



California Sportfishing Protection Alliance

"An Advocate for Fisheries, Habitat and Water Quality"

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April 9, 2010

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dale Gustafson
Mr. Dan Gustafson
Gustafson Auto Wrecking And Towing, Inc.
19748 Collyer Drive
Redding, CA 96003

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

Dear Sirs:

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 Gustafson Auto Wrecking And Towing, Inc. ("GAW") vehicle dismantling and automotive parts recycling facility located at 19748 Collyer Drive in Redding, California ("the Facility"). The WDID identification number for the Facility is 5R45I003253. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife and natural resources of Stillwater Creek, the Sacramento River, the Sacramento-San Joaquin Delta and other California waters. This letter is being sent to you as the responsible owners, officers, or operators of GAW. For purposes of this Notice of Violations and Intent to File Suit, "GAW" shall also refer to Mr. Dale Gustafson and Mr. Dan Gustafson.

This letter addresses GAW's unlawful discharges of pollutants from the Facility to Stillwater Creek, which in turn ultimately flows into the Sacramento River and the Sacramento-San Joaquin Delta. This letter addresses the ongoing violations of the substantive and procedural requirements of the Clean Water Act and National Pollutant Discharge Elimination System ("NPDES") General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 91-13-DWQ, as amended by Order No. 97-03-DWQ ("General Permit" or "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, GAW, Mr. Dale Gustafson and Mr. Dan Gustafson are 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 GAW, Mr. Dale Gustafson and Mr. Dan Gustafson 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.

GAW operates a vehicle dismantling and automotive parts recycling facility located in Redding, California. The Facility receives, dismantles, stores, reclaims, processes and recycles automotive vehicles and automotive parts. The Facility also accepts vehicles for crushing and subsequent recycling. Other activities at the facility include the use, storage, and maintenance of heavy machinery.

On or about April 3, 1992, GAW submitted its notice of intent to comply with the terms of the General Industrial Storm Water Permit. The Facility is classified as an auto dismantling facility under Standard Industrial Classification (“SIC”) Code 5015 (“Facilities Engaged in Dismantling or Wrecking Used Motor Vehicles for Parts Recycling or Resale”). The Facility collects and discharges storm water from its approximately nine-acre industrial site through at least two discharge points to Stillwater Creek, which in turn ultimately drains 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 discharge 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 (the “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, 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; copper – 0.01; iron – 0.3 mg/L; and zinc – 0.1 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) (finding that a 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 GAW: pH – 6.0-9.0; total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; iron – 1.0 mg/L; lead – 0.0816 mg/L; aluminum – 0.75 mg/L; copper – 0.0636 mg/L; zinc – 0.117

mg/L; and, chemical oxygen demand – 120 mg/L. The State Water Quality Control Board has proposed adding a benchmark level for specific conductance of 200 μ mhos/cm.

II. Pollutant Discharges in Violation of the NPDES Permit.

GAW 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 such as the General Permit. 33 U.S.C. § 1342. 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 August 7, 2002, a representative of the Regional Water Quality Control Board, Region 5, conducted an inspection of the Facility. Facility contacts present during the inspection included Mr. Dale Gustafson. Subsequently, on September 19, 2002, Mary Randall of the Regional Board sent a letter to Mr. Dale Gustafson noting the following: (1) The inspector noted the need to cover and/or contain all exposed transmissions and engines in the Facility’s yard; (2) The SWPPP for the Facility must be revised to include any new or modified Best Management Practices; (3) The inspector noted GAW did have a complete SWPPP or Monitoring Program available for review during the inspection; and, (4) GAW must submit a copy of the Facility’s SWPPP and Monitoring Program to the Regional Board by October 18, 2002.

Based on its review of available public documents, CSPA is informed and believes that GAW likely discharges myriad pollutants in excess of benchmarks and that GAW has failed to implement BMPs adequate to bring its discharge of these pollutants in compliance with the General Permit. Further, based on its review of publicly available documents, CSPA is informed and believes that GAW has failed to comply with the Regional Board’s order that GAW submit a copy of the Facility’s completed SWPPP and

Monitoring Program for the Facility to the Regional Board. GAW's ongoing violations are discussed further below.

A. GAW 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 GAW, designated under SIC Code 5015 are also required to sample for Iron (Fe), Lead (Pb) and Aluminum (Al). 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 GAW has failed to develop and implement an adequate Monitoring & Reporting Plan. CSPA's review of publicly available records reveals that: (1) there is no 2008-2009 Annual Report for GAW on file at the Regional Board office; (2) the Regional Board sent GAW Notices of Noncompliance in 2005, 2006 and 2008 due to GAW's failure to timely file Facility's Annual Report of Storm Water Discharges Associated With Industrial Activities ("Annual Report"); (3) the Annual Reports GAW did file for the 2006-2007 and 2007-2008 periods further establish GAW's failure to sample two storm events as required by the General Permit; (4) the Annual Reports GAW filed for the 2006-2007 and 2007-2008 periods also demonstrate GAW's chronic failure to collect samples of storm water discharges from each of the Facility's two designated discharge points; and, (5) GAW has failed to collect samples of storm water discharge during the first hour of a qualifying storm event as required by the General Permit.

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, GAW is subject to penalties for violations of the General Permit and the Act since April 9, 2005. These violations are set forth in greater detail below:

1. GAW 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 GAW 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.

Moreover, based on its investigation, CSPA is informed and believes that storm water discharges from the Facility at points other than the two discharge points currently designated by GAW. This failure to adequately monitor storm water discharges constitutes a separate and ongoing violation of the General Permit and the Clean Water Act.

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

Section B(5)(c)(i) of the General Industrial Storm Water Permit requires GAW to sample for total suspended solids, specific conductivity, pH, and oil & grease or total organic carbons. The General Permit also requires facilities such as GAW which are designated as SIC Code 5015 to analyze its storm water discharge for Iron (Fe), Lead (Pb) and Aluminum (Al). Further, based on its investigation, CSPA is informed and believes that GAW has failed to monitor for other pollutants likely to be present in storm water discharges in significant quantities. Other pollutants likely to be present in the Facility's storm water discharges include: benzene, toluene, antimony, arsenic, boron, beryllium, cadmium, chromium, cobalt, manganese, mercury, molybdenum, nickel, selenium, silver, thallium and vanadium. GAW's failure to monitor these pollutants extends back to at least April 9, 2005. GAW's failure to monitor these other pollutants likely to be present in the Facility's storm water discharges has caused and continues to cause multiple separate and ongoing violations of the Permit and the Act.

3. GAW Is Subject to Penalties for Its Failure to Implement an Adequate Monitoring & Reporting Plan Since April 9, 2005.

CSPA is informed and believes that available documents demonstrate GAW's consistent and ongoing failure to implement an adequate Monitoring Reporting Plan in violation of Section B of the General Permit. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, GAW is subject to penalties for these violations of the General Permit and the Act since April 9, 2005.

B. GAW Has Failed to Implement BAT and 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). CSPA's investigation indicates that GAW has not implemented BAT and BCT at the Facility for its discharges of Iron (Fe), Lead (Pb), Aluminum (Al), Benzene (C₆H₆), Toluene (CH₃), Antimony (Sb), Arsenic (As), Boron (B), Beryllium (Be), Cadmium (Cd), Chromium (Cr), Cobalt (Co), Manganese (Mn), Mercury (Hg), Molybdenum, Nickel (Ni), Selenium (Se), Silver (Ag), Thallium (Tl) and Vanadium (V) in violation of Effluent Limitation B(3) of the General Permit.

To meet the BAT/BCT requirement of the General Permit, GAW 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 GAW must improve its housekeeping practices, store materials that act as pollutant sources 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. GAW has failed to adequately implement such measures.

GAW was required to have implemented BAT and BCT by no later than October 1, 1992. Therefore, GAW 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 GAW fails to implement BAT and BCT. GAW is subject to penalties for violations of the Order and the Act occurring since April 9, 2005.

C. GAW Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

Section A(1) and Provision E(2) of the General 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 must 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 GAW has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. GAW has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. GAW 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 GAW fails to develop and implement an effective SWPPP. GAW is subject to penalties for violations of the Order and the Act occurring since April 9, 2005.

D. GAW 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, GAW is likely discharging elevated levels of Iron (Fe), Lead (Pb), Aluminum (Al), Benzene (C₆H₆), Toluene (CH₃), Antimony (Sb), Arsenic (As), Boron (B), Beryllium (Be), Cadmium (Cd), Chromium (Cr), Cobalt (Co), Manganese (Mn), Mercury (Hg), Molybdenum, Nickel (Ni), Selenium (Se), Silver (Ag), Thallium (Tl) and Vanadium (V) that are causing or contributing to exceedances of applicable water quality standards. For each of these pollutant exceedances, GAW 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, GAW was aware of high levels of many of these pollutants prior to April 9, 2005 and yet has failed to any reports describing its non-compliance with the General 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). GAW 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 April 9, 2005, and will continue to be in violation every day that it fails to prepare and submit the requisite reports, receives approval from the Regional Board and amends its SWPPP to include approved BMPs. GAW is subject to penalties for violations of the General Industrial Storm Water Permit and the Act occurring since April 9, 2005.

E. GAW 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 GAW has signed and submitted incomplete Annual Reports and purported to comply with the General Permit despite significant noncompliance at the Facility. For example, in both its 2006-2007 and 2007-2008 Annual Reports, GAW admitted it failed to collect samples of storm water discharge from two qualifying storm events each wet season as required by the General Permit. The

explanation for this failure provided in the 2006-2007 Annual Report states:

I try to take the first sample in Nov or Dec. which I did in December 2006. And the second sample some time in April May or June. As it barley [sic] rained in April I thought it would pour in May. It dident [sic]. So I could not take one. We cant control Mother Nature. Hope it dosent [sic] get me into trouble. I tried [sic]. We have been in compliance for so many years and always try to do the right thing.

The explanation for this failure provided in the 2007-2008 Annual Report states:

[T]he same thing happend [sic] this year as it did last year not enough rain in the spring to take samples. Next year I will take both samples in the winter, when it rains more. I always try to be in compliance by takeing [sic] 2 samples its [sic] hard to do in a droght [sic]. Thanks Da [sic] Gustafson

Notwithstanding these assertions, based on its review of publicly available data on precipitation for the area, CSPA is informed and believes that GAW's assertions that there were not at least two qualifying storm events during both the 2006-2007 and 2007-2008 rainy seasons are incorrect. To wit, CSPA notes the following: (1) based on its own reporting as stated in its 2007-2008 Annual Report, GAW collected a sample of storm water discharged from the Facility's southeast drain on December 7, 2007; (2) publicly available precipitation data for the area reveals that 0.03 inches of precipitation was recorded as falling in the area on December 7, 2007; and, (3) between October 1, 2007 and May 31, 2008 (the 2007-2008 rainy season for purposes of General Permit compliance), there were no less than 50 days where at least 0.03 inches of rainfall were recorded for the area; further, see Attachment A below, which includes dates on which 0.10 inches or more of precipitation was recorded as having fallen in the area. Thus, GAW has failed to submit true and complete reports to the extent it has misrepresented to the Regional Board the frequency of qualifying storm events during which GAW could have collected a second sample of storm water discharge as required by the General Permit.

As indicated above, GAW has failed to comply with the Permit and the Act consistently for at least the past five years; therefore, GAW has violated Sections A(9)(d), B(14) and C(9) & (10) of the Permit every time it submitted an incomplete or incorrect annual report that falsely certified compliance with the Act in the past years. GAW's failure to submit true and complete reports constitutes continuous and ongoing violations of the General Permit and the Act. GAW is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since April 9, 2005.

III. Persons Responsible for the Violations.

CSPA puts GAW, Mr. Dale Gustafson and Mr. Dan Gustafson 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 GAW 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:

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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 GAW, Mr. Dale Gustafson and Mr. Dan Gustafson to a penalty of up to \$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, 2009, during

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the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit. 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 GAW and its agents 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", written in a cursive style.

Bill Jennings, Executive Director
California Sportfishing Protection Alliance

SERVICE LIST

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Washington, D.C. 20460

Jared Blumenfeld
Administrator, U.S. EPA – Region 9
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Pamela Creedon, Executive Officer
Regional Water Quality Control Board
Central Valley Region
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Rancho Cordova, CA 95670-6114

ATTACHMENT A
Notice of Intent to File Suit, GAW (Redding, CA)
Significant Rain Events,* April 9, 2005 – April 9, 2010

April 23 2005	Feb. 27 2006	Dec. 27 2006	Feb. 02 2008
April 24 2005	Mar. 02 2006	Jan. 03 2007	Feb. 21 2008
April 30 2005	Mar. 03 2006	Feb. 07 2007	Feb. 22 2008
May 04 2005	Mar. 05 2006	Feb. 08 2007	Feb. 23 2008
May 05 2005	Mar. 06 2006	Feb. 09 2007	Feb. 24 2008
May 08 2005	Mar. 07 2006	Feb. 10 2007	Mar. 12 2008
May 09 2005	Mar. 12 2006	Feb. 22 2007	Mar. 28 2008
May 15 2005	Mar. 13 2006	Feb. 24 2007	April 22 2008
May 17 2005	Mar. 14 2006	Feb. 27 2007	May 24 2008
May 18 2005	Mar. 15 2006	Mar. 26 2007	Oct. 03 2008
Oct. 14 2005	Mar. 20 2006	April 11 2007	Oct. 04 2008
Oct. 26 2005	Mar. 23 2006	April 19 2007	Oct. 30 2008
Nov. 03 2005	Mar. 24 2006	April 21 2007	Oct. 31 2008
Nov. 07 2005	Mar. 25 2006	April 22 2007	Nov. 01 2008
Nov. 25 2005	Mar. 27 2006	May 01 2007	Nov. 02 2008
Nov. 28 2005	Mar. 28 2006	May 02 2007	Nov. 03 2008
Nov. 29 2005	Mar. 29 2006	May 03 2007	Nov. 08 2008
Nov. 30 2005	Mar. 31 2006	Oct. 09 2007	Dec. 14 2008
Dec. 01 2005	April 01 2006	Oct. 10 2007	Dec. 15 2008
Dec. 17 2005	April 02 2006	Oct. 12 2007	Dec. 18 2008
Dec. 18 2005	April 03 2006	Oct. 16 2007	Dec. 21 2008
Dec. 19 2005	April 05 2006	Oct. 19 2007	Dec. 24 2008
Dec. 20 2005	April 09 2006	Nov. 10 2007	Dec. 28 2008
Dec. 21 2005	April 10 2006	Nov. 19 2007	Jan. 02 2009
Dec. 22 2005	April 11 2006	Dec. 03 2007	Jan. 22 2009
Dec. 25 2005	April 12 2006	Dec. 04 2007	Jan. 24 2009
Dec. 26 2005	April 15 2006	Dec. 06 2007	Feb. 06 2009
Dec. 27 2005	April 16 2006	Dec. 18 2007	Feb. 08 2009
Dec. 28 2005	May 19 2006	Dec. 19 2007	Feb. 10 2009
Dec. 29 2005	May 21 2006	Dec. 20 2007	Feb. 11 2009
Dec. 30 2005	Oct. 04 2006	Dec. 27 2007	Feb. 13 2009
Dec. 31 2005	Nov. 02 2006	Dec. 28 2007	Feb. 14 2009
Jan. 01 2006	Nov. 03 2006	Dec. 29 2007	Feb. 15 2009
Jan. 03 2006	Nov. 11 2006	Jan. 03 2008	Feb. 16 2009
Jan. 04 2006	Nov. 12 2006	Jan. 04 2008	Feb. 17 2009
Jan. 10 2006	Nov. 13 2006	Jan. 05 2008	Feb. 18 2009
Jan. 11 2006	Nov. 16 2006	Jan. 06 2008	Feb. 22 2009
Jan. 13 2006	Nov. 22 2006	Jan. 08 2008	Feb. 25 2009
Jan. 14 2006	Nov. 26 2006	Jan. 09 2008	Mar. 01 2009
Jan. 17 2006	Dec. 08 2006	Jan. 10 2008	Mar. 03 2009
Jan. 18 2006	Dec. 09 2006	Jan. 12 2008	April 09 2009
Jan. 20 2006	Dec. 10 2006	Jan. 21 2008	April 24 2009
Jan. 28 2006	Dec. 11 2006	Jan. 24 2008	May 01 2009
Jan. 30 2006	Dec. 12 2006	Jan. 25 2008	May 02 2009
Feb. 01 2006	Dec. 13 2006	Jan. 26 2008	May 03 2009
Feb. 02 2006	Dec. 14 2006	Jan. 27 2008	May 04 2009
Feb. 04 2006	Dec. 21 2006	Jan. 29 2008	May 06 2009
Feb. 26 2006	Dec. 26 2006	Jan. 31 2008	Oct. 13 2009

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

ATTACHMENT A
Notice of Intent to File Suit, GAW (Redding, CA)
Significant Rain Events,* April 9, 2005 – April 9, 2010

Oct.	19	2009
Nov.	06	2009
Nov.	17	2009
Nov.	20	2009
Dec.	11	2009
Dec.	12	2009
Dec.	15	2009
Dec.	16	2009
Dec.	20	2009
Dec.	21	2009
Dec.	27	2009
Dec.	29	2009
Jan.	01	2010
Jan.	12	2010
Jan.	13	2010
Jan.	16	2010
Jan.	17	2010
Jan.	18	2010
Jan.	19	2010
Jan.	20	2010
Jan.	21	2010
Jan.	23	2010
Jan.	24	2010
Jan.	25	2010
Feb.	01	2010
Feb.	04	2010
Feb.	06	2010
Feb.	09	2010
Feb.	21	2010
Feb.	23	2010
Feb.	24	2010
Feb.	26	2010
Mar.	02	2010
Mar.	03	2010
Mar.	08	2010
April	02	2010
April	04	2010

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