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7 Attorneys for Respondent
CALIFORNIA WASTE SOLUTIONS, INC.

FILED

MAY 13 2016

CalRecycle
Legal Office

8 STATE OF CALIFORNIA

9 DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

10 DIVISION OF RECYCLING

11
12 **IN THE MATTER OF ACCUSATION**
13 **AGAINST:**

14 **California Waste Solutions, Inc.** certified
as a Processor with the Certification No.
15 PE0328 and as a Collection Program with
the Certification No. CP0897.

16 Respondent.

OAH CASE NO. _____

DRRR Case No. 2016-002-BCR

NOTICE OF DEFENSE

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19 1. California Waste Solutions, Inc. ("CWS"), named in the above-entitled action,
20 hereby acknowledges receipt of a copy of the Accusation, Statement to Respondent, Request for
21 Discovery, and Government Code Sections 11507.5, 11507.6 and 11507.7.

22 2. CWS hereby requests a hearing.

23 3. CWS objects to the Accusation for failure to state acts or omissions upon which
24 the agency may proceed.

25 4. CWS objects to the form of the Accusation in that the transaction or transactions
26 cannot be identified or a defense prepared.

27 5. CWS objects to the Accusation to the extent that compliance with the requirements
28 of a regulation could result in a material violation of another regulation enacted by another

1 department affecting substantive rights.

2 6. CWS intends to be represented by the counsel identified on this notice of defense.

3 7. CWS reserves its right to seek fees and costs in the event that the Department's
4 action is determined to be clearly frivolous or lacking in significant merit.

5 8. CWS will present new matter by way of defense including, but not limited to, the
6 following:

7 a. The Department's claims, or some of them, are barred by applicable
8 statutes of limitation including, but not limited to, Public Resources Code §
9 14552(b)(2).

10 b. The Department's claims are barred by the doctrine of laches in that the
11 Department has acted with unreasonable delay to the prejudice of Respondent,
12 and/or has acquiesced in Respondent's acts.

13 c. The Department has waived the claims asserted in the Accusation.

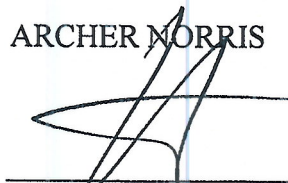
14 d. To the extent information gathered during discovery may support this
15 defense, the Department's action is improper selective enforcement.

16 e. The Department's claim for restitution, being a claim in equity, should be
17 rejected in whole or in part based on equitable factors.

18 f. The Department and/or the State will be unjustly enriched by the restitution
19 it seeks.

20 Dated: May 13, 2016

21 ARCHER MORRIS



22
23 John L. Kortum
24 Attorneys for Respondents
25 CALIFORNIA WASTE SOLUTIONS, INC.

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27 C0218015/4812-2394-1681-1

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PROOF OF SERVICE

**Name of Action: Dept. of Resources Recycling and Recovery v. California Waste Solutions, Inc.
DRRR Case No.: 2016-002-BRC**

I, Yolanda Bullock, declare that I am over the age of eighteen years and not a party to this action or proceeding. My business address is 2033 North Main Street, Suite 800, Walnut Creek, California 94596-3759. On May 13, 2016, I caused the following document(s) to be served:

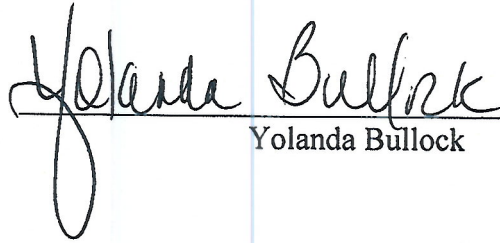
CALIFORNIA WASTE SOLUTIONS NOTICE OF DEFENSE

by placing a true copy of the document(s) listed above, enclosed in a sealed envelope, addressed as set forth below, for collection and mailing on the date and at the business address shown above following our ordinary business practices. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that a sealed envelope is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

- by having a true copy of the document(s) listed above transmitted by facsimile to the person(s) at the facsimile number(s) set forth below before 5:00 p.m. The transmission was reported as complete without error by a report issued by the transmitting facsimile machine.
- by having personally delivered a true copy of the document(s) listed above, enclosed in a sealed envelope, to the person(s) and at the address(es) set forth below.
- by having personal delivery by _____ of a true copy of the document(s) listed above, enclosed in a sealed envelope, to the person(s) and at the address(es) set forth below.
- by placing a true copy of the document(s) listed above, in a box or other facility regularly maintained by UPS, an express service carrier, or delivered to a courier or driver authorized by the express service carrier to receive documents, in an envelope designated by the express service carrier, with delivery fees paid or provided for, addressed as set forth below.
- I electronically served the above referenced document(s) through _____. E-service in this action was completed on all parties listed on the service list with _____. This service complies with the court's order in this case.

Kris G. Chisholm, Staff Counsel Department of Resources Recycling and Recovery Legal Office 801 K Street – MS-1903 Sacramento, CA 95814	<i>State of California – Department of Resources Recycling and Recovery</i> Tel. 916-322-2404 Fax: 916-322-8768 Email: kris.chisholm@calrecycle.ca.gov
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1 I declare under penalty of perjury that the foregoing is true and correct. Executed on May
2 13, 2016, at Walnut Creek, California.

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5 Yolanda Bullock
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