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October 17, 2019

BY PERSONAL SERVICE AND CERTIFIED MAIL

S&W Atlas Iron & Metal Co., Inc.
Attention: Gary J. Weisenberg, CEO
10019 S. Alameda Street
Los Angeles, California 90002

Re: Notice of Health & Safety Concerns and Claims

Dear Mr. Weisenberg:

Our firm represents the Los Angeles Unified School District (“District”) in connection with serious and ongoing health and safety concerns at David Star Jordan High School (“Jordan High”) stemming from the operations of S&W Atlas Iron & Metal Company (“Atlas”) at its facility located at 10019 South Alameda Street in Los Angeles. This letter shall serve as notice of the District’s concerns and demand that Atlas immediately take all actions necessary to address the concerns set forth in this letter.

I. The Operations at the Atlas Facility

Atlas is an active metal recycling facility that has been in operation since approximately 1949. The facility is located in a densely populated neighborhood, immediately adjacent to Jordan High to the south and west. In addition to Jordan High, there are at least six schools within a half-mile radius of the Atlas facility: 102nd Street EEC, Florence Griffin Joyner ES, Weigand ES, South East MS, South East HS, and International Studies Learning Center. The young children who attend Jordan High and other schools near Atlas are a particularly vulnerable population that is currently being exposed to adverse health conditions created by Atlas’s blatant disregard for the health and safety impacts on the surrounding schools and residences caused by operations at the Atlas facility.

In May 2002, an explosion from cutting an oil drum propelled pieces of metal onto Jordan High. Fortunately, no students or staff were injured. In December 2002, a second explosion occurred from a live round of military tank ordinance that was inadvertently brought to Atlas with other military wastes for recycling purposes. The shell exploded while being dismantled. Shrapnel from the round was propelled over the shared fence onto Jordan High. Luckily, again, no students or staff were injured at the school.

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In response to these incidents, the Department of Toxic Substances Control (“DTSC”) investigated potential contaminant migration from the Atlas facility on to the Jordan High campus. Based on the investigation, DTSC issued an “Imminent and Substantial Endangerment Determination” in May 2004, requiring the removal of arsenic and lead impacted soil at the Jordan High school baseball field located adjacent to Atlas.

In September 2006, the DTSC removed 1,400 cubic yards of soil (stockpiles) from the Atlas facility. The stockpiles were determined to contain arsenic, lead, copper, and zinc, at concentrations above the US EPA’s Resource Conservation and Recovery Act (“RCRA”) hazardous waste concentration levels. The final clean-up removal at the Atlas facility was completed in July 2008.

In more recent years, violations were observed at the Atlas facility during routine inspections by the Los Angeles County Fire Department in 2013 and 2017; and South Coast Air Quality Management District (“AQMD”) issued Atlas “Notices to Comply” in 2013 and 2018.

The City of Los Angeles (“City”) annexed the Atlas property in 2013, and it has come to our attention that they did not maintain important environmental safeguards relied upon by the District, nor has the City enforced key conditional use clauses that were originally in place by the County of Los Angeles Conditional Use Permit (CUP) No. 03-036-(2) in March 2004, as well as those currently included in the Jordan Downs Specific Plan. Specifically, CUP Conditions 24 and 33:

- Condition 24 states, “No wrecked or dismantled vehicles, salvage, junk or other raw materials, equipment, or finished products shall be stored at a height greater than that of the surrounding fence.”
- Condition 33 states, “The permittee shall provide a buffer area of not less than fifty (50) feet in width along the westerly and southerly property line. The buffer area shall be clearly delineated and maintained. Except for required parking area located along the southerly property line and storage of non-hazardous and non-combustible material, as specified in Condition No 35, operations associated with the scrap metal yard are strictly prohibited within the buffer area.”

The District has recorded multiple events in the past few years where the height of the Atlas stockpile is above the height of the retaining wall adjacent to Jordan High. In addition, recent photographs of the Atlas property indicate that the buffer area has not been maintained along the western and southern boundaries (adjacent to Jordan High) as stated in Condition 33 of the CUP and Condition 19. It is the District’s understanding that the Jordan Downs Specific Plan now supersedes the Los Angeles County CUP.

In addition to the County of Los Angeles CUP, a Land Use Covenant (LUC) between Atlas and DTSC was recorded on October 20, 2008¹. Section 4.06, entitled Non-Interference with PROPERTY (a) (5) states:

- “None of the following activities shall be conducted on the PROPERTY without written authorization from the Department.”
 - “Any activities on the PROPERTY that violate the terms of S&W Atlas Iron and Metal Co., Inc.’s Conditional Use Permit, dated March 30, 2004.”

¹ Atlas must notify the DTSC without delay of the changes to the LUC, which modified the terms and conditions of the County of Los Angeles CUP.

II. Dangerous Health & Safety Conditions at the Atlas Facility

A. Standing Water at the Atlas Facility and Runoff of Contaminated Stormwater

During the last period of rain, the District identified a serious public health hazard caused by Atlas's failure to maintain required drainage to prevent seepage of potentially contaminated water onto Jordan High. Standing water provides a breeding ground for mosquitos and harborage of rodents, thereby increasing the risk of vector-borne disease among students and staff the Jordan High. Mosquito-borne diseases endemic to the Los Angeles Basin, such as West Nile Virus, can lead to meningitis, encephalitis, and limb paralysis. During heavy periods of rainfall, the added volume of accumulated wastewater on-site has resulted in the runoff of contaminated stormwater onto school property, exposing students and staff at Jordan High to hazardous chemicals.

B. Site Operations Occurring Within the 50-Foot Buffer Zone

Site operations, equipment, and stockpiled materials at the Atlas facility were noted to occur within the 50-foot buffer zone established under the site's CUP along the western and southern fence line. Additionally, stockpile height regularly exceeds the height of the retaining wall along the facility perimeter. These conditions expose school occupants to airborne dusts and contaminants in the stockpile.

C. Physical Hazards, Chemical Exposures, Nuisance and Safety of Students and Staff

Metal scrap recycling operations involve large and potentially hazardous equipment, the use of flammable and explosive gases, and the generation of metal fumes, dusts, and toxic vapors. Unless strict controls are in place to ensure against exposures to emissions in adjoining occupancies, such operations are incompatible with nearby school and residential uses. For example, school administrators report that throughout the day when Atlas is actively working in its scrap metal piles, fugitive dust emissions and particulate matter from the metal processing operations and movement of the extraordinarily tall piles of dangerous scrap metal----can be seen migrating onto the Jordan High campus. These emissions may be toxic and a source of dangerous contaminants on to school athletic fields and facilities.

Additionally, there are vibration issue(s) affecting the school and the dramatic "eyesore" of the stockpiles and huge metal containers are also unacceptable. Exposure to airborne metal contaminants and other particles associated with scrap metal recycling can lead to a wide array of health impacts, including eye, nose, and throat irritation; headaches; worsening of asthma and other respiratory conditions; developmental disabilities; and negative impacts on quality of life and physical well-being. These health risks are heightened for sensitive populations, such as young children.

In addition to the emission of toxic chemicals, School personnel have also reported screeching and very high-pitched noise impacts throughout the day from activities at the Atlas facility, which greatly disrupts students and teachers at Jordan High. The significant noise pollution caused by the Atlas facility is regulated by various Los Angeles County and Los Angeles City ordinances and regulations.

Other health and safety issues have been observed, including but not limited to, operations occurring in proximity to electrical lines; the solid wall on the perimeter of the Atlas facility is in substantial disrepair; and trash has accumulated between the solid wall and metal fence. These issues

increase risks for Atlas personnel, occupants of Jordan High, and occupants of other properties adjacent to the Atlas facility.

The concerns outlined above have been identified as serious issues by the Los Angeles County Department of Public Health in a letter dated July 5, 2019, a copy of which is enclosed.

III. The District's Claims Against Atlas

Atlas's continued failure to address the health and safety conditions set forth in this letter despite numerous warnings has put the occupants of Jordan High at risk and has forced the District to incur significant costs over the years to remediate the contamination and health hazards caused by Atlas. The District demands that Atlas immediately address each of the above issue(s) and reimburse the District for all costs and fees incurred as a result of Atlas's repeated violations and its continued failure to remedy serious health and safety concerns.

The District's claims relating to these violations may include, but are not limited to: (1) Violations of stormwater runoff mandates pursuant to the Clean Water Act; (2) Violations of the Clean Air Act and local AQMD rules and regulations; (3) Violations of noise regulations and ordinances; (4) failure to provide warning as required by California's Proposition 65; (5) Los Angeles Building and Safety Code violations; (6) CERCLA and RCRA violations; (7) California Health & Safety Code violations; (8) Nuisance; (9) Nuisance Per Se; (10) Trespass; and (11) Indemnity.

In order to attempt to resolve these issues in advance of meetings with all involved regulatory agencies and potential litigation, the District requests a meeting with the principals of Atlas on November 5, 2019, at 10 a.m. at the District's Headquarters, located at 333 South Beaudry Ave., Los Angeles, California.

Please let us know no later than November 1, 2019, if Atlas plans to attend. If we do not receive a response from Atlas by this date, the District has authorized us to take all actions necessary to enforce its rights against Atlas, including filing a lawsuit in District Court.

We look forward to your response.

Very truly yours,



Groveman Hiete LLP
Barry C. Groveman

cc: Jay F. Golida, Esq.
William W. Funderburk, Esq.
(via electronic mail)

EXHIBIT “A”



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July 5, 2019

Carlos A. Torres, Director
Office of Environmental Health & Safety
Los Angeles Unified School District
333 S. Beaudry Avenue, CA 90017

Dear Mr. Torres:

CONCERN OVER OPERATIONS OF ATLAS IRON & METAL COMPANY AND POTENTIAL IMPACTS ON JORDAN HIGH SCHOOL, LOS ANGELES

Thank you again for your letter of March 12, 2019 to County Health Officer Muntu Davis, M.D., M.P.H, detailing health and safety concerns at David Star Jordan High School stemming from the operations of Atlas Iron & Metal Company (Atlas). Dr. Davis asked that we investigate the concerns in your letter and reply on his behalf. The County Department of Public Health (DPH) conducted a review of available environmental and health data and a site visit to Jordan High School on May 8, 2019. Our review focused on the concerns raised in your letter, our inspection, and readily available regulatory records on the operations of Atlas. The results of our review are presented below.

Atlas is situated in a densely populated neighborhood in South Los Angeles at 10019 S. Alameda Ave; the facility has been in operation since approximately 1949. The site is immediately adjoined by Jordan High School to the south and west, and proposed mixed residential and commercial land use to the north. Residents in the area include families with young children and elderly, and there are at least five schools within a half-mile radius of the facility. According to CalEnviroScreen, the community closest to Atlas has a higher pollution burden than 95-100% of communities in the state of California.

ENVIRONMENTAL CONDITIONS OF CONCERN TO THE SCHOOL COMMUNITY

Your letter identified several health and safety concerns related to operations at the Atlas facility. Based on our review and observations made at the Atlas facility and along the perimeter of Jordan High School, DPH noted several conditions that pose a health and safety risk to the school population.

1. Standing water on the Atlas property and runoff of contaminated stormwater

The Los Angeles Unified School District (LAUSD), Office of Environmental Health and Safety (OEHS) provided documentation and photographs of standing water on the Atlas site, and stormwater runoff from the site, because of poor site drainage. As we have discussed previously, standing water provides a breeding ground for mosquitos and harborage for rodents, thereby increasing the risk of vector-borne disease among facility personnel and students and staff at Jordan High School. Mosquito-borne diseases endemic to the Los Angeles Basin, such as West Nile Virus, can lead to meningitis, encephalitis, and limb paralysis. During periods of heavy rainfall, the added volume of accumulated waste water on-site may result in the runoff of contaminated stormwater which could expose staff and students of the school and the occupants of adjoining properties.

Recommendation: Steps must be taken to establish adequate site drainage, eliminate accumulated stormwater/waste water, and implement an effective stormwater management plan as required by the California Regional Water Quality Control Board (RWQCB). We are referring this issue to RWQCB for appropriate action.

2. Site operations occurring within the 50-foot buffer zone

Site operations, equipment, and stockpiled materials were noted to occur within the 50-foot buffer zone established under the site's Conditional Use Permit (CUP) along the western and southern fence line. Additionally, OEHS reports that stockpile height regularly exceeds the height of the retaining wall along the facility perimeter. These conditions could potentially expose school occupants to airborne dusts and contaminants generated during site activity, and the effect of winds in mobilizing contaminants in the stockpile. Exposure to airborne metal contaminants and other particles associated with scrap metal recycling can lead to a wide array of health impacts, including eye, nose and throat irritation; headaches; worsening of asthma and other respiratory conditions; developmental disabilities; and negative impacts on quality of life and physical well-being. These health risks are heightened for sensitive populations, such as young children, and may occur even when emissions are compliant with regional air quality standards.

Recommendation: DPH believes a 50-foot buffer along the western and southern perimeter fence should be maintained, and that waste stockpiles should be limited to a height below the perimeter retaining wall. It is also vital that effective measures be taken to control dust emissions from the stockpile and from any condition or activity on the Atlas site. We understand the establishment and enforcement of a buffer within the Atlas facility may require action by the City of Los Angeles Planning Department and other regulatory agencies. We stand ready to assist you and the agencies in this regard.

3. Physical hazards, chemical exposures and worker/resident safety

Metal scrap recycling operations involve large and potentially hazardous equipment, the use of flammable and/or explosive gases, and the generation of metal fumes, dusts, and toxic vapors. Unless strict controls are in place to ensure against exposure to emissions in adjoining

occupancies, such operations are incompatible with nearby school and residential uses. As an example, school administrators report that when Atlas is actively working scrap metal piles, visible particulate emissions are observed. Other health and safety issues have been identified including: operations occurring in proximity to electrical lines; the solid wall on the perimeter of the Atlas facility is in substantial disrepair; and trash has accumulated between the solid wall and metal fence. These issues increase risks for Atlas personnel, occupants of Jordan High School, and occupants of other properties in proximity to the facility.

Recommendation: The operator must follow best management practices for scrap metal recycling as outlined by USEPA.¹ Large and potentially hazardous equipment must be located away from overhead powerlines and other structures as specified in OSHA Standard 1926.1408(h). Other best practices for workers include ensuring the workplace is ventilated to minimize employee exposure to dusts, metal fumes, and other contaminants. The perimeter wall must be repaired to ensure its integrity. The noted conditions are being referred to the lead regulatory agencies for appropriate action: health and safety concerns to Cal/OSHA; accumulated trash and debris to County DPH/Environmental Health; and the need for repairs to the perimeter wall to LA City Department of Building and Safety.

Recommendation: LAUSD's Office of Environmental Health and Safety (OEHS) should consider HVAC maintenance "best practices" at Jordan High School especially for those buildings situated in close proximity to the Atlas facility. Please also note that higher concentrations of particulates, including heavy metals, could impact the longevity and efficacy of air filters in use at the school, requiring more frequent change-out.

Recommendation: OEHS should consider environmental site assessment along parking areas or other areas adjoining the Atlas facility to determine if ongoing fugitive emissions from facility operations continue to impact air and soil at the school.

OTHER INFORMATION IDENTIFIED THROUGH REVIEW OF REGULATORY RECORDS

Our review of regulatory records identified prior serious violations and incidents at the facility. The operations of Atlas are primarily regulated by the Department of Toxic Substances Control (DTSC); the South Coast Air Quality Management District (AQMD); Los Angeles City and County Fire Departments; and the City of Los Angeles Planning Department.

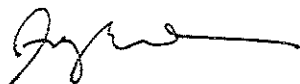
Two explosions occurred at the facility in 2002, both of which resulted in metal fragments (approximately the size of a small coffee can) landing on the Jordan High School athletic field. A 2004 DTSC investigation of soil contamination the school grounds in 2004 led to the removal of arsenic and lead contaminated soils within the athletic field, potentially from the operations at Atlas or other neighboring industrial facilities.

¹ https://www.epa.gov/sites/production/files/2015-10/documents/sector_n_scraprecycling.pdf

A subsequent DTSC investigation in 2006 resulted in orders to Atlas to remove contaminated soil from the Atlas site, along the border the facility shares with Jordan High School. Contaminated soils were found to contain arsenic, lead, copper, and zinc at concentrations above hazardous waste levels. In more recent years, violations were observed at Atlas during routine inspections by Los Angeles County Fire Department in 2013 and 2017; and AQMD issued Atlas "Notices to Comply" in 2013 and 2018.

The five recommended actions above are responsive to LAUSD's request that Public Health provide guidance and recommendations that are health-protective of the school community. We look forward to assisting you and the regulatory agencies in assuring the health and safety of students and staff at Jordan High School and residents in the surrounding communities. If you should have any questions, please let me know.

Sincerely,



Angelo J Bellomo, MS, REHS, QEP
Deputy Director for Health Protection

AB/lk

cc: Dr. Muntu Davis, LACDPH
Meredith Williams, DTSC
Wayne Nastri, SCAQMD
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