This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB") 1001 I Street, Sacramento, California 95814, and American Wrecking Inc. (hereinafter "AWI"), 2459 Lee Avenue, South El Monte, CA 91733.

I. RECITALS

(1) Health and Safety Code, Section 39650-39675 mandates the reduction of the emissions of substances that have been determined to be toxic air contaminants (TACs). In 1998, following an exhaustive 10-year scientific assessment process, the Air Resources Board identified particulate matter (PM) from diesel-fueled engines as a toxic air contaminant. In-use On-Road diesel vehicles are powered by diesel fueled engines that emit toxic particulate matter. On-Road vehicles are controlled under section 2025 within title 13 of the California Code of Regulations (CCR).

(2) Title 13 CCR, section 2025(e)(1)(B) states: "Starting January 1, 2012, for all vehicles with GVWR greater than 26,000 lbs, excluding school buses, fleets must meet the requirements of section 2025(g) or fleets that report may instead comply with the phase-in option of section 2025(i)."

(3) Failure to comply with the requirements of title 13 CCR, section 2025 is a violation of state law resulting in penalties. California HSC sections 39674 (a) and (b) authorize civil penalties for the violation of the programs for the regulation of toxic air contaminants not to exceed one thousand dollars ($1,000) or ten thousand dollars ($10,000), respectively, for each day in which the violation occurs.

(4) AWI has elected to utilize the phase-in option provided for in title 13 CCR, section 2025(i).

(5) Title 13 CCR, section 2025(i)(1), phase-in option, requires that owners of diesel vehicles with a GVWR greater than 26,000 lbs meet the PM BACT requirements by phasing in 30 percent of their fleet by January 1, 2012 and *60 percent by January 1, 2013.*

(6) The ARB has documented that AWI failed to have 30 percent of their fleet meet the PM BACT requirements by January 1, 2012 and *60 percent by January 1, 2013.*

(7) CCR, title 13, section 2025(w), Disclosure of Regulation Applicability, requires that any person residing in California selling a vehicle with an engine subject to this regulation provide the specified disclosure in writing to the buyer on the bill of sale, sales contract addendum, or invoice.

(8) The ARB has documented that AWI failed to include the Disclosure of Regulation Applicability of the bill of sales contract addendums, or invoices, in violation of CCR, title 13, section 2025(w).

(9) In order to resolve these alleged violations, AWI has taken, or agreed to take, the actions enumerated below under "RELEASE". Further, the ARB accepts this Agreement in termination and settlement of this matter.

(10) In consideration of the foregoing, and of the promises and facts set forth herein, the parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed violations, and voluntarily agree to resolve this matter by means of this Agreement. Specifically, the ARB and AWI agree as follows:

II. TERMS AND RELEASE

In consideration of the ARB not filing a legal action against AWI for the alleged violations referred to above, and AWI's payment of the penalties set forth in Section 1 below, the ARB and AWI agree as follows:

(1) Upon execution of this Agreement, AWI shall pay a civil penalty of $24,000.00. Payment shall be made in check form as described below, and payments shall be made in twelve monthly payments beginning on **April 5, 2014**

SETTLEMENT AGREEMENT AND RELEASE ARB AND **AWI**:

Payment Due Date:		In the Amount of and Paid to:
(1)	4/5/14	**$2,000.00** paid to the **Peralta Colleges Foundation**
(2)	5/5/14	**$2,000.00** paid to the **Peralta Colleges Foundation**
(3)	6/5/14	**$2,000.00** paid to the **Peralta Colleges Foundation**
(4)	7/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(5)	8/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(6)	9/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(7)	10/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(8)	11/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(9)	12/5/14	**$2,000.00** paid to the **Air Pollution Control Fund**
(10)	1/5/15	**$2,000.00** paid to the **Air Pollution Control Fund**
(11)	2/5/15	**$2,000.00** paid to the **Air Pollution Control Fund**
(12)	3/5/15	**$2,000.00** paid to the **Air Pollution Control Fund**

Please submit the signed settlement agreement and payment along with the attached "Settlement Agreement Payment Transmittal Form" (Attachment A) to:

California Air Resources Board
Accounting Office
P.O. Box 2815
Sacramento, CA 95812

Please submit all other documents required by this Settlement Agreement to:

Mr. Nelson Van, Air Pollution Specialist
Air Resources Board, Enforcement Division
P.O. Box 2815
Sacramento, CA 95812

(2) Effect of Untimely Payment. If any payment is more than 15 days late, the entire remaining balance becomes immediately due and payable. In addition, if the Attorney General files a civil action to enforce this settlement agreement, AWI shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.

(3) It is agreed that if AWI, including its subsidiary or parent company, at any time becomes insolvent, or makes an assignment for the benefit of creditors or similar action adversely involving AWI, its subsidiary, or parent company, or a proceeding or petition under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership law or statute is filed by or against AWI, its subsidiary, or parent company, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of any of AWI's, its subsidiary, or parent company's properties, or if any deposit account or other property of AWI, its subsidiary, or parent company be attempted to be obtained or held by writ of execution, garnishment, attachment, condemnation, levy, forfeiture or other legal process, or AWI, its subsidiary, or parent company takes any action to authorize any of the foregoing, the entire remaining balance becomes immediately due and payable without notice or demand.

(4) It is further agreed that the penalties described in "Terms and Release", paragraph 1 are punitive in nature, rather than compensatory. Furthermore, the penalty is intended to deter and punish AWI for violations of state environmental statutes, and these penalties are payable to and for the benefit of ARB, a governmental unit. Therefore, it is agreed that these penalties imposed on AWI by ARB arising from the facts described in recital paragraphs (1) through (10) are non-dischargeable under 11 United States Code § 523 (a)(7), which provides an exception from discharge for

any debt to the extent such debt is for a fine, penalty or forfeiture payable to and for benefit of governmental unit, and is not compensation for actual pecuniary loss, other than certain types of tax penalties.

(5) AWI shall not violate HSC sections 43701 *et seq.*, 44011.6 *et seq.*, and title 13 CCR, sections 2183, 2190 *et seq*, and 2485 *et seq.*

(6) AWI shall comply with one or both of the following options to attend the California Council on Diesel Education and Technology (CCDET I) class, (SAE J1667 Snap Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles) as described on the ARB webpage at http://www.arb.ca.gov/enf/hdvip/ccdet/ccdet.htm. This class is conducted by various California Community Colleges and instructs attendees on compliance with the PSIP, the ECL and the HDVIP.

(a) AWI shall have the fleet maintenance manager (or equivalent) and all staff performing opacity tests for compliance with the PSIP and the HDVIP attend the CCDET I class. Proof of CCDET I completion shall be provided to ARB within six months of the date of this Agreement and be maintained in each applicable employee's file for the term of his or her employment.

(b) If AWI uses a contractor to perform the annual smoke opacity testing required under the PSIP, in addition to having the fleet maintenance manager (or equivalent) attend the CCDET I course, AWI shall obtain proof that the contractor's staff conducting the smoke opacity tests completed the CCDET I course within the past four years. This proof of CCDET I completion shall be provided to ARB within six months of the date of this Agreement and be maintained with the annual PSIP records.

(7) AWI shall comply with one or both of the following options to attend the CCDET II class (Diesel Exhaust After Treatment and Maintenance), described on the ARB's webpage http://www.arb.ca.gov/enf/hdvip/ccdet/ccdet.htm. This class is conducted by various California Community Colleges and instructs attendees on California's emission regulations and the proper care and maintenance of diesel exhaust after-treatment systems (DEATS).

(a) AWI shall have the fleet maintenance manager (or equivalent) and all staff responsible for maintenance of DEATS attend the CCDET II class. Proof of CCDET II completion shall be provided to ARB within six months of the date of this Agreement and also be maintained in each applicable employee's file for the term of his or her employment.

(b) In case AWI uses a contractor for the maintenance of DEATS, in addition to having the fleet maintenance manager (or equivalent) attend the CCDET II course, AWI shall obtain proof that the

contractor's staff maintaining the DEATS device(s) completed the CCDET II course within the last four years. This proof of the CCDET II completion shall be provided by AWI to the ARB within six months of the date of this settlement and be maintained with the DEATS installation and maintenance records.

(8) AWI shall complete Low NOx Software Upgrades (reflash) on all applicable heavy-duty diesel engines operating in California and report to the ARB within 45 days of this agreement.

(9) Each 1974 or newer diesel powered heavy-duty vehicle in AWI's fleet shall comply with the ECL regulation as codified in title 13 CCR, section 2183.

(10) AWI shall instruct all employees who operate diesel-fueled vehicles to comply with the idling regulations set forth in title 13 CCR section 2485, within 45 days of this Agreement.

(11) AWI shall not violate the Truck and Bus regulation as codified in title 13 CCR, section 2025 et seq.

(12) AWI shall submit proof of compliance with the Truck and Bus regulation (as codified in title 13 CCR, section 2025), within 45 days of the execution of this Agreement, to Nelson Van, Air Pollution Specialist, Air Resources Board, Enforcement Division, P.O. Box 2815, Sacramento, CA 95812.

(13) This Agreement shall apply to and be binding upon AWI, and its officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

(14) This Agreement constitutes the entire agreement and understanding between ARB and AWI concerning the subject matter hereof, and supersedes and replaces all prior negotiations and agreements between ARB and AWI concerning the subject matter hereof.

(15) No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all parties to this Agreement.

(16) Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect.

(17) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.

(18) This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either party on the ground that said party drafted it.

(19) Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires the ARB to provide information on the basis for the penalties it seeks (see Health and Safety Code section 39619.7). This information, which is provided throughout this settlement agreement, is summarized here:

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in HSC sections 42403 and 43024.

Truck and Bus Violations

The per unit penalty for the Truck and Bus violations involved in this case is a maximum of $1,000 per vehicle per day for strict liability violations or $10,000 per vehicle per day for negligent or intentional violations.

The penalty obtained for the Truck and Bus violations involved in this case for failure to meet the requirements of the Phase-In Compliance Schedule is $24,000.00 or $500 per month of violation:

- $12,000.00 for two vehicles not meeting the 30% phase-in requirement, or $500.00 per vehicle (12 months in violation); and
- $12,000.00 for two vehicles not meeting the 60% phase-in requirement, or $500.00 per vehicle (12 months in violation).

The Truck and Bus penalty was discounted based on financial hardship, the fact this was a first time violation and the violator made diligent efforts to comply and to cooperate with the investigation.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

Truck and Bus Violations

The penalty provision being applied for the Truck and Bus regulation (title 13 CCR, section 2025) violations in this case is HSC section 39674 because the Truck and Bus regulation is a Toxic Air Contaminant Control Measure adopted pursuant to authority contained in HSC section 39002 et seq., 39650-39675 and because AWI failed to bring their diesel fleet into compliance by the deadlines set forth in title 13 CCR, section 2025(i)(1).

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

Truck and Bus Violations

The provisions cited above do prohibit emissions above a specified level of g/hp-hr. However, since the hours of operation of the non-compliant trucks involved and their individual emission rates are not known, it is not practicable to quantify the excess emissions.

(20) AWI acknowledges that ARB has complied with Senate Bill 1402 in prosecuting or settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 43024, has explained the manner in which the penalty amount was calculated, has identified the provision of law under which the penalty is being assessed and has considered and determined that this penalty is being assessed under a provision of law that prohibits the emission of pollutants at a specified level.

(21) Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar cases, and the potential costs and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.

(22) The penalty was based on confidential settlement communications between ARB and AWI that ARB does not retain in the ordinary course of business. The penalty is the product of an arms length negotiation between ARB and AWI and reflects ARB's assessment of the relative strength of its case against AWI, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that AWI may have secured from its actions.

(23) Now therefore, in consideration of the payment on behalf of AWI to the Air Pollution Control Fund and the Peralta Colleges Foundation, the ARB hereby releases AWI and their principals, officers, agents, predecessors and successors from any and all claims, the ARB may have or have in the future based on the circumstances described in paragraph (1) through (10) of the Recitals. The undersigned represent that they have the authority to enter into this Agreement

California Air Resources Board		**American Wrecking Inc.**	
Signature:		Signature:	
Print Name:	Ellen M. Peter	Print Name:	Carlos Galaviz
Title:	Chief Counsel	Title:	Transportation / Fleet Manager
Date:	3/26/2014	Date:	3/19/14