

Environmental Justice Unit  
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**MICHAEL N. FEUER**  
CITY ATTORNEY

June 29, 2020

*VIA CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED*

S&W Atlas Iron & Metal Co., Inc.  
10019 S. Alameda LLC  
Gary Weisenberg  
Matthew Weisenberg  
10019 S. Alameda Street  
Los Angeles Ca 90002

Re: *Notice of Public Nuisance Pursuant to Penal Code § 373a: Unlawful Operation of Scrap and Waste Facility in the City of Los Angeles*

Dear Sirs:

The Environmental Justice and Protection Unit in the Los Angeles City Attorney's office is responsible for prosecuting violations of State and Municipal Environmental laws, rules, and regulations in the City of Los Angeles. Our office has become aware that a property owned and/or operated by S&W Atlas Iron & Metal Co., Inc.; 10019 S. Alameda LLC; Gary Weisenberg; and Matthew Weisenberg ("Atlas") is, and has been, a long-standing and notorious public nuisance. This letter serves as notice to you and Atlas pursuant to California *Penal Code* section 373a.

Atlas' property located at 10019 S. Alameda Street in the City of Los Angeles (the "Property") has been the source of projectiles, metallic dust, smoke and fumes, loud noises, dangerous and unsightly piles of scrap metal, and vibrations emanating from the Atlas Site.

Reports and records received from the City of Los Angeles Department of Building and Safety, City of Los Angeles Department of City Planning, the Los Angeles County Fire Department, the Los Angeles Unified School District, the California Department of Toxic Substances Control, and the City of Los Angeles Fire Department, and numerous community members identify continuing, public and private nuisance emanating from the Property, including, but not limited to, the following:

- Failure to adequately prevent ejection of materials onto adjacent properties;
- Failure to provide, clearly delineate, and maintain a buffer area of not less than fifty (50) feet in width along the westerly and southerly property line and failure to prevent operations associated with the scrap metal yard within this buffer area;

- Failure to provide a list of material proposed for storage within the fifty-foot buffer area for review and approval by the Los Angeles City Director of Planning;
- Storage of wrecked or dismantled vehicles, salvage, junk or other raw materials, equipment or finished products located within 10 feet of the surrounding fence at a height greater than that of the surrounding fence;
- Failure to continuously maintain all portions of outside storage areas to provide adequate grading and drainage;
- Failure to paint fences and walls a uniform, neutral color excluding black, and failure to maintain improvements in a neat and orderly condition at all times;
- Operation at the Property outside the prescribed hours of 7:00 am to 3:30 pm Monday through Friday, and 7:00 am to 11:30 am on Saturday;
- Failure to provide contact information for Atlas' designated safety coordinator to the Department of Regional Planning, the Los Angeles Unified School District, and David Starr Jordan High School;
- Failure to promptly implement adequate corrective measures to address complaints regarding Atlas' operation;
- Storage of wrecked or dismantled vehicles, salvage, junk, and other raw materials, equipment, and finished product at a height greater than that of the surrounding fence;
- Failure to prevent the emissions of fumes, smoke, dust, and/or particulate matter onto adjacent properties;
- Failure to send hazardous waste offsite for treatment, storage, or disposal within 180 days (or 270 days if waste is transported over 200 miles) in violation of California *Health and Safety Code* section 25123.3(h)(1) and Title 22 of the California *Code of Regulations* section, Chapter 12, section 66262.34(d);
- Failure to update Atlas' hazardous materials business plan within 30 days following a 100 percent or more increase in the quantity of a previously disclosed material; any handling of a previously undisclosed hazardous material; and/ or a substantial change in Atlas' operations in violation of California *Health and Safety Code* section 25508.1(a) & (f);
- Failure to complete and electronically submit a site map with all required content such as fire extinguishers, sweepings hazardous waste accumulation area, motor oil and hydraulic fluid stored in warehouse, and clarifier in violation of California *Health and Safety Code* sections 25505(a)(2) and 25508(a)(1);
- Failure to properly label hazardous waste accumulation containers and portable tanks, including hazardous waste sweepings/absorbent in roll-off bin(s) and 55-gallon drum(s) near used oil without a hazardous waste label, and five (5) drums labeled as "used oil" without complete required labeling in violation of Title 22 of the California *Code of Regulations* section, Chapter 12, section 66262.34(f); and
- Failure to keep a copy of each properly signed manifest for at least three years from the date the waste was accepted by the initial transporter in violation of Title 22 of the California *Code of Regulations* section, Chapter 12, section 66262.40(a).

Please take notice that the records of the City of Los Angeles, County of Los Angeles, and State of California demonstrate illegal activity occurring on the Property: In addition to the violations identified above, Atlas stands in violation of California *Penal Code* section 373a. Atlas' persisting nuisance is ongoing, with nuisance activity being reported as recently as the date of this letter.

California *Penal Code* Section 373a provides:

“Each person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and each person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist on the property, after reasonable notice in writing from a health officer, district attorney, city attorney, or prosecuting attorney to remove, discontinue or abate the public nuisance has been served upon the person, is guilty of a misdemeanor. The existence of the public nuisance for each and every day after the service of such notice is a separate and distinct offense, and it is the duty of the district attorney, or the city attorney or city prosecutor of any city the charter of which imposes the duty upon the city attorney or city prosecutor to prosecute state misdemeanors, to continuously prosecute all persons guilty of violating this section until the nuisance is abated and removed.”

A public nuisance is defined by California *Penal Code* section 370 as “[a]nything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ...” California *Civil Code* section 3480 further defines a public nuisance as one which “affects an entire community or neighborhood, or any considerable number or persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

Additionally, Los Angeles *Municipal Code* section 11.00(l) provides that:

“In addition to any other remedy or penalty provided by this Code, any violation of any provision of this Code is declared to be a public nuisance and may be abated by the City or by the City Attorney on behalf of the people of the State of California as a nuisance by means of a restraining order, injunction or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City or the City Attorney, on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with, the provisions of this Code or seek any other relief or remedy available at law or equity.

Violations of this Code are deemed continuing violations and each day that a violation continues is deemed to be a new and separate offence and subject to a maximum civil penalty of \$2,500 for each and every offense.”

In addition to providing Atlas official notice and a summary of the illegal nuisance activity at the Property, **this correspondence further requests that Atlas immediately cease and abate all said nuisance activity.** Please take further notice that each day a nuisance is allowed to exist following service of this written notice, shall constitute a separate and distinct violation that may result in, among other penalties, a penalty of \$2,500 per day as set forth by California *Business and Professions Code* section 17200, *et seq.*

Thank you in advance for your anticipated prompt attention to this urgent problem. If you wish to discuss this matter further, please do not hesitate to contact the Environmental Justice Unit directly at (213) 978-8080.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Virjee', with a long horizontal stroke extending to the right.

Braunson C. Virjee, Deputy City Attorney  
Los Angeles City Attorney's Office  
Environmental Justice & Protection Unit

CC: Wilfredo R. Rivera, Deputy Chief, Special Litigation Division  
Jessica B. Brown, Supervising Deputy City Attorney  
Mark V. Soto, Deputy City Attorney