LOZEAU DRURY LLP
T 510.836.4200
F 510.836.4205
410 12th Street, Suite 250
Oakland, Ca 94607
www.lozeaudrury.com
doug@lozeaudrury.com

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 30, 2013

Randy Hunwardson
Galt Recyclers
13208 Stockton Boulevard
Galt, CA 95632

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

Dear Mr. Hunwardson:

I am writing on behalf of California Sportfishing Protection Alliance ("CSPA") in regard to violations of the Clean Water Act (the "Act") that CSPA believes are occurring at the Galt Recyclers scrap metal and electronic waste recycling facility ("Facility") located at 13208 Stockton Boulevard in Galt, California. CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Sacramento River and other California waters. This letter is being sent to Galt Recyclers and Randy Hunwardson as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Galt Recyclers").

This letter addresses Galt Recyclers' unlawful discharge of pollutants from the Facility through channels that flow into Deadman Gulch which flows to the Cosumnes River and the Sacramento-San Joaquin River Delta. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, California Regional Water Quality Control Board, Central Valley Region ("Regional Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit"). The WDID identification number for the Facility listed on documents submitted to the Regional Board is 5S34I021535. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). 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 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, Galt Recyclers is hereby placed on formal notice by CSPA that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CSPA intends to file suit in federal court against Galt Recyclers and Randy Hunwardson under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the Order. These violations are described more extensively below.

I. Background.

On October 22, 2007, after receiving a notice of violation from the Regional Board, Galt Recyclers submitted its Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI") to the Regional Board. In its NOI, Galt Recyclers certifies that the Facility is classified under SIC code 5093, "scrap recycling facilities." The Facility is located immediately adjacent to Deadman Gulch. The Facility collects and discharges storm water from its 1-acre, mostly unpaved industrial site directly to Deadman Gulch, the waters of which flow to the Cosumnes River and the Sacramento-San Joaquin River Delta.

The Regional Board has identified beneficial uses of the Central Valley Region's waters and established water quality standards for the Sacramento River and its tributaries in "The Water Quality Control Plan (Basin Plan) for the California Regional Water Quality Control Board, Central Valley Region – The Sacramento River Basin and The San Joaquin River Basin," generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr.pdf. The beneficial uses of the Sacramento River and its tributaries include among others water contact recreation, non-contact water recreation, municipal and domestic water supply, endangered and threatened species habitat, shellfish harvesting, and fish spawning. The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but where there is generally no body contact with water, nor any likelihood of ingestion of water. These uses include, but are not limited to, picnicking, sunbathing, hiking, camping, boating, . . . hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." Basin Plan at II-1.00 – II-2.00. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Sacramento River for contact and non-contact water recreation.

The Basin Plan establishes water quality standards for the Sacramento River and its tributaries. It 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." *Id.* at III-8.01. It provides that "[w]ater shall not contain floating material in amounts that cause nuisance or adversely affect beneficial uses." *Id.* at III-5.00. It provides that "[w]ater shall be free of discoloration that causes nuisance or adversely affects beneficial uses." *Id.* It provides that "[w]aters shall not contain suspended

materials in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at III-7.00. 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-6.00. The Basin Plan provides that the pH shall not be depressed below 6.5 nor raised above 8.5. *Id.*

The Basin Plan also provides that "[a]t a minimum, [surface] 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) specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: Tables 64431−A (Inorganic Chemicals) and 64431-B (Fluoride) of Section 64431, Table 64444−A (Organic Chemicals) of Section 64444, and Table 64449−A (Secondary Maximum Contaminant Levels ["SMCLs"]−Consumer Acceptance Limits) and 64449−B (Secondary Maximum Containment Levels-Ranges) of Section 64449. This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect. At a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain lead in excess of 0.015 mg/l." Basin Plan at III-3.00. Table 64449-A provides an SMCL for iron of 0.3 mg/L and for aluminum of 0.2 mg/L. Table 64431 provides an MCL for aluminum of 1 mg/L.

Table III-1 of the Basin Plan provides water quality objectives ("WQO") for iron of 0.3 mg/L and for zinc of 0.1 mg/L.

The EPA has adopted freshwater numeric water quality standard for zinc of 0.120 mg/L (Criteria Maximum Concentration – "CMC" and Criteria Continuous Concentration – "CCC") and for copper of 0.013 mg/L (CMC) and 0.009 mg/L (CCC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).

The EPA has published benchmark levels 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 Galt Recyclers: pH – 6.0 - 9.0 units; total suspended solids ("TSS") – 100 mg/L, oil and grease ("O&G") – 15 mg/L, total organic carbon – 110 mg/L, chemical oxygen demand – 120 mg/L, zinc – 0.05 – 0.26 mg/L (0.04 mg/L at a receiving water hardness of 25-50 mg/L), iron – 1.0 mg/L, copper 0.0056 – 0.0332 mg/L (0.0056 mg/L at a receiving water hardness of 25-50 mg/L), aluminum – 0.75 mg/L, and lead – 0.023 – 0.262 mg/L (0.014 mg/L at a receiving water hardness of 25-50 mg/L).

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit

Galt Recyclers has violated and continues to violate the terms and conditions of the General Industrial Storm Water 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 or authorized non-storm water discharges 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.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

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 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. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Galt Recyclers has discharged and continues to discharge storm water with unacceptable levels of TSS, aluminum, iron, zinc, copper, lead and other pollutants in violation of the General Permit. Galt Recyclers's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water 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 Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule. They have thus violated Discharge Prohibitions A(1) and A(2) and

Receiving Water Limitations C(1) and C(2), are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit, and constitute unauthorized discharges of TSS, aluminum, copper, iron, zinc, lead, and storm water associated with industrial activity in violation of Section 301(a) of the CWA.

Date	Parameter	Observed Concentration	Basin Plan Water Quality Objective/EPA California Toxics Rule	Outfall (as identified by the Facility)
11/5/2011	pH	6.35	6.5 – 8.5	Drain #1
2/17/2011	pH	2.39	6.5 – 8.5	Drain #1
2/17/2011	pH	2.53	6.5 – 8.5	Drain #2
12/14/2010	pH	2.61	6.5 – 8.5	Drain #1
1/19/2010	Aluminum	17 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #1
1/19/2010	Iron	19 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #1
1/19/2010	Zinc	0.19 mg/L	0.1 mg/L	Drain #1
1/19/2010	Copper	0.074 mg/L	0.013 mg/L	Drain #1
1/19/2010	Lead	0.029 mg/L	0.015 mg/L	Drain #1
1/19/2010	Aluminum	25 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #2
1/19/2010	Iron	31 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #2
1/19/2010	Zinc	0.39 mg/L	0.1 mg/L	Drain #2
1/19/2010	Copper	0.17 mg/L	0.013 mg/L	Drain #2
1/19/2010	Lead	0.092 mg/L	0.015 mg/L	Drain #2
10/13/2009	Aluminum	3.0 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #1
10/13/2009	Iron	4.2 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #1
10/13/2009	Zinc	0.12 mg/L	0.1 mg/L	Drain #1
10/13/2009	Copper	0.042 mg/L	0.013 mg/L	Drain #1
10/13/2009	Aluminum	4.1 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #2
10/13/2009	Iron	5.8 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #2
10/13/2009	Zinc	0.17 mg/L	0.1 mg/L	Drain #2
10/13/2009	Copper	0.1 mg/L	0.013 mg/L	Drain #2
1/22/2009	Aluminum	0.43 mg/L	0.2 mg/L (SMCL)	Drain #1
1/22/2009	Iron	0.51 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #1

1/22/2009	Copper	0.018 mg/L	0.013 mg/L	Drain #1
1/22/2009	Aluminum	1.3 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #2
1/22/2009	Iron	1.9 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #2
1/22/2009	Copper	0.051 mg/L	0.013 mg/L	Drain #2
11/1/2008	Aluminum	19 mg/L	0.2 mg/L (SMCL) / 1 mg/L (MCL)	Drain #1
11/1/2008	Iron	25 mg/L	0.3 mg/L (WQO) / 0.3 mg/L (SMCL)	Drain #1
11/1/2008	Copper	0.061 mg/L	0.013 mg/L	Drain #1
11/1/2008	Zinc	0.21 mg/L	0.1 mg/L	Drain #1

The information in the above table reflects data gathered from Galt Recyclers' self-monitoring during the 2008-2009, 2009-2010, 2010-2011, and 2011-2012 wet seasons. CSPA alleges since September 30, 2008, and continuing through today, Galt Recyclers has discharged storm water contaminated with pollutants at levels that exceed one or more applicable water quality standards, including but not limited to each of the following:

- Zinc – 0.12 mg/L (CMC & CCC)
- Zinc – 0.1 mg/L (Water Quality Objective)
- Iron – 0.3 mg/L (Secondary MCL & Water Quality Objective)
- Lead – 0.015 mg/L (Water Quality Objective")
- Aluminum – 0.2 mg/L (SMCL)
- Aluminum – 1 mg/L (MCL)
- Copper – 0.013 mg/L (CMC)
- pH – 6.5 – 8.5

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2), are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit and constitute unauthorized discharges of TSS, aluminum, iron, zinc, copper, lead, and storm water associated with industrial activity in violation of Section 301(a) of the CWA.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Outfall (as identified by the Facility)
2/19/2013	Total Suspended Solids	400 mg/L	100 mg/L	Drain #1
2/19/2013	Total Suspended Solids	938 mg/L	100 mg/L	Drain #2
11/5/2011	Total Suspended Solids	367 mg/L	100 mg/L	Drain #1
11/5/2011	Total Suspended Solids	669 mg/L	100 mg/L	Drain #2
2/17/2011	Total Suspended Solids	174 mg/L	100 mg/L	Drain #1
2/17/2011	pH	2.39	6.0 – 9.0	Drain #1

2/17/2011	Total Suspended Solids	370 mg/L	100 mg/L	Drain #2
2/17/2011	pH	2.93	6.0 – 9.0	Drain #2
12/14/2010	Total Suspended Solids	1318 mg/L	100 mg/L	Drain #1
12/14/2010	pH	2.61	6.0 – 9.0	Drain #1
12/14/2010	Total Suspended Solids	708 mg/L	100 mg/L	Drain #2
1/19/2010	Total Suspended Solids	410 mg/L	100 mg/L	Drain #1
1/19/2010	Aluminum	17 mg/L	0.75 mg/L	Drain #1
1/19/2010	Iron	19 mg/L	1.0 mg/L	Drain #1
1/19/2010	Zinc	0.19 mg/L	0.05 mg/L*	Drain #1
1/19/2010	Copper	0.074 mg/L	0.0056 mg/L*	Drain #1
1/19/2010	Total Suspended Solids	490 mg/ L	100 mg/L	Drain #2
1/19/2010	Aluminum	25 mg/L	0.75 mg/L	Drain #2
1/19/2010	Iron	31 mg/L	1.0 mg/L	Drain #2
1/19/2010	Zinc	0.39 mg/L	0.05 mg/L	Drain #2
1/19/2010	Copper	0.17 mg/L	0.0056 mg/L	Drain #2
1/19/2010	Lead	0.092 mg/L	0.023 mg/L*	Drain #2
10/13/2009	Total Suspended Solids	180 mg/L	100 mg/L	Drain #1
10/13/2009	Aluminum	3.0 mg/L	0.75 mg/L	Drain #1
10/13/2009	Iron	4.2 mg/L	1.0 mg/L	Drain #1
10/13/2009	Zinc	0.12 mg/L	0.05 mg/L	Drain #1
10/13/2009	Copper	0.042 mg/L	0.0056 mg/L	Drain #1
10/13/2009	Total Suspended Solids	160 mg/L	100 mg/L	Drain #2
10/13/2009	Aluminum	4.1 mg/L	0.75 mg/L	Drain #2
10/13/2009	Iron	5.8 mg/L	1.0 mg/L	Drain #2
10/13/2009	Zinc	0.17 mg/L	0.05 mg/L	Drain #2
10/13/2009	Copper	0.1 mg/L	0.0056 mg/L	Drain #2
1/22/2009	Total Suspended Solids	130	100 mg/L	Drain #1
1/22/2009	Aluminum	1.3 mg/L	0.75 mg/L	Drain #2
1/22/2009	Iron	1.9 mg/L	1.0 mg/L	Drain #2
1/22/2009	Copper	0.051 mg/L	0.0056 mg/L	Drain #2
11/1/2008	Total Suspended Solids	450	100 mg/L	Drain #1
11/1/2008	Aluminum	19.0 mg/L	0.75 mg/L	Drain #1
11/1/2008	Iron	25 mg/L	1.0 mg/L	Drain #1
11/1/2008	Zinc	0.21 mg/L	0.05 mg/L	Drain #1
11/1/2008	Copper	0.061 mg/L	0.0056 mg/L	Drain #1

*According to sampling data, the ambient hardness of the Cosumnes River in the vicinity of the mouth of Deadman Gulch is in the range of 25 to 50 mg/L.

The information in the above table reflects data gathered from Galt Recyclers' self-monitoring during the 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013 wet

seasons. CSPA alleges that during that wet season and continuing through today, Galt Recyclers has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- Aluminum – 0.75 mg/L
- Iron – 1.0 mg/L
- Zinc – 0.04 – 0.26 mg/L
- Copper – 0.0038 - 0.0332 mg/L
- Lead – 0.014 – 0.262 mg/L

In addition, on information and belief, CSPA alleges that Galt Recyclers has been discharging storm water contaminated with the above pollutants at the Facility since at least September 30, 2008.

CSPA's investigation, including its review of Galt Recyclers' analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and EPA's benchmark values, indicates that Galt Recyclers has not implemented BAT and BCT at the Facility for its discharges of TSS, aluminum, iron, zinc, copper, aluminum, lead, and other pollutants, in violation of Effluent Limitation B(3) of the General Permit. Galt Recyclers was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Galt Recyclers is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CSPA alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since September 30, 2008 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 Galt Recyclers has discharged storm water containing impermissible and unauthorized levels of TSS, aluminum, iron, zinc, copper, aluminum, and lead in violation of Section 301(a) of the Act as well as Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.[1]

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Each discharge of storm water constitutes an unauthorized discharge of TSS, aluminum, iron, zinc, copper, aluminum, lead, and storm water associated with industrial

[1] The rain dates are all the days when 0.1" or more rain fell as calculated from precipitation from a nearby weather station in Lodi.

activity in violation of Section 301(a) of the CWA. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Galt Recyclers is subject to penalties for violations of the General Permit and the Act since September 30, 2008.

C. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Galt Recyclers is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CSPA alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

In addition, Galt Recyclers violated provisions of Section B by failing to analyze all four sample samples collected during the 2011-2012 and 2012-2013 wet seasons as well as two samples collected during the 2010-2011 wet season for aluminum, lead, copper, zinc, iron, and chemical oxygen demand ("COD"). The Facility also failed to analyze any storm water samples for COD collected for the 2008-2009, 2009-2010, 2010-2011, 2011-2012, and 2012-2013 wet seasons. COD is one of the pollutants required to be analyzed in storm water samples for SIC Code 5093. These failures to analyze for required parameters amount to at least 45 separate violations of the General Permit.

Galt Recyclers also violated Section B by failing to collect storm water samples from two rain events at Drain #2 during the 2008-2009 wet season.

In addition, the Facility's annual reports indicate that visual monitoring of discharges was frequently done on days where no rain occurred. Visual monitoring of discharges on dry days is not a wet weather inspection as required by the permit. Galt Recyclers failed to conduct the wet weather monitoring required by Section B(4) of the General Permit on the following months: April 2012, March 2012, January 2012, May 2011, March 2011, November 2010, and October 2010. These visual monitoring omissions amount to at least 7 separate violations of the General Permit.

Relatedly, the annual reports invariably include checked boxes indicating that visual wet weather monitoring was conducted during every month of the rainy season. However, the visual monitoring logs indicate that no observations occurred during those months. These months include the following:

2012 – January, March, April, May
2011 – January, March, April, May, October
2010 – October, November

These incidents of misreporting amount to at least 11 separate violations of the General Permit's reporting requirement set forth in Section B(4).

Lastly, a number of visual observations documented in the Facility's annual reports fail to indicate whether or not pollutants were observed in the storm water being discharged in violation of Section B(4) of the General permit's reporting requirements. The failure to document the visual quality of the storm water discharges occurred for discharges on February 7, 2012; November 5, 2011; and February 17, 2011. Galt Recyclers failed to submit Form 4 providing some details of the visual observations of storm water discharges in its 2008-2009, 2009-2010, and 2010-2011 annual reports. *See* Annual Report, Section G.2. These failures to report the results of visual inspections of storm water discharges amount to at least 27 violations of the reporting requirement set forth at Section B(4) of the General Permit.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Galt Recyclers is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since September 30, 2008.

D. Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan

Section A 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 General Permit 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 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)).

CSPA's investigation of the conditions at the Facility as well as Galt Recyclers's Annual Reports indicate that Galt Recyclers has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Galt Recyclers has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Galt Recyclers has been in continuous violation of Section A and Provision E(2) of the General Permit every day since at least September 30, 2008, at the very latest, and will continue to be in violation every day that Galt Recyclers fails to prepare, implement, review, and update an effective SWPPP. Galt Recyclers is subject to penalties for violations of the Order and the Act occurring since at September 30, 2008.

E. Failure to File True and Correct Annual Reports

Section B(14) of the General 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).

For the previous five years, Galt Recyclers and Randy Hunwardson, inaccurately certified in their Annual Reports that the facility was in compliance with the General Permit. Consequently, Galt Recyclers has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Industrial Storm Water Permit every time Galt Recyclers failed to submit a complete or correct report and every time Galt Recyclers or its agents falsely purported to comply with the Act. Galt Recyclers is subject to penalties for violations of Section (C) of the General Industrial Storm Water Permit and the Act occurring since at September 30, 2008.

III. Persons Responsible for the Violations.

CSPA puts Galt Recyclers and Randy Hunwardson 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 Galt Recyclers and Randy Hunwardson on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of California Sportfishing Protection Alliance is as follows:

Bill Jennings, Executive Director
California Sportfishing Protection Alliance
3536 Rainier Avenue,
Stockton, CA 95204
Tel. (209) 464-5067
Fax (209) 464-1028
E-Mail: deltakeep@me.com

V. Counsel.

CSPA has retained our office to represent it in this matter. Please direct all communications to:

Michael R. Lozeau
Douglas J. Chermak
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
michael@lozeaudrury.com
doug@lozeaudrury.com

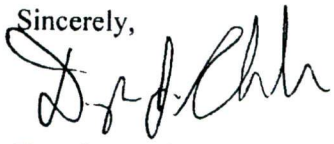
VI. Penalties.

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 Galt Recyclers to a penalty of up to $32,500 per day per violation for all violations occurring during the period commencing five years prior to the date of this Notice of Violations and Intent to File Suit through January 12, 2009, and a maximum of $37,500 per day per violation for all violations occurring after January 12, 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. CSPA intends to file a citizen suit under Section 505(a) of the Act against Galt Recyclers and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CSPA would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CSPA suggests 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. CSPA does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Douglas J. Chermak
Lozeau Drury LLP
Attorneys for California Sportfishing Protection Alliance

SERVICE LIST

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

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

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

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

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

ATTACHMENT A

Rain Dates, Galt Recyclers, Galt, California

10/4/2008	12/12/2009	10/24/2010
10/30/2008	12/13/2009	11/7/2010
10/31/2008	12/21/2009	11/19/2010
11/1/2008	12/27/2009	11/20/2010
11/3/2008	1/12/2010	11/23/2010
11/26/2008	1/13/2010	11/27/2010
12/14/2008	1/17/2010	12/4/2010
12/15/2008	1/18/2010	12/5/2010
12/16/2008	1/19/2010	12/6/2010
12/21/2008	1/20/2010	12/8/2010
12/24/2008	1/21/2010	12/14/2010
1/2/2009	1/25/2010	12/17/2010
1/21/2009	1/26/2010	12/18/2010
1/22/2009	2/2/2010	12/19/2010
1/23/2009	2/4/2010	12/22/2010
2/5/2009	2/5/2010	12/25/2010
2/6/2009	2/6/2010	12/28/2010
2/11/2009	2/9/2010	12/29/2010
2/13/2009	2/21/2010	1/1/2011
2/15/2009	2/23/2010	1/2/2011
2/16/2009	2/26/2010	1/30/2011
2/17/2009	3/2/2010	2/16/2011
2/22/2009	3/3/2010	2/17/2011
2/23/2009	3/12/2010	2/18/2011
3/1/2009	3/30/2010	2/19/2011
3/2/2009	3/31/2010	2/24/2011
3/3/2009	4/2/2010	2/25/2011
3/4/2009	4/4/2010	3/6/2011
3/21/2009	4/11/2010	3/15/2011
4/7/2009	4/12/2010	3/16/2011
4/9/2009	4/20/2010	3/18/2011
4/10/2009	4/21/2010	3/19/2011
5/1/2009	4/27/2010	3/20/2011
5/3/2009	4/28/2010	3/23/2011
9/14/2009	5/10/2010	3/24/2011
10/13/2009	5/25/2010	3/25/2011
12/7/2009	10/17/2010	3/26/2011
12/11/2009	10/23/2010	5/15/2011

ATTACHMENT A

Rain Dates, Galt Recyclers, Galt, California

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