspection by CSPA
6 may proceed. ALI shall not make any alterations to Facility conditions during the period between
7 receiving CSPA's initial forty-eight (48) hour advance notice and the start of CSPA's inspection that
8 Defendants would not otherwise have made but for receiving notice of CSPA's request to conduct a
9 physical inspection of the Facility, excepting any actions taken in compliance with any applicable laws
10 or regulations. Nothing herein shall be construed to prevent ALI from continuing to implement any
11 BMPs identified in the SWPPP during the period prior to an inspection by CSPA or at any time.

12 **8. Defendants' Communications with Regional and State Boards.** During the term of
13 this Consent Agreement, ALI shall provide CSPA with copies of all documents submitted to or
14 received from the Regional Board or the State Board concerning storm water discharges from the
15 Facility, including, but not limited to, all documents and reports submitted to the Regional Board
16 and/or State Board as required by the General Permit. Such documents and reports shall be provided
17 to CSPA pursuant to the Notice provisions herein (at ¶ 25) and contemporaneously with ALI's
18 submission to such agencies.

19 **9. SWPPP Amendments.** ALI shall provide CSPA with a copy of any amendments to
20 the Facility SWPPP made during the term of the Consent Agreement within fourteen (14) days of such
21 amendment.

22 **II. MITIGATION, PAYMENT IN LIEU OF CIVIL PENALTIES, COMPLIANCE**
23 **MONITORING AND FEES AND COSTS**

24 **10.** As mitigation of the Clean Water Act violations alleged in CSPA's First Amended
25 Complaint, ALI agrees to pay the sum of \$20,000 within SEVEN (7) business days after the Court
26 Approval Date to the Rose Foundation for Communities and the Environment (6008 College Avenue,
27 Oakland, CA 94618, Attn: Tim Little) for projects to improve water quality in Anderson Creek,
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1 Cottonwood Creek, the Sacramento River and/or the Sacramento-San Joaquin-San Francisco Bay-
2 River Delta”. In lieu of any civil penalty assessment against corporate defendants Anderson Landfill,
3 Inc. or USA Waste under Proposition 65, ALI agrees to pay the additional sum of \$10,000 to the Rose
4 Foundation for Communities and the Environment within SEVEN (7) business days after the Court
5 Approval Date. These additional funds shall be used to reduce exposures to toxic chemicals, and to
6 increase consumer, worker and community awareness of the health hazards posed by toxic chemicals
7 consistent with the statutory goals of Proposition 65.

8 **11.** ALI agrees to reimburse CSPA in the amount of \$47,500 to defray CSPA’s reasonable
9 investigative, expert, consultant and attorneys’ fees and costs, and all other costs incurred as a result of
10 investigating the activities at the Facility, bringing the Action and negotiating a resolution in the public
11 interest. Such payment shall be made payable to “Law Offices of Andrew L. Packard Attorney-Client
12 Trust Account ” within SEVEN (7) business days after the Court Approval Date.

13 **12. Compliance Monitoring Funding.** To defray CSPA’s reasonable investigative,
14 expert, consultant and attorneys’ fees and costs associated with monitoring Defendants’ compliance
15 with this Consent Agreement, ALI agrees to contribute \$7,500 total to a compliance monitoring fund
16 maintained by counsel for CSPA as described below. Compliance monitoring activities may include,
17 but shall not be limited to, site inspections, review of water quality sampling reports, review of annual
18 reports, discussions with representatives of Defendants concerning the Action Memoranda referenced
19 above, and potential changes to compliance requirements herein, preparation for and participation in
20 meet-and-confer sessions, water quality sampling and analysis, and compliance-related activities.
21 Payment shall be made payable to “Law Offices of Andrew L. Packard Attorney-Client Trust
22 Account” within SEVEN (7) business days of the Court Approval Date.

23 **III. DISPUTE RESOLUTION AND ENFORCEMENT OF CONSENT AGREEMENT**

24 **13.** With the exception of the timelines set forth above for addressing exceedances of
25 values specified on **Exhibit D** and Action Memoranda, if a dispute under this Consent Agreement
26 arises, or either Party believes that a breach of this Consent Agreement has occurred, CSPA and ALI
27 shall meet and confer within seven (7) days of receiving written notification from the other Party of a
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1 request for a meeting to determine whether a violation has occurred and to develop a mutually agreed
2 upon plan, including implementation dates, to resolve the dispute. If CSPA and ALI fail to meet and
3 confer, or the meet-and-confer does not resolve the issue, after at least seven days have passed after
4 the meet-and-confer occurred or should have occurred, either Party shall be entitled to all rights and
5 remedies under the law, including filing a motion with the District Court of California, Eastern
6 District, which shall retain jurisdiction over the Action for the limited purposes of enforcement of the
7 terms of this Consent Agreement. CSPA and ALI shall be entitled to seek fees and costs incurred in
8 any such motion, and such fees and costs shall be awarded, pursuant to the provisions set forth in
9 Section 505(d) of the Clean Water Act, 33 U.S.C. §1365(d), and applicable case law interpreting such
10 provision.

11 **14. CSPA’s Waiver and Release.** Upon Court approval and entry of this Consent
12 Agreement, CSPA, on its own behalf and on behalf of its members, subsidiaries, successors, assigns,
13 directors, officers, agents, attorneys, representatives, and employees, releases Defendants and their
14 officers, directors, employees, shareholders, parents, subsidiaries, and affiliates, and each of their
15 predecessors, successors and assigns, and each of their agents, attorneys, consultants, and other
16 representatives (each a “Released Defendant Party”) from, and waives all claims which arise or could
17 have arisen from or pertain to the Action, including, without limitation, all claims for injunctive relief,
18 damages, penalties, fines, sanctions, mitigation, fees (including fees of attorneys, experts, and others),
19 costs, expenses or any other sum incurred or claimed or which could have been claimed in this Action,
20 for the alleged failure of Defendants to comply with the Clean Water Act and the alleged failure of
21 corporate defendants Anderson Landfill, Inc.. and USA Waste to comply with Proposition 65 at the
22 Facility, up to the Effective Date of this Consent Agreement.

23 **15.** During the term of the Consent Agreement, CSPA agrees that neither CSPA, its
24 officers, executive staff, or members of its governing board nor any organization under the
25 control of CSPA, its officers, executive staff, or members of its governing board, will file any
26 lawsuit against Defendants seeking relief for alleged violations of the Clean Water Act,
27 General Permit or Proposition 65 that have occurred or that may be occurring at the Facility.
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1 CSPA further agrees that, during the term of the Consent Agreement, CSPA will not support
2 other lawsuits, by providing financial assistance, personnel time or other affirmative actions,
3 against Defendants that may be proposed by other groups that or individuals who would rely
4 upon the citizen suit provision of the Clean Water Act to challenge Defendants' compliance
5 with the Clean Water Act or General Permit at the Facility, or rely on the private enforcement
6 provisions of Proposition 65 to challenge Anderson Landfill, Inc. and USA Waste's
7 compliance with Proposition 65 at the Facility.

8 **16. Defendants' Waiver and Release.** Defendants, on their own behalf and on behalf of
9 those Released Defendant Parties under its control, releases CSPA (and its officers, directors,
10 employees, members, parents, subsidiaries, and affiliates, and each of their successors and assigns, and
11 its agents, attorneys, and other representative) from, and waives all claims which arise or could have
12 arisen from or pertain to the Action, including all claims for fees (including fees of attorneys, experts,
13 and others), costs, expenses or any other sum incurred or claimed or which could have been claimed
14 for matters associated with or related to the Action.

15 **17.** Upon the Court Approval Date, the Parties shall file with the Court a Stipulation and
16 Order that shall provide that:

- 17 a. the First Amended Complaint and all claims therein shall be dismissed with
18 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2); and
19 b. the Court shall retain and have jurisdiction over CSPA and Defendants with
20 respect to disputes arising under this Agreement.

21 Nothing in this Consent Agreement shall be construed as a waiver of any party's right to appeal from
22 an order that arises from an action to enforce the terms of this Consent Agreement. The Parties agree
23 that Defendant Mike Rivera shall be dismissed from this matter and that all obligations under this
24 Consent Decree shall be those of ALI and CSPA, and not of Defendant Mike Rivera.

25 **IV. MISCELLANEOUS PROVISIONS**

26 **18.** The Parties enter into this Consent Agreement for the purpose of avoiding prolonged
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1 and costly litigation. Nothing in this Consent Agreement shall be construed as, and Defendants
2 expressly do not intend to imply, an admission as to any fact, finding, issue of law, or violation of law,
3 nor shall compliance with this Consent Agreement constitute or be construed as an admission by
4 Defendants of any fact, finding, conclusion, issue of law, or violation of law. However, this paragraph
5 shall not diminish or otherwise affect the obligation, responsibilities, and duties of the Parties under
6 this Consent Agreement.

7 **19.** The Consent Agreement shall terminate on September 30, 2013.

8 **20.** The Consent Agreement may be executed in one or more counterparts which, taken
9 together, shall be deemed to constitute one and the same document. An executed copy of this Consent
10 Agreement shall be valid as an original.

11 **21.** In the event that any one of the provisions of this Consent Agreement is held by a court
12 to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

13 **22.** The language in all parts of this Consent Agreement, unless otherwise stated, shall be
14 construed according to its plain and ordinary meaning. This Consent Agreement shall be construed
15 pursuant to California law, without regard to conflict of law principles.

16 **23.** The undersigned are authorized to execute this Consent Agreement on behalf of their
17 respective parties and have read, understood and agreed to be bound by all of the terms and conditions
18 of this Consent Agreement.

19 **24.** All agreements, covenants, representations and warranties, express or implied, oral or
20 written, of the Parties concerning the subject matter of this Consent Agreement are contained herein.
21 This Consent Agreement and its attachments are made for the sole benefit of the Parties, and no other
22 person or entity shall have any rights or remedies under or by reason of this Stipulated Judgment,
23 unless otherwise expressly provided for therein.

24 **25. Notices.** Any notices or documents required or provided for by this Consent
25 Agreement or related thereto that are to be provided to CSPA pursuant to this Consent Agreement
26 shall be hand-delivered or sent by U.S. Mail, postage prepaid, and addressed as follows or, in the
27 alternative, shall be sent by electronic mail transmission to the email addresses listed below:
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Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue
Stockton, CA 95204
E-mail: DeltaKeep@aol.com

With copies sent to:

Andrew L. Packard
Erik M. Roper
Law Offices of Andrew L. Packard
100 Petaluma Boulevard North, Suite 301
Petaluma, CA 94952
Tel: (707) 763-7227
E-mail: Andrew@packardlawoffices.com
Erik@packardlawoffices.com

And to:

Robert J. Tuerck, Esq.
Jackson & Tuerck
P.O. Box 148
429 W. Main Street, Suite C
Quincy, CA 95971
Tel: 530-283-0406
Fax: 530-283-0416
E-mail: Bob@JacksonTuerck.com

Any notices or documents required or provided for by this Consent Agreement or related thereto that are to be provided to ALI pursuant to this Consent Agreement shall be sent by U.S. Mail, postage prepaid, and addressed as follows or, in the alternative, shall be sent by electronic mail transmission to the email addresses listed below:

Anderson Landfill, Inc.
18703 Cambridge Road
Anderson, CA 96007
Tel: 530.347.5236
Fax: (530) 347-7056

With copies sent to:

John Lynn Smith, Esq.
Reed Smith, LLP
101 Second Street, Suite 1800
San Francisco, CA 94105
Tel: 415.659.4863
Fax: 415.391.8269
E-mail: jlsmith@reedsmith.com

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Andrew M. Kenefick, Esq.
Waste Management Legal Department
801 Second Avenue, Suite 614
Seattle, WA 98104
Tel: (206) 264-3062
Fax: (866) 863-7961
E-mail: akenefick@wm.com

Each Party shall promptly notify the other of any change in the above-listed contact information.

26. Signatures of the Parties transmitted by facsimile or email shall be deemed binding.

27. Neither CSPA, Anderson Landfill, Inc. nor USA Waste shall be considered to be in default in the performance of any of its obligations when a failure to perform is due to a “Force Majeure.” A Force Majeure event is any circumstances beyond the Party’s control, including, without limitation, any act of God, war, fire, earthquake, flood, and restraint by court order or public authority. A Force Majeure event does not include normal inclement weather, such as anything less than or equal to a 100 year/24-hour storm event, or inability to pay. Any Party seeking to rely upon this paragraph shall have the burden of establishing that it could not reasonably have been expected to avoid, and which by exercise of due diligence has been unable to overcome, the Force Majeure.

28. If for any reason the Court should decline to approve this Consent Agreement in the form presented, the Parties shall use their best efforts to work together to modify the Consent Agreement within thirty (30) days so that it is acceptable to the Court. If the Parties are unable to modify this Consent Agreement in a mutually acceptable manner, this Consent Agreement shall become null and void.

29. This Consent Agreement shall be deemed to have been drafted equally by the Parties, and shall not be interpreted for or against any Party on the ground that any such party drafted it.

30. This Consent Agreement and the attachments contain all of the terms and conditions agreed upon by the Parties relating to the matters covered by the Consent Agreement, and supersede any and all prior and contemporaneous agreements, negotiations, correspondence, understandings, and communications of the Parties, whether oral or written, respecting the matters covered by this Consent Agreement. This Consent Agreement may be amended or modified only by a writing signed by CSPA, Anderson Landfill, Inc. and USA Waste or their authorized representatives, and then by order

1 of the Court.

2 31. Except in case of an emergency but subject to the regulatory authority of any applicable
3 governmental authority, any breach of or default under this Consent Agreement capable of being cured
4 shall be deemed cured if, within five (5) days of first receiving notice of the alleged breach or default,
5 or within such other period approved in writing by the Party making such allegation, which approval
6 shall not be unreasonably withheld, the party allegedly in breach or default has completed such cure
7 or, if the breach or default can be cured but is not capable of being cured within such five (5) day
8 period, has commenced and is diligently pursuing to completion such cure.

9 The Parties hereto enter into this Consent Agreement and respectfully submit it to the Court for
10 its approval and entry as an Order and Final Judgment, provided, however that, pursuant to 33 U.S.C.
11 § 1365(c)(3), the Court shall not enter this Consent Agreement until 45 days after receipt of a copy of
12 the proposed Consent Agreement by the Attorney General and the Administrator of the U.S.
13 Environmental Protection Agency. If the Attorney General and the Administrator of the U.S.
14 Environmental Protection Agency do not submit comments on the Consent Agreement, the
15 Parties shall notify the Court when the 45-day statutory review period has ended.

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17 Dated: 17 May 2011 California Sportfishing Protection Alliance

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19 By: Bill Jennings
20 Bill Jennings, Executive Director

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22 Dated: _____ Anderson Landfill, Inc.

23

24 By: _____
25 Robert E. Longo
26 Vice President and Assistant Secretary

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1 of the Court.

2 31. Except in case of an emergency but subject to the regulatory authority of any applicable
3 governmental authority, any breach of or default under this Consent Agreement capable of being cured
4 shall be deemed cured if, within five (5) days of first receiving notice of the alleged breach or default,
5 or within such other period approved in writing by the Party making such allegation, which approval
6 shall not be unreasonably withheld, the party allegedly in breach or default has completed such cure
7 or, if the breach or default can be cured but is not capable of being cured within such five (5) day
8 period, has commenced and is diligently pursuing to completion such cure.

9 The Parties hereto enter into this Consent Agreement and respectfully submit it to the Court for
10 its approval and entry as an Order and Final Judgment, provided, however that, pursuant to 33 U.S.C.
11 § 1365(c)(3), the Court shall not enter this Consent Agreement until 45 days after receipt of a copy of
12 the proposed Consent Agreement by the Attorney General and the Administrator of the U.S.
13 Environmental Protection Agency. If the Attorney General and the Administrator of the U.S.
14 Environmental Protection Agency do not submit comments on the Consent Agreement, the
15 Parties shall notify the Court when the 45-day statutory review period has ended.

16
17 Dated: _____

California Sportfishing Protection Alliance

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19 By: _____

Bill Jennings, Executive Director

20
21 Dated: May 18, 2011

Anderson Landfill, Inc.

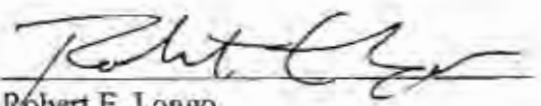
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23 By: _____

24 Robert E. Longo
25 Vice President and Assistant Secretary
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Dated: May 18, 2011

USA Waste of California, Inc.

By: 
Robert E. Longo
Vice President and Assistant Secretary

Dated: _____

Mike Rivera

By: _____
Mike Rivera

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Dated: _____ USA Waste of California, Inc.

By: _____
Robert E. Longo
Vice President and Assistant Secretary

Dated: 5/19/2011 _____ Mike Rivera

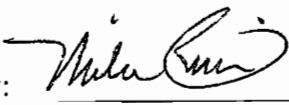
By:  _____
Mike Rivera

EXHIBIT A – Facility Site Map

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Scale: 1" = 600'

Legends:

▲ - Current Sampling Points

ANDERSON LANDFILL

STORM WATER SAMPLING POINTS

EXHIBIT B – Clean Water Act Notice of Violation

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California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

3536 Rainier Avenue, Stockton, CA 95204

Tel: 209-464-5067, Fax: 209-464-1028, E: deltakeep@aol.com

February 5, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Greg Johnson
Mr. Mike Rivera
Facility Manager/Operator
Anderson Landfill, Inc.
18703 Cambridge Rd.
Anderson, CA 96007

USA Waste of California, Inc.
c/o: C T Corporation System
818 West Seventh St.
Los Angeles, CA 90017

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Messrs. Johnson and Rivera:

I am writing on behalf of the California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act ("the Act") occurring at the Anderson Landfill, Inc. ("ALI") aggregate facility located at 18703 Cambridge Road in Anderson, California ("the Facility"). The WDID identification number for the Facility is 5R45I005373. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of Cache Creek, the Sacramento River and other California waters. This letter is being sent to you as the responsible owner, officer, or operator of ALI.

This letter addresses ALI's unlawful discharges of pollutants from the Facility to the storm water conveyance system for the City of Anderson and/or an unnamed tributary of Cottonwood Creek, all of which ultimately drain to Cottonwood Creek, which is tributary to the Sacramento River and the Sacramento-San Joaquin Bay Delta ("the Delta"). This letter addresses the ongoing violations of the substantive and procedural requirements of the Federal Water Pollution Control Act ("the Clean Water Act") and the National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-

DWQ, as amended by Order No. 97-03-DWQ (“General Industrial Storm Water Permit”).

Section 505(b) of the Clean Water Act provides that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen must give notice of intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency (“the EPA”), and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, ALI is hereby placed on formal notice by CSPA that, after the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, CSPA intends to file suit in federal court against ALI under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Industrial Storm Water Permit. These violations are described more fully below.

I. Background.

ALI owns and operates a landfill owns and operates a Municipal Solid Waste (“MSW”) landfill about 3.5 miles southwest of Anderson, California. The Facility is primarily used to dispose of municipal solid waste; other current activities at the Facility include recycling, and the use, storage, and maintenance of motorized vehicles, including trucks used to haul materials to and from the Facility.

On April 7, 1992, ALI submitted its notice of intent (“1992 NOI”) to comply with the terms of the General Industrial Storm Water Permit. The Facility is classified as a landfill under Standard Industrial Classification code 4953 (“Landfill”). The Facility collects and discharges storm water from its 246-acre¹ industrial site through at least six discharge points to the local storm water conveyance system and/or an unnamed tributary of Cottonwood Creek, all of which ultimately drain to Cottonwood Creek, which is tributary to the Sacramento River and the Sacramento-San Joaquin Bay Delta (“the Delta”). The Delta, the Sacramento River, and the creeks that receive storm water discharges from the Facility are waters of the United States within the meaning of the Clean Water Act.

The Central Valley Regional Water Quality Control Board (“Regional Board” or “Board”) has established water quality standards for the Sacramento River and the Delta in the “Water Quality Control Plan for the Sacramento River and San Joaquin River Basins,” generally referred to as the Basin Plan. The Basin Plan includes a narrative toxicity standard which states that “[a]ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human,

¹ The Facility is described as being 1200 acres in size in the 1992 Notice of Intent to Comply With The Terms of the General Industrial Storm Water Permit.

plant, animal, or aquatic life.” For the Delta, the Basin Plan establishes standards for several metals, including (at a hardness of 40 mg/L): arsenic – 0.01 mg/L; cadmium – 0.00022 mg/L; copper – 0.0056 mg/L; iron – 0.3 mg/L for iron; and zinc – 0.016 mg/L. *Id.* at III-3.00, Table III-1. The Basin Plan states that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/L.” *Id.* at III-3.00. The Basin Plan also provides that “[t]he pH shall not be depressed below 6.5 nor raised above 8.5.” *Id.* at III-6.00. The Basin Plan also prohibits the discharges of oil and grease, stating that “[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that cause nuisance, result in a visible film or coating on the surface of the water or on objects in the water, or otherwise adversely affect beneficial uses.” *Id.* at III-5.00

The Basin Plan also provides that “[a]t a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs).” *Id.* at III-3.0. The EPA has issued a recommended water quality criteria for aluminum for freshwater aquatic life protection of 0.087 mg/L. EPA has established a secondary MCL, consumer acceptance limit for aluminum of 0.05 mg/L to 0.2 mg/L. EPA has established a secondary MCL, consumer acceptance limit for zinc of 5 mg/L. EPA has established a primary MCL, consumer acceptance limit for the following: chromium – 0.1 mg/L; copper – 1.3 mg/L; and lead – 0.0 (zero) mg/L. *See* <http://www.epa.gov/safewater/mcl.html>. The California Department of Health Services has also established the following MCL, consumer acceptance levels: aluminum – 1 mg/L (primary) and 0.2 mg/L (secondary); chromium – 0.5 mg/L (primary); copper – 1.0 (secondary); iron – 0.3 mg/L; and zinc – 5 mg/L. *See* California Code of Regulations, title 22, §§ 64431, 64449.

EPA has also issued numeric receiving water limits for certain toxic pollutants in California surface waters, commonly known as the California Toxics Rule (“CTR”). 40 CFR §131.38. The CTR establishes the following numeric limits for freshwater surface waters: arsenic – 0.34 mg/L (maximum concentration) and 0.150 mg/L (continuous concentration); chromium (III) – 0.550 mg/L (maximum concentration) and 0.180 mg/L (continuous concentration); copper – 0.013 mg/L (maximum concentration) and 0.009 mg/L (continuous concentration); lead – 0.065 mg/L (maximum concentration) and 0.0025 mg/L (continuous concentration).

The Regional Board has also identified waters of the Delta as failing to meet water quality standards for unknown toxicity, electrical conductivity, numerous pesticides, and mercury. *See* <http://www.swrcb.ca.gov/tmdl/docs/2002reg5303dlist.pdf>. Discharges of listed pollutants into an impaired surface water may be deemed a “contribution” to the exceedance of CTR, a water quality standard, and may indicate a failure on the part of a discharger to implement adequate storm water pollution control measures. *See Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 375 F.3d 913, 918 (9th Cir. 2004); *see also Waterkeepers Northern Cal. v. Ag Indus. Mfg., Inc.*, 2005 WL 2001037 at *3, 5 (E.D. Cal., Aug. 19, 2005) (discharger covered by the General Industrial

Storm Water Permit was “subject to effluent limitation as to certain pollutants, including zinc, lead, copper, aluminum and lead” under the CTR).

The General Industrial Storm Water Permit incorporates benchmark levels established by EPA as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable (“BAT”) and best conventional pollutant control technology (“BCT”). The following benchmarks have been established for pollutants discharged by ALI: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; and iron – 1.0 mg/L. The State Water Quality Control Board also recently proposed adding a benchmark level for specific conductance of 200 µmho/cm. Additional parameters for pollutants that CSPA believes may be discharged from the Facility are: copper – 0.0636 mg/L; lead – 0.0816 mg/L; mercury – 0.0024 mg/L; and zinc – 0.117 mg/L.

II. Pollutant Discharges in Violation of the NPDES Permit.

ALI has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand (“BOD”) and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

Receiving Water Limitation C(1) of the General Industrial Storm Water Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Industrial Storm Water Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board’s Basin Plan.

On January 22, 2008, the Regional Board sent ALI an Inspection Report relating to a compliance inspection “of the Anderson Class III Landfill and Class II Surface Impoundment” conducted by a representative from the Regional Board on January 10, 2008 (“the Inspection Report”). The Inspection Report informed ALI of numerous areas of concern found throughout the Facility during the Regional Board’s compliance inspection, including, but not limited to, poorly designed and/or implemented best management practices resulting in inadequate erosion control. The January 22, 2008 letter from the Regional Board accompanying the Inspection Report ordered ALI to: (1)

sample stormwater runoff at Cambridge Road prior to discharging north between the North of Cambridge Road unit and analyze the sample for mercury and lead; (2) include this data in ALI's next regularly scheduled semiannual monitoring report and the annual stormwater monitoring report; (3) file an updated SWPPP by July 1, 2008; and, (4) provide the Regional Board a report by February 15, 2008 detailing: (a) Actions taken to repair damage to the final cover in Unit 1, erosion of the South Stockpile, removal of accumulated sediment in stormwater drainages and containment structures (hay bale barriers, etc.), and, erosion of the uncapped portions of Unit 1; (b) Actions taken to remove all stormwater from Unit 4B and include assurances that stormwater has been sampled in the vicinity of the leachate seep in Unit 4A and the E-Waste storage area; and, (c) provide the Final As-Built Drawings and Construction Report for Unit 4B and the Report of Findings regarding the Class II surface impoundment liner leak investigation.

Based on its review of available public documents, CSPA is informed and believes that ALI failed to comply with all of the Regional Board's orders expressed in its letter and accompanying Inspection Report from January 22, 2008. For example, ALI filed an updated SWPPP on July 3, 2008, and promised therein that "[p]er RWQCB ALI is testing for mercury and lead on R-5A," (July 3, 2008 SWPPP, p. 4). However, in fact, no such data was reported in its 2008-2009 Annual Report. This is a direct violation of the Board's January 22, 2008 order to include sampling data for mercury and lead in its next scheduled stormwater monitoring report, i.e., the 2008-2009 Annual Report. CSPA is informed and believes that ALI has continued to operate in violation of the General Permit despite the Regional Board's inspection and subsequent follow up requests described above. ALI's ongoing violations are discussed further below.

A. ALI Has Discharged Storm Water Containing Pollutants in Violation of the Permit.

ALI has discharged and continues to discharge stormwater with unacceptable levels of total suspended solids (TSS), Iron (Fe), Oil and Grease (O&G) and pH in violation of the General Industrial Storm Water Permit. These high pollutant levels have been documented during significant rain events, including the rain events indicated in the table of rain data attached hereto as Attachment A. ALI's Annual Reports and Sampling and Analysis Results confirm discharges of materials other than stormwater and specific pollutants in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1988).

The following discharges of pollutants from the ALI Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit:

1. Discharges of Storm Water Containing Total Suspended Solids at Concentrations in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
11/3/2008	R-5A	TSS	6300 mg/L	100 mg/L
2/9/2007	R-4A	TSS	170 mg/L	100 mg/L
2/27/2006	R-4	TSS	812 mg/L	100 mg/L
2/27/2006	R-5	TSS	898 mg/L	100 mg/L
2/27/2006	R-8	TSS	331 mg/L	100 mg/L
12/1/2005	R-3	TSS	210 mg/L	100 mg/L
12/1/2005	R-4	TSS	1000 mg/L	100 mg/L
11/7/2005	R-5	TSS	130 mg/L	100 mg/L
11/7/2005	R-8	TSS	590 mg/L	100 mg/L

2. Discharges of Storm Water Containing Iron (Fe) at Levels in Excess of EPA Multi-Sector Benchmark Values.

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
11/3/2008	R-5A	Fe	300,000 µg/L	1000 µg/L
11/3/2008	R-8A	Fe	13,000 µg/L	1000 µg/L
4/11/2007	R-3A	Fe	1700 µg/L	1000 µg/L
4/11/2007	R-5A	Fe	22000 µg/L	1000 µg/L
2/9/2007	R-3A	Fe	5700 µg/L	1000 µg/L
2/9/2007	R-4A	Fe	19000 µg/L	1000 µg/L
2/9/2007	R-7A	Fe	3100 µg/L	1000 µg/L
2/9/2007	R-8A	Fe	2800 µg/L	1000 µg/L
2/8/2007	R-5A	Fe	1700 µg/L	1000 µg/L
2/27/2006	R-4	Fe	55900 µg/L	1000 µg/L
2/27/2006	R-5	Fe	51500 µg/L	1000 µg/L
2/27/2006	R-8	Fe	24000 µg/L	1000 µg/L
12/1/2005	R-3	Fe	33000 µg/L	1000 µg/L
12/1/2005	R-4	Fe	110000 µg/L	1000 µg/L
11/7/2005	R-5	Fe	11000 µg/L	1000 µg/L
11/7/2005	R-8	Fe	43000 µg/L	1000 µg/L

3. *Discharges of Storm Water with a pH Outside the Basin Plan's Acceptable Range.*

Date	Outfall	Parameter	Discharge	Basin Plan Values
2/27/2006	R-8	pH	6.01	6.5 – 8.5

4. *Discharges of Storm Water Containing Oil and Grease (O&G) at Levels in Excess of EPA Multi-Sector Benchmark Values.*

Date	Outfall	Parameter	Concentration in Discharge	EPA Benchmark Value
11/03/2008	R-5A	O&G	<50 mg/L	15 mg/L

CSPA's investigation, including its review of ALI's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of EPA's benchmark values and the Basin Plan's benchmark for pH, indicates that ALI has not implemented BAT and BCT at the Facility for its discharges of TSS, Iron (Fe), Oil and Grease (O&G) and unacceptable levels of pH, and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. ALI was required to have implemented BAT and BCT by no later than October 1, 1992 or the start of its operations. Thus, ALI is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

CSPA is informed and believes that ALI has known that its stormwater contains pollutants at levels exceeding EPA Benchmarks and other water quality criteria since at least February 5, 2005. CSPA alleges that such violations also have occurred and will occur on other rain dates, including during every single significant rain event that has occurred since February 5, 2005, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CSPA alleges that ALI has discharged storm water containing impermissible levels of pH, TSS, O&G and Iron (Fe), and other un-monitored pollutants in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Industrial Storm Water Permit.

These unlawful discharges from the Facility are ongoing. Each discharge of stormwater containing any pollutants from the Facility without the implementation of BAT/BCT constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, ALI is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since February 5, 2005.

B. ALI Has Failed to Implement an Adequate Monitoring & Reporting Plan.

Section B of the General Industrial Storm Water Permit requires that dischargers develop and implement an adequate Monitoring and Reporting Plan by no later than October 1, 1992 or the start of operations. Sections B(3), B(4) and B(7) require that dischargers conduct regularly scheduled visual observations of non-storm water and storm water discharges from the Facility and to record and report such observations to the Regional Board. Section B(5)(a) of the General Industrial Storm Water Permit requires that dischargers “shall collect storm water samples during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season. All storm water discharge locations shall be sampled.” Section B(5)(c)(i) further requires that the samples shall be analyzed for total suspended solids, pH, specific conductance, and total organic carbon. Oil and grease may be substituted for total organic carbon. Facilities, such as ALI, designated under SIC 4953 are also required to sample for iron. Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all “[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities.”

Based on its investigation, CSPA is informed and believes that ALI has failed to develop and implement an adequate Monitoring & Reporting Plan. First, ALI has failed to collect storm water samples from each discharge point during at least two qualifying storm events (as defined by the General Permit) during each of the past five years. Second, ALI has failed to conduct all required visual observations of non-storm water and storm water discharges at the Facility. Each of these failures constitutes a separate and ongoing violation of the General Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, ALI is subject to penalties for violations of the General Industrial Storm Water Permit and the Act since February 5, 2005. These violations are set forth in greater detail below.

1. ALI Has Failed to Collect Storm Water Samples from Each Discharge Point During at least Two Rain Events In Each of the Last Five Years.

Based on its review of publicly available documents, CSPA is informed and believes that ALI has failed to collect at least two storm water samples from all discharge points during qualifying rain events at the Facility during each of the past five years. For example, CSPA notes that during the 2006-2007 wet season, ALI failed to collect at least two storm water samples from four of the Facility’s six discharge points. (*See, e.g., ALI, 2006-2007 Annual Report, at 3, item E.5*). Further, CSPA is informed and believes that February 8-9, 2007 was not the first qualifying storm event for the 2006-2007 wet season. ALI’s failure to sample the first qualifying storm event constitutes an additional and separate violation of the General Permit.

Continuing its pattern and practice of failing to collect the required minimum of two storm water samples from each discharge point, ALI failed to collect any storm water samples from any of its six designated discharge points for the entire 2007-2008 wet season. Based on CSPA's review of publicly available rainfall data from this region and a review of the historic rainfall monitoring station data, the assertion that there were no qualifying storm events during the 2007-2008 wet season quite simply strains credulity. Similarly, ALI's 2008-2009 Annual Report indicates it only sampled from two of its six discharge points on only one qualifying storm event during the entire 2008-2009 wet season. Again, based on publicly available rainfall data from this region and a review of the historic rainfall monitoring station data, the assertion that there was only one qualifying storm event during the entire 2008-2009 wet season is very difficult to believe.

Moreover, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than those currently designated by ALI. Each of these failures to adequately monitor storm water discharges constitutes a separate and ongoing violation of the General Industrial Storm Water Permit and the Clean Water Act.

2. *ALI Has Failed to Analyze Its Storm Water for All Pollutants Required by the General Industrial Storm Water Permit.*

Section B(5)(c)(ii) of the General Permit requires dischargers to analyze samples for all "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities." Based on its investigation, CSPA is informed and believes that ALI has failed to monitor for at least eleven other pollutants likely to be present in storm water discharges in significant quantities – aluminum, arsenic, chemical oxygen demand, chromium, copper, lead, manganese, mercury, nickel, nitrate+nitrite and zinc. ALI's failure to monitor these pollutants extends back at least until February 5, 2005. ALI's failure to monitor these mandatory parameters has caused and continues to cause multiple separate and ongoing violations of the Permit and the Act.

3. *ALI Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since February 5, 2005.*

CSPA is informed and believes that available documents demonstrate ALI's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in violation of Section B of the General Industrial Storm Water Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, ALI is subject to penalties for these violations of the General Industrial Storm Water Permit and the Act since February 5, 2005.

C. *ALI Has Failed to Implement BAT and BCT.*

Effluent Limitation B(3) of the General Industrial Storm Water Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through

implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). CSPA's investigation indicates that ALI has not implemented BAT and BCT at the Facility for its discharges of TSS, O&G, pH, iron and other unmonitored pollutants in violation of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

To meet the BAT/BCT requirement of the General Permit, ALI must evaluate all pollutant sources at the Facility and implement the best structural and non-structural management practices economically achievable to reduce or prevent the discharge of pollutants from the Facility. Based on the limited information available regarding the internal structure of the Facility, CSPA believes that at a minimum ALI must improve its housekeeping practices, store materials that act as pollutant sources (e.g., electronic waste, aka "e-waste") under cover or in contained areas, treat storm water to reduce pollutants before discharge (e.g., with filters or treatment boxes), and/or prevent storm water discharge altogether. ALI has failed to implement such measures adequately.

ALI was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, ALI has been in continuous violation of the BAT and BCT requirements every day since October 1, 1992, and will continue to be in violation every day that ALI fails to implement BAT and BCT. ALI is subject to penalties for violations of the Order and the Act occurring since February 5, 2005.

D. ALI Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

Section A(1) and Provision E(2) of the General Industrial Storm Water Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) requires dischargers who submitted an NOI pursuant to the Order to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must also include BMPs that achieve BAT and BCT (Effluent Limitation B(3)).

The SWPPP is required to include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow

pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)). Receiving Water Limitation C(3) of the Order requires that dischargers submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce the discharge of any pollutants causing or contributing to the exceedance of water quality standards.

CSPA's investigation and review of available documents regarding conditions at the Facility indicate that ALI has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. ALI has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. ALI has been in continuous violation of Section A(1) and Provision E(2) of the General Industrial Storm Water Permit every day since October 1, 1992, and will continue to be in violation every day that ALI fails to develop and implement an effective SWPPP. ALI is subject to penalties for violations of the Order and the Act occurring since February 5, 2005.

E. ALI Has Failed to Address Discharges Contributing to Exceedances of Water Quality Standards.

Receiving Water Limitation C(3) requires a discharger to prepare and submit a report to the Regional Board describing changes it will make to its current BMPs in order to prevent or reduce the discharge of any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. Once approved by the Regional Board, the additional BMPs must be incorporated into the Facility's SWPPP. The report must be submitted to the Regional Board no later than 60-days from the date the discharger first learns that its discharge is causing or contributing to an exceedance of an applicable water quality standard. Receiving Water Limitation C(4)(a). Section C(11)(d) of the Permit's Standard Provisions also requires dischargers to report any noncompliance. *See also* Provision E(6). Lastly, Section A(9) of the Permit requires an annual evaluation of storm water controls including the preparation of an evaluation

report and implementation of any additional measures in the SWPPP to respond to the monitoring results and other inspection activities.

As indicated above, ALI is discharging elevated levels of total suspended solids, Iron (Fe), O&G, and pH that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutants, ALI was required to submit a report pursuant to Receiving Water Limitation C(4)(a) within 60-days of becoming aware of levels in its storm water exceeding the EPA Benchmarks and applicable water quality standards.

Based on CSPA's review of available documents, ALI was aware of high levels of these pollutants prior to February 5, 2005. Likewise, ALI has not filed any reports describing its noncompliance with the General Industrial Storm Water Permit in violation of Section C(11)(d). Lastly, the SWPPP and accompanying BMPs do not appear to have been altered as a result of the annual evaluation required by Section A(9). ALI has been in continuous violation of Receiving Water Limitation C(4)(a) and Sections C(11)(d) and A(9) of the General Industrial Storm Water Permit every day since February 5, 2005, and will continue to be in violation every day that ALI fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. ALI is subject to penalties for violations of the General Industrial Storm Water Permit and the Act occurring since February 5, 2005.

F. ALI Has Failed to File Timely, True and Correct Reports.

Section B(14) of the General Industrial Storm Water Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Industrial Storm Water Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Industrial Storm Water Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

CSPA's investigation indicates that ALI has signed and submitted incomplete Annual Reports and purported to comply with the General Industrial Storm Water Permit despite significant noncompliance at the Facility. As indicated above, ALI has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, ALI has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time ALI submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. ALI's failure to submit true and complete reports constitutes continuous and ongoing violations of the Permit and the Act. ALI is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since February 5, 2005.

III. Persons Responsible for the Violations.

CSPA hereby puts ALI, Greg Johnson, Mike Rivera and USA Waste of California, Inc. on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CSPA puts ALI on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Party.

Our name, address and telephone number is as follows: California Sportfishing Protection Alliance, Bill Jennings, Executive Director; 3536 Rainier Avenue, Stockton, CA 95204; Phone: (209) 464-5067.

V. Counsel.

CSPA has retained legal counsel to represent it in this matter. Please direct all communications to:

Andrew L. Packard, Esq.
Erik Roper, Esq.
Law Offices of Andrew L. Packard
100 Petaluma Blvd North, Suite 301
Petaluma, California 94952
Tel. (707) 763-7227
Fax. (707) 763-9227
Email: Andrew@PackardLawOffices.com

And to:

Robert J. Tuerck, Esq.
Jackson & Tuerck
P.O. Box 148
429 W. Main Street, Suite C
Quincy, CA 95971
Tel: 530-283-0406
Fax: 530-283-0416
E-mail: Bob@JacksonTuerck.com

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects ALI, Greg Johnson, Mike Rivera and USA Waste of California, Inc. to civil penalties of \$32,500 per day per violation for all violations occurring after March 15, 2004, and \$37,500 per day per violation for all violations occurring after January 12,

Notice of Violation and Intent To File Suit

February 5, 2010

Page 14 of 14

2009. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. §1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CSPA believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the Act against ALI, Greg Johnson, Mike Rivera and USA Waste of California, Inc. for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Jennings". The signature is written in a cursive, flowing style with a large initial "B" and "J".

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jared Blumenfeld
Administrator, U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Eric Holder
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dorothy R. Rice, Executive Director
State Water Resources Control Board
1001 I Street Sacramento, CA 95814
P.O. Box 100
Sacramento, CA 95812-0100

Pamela Creedon, Executive Officer
Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive #200
Rancho Cordova, CA 95670-6114

ATTACHMENT A

**Notice of Intent to File Suit, ALI (Anderson, CA)
Significant Rain Events,* February 5, 2005-February 5, 2010**

Feb. 13 2005	Nov. 25 2005	Mar. 06 2006	Nov. 22 2006
Feb. 16 2005	Nov. 28 2005	Mar. 07 2006	Nov. 23 2006
Feb. 17 2005	Nov. 29 2005	Mar. 12 2006	Nov. 26 2006
Feb. 19 2005	Nov. 30 2005	Mar. 13 2006	Nov. 27 2006
Feb. 20 2005	Dec. 01 2005	Mar. 14 2006	Dec. 08 2006
Feb. 21 2005	Dec. 10 2005	Mar. 15 2006	Dec. 09 2006
Feb. 22 2005	Dec. 17 2005	Mar. 16 2006	Dec. 10 2006
Feb. 27 2005	Dec. 18 2005	Mar. 17 2006	Dec. 11 2006
March 01 2005	Dec. 19 2005	Mar. 20 2006	Dec. 12 2006
March 02 2005	Dec. 20 2005	Mar. 23 2006	Dec. 13 2006
March 18 2005	Dec. 21 2005	Mar. 24 2006	Dec. 14 2006
March 19 2005	Dec. 22 2005	Mar. 25 2006	Dec. 17 2006
March 20 2005	Dec. 23 2005	Mar. 27 2006	Dec. 21 2006
March 21 2005	Dec. 25 2005	Mar. 28 2006	Dec. 22 2006
March 22 2005	Dec. 26 2005	Mar. 29 2006	Dec. 26 2006
March 23 2005	Dec. 27 2005	Mar. 30 2006	Dec. 27 2006
March 24 2005	Dec. 28 2005	Mar. 31 2006	Jan. 03 2007
March 25 2005	Dec. 29 2005	April 01 2006	Jan. 04 2007
March 27 2005	Dec. 30 2005	April 02 2006	Feb. 07 2007
March 28 2005	Dec. 31 2005	April 03 2006	Feb. 08 2007
April 03 2005	Jan. 01 2006	April 05 2006	Feb. 09 2007
April 07 2005	Jan. 02 2006	April 06 2006	Feb. 10 2007
April 08 2005	Jan. 03 2006	April 07 2006	Feb. 11 2007
April 09 2005	Jan. 04 2006	April 09 2006	Feb. 16 2007
April 23 2005	Jan. 05 2006	April 10 2006	Feb. 22 2007
April 24 2005	Jan. 10 2006	April 11 2006	Feb. 24 2007
April 25 2005	Jan. 11 2006	April 12 2006	Feb. 25 2007
April 30 2005	Jan. 13 2006	April 13 2006	Feb. 27 2007
May 04 2005	Jan. 14 2006	April 15 2006	Feb. 28 2007
May 05 2005	Jan. 17 2006	April 16 2006	Mar. 02 2007
May 08 2005	Jan. 18 2006	April 26 2006	Mar. 10 2007
May 09 2005	Jan. 19 2006	May 19 2006	Mar. 11 2007
May 10 2005	Jan. 20 2006	May 20 2006	Mar. 26 2007
May 15 2005	Jan. 21 2006	May 21 2006	April 11 2007
May 17 2005	Jan. 28 2006	May 22 2006	April 14 2007
May 18 2005	Jan. 30 2006	Oct. 04 2006	April 16 2007
May 19 2005	Feb. 01 2006	Nov. 02 2006	April 19 2007
Oct. 14 2005	Feb. 02 2006	Nov. 03 2006	April 21 2007
Oct. 26 2005	Feb. 03 2006	Nov. 04 2006	April 22 2007
Oct. 28 2005	Feb. 04 2006	Nov. 06 2006	April 23 2007
Oct. 29 2005	Feb. 26 2006	Nov. 11 2006	May 01 2007
Oct. 30 2005	Feb. 27 2006	Nov. 12 2006	May 02 2007
Nov. 03 2005	Feb. 28 2006	Nov. 13 2006	May 03 2007
Nov. 04 2005	Mar. 01 2006	Nov. 14 2006	May 04 2007
Nov. 07 2005	Mar. 02 2006	Nov. 16 2006	May 06 2007
Nov. 08 2005	Mar. 03 2006	Nov. 18 2006	Oct. 09 2007
Nov. 09 2005	Mar. 05 2006	Nov. 21 2006	Oct. 10 2007

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

ATTACHMENT A

**Notice of Intent to File Suit, ALI (Anderson, CA)
Significant Rain Events,* February 5, 2005-February 5, 2010**

Oct. 12 2007	Jan. 31 2008	Jan. 24 2009	Oct. 23 2009
Oct. 13 2007	Feb. 02 2008	Jan. 30 2009	Nov. 06 2009
Oct. 15 2007	Feb. 04 2008	Feb. 06 2009	Nov. 17 2009
Oct. 16 2007	Feb. 09 2008	Feb. 07 2009	Nov. 20 2009
Oct. 17 2007	Feb. 21 2008	Feb. 08 2009	Nov. 21 2009
Oct. 19 2007	Feb. 22 2008	Feb. 10 2009	Nov. 24 2009
Oct. 20 2007	Feb. 23 2008	Feb. 11 2009	Dec. 11 2009
Oct. 22 2007	Feb. 24 2008	Feb. 12 2009	Dec. 12 2009
Nov. 10 2007	Feb. 26 2008	Feb. 13 2009	Dec. 13 2009
Nov. 13 2007	Mar. 12 2008	Feb. 14 2009	Dec. 15 2009
Nov. 19 2007	Mar. 28 2008	Feb. 15 2009	Dec. 16 2009
Dec. 03 2007	April 22 2008	Feb. 16 2009	Dec. 17 2009
Dec. 04 2007	April 23 2008	Feb. 17 2009	Dec. 18 2009
Dec. 06 2007	April 26 2008	Feb. 18 2009	Dec. 20 2009
Dec. 07 2007	May 24 2008	Feb. 19 2009	Dec. 21 2009
Dec. 16 2007	Oct. 03 2008	Feb. 22 2009	Dec. 22 2009
Dec. 17 2007	Oct. 04 2008	Feb. 23 2009	Dec. 25 2009
Dec. 18 2007	Oct. 06 2008	Feb. 24 2009	Dec. 27 2009
Dec. 19 2007	Oct. 30 2008	Feb. 25 2009	Dec. 29 2009
Dec. 20 2007	Oct. 31 2008	Feb. 26 2009	Dec. 30 2009
Dec. 27 2007	Nov. 01 2008	Mar. 01 2009	Dec. 31 2009
Dec. 28 2007	Nov. 02 2008	Mar. 03 2009	Jan. 01 2010
Dec. 29 2007	Nov. 03 2008	Mar. 04 2009	Jan. 02 2010
Dec. 30 2007	Nov. 04 2008	Mar. 15 2009	Jan. 12 2010
Jan. 03 2008	Nov. 06 2008	Mar. 16 2009	Jan. 13 2010
Jan. 04 2008	Nov. 07 2008	Mar. 17 2009	Jan. 16 2010
Jan. 05 2008	Nov. 09 2008	April 09 2009	Jan. 17 2010
Jan. 06 2008	Nov. 13 2008	April 10 2009	Jan. 18 2010
Jan. 07 2008	Dec. 14 2008	April 24 2009	Jan. 19 2010
Jan. 08 2008	Dec. 15 2008	May 01 2009	Jan. 20 2010
Jan. 09 2008	Dec. 16 2008	May 02 2009	Jan. 21 2010
Jan. 10 2008	Dec. 18 2008	May 03 2009	Jan. 23 2010
Jan. 12 2008	Dec. 19 2008	May 04 2009	Jan. 24 2010
Jan. 13 2008	Dec. 21 2008	May 05 2009	Jan. 25 2010
Jan. 21 2008	Dec. 24 2008	May 06 2009	Jan. 26 2010
Jan. 22 2008	Dec. 25 2008	May 07 2009	Jan. 31 2010
Jan. 24 2008	Dec. 28 2008	Oct. 13 2009	Feb. 01 2010
Jan. 25 2008	Dec. 30 2008	Oct. 14 2009	Feb. 02 2010
Jan. 26 2008	Jan. 02 2009	Oct. 16 2009	Feb. 04 2010
Jan. 27 2008	Jan. 06 2009	Oct. 18 2009	
Jan. 28 2008	Jan. 22 2009	Oct. 19 2009	
Jan. 29 2008	Jan. 23 2009	Oct. 20 2009	

* Dates gathered from publicly available rain and weather data collected at stations located near the Facility.

EXHIBIT C – Proposition 65 Notice of Violation

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LAW OFFICES OF
ANDREW L. PACKARD

100 PETALUMA BLVD N, STE 301, PETALUMA, CA 94952

PHONE (707) 763-7227 FAX (707) 763-9227

INFO@PACKARDLAWOFFICES.COM

September 16, 2010

(See attached Certificate of Service)

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**

Dear Public Enforcement Agencies, Anderson Landfill, Inc. and USA Waste of California, Inc.:

This office represents the California Sportfishing Protection Alliance (“CSPA”), a California non-profit public benefit corporation with over 2,000 members. CSPA is dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of California’s waters, including Anderson Creek, Cottonwood Creek, the San Joaquin River, the Sacramento River, and the Sacramento-San Joaquin Delta and their tributaries.

CSPA has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as “Proposition 65”). This letter serves to provide you and the Violators with CSPA's notification of these violations. Pursuant to §25249.7(d) of the statute, CSPA intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies commence and diligently prosecute an action against these violations. A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violators. The specific details of the violations that are the subject of this notice are provided below.

The names of the violators covered by this notice are **ANDERSON LANDFILL, INC.**, and **USA WASTE OF CALIFORNIA, INC.** (hereinafter referred to as “the Violators”). These violations involve the discharge of lead, lead compounds, mercury and mercury compounds from an active landfill to sources of drinking water. These Proposition 65-listed toxins have been discharged, and are likely to continue to be discharged, by the Violators from their facility located at 18703 Cambridge Road in Anderson, California (“the Violators’ Facility”).

The Violators are discharging lead, lead compounds, mercury and mercury compounds from the Violators’ Facility to designated sources of drinking water in violation of Proposition 65. The Violators are allowing storm water and other surface waters contaminated with lead, lead compounds, mercury and mercury compounds to discharge from the Violators’ Facility into Anderson Creek and its tributaries and Cottonwood Creek and its tributaries, and thence to the Sacramento River.

Anderson Creek, Cottonwood Creek and the Sacramento River are designated as sources of drinking water in the “Water Quality Control Plan for the Sacramento River and San Joaquin River Basins,” generally referred to as the “Basin Plan.”

Information available to CSPA indicates that these ongoing unlawful discharges have been occurring since at least approximately September 16, 2007. As part of its public interest mission and to rectify these ongoing violations of California law, CSPA is interested in resolving these violations expeditiously, without the necessity of costly and protracted litigation. CSPA’s address is 3536 Rainier Avenue, Stockton, CA 95204. The name and telephone number of the noticing individual within CSPA is Bill Jennings, Executive Director, (209) 464-5067. CSPA has retained legal counsel to represent it in this matter. Therefore, please direct all communications regarding this notice to CSPA’s outside counsel in this matter:

Andrew L. Packard
Erik M. Roper
Hallie Beth Albert
Law Offices of Andrew L. Packard
100 Petaluma Boulevard North, Suite 301
Petaluma, CA 94952
Tel. (707) 763-7227
Fax. (707) 763-9227
Andrew@PackardLawOffices.com

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew L. Packard", written in a cursive style.

Andrew L. Packard
Attorneys for Plaintiff
California Sportfishing Protection Alliance

cc: (see attached Certificate of Service)

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EXHIBIT D

Parameter	Action Memorandum Trigger
Iron	10.0 mg/L ⁴
Aluminum	0.75 mg/L
Copper	0.063 mg/L
Zinc	0.117 mg/L
Oil & Grease	15.0 mg/L
pH	6.5 – 8.5
Specific Conductivity	200 µmho/cm
Total Suspended Solids	100.0 mg/L
Turbidity	None

⁴ For iron, the Action Memorandum is triggered only if the Action Memorandum Trigger is exceeded during two different sampling events during a Wet Season.