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9 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

10  
11 **UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA**

13 CALIFORNIA SPORTFISHING  
14 PROTECTION ALLIANCE, a California  
non-profit corporation,

15 Plaintiff,

16 vs.

17 PICK-N-PULL AUTO DISMANTLERS, a  
18 California general partnership; NORPROP,  
19 INC., a California corporation; PICK AND  
20 PULL AUTO DISMANTLING, INC., a  
21 California corporation; SCHNITZER  
22 STEEL INDUSTRIES, INC., an Oregon  
corporation;

23 Defendants.

Civil Case No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

**(Federal Water Pollution Control Act,  
33 U.S.C. §§ 1251 *et seq.*)**

1 California Sportfishing Protection Alliance (“CSPA” or “Plaintiff”), by and  
2 through its counsel, hereby alleges:

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provision of  
5 the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.* (“Clean Water Act”  
6 or “CWA”). *See* 33 U.S.C. § 1365. This Court has subject matter jurisdiction over the  
7 parties and this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C. §§ 1331 and  
8 2201 (an action for declaratory and injunctive relief arising under the Constitution and  
9 laws of the United States).

10 2. On March 21, 2014, CSPA sent a sixty (60) day notice of intent to sue  
11 (“Notice Letter”) to Pick-N-Pull Auto Dismantlers; Norprop, Inc.; Pick and Pull Auto  
12 Dismantling, Inc.; and Schnitzer Steel Industries, Inc. (collectively “Defendants”). The  
13 Notice Letter informed Defendants of their violations of California’s General Permit for  
14 Discharges of Storm Water Associated with Industrial Activities (*National Pollutant*  
15 *Discharge Elimination System (NPDES) General Permit No. CAS000001, State Water*  
16 *Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order*  
17 *No. 97-03-DWQ*) (hereinafter “Storm Water Permit”) and the Clean Water Act. The  
18 Notice Letter also informed Defendants of CSPA’s intent to file suit against them to  
19 enforce the Storm Water Permit and the Clean Water Act.

20 3. The Notice Letter was sent to the registered agents for Defendants, the  
21 Administrator of the United States Environmental Protection Agency (“EPA”), the  
22 Administrator of EPA Region IX, the Executive Director of the State Water Resources  
23 Control Board (“State Board”), and the Executive Officer of the Regional Water Quality  
24 Control Board, Central Valley Region (“Regional Board”), as required by 40 C.F.R.  
25 § 135.2(a)(1). The Notice Letter is attached hereto as Exhibit 1 and is incorporated herein  
26 by reference.

27 4. More than sixty (60) days have passed since the Notice Letter was served on  
28 Defendants and the state and federal agencies. Plaintiff is informed and believes, and

1 thereon alleges, that neither EPA nor the State of California has commenced or is  
2 diligently prosecuting an action to redress the violations alleged in this Complaint. *See* 33  
3 U.S.C. § 1365(b)(1)(B). This action is not barred by any prior administrative penalty  
4 under Section 309(g) of the Clean Water Act, 33 U.S.C. § 1319(g).

5 5. Venue is proper in the Eastern District of California pursuant to Section  
6 505(c)(1) of the Clean Water Act, 33 U.S.C. § 1365(c)(1), because the sources of the  
7 violations are located within this judicial district.

8 6. Defendants' violations of the procedural and substantive requirements of the  
9 Storm Water Permit and the Clean Water Act alleged in this Complaint are ongoing and  
10 continuous.

## 11 **II. INTRODUCTION**

12 7. This Complaint seeks relief for Defendants' substantive and procedural  
13 violations of the Storm Water Permit and the Clean Water Act resulting from  
14 Defendants' operations at 7590 Stockton Boulevard, in Sacramento, California 95823  
15 ("PNP Sacramento Facility" or "Facility"), including Defendants' discharges of polluted  
16 storm water from the Facility.<sup>1</sup>

17 8. With every storm event, hundreds of millions of gallons of polluted  
18 rainwater, originating from industrial operations such as the PNP Sacramento Facility,  
19 pour into Sacramento County area waters. The consensus among water quality agencies  
20 and specialists is that storm water pollution accounts for more than half of the total  
21 pollution entering marine and river environments each year. Sacramento County area  
22 waters are ecologically sensitive areas and are essential habitat for dozens of fish and bird  
23 species as well as macro-invertebrate and invertebrate species. Storm water contaminated  
24 with sediment, heavy metals, and other pollutants harm the special aesthetic and  
25 recreational significance that Sacramento County area waters have for people in the  
26 surrounding communities. The public's use of Sacramento County area waters for water

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27  
28 <sup>1</sup> The PNP Sacramento Facility is described in detail in the Notice Letter attached as Exhibit 1.

1 contact sports exposes many people to toxic metals and other contaminants in storm  
2 water. Non-contact recreation and aesthetic opportunities, such as wildlife observation,  
3 are also impaired by polluted discharges into Sacramento area waters.

4 **III. PARTIES**

5 **A. California Sportfishing Protection Alliance.**

6 9. Founded in 1983, CSPA is a non-profit public benefit conservation and  
7 research organization formed under section 501(c)(3) of the Internal Revenue Code, and  
8 located at 3536 Rainier Avenue, Stockton, California 95204.

9 10. CSPA's mission is to conserve, restore, and enhance the state's water  
10 quality, wildlife, fishery resources, aquatic ecosystems, and associated riparian habitats.

11 11. To further this mission, CSPA actively seeks federal, state, and local agency  
12 implementation of environmental regulations and statutes and routinely participates in  
13 administrative, legislative, and judicial proceedings. When necessary, CSPA directly  
14 initiates enforcement actions on behalf of itself and its members.

15 12. Defendants' discharge polluted storm water into Elder Creek, which flows  
16 into Morrison Creek, then to the Stone Lake National Wildlife Refuge, which discharges  
17 to the Sacramento-San Joaquin River Delta (collectively "the Receiving Waters").

18 13. CSPA has approximately 2,000 members who live, use, enjoy, and/or  
19 recreate in and around the Receiving Waters. CSPA's members use and enjoy the  
20 Receiving Waters for fishing, boating, swimming, diving, bird watching, picnicking,  
21 viewing wildlife, sailing, kayaking, hiking, engaging in scientific study, monitoring the  
22 watershed, and/or conducting watershed restoration.

23 14. Discharges of polluted storm water from the PNP Sacramento Facility  
24 degrade water quality, harm aquatic life in the Receiving Waters, and impair CSPA's  
25 members' use and enjoyment of the Receiving Waters.

26 15. Defendants' polluted discharges from the PNP Sacramento Facility are  
27 ongoing and continuous. Thus, the interests of CSPA's members have been, are being, and  
28 will continue to be adversely affected by Defendants' failure to comply with the Clean

1 Water Act and the Storm Water Permit.

2 **B. The PNP Sacramento Facility Owners and/or Operators.**

3 1. Pick and Pull Auto Dismantling, Inc.

4 16. CSPA is informed and believes, and thereon alleges, that Pick and Pull Auto  
5 Dismantling, Inc. is a corporation formed under the laws of the State of California.

6 17. CSPA is informed and believes, and thereon alleges, that Pick and Pull Auto  
7 Dismantling, Inc. is an owner of the PNP Sacramento Facility.

8 18. CSPA is informed and believes, and thereon alleges, that Pick and Pull Auto  
9 Dismantling, Inc. has owned the PNP Sacramento Facility since at least March 21, 2009.

10 19. CSPA is informed and believes, and thereon alleges, that Pick and Pull Auto  
11 Dismantling, Inc. is an operator of the PNP Sacramento Facility.

12 20. CSPA is informed and believes, and thereon alleges, that Pick and Pull Auto  
13 Dismantling, Inc. has operated the PNP Sacramento Facility since at least March 21,  
14 2009.

15 21. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
16 Dismantling, Inc. is one of the general partners of the Pick-N-Pull Auto Dismantlers  
17 general partnership.

18 22. CSPA is informed and believes, and thereon alleges, that the registered agent  
19 for service of process for Pick and Pull Auto Dismantling, Inc. is CT Corporation System  
20 at 818 W Seventh Street, Los Angeles, California 90017.

21 2. Schnitzer Steel Industries, Inc.

22 23. CSPA is informed and believes, and thereon alleges, that Schnitzer Steel  
23 Industries, Inc. is a corporation formed under the laws of the State of Oregon, and  
24 registered in the State of California.

25 24. CSPA is informed and believes, and thereon alleges, that the PNP  
26 Sacramento Facility is just one of approximately sixty-five (65) Pick and Pull locations  
27 across the United States and Canada.

28 25. CSPA is informed and believes, and thereon alleges, that all of the Pick and

1 Pull locations were acquired by Schnitzer Steel Industries, Inc. in or around 2003, and  
2 Pick and Pull Auto Dismantling, Inc. became a fully owned subsidiary of Schnitzer Steel  
3 Industries, Inc.'s "Auto Parts Business unit."

4 26. CSPA is informed and believes, and thereon alleges, that Schnitzer Steel  
5 Industries, Inc. is an owner of the PNP Sacramento Facility.

6 27. CSPA is informed and believes, and thereon alleges, that Schnitzer Steel  
7 Industries, Inc. has owned the PNP Sacramento Facility since at least March 21, 2009.

8 28. CSPA is informed and believes, and thereon alleges, that Schnitzer Steel  
9 Industries, Inc. is an operator of the PNP Sacramento Facility.

10 29. CSPA is informed and believes, and thereon alleges, that Schnitzer Steel  
11 Industries, Inc. has operated the PNP Sacramento Facility since at least March 21, 2009.

12 30. CSPA is informed and believes, and thereon alleges, that the registered agent  
13 for service of process for Schnitzer Steel Industries, Inc. is CT Corporation System,  
14 located at 818 W Seventh Street, Los Angeles, California 90017.

15 3. Norprop, Inc.

16 31. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. is a  
17 corporation formed under the laws of the State of Oregon, and registered in the State of  
18 California.

19 32. CSPA is informed and believes, and thereon alleges that Norprop Inc. is a  
20 wholly owned subsidiary of Schnitzer Steel Industries, Inc.

21 33. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. is an  
22 owner of the PNP Sacramento Facility.

23 34. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. has  
24 owned the PNP Sacramento Facility since at least March 21, 2009.

25 35. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. is an  
26 operator of the PNP Sacramento Facility.

27 36. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. has  
28 operated the PNP Sacramento Facility since at least March 21, 2009.

1 37. CSPA is informed and believes, and thereon alleges, that Norprop, Inc. is  
2 one of the general partners of the Pick-N-Pull Auto Dismantlers general partnership.

3 38. CSPA is informed and believes, and thereon alleges, that the registered agent  
4 for service of process for Norprop, Inc. is CT Corporation System at 818 W Seventh  
5 Street, Los Angeles, California 90017.

6 4. Pick-N-Pull Auto Dismantlers

7 39. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
8 Dismantlers is a general partnership registered in the State of California.

9 40. All Annual Reports submitted to the Regional Board for the PNP  
10 Sacramento Facility since at least March 21, 2009 list the PNP Sacramento Facility name  
11 as “Pick-N-Pull Auto Dismantlers.”

12 41. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
13 Dismantlers is an owner of the PNP Sacramento Facility.

14 42. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
15 Dismantlers has owned the PNP Sacramento Facility since at least March 21, 2009.

16 43. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
17 Dismantlers is an operator of the PNP Sacramento Facility.

18 44. CSPA is informed and believes, and thereon alleges, that Pick-N-Pull Auto  
19 Dismantlers has operated the PNP Sacramento Facility since at least March 21, 2009.

20 45. CSPA refers to Pick-N-Pull Auto Dismantlers; Norprop, Inc.; Pick and Pull  
21 Auto Dismantling, Inc.; and Schnitzer Steel Industries, Inc. collectively as the “PNP  
22 Sacramento Facility Owners and/or Operators.”

23 **IV. LEGAL BACKGROUND**

24 **A. The Clean Water Act and California’s Storm Water Permit.**

25 46. Section 301(a) of the Clean Water Act prohibits the discharge of any  
26 pollutant into waters of the United States not authorized by, or in violation of, the terms  
27 of a National Pollutant Discharge Elimination System (“NPDES”) permit. 33 U.S.C. §  
28 1311(a).



1 47. Section 402(p) of the Clean Water Act establishes a framework for  
2 regulating industrial storm water discharges under the NPDES permit program. 33 U.S.C.  
3 § 1342(p).

4 48. Section 402(b) of the Clean Water Act allows each state to administer its  
5 own EPA-approved NPDES permit program for regulating the discharge of pollutants,  
6 including discharges of polluted storm water. *See* 33 U.S.C. § 1342(b). States with  
7 approved NPDES permit programs are authorized by Section 402(b) to regulate industrial  
8 storm water discharges through individual NPDES permits issued to dischargers and/or  
9 through the issuance of a single, statewide, general NPDES permit applicable to all  
10 industrial storm water dischargers. *See id.*

11 49. California is a state authorized by the EPA to issue NPDES permits.

12 50. The Storm Water Permit is a statewide general NPDES permit issued by the  
13 State Board pursuant to the Clean Water Act. *See* Storm Water Permit, Finding No. 15.

14 51. In order to discharge storm water lawfully in California, industrial storm  
15 water dischargers must secure coverage under the Storm Water Permit and comply with  
16 its terms, or obtain and comply with an individual NPDES permit.

17 52. Violations of the Storm Water Permit are violations of the Clean Water Act.  
18 *See* Storm Water Permit, Section C(1) (Standard Provisions).

19 53. Waters of the United States include traditionally navigable waters,  
20 tributaries to traditionally navigable waters, wetlands, and wetlands adjacent to navigable  
21 waters, and other waters including intermittent streams that could affect interstate  
22 commerce. *See Rapanos v. U.S.*, 126 S. Ct. 2208 (2006).

23 54. The Clean Water Act also confers jurisdiction over waters that have a  
24 significant nexus to the navigable water. *Rapanos*, 126 S. Ct. at 2248-49. A significant  
25 nexus is established if the “[receiving waters], either alone or in combination with  
26 similarly situated lands in the region, significantly affect the chemical, physical, and  
27 biological integrity of other covered waters.” *Id.* at 2248.

28 55. A significant nexus is also established for waters that have flood control



1 properties, including functions such as the reduction of flow, pollutant trapping, and  
2 nutrient recycling. *Id.* at 2250.

3 56. Each of the Receiving Waters is a “water of the United States” within the  
4 meaning of Section 502(7) of the Clean Water Act. *See* 33 U.S.C. § 1362(7) and 33  
5 C.F.R. § 328.3(a).

6 57. Section 505(a)(1) of the Clean Water Act provides for citizen enforcement  
7 actions against any “person” who is alleged to be in violation of an “effluent standard or  
8 limitation . . . or an order issued by the Administrator or a State with respect to such a  
9 standard or limitation.” *See* 33 U.S.C. §§ 1365(a)(i) and 1365(f).

10 58. Pick-N-Pull Auto Dismantlers is a “person” within the meaning of Section  
11 502(5) of the Clean Water Act. *See* 33 U.S.C. § 1362(5).

12 59. Norprop, Inc. is a “person” within the meaning of Section 502(5) of the  
13 Clean Water Act. *See* 33 U.S.C. § 1362(5).

14 60. Pick and Pull Auto Dismantling, Inc. is a “person” within the meaning of  
15 Section 502(5) of the Clean Water Act. *See* 33 U.S.C. § 1362(5).

16 61. Schnitzer Steel Industries, Inc. is a “person” within the meaning of Section  
17 502(5) of the Clean Water Act. *See* 33 U.S.C. § 1362(5).

18 62. An action for injunctive relief is authorized under Section 505(a) of the  
19 Clean Water Act. *See* 33 U.S.C. § 1365(a).

20 63. Each separate violation of the Clean Water Act subjects the violator to a  
21 penalty of up to \$37,500 per day. *See* 33 U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4  
22 (Adjustment of Civil Monetary Penalties for Inflation).

23 64. Section 505(d) of the Clean Water Act allows prevailing or substantially  
24 prevailing parties to recover litigation costs, including attorneys’ fees, experts’ fees, and  
25 consultants’ fees. *See* 33 U.S.C. § 1365(d).

26 **B. Effluent Limitation B(3) of the Storm Water Permit.**

27 65. Effluent Limitation B(3) of the Storm Water Permit requires dischargers to  
28 reduce or prevent pollutants associated with industrial activities in storm water discharges

1 through the implementation of Best Available Technology Economically Achievable  
2 (“BAT”) for toxic or non-conventional pollutants and Best Conventional Pollutant  
3 Control Technology (“BCT”) for conventional pollutants. Toxic pollutants are listed at 40  
4 C.F.R. § 401.15 and include copper, lead, and zinc, among others. Conventional  
5 pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand  
6 (“BOD”), total suspended solids (“TSS”), oil and grease (“O&G”), pH, and fecal  
7 coliform, among others.

8 66. In states not delegated to implement the Clean Water Act, EPA regulates  
9 industrial storm water pollution with the *NPDES Multi-Sector General Permit for*  
10 *Stormwater Discharges Associated With Industrial Activity* (“MSGP”), which includes  
11 numeric benchmarks for pollutant concentrations in storm water discharges (“Benchmark  
12 Levels”).

13 67. The Benchmark Levels provide an objective standard to determine whether a  
14 facility’s Best Management Practices (“BMPs”) are successfully developed and/or  
15 implemented. *See* MSGP Fact Sheet, at 95 (2008), *available at*  
16 [http://www.epa.gov/npdes/pubs/msgp2008\\_finalfs.pdf](http://www.epa.gov/npdes/pubs/msgp2008_finalfs.pdf).

17 68. Discharges from an industrial facility containing pollutant concentrations  
18 that exceed Benchmark Levels indicate that the facility has not developed and/or  
19 implemented BMPs that meet BAT for toxic pollutants and/or BCT for conventional  
20 pollutants. *Id.*

21 **C. Receiving Water Limitations C(1) and C(2) of the Storm Water Permit.**

22 69. Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm  
23 water discharges that adversely impact human health or the environment.

24 70. Discharges with pollutant levels that exceed levels known to adversely  
25 impact aquatic species and the environment are violations of Receiving Water Limitation  
26 C(1) of the Storm Water Permit.

27 71. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm  
28 water discharges that “cause or contribute to an exceedance of any applicable water

1 quality standard in a Statewide Water Quality Control Plan or the applicable Regional  
2 Board's Basin Plan.”

3 72. Water Quality Standards (“WQS”) are pollutant concentration levels  
4 determined by the State Board, the various regional boards, and/or the EPA to be  
5 protective of the beneficial uses of the waters that receive polluted discharges.

6 73. WQS applicable to dischargers covered by the Storm Water Permit include,  
7 but are not limited to, those set out in the *Water Quality Control Plan for the Sacramento*  
8 *River and San Joaquin River Basins*, California Regional Water Quality Control Board,  
9 Central Valley Region (4th Ed., revised Oct. 2011) (“Basin Plan”), and in the Criteria for  
10 Priority Toxic Pollutants for the State of California (“CTR”), 40 C.F.R. § 131.38.

11 74. The CTR includes numeric criteria set to protect human health and the  
12 environment in the State of California.<sup>2</sup>

13 75. The Basin Plan identifies the “Beneficial Uses” of water bodies in the  
14 Sacramento area.

15 76. The Beneficial Uses for the Receiving Waters, which receive polluted storm  
16 water discharges from the PNP Sacramento Facility, collectively include agriculture  
17 supply (AGR), municipal and domestic supply (MUN), water contact recreation (REC 1),  
18 non-contact water recreation (REC 2), cold freshwater habitat (COLD), warm freshwater  
19 habitat (WARM), estuarine habitat (EST), wildlife habitat (WILD), rare, threatened, or  
20 endangered species (RARE), migration of aquatic organisms (MIGR), and spawning,  
21 reproduction, and development (SPWN). *See* Basin Plan at II-1.00 – II-8.00.

22 77. A surface water that cannot support a listed Beneficial Use is designated as  
23 an impaired water body pursuant to Section 303(d) of the Clean Water Act. *See* 33 U.S.C.  
24 § 1313(d).

25 78. A discharge of a pollutant at a level above an applicable WQS, such as the  
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27 <sup>2</sup> Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic  
28 Pollutants for the State of California Factsheet, EPA-823-00-008, April 2000 *available*  
*at:* <http://water.epa.gov/lawsregs/rulesregs/ctr/factsheet.cfm>.

1 CTR, causes and/or contributes to the impairment of the Beneficial Uses of the waters  
2 receiving the discharges.

3 79. Elder Creek is impaired by chlorpyrifos, diazinon, pyrethroids, and sediment  
4 toxicity.<sup>3</sup>

5 80. Elder Creek is a major tributary to Morrison Creek. Elder Creek provides  
6 flood control and flood management. Elder Creek also provides hydrological transport of  
7 materials, including water and any dissolved or suspended pollutants, sediment, and  
8 organic matter to downstream waters, and provides habitat for riparian species and  
9 aquatic dependent organisms.

10 81. Elder Creek affects the physical, chemical, and biological integrity of  
11 downstream waters, including the Sacramento-San Joaquin Delta.

12 82. Morrison Creek is impaired by diazinon, PCPs, pyrethroids, and sediment  
13 toxicity.

14 83. The Sacramento-San Joaquin Delta is impaired by mercury and unknown  
15 toxicity.

16 84. Discharges with pollutant levels in excess of the CTR criteria, the Basin  
17 Plan, and/or other applicable WQS are violations of Receiving Water Limitation C(2) of  
18 the Storm Water Permit.

19 **D. The Storm Water Permit's Storm Water Pollution Prevention Plan**  
20 **Requirements.**

21 85. Section A(1) and Provision E(2) of the Storm Water Permit require  
22 dischargers to develop and implement a Storm Water Pollution Prevention Plan  
23 ("SWPPP") that complies with the requirements of the Storm Water Permit prior to  
24 commencing industrial activities.

25 86. The objectives of the SWPPP are to identify and evaluate sources of  
26 pollutants associated with industrial activities that may affect the quality of storm water

27 <sup>3</sup> 2010 Integrated Report – All Assessed Waters, available at:  
28 [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml) (last  
accessed on May 14, 2014).

1 discharges, to identify and implement site-specific BMPs to prevent the exposure of  
2 pollutants to storm water, and to reduce or prevent the discharge of polluted storm water  
3 from industrial facilities. Storm Water Permit, Section A(2).

4 87. Section A(3) of the Storm Water Permit requires a discharger to identify the  
5 members of its on-site Storm Water Pollution Prevention Team and to indicate each team  
6 member's responsibilities in developing, implementing, and revising the SWPPP as to  
7 ensure compliance with the Storm Water Permit.

8 88. Section A(4) of the Storm Water Permit requires that the SWPPP include a  
9 site map that contains, among other requirements: the facility boundaries, storm water  
10 drainage areas and directions of flow for each drainage area, on-site surface water bodies,  
11 nearby water bodies, areas of soil erosion, and municipal storm drain inlets where the  
12 facility's storm water discharges may be received (Section A(4)(a)); the location of the  
13 storm water collection, conveyance, and discharge system and structural control measures  
14 that affect storm water discharges (Section A(4)(b)); an outline of all impervious areas of  
15 the facility, including paved areas, buildings, covered storage areas, or other roofed  
16 structures (Section (4)(c)); locations where materials are directly exposed to precipitation  
17 and where significant spills or leaks have occurred (Section A(4)(d)); and areas of  
18 industrial activity, including areas that are actual and potential pollutant sources (Section  
19 A(4)(e)).

20 89. Section A(5) of the Storm Water Permit requires that the SWPPP include a  
21 list of significant materials handled and stored at the site.

22 90. Section A(6)(a) of the Storm Water Permit requires that the SWPPP include  
23 a narrative description of the facility's industrial activities, associated potential pollutant  
24 sources, and potential pollutants that could be discharged in storm water.

25 91. Section A(6)(b) of the Storm Water Permit requires that the SWPPP include  
26 a summary of all areas of industrial activities, potential pollutant sources, and potential  
27 pollutants.

28 92. Section A(7)(a) of the Storm Water Permit requires that the SWPPP include

1 a narrative assessment of all industrial activities and potential pollutant sources to  
2 determine which areas of the facility are likely sources of pollutants and which pollutants  
3 are likely to be present in the storm water discharges. Section A(7)(b) of the Storm Water  
4 Permit requires that the SWPPP include a summary of the areas of the facility that are  
5 likely sources of pollutants and the corresponding pollutants likely to be present in storm  
6 water discharges.

7 93. Section A(8) of the Storm Water Permit requires that the SWPPP include a  
8 narrative description of the storm water BMPs to be implemented at the facility for each  
9 potential pollutant and its source. BMPs shall be developed and implemented to reduce or  
10 prevent pollutants in storm water discharges. *Id.* Dischargers must develop and  
11 implement structural and/or non-structural BMPs. *Id.*

12 94. Section A(9) of the Storm Water Permit requires that the discharger evaluate  
13 the SWPPP on an annual basis and revise it as necessary to ensure compliance with the  
14 Storm Water Permit.

15 95. Sections A(9)(a)-(c) of the Storm Water Permit require that the discharger  
16 conduct an annual comprehensive site compliance evaluation that includes a review of all  
17 visual observation records, inspection reports, and sampling and analysis results; a visual  
18 inspection of all potential pollutant sources for evidence of, or the potential for, pollutants  
19 entering the drainage system; a review and evaluation of all BMPs to determine whether  
20 the BMPs are adequate, properly implemented and maintained, or whether additional  
21 BMPs are needed; and a visual inspection of equipment needed to implement the  
22 SWPPP.

23 96. Section A(9)(d) of the Storm Water Permit requires that the discharger  
24 submit an evaluation report that includes identification of personnel performing the  
25 evaluation, the date(s) of the evaluation(s), necessary SWPPP revisions, a schedule for  
26 implementing SWPPP revisions, any incidents of non-compliance and the corrective  
27 actions taken, and certification that the discharger is in compliance with the Storm Water  
28 Permit. If certification of compliance cannot be provided, the discharger must explain in

1 the evaluation report why the facility is not in compliance with the Storm Water Permit.  
2 Storm Water Permit, Section A(9)(d). The evaluation report shall be submitted as part of  
3 the Annual Report, which is specified in Section B(14) of the Storm Water Permit. Storm  
4 Water Permit, Section B(14).

5 97. Section A(10) of the Storm Water Permit requires that the discharger revise  
6 the SWPPP as necessary prior to changes in industrial activities, or as otherwise required  
7 by the Storm Water Permit.

8 **E. The Storm Water Permit's Monitoring and Reporting Requirements.**

9 98. Section B(1) and Provision E(3) of the Storm Water Permit require  
10 dischargers to develop and implement a Monitoring and Reporting Program ("M&RP")  
11 prior to commencing industrial activities.

12 99. The objectives of the M&RP are to confirm that BMPs have been adequately  
13 developed and implemented such that storm water and non-storm water discharges  
14 comply with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and  
15 Receiving Water Limitations. Storm Water Permit, Sections B(2)(a) and B(2)(b).

16 100. The M&RP aids in the implementation and revision of the SWPPP and  
17 measures the effectiveness of BMPs to prevent or reduce pollutants in storm water  
18 discharges. Storm Water Permit, Sections B(2)(c) and B(2)(d).

19 101. Section B(2)(d) of the Storm Water Permit requires that the M&RP "shall be  
20 revised" as necessary to ensure compliance with the Storm Water Permit.

21 102. Section B(3) of the Storm Water Permit requires a discharger to conduct  
22 visual observations of all drainage areas within the facility for the presence of authorized  
23 and unauthorized non-storm water discharges. Observations under this section must occur  
24 during daylight hours, on days with no storm water discharges, and during scheduled  
25 facility operating hours.

26 103. Section B(4) of the Storm Water Permit requires a discharger to conduct  
27 visual observations of storm water discharges during the first hour of discharge, at each  
28 discharge point, of at least one storm event per month during the Wet Season (October 1



1 – May 30). Observations under this section must take place during daylight hours, on  
2 days when the discharge is preceded by at least three (3) days without storm water  
3 discharges, and during scheduled facility operating hours.

4 104. Visual observations conducted under Sections B(3) and B(4) of the Storm  
5 Water Permit must be recorded. Records of observations must describe the presence of  
6 any floating or suspended materials, O&G, discolorations, turbidity, odor, and the source  
7 of any pollutants observed during the visual observation. Dischargers must maintain  
8 records of visual observations that include the observation date, locations observed, and  
9 responses taken to eliminate unauthorized non-storm water discharges and to reduce or  
10 prevent pollutants from contacting non-storm water and storm water discharges.  
11 Furthermore, Sections B(3) and B(4) require a discharger to revise a facility's SWPPP in  
12 order to rectify any instances of noncompliance observed during visual observations.

13 105. Sections B(5) and B(7) of the Storm Water Permit require dischargers to  
14 visually observe and collect samples of storm water discharges from all locations where  
15 storm water is discharged.

16 106. Section B(5)(a) of the Storm Water Permit requires dischargers to collect  
17 storm water samples during the first hour of discharge. Samples of storm water  
18 discharges must be collected from the first storm event of the Wet Season and at least one  
19 other storm event in the Wet Season. *Id.* All storm water discharge locations must be  
20 sampled. *Id.*

21 107. Facility operators that do not collect samples from the first storm event of  
22 the Wet Season are still required to collect samples from two other storm events during  
23 the Wet Season, and must explain in the Annual Report why the first storm event was not  
24 sampled. *Id.*

25 108. Section B(5)(b) requires that sampling conducted pursuant to the Storm  
26 Water Permit occur during scheduled facility operating hours on days that are preceded  
27 by at least three (3) working days without storm water discharge.

28 109. Section B(5)(c)(i) of the Storm Water Permit requires dischargers to analyze

1 each sample for pH, specific conductance (“SC”), TSS, and O&G. A discharger may  
2 substitute analysis for total organic carbon (“TOC”) instead of O&G.

3 110. Section B(5)(c)(ii) of the Storm Water Permit requires dischargers to  
4 analyze each storm water sample for toxic chemicals and other pollutants likely to be  
5 present in the storm water discharged from the facility in significant quantities.

6 111. Section B(5)(c)(iii) and Table D of the Storm Water Permit require facilities  
7 classified as Sector M (Standard Industrial Classification (“SIC”) Code 5015) to analyze  
8 storm water samples for iron, lead, and aluminum, and as otherwise required by the  
9 Regional Board.

10 112. Section B(14) of the Storm Water Permit requires dischargers to submit an  
11 Annual Report to the applicable regional board by July 1 of each year. The Annual  
12 Report must include a summary of visual observations and sampling results, an  
13 evaluation of the visual observations and sampling and analysis results, laboratory  
14 reports, the annual comprehensive site compliance evaluation report specified in Section  
15 A(9) of the Storm Water Permit, an explanation of why a facility did not implement any  
16 required activities, and other records specified in Section B(13) of the Storm Water  
17 Permit.

18 113. Section C(9) of the Storm Water Permit requires that all reports,  
19 certifications, or other information required by the Storm Water Permit or requested by a  
20 regional board to have been signed by an authorized representative of the facility’s  
21 operators.

22 114. Section C(11)(d) of the Storm Water Permit requires facility operators to  
23 report any incidence of noncompliance with the Storm Water Permit at the time  
24 monitoring reports are submitted. Reports of noncompliance must contain (1) a  
25 description of noncompliance and its cause, (2) the period of noncompliance, including  
26 exact dates and times, and if the noncompliance has not been corrected, the anticipated  
27 time it is expected to continue, and (3) steps taken or planned to reduce and prevent  
28 recurrence of the noncompliance.

1 **V. FACTUAL BACKGROUND**

2 **A. The PNP Sacramento Facility’s Storm Water Permit Coverage.**

3 115. A Notice of Intent (“NOI”) seeking Storm Water Permit coverage for the  
4 PNP Sacramento Facility was filed with the State Board on March 14, 1992.

5 116. The NOI lists the SIC Code for the PNP Sacramento Facility as 5015 (Motor  
6 Vehicle Parts, Used).

7 117. The State Board’s electronic database, called the Storm Water Multiple  
8 Application & Report Tracking System (“SMARTS”), lists the Waste Discharge  
9 Identification (“WDID”) number associated with the address of the PNP Sacramento  
10 Facility as 5S34I001815.

11 118. SMARTS lists the facility name associated with WDID number  
12 5S34I001815 as “Pick-N-Pull Auto Dismantlers.”

13 119. SMARTS lists the owner/operator associated with WDID number  
14 5S34I001815 as “Pick-N-Pull.”

15 120. SMARTS lists the PNP Sacramento Facility, WDID 5S34I001815, as  
16 having “active” coverage under the Storm Water Permit.

17 121. Correspondences to the Regional Board in regard to the PNP Sacramento  
18 Facility are sent by “Pick-N-Pull Auto Dismantlers” and list the Facility’s assigned  
19 WDID number as 5S34I001815.

20 **B. Industrial Activities at the PNP Sacramento Facility.**

21 122. CSPA is informed and believes, and thereon alleges, that the PNP  
22 Sacramento Facility is approximately 15 acres in size.

23 123. CSPA is informed and believes, and thereon alleges, that the following  
24 industrial activities are conducted at the PNP Sacramento Facility: automobile  
25 dismantling; automobile crushing; automobile parts storage and resale; used and salvaged  
26 automobile storage; scrap metal processing, storage, and sale; used battery collection,  
27 storage, and recycling; and vehicle and equipment maintenance and repair.

28 124. CSPA is informed and believes, and thereon alleges, that the PNP

1 Sacramento Facility generates, handles, and stores hazardous wastes, including batteries,  
2 hydraulic oil, waste oil, used antifreeze, and waste gasoline.

3 125. CSPA is informed and believes, and thereon alleges, that industrial  
4 operations at the Facility are sources of pollutants and include, but may not be limited to:  
5 outdoor material handling and storage areas; automobile dismantling and crushing areas;  
6 used and salvaged automobile and parts storage areas; scrap metal processing and storage  
7 areas; used battery collection, storage, and recycling areas; vehicle and equipment  
8 maintenance and/or cleaning activities and areas; hazardous waste storage areas; parking  
9 areas; loading and unloading areas; areas with truck traffic and associated track-off of  
10 pollutants; material processing areas; loose piles of scrap materials; waste dumpsters; and  
11 on-site material handling equipment.

12 126. CSPA is informed and believes, and thereon alleges, that the pollutants  
13 associated with operations at the PNP Sacramento Facility include, but are not limited to:  
14 pH-affecting substances; TSS; SC-affecting substances; sediment; dust and particulates;  
15 petroleum hydrocarbons; coolant; used oil filters; waste antifreeze; used oil; sulfuric acid;  
16 solvents; hydraulic fluids; diesel fuel; motor oil; and toxic metals such as mercury, zinc,  
17 copper, iron, aluminum, and lead.

18 127. CSPA is informed and believes, and thereon alleges, that industrial activities  
19 at the PNP Sacramento Facility are conducted outdoors and without adequate cover or  
20 other BMPs to prevent the exposure of industrial activities to rainfall.

21 128. CSPA is informed and believes, and thereon alleges, that there is inadequate  
22 secondary containment at the Facility, and inadequate measures to prevent polluted storm  
23 water from discharging from the Facility.

24 129. CSPA is informed and believes, and thereon alleges, that materials  
25 associated with industrial activities are stored near driveways and other discharge points  
26 at the PNP Sacramento Facility.

27 130. CSPA is informed and believes, and thereon alleges, that O&G, trash,  
28 debris, and other pollutants, including heavy metals, have been and continue to be tracked

1 throughout the PNP Sacramento Facility.

2 131. CSPA is informed and believes, and thereon alleges, that pollutants  
3 accumulate at outdoor material handling and storage areas; material processing areas;  
4 vehicle and equipment maintenance, storage, and cleaning areas; hazardous waste storage  
5 areas; parking lots and driveways leading to Stockton Boulevard; loading and unloading  
6 areas; dumpsters; and the surrounding municipal streets themselves.

7 132. CSPA is informed and believes, and thereon alleges, that trucks and vehicles  
8 coming into and leaving the PNP Sacramento Facility via staging areas and driveways are  
9 pollutant sources tracking sediment, dirt and dust, O&G, and other pollutants off-site.

10 133. CSPA is informed and believes, and thereon alleges, that the PNP  
11 Sacramento Facility Owners and/or Operators have failed to adequately develop and/or  
12 implement BMPs to prevent the exposure of pollutants and their sources to storm water  
13 flows at the PNP Sacramento Facility, in violation of the Storm Water Permit and the  
14 Clean Water Act.

15 134. CSPA is informed and believes, and thereon alleges, that the PNP  
16 Sacramento Facility Owners and/or Operators have failed to adequately develop and/or  
17 implement BMPs sufficient to reduce or prevent pollutants in storm water discharged  
18 from the PNP Sacramento Facility, as required by the Storm Water Permit and the Clean  
19 Water Act.

20 135. The failure to properly develop and implement BMPs for pollutants and their  
21 sources results in the discharge of pollutants from the PNP Sacramento Facility in  
22 violation of the Storm Water Permit and the Clean Water Act.

23 **C. Storm Water Discharges at the PNP Sacramento Facility.**

24 136. CSPA is informed and believes, and thereon alleges, that there are at least  
25 four (4) discharge points at the PNP Sacramento Facility. CSPA refers to these discharge  
26 points as Discharge Points #1 – 4.

27 137. CSPA is informed and believes, and thereon alleges, that Discharge Point #1  
28 receives storm water flows from the entire Facility, including from the car crushing area,

1 areas where fluid draining activities occur, automobile dismantling areas, used and  
2 wrecked car storage areas, waste material storage areas, and areas throughout the Facility  
3 where pollutants accumulate.

4 138. CSPA is informed and believes, and thereon alleges, that Discharge Point #1  
5 collects storm water flows via numerous drain inlets located throughout the Facility,  
6 which are collected and discharged to the municipal storm drain system at Stockton  
7 Boulevard.

8 139. CSPA is informed and believes, and thereon alleges, that Discharge Point #2  
9 receives storm water flows from the northeastern portion of the Facility.

10 140. CSPA is informed and believes, and thereon alleges, that storm water  
11 discharges from the PNP Sacramento Facility via a driveway at the northeastern corner of  
12 the Facility leading onto Stockton Boulevard (Discharge Point #2).

13 141. CSPA is informed and believes, and thereon alleges, that Discharge Point #3  
14 receives storm water flows from the eastern portion of the Facility.

15 142. CSPA is informed and believes, and thereon alleges, that storm water  
16 discharges from the PNP Sacramento Facility via a driveway in the middle of the eastern  
17 border of the Facility that leads to Stockton Boulevard (Discharge Point #3).

18 143. CSPA is informed and believes, and thereon alleges, that Discharge Point #4  
19 receives storm water flows from the southeast corner of the Facility.

20 144. CSPA is informed and believes, and thereon alleges, that storm water  
21 discharges from the PNP Sacramento Facility via a driveway in the southeast corner of  
22 the Facility that leads to Stockton Boulevard (Discharge Point #4).

23 145. CSPA is informed and believes, and thereon alleges, that Discharge Points  
24 #1 – 4 flow to the Receiving Waters.

25 **D. The Storm Water Discharges at the PNP Sacramento Facility Contain**  
26 **Elevated Levels of Pollutants.**

27 146. Samples of storm water discharges collected at the PNP Sacramento Facility  
28 contain levels of pollutants in excess of Benchmark Levels. *See* Exhibit 1 at § II.A and

1 Exhibit A (table attached to Notice Letter identifying specific storm water samples with  
2 electrical conductivity, lead, copper, zinc, cadmium, TSS, and pH concentrations above  
3 Benchmark Levels).

4 147. CSPA is informed and believes, and thereon alleges, that repeated  
5 exceedances of Benchmark Levels demonstrate that Defendants failed and continue to  
6 fail to develop and/or implement BMPs at the Facility that achieve compliance with  
7 BAT/BCT standards.

8 148. CSPA is informed and believes, and thereon alleges, that discharges of storm  
9 water containing levels of pollutants that do not achieve compliance with BAT/BCT  
10 standards occur each time storm water discharges from the PNP Sacramento Facility.

11 149. Samples of storm water discharges collected at the PNP Sacramento Facility  
12 contain levels of pollutants in excess of WQS. *See* Exhibit 1 at § II.B and Exhibit A  
13 (table attached to Notice Letter identifying specific storm water samples with lead,  
14 copper, zinc, cadmium, and pH concentrations above WQS).

15 150. Samples of storm water discharges collected at the PNP Sacramento Facility  
16 contain concentrations of pollutants at levels known to adversely impact aquatic species  
17 and the environment. *See* Exhibit 1 at § II.B.

18 **E. Defendants' Failure to Comply with the Storm Water Permit's SWPPP**  
19 **Requirements.**

20 151. CSPA is informed and believes, and thereon alleges, that the PNP  
21 Sacramento Facility Owners and/or Operators failed and continue to fail to develop a  
22 SWPPP for the PNP Sacramento Facility that complies with Section A of the Storm  
23 Water Permit.

24 152. CSPA is informed and believes, and thereon alleges, that the PNP  
25 Sacramento Facility Owners and/or Operators failed and continue to fail to implement a  
26 SWPPP for the PNP Sacramento Facility that complies with Section A of the Storm  
27 Water Permit.

28 153. CSPA is informed and believes, and thereon alleges, that the PNP



1 Sacramento Facility Owners and/or Operators failed and continue to fail to revise the  
2 SWPPP for the PNP Sacramento Facility as necessary to ensure compliance with the  
3 Storm Water Permit.

4 154. CSPA is informed and believes, and thereon alleges, that the PNP  
5 Sacramento Facility SWPPP does not include, among other things, an adequate  
6 description of the Facility's potential pollutant sources and potential pollutants that could  
7 be discharged in storm water, as required by Section A(6) of the Storm Water Permit.

8 155. CSPA is informed and believes, and thereon alleges, that the PNP  
9 Sacramento Facility SWPPP does not include, among other things, the required analysis  
10 and evaluation to determine what areas of the Facility are likely sources of pollutants and  
11 the corresponding pollutants likely to be present in storm water discharges, as required by  
12 Section A(7) of the Storm Water Permit.

13 156. The PNP Sacramento Facility SWPPP does not include adequate BMPs to  
14 reduce or prevent pollutants in storm water discharges to levels required by the Storm  
15 Water Permit.

16 **F. Defendants' Failure to Comply with the Storm Water Permit's M&RP**  
17 **Requirements.**

18 157. CSPA is informed and believes, and thereon alleges, that the PNP  
19 Sacramento Facility Owners and/or Operators failed and continue to fail to develop an  
20 adequate M&RP for industrial operations at the PNP Sacramento Facility that complies  
21 with Section B of the Storm Water Permit.

22 158. CSPA is informed and believes, and thereon alleges, that the PNP  
23 Sacramento Facility Owners and/or Operators failed and continue to fail to implement an  
24 adequate M&RP for industrial operations at the PNP Sacramento Facility that complies  
25 with Section B of the Storm Water Permit.

26 159. CSPA is informed and believes, and thereon alleges, that the PNP  
27 Sacramento Facility Owners and/or Operators failed and continue to fail to revise the  
28 M&RP for the PNP Sacramento Facility as necessary to ensure compliance with the

1 Storm Water Permit.

2 160. CSPA is informed and believes, and thereon alleges, that the PNP  
3 Sacramento Facility Owners and/or Operators fail to observe authorized non-storm water  
4 discharges in the manner required by Section B(3) of the Storm Water Permit.

5 161. CSPA is informed and believes, and thereon alleges, that the PNP  
6 Sacramento Facility Owners and/or Operators fail to observe unauthorized non-storm  
7 water discharges in the manner required by Section B(3) of the Storm Water Permit.

8 162. CSPA is informed and believes, and thereon alleges, that the PNP  
9 Sacramento Facility Owners and/or Operators fail to document any responses to  
10 pollutants observed in the Facility's storm water discharges that will reduce or prevent  
11 these pollutants, as required by Section B(4) of the Storm Water Permit.

12 163. CSPA is informed and believes, and thereon alleges, that the PNP  
13 Sacramento Facility Owners and/or Operators fail to collect two storm water samples  
14 during the first hour of discharge every Wet Season, as required by Section B(5) of the  
15 Storm Water Permit.

16 164. CSPA is informed and believes, and thereon alleges, that the PNP  
17 Sacramento Facility Owners and/or Operators fail to collect storm water samples from all  
18 discharge locations at the PNP Sacramento Facility during every Wet Season, as required  
19 by Section B(5) of the Storm Water Permit.

20 165. CSPA is informed and believes, and thereon alleges, that the PNP  
21 Sacramento Facility Owners and/or Operators fail to analyze all storm water samples for  
22 all pollutants required by Section B(5) and Table D of the Storm Water Permit for  
23 facilities classified as SIC Code 5015.

24 166. CSPA is informed and believes, and thereon alleges, that the PNP  
25 Sacramento Facility Owners and/or Operators fail to analyze storm water samples for all  
26 pollutants likely to be present in the Facility's discharges in significant quantities, as  
27 required by Section B(5) of the Storm Water Permit.

28 ///

1           **G. Defendants' Failure to Comply with the Storm Water Permit's**  
2           **Reporting Requirements.**

3           167. CSPA is informed and believes, and thereon alleges, that the PNP  
4 Sacramento Facility Owners and/or Operators fail to submit complete and adequate  
5 Annual Reports that comply with Section B(14) of the Storm Water Permit.

6           168. CSPA is informed and believes, and thereon alleges, that the PNP  
7 Sacramento Facility Owners and/or Operators failed to include a summary or evaluation  
8 of their visual observations and sampling results in every Annual Report submitted for  
9 the Facility in at least the last five (5) years.

10          169. CSPA is informed and believes, and thereon alleges, that the PNP  
11 Sacramento Facility Owners and/or Operators failed to explain their noncompliance with  
12 the Storm Water Permit in every Annual Report submitted for the Facility in at least the  
13 last five (5) years.

14          170. CSPA is informed and believes, and thereon alleges, that the PNP  
15 Sacramento Facility Owners and/or Operators fail to include an evaluation report that  
16 explains necessary SWPPP revisions and a schedule for implementing the SWPPP  
17 revisions in Annual Reports.

18          171. CSPA is informed and believes, and thereon alleges, that the PNP  
19 Sacramento Facility Owners' and/or Operators' certifications of compliance with the  
20 Storm Water Permit in each of the Facility's past five (5) Annual Reports are erroneous  
21 because the PNP Sacramento Facility Owners and/or Operators have not developed  
22 and/or implemented the BMPs required by the Storm Water Permit.

23          172. CSPA is informed and believes, and thereon alleges, that the PNP  
24 Sacramento Facility Owners' and/or Operators' Annual Reports inaccurately state that  
25 the BMPs set out in the Facility's SWPPP address existing potential pollutant sources  
26 when they do not.

27          173. CSPA is informed and believes, and thereon alleges, that the PNP  
28 Sacramento Facility Owners' and/or Operators' Annual Reports falsely state that the

1 Facility's SWPPP is up to date when it is not.

2 174. CSPA is informed and believes, and thereon alleges, that the PNP  
3 Sacramento Facility Owners' and/or Operators' certifications of compliance with the  
4 Storm Water Permit in each of their past five (5) Annual Reports are erroneous because  
5 the PNP Sacramento Facility Owners and/or Operators have not revised the Facility's  
6 SWPPP to address all Storm Water Permit violations.

7 175. CSPA is informed and believes, and thereon alleges, that the PNP  
8 Sacramento Facility Owners' and/or Operators' certifications of compliance with the  
9 Storm Water Permit in each of their past five (5) Annual Reports are erroneous because  
10 the PNP Sacramento Facility Owners and/or Operators have not revised the Facility's  
11 M&RP to address all Storm Water Permit violations.

12 **VI. CLAIMS FOR RELIEF**

13 **FIRST CAUSE OF ACTION**

14 **Defendants' Discharges of Contaminated Storm Water in Violation of the Storm**  
15 **Water Permit's Effluent Limitation B(3) and the Clean Water Act.**

16 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

17 176. CSPA incorporates the allegations contained in the above paragraphs as  
18 though fully set forth herein.

19 177. CSPA is informed and believes, and thereon alleges, that Defendants failed  
20 and continue to fail to reduce or prevent levels of pollutants in the Facility's storm water  
21 discharges through development and implementation of BAT/BCT.

22 178. CSPA is informed and believes, and thereon alleges, that Defendant's  
23 violations of Effluent Limitation B(3) of the Storm Water Permit and the Clean Water  
24 Act occur each time storm water is discharged from the Facility.

25 179. CSPA is informed and believes, and thereon alleges, that Defendants'  
26 violations of Effluent Limitation B(3) of the Storm Water Permit and the Clean Water  
27 Act are ongoing and continuous.

28 180. Defendants will continue to be in violation of the Storm Water Permit and

1 the Clean Water Act each and every time contaminated storm water discharges from the  
2 PNP Sacramento Facility in violation of Effluent Limitation B(3) of the Storm Water  
3 Permit.

4 181. Each and every time Defendants discharge storm water from the PNP  
5 Sacramento Facility in violation of Effluent Limitation B(3) of the Storm Water Permit is  
6 a separate and distinct violation of Section 301(a) of the Clean Water Act, 33 U.S.C. §  
7 1311(a).

8 182. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§  
9 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged  
10 above, Defendants are subject to an assessment of civil penalties for each and every  
11 violation of the Clean Water Act since March 21, 2009.

12 183. An action for injunctive relief under the Clean Water Act is authorized by 33  
13 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
14 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
15 adequate remedy at law.

16 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
17 hereafter.

18 **SECOND CAUSE OF ACTION**

19 **Defendants' Discharges of Contaminated Storm Water in Violation of the Storm**  
20 **Water Permit's Receiving Water Limitation C(1) and the Clean Water Act.**

21 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

22 184. CSPA incorporates the allegations contained in the above paragraphs as  
23 though fully set forth herein.

24 185. CSPA is informed and believes, and thereon alleges, that Defendants have  
25 discharged and continue to discharge storm water from the Facility containing levels of  
26 pollutants that adversely impact human health and/or the environment.

27 186. CSPA is informed and believes, and thereon alleges, that discharges of storm  
28 water containing levels of pollutants that adversely impact human health and/or the

1 environment from the PNP Sacramento Facility occur each time storm water discharges  
2 from the PNP Sacramento Facility.

3 187. CSPA is informed and believes, and thereon alleges, that Defendants violate  
4 Receiving Water Limitation C(1) of the Storm Water Permit each and every time storm  
5 water containing levels of pollutants that adversely impact human health and/or the  
6 environment discharges from the PNP Sacramento Facility.

7 188. CSPA is informed and believes, and thereon alleges, that Defendants'  
8 violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean  
9 Water Act are ongoing and continuous.

10 189. Defendants will continue to be in violation of the Storm Water Permit and  
11 the CWA each and every time contaminated storm water discharges from the PNP  
12 Sacramento Facility in violation of Receiving Water Limitation C(1) of the Storm Water  
13 Permit.

14 190. Each and every violation of Receiving Water Limitation C(1) of the Storm  
15 Water Permit is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C.  
16 § 1311(a).

17 191. Pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d),  
18 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged above,  
19 Defendants are subject to an assessment of civil penalties for each and every violation of  
20 the Clean Water Act since March 21, 2009.

21 192. An action for injunctive relief under the Clean Water Act is authorized by 33  
22 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
23 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
24 adequate remedy at law.

25 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
26 hereafter.

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28 ///

**THIRD CAUSE OF ACTION**

**Defendants' Discharges of Contaminated Storm Water in Violation of the Storm Water Permit's Receiving Water Limitation C(2) and the Clean Water Act.**

**33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

193. CSPA incorporates the allegations contained in the above paragraphs as though fully set forth herein.

194. CSPA is informed and believes, and thereon alleges, that Defendants have discharged and continue to discharge storm water from the Facility containing levels of pollutants that cause or contribute to exceedances of water quality standards.

195. CSPA is informed and believes, and thereon alleges, that discharges of storm water containing levels of pollutants that cause or contribute to exceedances of water quality standards occur each time storm water discharges from the PNP Sacramento Facility.

196. Defendants violate Receiving Water Limitation C(2) of the Storm Water Permit each and every time storm water containing levels of pollutants that cause or contribute to exceedances of water quality standards discharges from the PNP Sacramento Facility.

197. CSPA is informed and believes, and thereon alleges, that Defendants' violations of Receiving Water Limitation C(2) of the Storm Water Permit and Clean Water Act are ongoing and continuous.

198. Each and every violation of Receiving Water Limitation C(2) of the Storm Water Permit is a separate and distinct violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

199. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged above, Defendants are subject to an assessment of civil penalties for each and every violation of the Clean Water Act since March 21, 2009.

200. An action for injunctive relief under the Clean Water Act is authorized by 33



1 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
2 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
3 adequate remedy at law.

4 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
5 hereafter.

6 **FOURTH CAUSE OF ACTION**

7 **Defendants' Failure to Adequately Develop, Implement, and/or Revise a Storm**  
8 **Water Pollution Prevention Plan in Violation of the Storm Water Permit and**  
9 **Clean Water Act.**

10 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

11 201. CSPA incorporates the allegations contained in the above paragraphs as  
12 though fully set forth herein.

13 202. CSPA is informed and believes, and thereon alleges, that Defendants failed  
14 and continue to fail to adequately develop a SWPPP for the PNP Sacramento Facility, in  
15 violation of Section A and Provision E(2) of the Storm Water Permit.

16 203. CSPA is informed and believes, and thereon alleges, that Defendants failed  
17 and continue to fail to adequately implement a SWPPP for the PNP Sacramento Facility,  
18 in violation of Section A and Provision E(2) of the Storm Water Permit.

19 204. CSPA is informed and believes, and thereon alleges, that Defendants failed  
20 and continue to fail to adequately revise a SWPPP for the PNP Sacramento Facility, in  
21 violation of Sections A(9) and A(10) of the Storm Water Permit.

22 205. Defendants have been in violation of Section A and Provision E(2) of the  
23 Storm Water Permit for failing to develop, implement, and/or revise an adequate SWPPP  
24 for the PNP Sacramento Facility every day since at least March 21, 2009.

25 206. Defendants' violations of Section A and Provision E(2) of the Storm Water  
26 Permit and the Clean Water Act are ongoing and continuous.

27 207. Defendants will continue to be in violation of Section A and Provision E(2)  
28 of the Storm Water Permit and the Clean Water Act each and every day Defendants fail  
to adequately develop, implement, and/or revise the SWPPP for the PNP Sacramento

1 Facility.

2 208. Each and every violation of the Storm Water Permit's SWPPP requirements  
3 at the PNP Sacramento Facility is a separate and distinct violation of the Clean Water  
4 Act.

5 209. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§  
6 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged  
7 above, Defendants are subject to an assessment of civil penalties for each and every  
8 violation of the Clean Water Act since March 21, 2009.

9 210. An action for injunctive relief under the Clean Water Act is authorized by 33  
10 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
11 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
12 adequate remedy at law.

13 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
14 hereafter.

15 **FIFTH CAUSE OF ACTION**

16 **Defendants' Failure to Adequately Develop, Implement, and/or Revise a**  
17 **Monitoring and Reporting Program in Violation of the Storm Water Permit and**  
18 **Clean Water Act.**

19 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

20 211. CSPA incorporates the allegations contained in the above paragraphs as  
21 though fully set forth herein.

22 212. CSPA is informed and believes, and thereon alleges, that Defendants failed  
23 and continue to fail to adequately develop an M&RP for the PNP Sacramento Facility, in  
24 violation of Section B and Provision E(3) of the Storm Water Permit.

25 213. CSPA is informed and believes, and thereon alleges, that Defendants failed  
26 and continue to fail to adequately implement an M&RP for the PNP Sacramento Facility,  
27 in violation of Section B and Provision E(3) of the Storm Water Permit.

28 214. CSPA is informed and believes, and thereon alleges, that Defendants failed  
and continue to fail to adequately revise an M&RP for the PNP Sacramento Facility, in

1 violation of Section B and Provision E(3) of the Storm Water Permit.

2 215. Defendants have been in violation of Section B and Provision E(3) of the  
3 Storm Water Permit for their failure to develop, implement, and/or revise an adequate  
4 M&RP for the PNP Sacramento Facility every day since at least March 21, 2009.

5 216. Defendants' violations of Section B and Provision E(3) of the Storm Water  
6 Permit and the Clean Water Act are ongoing and continuous.

7 217. Defendants will continue to be in violation of Section B and Provision E(3)  
8 the Storm Water Permit and the Clean Water Act each and every day Defendants fail to  
9 adequately develop, implement, and/or revise an M&RP for the PNP Sacramento  
10 Facility.

11 218. Each and every violation of the Storm Water Permit's M&RP requirements  
12 at the PNP Sacramento Facility is a separate and distinct violation of the Clean Water  
13 Act.

14 219. Pursuant to Sections 309(d) and 505 of the Clean Water Act, 33 U.S.C. §§  
15 1319(d), 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged  
16 above, Defendants are subject to an assessment of civil penalties for each and every  
17 violation of the Clean Water Act since March 21, 2009.

18 220. An action for injunctive relief under the Clean Water Act is authorized by 33  
19 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
20 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
21 adequate remedy at law.

22 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
23 hereafter.

24 **SIXTH CAUSE OF ACTION**

25 **Defendants' Failure to Comply With the Reporting Requirements in Violation of**  
26 **the Storm Water Permit and the Clean Water Act.**

27 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

28 221. CSPA incorporates the allegations contained in the above paragraphs as

1 though fully set forth herein.

2 222. CSPA is informed and believes, and thereon alleges, that Defendants'  
3 Annual Reports have not met the reporting requirements of the Storm Water Permit, in  
4 violation of Section B(14) of the Storm Water Permit.

5 223. CSPA is informed and believes, and thereon alleges, that Defendants'  
6 Annual Reports are inaccurate, in violation of Sections A(9) and B(14) of the Storm  
7 Water Permit.

8 224. CSPA is informed and believes, and thereon alleges, that Defendants'  
9 Annual Reports are incomplete, in violation of Sections A(9) and B(14) of the Storm  
10 Water Permit.

11 225. Defendants have been in violation of the reporting requirements of the Storm  
12 Water Permit each day they have operated the PNP Sacramento Facility without reporting  
13 as required by Sections A(9) and B(14) of the Storm Water Permit.

14 226. Defendants have been in daily and continuous violation of Sections A(9) and  
15 B(14) of the Storm Water Permit every day since at least March 21, 2009.

16 227. Defendants' violations of the reporting requirements of the Storm Water  
17 Permit and the CWA are ongoing and continuous.

18 228. Pursuant to sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d),  
19 1365, and 40 C.F.R. § 19.4, by committing the acts and omissions alleged above,  
20 Defendants are subject to an assessment of civil penalties for each and every violation of  
21 the CWA since March 21, 2009.

22 229. An action for injunctive relief under the Clean Water Act is authorized by 33  
23 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above would  
24 irreparably harm CSPA and its members, for which harm CSPA has no plain, speedy, or  
25 adequate remedy at law.

26 WHEREFORE, CSPA prays for judgment against Defendants as set forth  
27 hereafter.

28 ///

1 **VII. RELIEF REQUESTED**

2 230. CSPA respectfully requests that this Court grant the following relief:

3 a. A Court order declaring Defendants to have violated and to be in  
4 violation of the Storm Water Permit and Section 301(a) of the CWA, 33 U.S.C. §  
5 1311(a), for their violations of the substantive and procedural requirements of the Storm  
6 Water Permit;

7 b. A Court order enjoining Defendants from violating the substantive  
8 and procedural requirements of the Storm Water Permit and the Clean Water Act;

9 c. A Court order assessing civil monetary penalties for each violation of  
10 the Clean Water Act at \$37,500 per day per violation for violations occurring since  
11 March 21, 2009, as permitted by 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4;

12 d. A Court order awarding CSPA its reasonable costs of this suit,  
13 including attorney, witness, expert, and consultant fees, as permitted by Section 505(d) of  
14 the Clean Water Act, 33 U.S.C. § 1365(d);

15 e. Any other relief as this Court may deem appropriate.

16  
17 Dated: May 21, 2014

Respectfully submitted,

LAWYERS FOR CLEAN WATER, INC.

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19  
20 

21 \_\_\_\_\_  
Layne Friedrich

Drevet Hunt

Attorneys for Plaintiff

California Sportfishing Protection Alliance



March 21, 2014

**VIA CERTIFIED MAIL**

Pick-N-Pull Auto Dismantlers  
Managing Agent  
7590 Stockton Boulevard  
Sacramento, California 95823

**VIA UNITED STATES MAIL**

Pick and Pull Auto Dismantling, Inc.  
299 SW Clay, Suite 350  
Portland, Oregon 97210

Schnitzer Steel Industries, Inc.  
3200 NW Yeon Avenue  
Portland, Oregon 97201

C T Corporation System  
Registered Agent for Norprop, Inc.  
818 W Seventh Street  
Los Angeles, California 90017

C T Corporation System  
Registered Agent for  
Schnitzer Steel Industries, Inc.  
818 W Seventh Street  
Los Angeles, California 90017

Norprop, Inc.  
3200 NW Yeon Avenue  
Portland, Oregon 97210

Pick-N-Pull  
10850 Gold Center Drive, Suite 325  
Rancho Cordova, California 95670

C T Corporation System  
Registered Agent for  
Pick and Pull Auto Dismantling, Inc.  
818 W Seventh Street  
Los Angeles, California 90017

**Re: Notice of Violation and Intent to File Suit Under the Clean Water Act**

To Whom It May Concern:

I am writing on behalf of California Sportfishing Protection Alliance (“CSPA”) regarding violations of the Clean Water Act<sup>1</sup> and California’s General Industrial Storm Water Permit<sup>2</sup>

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<sup>1</sup> Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

occurring at the Pick-N-Pull facility located at 7590<sup>3</sup> Stockton Boulevard in Sacramento, California 95823 (hereinafter the “PNP Sacramento Facility” or “Facility”). The purpose of this letter is to put the owners and operators of the PNP Sacramento Facility on notice of the violations of the Storm Water Permit that have occurred, and continue to occur, at the Facility including, but not limited to, the discharges of polluted storm water from the Facility into local water bodies. Violations of the Storm Water Permit are violations of the Clean Water Act. As explained below, the owners and/or operators of the PNP Sacramento Facility are liable for violations of the Storm Water Permit and the Clean Water Act.

Section 505(b) of the Clean Water Act, 33 U.S.C. § 1365(b), requires that sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Clean Water Act, 33 U.S.C. § 1365(a), a citizen must give notice of his/her intention to sue. Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency (“EPA”), the Regional Administrator of the EPA, the Executive Officer of the water pollution control agency in the State in which the violations occur, and, if the alleged violator is a corporation, the registered agent of the corporation. *See* 40 C.F.R. § 135.2. This letter is being sent to you as the PNP Sacramento Facility owners and/or operators, or as the registered agent for these entities. By this letter, issued pursuant to 33 U.S.C. §§ 1365(a) and (b) of the Clean Water Act, CSPA puts the PNP Sacramento Facility owners and/or operators on notice that after the expiration of sixty (60) days from the date of this letter, we intend to file an enforcement action in federal court against them for violations of the Storm Water Permit and the Clean Water Act.

## **I. Background.**

### **A. California Sportfishing Protection Alliance.**

CSPA is a 501(c)(3) non-profit public benefit conservation and research organization. CSPA was established in 1983 for the purpose of conserving, restoring, and enhancing the state’s water quality, wildlife, fishery resources, aquatic ecosystems, and associated riparian habitats. CSPA accomplishes its mission by actively seeking federal, state, and local agency implementation of environmental regulations and statutes and routinely participates in administrative, legislative, and judicial proceedings. When necessary, CSPA directly initiates enforcement actions on behalf of itself and its members to protect public trust resources. CSPA’s office is located at 3536 Rainier Avenue, Stockton, California 95204.

The owners and/or operators of the PNP Sacramento Facility have discharged, and continue to discharge, polluted storm water to the Elder Creek, which flows to the Morrison Creek, the Stone Lake National Wildlife Refuge, and then to the Sacramento-San Joaquin River Delta (“Delta”) (collectively “Receiving Waters”). The PNP Sacramento Facility’s discharges of polluted storm water degrade water quality and harm aquatic life in the Receiving Waters. Members of CSPA live, work, and/or recreate near the Receiving Waters. For example, CSPA

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<sup>2</sup> National Pollution Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ (hereinafter “Storm Water Permit”).

<sup>3</sup> The Pick-N-Pull website lists the facility address as 7560 Stockton Boulevard.



members use and enjoy the Receiving Waters for fishing, boating, swimming, bird watching, picnicking, viewing wildlife, and engaging in scientific study. The unlawful discharge of pollutants from the PNP Sacramento Facility impairs each of these uses. Further, the PNP Sacramento Facility's discharges of polluted storm water are ongoing and continuous. As a result, CSPA's members' use and enjoyment of the Receiving Waters has been and continues to be adversely impacted. Thus, the interests of CSPA's members have been, are being, and will continue to be adversely affected by the failure of the PNP Sacramento Facility owners and/or operators to comply with the Storm Water Permit and the Clean Water Act.

**B. The Owners and/or Operators of the PNP Sacramento Facility.**

Based on information available to CSPA, below is a brief description of the PNP Sacramento Facility owners and/or operators covering the statutory period from March 21, 2009 to the present. CSPA refers to the entities identified below collectively as the "PNP Sacramento Facility Owners and/or Operators."

Pick-N-Pull Auto Dismantlers, a registered California General Partnership

Information available to CSPA indicates that Pick-N-Pull Auto Dismantlers, also referred to as "Pick-N-Pull," has been a registered California General Partnership since May 11, 2007. Information available to CSPA indicates that Pick-N-Pull Auto Dismantlers has been an owner of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Pick-N-Pull Auto Dismantlers has been an operator of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that the general partners of Pick-N-Pull Auto Dismantlers are Norprop, Inc. and Pick and Pull Auto Dismantling, Inc.

Norprop, Inc.

Information available to CSPA indicates that Norprop, Inc. is an active corporation registered in both Oregon and California. Information available to CSPA indicates that Norprop, Inc. has been an owner of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Norprop, Inc. has been an operator of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Norprop, Inc. is a wholly owned subsidiary of Schnitzer Steel, Inc.

Pick and Pull Auto Dismantling, Inc.

Information available to CSPA indicates that Pick and Pull Auto Dismantling, Inc. is an active corporation registered in California. Information available to CSPA indicates that Pick and Pull Auto Dismantling, Inc. has been an owner of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Pick and Pull Auto Dismantling, Inc. has been an operator of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Pick and Pull Auto Dismantling, Inc. is a subsidiary of Norprop, Inc.

Schnitzer Steel Industries, Inc.

Information available to CSPA indicates that the PNP Sacramento Facility is just one of 50 Pick-n-Pull locations across the United States and Canada. Information available to CSPA also indicates that all of the Pick-n-Pull locations were acquired by Schnitzer Steel Industries, Inc. on February 14, 2003, and became part of Schnitzer Steel Industries, Inc.'s "Auto Parts Business unit." CSPA obtained the following information from the Pick-N-Pull website ([www.picknpull.com](http://www.picknpull.com)): "Pick-n-Pull is a subsidiary of Schnitzer Steel Industries, Inc., a global leader in the metals recycling industry that has been in business for over a century. Although Pick-n-Pull and Schnitzer have worked together since 1989, Pick-n-Pull became a fully owned subsidiary of Schnitzer in 2003 as part of its Auto Parts Business unit." "© 2014 Pick-n-Pull Auto and Truck Dismantlers, a subsidiary of Schnitzer Steel Industries, Inc." CSPA obtained the following information from the Schnitzer Steel website ([www.schnitzersteel.com](http://www.schnitzersteel.com)): 1989, Schnitzer enters Pick-n-Pull joint venture; 2003: "Schnitzer buys out its partner in the Pick-n-Pull joint venture. Pick-n-Pull becomes a wholly owned subsidiary and the first member of Schnitzer's Auto Parts Business"; "Schnitzer's Auto Parts Business operates Pick-n-Pull, one of the nation's premier self-service used auto parts networks with 61 auto recycling facilities in 16 U.S. states and Western Canada dedicated to supplying customers with low-cost, quality used auto parts."

Information available to CSPA indicates that Schnitzer Steel Industries, Inc. is an active corporation registered in Oregon and California. Information available to CSPA indicates that Schnitzer Steel Industries, Inc. has been an owner of the PNP Sacramento Facility since at least March 21, 2009. Information available to CSPA indicates that Schnitzer Steel Industries, Inc. has been an operator of the PNP Sacramento Facility since at least March 21, 2009.

The Registered Agent for Norporp, Inc., Pick and Pull Auto Dismantling, Inc. and Schnitzer Steel Industries, Inc. is CT Corporation System, located at 818 W Seventh Street, Los Angeles California 90017.

### **C. The PNP Sacramento Facility's Coverage Under the Storm Water Permit.**

A Notice of Intent ("NOI") to obtain Storm Water Permit coverage for the automobile dismantling operations at the PNP Sacramento Facility was first submitted to the State Water Resources Control Board ("State Board") in March 1992 ("1992 NOI"). The 1992 NOI was submitted by U-Pull-It, Inc., and it lists the *Owner/Operator* as: U-Pull-It, Inc. The State Board assigned the PNP Sacramento Facility at 7590 Stockton Boulevard Waste Discharge Identification ("WDID") Number 5S34I001815.<sup>4</sup> The 1992 NOI states that the PNP Sacramento Facility is approximately 15 acres in size, 31% impervious, and identifies the PNP Sacramento Facility's Standard Industrial Classification ("SIC") code of regulated activity as 5015 (*Motor Vehicle Parts, Used*).

In September 1994, U-Pull-It, Inc. submitted another NOI ("1994 NOI") for the PNP Sacramento Facility. The 1994 NOI has the *Change of Information* box marked, and lists the

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<sup>4</sup> Each Annual Report filed by the PNP Sacramento Facility Owners and/or Operators since at least the 2008/2009 Annual Report lists the WDID Number for the PNP Sacramento Facility as 5S34I001815. This WDID number, and WDID number 5A34S001815 from the 1994 NOI, refer to the same PNP Sacramento Facility.

WDID as 5A34S001815, and lists a new contact person, but all other information is identical to the 1992 NOI. In June of 1997, U-Pull-It, Inc. submitted an NOI (“1997 NOI”) for existing facility operators to continue coverage under the reissued Storm Water Permit, which replaced the 1992 Storm Water Permit. The 1997 NOI still lists U-Pull-It Inc. as the *Facility Operator* but the information for *Facility Location* now lists the Facility’s name as “DBA-PICK-N-PULL.” The Facility WDID number did not change from the 1994 NOI and was listed as 5A34S001815.

Since at least the filing of the 2008/2009 Annual Report, the PNP Sacramento Facility Owners and/or Operators have identified the *Facility Information* as “Pick N Pull Auto Dismantlers,” and the *Facility Operator* as “Pick N Pull.” The 2008/2009, 2009/2010, and 2011/2012 Annual Reports list the *Facility Billing Information* as “Pick N Pull,” but the 2012/2013 Annual Report lists the *Facility Billing Information* as “Schnitzer Steel Industries, Inc.”

**D. Storm Water Pollution and Its Impacts on the Sacramento-San Joaquin Delta Watershed.**

With every significant rainfall event, millions of gallons of polluted rainwater, originating from industrial facilities such as the PNP Sacramento Facility, pour into storm drains and surface waters in California. The consensus among agencies and water quality specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. This discharge of pollutants, which includes discharges from industrial facilities, contributes to the impairment of downstream waters and aquatic dependent wildlife.

Polluted storm water discharges from auto dismantling and scrap metal yards can carry pollutants such as sediment (or total suspended solids (“TSS”)); dust and particulates; petroleum hydrocarbons; and toxic metals such as mercury, nickel, cadmium, zinc, copper, iron, aluminum, and lead. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Polluted storm water discharges to surface waters pose carcinogenic and reproductive toxicity threats to the public and adversely affect the aquatic environment.

The California Regional Water Quality Control Board, Central Valley Region (“Regional Board”) has issued its Water Quality Control Plan for the Sacramento and San Joaquin River Basins (“Basin Plan”). The Basin Plan identifies the “Beneficial Uses” of water bodies in the region. The Beneficial Uses for the waters that receive polluted storm water discharges from the PNP Sacramento Facility include: agriculture supply (AGR), municipal and domestic supply (MUN), water contact recreation (REC1), non-contact water recreation (REC 2), cold freshwater habitat (COLD), warm freshwater habitat (WARM), estuarine habitat (EST), wildlife habitat (WILD), rare, threatened, or endangered species (RARE), migration of aquatic organisms (MIGR) and spawning, reproduction and development (SPWN). *See* Basin Plan at II-1.00 – II-8.00.

A water body is impaired pursuant to section 303(d) of the Clean Water Act, 33 U.S.C. § 1313(d), when its Beneficial Uses are not being achieved due to the presence of one or more

pollutants. Downstream of the PNP Sacramento Facility, Elder Creek and Morrison Creek are impaired by various pesticides and sediment toxicity.<sup>5</sup> Downstream of the PNP Sacramento Facility, the Delta is impaired by, among other things, mercury and unknown toxicity.<sup>6</sup> Polluted storm water discharges from industrial facilities, such as the PNP Sacramento Facility, contribute to the impairment of surface waters, including the Receiving Waters, and harm aquatic dependent wildlife.

**E. The Industrial Activities at the PNP Sacramento Facility and Associated Pollutants.**

Information available to CSPA indicates that the following industrial operations are conducted at the PNP Sacramento Facility: automobile dismantling; automobile crushing; automobile parts storage and resale; used and salvaged automobile storage; scrap metal processing, storage, and sale; used battery collection, storage, and recycling; and vehicle and equipment maintenance. Information available to CSPA indicates that the PNP Sacramento Facility Owners and/or Operators also generate and store hazardous waste such as batteries, hydraulic oil, waste oil, used antifreeze, and waste gasoline.

Each of these activities or materials is a potential source of pollutants at the PNP Sacramento Facility. Information available to CSPA indicates that many, if not all, of the industrial operations and associated material storage at PNP Sacramento Facility are conducted outdoors without adequate cover or other effective best management practices (“BMPs”) to prevent storm water exposure to pollutant sources, and without adequate secondary containment or other measures to prevent polluted storm water from discharging from the PNP Sacramento Facility.

The pollutants associated with operations at the PNP Sacramento Facility include, but are not limited to: sediment; dust and particulates; petroleum hydrocarbons; coolant; used oil filters; waste antifreeze; used oil; sulfuric acid; solvents; hydraulic fluids; diesel fuel; motor oil; and toxic metals such as mercury, zinc, copper, iron, aluminum, and lead.

Information available to CSPA also indicates that the pollutants and pollutant sources identified above have been and continue to be deposited in and around and/or tracked throughout the PNP Sacramento Facility. Further, individuals performing car repair and other activities deposit pollutants in the Facility parking lot, and where they are exposed to storm water flows. Pollutants accumulate at the storm water discharge points and drop inlets to the onsite storm drain system. They also accumulate at and on the driveways to Stockton Boulevard, resulting in the discharge of pollutants at the driveways as well as tracking of sediment, dirt, oil and grease, metal particles and other pollutants off-site.

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<sup>5</sup> 2010 Integrated Report – All Assessed Waters, available at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml) (last accessed on March 20, 2014).

<sup>6</sup> 2010 Integrated Report – All Assessed Waters, available at: [http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml) (last accessed on March 20, 2014).

**F. The PNP Sacramento Facility's Failure to Implement BMPs and Associated Discharges of Pollutants.**

The PNP Sacramento Facility Owners and/or Operators report that there is one (1) location where storm water is discharged from the Facility. The PNP Sacramento Facility Owners and/or Operators call this discharge point different names including the Drain Interceptor at Parking Lot, D1 at Stockton Blvd., Drain Outfall to Stockton Blvd, and Customer Yard/Site Entrance. CSPA refers to this discharge location as D1. Information available to CSPA indicates there is at least three (3) additional storm water discharge points at the driveways to the Facility from Stockton Boulevard.

D1 is a pipe that is connected to the local municipal separate storm sewer system. Storm water from throughout the entire Facility is collected in an underground storm drain system that channels flow to D1. This includes the car crushing area, areas where fluid draining occurs outdoors and not under cover, automobile dismantling areas, used and wrecked car storage areas (including the customer lot and parking lot), waste material storage areas, and areas throughout the Facility where pollutants from various industrial activities are tracked and spilled.

The driveways at the Facility access the Facility parking lot, as well as provide egress for shipping and receiving of wrecked and dismantled automobiles that are processed on site. The Facility parking lot is heavily soiled with automobile fluids, contains broken and wrecked automobile parts, and is used for storage of wrecked and dismantled vehicles. Storm water exposed to pollutants in the Facility parking lot and egress points is discharged from the Facility driveways.

The PNP Sacramento Facility Owners and/or Operators have not properly developed and/or implemented the required BMPs to address pollutant sources, prevent the exposure of pollutants to storm water, and prevent the subsequent discharge of polluted storm water from the PNP Sacramento Facility during rain events. Consequently, during rain events, storm water carries pollutants from the PNP Sacramento Facility's uncovered and exposed areas of industrial activity into the Receiving Waters. These discharges negatively impact the Receiving Waters and CSPA's members' use and enjoyment of the Receiving Waters.

The PNP Sacramento Facility Owners' and/or Operators' failure to develop and/or implement BMPs required by the Storm Water Permit to reduce or eliminate pollutant levels in discharges is also documented by the Regional Board. Specifically, since 2005, the Regional Board has issued Deficient BMP Letters, a Notice of Violation of the Storm Water Permit, and Staff Enforcement Letters notifying the PNP Sacramento Facility Owners and/or Operators of their Storm Water Permit violations and required corrective actions. For example, on October 23, 2009, the Regional Board issued a Deficient BMP Implementation Letter notifying the PNP Sacramento Facility Owners and/or Operators that their sample results indicated levels of pollutants in storm water discharges above Benchmark Levels.<sup>7</sup> The October letter required the

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<sup>7</sup> See *United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP)*, as modified effective May 27, 2009.



PNP Sacramento Facility Owners and/or Operators to (1) review all sampling data to identify the number of consecutive years that the Facility has exceeded benchmarks; (2) identify sources of pollutants at the Facility; (3) review current BMPs; (5) modify existing BMPs and/or implement new BMPs to reduce or eliminate the discharge of pollutants; (6) revise the SWPPP and M&RP; (7) submit a written response by December 1, 2009, and; (8) describe what BMP improvements were made in the next Annual Report for the 2009/2010 Wet Season.

The PNP Sacramento Facility Owners and/or Operators submitted a one-page response on November 30, 2009, but did not comply with the Regional Board's October 23, 2009, Deficient BMP Implementation Letter, including the specific acknowledgement that they failed to review all Facility sampling data, and failed to revise the SWPPP and M&RP.

When sample results from the Facility still contained elevated levels of pollutants the Regional Board sent another Deficient BMP Implementation Letter to the PNP Sacramento Facility Owners and/or Operators on October 23, 2009.

After reviewing the Facility's 2009/2010 Annual Report, the Regional Board again issued a Deficient BMP Implementation Letter on October 14, 2010<sup>8</sup> for excessive pollutant levels in discharges and failure to implement required BMPs. The October 2010 Deficient BMP Implementation Letter reiterated the October 2009 Deficient BMP Implementation Letter's requirements for what the PNP Sacramento Facility Owners and/or Operators must do to address the exceedances, and required a written response by November 19, 2010.

The PNP Sacramento Facility Owners and/or Operators responded to the October 2009 Deficient BMP Implementation Letter on November 19, 2010 but again failed to conduct the required analysis and review of all Facility sampling data, associated pollutant sources, and corresponding BMPs for each pollutant exceedance. The November 19, 2010 response does indicate that the PNP Sacramento Facility Owners and/or Operators intend to install a clarifier in efforts to improve the quality of storm water discharging from the Facility. However, although the PNP Sacramento Facility Owners and/or Operators did not collect storm water samples during the 2011/2012 Wet Season (defined as October 1-May 30), the storm water samples collected during the 2012/2013 Wet Season again contained concentrations of pollutants above Benchmark Levels and applicable water quality standards for at least the following pollutants: copper, zinc, TSS, and pH. *See Exhibit A.* These sample results containing high pollutant concentrations, plus the evidence of the PNP Sacramento Facility Owners' and/or Operators' failure to develop and/or implement an adequate Storm Water Pollution Prevention Plan ("SWPPP") and Monitoring and Reporting Program ("M&RP"), indicate that the required corrective actions have not been taken and the Facility continues to operate in violation of the Storm Water Permit.

## **II. Violations of the Clean Water Act and the Storm Water Permit.**

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<sup>8</sup> A Deficient BMP Implementation Letter was also sent to Pick-N-Pull at 10850 Gold Center Drive, Suite 325 in Rancho Cordova on October 19, 2009.

In California, any person who discharges storm water associated with industrial activity must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); *see also* Storm Water Permit, Fact Sheet at VII.

**A. Discharges of Polluted Storm Water from the PNP Sacramento Facility in Violation of Effluent Limitation B(3) of the Storm Water Permit.**

Effluent Limitation B(3) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through implementation of BMPs that achieve best available technology economically achievable (“BAT”) for toxic pollutants<sup>9</sup> and best conventional pollutant control technology (“BCT”) for conventional pollutants.<sup>10</sup> Benchmark Levels are relevant and objective standards to evaluate whether a permittee’s BMPs achieve compliance with BAT/BCT standards as required by Effluent Limitation B(3) of the Storm Water Permit.<sup>11</sup>

Sampling at the PNP Sacramento Facility demonstrates that storm water discharges contain concentrations of pollutants above Benchmark Levels. *See* Exhibit A. The repeated and significant exceedances of Benchmark Levels demonstrate that the PNP Sacramento Facility Owners and/or Operators have not implemented BMPs at the PNP Sacramento Facility that achieve compliance with the BAT/BCT standards. In fact, the PNP Sacramento Facility Owners and/or Operators specifically noted that no corrective action was required even though levels of pollutants in the Facility’s discharges are “at the high end,” and clearly exceed Benchmark Levels. In addition, the files at the Regional Board demonstrate that the PNP Sacramento Facility Owners and/or Operators have been notified on more than one occasion that the storm water discharging from the Facility contains excess levels of pollutants, and that the BMPs at the Facility fail to achieve compliance with the BAT/BCT standard. Despite these notices from the Regional Board, the PNP Sacramento Facility Owners and/or Operators have failed and continue to fail to develop and/or implement BMPs to prevent the exposure of pollutants to storm water and to prevent discharges of polluted storm water from the PNP Sacramento Facility, in violation of Effluent Limitation B(3) of the Storm Water Permit.

Information available to CSPA indicates that the PNP Sacramento Facility Owners and/or Operators violate Effluent Limitation B(3) of the Storm Water Permit for failing to develop and/or implement BMPs that achieve BAT/BCT each time storm water is discharged from the PNP Sacramento Facility. *See e.g.*, Exhibit B (setting forth dates of rain events resulting in a discharge at the Facility).<sup>12</sup> These discharge violations are ongoing and will continue each day

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<sup>9</sup> Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

<sup>10</sup> Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, total suspended solids, oil and grease, pH, and fecal coliform.

<sup>11</sup> *See* EPA Storm Water Multi-Sector Permit (2008), Fact Sheet, p. 106; *see also*, EPA Storm Water Multi-Sector Permit, 65 Federal Register 64839 (2000).

<sup>12</sup> Exhibit B sets forth dates of significant rain events as measured at the Sacramento Metro Airport rain gauge from March 21, 2009 to March 21, 2014. A significant rain event is defined by EPA as a rainfall event generating 0.1 inches or more of rainfall, which generally results in measurable discharges at a typical industrial facility.



the PNP Sacramento Facility Owners and/or Operators discharge polluted storm water without developing and/or implementing BMPs that achieve compliance with the BAT/BCT standards. CSPA will update the number and dates of violation when additional information and data becomes available. Each time the PNP Sacramento Facility Owners and/or Operators discharge polluted storm water in violation of Effluent Limitation B(3) of the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The PNP Sacramento Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 21, 2009.

**B. Discharges of Polluted Storm Water in Violation of Receiving Water Limitations C(1) and C(2) of the Storm Water Permit.**

Receiving Water Limitation C(1) of the Storm Water Permit prohibits storm water discharges and authorized non-stormwater discharges to surface water or ground water that adversely impact human health or the environment. Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment constitute violations of Receiving Water Limitation C(1) of the Storm Water Permit and the Clean Water Act. Receiving Water Limitation C(2) of the Storm Water Permit prohibits storm water discharges and authorized non-stormwater discharges that cause or contribute to an exceedance of an applicable water quality standard (“WQS”).<sup>13</sup> Discharges that contain pollutants in excess of an applicable WQS violate Receiving Water Limitation C(2) of the Storm Water Permit and the Clean Water Act.

Information available to CSPA indicates that the PNP Sacramento Facility’s storm water discharges contain elevated concentrations of pollutants, including but not limited to copper, aluminum, lead, iron, zinc, cadmium, and mercury, which can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Discharges of elevated concentrations of pollutants in the storm water from the PNP Sacramento Facility also adversely impact human health. These harmful discharges from the PNP Sacramento Facility are violations of Receiving Water Limitation C(1).

Information available to CSPA further indicates that the PNP Sacramento Facility’s storm water discharges contain concentrations of pollutants that cause or contribute to an exceedance of applicable WQSs, in violation of Receiving Water Limitation C(2). *See e.g.* Exhibit A. Storm water discharges from the PNP Sacramento Facility that cause or contribute to exceedances of WQSs are violations of Receiving Water Limitation C(2).

Information available to CSPA indicates that the storm water discharges from the PNP Sacramento Facility violate Receiving Water Limitations C(1) and/or C(2) each time storm water is discharged from the Facility. These violations are ongoing, and will continue each time

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<sup>13</sup> As explained above in Section I.D, the Basin Plan designates Beneficial Uses for the Receiving Waters. Water quality standards are pollutant concentration levels determined by the state or federal agencies to be protective of designated Beneficial Uses. Discharges above water quality standards contribute to the impairment of the Receiving Waters’ Beneficial Uses. Applicable water quality standards include, among others, the Criteria for Priority Toxic Pollutants in the State of California, 40 C.F.R. § 131.38 (“CTR”), and the water quality objectives in the Basin Plan.

contaminated storm water is discharged in violation of the Receiving Water Limitation C(1) and/or C(2) of the Storm Water Permit. Each time discharges of storm water from the Facility adversely impact human health or the environment is a separate and distinct violation of Receiving Water Limitation C(1) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). Each time discharges of storm water from the PNP Sacramento Facility cause or contribute to a violation of an applicable WQS is a separate and distinct violation of Receiving Water Limitation C(2) of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). CSPA will update the number and dates of violation when additional information becomes available. The PNP Sacramento Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 21, 2009.

**C. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan.**

Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water 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 from the PNP Sacramento Facility, and to implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. *See* Storm Water Permit, Section A(2). These BMPs must achieve compliance with the Storm Water Permit's Effluent Limitations and Receiving Water Limitations. To ensure compliance with the Storm Water Permit, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9) and (10).

Sections A(3) – A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (*see* Storm Water Permit, Section A(4)); a list of significant materials handled and stored at the site (*see* Storm Water Permit, Section A(5)); a description of potential pollutant sources, including industrial processes, material handling and storage areas, dust and particulate generating activities, significant spills and leaks, non-stormwater discharges and their sources, and locations where soil erosion may occur (*see* Storm Water Permit, Section A(6)). Sections A(7) and A(8) of the Storm Water Permit require 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-stormwater discharges, including structural BMPs where non-structural BMPs are not effective.

Information available to CSPA indicates that PNP Sacramento Facility Owners and/or Operators have been conducting operations at the Facility with an inadequately developed and/or

implemented SWPPP. For example, the PNP Sacramento Facility Owners and/or Operators failed to create a site map that includes all the information required by Section A(4) of the Storm Water Permit. The PNP Sacramento Facility Owners and/or Operators have also failed and continue to fail to develop and/or implement a SWPPP that contains BMPs to prevent the exposure of pollutant sources to storm water and the subsequent discharge of polluted storm water from the Facility, as required by the Storm Water Permit. The SWPPP inadequacies are documented by the continuous and ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit. *See, e.g.*, Exhibit A. The Regional Board has also notified the PNP Sacramento Facility Owners and/or Operators that the levels of pollutants in their storm water discharges require them to improve BMPs in order to comply with the Storm Water Permit. However, the PNP Sacramento Facility Owners and/or Operators continue to respond to the Regional Board notices with inadequate BMP modifications.

The PNP Sacramento Facility Owners and/or Operators have also not revised the SWPPP as required by the Storm Water Permit. For example, even though the Regional Board has notified the PNP Sacramento Facility Owners and/or Operators twice that their sampling results indicate the Facility's BMPs are inadequate, and all of the Facility's sampling results indicate that the BMPs are inadequate (as demonstrated by repeated Benchmark Level and WQS exceedences), the PNP Sacramento Facility Owners and/or Operators have not developed a revised SWPPP to identify BMPs that ensure compliance with the Storm Water Permit.

The PNP Sacramento Facility Owners and/or Operators have failed to adequately develop, implement, and/or revise a SWPPP, in violation of Section A and Provision E(2) of the Storm Water Permit. Every day the PNP Sacramento Facility operates with an inadequately developed, implemented, and/or properly revised SWPPP is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The PNP Sacramento Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's SWPPP requirements since at least March 21, 2009. These violations are ongoing, and CSPA will include additional violations when information becomes available. The PNP Sacramento Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 21, 2009.

**D. Failure to Develop, Implement, and/or Revise an Adequate Monitoring and Reporting Program.**

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate M&RP by October 1, 1992, or prior to the commencement of industrial activities at a facility, that meets all of the requirements of the Storm Water Permit. The primary objective of the M&RP is to detect and measure the concentrations of pollutants in a facility's discharge to ensure compliance with the Storm Water Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. *See* Storm Water Permit, Section B(2). The M&RP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and must be evaluated and revised whenever appropriate to ensure compliance with the Storm Water Permit. *Id.*

Sections B(3) – B(16) of the Storm Water Permit set forth the M&RP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly visual observations of all drainage areas within their facility for the presence of authorized and unauthorized non-stormwater discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the Wet Season. Sections B(3) and B(4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor, and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-stormwater discharges and to reduce or prevent pollutants from contacting non-stormwater and storm water discharges. *See* Storm Water Permit, Sections B(3) and B(4). Dischargers must also revise the SWPPP in response to these observations to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and B(7) of the Storm Water Permit require dischargers to collect samples of storm water from all locations where storm water is discharged. Storm water samples must be analyzed for TSS, pH, specific conductance, total organic carbon or oil and grease, and other pollutants that are likely to be present in the facility's discharges in significant quantities. *See* Storm Water Permit, Section B(5)(c). The Storm Water Permit requires facilities classified as SIC Code 5015, such as the PNP Sacramento Facility, to also analyze storm water samples for iron, lead, and aluminum. *Id.*; *see also* Storm Water Permit, Table D, Sector M.

For facility owners and/or operators participating in a GMP, all of the above M&RP requirements apply, including the sample collection requirements. *See* Storm Water Permit, Sections B(15)(b), (f), and (h). Each GMP participant must collect and analyze samples from at least two storm events over the five-year period of the Storm Water Permit, or more depending on the requirements of the site-specific GMP. *See* Storm Water Permit, Section B(15)(b). GMP participants must comply with all other monitoring program and reporting requirements of the Storm Water Permit during all Wet Seasons. Storm Water Permit, Section B(15)(h).

Information available to CSPA, including review of Annual Reports, indicates that the PNP Sacramento Facility Owners and/or Operators have been conducting operations at the Facility with an inadequately developed and/or implemented M&RP, and have failed to revise the M&RP as required by the Storm Water Permit. Specifically, each year since at least the 2008/2009 Wet Season, the PNP Sacramento Facility Owners and/or Operators have failed to comply with the Storm Water Permit's requirements for observations of unauthorized and authorized non-stormwater discharges, visual observations of storm water discharges, and sample collection and analysis. *See* PNP Sacramento Facility 2008/2009 – 2012/2013 Annual Reports; *see also* Storm Water Permit, Section B (monitoring requirements). For example, visual observations of unauthorized and authorized non-stormwater discharges are not being conducted as required by the Storm Water Permit, including failing to make the required observations at each drainage areas. *See e.g.* 2012/2013 Annual Report, Form 2. In addition, when non-stormwater visual observations are conducted, and non-stormwater discharges are detected, the required information such as identifying the source of the non-stormwater, is not provided.

The PNP Sacramento Facility Owners and/or Operators are also not collecting or analyzing samples as required by the Storm Water Permit. For example, samples of storm water are not being collected from each discharge location, and often are collected outside the acceptable range set out in the Storm Water Permit. Storm water samples are not being analyzed for all pollutants required by the Storm Water Permit, such as aluminum, a Table D parameter every 5015 facility is required to analyze samples for,<sup>14</sup> or for pollutants associated with industrial activities that re present in significant quantities, such as cadmium. In fact, the PNP Sacramento Facility Owners and/or Operators were analyzing for cadmium but without explanation, stopped this analysis after the 2009/2010 Wet Season, despite sample results indicating high levels of cadmium in the Facility's storm water discharges. These failures to comply with the Storm Water Permit's requirements demonstrate the inadequacies of the M&RP and the failure to properly implement the M&RP at the Facility.

The PNP Sacramento Facility Owners' and/or Operators' failure to conduct sampling, monitoring, and reporting as required by the Storm Water Permit demonstrates that they have failed to develop, implement, and/or revise an M&RP that complies with the requirements of Section B and Provision E(3) of the Storm Water Permit. Every day that the PNP Sacramento Facility Owners and/or Operators conduct operations in violation of the specific monitoring and reporting requirements of the Storm Water Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Storm Water Permit and the Clean Water Act. The PNP Sacramento Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's M&RP requirements every day since at least March 21, 2009. These violations are ongoing, and CSPA will include additional violations when information becomes available. The PNP Sacramento Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 21, 2009.

**E. Failure to Comply with the Storm Water Permit's Reporting Requirements.**

Section B(14) of the Storm Water Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year. Section B(14) requires that the Annual Report include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13).

Since at least the 2008/2009 Annual Report, the PNP Sacramento Facility Owners and/or Operators have failed to submit Annual Reports that comply with the Storm Water Permit reporting requirements, including filing incomplete Annual Reports that do not provide the information required by the Storm Water Permit. For example, each Annual Report indicates that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to

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<sup>14</sup> Information available to CSPA indicates that the PNP Sacramento Facility Owners' and/or Operators' were notified that their excuse for failing to analyze samples for aluminum - which was that the sampling plan for the auto dismantling group that the Facility belongs to does not specifically include aluminum, and the plan was approved by the State Board - is not appropriate, and that the group sampling plan must be modified accordingly.



Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to CSPA, including a review of the Regional Board's files and the PNP Sacramento Facility storm water sampling data, indicates that these certifications by the PNP Sacramento Facility Owners and/or Operators are erroneous, because they have not developed and/or implemented adequate BMPs or revised the SWPPP, resulting in the ongoing discharge of storm water containing pollutant levels in violation of the Storm Water Permit limitations. In fact, Annual Reports document the need for additional BMPs, or improvements to current BMPs, yet the compliance certifications note all required BMPs are in place and working as intended.

In addition, as explained above, the Regional Board has notified the PNP Sacramento Facility Owners and/or Operators on more than one occasion that BMPs at the PNP Sacramento Facility need review and improvement. However, information available to CSPA indicates that all of the required improvements have not occurred, even though the PNP Sacramento Facility Owners and/or Operators have certified in their Annual Reports that all required BMPs have been developed and implemented, and that the PNP Sacramento Facility is in compliance with the Storm Water Permit. Thus, the PNP Sacramento Facility Owners and/or Operators have failed and continue to fail to report as required by the Storm Water Permit.

Information available to CSPA indicates that the PNP Sacramento Facility Owners and/or Operators have submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, the PNP Sacramento Facility Owners and/or Operators are in daily violation of the Storm Water Permit. Every day the PNP Sacramento Facility Owners and/or Operators conduct operations at the Facility without reporting as required by the Storm Water Permit is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The PNP Sacramento Facility Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's reporting requirements every day since at least March 21, 2009. These violations are ongoing. The PNP Sacramento Facility Owners and/or Operators are subject to civil penalties for all violations of the Clean Water Act occurring since March 21, 2009.

### **III. Relief and Penalties Sought for Violations of the Clean Water Act.**

Pursuant to Section 309(d) of the Clean Water 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 Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit letter. These provisions of law authorize civil penalties of up to \$37,500 per day per violation for all Clean Water Act violations. In addition to civil penalties, CSPA will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), CSPA will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

#### IV. Conclusion

Upon expiration of the 60-day notice period, CSPA will file a citizen suit under Section 505(a) of the Clean Water Act for the PNP Sacramento Facility Owners' and/or Operators' violations of the Storm Water Permit. During the 60-day notice period, however, CSPA is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions please contact CSPA. Please direct all communications to CSPA's legal counsel:

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Sincerely,



Bill Jennings, Executive Director  
California Sportfishing Protection Alliance



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Date/time of sample collection	Parameter	Sample Location	Result	Units	Benchmark	Magnitude of Benchmark Exceedance	Water Quality Objectives/CTR	Magnitude of WQO/CTR Exceedance
<b>2008/2009 WET SEASON</b>								
3/22/09 9:40	Electrical Conductivity @ 25 Deg. C	Drain Inercpt Prkng Lot	220	umhos/cm	200	1.1	340 micromhos/cm	N/A
3/22/09 9:40	Lead Total	Drain Inercpt Prkng Lot	0.26	mg/L	0.069	3.77	0.082	3.17
3/22/09 9:40	Copper Total	Drain Inercpt Prkng Lot	0.18	mg/L	0.0123	14.63	0.014	12.86
3/22/09 9:40	Zinc Total	Drain Inercpt Prkng Lot	0.81	mg/L	0.11	7.36	0.12	6.75
3/22/09 9:40	Cadmium	Drain Inercpt Prkng Lot	0.0062	mg/L	0.0018	3.44	0.00	1.38
3/22/09 9:40	Total Suspended Solids (TSS)	Drain Inercpt Prkng Lot	190	mg/L	100	1.9	N/A	N/A
<b>2009/2010 WET SEASON</b>								
11/20/09 12:45	Copper Total	D1 at Stockton Blvd	0.14	mg/L	0.0123	11.38	0.014	10.00
11/20/09 12:45	Lead Total	D1 at Stockton Blvd	0.15	mg/L	0.069	2.17	0.082	1.83
11/20/09 12:45	pH	D1 at Stockton Blvd	4.03	pH units	6.0 - 9.0	N/A	6.5 - 8.5	N/A
11/20/09 12:45	Zinc Total	D1 at Stockton Blvd	1.4	mg/L	0.11	12.73	0.12	11.67
3/12/10 11:45	Copper Total	D1 at Stockton Blvd	0.036	mg/L	0.0123	2.93	0.014	2.57
3/12/10 11:45	pH	D1 at Stockton Blvd	5.8	pH units	6.0 - 9.0	N/A	6.5 - 8.5	N/A
3/12/10 11:45	Zinc Total	D1 at Stockton Blvd	0.26	mg/L	0.11	2.36	0.12	2.17
<b>2010/2011 WET SEASON</b>								
1/13/11 11:45	Copper Total	Drain outfall to Stockton Blvd	0.044	mg/L	0.0123	3.58	0.014	3.14
1/13/11 11:45	Zinc Total	Drain outfall to Stockton Blvd	0.29	mg/L	0.11	2.64	0.12	2.42
<b>2011/2012 WET SEASON</b>								
DID NOT COLLECT ANY SAMPLES								
<b>2012/2013 WET SEASON</b>								
11/29/12 10:00	Copper Total	Customer Yard / Site Entrance	0.03	mg/L	0.0123	2439.02	0.014	2142.86
11/29/12 10:00	Total Suspended Solids (TSS)	Customer Yard / Site Entrance	102	mg/L	100	1.02	N/A	N/A
11/29/12 10:00	Zinc Total	Customer Yard / Site Entrance	0.22	mg/L	0.11	2000	0.12	1833.33
11/29/12 10:00	pH	Customer Yard / Site Entrance	6	pH units	6.0 - 9.0	N/A	6.5 - 8.5	N/A

**Exhibit B**

**All Wet Season Rain Events With Discharge Over 0.1 Inches Since March 21, 2009  
Sacramento Metro Airport Rain Gauge**

<b>Date</b>	<b>Day of the Week</b>	<b>Daily Precip</b>
4/7/09	Tuesday	0.32
4/8/09	Wednesday	0.15
5/1/09	Friday	0.55
5/2/09	Saturday	0.16
10/13/09	Tuesday	1.97
10/14/09	Wednesday	0.16
10/19/09	Monday	0.23
11/17/09	Tuesday	0.16
11/20/09	Friday	0.28
12/6/09	Sunday	0.16
12/7/09	Monday	0.2
12/10/09	Thursday	0.16
12/11/09	Friday	0.82
12/12/09	Saturday	0.59
12/13/09	Sunday	0.16
12/16/09	Wednesday	0.2
12/21/09	Monday	0.12
1/13/10	Wednesday	0.28
1/18/10	Monday	0.15
1/19/10	Tuesday	1.26
1/20/10	Wednesday	0.95
1/21/10	Thursday	0.63
1/23/10	Saturday	0.23
1/25/10	Monday	0.28
2/4/10	Thursday	0.51
2/9/10	Tuesday	0.11
2/23/10	Tuesday	0.51
2/26/10	Friday	0.36
2/27/10	Saturday	0.47
3/2/10	Tuesday	0.16
3/3/10	Wednesday	0.75
3/12/10	Friday	0.27
4/4/10	Sunday	0.59
4/11/10	Sunday	0.59
4/12/10	Monday	0.75
4/20/10	Tuesday	0.47

4/27/10	Tuesday	0.12
5/10/10	Monday	0.16
5/25/10	Tuesday	0.16
5/27/10	Thursday	0.12
10/23/10	Saturday	0.16
10/24/10	Sunday	0.47
11/7/10	Sunday	0.39
11/19/10	Friday	0.55
11/20/10	Saturday	0.83
11/27/10	Saturday	0.24
12/2/10	Thursday	0.11
12/4/10	Saturday	0.16
12/5/10	Sunday	0.87
12/8/10	Wednesday	0.16
12/17/10	Friday	0.55
12/18/10	Saturday	0.63
12/19/10	Sunday	1.26
12/20/10	Monday	0.2
12/22/10	Wednesday	0.47
12/25/10	Saturday	0.71
12/28/10	Tuesday	0.2
1/1/11	Saturday	0.27
1/2/11	Sunday	0.47
1/30/11	Sunday	0.27
2/16/11	Wednesday	0.44
2/17/11	Thursday	0.78
2/18/11	Friday	0.55
2/19/11	Saturday	0.12
2/24/11	Thursday	0.55
2/25/11	Friday	0.64
3/6/11	Sunday	0.48
3/13/11	Sunday	0.35
3/14/11	Monday	0.2
3/15/11	Tuesday	0.63
3/18/11	Friday	0.59
3/19/11	Saturday	0.43
3/20/11	Sunday	0.67
3/23/11	Wednesday	0.23
3/24/11	Thursday	0.99
3/26/11	Saturday	0.27
5/15/11	Sunday	0.12

5/16/11	Monday	0.32
5/17/11	Tuesday	0.27
5/18/11	Wednesday	0.16
5/25/11	Wednesday	0.2
10/5/11	Wednesday	0.27
10/10/11	Monday	0.63
11/5/11	Saturday	0.24
11/20/11	Sunday	0.12
11/24/11	Thursday	0.15
1/19/12	Thursday	0.2
1/20/12	Friday	1.06
1/22/12	Sunday	0.24
1/23/12	Monday	0.71
2/7/12	Tuesday	0.12
2/29/12	Wednesday	0.31
3/14/12	Wednesday	0.71
3/16/12	Friday	0.79
3/17/12	Saturday	0.12
3/25/12	Sunday	0.47
3/27/12	Tuesday	0.87
3/31/12	Saturday	0.12
4/11/12	Wednesday	0.16
4/12/12	Thursday	0.71
4/13/12	Friday	0.55
4/25/12	Wednesday	0.35
10/22/12	Monday	0.75
10/31/12	Wednesday	0.19
11/1/12	Thursday	0.24
11/16/12	Friday	0.24
11/17/12	Saturday	0.51
11/21/12	Wednesday	0.35
11/28/12	Wednesday	0.4
11/29/12	Thursday	0.11
11/30/12	Friday	0.99
12/1/12	Saturday	0.51
12/2/12	Sunday	1.18
12/5/12	Wednesday	0.31
12/15/12	Saturday	0.16
12/17/12	Monday	0.12
12/21/12	Friday	0.35
12/22/12	Saturday	1.46



12/23/12	Sunday	0.67
12/25/12	Tuesday	0.87
1/5/13	Saturday	0.51
1/6/13	Sunday	0.23
1/23/13	Wednesday	0.16
2/19/13	Tuesday	0.27
3/6/13	Wednesday	0.12
3/19/13	Tuesday	0.16
3/20/13	Wednesday	0.31
3/31/13	Sunday	1.27
4/4/13	Thursday	0.59
5/6/13	Monday	0.11
11/19/13	Tuesday	0.39
11/20/13	Wednesday	0.16
12/6/13	Friday	0.24
1/30/14	Thursday	0.15
2/6/14	Thursday	0.36
2/7/14	Friday	0.12
2/8/14	Saturday	1.02
2/9/14	Sunday	0.47
2/26/14	Wednesday	0.28
2/28/14	Friday	0.63
3/3/14	Monday	0.11
3/5/14	Wednesday	0.36