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CITY OF CULVER CITY

October 15, 2024

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Yanni Demitri, MSCE, Public Works Director
and Legally Responsible Person
City Hall, 2nd Floor
9770 Culver Blvd.
Culver City, CA 90232

Jeremy Bocchino, City Clerk
City of Culver City
ATTN: City Clerk's Office
9770 Culver Blvd.
Culver City, CA 90232

Yasmine-Imani McMorrin, Mayor
Dan O'Brien, Vice Mayor
Göran Eriksson, Council Member
Freddy Puza, Council Member
Albert Vera, Council Member
City of Culver City
City Hall
9770 Culver Blvd.
Culver City, CA 90232

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

Dear Mr. Demintri, Mayor McMorrin, Vice Mayor O'Brien, and Members of the City Council:

I am writing on behalf of Los Angeles Waterkeeper ("LAW") in regard to violations of the Clean Water Act (the "Act") that LAW believes are occurring at the Culver City Refuse Transfer Station located at 9255 West Jefferson Boulevard in Culver City, California 90232 ("Facility"). This letter is being sent to Culver City and Yanni Demitri as the responsible owner, officers, or operators of the Facility (all recipients collectively referred to as "Culver City Refuse").

This letter addresses Culver City Refuse's unlawful discharge of pollutants from the Facility into Ballona Creek. 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. 97-03-DWQ as renewed by Order No. 2015-0057-DWQ, and as further amended on November 6, 2018 ("General Permit"). This letter notifies Culver City Refuse of ongoing violations of the substantive and procedural requirements

Notice of Violations and Intent to File Suit

of the General Permit at the Facility.

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 Violations and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, LAW hereby places Culver City Refuse on formal notice that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, LAW intends to file suit in federal court against Culver City Transfer 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.

A. The Facility.

On or about December 23, 2021, Culver City Refuse filed its most recent Notice of Intent to Comply with the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”), and on information and belief has been subject General Permit since at least 1992. The Waste Discharger Identification Number (“WDID”) for the Facility listed on documents submitted to the State Board is 4 19I001571. In the NOI, Culver City Refuse certifies that the Facility is classified under SIC code 4953 (“Refuse System”). The Facility is a municipal solid waste transfer station where solid waste, recyclable materials, and organic materials are received, sorted, and transferred.

The Facility collects storm water from its 1.5-acre industrial site and discharges storm water from at least six discharge locations at the Facility. Based on information and belief, storm water discharged from the Facility flows indirectly into Ballona Creek – Reach 2, which flows into Ballona Creek Estuary, and then into Santa Monica Bay, and ultimately the Pacific Ocean.

B. Water Quality Standards, Guidelines, Numeric Effluent Limitations, and Numeric Action Levels.

The Regional Board has identified beneficial uses of the Ballona Creek and Ballona Creek Estuary, and established water quality standards for these waters 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* https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/basin_plan_documentation.html.

The beneficial uses of these waters include, among others, commercial and sport fishing, navigation, marine habitat, wildlife habitat, habitat for rare, threatened, or endangered species, estuarine habitat, migration of aquatic organisms, spawning, reproduction, and/or early development, shellfish habitat, wetland habitat, water contact recreation, and noncontact water recreation. Basin Plan at 2-28, 2-33. The noncontact water recreation use is defined as “Uses of water for recreational activities involving proximity to water, but not normally involving body contact with water, where ingestion of water 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.” Basin Plan at 2-5. Contact recreation includes swimming, wading, water-skiing, skin and scuba diving, surfing, whitewater activities, fishing, and uses of natural hot springs. *Id.*

The Basin Plan includes a narrative biostimulatory substance standard which states, “Waters shall not contain biostimulatory substances in concentrations that promote aquatic growth to the extent that such growth causes nuisance or adversely affects beneficial uses.” Basin Plan at 3-29. The Basin Plan contains a narrative color standard which states, “Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.” Basin Plan at 3-32. The Basin Plan contains a narrative floating material standard which states, “Waters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-33. The Basin Plan includes a narrative oil and grease standard which states, “Waters 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 3-34. The Basin Plan includes a narrative solid, suspended and settleable materials standard which states, “Waters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-44. The Basin Plan contains a narrative taste and odor standard that states, “Waters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses.” *Id.* The Basin Plan includes a narrative toxicity standard which states, “All 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 3-45. The Basin Plan contains a narrative turbidity standard that states “Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses.” *Id.* at 3-46. The Basin Plan provides, that the pH of inland surface waters as well as bays or estuaries shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges.” *Id.* at 3-40. The Basin Plan also provides a chemical constituent standard that “[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.” Basin Plan at 3-30. The Basin Plan contains bacteria standards. *Id.* at 3-26. For marine waters designated for water contact recreation, the Basin Plan contains the following single sample limits: total coliform - 10,000/100 ml; fecal coliform - 400/100 ml; enterococcus - 104/100 ml. *Id.* If the ratio of fecal-to-total coliform exceeds 0.1, total coliform density shall not exceed 1,000/100 ml. *Id.* For fresh waters designated for water contact recreation, the Basin Plan contains the following single sample limit: *E. coli* - 235/100 ml. *Id.*

The EPA has adopted freshwater numeric water quality standards for zinc of 0.12 mg/L (Criteria Maximum Concentration – “CMC”),¹ for copper of 0.013 mg/L (CMC), and for lead of 0.065 (CMC).² 40 C.F.R. 131.38 (California Toxics Rule). The EPA has adopted saltwater numeric water quality standards for zinc of 0.09 mg/L CMC, for copper of 0.0048 mg/L CMC, and for lead of 0.21 mg/L CMC. *Id.*

The EPA 303(d) List of Water Quality Limited Segments lists Ballona Creek as impaired for trash, viruses, copper, cyanide, lead, toxicity, zinc, and indicator bacteria. *See* Final 2018 California Integrated Report, Appendix A: 2018 303(d) List of Impaired Waters, available at: https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2018_integrated_report.html. Ballona Creek Estuary is listed as impaired for DDT, toxicity, cadmium, chlordane, copper, lead, PCBs, silver, zinc, PAHs, and indicator bacteria. *Id.* Santa Monica Bay is listed as impaired for trash, arsenic, PCBs, mercury, and DDT. *Id.* The California 2024 Integrated Report’s 303(d) List of Water Quality Limited Segments also lists Ballona Creek as impaired for pH and aluminum, among other pollutants. *See* <https://gispublic.waterboards.ca.gov/portal/apps/webappviewer/index.html?id=f0e4ac76fd0e4a53bebead89339ef3c9>. The California 2024 Integrated Report also lists Ballona Creek Estuary as impaired for DDE. *Id.*

The General Permit establishes annual Numeric Action Levels (“NALs”) and instantaneous maximum NALs. “For annual NALs, an exceedance occurs when the average of all analytical results from all samples taken at a facility during a reporting year for a given parameter exceeds an annual NAL value.” General Permit, § I.N.76.a. “For instantaneous maximum NALs/TNALs, an exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value, or are outside of the instantaneous maximum NAL range (for pH).” *Id.* at I.N.76.b.

The following annual NALs have been established under the General Permit for pollutants thought to be discharged by Culver City Refuse: oil & grease (“O&G”) – 15 mg/L; total suspended solids (“TSS”) – 100 mg/L; copper – 0.0332 mg/L; iron – 1.0 mg/L; zinc – 0.26 mg/L; chemical oxygen demand (“COD”) – 120 mg/L; lead – 0.262 mg/L; ammonia – 2.14 mg/L; and magnesium – 0.064 mg/L. The following instantaneous maximum NALs have been established under the General Permit for pollutants discharged by Culver City Refuse: TSS – 400 mg/L; O&G – 25 mg/L; pH - less than 6.0 or greater than 9.0 s.u.

On November 6, 2018, the State Board amended the General Permit to include TMDL Numeric Action Levels (“TNALs”) and Numeric Effluent Limitations (“NELs”) for certain pollutants in certain watersheds of the State that are impaired by pollutants. Relevant to Culver

¹ Criteria Maximum Concentration (CMC) is the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects.

² These values 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.

City Refuse's discharges, the State Board adopted the following instantaneous maximum TNALs for bacteria being discharged into Ballona Creek, Reach 2, which became effective on July 15, 2021: e. coli – 576/100 mL. General Permit, Attachment E, Table E-2, p. 8. The State Board also adopted the following instantaneous maximum TNALs for bacteria being discharged into Ballona Estuary which also became effective on July 15, 2021: enterococcus – density of 104/100 mL; fecal coliform – density of 400/100 mL; total coliform – density of 10,000/100 mL or 1,000/100 mL if the ratio of fecal-to-total coliform exceeds 0.1. General Permit, Attachment E, Table E-2, pp. 9-11.

On November 6, 2018, the State Board amended the General Permit to include Numeric Effluent Limitations (“NELs”) for certain pollutants in certain watersheds of the State that are impaired by pollutants. Relevant to Culver City Refuse's discharges, the State Board adopted the following Instantaneous Maximum NELs for Ballona Creek: copper – 0.0137 mg/L; lead – 0.07675 mg/L; and zinc – 0.10477 mg/L.

“An instantaneous maximum NEL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value.” General Permit, Attachment C at 5. The Ballona Creek NELs for copper, lead, and zinc went into effect on July 1, 2020. General Permit, Attachment E, Table E-2, pp. 4-6. Compliance with the NELs is in addition to the requirements triggered by an exceedance of the NALs for the same pollutants. Amended General Permit Fact Sheet, p. 41.

The Ballona Creek Estuary Toxics TMDL became effective on July 1, 2020 for cadmium, chlordane, copper, DDT, lead, PCBs, silver and zinc and requires compliance with the General Permit NALs for TSS. General Permit, Attachment E, Table E-2, p. 6; General Permit Fact Sheet, p. 114.

The EPA also 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 into freshwater by Culver City Refuse for industries within SIC Code 4953: COD – 120 mg/L; TSS – 100 mg/L; aluminum – 1.1 mg/L; copper – 0.00519 mg/L; lead – 0.082 mg/L; N+N – 0.68; and zinc – 0.12 mg/L.

II. Alleged Violations of the General Permit.

A. Discharges in Violation of the Permit.

Culver City Refuse 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

Best Available Technology Economically Achievable (“BAT”) or Best Conventional Pollutant Control Technology (“BCT”). Effluent Limitation V.A. 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. *See* General Permit, Effluent Limitation V.A. BAT and BCT include both nonstructural and structural measures. *Id.*, Section X.H. 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 III.B 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 III.C 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 VI.A of the General Permit mandates that “Dischargers shall ensure that industrial storm water discharges and authorized NSWDS do not cause or contribute to an exceedance of any applicable water quality standards in any affected receiving water.” Receiving Water Limitation VI.B of the General Permit prohibits storm water discharges and authorized non-storm water discharges that adversely impact human health or the environment. Receiving Water Limitation VI.C of the General Permit requires that “Dischargers shall ensure that industrial storm water discharges and authorized NSWDS do not contain pollutants in quantities that threaten to cause pollution or a public nuisance.” Discharge Prohibition III.D 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. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water Limitations and Prohibitions set forth in Sections VI, III.C, or III.D of the General Permit. As a result, compliance with these provisions is measured at the Facility’s discharge monitoring locations.

Culver City Refuse has discharged and continues to discharge storm water with unacceptable levels of, at least, zinc, copper, magnesium, iron, pH, e. coli, enterococci, fecal coliform, and total coliform in violation of the General Permit. Culver City Refuse’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 General 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).

1. Violations of Instantaneous Maximum NELs.

The following discharges of pollutants from the Facility have contained measurements of pollutants in excess of applicable Instantaneous Maximum NELs. Each date on which a sample was collected that contributed to the exceedance of an Instantaneous Maximum NELs is a separate violation of the General Permit and the CWA.

Sampling / Observation Date	Parameter	Observed Concentration	NEL	Outfall (as identified by the Facility)
2/1/2024	Zinc	0.45 mg/L	0.10477 mg/L	East Roof
1/22/2024	Zinc	0.20 mg/L	0.10477 mg/L	Rain Garden
12/30/2023	Zinc	0.24 mg/L	0.10477 mg/L	Rain Garden
12/30/2023	Zinc	0.62 mg/L	0.10477 mg/L	West Roof
12/20/2023	Zinc	0.57 mg/L	0.10477 mg/L	Upper Entrance
12/20/2023	Zinc	0.12 mg/L	0.10477 mg/L	Rain Garden
1/5/2023	Zinc	0.12 mg/L	0.10477 mg/L	Rain Garden
3/28/2022	Zinc	0.172 mg/L	0.10477 mg/L	Rain Garden
3/28/2022	Zinc	0.137 mg/L	0.10477 mg/L	Upper Entrance
3/28/2022	Zinc	0.196 mg/L	0.10477 mg/L	East Roof
3/28/2022	Zinc	0.16 mg/L	0.10477 mg/L	West Roof
12/14/2021	Zinc	0.557 mg/L	0.10477 mg/L	East Roof
12/28/2020	Zinc	0.24 mg/L	0.10477 mg/L	Rain Garden
12/28/2020	Zinc	0.198 mg/L	0.10477 mg/L	Upper Entrance
1/22/2024	Copper	0.017 mg/L	0.0137 mg/L	Rain Garden
1/22/2024	Copper	0.097 mg/L	0.0137 mg/L	East Roof
12/30/2023	Copper	0.015 mg/L	0.0137 mg/L	Rain Garden
12/20/2023	Copper	0.043 mg/L	0.0137 mg/L	Upper Entrance
3/28/2022	Copper	0.0148 mg/L	0.0137 mg/L	Rain Garden
3/28/2022	Copper	0.0169 mg/L	0.0137 mg/L	West Roof
12/14/2021	Copper	0.014 mg/L	0.0137 mg/L	East Roof
10/25/2021	Copper	0.0155 mg/L	0.0137 mg/L	Rain Garden
12/28/2020	Copper	0.0202 mg/L	0.0137 mg/L	Rain Garden

The above-described unlawful discharges from the Facility are ongoing. Each discharge of storm water containing pollutants which contributes to the Instantaneous Maximum NEL exceedance constitutes a separate violation of the General Permit and the Act. *See* General Permit VII.E (“Responsible Dischargers with an NEL exceedance are in violation of this General Permit...”); 33 U.S.C. § 1319(d) (civil penalties assessed “per day for each violation”). Culver City Refuse is subject to penalties for at least 14 violations of the Instantaneous Maximum NEL for zinc and any additional discharges of pollutants contributing to any future violations of the Instantaneous Maximum NEL for zinc. Culver City Refuse is subject to penalties for at least 9 violations of the Instantaneous Maximum NEL for copper and any additional discharges of pollutants contributing to any future violations of the Instantaneous Maximum NEL for copper. Had the Facility sampled all required QSEs, LAW alleges it would have had additional NEL exceedances.

2. Exceedances of NALs, TNALs and Water Quality Standards.

The following discharges of pollutants from the Facility have contained measurements of pollutants in excess of applicable NALs, TNALs, and numeric water quality standards. The following discharges of pollutants from the Facility have violated Discharge Prohibitions III.B and III.C and Receiving Water Limitations VI.A and VI.B of the General Permit and are evidence of ongoing violations of Effluent Limitation V.A of the General Permit.

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
2/1/2024	Magnesium	0.4 mg/L			Rain Garden
2/1/2024	Magnesium	0.2 mg/L			Upper Entrance
2/1/2024	Magnesium	0.07 mg/L			East Roof
1/22/2024	Magnesium	1.88 mg/L			Rain Garden
1/22/2024	Magnesium	0.68 mg/L			Upper Entrance
1/22/2024	Magnesium	0 mg/L			East Roof
12/30/2024	Magnesium	1.39 mg/L			Rain Garden
12/30/2024	Magnesium	0.96 mg/L			Upper Entrance
12/30/2024	Magnesium	0.078 mg/L			West Roof
12/20/2024	Magnesium	3.69 mg/L			Upper Entrance
12/20/2024	Magnesium	1.0 mg/L			Rain Garden
2023-2024 Reporting Year ³	Magnesium	0.96 mg/L	0.064 mg/L		Annual Average
1/9/2023	Magnesium	0.34 mg/L			Upper Entrance
1/9/2023	Magnesium	0.38 mg/L			Rain Garden
1/5/2023	Magnesium	0.56 mg/L			Upper Entrance
1/5/2023	Magnesium	0.61 mg/L			Rain Garden
2022-2023 Reporting Year ⁴	Magnesium	0.47 mg/L	0.064 mg/L		Annual Average
3/28/2022	Magnesium	0.97 mg/L			Rain Garden
3/28/2022	Magnesium	1.05 mg/L			Upper Entrance
3/28/2022	Magnesium	0.68 mg/L			East Roof
3/28/2022	Magnesium	1.19 mg/L			West Roof

³ The value in this row represents the average of all magnesium measurements taken at the Facility during the 2023-2024 reporting year and exceeds 0.064 mg/L, the annual NAL for magnesium.

⁴ The value in this row represents the average of all magnesium measurements taken at the Facility during the 2022-2023 reporting year and exceeds 0.064 mg/L, the annual NAL for magnesium.

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
12/14/2021	Magnesium	0.49 mg/L			Rain Garden
12/14/2021	Magnesium	1.16 mg/L			Upper Entrance
12/14/2021	Magnesium	0.62 mg/L			East Roof
10/25/2021	Magnesium	8.75 mg/L			Rain Graden
10/25/2021	Magnesium	0.77 mg/L			Upper Entrance
2021-2022 Reporting Year ⁵	Magnesium	1.74 mg/L	0.064 mg/L		Annual Average
12/28/2020	Magnesium	1.14 mg/L			Rain Garden
12/28/2020	Magnesium	1.26 mg/L			Upper Entrance
2020-2021 Reporting Year ⁶	Magnesium	1.74 mg/L	0.064 mg/L		Annual Average
2/1/2024	Iron	0.9 mg/L	1 mg/L		Rain Garden
2/1/2024	Iron	0.27 mg/L	1 mg/L		Upper Entrance
2/1/2024	Iron	0.018 mg/L	1 mg/L		East Roof
1/22/2024	Iron	5.1 mg/L	1 mg/L		Rain Garden
1/22/2024	Iron	0.43 mg/L	1 mg/L		Upper Entrance
1/22/2024	Iron	0 mg/L	1 mg/L		East Roof
12/30/2024	Iron	2.9 mg/L	1 mg/L		Rain Garden
12/30/2024	Iron	1.9 mg/L	1 mg/L		Upper Entrance
12/30/2024	Iron	0.09 mg/L	1 mg/L		West Roof
12/20/2024	Iron	8.1 mg/L	1 mg/L		Upper Entrance
12/20/2024	Iron	1.2 mg/L	1 mg/L		Rain Garden
2023-2024 Reporting Year ⁷	Iron	1.9 mg/L	1 mg/L		Annual Average
2/1/2024	Copper	0.0056 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden

⁵ The value in this row represents the average of all magnesium measurements taken at the Facility during the 2021-2022 reporting year and exceeds 0.064 mg/L, the annual NAL for magnesium.

⁶ The value in this row represents the average of all magnesium measurements taken at the Facility during the 2020-2021 reporting year and exceeds 0.064 mg/L, the annual NAL for magnesium.

⁷ The value in this row represents the average of all iron measurements taken at the Facility during the 2023-2024 reporting year and exceeds 1 mg/L, the annual NAL for iron.

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
1/22/2024	Copper	0.017 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
1/22/2024	Copper	0.097 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	East Roof
12/30/2023	Copper	0.015 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
12/30/2023	Copper	0.01 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
12/20/2023	Copper	0.013 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
12/20/2023	Copper	0.043 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
3/28/2022	Copper	0.0148 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
3/28/2022	Copper	0.013 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
3/28/2022	Copper	0.0062 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	East Roof

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
3/28/2022	Copper	0.0169 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	West Roof
12/14/2021	Copper	0.006 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
12/14/2021	Copper	0.012 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
12/14/2021	Copper	0.014 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	East Roof
10/25/2021	Copper	0.0155 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
12/28/2020	Copper	0.0062 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Rain Garden
12/28/2020	Copper	0.0202 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
4/6/2020	Copper	0.017 mg/L		0.013 mg/L (CTR) / 0.00519 (EPA Benchmark)	Upper Entrance
2/1/2024	Zinc	0.059 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
2/1/2024	Zinc	0.45 mg/L		0.12 mg/L (CTR and EPA Benchmark)	East Roof
1/22/2024	Zinc	0.2 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
12/30/2023	Zinc	0.24 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
12/30/2023	Zinc	0.62 mg/L		0.12 mg/L (CTR and EPA Benchmark)	West Roof
12/20/2023	Zinc	0.57 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Upper Entrance
12/20/2023	Zinc	0.12 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
1/5/2023	Zinc	0.12 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
3/28/2022	Zinc	0.172 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
3/28/2022	Zinc	0.137 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Upper Entrance
3/28/2022	Zinc	0.196 mg/L		0.12 mg/L (CTR and EPA Benchmark)	East Roof
3/28/2022	Zinc	0.16 mg/L		0.12 mg/L (CTR and EPA Benchmark)	West Roof
12/14/2021	Zinc	0.557 mg/L		0.12 mg/L (CTR and EPA Benchmark)	East Roof

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
12/28/2020	Zinc	0.24 mg/L mg/L		0.12 mg/L (CTR and EPA Benchmark)	Rain Garden
12/28/2020	Zinc	0.198 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Upper Entrance
4/6/2020	Zinc	0.17 mg/L		0.12 mg/L (CTR and EPA Benchmark)	Upper Entrance
4/6/2020	Zinc	0.39 mg/L		0.12 mg/L (CTR and EPA Benchmark)	East Roof
12/23/2019	Zinc	0.33 mg/L		0.12 mg/L (CTR and EPA Benchmark)	East Roof
1/22/2024	pH	12 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	East Roof
1/9/2023	pH	8.8 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	Upper Entrance
1/9/2023	pH	8.8 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	Rain Garden
4/6/2020	pH	6.47 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	Rain Garden
4/6/2020	pH	6.3 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	Upper Entrance
4/6/2020	pH	4.01 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	East Roof
12/23/2019	pH	3.3 s.u.	< 6 s.u. or > 9 s.u.	< 6.5 s.u. or > 8.5 s.u. (Basin Plan)	East Roof

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
2/1/2024	E. coli	9,800/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Rain Garden
2/1/2024	E. coli	2,300/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
1/22/2024	E. coli	33,000/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Rain Garden
1/22/2024	E. coli	20,000/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
12/20/2023	E. coli	14,000/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Rain Garden
12/20/2023	E. coli	9,800/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
1/9/2023	E. coli	1,700/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Rain Garden
1/9/2023	E. coli	13,000/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
1/5/2023	E. coli	3,900/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Rain Garden

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
1/5/2023	E. coli	100,000/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
10/25/2021	E. coli	900/100 mL		576/100 mL (TNAL) / 235/100 mL (Basin Plan)	Upper Entrance
4/6/2020	E. coli	11,000/100 mL		235/100 mL (Basin Plan)	Upper Entrance
2/1/2024	Enterococcus	3,900/100 mL		104/100 mL (TNAL)	Upper Entrance
1/22/2024	Enterococcus	130,000/100 mL		104/100 mL (TNAL)	Rain Garden
1/22/2024	Enterococcus	240,000/100 mL		104/100 mL (TNAL)	Upper Entrance
12/20/2023	Enterococcus	22,000/100 mL		104/100 mL (TNAL)	Rain Garden
12/20/2023	Enterococcus	24,000/100 mL		104/100 mL (TNAL)	Upper Entrance
3/28/2022	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	West Roof
12/14/2021	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	Rain Garden
12/14/2021	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	Upper Entrance
12/14/2021	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	East Roof
10/25/2021	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	Rain Garden
10/25/2021	Enterococcus	1,600/100 mL		104/100 mL (TNAL)	Upper Entrance
1/22/2024	Fecal coliform	49,000/100 mL		400/100 mL (TNAL)	Rain Garden
1/22/2024	Fecal coliform	130,000/100 mL		400/100 mL (TNAL)	Upper Entrance

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
12/30/2023	Fecal coliform	14,000/100 mL		400/100 mL (TNAL)	West Roof
12/20/2023	Fecal coliform	24,000/100 mL		400/100 mL (TNAL)	Rain Garden
1/9/2023	Fecal coliform	2,200/100 mL		400/100 mL (TNAL)	Rain Garden
1/9/2023	Fecal coliform	17,000/100 mL		400/100 mL (TNAL)	Upper Entrance
1/5/2023	Fecal coliform	3,500/100 mL		400/100 mL (TNAL)	Rain Garden
1/5/2023	Fecal coliform	54,000/100 mL		400/100 mL (TNAL)	Upper Entrance
3/28/2022	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	West Roof
12/14/2021	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	Rain Garden
12/14/2021	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	Upper Entrance
12/14/2021	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	East Roof
10/25/2021	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	Rain Garden
10/25/2021	Fecal coliform	1,600/100 mL		400/100 mL (TNAL)	Upper Entrance
1/22/2024	Total coliform	1,600,000/100 mL		10,000/100 mL (TNAL)	Rain Garden
1/22/2024	Total coliform	1,600,000/100 mL		10,000/100 mL (TNAL)	Upper Entrance
12/20/2023	Total coliform	1,600,000/100 mL		10,000/100 mL (TNAL)	Rain Garden
12/20/2023	Total coliform	540,000/100 mL		10,000/100 mL (TNAL)	Upper Entrance
1/9/2023	Total coliform	35,000/100 mL		10,000/100 mL (TNAL)	Rain Garden
1/9/2023	Total coliform	160,000/100 mL		10,000/100 mL (TNAL)	Upper Entrance

Sampling Date	Parameter	Observed Concentration	Annual NAL	Basin Plan Water Quality Objective/ CTR/ EPA Benchmark Value/ TNAL	Outfall/ Discharge Location
1/5/2023	Total coliform	110,000/100 mL		10,000/100 mL (TNAL)	Rain Garden
1/5/2023	Total coliform	1,600,000/100 mL		10,000/100 mL (TNAL)	Upper Entrance
12/14/2021	Total coliform	1,600/100 mL		1,000/100 mL (TNAL when ratio of fecal-to-total coliform exceeds 0.1)	Upper Entrance
12/14/2021	Total coliform	1,600/100 mL		1,000/100 mL (TNAL when ratio of fecal-to-total coliform exceeds 0.1)	East Roof
10/25/2021	Total coliform	1,600/100 mL		1,000/100 mL (TNAL when ratio of fecal-to-total coliform exceeds 0.1)	Upper Entrance
10/25/2021	Total coliform	1,600/100 mL		1,000/100 mL (TNAL when ratio of fecal-to-total coliform exceeds 0.1)	East Roof

The information in the above table reflects data gathered from Culver City Refuse’s self-monitoring during the 2019-2020, 2020-2021, 2021-2022, 2022-2023, and 2023-2024 wet seasons/reporting years. LAW alleges that during the last five rainy seasons and continuing through today, Culver City Refuse has discharged storm water contaminated with pollutants at levels that exceed one or more applicable NALs, TNALs, EPA benchmarks, and numeric water quality standards, including but not limited to⁸ each of the following:

- Magnesium – 0.064 mg/L (annual NAL)
- Iron – 1 mg/L (annual NAL)
- Copper – 0.013 mg/L (CTR), 0.00519 (EPA Benchmark)
- Zinc – 0.12 mg/L (CTR and EPA Benchmark)

⁸ LAW alleges that, had Culver City Refuse analyzed the required number of QSEs and analyzed each sample for all required parameters, additional exceedances would have occurred. See section II.D, below.

- pH – < 6.0 s.u. or > 9.0 s.u. (instantaneous NAL), < 6.5 s.u. or > 8.5 s.u. (Basin Plan)
- E. coli – density of 576/100 mL (TNAL), 235/100 mL (Basin Plan)
- Enterococcus – density of 104/100 mL (TNAL)
- Fecal Coliform – density of 400/100 mL (TNAL)
- Total Coliform – density of 10,000/100 mL or 1,000/100 mL if the ratio of fecal-to-total coliform exceeds 0.1 (TNAL)

LAW's investigation, including its review of Culver City Refuse's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of NALs and EPA Benchmarks, indicates that Culver City Refuse has not implemented BAT and BCT at the Facility for its discharges of magnesium, iron, copper, zinc, pH, e. coli, enterococcus, fecal coliform, total coliform, and other pollutants in violation of Effluent Limitation V.A of the General Permit. Culver City Refuse was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Culver City Refuse 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 III.A, III.C and III.D and Receiving Water Limitations VI.A, VI.B, and VI.C of the General Permit. LAW alleges that such violations also have occurred and will occur on other rain dates, including on information and belief every significant rain event that has occurred since October 15, 2019, and that will occur at the Facility subsequent to the date of this Notice of Violations and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which LAW alleges that Culver City Refuse has discharged storm water containing impermissible and unauthorized levels of magnesium, iron, copper, zinc, pH, e. coli, enterococcus, fecal coliform, and total coliform in violation of Section 301(a) of the Act as well as Effluent Limitation V.A, Discharge Prohibitions III.A, III.C, and III.D and Receiving Water Limitations VI.A, VI.B and VI.C of the General Permit.⁹

Further, LAW puts Culver City Refuse on notice that General Permit Effluent Limitation V.A, Discharge Prohibitions III.C and III.D and Receiving Water Limitations VI.A, VI.B and VI.C are each separate, independent requirements with which Culver City Refuse must comply, and that carrying out the iterative process triggered by exceedances of the NALs listed at Table 2 of the General Permit does not amount to compliance with the General Permit's Effluent Limitations, including Culver City Refuse's obligation to have installed BAT and BCT at the Facility. While exceedances of the NALs demonstrate that a facility is among the worst performing facilities in the State and are evidence of the Facility's failure to implement BAT and

⁹ The rain dates on the attached table are all the days when 0.1" or more rain was observed at weather stations in the vicinity of the Facility. Rain data was accessed from the National Oceanic and Atmospheric Administration at <https://www.ncdc.noaa.gov/cdo-web/> and Public Works Los Angeles at <https://dpw.lacounty.gov/wrd/rainfall/>.

BCT, the NALs are not effluent limitations that by themselves determine whether an industrial facility has implemented BMPs that achieve BAT/BCT.¹⁰

The above-described 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. Each discharge of storm water constitutes an unauthorized discharge of magnesium, iron, copper, zinc, pH, e. coli, enterococcus, fecal coliform, and total coliform, and polluted storm water associated with industrial activity in violation of Section 301(a) of the CWA. Each day that the Facility operates without implementing BAT/BCT is a violation 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, Culver City Refuse is subject to penalties for violations of the General Permit and the Act since October 15, 2019.

B. Failure to Implement Best Available and Best Conventional Treatment Technologies.

The General Permit requires that all dischargers develop and implement a set of minimum best management practices (“BMPs”) (which are mostly non-structural BMPs) as well as any advanced BMPs (which are mostly structural) as necessary to achieve BAT/BCT, which serve as the basis for compliance with the General Permit’s technology-based effluent limitations. *See* General Permit § X(H).

The General Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. *See* General Permit, § X.H.2. Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the General Permit. *Id.* A Facility’s BMPs must, at all times, be robust enough to meet the General Permit’s and 33 U.S.C. § 1342(p)(3)(A)’s requirement that all discharges associated with industrial activities be subjected to BAT and BCT. General Permit §§ V.A, I.A.1, I.D.31-32.

Culver City Refuse’s exceedance of annual NALs and EPA Benchmarks, as detailed in Section II.A. above, is compelling evidence that Culver City Refuse has failed to implement necessary BMPs. There are advanced BMPs available, including additional treatment equipment that should have been implemented at the Facility. LAW puts Culver City Refuse on notice that it violates the General Permit and the CWA every day that the Facility operates without implementing requisite advanced BMPs. These violations are ongoing, and LAW will include

¹⁰ “The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL exceedances defined in [the General] Permit are not, in and of themselves, violations of [the General] Permit.” General Permit, Finding 63, p. 11. The NALs do, however, trigger reporting requirements. *See* General Permit, Section XII.

additional violations as information and data become available. Culver City Refuse is subject to civil penalties for all violations of the CWA occurring since October 15, 2019.

C. Failure to Identify Water Quality Based Corrective Actions for the Facility's NEL Violations.

Upon the determination of Culver City Refuse that the Facility's storm water discharges exceeded an NEL, the General Permit mandates that Culver City Refuse do all of the following:

Upon determination by the Discharger ... or in the event that a Responsible Discharger's industrial storm water discharge exceeds an NEL in Attachment E, the Discharger shall:

- a. Conduct a facility evaluation to identify pollutant source(s) within the facility that are associated with industrial activity and whether the BMPs described in the SWPPP have been properly implemented;
- b. Assess the facility's SWPPP and its implementation to determine whether additional BMPs or SWPPP implementation measures are necessary to reduce or prevent pollutants in industrial storm water discharges to meet the Receiving Water Limitations (Section VI); and,
- c. Certify and submit via SMARTS documentation based upon the above facility evaluation and assessment that:
 - i. Additional BMPs and/or SWPPP implementation measures have been identified and included in the SWPPP to meet the Receiving Water Limitations (Section VI) or applicable NELs (Attachment E); or
 - ii. No additional BMPs or SWPPP implementation measures are required to reduce or prevent pollutants in industrial storm water discharges to meet the Receiving Water Limitations (Section VI) or applicable NELs (Attachment E).

General Permit, § XX.B.1. *See also* Id., § VII.E ("Responsible Dischargers with an NEL exceedance are in violation of this General Permit and must comply with the Water Quality Based Corrective Actions, as defined in this General Permit in Section XX.B").

Culver City Refuse determined that the Facility's storm water discharges exceeded the NEL for zinc upon receipt of the December 28, 2020 report from Chem Pro Laboratory, Inc., and for copper upon receipt of the December 14, 2021 report from Chem Pro Laboratory, Inc. These reports demonstrate at least two exceedances of the zinc NEL during the 2020-2021 reporting year and two exceedances of the copper NEL during the 2021-2022 reporting year. After reporting these exceedances, Culver City Refuse failed to prepare, submit, and implement any Water Quality Based Corrective Actions ("WQBCAs").

It was not until September 5, 2024 that Culver City Refuse uploaded a WQBCA report to SMARTS for its exceedances of the zinc NEL during the 2021-2022 reporting year, but it failed

to address copper NEL exceedances in that report or a separate WQBCA report. Culver City Refuse maintained this pattern of failing to prepare, submit, and implement WQBCAs following NEL exceedances for the 2021-2022 and 2023-2024 reporting years where Culver City Refuse reported NEL exceedances for zinc and copper.

On August 30, 2023, Culver City Refuse issued its latest SWPPP. In the SWPPP, Culver City Refuse did not propose any changes to address zinc or copper NEL exceedances. Culver City Refuse has failed to conduct the required BMP evaluation and identification of additional BMPs or SWPPP implementation measures necessary to meet the zinc and copper NELs in violation of General Permit, § XX.B.1.c.i. Culver City Refuse also has failed to conduct the required BMP evaluation and identification of additional BMPs or SWPPP implementation measures necessary to meet the copper NEL in violation of General Permit, § XX.B.1.c.i. These violations are ongoing.

D. Failure to Develop, Implement, and/or Revise the Monitoring and Reporting Requirements for the Facility.

The General Permit requires facility operators to develop and implement an adequate Monitoring Implementation Plan for visual observations and for the sampling and analysis of storm water discharges. *See* General Permit, §§ X(I), XI. The primary objective of such monitoring is to both observe and to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the General Permit's discharge prohibitions, effluent limitations, and receiving water limitations. Adequate monitoring and reporting ensure that BMPs are effectively reducing and/or eliminating pollutants at a facility, and are evaluated and revised whenever appropriate to ensure compliance with the General Permit. In the absence of this adequate monitoring required by the General Permit, members of LAW are deprived of their right to information and therefore suffer informational injuries that directly impact their aesthetic, recreational, journalistic, and/or academic interests in the affected Receiving Waters. *See Inland Empire Waterkeeper v. Corona Clay Co.*, 17 F.4th 825, 833-4. (9th Cir. 2021). Section XI of the General Permit sets forth the monitoring and reporting requirements. Culver City Refuse has and continues to violate numerous monitoring and reporting requirements of the General Permit.

1. Failure to Sample All Qualifying Storm Events.

Section XI.B.2 of the General Permit requires that dischargers collect and analyze storm water samples from two Qualifying Storm Events ("QSEs") within the first half of each reporting year and two QSEs within the second half of each reporting year. Section XI.B.1 of the General Permit defines a QSE as a precipitation event that both produces a discharge for at least one drainage area and is preceded by 48 hours with no discharge from any drainage area. LAW alleges that local precipitation data shows that discharges from QSEs occurred on dates on which the Facility was open and conducting industrial operations, but the Facility did not collect and analyze any storm water samples. Specifically, LAW alleges that the Facility did not collect and

analyze required storm water samples from storm water discharges from QSEs that occurred on the following dates:

November 20, 2019	December 14, 2021	March 29, 2023
November 27, 2019	December 23, 2021	May 4, 2023
December 4, 2019	December 29, 2021	August 21, 2023
December 23, 2019	January 17, 2022	November 15, 2023
December 25, 2019	March 28, 2022	December 19, 2023
January 16, 2020	April 21, 2022	December 22, 2023
March 10, 2020	September 9, 2022	December 30, 2023
March 12, 2020	November 2, 2022	January 3, 2024
March 16, 2020	November 7, 2022	January 20, 2024
April 6, 2020	December 2, 2022	January 22, 2024
April 9, 2020	December 12, 2022	February 1, 2024
May 18, 2020	December 27, 2022	February 3, 2024
November 7, 2020	December 31, 2022	February 5, 2024
December 28, 2020	January 4, 2023	February 19, 2024
January 23, 2021	January 9, 2023	February 26, 2024
January 25, 2021	January 14, 2023	March 2, 2024
January 28, 2021	January 16, 2023	March 6, 2024
March 3, 2021	January 30, 2023	March 20, 2024
March 10, 2021	February 23, 2023	March 23, 2024
March 15, 2021	February 27, 2023	March 29, 2024
July 13, 2021	March 1, 2023	April 13, 2024
July 26, 2021	March 10, 2023	May 5, 2024
October 25, 2021	March 14, 2023	
December 9, 2021	March 20, 2023	

2. Specific Omissions of QSE and Parameter Sampling

Culver City Refuse failed to collect and analyze the required storm water discharges as follows:

- Failed to collect and analyze samples from either of the two required QSEs during the first half of the 2022-2023 reporting year.
- Failed to collect and analyze samples from one of two required QSEs during the second half of the 2021-2022 reporting year.
- Failed to collect and analyze samples from one of two required QSEs during the first half of the 2020-2021 reporting year.
- Failed to collect and analyze samples from either of the two required QSEs during the second half of the 2020-2021 reporting year.
- Failed to collect and analyze samples from one of the two required QSEs during the first half of the 2019-2020 reporting year.
- Failed to collect and analyze samples from one of the two required QSEs during

the second half of the 2019-2020 reporting year.

In addition to the above, Culver City Refuse:

- Failed to collect and analyze samples from the rain garden and upper entrance sample points on December 23, 2019.
- Failed to collect and analyze samples from the east roof sample point on: December 30, 2023, December 21, 2023, January 9, 2023, January 5, 2023, October 25, 2021, and December 28, 2020.
- Failed to collect and analyze samples from the west roof sample point on: February 1, 2024, January 22, 2024, December 20, 2023, January 9, 2023, January 5, 2023, December 14, 2021, October 25, 2021, December 28, 2020, April 6, 2020, and December 23, 2019.

3. Failure to Monitor for Required Parameters.

The General Permit mandates that each sample be analyzed for TSS, Oil & Grease, pH, additional parameters identified as likely to be present at a facility, and additional parameters applicable based on a facility's SIC code, among others. General Permit § XI.B.6.a and b. Further, the General Permit mandates that each sample also be analyzed for "[a]dditional parameters identified by the Discharge on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G)." *Id.*, § XI.B.6.c. In addition, each sample must be analyzed for "[a]dditional applicable industrial parameters related to receiving waters with 303(d) listed impairments or approved TMDLs based on the assessment in Section X.G.2.a.ix." *Id.*, § XI.B.6.e.

Accordingly, Culver City Refuse is required to analyze each storm water sample for the following parameters: TSS, O&G, pH, zinc, copper, iron, magnesium, e. coli, enterococcus, fecal coliform, total coliform, COD, and lead.

Culver City Refuse failed to analyze collected storm water samples for required parameters as follows:

- Failed to analyze samples for fecal coliform: February 1, 2024 (all locations), December 30, 2023 (Rain Garden and upper entrance), March 28, 2022 (rain garden and upper entrance), December 28, 2020 (all locations).
- Failed to analyze samples for total coliform: February 1, 2024 (all locations), December 30, 2023 (all locations), March 28, 2022 (upper entrance), December 28, 2020 (all locations).
- Failed to analyze samples for e. coli: December 30, 2023 (all locations), March 28, 2022 (upper entrance and west roof), December 28, 2020 (all locations).
- Failed to analyze sample for enterococcus: December 30, 2023 (all locations), March 28, 2022 (upper entrance and east roof), December 28, 2020 (all locations).
- Failed to analyze samples for magnesium prior to the 2020-2021 reporting year.
- Failed to analyze samples for COD or cyanide prior to 2021-2022 reporting year.

- Failed to analyze samples for iron; October 25, 2021 (all locations).

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, Culver City Refuse is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since October 15, 2019.

E. Failure to Prepare an Adequate Storm Water Pollution Prevention Plan.

Under the General Permit, the State Board has designated the SWPPP as the cornerstone of compliance with NPDES requirements for storm water discharges from industrial facilities, ensuring that operators meet effluent and receiving water limitations. Section X.A-B of the General Permit requires dischargers to develop and implement a SWPPP prior to beginning industrial activities that meet all of the requirements of the General Permit. The objective of the SWPPP requirement is to identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water discharges and authorized non-stormwater discharges from the facility, and to implement BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges and authorized non-stormwater discharges. General Permit § X.C. These BMPs must achieve compliance with the General Permit's effluent limitations and receiving water limitations. To ensure compliance with the General Permit, the SWPPP must be evaluated and revised as necessary. General Permit § X.B. Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the General Permit. General Permit Factsheet § I(1).

Sections X.D-I of the General Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a site map; a list of industrial materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; 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-stormwater discharges. The General Permit requires a comprehensive assessment of potential pollutant sources, specific BMP descriptions; and a BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented. *See* General Permit §§ X.G.2, 4-5. Culver City Refuse has violated and continues to violate the General Permit's SWPPP requirements.

Culver City Refuse is violating Section X.C.1.b because the Facility's SWPPP fails to identify and describe additional appropriate advanced BMPs. General Permit, § X.C.1.b. The SWPPP also must identify applicable advanced BMPs that are not being implemented at the Facility and provide a justification for their exclusion. *Id.*, § X.H.4.b. Given the high levels of zinc, copper, magnesium, iron, pH and bacteria measured in the Facility's discharge, in order to comply with the General Permit's BAT/BCT requirement, the Facility's SWPPP must identify additional advanced BMPs necessary to implement the BAT/BCT requirements and achieve the NELs and NALs, including storm water treatment, and explain why available BATs are not

being implemented at the Facility. Each of these violations has occurred every day since at least October 15, 2019 and are ongoing.

F. Failure to Comply with ERA Requirements.

On or about November 18, 2023, Culver City Refuse submitted a Level 2 Exceedance Response Action (“ERA”) Report to SMARTS for discharges of magnesium during the 2022-2023 reporting year.

Section XII(D)(2) of the General Permit sets out the requirements for a Level 2 ERA Technical Report. The report must include an Industrial Activity BMPs Demonstration, a Non-Industrial Pollutant Source Demonstration, or a Natural Background Pollutant Source Demonstration. For an Industrial Activity BMPs Demonstration, which is the type of Technical Report prepared by Culver City Refuse, the General Permit requires, *inter alia*, the following:

iii. Where all of the Discharger’s implemented BMPs, including additional BMPs identified in the Level 2 ERA Action Plan, achieve compliance with the effluent limitations of this General Permit and are expected to eliminate future NAL/TNAL exceedance(s), the Discharger shall provide a description and analysis of all implemented BMPs;

iv. In cases where all of the Discharger’s implemented BMPs, including additional BMPs identified in the Level 2 ERA Action Plan, achieve compliance with the effluent limitations of this General Permit but are not expected to eliminate future NAL/TNAL exceedance(s), the Discharger shall provide, in addition to a description and analysis of all implemented BMPs:

- 1) An evaluation of any additional BMPs that would reduce or prevent NAL/TNAL exceedances;
- 2) Estimated costs of the additional BMPs evaluated; and,
- 3) An analysis describing the basis for the selection of BMPs implemented in lieu of the additional BMPs evaluated but not implemented.

General Permit, §§, XII(D)(2)(a)(iii)-(iv).

LAW alleges that Culver City Refuse has failed to comply with these requirements. Culver City Refuse’s Level 2 ERA says that the Facility selected the Industrial Activity BMP Demonstration. It provides that “[i]t is likely that magnesium will continue to exceed the magnesium NAL, with or without industrial contributions in stormwater runoff. It is not practical to conduct a non-industrial pollutant source assessment or natural background demonstration since magnesium concentrations are found in soil, aerial deposition, and rainfall.... The facility has implemented several costly Advanced BMPs to retain stormwater runoff and mitigate NAL/NEL exceedances.” (Nov. 18, 2023 Level 2 ERA, p. 5.) It goes on to state that “The

Discharger will not pursue further expenditures to mitigate magnesium upon the creation of this Technical Report.” *Id.*

Culver City Refuse is violating Section XII(D)(2)(a) because the Facility’s Level 2 Technical Report does not include “[a]n evaluation of any additional BMPs that would reduce or prevent NAL/TNAL exceedances” or estimate any costs of such additional BMPs or include any analysis describing the basis for the selection of BMPs implemented in lieu of other BMPs evaluated but not implemented. The need for additional BMPs and a revised Level 2 ERA Technical Report is underscored by the Facility’s ongoing exceedances of the magnesium NAL during the 2023-2024 reporting year.

Although “[i]t is not a violation of this General Permit to exceed the NAL values; it is a violation of the permit, however, to fail to comply with the Level 1 status and Level 2 status ERA requirements in the event of NAL exceedances.” General Permit, Fact Sheet, p. 60. Accordingly, LAW puts Culver City Refuse on notice that it has violated and continues to violate the General Permit and the CWA every day that the Facility operates without an adequate Level 2 ERA Technical Report for magnesium. Culver City Refuse is subject to civil penalties for each day it has failed to submit an adequate ERA report.

III. Persons Responsible for the Violations.

LAW puts Culver City and Yanni Demitri 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, LAW puts Culver City and Yanni Demitri on notice that it intends to include those subsequently identified persons in this action.

IV. Name and Address of Noticing Parties.

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

Bruce Reznik, Executive Director
Los Angeles Waterkeeper
360 E 2nd Street, Suite 250
Los Angeles, CA 90012
Tel. (310) 394-6162
bruce@lawaterkeeper.org

V. Counsel.

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

Rebecca L. Davis
Lozeau Drury LLP

Notice of Violations and Intent to File Suit

Culver City Refuse
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1939 Harrison St., Suite 150
Oakland, California 94612
Tel. (510) 836-4200
rebecca@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 Culver City Refuse to a penalty of up to \$66,712 per day per violation. In addition to civil penalties, LAW 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.

LAW believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. LAW intends to file a citizen suit under Section 505(a) of the Act against Culver City Refuse and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, LAW 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, LAW 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. LAW does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,



Rebecca L. Davis
Lozeau Drury LLP
Attorneys for Los Angeles Waterkeeper

SERVICE LIST – via certified mail

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

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

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

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

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

ATTACHMENT A
Rain Dates, Culver City Refuse, Culver City, CA

November 20, 2019	January 17, 2022	December 21, 2023
November 27, 2019	March 28, 2022	December 22, 2023
November 28, 2019	April 21, 2022	December 30, 2023
December 4, 2019	September 9, 20212	January 3, 2024
December 8, 2019	September 10, 2022	January 20, 2024
December 22, 2019	November 2, 2022	January 22, 2024
December 23, 2019	November 7, 2022	February 1, 2024
December 25, 2019	November 8, 2022	February 3, 2024
December 26, 2019	December 2, 2022	February 4, 2024
January 16, 2020	December 11, 2022	February 5, 2024
January 17, 2020	December 12, 2022	February 6, 2024
March 10, 2020	December 27, 2022	February 7, 2024
March 12, 2020	December 31, 2022	February 19, 2024
March 13, 2020	January 4, 2023	February 20, 2024
March 14, 2020	January 5, 2023	February 21, 2024
March 16, 2020	January 9, 2023	February 26, 2024
March 22, 2020	January 10, 2023	March 2, 2024
April 5, 2020	January 14, 2023	March 6, 2024
April 6, 2020	January 15, 2023	March 23, 2024
April 7, 2020	January 16, 2023	March 29, 2024
April 9, 2020	January 29, 2023	March 30, 2024
April 10, 2020	January 30, 2023	March 31, 2024
May 18, 2020	February 23, 2023	April 13, 2024
November 7, 2020	February 24, 2023	April 14, 2024
December 28, 2020	February 25, 2023	May 5, 2024
January 23, 2021	February 27, 2023	
January 25, 2021	February 28, 2023	
January 28, 2021	March 1, 2023	
January 29, 2021	March 10, 2023	
March 3, 2021	March 11, 2023	
March 10, 2021	March 14, 2023	
March 11, 2021	March 15, 2023	
March 15, 2021	March 19, 2023	
July 13, 2021	March 20, 2023	
July 26, 2021	March 21, 2023	
October 25, 2021	March 22, 2023	
December 9, 2021	March 29, 2023	
December 14, 2021	March 30, 2023	
December 23, 2021	May 4, 2023	
December 24, 2021	August 20, 2023	
December 25, 2021	August 21, 2023	
December 27, 2021	November 15, 2023	
December 29, 2021	December 19, 2023	
December 30, 2021	December 20, 2023	

Notice of Violations and Intent to File Suit