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Via Certified Mailing – Return Receipt

December 29, 2014

Mr. George Adamian, Owner
American Industrial Services
5626 Cherry Avenue
Long Beach, California 90805

Mr. George Adamian, Registered Agent
South Street Property, LLC
10524 West Pico Boulevard
Los Angeles, CA 90064

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

Dear Owner, Operator and Site Manager:

NOTICE

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring at American Industrial Services ("AIS") located at 5626 Cherry Avenue, in Long Beach, California. Notice is being sent to you as the responsible owner, operator, and manager of the AIS facility and real property. This Notice addresses the violations of the CWA, including violation of the terms of the General California Industrial Storm Water Permit, and the unlawful discharge of pollutants from the AIS facility into the Long Beach Separate Storm Sewer System ("MS4"), which discharges to the Pacific Ocean.

CWA § 505(b) requires a citizen to give notice of the intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the state in which the violations occur.

As required by the CWA, this Notice provides notice of the violations that have occurred, and continue to occur at the AIS facility. Consequently, George Adamian, American Industrial Services, and South Street Property, LLC (collectively, the "Discharger") is placed on formal notice by River Watch that after the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, National Pollutant Discharge Elimination System ("NPDES") permit condition or requirement, or Federal or State Order issued under the CWA (in particular, but not limited to, CWA § 301(a), § 402(p), and § 505(a)(1), as well as the failure to comply with requirements set forth in the Code of Federal Regulations and the Santa Ana Regional Water Quality Control Board ("RWQCB") Water Quality Control Plan or "Basin Plan."

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto shall include sufficient information to permit the recipient to identify the following:

1. The specific standard, limitation, or order alleged to have been violated.

To comply with this requirement, River Watch notices the Discharger of ongoing violations of the substantive and procedural requirements of CWA § 402(p) and violations of NPDES Permit No. CAS000001, State Water Resources Control Board, Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (the "General Permit") relating to the recycling services at the AIS facility.

The Discharger filed a Notice of Intent ("NOI") agreeing to comply with the terms and conditions of the General Permit, and has been assigned Waste Dischargers Identification ("WDID") number 4 19I024802. River Watch contends that in the operation of the AIS facility, the Discharger has failed and is failing to comply with the terms and conditions of the General Permit requiring the preparation, implementation, review and update of an adequate Storm Water Pollution Prevention Plan ("SWPPP"), the elimination of all non-authorized storm water discharges, and the development and implementation of an adequate monitoring and reporting program as follows:

a. <u>Failure to Submit Required Annual Report</u>

Under Section B.14 of the General Permit, "[a]ll facility operators shall submit an Annual Report by July 1 of each year to the Executive Officer of the Regional Water Board responsible for the area in which the facility is located and to the local agency (if requested)." On November 18, 2014, the RWQCB issued the Discharger a "Notice of Non-Compliance: Failure to Submit Annual Reports as Required by the General Permit for Storm Water Discharges Associated with Industrial Activities, Order No. 97-03-

DWQ, NPDES No. CAS000001, WDID No. 4 19I024802." The RWQCB Notice, incorporated herein by reference, asserts that the RWQCB's "records indicate that [AIS has] not submitted [its] 2013-2014 annual report that was due on July 1, 2014." River Watch's independent review of the California State Water Resources Control Board's "SMARTS" database did not reveal this Annual Report prior to the filing of this Notice.

b. Failure to Comply with SWPPP Annual Comprehensive Site Compliance Evaluation Requirements

Under Section A.9 of the General Permit governing implementation of effective SWPPPs, "[t]he facility operator shall conduct one comprehensive site compliance evaluation (evaluation) in each reporting period (July 1 – June 30)." The evaluation, among other mandates, requires:

- Under A.9.c. "[a] review and evaluation of all BMPs (both structural and non-structural) to determine whether the BMPs are adequate, properly implemented and maintained, or whether additional BMPs are needed ..." Eyewitness investigation by River Watch reveals unpermitted, off-site, non-storm water discharges and failure to properly berm or contain storm water discharges from the AIS facility. Additionally, the AIS webpage reveals a photograph of uncovered "construction and debris waste" (http://aisdisposal.com/; December 11, 2014), threatening further unpermitted discharges from the AIS facility in violation of the General Permit.

- Under Section A.9.d.vi. "a certification that the facility operator is in compliance with this General Permit. If the above certification cannot be provided, explain in the evaluation report why the facility operator is not in compliance with this General Permit. The evaluation report shall be submitted as part of the annual report, retained for at least five years, and signed and certified in accordance with Standard Provisions 9. And 10. of Section C. of [the] General Permit." The alleged failures to fully and accurately ensure compliance with the annual report and SWPPP/BMP requirements of the General Permit as detailed above contradicts the evaluation.

2. The activity alleged to constitute a violation.

The Discharger's recycling operations (which it classifies under SIC Code 4953, but may properly be included under 5093 and/or 4212) at the AIS facility "allows clients to dispose of their construction and debris waste;" this waste includes hazardous and non-hazardous waste (http://aisdisposal.com/; December 11, 2014). The work at the AIS facility is conducted both indoors and outdoors. Because the real property on which the AIS facility is located is subject to rain events, and because there is no RWQCB

exemption from the collecting and analyzing of the range of pollutants identified above, there can be a discharge of these pollutants, measured at the point the discharge enters into the Long Beach MS4, which discharges to the Pacific Ocean.

To properly regulate these activities and control the discharge of these types of pollutants, the State Water Resources Control Board requires industrial facilities to obtain and comply with the terms and conditions of an individual NPDES permit or seek coverage under the General Permit (or obtain a proper exemption under the terms of the General Permit from its requirements). Review of the public record by River Watch reveals that the Discharger obtained coverage under the General Permit for the AIS facility, but fails to comply with its environmentally protective requirements, in particular the implementation of effective BMPs.

3. The person or persons responsible for the alleged violation.

The persons and entities responsible for the alleged violations are George Adamian, American Industrial Services and South Street Property, LLC referred to collectively herein as the Discharger.

4. The location of the alleged violation.

The location or locations of the various violations is the permanent address of the AIS facility at 5626 Cherry Avenue in Long Beach, California, including the waters of the Pacific Ocean – a water of the United States.

5. The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.

The range of dates covered by this Notice is from December 29, 2009 to December 29, 2014. River Watch will from time to time further update this Notice to include all violations which occur after the range of dates covered by this Notice. Some of the violations are continuous in nature, therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, referred to herein as "River Watch." River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. The mailing address of River Watch's northern California office is 290 S. Main Street, #817, Sebastopol, CA 95472. The mailing address of River Watch's southern California office is 7401 Crenshaw Blvd. #422, Los Angeles, CA 90043.

River Watch is dedicated to protect, enhance, and help restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna. And to educate the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

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STATUTORY BACKGROUND

CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless such discharge is in compliance with various enumerated sections of the Act. Among other things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of an individual NPDES permit or a general NPDES permit issued pursuant to CWA § 402(p), 33 U.S.C. § 1342. CWA § 402(p), 33 U.S.C. § 1342(p), establishes a framework for regulating storm water discharges under the NPDES program. States with approved NPDES permitting programs are authorized under this section to regulate storm water discharges through permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all storm water dischargers. Pursuant to CWA § 402, the Administrator of the U.S. EPA has authorized California's State Water Resources Control Board to issue NPDES permits including general NPDES permits in California.

The State Water Resources Control Board elected to issue a statewide general permit for industrial discharges, and issued the General Permit on or about November 19, 1991, modified the General Permit on or about September 17, 1992, and reissued the General Permit on or about April 17, 1997, pursuant to CWA § 402(p).

In order to discharge storm water lawfully in California, industrial dischargers must comply with the terms of the General Permit or have obtained an individual NPDES permit and complied with its terms.

The General Permit contains certain absolute prohibitions. Discharge Prohibition Order Section A(1) of the General Permit prohibits the direct or indirect discharge of materials other than storm water ("non-storm water discharges"), which are not otherwise regulated by a NPDES permit, to waters of the United States. Discharge Prohibition Order Section A(2) prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation Order Section C(1) prohibits storm water discharges to any surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation Order Section C(2) prohibits 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 Water Quality Control Board Basin Plan.

In addition to absolute prohibitions, the General Permit contains a variety of substantive and procedural requirements that dischargers must meet. Facilities discharging, or having the potential to discharge, storm water associated with industrial activity that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a NOI. The General Permit requires existing dischargers to file NOIs before March 30, 1992.

Dischargers must also develop and implement a SWPPP which must comply with the standards of BAT and BCT. 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 BMPs to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges [Permit Section A(2)]. BMPs must implement BAT and BCT [Permit Section B(3)].

- Include a description of individuals and their responsibilities for developing and implementing the SWPPP [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 [Permit Section A(4)]; a list of significant materials handled and stored at the site [Permit Section A(5)]; and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, and 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 [Permit Section A(6)].

- Include a narrative assessment of all industrial activities and potential pollutant sources at the facility [Permit Section A(7)]. Include a narrative description of the BMPs to be implemented at the facility for each potential pollutant and its source, and consider both non-structural BMPs (including "Good Housekeeping") and structural BMPs where non-structural BMPs are not effective [Permit Section A(8)].

- Conduct one comprehensive site compliance evaluation by the facility operator in each reporting period (July 1 - June 30), with SWPPP revisions made, as appropriate, and implemented within 90 days of the evaluation [Permit Section A(9)].

The General Permit requires dischargers to eliminate all non-storm water discharges to storm water conveyance systems other than those specifically set forth in Special Condition D(1)(a) of the General Permit and meeting each of the conditions set forth in Special Condition D(1)(b).

As part of their monitoring program, dischargers must identify all storm water discharge locations that produce a significant storm water discharge, evaluate the effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control measures set out in the SWPPP are adequate and properly implemented. Dischargers must conduct visual observations of these discharge locations for at least one storm per month during the wet season (October through May) and record their findings in their Annual Report [Permit Section B(14)]. Dischargers must also collect and analyze storm water samples from at least two storms per year in compliance with the criteria set forth in Permit Section B(5). Dischargers must also conduct dry season visual observations to identify sources of non-storm water pollution in compliance with Permit Section B(7).

Permit Section B(14) of the General Permit requires dischargers to submit an "Annual Report" by July 1 of each year to the executive officer of the relevant Regional Water Quality Control Board. Permit Section A(9)(d) of the General Permit requires the dischargers to include in the annual report an evaluation of the dischargers' storm water controls, including certifying compliance with the General Permit. *See also* Permit Sections C(9), C(10) and B(14).

The EPA has established Parameter Benchmark Values ("EPA Benchmarks") as guidelines for determining whether a facility discharging storm water has implemented the requisite BAT and BCT. (65 Fed. Reg. 64746, 64767 (Oct. 30, 2000)). California Toxics Rule ("CTR") limitations are also applicable to all non-storm water and storm water discharges. (40 C.F.R. part 131).

The RWQCB has established applicable water quality standards. This Basin Plan includes a narrative toxicity standard and a narrative oil and grease standard. The Basin Plan provides that "[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses." The Basin Plan establishes limits on metals, solvents, pesticides and other hydrocarbons.

VIOLATIONS

River Watch contends that between December 29, 2009 and December 29, 2014 the Discharger violated the CWA, the Basin Plan and the Code of Federal Regulations by discharging pollutants from the AIS facility to waters of the United States without an individual NPDES permit, or in violation of the General Permit.

The violations discussed herein are derived from eye witness reports and records publicly available, or records in the possession and control of the Discharger. Furthermore, River Watch contends these violations are continuing.

Finally, River Watch also believes that the AIS facility is not operated to ensure that storm and non-storm water discharges are properly contained, controlled, and/or monitored. As a result, the Discharger fails to follow the requirements of the General Permit in its sampling protocols for the AIS facility by failing to accurately capture "first flush" samples and failing to properly sample from all the outfalls of the AIS facility.

REMEDIAL MEASURES REQUESTED

River Watch believes that implementation of the following remedial measures are necessary in order to bring the Discharger into compliance with the CWA and reduce the biological impacts from its non-compliance upon public health and the environment surrounding the AIS facility:

1. Prohibition of the discharges of pollutants including, but not limited to:

    - pH, Total Suspended Solids, Specific Conductance, Total Organic Carbon or Oil & Grease (standard parameters);

    - Total Suspended Solids, COD, heavy metals (including aluminum, iron, lead, copper and zinc) (Table D parameters for Sector N SIC 5093 facilities);

    - NH3, Mg; COD, heavy metals (including arsenic, cadmium, copernicium, lead, mercury, selenium, and silver (Table D parameters for Sector K SIC 4953 facilities).

2. Compliance with the terms and conditions of the General Permit, and BMPs detailed in the EPA's Industrial Stormwater Fact Sheet Series:

   - "Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities" (EPA Office of Water, EPA-833-F-06-026, December 2006 (http://water.epa.gov/polwaste/npdes/stormwater/upload/sector_k_hazwaste.pdf).

   - "Sector N: Scrap Recycling and Waste Recycling Facilities" (EPA Office of Water, EPA-833-F-06-029, December 2006 (www.epa.gov/npdes/pubs/sector_n_scraprecycling.pdf).

3. Compliance with the storm water sampling, monitoring and reporting requirements of the General Permit.

4. Sampling of storm water at least four (4) times per year over each of the next five (5) years: at "first flush"; the first significant rain after "first flush"; the first significant rain after April 1; and the second significant rain after April 1.

5. 100% of the discharge from the AIS facility must be discharged through discrete conveyances.

6. Any discharge from the AIS facility to a water of the United States must be sampled during the four (4) sampling events identified in paragraph #4 above.

7. Preparation and submittal to the RWQCB of a "Reasonable Potential Analysis" for the AIS facility and its operations.

8. Preparation of an updated SWPPP including a monitoring program, with a copy provided to River Watch.

CONCLUSION

The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use, and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice. CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a).

Violators of the Act are also subject to an assessment of civil penalties of up to $37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1-19.4. River Watch believes this Notice sufficiently states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact River Watch within **20 days** after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) schedule a date for a site visit of the AIS facility. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the Discharger is in compliance with the strict terms and conditions of the General Permit, River Watch intends to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

David Weinsoff

David Weinsoff

DW:lhm

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