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 5, 2014

Stephen Skurnac, President
Sims Recycling Solutions, Inc.
1600 Harvester Road
West Chicago, IL 60185

James Gonzalez, West Region Manager, SHEC
Sims Recycling Solutions
20212 S Rancho Way
Rancho Dominguez, CA 90220

Fred Brutsche
Sims Recycling Solutions, Inc.
8855 Washington Blvd.
Roseville, CA 95678

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

Dear Messrs. Skurnac, Brutsche, and Gonzalez:

I am writing on behalf of California Communities Against Toxics ("CCAT") in regard to violations of the Federal Water Pollution Control Act (the "Clean Water Act" or "Act") that CCAT believes are occurring at Sims Recycling Solutions, Inc.'s industrial facility located at 20212 S Rancho Way in Rancho Dominguez, California ("Facility"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has members living in the community adjacent to the Facility and the Dominguez Watershed. CCAT and its members are deeply concerned with protecting the environment in and around their communities, including the Dominguez Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Sims").

This letter addresses Sims' unlawful discharge of pollutants from the Facility through the Los Angeles County Municipal Separate Storm Sewer System to Dominguez Channel which flows into Long Beach Harbor. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-

03-DWQ (hereinafter "General Permit").[1] The WDID identification number for the Facility listed on documents submitted to the Regional Water Quality Control Board, Los Angeles Region ("Regional Board") is 4 19I021438. 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, Sims is hereby placed on formal notice by CCAT that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAT intends to file suit in federal court against Sims 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 Permit. These violations are described more extensively below.

I. Background.

On February 11, 2008, the State Board approved Sims' Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI, SWPPP, and Annual Reports, Sims has certified that the Facility is classified under SIC Code 5093. The Facility collects and discharges storm water from its 103,170 square foot industrial site into at least three storm drain outfalls located at the Facility. On information and belief, CCAT alleges that industrial activities at the site include, but are not limited to, electronics recycling and secure data destruction. On information and belief, CCAT alleges that storm water discharges from the Facility contain storm water that is commingled with runoff from the Facility from areas where industrial processes occur and/or where materials are stored. The outfalls discharge into the Los Angeles County Municipal Separate Storm Sewer System to the Dominguez Channel Estuary which flows into Long Beach Harbor.

The Regional Board has identified beneficial uses of the Dominguez Channel Estuary and established water quality standards for it in the "Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties", generally referred to as the Basin Plan. *See* http://www.waterboards.ca.gov/losangeles/water_issues/

[1] On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

programs/basin_plan/basin_plan_documentation.shtml. The beneficial uses of these waters include, among others, navigation, contact and non-contact recreation, commercial and sport fishing, estuarine habitat, wildlife habitat, marine habitat, and rare, threatened, or endangered species. The non-contact recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. *Id.* at 2-2. Contact recreation use includes fishing. *Id.* Commercial and sport fishing includes the commercial or recreational collection of fish and shellfish for human consumption. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people's use of the Dominguez Channel and Long Beach Harbor for contact and non-contact water recreation and commercial and sport fishing.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." *Id.* at 3-16. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses." *Id.* at 3-11. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-16. The Basic Plan provides that "[t]he pH of bays or estuaries [or inland surface waters] shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." *Id.* at 3-15. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." *Id.* at 3-8. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." *Id.* at 3-9.

The EPA has adopted a freshwater numeric water quality standard for zinc of 0.12 mg/L (Criteria Maximum Concentration – "CMC"), for lead of 0.065 mg/L (CMC), and for copper of 0.013 mg/L (CMC). 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).[2]

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").[3]

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[2] The values for zinc, lead, and copper are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

[3] The Benchmark Values can be found at: http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and http://cwea.org/p3s/documents/multi-sectorrev.pdf (Last accessed on September 4, 2014).

The following benchmarks have been established for pollutants discharged by Sims: pH – 6.0 - 9.0 standard units ("s.u."); total suspended solids ("TSS") – 100 mg/L; oil and grease ("O&G") – 15 mg/L; total organic carbon ("TOC") – 110 mg/L; chemical oxygen demand ("COD") – 120 mg/L; zinc – 0.13 mg/L; nickel – 0.52 mg/L; magnesium – 0.0636 mg/L; copper – 0.0156 mg/L; aluminum – 0.75 mg/L; and iron – 1.0 mg/L.[4]

II. Alleged Violations of the Clean Water Act and the General Permit.

A. Discharges in Violation of the Permit not Subjected to BAT/BCT

Sims has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities 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, 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 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.

Sims has discharged and continues to discharge storm water with unacceptable levels of TSS, TOC, COD, aluminum, iron, zinc, magnesium, and copper in violation of the General

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[4] The benchmark values for copper, zinc, lead, and nickel are hardness dependent. The values here are based on a hardness range of 100-125 mg/L $CaCO_3$, which is the default listing in the California Toxics Rule

Permit. Sims' 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 and has thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	Basin Plan Water Quality Standard / EPA California Toxics Rule	Outfall (as identified by the Facility)
2/6/2014	Zinc	1.33 mg/L	0.12 mg/L (CMC)	Storm Drain 1
10/9/2013	Zinc	2.76 mg/L	0.12 mg/L (CMC)	Storm Drain 1
2/11/2013	Zinc	0.89 mg/L	0.12 mg/L (CMC)	Storm Drain 1
11/8/2012	Zinc	0.735 mg/L	0.12 mg/L (CMC)	Storm Drain 1
2/27/2012	Zinc	0.418 mg/L	0.12 mg/L (CMC)	Storm Drain 1
2/11/2013	Copper	0.101 mg/L	0.013 mg/L (CMC)	Storm Drain 1
11/8/2012	Copper	0.07 mg/L	0.013 mg/L (CMC)	Storm Drain 1
2/27/2012	Copper	0.048 mg/L	0.013 mg/L (CMC)	Storm Drain 1

The information in the above table reflects data gathered from Sims' self-monitoring during the 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAT alleges that during each of those wet seasons and continuing through today, Sims has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including but not limited to each of the following:

- Zinc – 0.12 mg/L (CMC)
- Copper – 0.013 mg/L (CMC)

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) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
2/6/2014	Total Suspended Solids	161 mg/L	100 mg/L	Storm Drain 1
2/6/2014	Aluminum	5.48 mg/L	0.75 mg/L	Storm Drain 1
2/6/2014	Iron	8.14 mg/L	1.0 mg/L	Storm Drain 1
2/6/2014	Zinc	1.33 mg/L	0.13 mg/L	Storm Drain 1
2/6/2014	Magnesium	4.02 mg/L	0.0636 mg/L	Storm Drain 1
10/9/2013	Total Suspended Solids	130 mg/L	100 mg/L	Storm Drain 1
10/9/2013	Aluminum	4.47 mg/L	0.75 mg/L	Storm Drain 1
10/9/2013	Iron	7.84 mg/L	1.0 mg/L	Storm Drain 1
10/9/2013	Zinc	2.76 mg/L	0.13 mg/L	Storm Drain 1
10/9/2013	Magnesium	11.6 mg/L	0.0636 mg/L	Storm Drain 1
10/9/2013	Total Organic Carbon	186 mg/L	110 mg/L	Storm Drain 1
2/11/2013	Total Suspended Solids	105 mg/L	100 mg/L	Storm Drain 1
2/11/2013	Zinc	0.89 mg/L	0.13 mg/L	Storm Drain 1
2/11/2013	Copper	0.101 mg/L	0.0156 mg/L	Storm Drain 1
11/8/2012	Total Suspended Solids	113 mg/L	100 mg/L	Storm Drain 1
11/8/2012	Zinc	0.735 mg/L	0.13 mg/L	Storm Drain 1
11/8/2012	Copper	0.07 mg/L	0.0156 mg/L	Storm Drain 1
2/27/2012	Zinc	0.418 mg/L	0.13 mg/L	Storm Drain 1
2/27/2012	Chemical Oxygen Demand	160 mg/L	120 mg/L	Storm Drain 1
2/27/2012	Copper	0.048 mg/L	0.0156 mg/L	Storm Drain 1

The information in the above table reflects data gathered from Sims' self-monitoring during the 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAT alleges that during each of those rainy seasons and continuing through today, Sims has discharged storm water contaminated with pollutants at levels that exceed one or more relevant EPA Benchmarks, including but not limited to each of the following:

- Total Suspended Solids – 100 mg/L
- Oil & Grease – 15.0 mg/L
- Chemical Oxygen Demand – 120 mg/L
- Zinc – 0.13 mg/L
- Aluminum – 0.75 mg/L

CCAT's investigation, including its review of Sims' 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 Sims has not implemented BAT and BCT at the Facility for its discharges of TSS, TOC, COD, aluminum, iron, zinc, magnesium and copper in violation of Effluent Limitation B(3) of the General Permit. Sims was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility

opened. Thus, Sims is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

In addition, the numbers listed in the tables 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. CCAT alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since September 5, 2009, 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 CCAT alleges that Sims has discharged storm water containing impermissible levels of TSS, TOC, COD, aluminum, iron, zinc, magnesium and copper in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.[5]

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 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, Sims is subject to penalties for violations of the General Permit and the Act since September 5, 2009.

B. Failure to Sample and Analyze for Mandatory Parameters

With some limited adjustments, facilities covered by the General Permit must sample two storm events per season from each of their storm water discharge locations. General Permit, Section B(5)(a). "Facility operators 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." *Id.* "All storm water discharge locations shall be sampled." *Id.* "Facility operators that do not collect samples from the first storm event of the wet season are still required to collect samples from two other storm events of the wet season and shall explain in the Annual Report why the first storm event was not sampled." *Id.*

Collected samples must be analyzed for TSS, pH, specific conductance, and either TOC or O&G. *Id.* at Section B(5)(c)(i). Facilities also must analyze their storm water samples for "[t]oxic chemicals and other pollutants that are likely to be present in storm water discharges in significant quantities. *Id.* at Section B(5)(c)(ii). Certain SIC Codes also must analyze for additional specified parameters. *Id.* at Section B(5)(c)(iii); *id.*, Table D. A facility within SIC Codes 5093, including Sims, must additionally analyze each of its storm water samples for iron, lead, aluminum, copper, zinc, and COD. *Id.*, Table D (Sector N).

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[5] The rain dates are all the days when at least 0.1" of rain fell as observed by a weather station in Long Beach, California, approximately 8 miles away from the Facility. http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=LONG_BEACH.A (Last accessed on September 4, 2014).

CCAT's review of Sims' storm water monitoring data for the 2011-2012, 2012-2013, and 2013-2014 wet seasons indicates that you have failed to analyze the storm water discharges at Storm Drain 1 for the following parameters on the indicated dates:

Date	Parameter
2/6/2014	Chemical Oxygen Demand
2/6/2014	Total Organic Carbon
2/6/2014	Oil & Grease
10/9/2013	Copper
10/9/2013	Chemical Oxygen Demand
2/11/2013	Aluminum
2/11/2013	Iron
2/11/2013	Magnesium
2/11/2013	Chemical Oxygen Demand
2/11/2013	Total Organic Carbon
11/8/2012	Aluminum
11/8/2012	Iron
11/8/2012	Magnesium
11/8/2012	Chemical Oxygen Demand
11/8/2012	Total Organic Carbon
11/8/2012	Oil & Grease
2/27/2012	pH
2/27/2012	Total Suspended Solids
2/27/2012	Aluminum
2/27/2012	Iron
2/27/2012	Magnesium
2/27/2012	Total Organic Carbon
2/27/2012	Oil & Grease

These failure to comply with Section B(5)(c)(ii) and B(5)(c)(iii) of the General Permit result in at least 23 violations of the General Permit. These violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Sims is subject to penalties for violations of the General Permit and the Act since September 5, 2009.

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. Sims claims to take samples at only four of its reported nine discharge locations. To the extent the storm water data collected by Sims 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, CCAT alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

In addition, on information and belief CCAT alleges that Sims failed to sample and analyze storm water discharges from all of the Facility's representative outfalls during at least the 2011-2012, 2012-2013, and 2013-2014 wet seasons. On all of the Facility's Annual Reports, it has indicated that it has three storm water discharge locations. However, during the 2011-2012, 2012-2013, and 2013-2014 wet seasons, it only sampled and analyzed storm water discharges from one storm water outfall. This results in at least six violations of Section B(5) of the General Permit.

On information and belief, CCAT alleges that Sims failed to conduct all monthly observations of its storm water discharges during the 2013-2014 wet season. This results in at least 24 violation of Section B(4) of the General Permit.

On information and belief, CCAT alleges that Sims failed to conduct all quarterly visual observations of its non-storm water discharges during the 2013-2014 and 2012-2013 wet seasons. This results in at least 8 violations of Section B(3) of the General Permit.

The Facility's 2009-2010 and 2010-2011 Annual Reports indicated that there were no qualifying events at the Facility and the Facility was thus unable to collect any storm water samples or conduct and monthly visual observations of storm water discharges. The Facility's 2011-2012 Annual Report indicates that there was only one qualifying event during the wet season for which the Facility was able to sample a storm water discharge. However, on information and belief, CSPA alleges that there were actually rain events during those three wet seasons. A nearby weather station reported that at least 0.1" of rain occurred on working days during those same months. See FN5. These days were preceded by three dry days, as specified by the requirement for monthly visual observations in Section B(4)(b) of the General Permit. On information and belief, CSPA alleges that Sims failed to conduct the wet weather monitoring required by Section B(4) and Section B(5) of the General Permit for the following months (in the indicated years):

- 2009: October, December
- 2010: February

- 2011: February, October, November, December
- 2012: April

These visual monitoring omissions amount to at least 20 separate violations 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, Sims is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since September 5, 2009.

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

Section A 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 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)).

CCAT's investigation of the conditions at the Facility as well as Sims' Annual Reports indicate that Sims has been operating with an inadequately developed and implemented SWPPP in violation of the requirements set forth above. Sims has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Sims has been in continuous violation of Section A and Provision E(2) of the General Permit every day since September 5, 2009, at the very latest, and will continue to be in violation every day that Sims fails to prepare, implement, review, and update an effective SWPPP. Sims is subject to penalties for violations of the General Permit and the Act occurring since September 5, 2009.

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 Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Sims and its agents, John Gonzalez and Gilliam Els, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, Sims has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time Sims failed to submit a complete or correct report and every time Sims or its agents falsely purported to comply with the Act. Sims is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least July 1, 2010.

III. Persons Responsible for the Violations.

CCAT puts Sims Recycling Solutions, Inc., Stephen Skurnac, Fred Brutsche, and James Gonzalez 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, CCAT puts Sims on notice that it intends to include those persons in this action.

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IV. Name and Address of Noticing Parties.

The name, address and telephone number of CCAT is as follows:

Jane Williams
Executive Director
California Communities Against Toxics
P.O. Box 845
Rosamond, CA 93560
Tel. (661) 510-3412

V. Counsel.

CCAT has retained counsel 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

Gideon Kracov
Law Office of Gideon Kracov
801 S. Grand Avenue, 11th Floor
Los Angeles, CA 90017
gk@gideonlaw.net

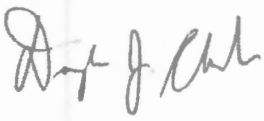
VI. Penalties.

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 Sims to a penalty of up to $37,500 per day per violation. In addition to civil penalties, CCAT 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.

CCAT believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAT intends to file a citizen suit under Section 505(a) of the Act against Sims and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAT 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, CCAT 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. CCAT 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 Communities Against Toxics

cc via first class mail: CSC – Lawyers Incorporating Service
Agent for Service of Process for Sims Recycling Solutions, Inc.
(Entity No. C3152881)
2710 Gateway Oaks Dr., Ste 150N
Sacramento, CA 95833

SERVICE LIST – via Certified Mail

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

Samuel Unger, Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

ATTCHMENT A

Rain Dates, Sims Recycling Solutions, Inc., Rancho Dominguez, California

10/13/2009	2/18/2011	1/24/2013
10/14/2009	2/19/2011	1/25/2013
12/7/2009	2/25/2011	2/8/2013
12/11/2009	2/26/2011	2/19/2013
12/12/2009	3/20/2011	3/8/2013
12/13/2009	3/21/2011	5/6/2013
1/13/2010	3/23/2011	5/7/2013
1/14/2010	3/25/2011	11/29/2013
1/17/2010	3/27/2011	12/19/2013
1/18/2010	5/17/2011	2/6/2014
1/19/2010	10/4/2011	2/27/2014
1/20/2010	10/5/2011	2/28/2014
1/21/2010	11/4/2011	3/1/2014
1/22/2010	11/6/2011	4/1/2014
2/5/2010	11/12/2011	4/2/2014
2/6/2010	11/20/2011	4/25/2014
2/15/2010	12/12/2011	
2/19/2010	1/21/2012	
2/23/2010	1/23/2012	
2/27/2010	2/15/2012	
3/6/2010	2/27/2012	
4/5/2010	3/17/2012	
4/12/2010	3/18/2012	
10/6/2010	3/25/2012	
11/20/2010	4/10/2012	
12/10/2010	4/11/2012	
12/17/2010	4/13/2012	
12/18/2010	4/25/2012	
12/19/2010	4/26/2012	
12/20/2010	7/25/2012	
12/21/2010	11/29/2012	
12/22/2010	11/30/2012	
12/23/2010	12/2/2012	
12/24/2010	12/3/2012	
12/26/2010	12/13/2012	
12/27/2010	12/24/2012	
1/30/2011	12/26/2012	
2/16/2011	12/29/2012	

Notice of Violations and Intent to File Suit