

1 KAMALA D. HARRIS
Attorney General of California
2 MARGARITA PADILLA
Supervising Deputy Attorney General
3 BRETT J. MORRIS, SBN 158408
DEBORAH R. HALBERSTADT, SBN 240839
4 Deputy Attorneys General
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 [REDACTED]
7 [REDACTED]

**ENDORSED
FILED
ALAMEDA COUNTY**

JAN 02 2013

CLERK OF THE SUPERIOR COURT
By Angela Yamsuan

8 *Attorneys for Plaintiff*
The People of the State of California
9 (Additional Counsel listed below)

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ALAMEDA
12
13

14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA,**

16 Plaintiff,

17 v.

18 **PHILLIPS 66 COMPANY, a Delaware**
19 **Corporation; CONOCOPHILLIPS**
20 **COMPANY, a Delaware Corporation; and**
21 **DOES 1 through 10,**

22 Defendants.

Case No. **RG13661894**

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES, AND
OTHER EQUITABLE RELIEF**

(Health & Saf. Code, Div. 20, Chapters 6.5,
6.7, and 6.95; Bus. & Prof. Code, § 17200, *et*
seq.)

23 Additional Counsel for Plaintiff:

24 NANCY O'MALLEY
District Attorney of Alameda County
25 KENNETH A. MIFSUD, SBN 144000
Senior Deputy District Attorney
26 KEVIN WONG, SBN 215446
Deputy District Attorney
27 7677 Oakport Street, Suite 650
Oakland, CA 94621-1934
28 [REDACTED]

COPY

1 VERN PIERSON
District Attorney of El Dorado County
2 ROBERT NICHOLS, SBN 100028
Deputy District Attorney
3 515 Main Street
Placerville, CA 95667
4 [REDACTED]

5
6 LARRY MORSE, II
District Attorney of Merced County
7 ROBERT NICHOLS, SBN 100028
Deputy District Attorney
8 550 West Main Street
Merced, CA 95340
9 [REDACTED]

10
11 CLIFFORD NEWELL
District Attorney of Nevada County
12 ROBERT NICHOLS, SBN 100028
Deputy District Attorney
13 110 Union Street
Nevada City, CA 95959
14 [REDACTED]

15 R. SCOTT OWENS
District Attorney of Placer County
16 ROBERT NICHOLS, SBN 100028
Deputy District Attorney
17 10810 Justice Center Drive Suite #240
18 Roseville, CA 95678
19 [REDACTED]

20 MICHAEL A. RAMOS
District Attorney of San Bernardino County
21 DANIEL I. SILVERMAN, SBN 224762
Deputy District Attorney
22 412 West Hospitality Lane, 3rd Floor
San Bernardino, CA 92415
23 [REDACTED]

24
25 BIRGIT FLADGER
District Attorney of Stanislaus County
26 ROBERT NICHOLS, SBN 100028
Deputy District Attorney
27 832 12th Street, Suite 300
Modesto, CA 95353
28 [REDACTED]

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, based on information and belief, alleges as follows:

PLAINTIFF

1. Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA (“Plaintiff”), brings this action by and through Kamala D. Harris, the Attorney General of the State of California (“Attorney General”), and by the District Attorneys of Alameda, El Dorado, Merced, Nevada, Placer, San Bernardino, and Stanislaus Counties (“District Attorneys”).

2. Pursuant to Health and Safety Code section 25145.4, 25181, and 25182 the Attorney General and the District Attorneys may bring a civil action in the name of the People of the State of California to enjoin any violation of Chapter 6.5 of Division 20 of the California Health and Safety Code (hereinafter "Chapter 6.5") and seek civil penalties for violations of the provisions of Chapter 6.5.

3. Pursuant to California Health and Safety Code section 25299.02, the Attorney General and the District Attorneys may bring a civil action in the name of the People of the State of California for violations of state law dealing with the underground storage of hazardous substances, underground storage tanks (“USTs”), and UST systems, as set forth in Chapter 6.7 of Division 20 of the California Health and Safety Code (hereinafter “Chapter 6.7”).

4. Pursuant to California Health and Safety Code section 25299.01, the Attorney General and the District Attorneys may apply to a superior court for an injunction or an order directing compliance against any person who has engaged in, is engaged in, or is about to engage in any acts or practices which violate Chapter 6.7.

5. Pursuant to California Health and Safety Code sections 25516 and 25516.1, the Attorney General and the District Attorneys may bring an action for civil penalties for violations of Health and Safety Code sections 25503.5 to 25505, inclusive, or sections 25508 to 25520, inclusive, and to enjoin a violation of Chapter 6.95 of Division 20 of the Health and Safety Code (hereinafter “Chapter 6.95”).

6. Pursuant to California Business and Professions Code sections 17203, 17204, and 17206, the Attorney General and the District Attorneys may bring actions in the name of the

1 People of the State of California in a superior court for an injunction against any person who
2 engages, had engaged, or proposes to engage in unfair competition and for civil penalties for each
3 act of unfair competition.

4 7. Plaintiff brings this action without prejudice to, and independent of, and without
5 prejudice to any other existing action or claims which Plaintiff may have based on separate,
6 independent and unrelated violations of Chapters 6.5, 6.7, or 6.95 of Division 20 of the Health
7 and Safety Code by the Defendants and on facts which are not alleged in this Complaint.

8 8. Plaintiff alleges that certain claims alleged in this case are related to certain specific
9 claims that were at issue and resolved in a final judgment in the action of *People v. Atlantic*
10 *Richfield Company, et al.*, Sacramento County Superior Court, Case No. 03AS05452.

11
12 **DEFENDANTS**

13 9. Defendant Phillips 66 Company is a Delaware corporation, duly registered with the
14 California Secretary of State.

15 10. Defendant ConocoPhillips Company is a Delaware corporation, duly registered with
16 the California Secretary of State.

17 11. On or about May 1, 2012, Defendant ConocoPhillips Company reorganized its
18 corporate structure, and the successor entity for liability for ownership or operation of
19 underground storage tanks in California became Phillips 66 Company. These entities are referred
20 to herein as "Defendants."

21 12. At all times herein relevant, Defendants owned and operated underground storage
22 tanks and underground storage tanks systems to store motor vehicle fuel for retail sale at no less
23 than 560 sites or facilities located throughout California.

24 13. Plaintiff is informed and believes that Defendants have sold, transferred, or otherwise
25 divested themselves of all interest in all but six underground storage tank and underground
26 storage tank systems sites or facilities in California.

27 14. In this Complaint when reference is made to any act or omission of Defendants, such
28 allegations shall include the acts and omissions of owners, officers, directors, agents, employees,

1 contractors, vendors, affiliates, and representatives of Defendants while acting within the course
2 and scope of their employment or agency on behalf of Defendants.

3 15. The identities of DOES 1-10 are unknown to Plaintiff at this time. At such time as
4 the identities of DOE defendants become known, Plaintiff will amend this Complaint
5 accordingly.

6 16. At all times relevant to the facts alleged herein, the Defendants were legally
7 responsible for compliance with the provisions of the Health and Safety Code including Chapter
8 6.5, 6.7, and 6.95 of Division 20, and the corresponding implementing regulations, at Defendants'
9 sites located in California in connection with the ownership and operation of the facilities.

10 VENUE AND JURISDICTION

11 17. The Defendants at all times mentioned herein have transacted business within, *inter*
12 *alia*, Alameda County and the Counties of El Dorado, Merced, Nevada, Placer, San Bernardino,
13 and Stanislaus, State of California. The violations of law hereinafter described have been
14 committed within, *inter alia*, Alameda County and the Counties of El Dorado, Merced, Nevada,
15 Placer, San Bernardino, and Stanislaus, State of California.

16 18. Venue is proper in Alameda County pursuant to Health and Safety Code section
17 25280 *et seq.* in that certain of the violations alleged in the Complaint occurred in this County,
18 and that the other violations alleged in the Complaint, which occurred at locations outside this
19 County, are related to such violations and the penalties and injunctive relief sought by Plaintiff in
20 this action. This Court has jurisdiction pursuant to Article 6, section 10 of the California
21 Constitution.

22 GENERAL ALLEGATIONS

23 19. Plaintiff is informed and believes and thereupon alleges that on and after November
24 18, 2006, and continuing through the present, Defendants have engaged in actions and omissions
25 involving: (a) the operation and maintenance of underground storage tanks ("USTs") and UST
26 systems, and, (b) the handling of hazardous wastes and hazardous substances generated by
27 operation of USTs, UST systems, and motor vehicle maintenance, at Defendants' facilities in
28 California in violation of Health and Safety Code, Division 20, Chapters 6.5, 6.7, and 6.95.

1 20. Defendants' acts and omissions include but are not limited to the following:

2 Underground Storage of Hazardous Substances Law Violations
3 (Health and Safety Code Section 25281 *et seq.*)

4 a. Tampered with or otherwise disabled leak detection devices or alarms in
5 violation of Health and Safety Code section 25299, and Title 23 of the California Code of
6 Regulations, sections 2630 and 2641.

7 b. Failed to conduct monthly inspections in violation of Title 23 of the California
8 Code of Regulations, section 2715, subdivision (c).

9 c. Failed to maintain copies of monthly inspection reports in violation of Title 23
10 of the California Code of Regulations, section 2715, subdivision (e).

11 d. Failed to ensure and document that employees completed training on the proper
12 operation and maintenance of the underground storage tanks systems in violation of Title 23 of
13 the California Code of Regulations, section 2715, subdivision (f).

14 e. Failed to ensure that their underground storage tank systems were operational in
15 violation of Health and Safety Code section 25291.

16 f. Failed to ensure that liquid in the secondary containment system was analyzed
17 and properly disposed of in violation of Health and Safety Code section 25291, subdivision (e).

18 g. Failed to annually test pressurized product line leak detectors in violation of
19 Health and Safety Code sections 25291, subdivision (f), and 25292, subdivision (b), and Title 23
20 of the California Code of Regulations, section 2638, subdivision (a).

21 h. Failed to perform required integrity testing in violation of Health and Safety
22 Code section 25292, subdivision (b), and Title 23 of the California Code of Regulations, section
23 2643.

24 i. Failed to have current underground storage tank information forms on file with
25 the appropriate local agency or CUPA in violation of Title 23 of the California Code of
26 Regulations, section 2711.

27 j. Failed to operate their underground storage tank systems in a manner to prevent
28 an unauthorized release in violation of Health and Safety Code section 25292.1.

1 k. Failed to ensure that their underground storage tank systems were operational in
2 violation of Health and Safety Code sections 25291.

3 l. Failed to maintain required permits in violation of Health and Safety Code
4 section 25284, subdivision (a)(1), and section 25287, subdivision (a).

5 m. Failed to submit the owner-operator agreement to the appropriate local agency
6 or CUPA in violation of Health and Safety Code section 25284, subdivision (a)(3).

7 n. Failed to have the Form A & B permits present at their station sites in violation
8 of Health and Safety Code section 25286, subdivision (a).

9 o. Failed to have proof of financial responsibility current and present at their
10 station sites in violation of Health and Safety Code section 25292.2, subdivision (a).

11 p. Failed to have operating permits at their station sites in violation of Health and
12 Safety Code section 25284(a), and Title 23 of the California Code of Regulations, section 2712,
13 subdivision (i).

14 q. Failed to certify their continuous monitoring systems annually in violation of
15 Health and Safety Code section 25284.2, and Title 23 of the California Code of Regulations,
16 section 2638, subdivision (a).

17 r. Failed to have a current unauthorized release response plan present at their
18 station sites in violation of Title 23 of the California Code of Regulations, section 2632.

19 s. Failed to have the alarm status history available at their station sites in violation
20 of Health and Safety Code section 25299, subdivision (a)(2).

21 t. Failed to implement a monitoring plan that has been approved by the
22 appropriate local agency or CUPA in violation of Health and Safety Code section 25293, and
23 Title 23 of the California Code of Regulations, section 2632.

24 u. Failed to test their secondary containment systems at their station sites in
25 violation of Health and Safety Code section 25284.1, subdivision (a)(4)(B), and Title 23 of the
26 California Code of Regulations, section 2637.

27 / / /

28 / / /

1 v. Failed to properly close an underground storage tank system or component in
2 violation of Health and Safety Code section 25298, and Title 23 of the California Code of
3 Regulations, section 2670.

4 w. Failed to have maintenance and monitoring records available at their station
5 sites in violation of Health and Safety Code section 25299, subdivision (a)(2), and Title 23 of the
6 California Code of Regulations, section 2712, subdivision (b).

7 x. Failed to have properly functioning alarm systems in violation of Title 23 of the
8 California Code of Regulations, section 2632, subdivision (c)(2)(B).

9 y. Failed to properly affix stickers to their UST monitoring equipment in violation
10 of Title 23 of the California Code of Regulations, section 2638, subdivision (f).

11 z. Failed to use approved overfill protection at their station sites in violation of
12 Title 23 of the California Code of Regulations, section 2635, subdivision (b)(2).

13 aa. Failed to remove liquid from their spill containers in violation of Health and
14 Safety Code section 25299, subdivision (a)(2).

15 bb. Failed to have a properly functional spill container drain(s) in violation of Title
16 23 of the California Code of Regulations, section 2635, subdivision (b)(1)(C).

17 cc. Failed to keep the sumps free of liquid and debris in violation of Title 23 of the
18 California Code of Regulations, section 2631, subdivision (e)(4).

19 dd. Failed to properly construct and maintain secondary containment systems in
20 violation of Title 23 of the California Code of Regulations, section 2631.

21 ee. Failed to conduct tests after repairs were made to secondary containment
22 systems in violation of Title 23 of the California Code of Regulations, section 2661.

23 ff. Failed to obtain necessary permits prior to making a repair to secondary
24 containment systems in violation of Title 23 of the California Code of Regulations, section 2661.

25 gg. Failed to drain the secondary containment systems into a monitored sump in
26 violation of Title 23 of the California Code of Regulations, section 2636, subdivision (c)(1).

27 hh. Failed to have the required under dispenser containment in violation of Title 23
28 of the California Code of Regulations, section 2636, subdivision (f).

1 ii. Failed to monitor the under dispenser containment in violation of Title 23 of the
2 California Code of Regulations, section 2636, subdivision (f).

3 jj. Failed to monitor a tank according to the method described in an operating
4 permit in violation of Health and Safety Code section 25293.

5 kk. Failed to identify the source of a known underground storage tank leak(s) and
6 stop known leak(s) in violation of Health and Safety Code section 25295, subdivision (a)(1).

7 ll. Failed to notify the Local Agency, as defined in Health and Safety Code section
8 25281, of known underground storage tank releases in violation of Health and Safety Code
9 section 25299, subdivision (a)(4), and Title 23 of the California Code of Regulations, section
10 2650.

11 Hazardous Waste Control Law Violations
12 (Health and Safety Code Section 25100 et seq.)

13 mm. Failed to store separately incompatible hazardous materials in violation of Title
14 22 of the California Code of Regulations, sections 66265.177, 66262.34, subdivision (d)(2), and
15 66262.34, subdivision (a)(1).

16 nn. Failed to label properly containers of hazardous waste in violation of Title 22 of
17 the California Code of Regulations, section 66262.34, subdivision (d)(2).

18 oo. Failed to comply with the requirements set for maximum accumulation time of
19 hazardous waste in violation of Title 22 of the California Code of Regulations, section 66262.34.

20 pp. Failed to store hazardous waste in a container that is compatible with the
21 hazardous characteristic of the waste in violation of Title 22 of the California Code of
22 Regulations, section 66265.172.

23 qq. Failed to maintain hazardous waste containers in a safe condition in violation of
24 Title 22 of the California Code of Regulations, section 66265.171.

25 rr. Failed to store hazardous waste in a container that is compatible with the
26 hazardous characteristic of the waste in violation of Title 22 of the California Code of
27 Regulations, section 66265.172.

28 / / /

1 ss. Failed to keep hazardous waste containers stored closed in violation of Title 22
2 of the California Code of Regulations, section 66265.173, subdivision (a).

3 tt. Failed to properly maintain at their station sites a storage area for hazardous
4 waste in violation of Title 22 of the California Code of Regulations, section 66265.31.

5 uu. Failed to perform weekly inspections of the areas used for storage of hazardous
6 waste containers in violation of Title 22 of the California Code of Regulations, sections
7 66265.174 and 66262.34.

8 vv. Failed to have proper fire, spill, and decontamination equipment at their station
9 sites in violation of Title 22 of the California Code of Regulations, section 66265.32.

10 ww. Failed to provide adequate aisle space between hazardous waste containers in
11 violation of Title 22 of the California Code of Regulations, section 66265.35.

12 xx. Failed to test facility communication or alarm systems, and fire protection, spill
13 control and decontamination equipment in violation of Title 22 of the California Code of
14 Regulations, section 66265.33.

15 yy. Failed to have evacuation plan(s) on site at their station sites in violation of
16 Title 22 of the California Code of Regulations, section 66265.52.

17 zz. Failed to have an emergency coordinator(s) listed on site at their station sites in
18 violation of Title 22 of the California Code of Regulations, section 66265.52.

19 aaa. Failed to establish emergency response procedures in violation of Title 22 of
20 the California Code of Regulations, section 66265.52.

21 bbb. Failed to have in place a hazardous waste contingency plan and emergency
22 procedures in violation of Title 22 of the California Code of Regulations, sections 66265.51
23 through 66265.56.

24 ccc. Failed to pay the required generator permit fees for their station sites in
25 violation of Health and Safety Code section 25287.

26 ddd. Failed to have a valid or registered EPA number(s) for their station sites in
27 violation of Title 22 of the California Code of Regulations, section 66262.12, subdivision (a).

28 / / /

1 eee. Failed to use the proper method to determine that a waste generated at their
2 station sites was a hazardous waste in violation of Title 22 of the California Code of Regulations,
3 section 66262.11.

4 fff. Disposed hazardous waste generated at their station sites into trash containers,
5 which were then taken to a facility not authorized under the Health and Safety Code to accept
6 hazardous waste, in violation of Health and Safety Code section 25189.

7 ggg. Failed to follow the manifesting requirements for hazardous waste set forth in
8 Chapter 6.5 of the Health and Safety Code in violation of Health and Safety Code section 25160.

9 hhh. Failed to ensure that hazardous waste from their station sites was transported by
10 a registered transporter in violation of Health and Safety Code section 25163, subdivision (a).

11 iii. Failed to file with the Department of Toxic Substances Control a manifest
12 exception report(s) for hazardous waste generated at their station sites in violation of Title 22 of
13 California Code of Regulations, section 66262.42.

14 jjj. Failed to ensure and document that employees at their station sites successfully
15 completed hazardous waste training in violation of Title 22 of the California Code of Regulations,
16 section 66265.16.

17 kkk. Failed to properly handle, manage and store used oil filters as hazardous waste
18 in violation of Health and Safety Code section 25154.

19 Hazardous Materials Release Response Plans and Inventory Law Violations
20 (Health and Safety Code Section 25500 *et seq.*)

21 lll. Failed to have business plan(s) on site in violation of Health and Safety Code
22 section 25503.5.

23 mmm. Failed to update their business plan within three years in violation of
24 Health and Safety Code sections 25503, subdivision (d), and 25505, subdivision (c).

25 nnn. Failed to complete a chemical inventory in violation of Health and Safety Code
26 sections 25503.3, 25505, subdivision (d), and 25509.

27 ooo. Failed to update their chemical inventory annually in violation of Health and
28 Safety Code sections 25503.3, 25505, subdivision (e), and 25509.

1 ppp. Failed to maintain the documented employee training in violation of Health and
2 Safety Code section 25504, subdivision (c).

3 qqq. Failed to have a complete evacuation plan and facility map at their station sites
4 in violation of Health and Safety Code sections 25504, subdivision (b), and 25505.

5 rrr. Failed to have material safety data sheets ("MSDS") available in violation of
6 Title 8 of the California Code of Regulations, section 5194.

7 sss. Failed to post at their station sites emergency phone numbers in violation of
8 Health and Safety Code section 25504.

9 **TOLLING OF STATUTES OF LIMITATIONS**

10 21. Plaintiff has entered into a series of tolling agreements with Defendants preserving
11 Plaintiff's right to pursue violations beyond the typical limitations period provided by statute.
12 The parties have agreed that the time period from November 18, 2011 to January 1, 2013
13 inclusive shall be tolled ("Tolling Period"), and that any claim or cause of action that would
14 expire or would otherwise cease to be actionable shall not expire and that the time between
15 November 18, 2011, and January 1, 2013, will not be included in computing the time limits
16 created by any statutory limitation period for pursuing causes of action against Defendants.

17
18 **FIRST CAUSE OF ACTION**

19 **Violations of the Underground Storage of Hazardous Substances Law as a UST Operator**
20 **(Health and Safety Code, Div. 20, Chapter 6.7, section 25281 *et seq.*)**

21 22. Plaintiff realleges paragraphs 1 through 19, subparagraphs a. through ll., inclusive, of
22 paragraph 20, and paragraph 21.

23 23. To the extent that Defendants are the operator(s) of the underground storage tank
24 system at Defendants' facilities, Defendants are liable for civil penalties as set forth in Health and
25 Safety Code section 25299, subdivision (a), for each violation of the rules, regulations, standards,
26 or requirements applicable to each underground storage tank as set forth in the above allegations.

27 24. Defendants, as the operator(s) of the underground storage tank systems, must
28 immediately and permanently be enjoined from further violations of Chapter 6.7.

1 **SECOND CAUSE OF ACTION**

2 **Violations of the Underground Storage of Hazardous Substances Law as a UST Owner**
3 **(Health and Safety Code, Div. 20, Chapter 6.7, section 25281 *et seq.*)**

4 25. Plaintiff realleges paragraphs 1 through 19, subparagraphs a. through ll., inclusive, of
5 paragraph 21, and paragraph 21.

6 26. To the extent that Defendants are the owner(s) of the underground tank systems at
7 Defendants' facilities, Defendants are liable for civil penalties as set forth in Health and Safety
8 Code section 25299, subdivision (b), for each violation of the rules, regulations, standards, or
9 requirements applicable to each underground storage tank as set forth in the above allegations.

10 27. Defendants, as the owner(s) of the underground storage tank systems, must
11 immediately and permanently be enjoined from further violations of Chapter 6.7.

12 **THIRD CAUSE OF ACTION**

13 **Intentional or Negligent Violations of the Hazardous Waste Control Law**
14 **(Health and Safety Code, Div. 20, Chapter 6.5, section 25100 *et seq.*)**

15 28. Plaintiff realleges paragraphs 1 through 19, subparagraphs mm. through jjj., inclusive,
16 of paragraph 20, and paragraph 21.

17 29. Defendants are liable for civil penalties as set forth in California Health and Safety
18 Code section 25189, subdivision (b), for each intentional or negligent violation of rules,
19 regulations, standards or requirements regarding hazardous waste, as set forth in the above
20 allegations.

21 30. Defendants must immediately and permanently be enjoined from further violations of
22 Chapter 6.5.

23 **FOURTH CAUSE OF ACTION**

24 **Strict Liability Violations of the Hazardous Waste Control Law**
25 **(Health and Safety Code, Div. 20, Chapter 6.5, section 25100 *et seq.*)**

26 31. Plaintiff realleges paragraphs 1 through 19, subparagraphs mm. through jjj., inclusive,
27 of paragraph 20, and paragraph 21.

28 / / /

32. Defendants are liable for civil penalties as set forth in California Health and Safety Code section 25189.2, subdivision (b), for each violation of the rules, regulations, standards or requirements regarding hazardous waste, as set forth in the above allegations.

33. Defendants must immediately and permanently be enjoined from further violations of Chapter 6.5.

FIFTH CAUSE OF ACTION

Knowing Violations of the Hazardous Materials Release Response Plans and Inventory Law
(Health and Safety Code, Div. 20, Chapter 6.95, section 25500 *et seq.*)

34. Plaintiff realleges paragraphs l through 19, subparagraphs kkk. through rrr., inclusive, of paragraph 20 , and paragraph 21.

35. Defendants are liable for civil penalties as set forth in Health and Safety Code section 25514, subdivision (b), for each knowing violation of provisions of the Health and Safety Code Division 20, Chapter 6.95, as set forth in the above allegations.

36. Defendants must immediately and permanently be enjoined from further violations of Chapter 6.95.

SIXTH CAUSE OF ACTION

Violations of the Hazardous Materials Release Response Plans and Inventory Law
(Health and Safety Code, Div. 20, Chapter 6.95, section 25500 *et seq.*)

37. Plaintiff realleges paragraphs l through 19, subparagraphs kkk. through rrr., inclusive, of paragraph 20, and paragraph 21.

38. Defendants are strictly liable for civil penalties as set forth in Health and Safety Code section 25514, subdivision (a), for each knowing violation of provisions of the Health and Safety Code Division 20, Chapter 6.95, as set forth in the above allegations.

39. Defendants must immediately and permanently be enjoined from further violations of Chapter 6.95.

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1 **SEVENTH CAUSE OF ACTION**

2 **Violations of the Unfair Competition Law**
3 **(Business and Professions Code section 17200 et seq.)**

4 40. Plaintiff realleges paragraphs 1 through 39 inclusive.

5 41 By the acts described herein, Defendants engaged in daily acts of unlawful and/or
6 unfair competition prohibited by Business and Professions Code sections 17200 through 17208.
7 Each act constitutes a separate unlawful and/or unfair business practice.

8 42. Pursuant to Business and Professions Code section 17206, Defendants are liable for
9 civil penalties for each violation.

10 43. Defendants must immediately and permanently be enjoined from engaging in any
11 activity that violates Chapters 6.5, 6.7, and 6.95 of Division 20 of the California Health and
12 Safety Code, which thereby constitutes unfair competition within the meaning of Business and
13 Professions Code section 17200.

14 **EXEMPLAR VIOLATIONS**

15 44. Plaintiff has selected 25 sites to illustrate Defendants' violations of law as alleged in
16 Paragraphs 1 through 43 above, and Plaintiff is informed and believes and thereupon alleges that
17 on or about the date set forth below and at but not limited to the following facility locations
18 owned by Defendants, that said Defendants engaged in actions and omissions constituting
19 violations of California law, to wit:

20 a. At Defendants' facility located at 5799 Mowry Avenue, Newark,
21 California, the following unlawful acts and omissions were committed by Defendants:

22 1. On or about May 8, 2007, Defendants:

23 A. Failed to submit and maintain a current approved written
24 monitoring plan in violation of Title 23 of the California Code of Regulations, section 2712(b);

25 B. Failed to submit and maintain a current approved release
26 response plan in violation of Title 23 of the California Code of Regulations, section 2632(d); and,

27 / / /

28 / / /

1 C. Possessed hazardous waste in excess of the lawful
2 accumulation time in violation of Title 22 of the California Code of Regulations, section
3 66262.34(c).

4 2. On or about May 9, 2008, Defendants:

5 A. Failed to complete secondary containment testing every
6 three (3) years in violation of Title 23 of the California Code of Regulations, section 2637;

7 B. Failed to properly maintain under dispenser containment
8 sensors in violation of Title 23 of the California Code of Regulations, section 2636(f)(1); and,

9 C. Failed to properly label hazardous waste container in
10 violation of Title 22 of the California Code of Regulations, section 66262.34.

11 3. On or about September 22, 2009, Defendants:

12 A. Failed to maintain a written contract between the owner and
13 operator of the underground storage tanks in violation of Health and Safety Code section 25284;

14 B. Failed to maintain complete and accurate designated UST
15 operator monthly inspection reports regarding alarms in violation of Title 23 of the California
16 Code of Regulations, section 2715(c);

17 C. Failed to maintain adequate hazardous waste spill control
18 and absorbent in violation of Title 22 of the California Code of Regulations, section 66265.32(c);

19 D. Improperly disposed of hazardous waste in violation of
20 Health and Safety Code section 25189.5;

21 E. Caused hazardous waste to be transported by an unlicensed
22 hazardous waste hauler in violation of Health and Safety Code section 25163;

23 F. Failed to handle, transfer, or store hazardous waste
24 containers in a manner to prevent rupture and leaking in violation of Title 22 of the California
25 Code of Regulations, section 66262.173; and,

26 G. Failed to maintain hazardous waste manifests, bills of
27 lading, or consolidated manifests for three (3) years in violation of Title 22 of the California Code
28 of Regulations, section 66262.40.

1 4. On or about May 12, 2010, Defendants:

2 A. Failed to maintain underground storage tanks with a spill

3 container and an overfill prevention system properly, which resulted in liquid found in

4 submersible turbine pump sump in violation of Title 23 of the California Code of Regulations,

5 section 2635(b).

6 5. On or about May 5, 2011, Defendants:

7 A. Failed to maintain and properly secure steel surface lids in

8 violation of Health and Safety Code section 25288 and Title 23 of the California Code of

9 Regulations, section 2631(d);

10 B. Failed to maintain 91 octane piping sump to prevent liquid

11 from accumulating in violation of Health and Safety Code section 25291(e); and,

12 C. Failed to adequately and timely train employees in violation

13 of Title 23 of the California Code of Regulations, section 2715(f).

14 b. At Defendants' facility located at 35550 Fremont Boulevard, Fremont,

15 California, the following unlawful acts and omissions were committed by Defendants:

16 1. On or about February 16, 2006, Defendants:

17 A. Failed to have proof of financial responsibility current on

18 site, as required by Health and Safety Code section 25292.2(a);

19 B. Failed to maintain Form A & B permits current on site, as

20 required by Health and Safety Code section 25286(a);

21 C. Failed to submit a new and accurate monitoring plan, as

22 required by Title 23 of the California Code of Regulations, section 2632(b) and (d); and,

23 D. Failed to maintain weekly hazardous waste inspection logs,

24 as required by Title 22 of the California Code of Regulations, section 66265.174.

25 2. On or about January 12, 2007, Defendants:

26 A. Failed to keep manifests on site for three years, as required

27 by Title 22 of the California Code of Regulations, section 66262.40(a);

28 / / /

1 B. Failed to properly label containers of hazardous waste, as
2 required by Title 22 of the California Code of Regulations, section 66262.34(d)(2);

3 C. Failed to properly secure compressed gas cylinders in
4 violation of Title 8 of the California Code of Regulations, section 4650(e); and,

5 D. Failed to provide annual spill bucket testing, as required by
6 Title 23 of the California Code of Regulations, section 2635(b)(1).

7 3. On or about April 17, 2007, Defendants:

8 A. Failed to properly secure compressed gas cylinders in
9 violation of Title 8 of the California Code of Regulations, section 4650(e);

10 B. Failed to provide an EPA identification number, as required
11 by Title 22 of the California Code of Regulations, section 66262.12(a);

12 C. Failed to provide hazardous waste employee training, as
13 required by Title 22 of the California Code of Regulations, section 66265.16(b);

14 D. Failed to maintain hazardous waste employee training
15 records for three years, as required by Title 22 of the California Code of Regulations, section
16 66265.16(e);

17 E. Failed to have hazardous waste employee training records
18 on site, as required by Title 22 of the California Code of Regulations, section 66265.16(d);

19 F. Failed to maintain weekly hazardous waste inspection logs,
20 as required by Title 22 of the California Code of Regulations, section 66265.174; and,

21 G. Failed to keep manifests on site for three years, as required
22 by Title 22 of the California Code of Regulations, section 66262.40(a).

23 4. On or about January 9, 2008, Defendants:

24 A. Failed to investigate waste oil tank alarm, as required by
25 Title 23 of the California Code of Regulations, section 2650(e)(3) & (4).

26 5. On or about March 19, 2008, Defendants:

27 A. Failed to keep manifests on site for three years, as required
28 by Title 22 of the California Code of Regulations, section 66262.40(a); and,

1 B. Failed to maintain weekly hazardous waste inspection logs,
2 as required by Title 22 of the California Code of Regulations, section 66265.174;

3 6. On or about February 5, 2009, Defendants:

4 A. Failed to certify UST monitoring system on an annual basis,
5 as required by Health and Safety Code section 25284 and Title 23 of the California Code of
6 Regulations, section 2630(d); and

7 B. Failed to have a properly functioning spill container, as
8 required by Title 23 of the California Code of Regulations, section 2635(b)(1).

9 7. On or about March 19, 2010, Defendants:

10 A. Failed to have a properly functioning spill container, as
11 required by Title 23 of the California Code of Regulations, section 2635(b)(1).

12 c. At Defendants' facility located at 36979 Fremont Boulevard, Fremont,
13 California, the following unlawful acts and omissions were committed by Defendants:

14 1. On or about May 17, 2006, Defendants:

15 A. Failed to maintain Form A & B permits current on site, as
16 required by Health and Safety Code section 25286(a);

17 B. Failed to have proof of financial responsibility current on
18 site, as required by Health and Safety Code section 25292.2(a);

19 C. Failed to have a properly functioning spill container, as
20 required by Title 23 of the California Code of Regulations, section 2635(b)(1);

21 D. Failed to provide a copy of the secondary containment
22 system test report to the local agency, as required by Title 23 of the California Code of
23 Regulations, section 2637(e);

24 E. Failed to submit a Monitoring and Response plan, as
25 required by Title 23 of the California Code of Regulations, section 2632(d)(2);

26 F. Failed to obtain a permit to own or operate an underground
27 storage tank from the local agency, as required by Health and Safety Code section 25284(a)(1)
28 and Title 23 of the California Code of Regulations, section 2620(b); and,

1 G. Failed to submit a plot plan of the underground storage
2 tanks, as required by Title 23 of the California Code of Regulations, section 2711(a)(8).

3 2. On or about May 25, 2007, Defendants:

4 A. Failed to have properly functioning spill containers, as
5 required by Title 23 of the California Code of Regulations, section 2635(b)(1);

6 B. Failed to have the alarm status history available, as required
7 by Health and Safety Code section 25299(a) (2);

8 C. Failed to certify their continuous monitoring system
9 annually, as required by Health and Safety Code section 25284.2;

10 D. Failed to document designated operator monthly
11 inspections, as required by Title 23 of the California Code of Regulations, section 2715(d); and,

12 E. Failed to properly label containers of hazardous waste, as
13 required by Title 22 of the California Code of Regulations, section 66262.32.

14 3. On or about May 8, 2009, Defendants:

15 A. Failed to submit a Monitoring and Response plan, as
16 required by Title 23 of the California Code of Regulations, section 2632(d)(2); and,

17 B. Failed to file a Hazardous Materials Business Plan, as
18 required by Health and Safety Code section 25514(a).

19 4. On or about June 23, 2009, Defendants:

20 A. Failed to apply for a permit for temporary closure of
21 underground storage tanks, as required by Title 23 of the California Code of Regulations, section
22 2670; and,

23 B. Failed to properly notify and obtain a permit from the local
24 agency for the temporary closure of underground storage tanks, as required by Health and Safety
25 Code section 25298.

26 d. At Defendants' facility located at 31300 Alvarado-Niles Boulevard, Union
27 City, California, the following unlawful acts and omissions were committed by Defendants:

28 1. On or about May 29, 2008, Defendants:

1 A. Failed to have a properly functioning line leak detector, as
2 required by Title 23 of the California Code of Regulations, section 2636(f)(2);

3 B. Failed to properly label containers of hazardous waste, as
4 required by Title 22 of the California Code of Regulations, section 66262.32;

5 C. Failed to store container of hazardous waste within
6 allowable accumulation limits, as required by Title 22 of the California Code of Regulations,
7 section 66262.34;

8 D. Failed to have proof of financial responsibility current on
9 site, as required by Health and Safety Code section 25292.2(a);

10 E. Failed to document designated operator monthly
11 inspections, as required by Title 23 of the California Code of Regulations, section 2715(d); and,

12 F. Failed to have a properly functioning alarm system, as
13 required by Title 23 of the California Code of Regulations, section 2632(c)(2)(B).

14 2. On or about April 30, 2009, Defendants:

15 A. Failed to have properly functioning overfill protection, as
16 required by Title 23 of the California Code of Regulations, section 2635(b)(2).

17 3. On or about April 21, 2010, Defendants:

18 A. Failed to have properly functioning float chain/shear valve
19 assembly, as required by Title 23 of the California Code of Regulations, section 2635(b)(2).

20 B. Failed to keep their sumps free of liquid, as required by
21 Title 23 of the California Code of Regulations, section 2631(e)(4); and

22 C. Failed to maintain updated written monitoring plan, as
23 required by Title 23 of the California Code of Regulations, section 2712(b).

24 e. At Defendants' facility located at 3255 McCartney Road, Alameda,
25 California, the following unlawful acts and omissions were committed by Defendants:

26 1. On or about July 18, 2007, Defendants:

27 / / /

28 / / /

1 A. Failed to properly maintain the used oil spill container
2 resulting in a failed hydrostatic test in violation of Title 23 of the California Code of Regulations,
3 section 2635(b).

4 2. On or about May 21, 2008, Defendants:

5 A. Failed to properly maintain the mechanical line leak
6 detector on the 87 octane underground storage tank line in violation of Title 23 of the California
7 Code of Regulations, section 2636(f)(2); and,

8 B. Failed to maintain complete designated UST operator
9 monthly inspection reports in violation of Title 23 of the California Code of Regulations, section
10 2715(c).

11 3. On or about May 13, 2009, Defendants:

12 A. Failed to properly maintain the mechanical line leak
13 detector on the 87 octane underground storage tank line resulting in a failed 3 gallon per hour leak
14 rate test in violation of Title 23 of the California Code of Regulations, section 2636(f)(2);

15 B. Failed to properly maintain the pressurized piping system on
16 the 91 octane underground storage tank line resulting in no turbine shut off in violation of Title 23
17 of the California Code of Regulations, section 2636(f)(1);

18 C. Failed to maintain sump lids resulting in missing or
19 decaying gaskets and missing lid bolts in violation of Health and Safety Code section 25288 and
20 Title 23 of the California Code of Regulations, section 2631(d); and,

21 D. Failed to maintain and possess designated UST operator
22 monthly inspection reports for the months of December 2008 through April 2009 in violation of
23 Title 23 of the California Code of Regulations, section 2715(e).

24 f. At Defendants' facility located at 15803 East 14th Street, San Leandro,
25 California, the following unlawful acts and omissions were committed by Defendants:

26 1. On or about December 12, 2006, Defendants:

27 A. Failed to maintain used oil spill container resulting in failed
28 test in violation of Title 23 of the California Code of Regulations, section 2635(b).

- 1 2. On or about November 28, 2007, Defendants:
- 2 A. Failed to maintain complete and accurate designated UST
- 3 operator monthly inspection reports regarding alarms in violation of Title 23 of the California
- 4 Code of Regulations, section 2715(c).
- 5 3. On or about November 4, 2008, Defendants:
- 6 A. Failed to test in 2007 the used oil tank top containment
- 7 sump in violation of Title 23 of the California Code of Regulations, section 2635(b);
- 8 B. Failed to maintain monitoring system components and
- 9 devices properly, resulting in leak sensor not functioning properly in violation of Title 23 of the
- 10 California Code of Regulations, sections 2641 and 2632;
- 11 C. Failed to maintain complete and accurate designated UST
- 12 operator monthly inspection reports regarding alarms in violation of Title 23 of the California
- 13 Code of Regulations, section 2715(c);
- 14 D. Failed to maintain used oil tank lids resulting in missing or
- 15 decaying gaskets and missing lid bolts in violation of Health and Safety Code section 25288 and
- 16 Title 23 of the California Code of Regulations, section 2631(d);
- 17 E. Operated without an active hazardous waste EPA
- 18 identification number in violation of Title 22 of the California Code of Regulations, section
- 19 66262.12;
- 20 F. Possessed hazardous waste used oil in excess of the lawful
- 21 accumulation time in violation of Title 22 of the California Code of Regulations, section
- 22 66262.34(c); and,
- 23 D. Failed to properly label hazardous waste container in
- 24 violation of Title 22 of the California Code of Regulations, section 66262.34.
- 25 g. At Defendants' facility located at 7210 Bancroft Avenue, Oakland,
- 26 California, the following unlawful acts and omissions were committed by Defendants:
- 27 1. On or about June 5, 2006, Defendants:

28 / / /

1 A. Failed to monitor secondary containment system for water
2 and diesel mixture intrusion, as required by Health and Safety Code sections 25291(e) and
3 25290.1;

4 B. Failed to keep UST sumps free of liquid, as required by
5 Title 23 of the California Code of Regulations, section 2631(e)(4); and,

6 C. Failed to operate underground storage tank system to
7 prevent spills and/or overfills, as required by Health and Safety Code section 25291(c).

8 2. On or about May 1, 2008, Defendants:

9 A. Failed to provide a copy of the secondary containment
10 system test report to the local agency, as required by Title 23 of the California Code of
11 Regulations, section 2637(e);

12 B. Failed to have a monitoring plan approved by the
13 appropriate local agency or CUPA, as required by Title 23 of the California Code of Regulations,
14 section 2632(b);

15 C. Failed to have a release plan approved by the appropriate
16 local agency or CUPA, as required by Title 23 of the California Code of Regulations, section
17 2632(b);

18 D. Failed to have proof of financial responsibility current on
19 site, as required by Health and Safety Code section 25292.2(a);

20 E. Failed to submit facility and underground storage tank
21 information as required by Title 23 of the California Code of Regulations, section 2711(a);

22 F. Failed to provide monitoring and maintenance records
23 onsite, as required by Title 23 of the California Code of Regulations, section 2712(b); and,

24 G. Failed to operate an underground storage tank system to
25 prevent spills and/or overfills, as required by Health and Safety Code section 25291(c).

26 3. On or about September 2, 2008, Defendants:

27 A. Failed to provide monitoring and maintenance records
28 onsite, as required by Title 23 of the California Code of Regulations, section 2712(b);

1 B. Failed to properly label containers of hazardous waste, as
2 required by Title 22 of the California Code of Regulations, section 66262.32;

3 C. Failed to maintain weekly hazardous waste inspection logs,
4 as required by Title 22 of the California Code of Regulations, section 66265.174; and,

5 D. Disposed of hazardous waste in a place where it was likely
6 to pass into the waters of the State, a violation of Fish & Game Code section 5650(a)(6).

7 h. At Defendants' facility located at 1716 Webster Street, Alameda, California,
8 the following unlawful acts and omissions were committed by Defendants:

9 1. On or about June 18, 2007, Defendants:

10 A. Failed to maintain and possess designated UST operator
11 monthly inspection reports for the months of June 2006 through December 2006 in violation of
12 Title 23 of the California Code of Regulations, section 2715(e);

13 B. Failed to identify the current designated UST operator in
14 violation of Title 23 of the California Code of Regulations, section 2715(a); and,

15 C. Failed to maintain monthly tank test results for the previous
16 12 months in violation of Title 23 of the California Code of Regulations, section 2643.

17 2. On or about June 18, 2008, Defendants:

18 A. Failed to maintain complete designated UST operator
19 monthly inspection reports in violation of Title 23 of the California Code of Regulations, section
20 2715(c).

21 i. At Defendants' facility located at 6401 Dublin Boulevard, Dublin,
22 California, the following unlawful acts and omissions were committed by Defendants:

23 1. On or about June 27, 2007, Defendants:

24 A. Failed to adequately train employees in violation of Title 23
25 of the California Code of Regulations, section 2715(f);

26 B. Failed to maintain and possess designated UST operator
27 monthly inspection reports for the months of February 2007 and March 2007 in violation of Title
28 23 of the California Code of Regulations, section 2715(e);

1 C. Possessed hazardous waste in excess of the lawful
2 accumulation time in violation of Title 22 of the California Code of Regulations, section
3 66262.34(c);

4 D. Failed to properly label hazardous waste container in
5 violation of Title 22 of the California Code of Regulations, section 66262.34;

6 F. Failed to properly maintain hazardous waste container in a
7 closed or sealed condition in violation of Title 22 of the California Code of Regulations, section
8 66265.173(a);

9 G. Failed to properly maintain hazardous waste container in
10 good condition in violation of Title 22 of the California Code of Regulations, section 66265.171;
11 and,

12 H. Failed to maintain hazardous waste manifests onsite in
13 violation of Title 22 of the California Code of Regulations, section 66262.42.

14 2. On or about June 24, 2008, Defendants:

15 A. Failed to adequately train employees in violation of Title 23
16 of the California Code of Regulations, section 2715(f);

17 B. Failed to maintain and possess designated UST operator
18 monthly inspection reports for the month of November 2007 in violation of Title 23 of the
19 California Code of Regulations, section 2715(e); and,

20 C. Failed to notify the local agency of new designated UST
21 operator in Title 23 of the California Code of Regulations, section 2715(a).

22 j. At Defendants' facility located at 2121 Highland Avenue, Manhattan
23 Beach, California, the following unlawful acts and omissions were committed by Defendants:

24 1. On or about December 4, 2007, Defendants:

25 A. Failed to provide proof of adequately and timely training
26 employees in violation of Title 23 of the California Code of Regulations, section 2715(f).

27 2. On or about December 19, 2008, Defendants:

28 / / /

1 A. Failed to certify UST monitoring system on an annual basis
2 as required by Health and Safety Code section 25284 and Title 23 of the California Code of
3 Regulations, section 2630(d); and,

4 B. Failed to have on site a current approved written monitoring
5 and response plan in violation of Title 23 of the California Code of Regulations, section 2712;

6 3. On or about December 16, 2009, Defendants:

7 A. Failed to submit and maintain a current approved written
8 monitoring plan in violation of Title 23 of the California Code of Regulations, section 2712; and,

9 B. Failed to identify the current designated UST operator in
10 violation of Title 23 of the California Code of Regulations, section 2715(a).

11 4. On or about December 14, 2011, Defendants:

12 A. Failed to provide proof of adequately and timely training
13 employees in violation of Title 23 of the California Code of Regulations, section 2715(f).

14 k. At Defendants' facility located at 11000 S. Atlantic Avenue, Lynwood,
15 California, the following unlawful acts and omissions were committed by Defendants:

16 1. On or about July 26, 2007, Defendants:

17 A. Failed to have a Line Leak Detector (LLD) for piping pass
18 testing in violation of Title 23 of the California Code of Regulations, sections 2635 and 2638;

19 B. Failed to have current underground storage tank information
20 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
21 Code of Regulations, section 2711; and,

22 C. Failed to submit an accurate monitoring plan as required by
23 Title 23 of the California Code of Regulations, section 2632(b) and (d);

24 2. On or about July 22, 2008, Defendants:

25 A. Failed to operate tanks with proper leak detection as
26 required by Title 23 of the California Code of Regulations, sections 2636(f) and 2630(d);

27 B. Failed to provide monitoring and maintenance records
28 onsite as required by Title 23 of the California Code of Regulations, section 2712(b);

1 C. Failed to provide proof of adequately and timely training
2 employees in violation of Title 23 of the California Code of Regulations, section 2715(f); and,

3 D. Dispenser turbine sumps contained debris and liquid in
4 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
5 of Regulations, section 2631.

6 3. On or about September 3, 2008, Defendants:

7 A. Failed to have current underground storage tank information
8 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
9 Code of Regulations, section 2711.

10 4. On or about July 17, 2009, Defendants:

11 A. Failed to have operational audio or visual alarms as required
12 by Title 23 of the California Code of Regulations, sections 2632(c)(2)(B); and,

13 B. Failed to keep containment sumps free of debris or liquid, as
14 required by Title 23 of the California Code of Regulations, section 2590.21(c)(3)

15 I. At Defendants' facility located at 9460 Olympic Boulevard, Beverly Hills,
16 California, the following unlawful acts and omissions were committed by Defendants:

17 1. On or about July 26, 2007, Defendants:

18 A. Failed to have current underground storage tank information
19 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
20 Code of Regulations, section 2711.

21 2. On or about September 18, 2007, Defendants:

22 A. Failed to have current underground storage tank information
23 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
24 Code of Regulations, section 2711.

25 3. On or about July 10, 2008, Defendants':

26 A. Dispenser turbine sumps contained debris and liquid in
27 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
28 of Regulations, sections 2631, 2640, 2641 and 2642.

- 1 4. On or about July 9, 2009, Defendants:
- 2 A. Dispenser turbine sumps contained debris and liquid in
- 3 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
- 4 of Regulations, sections 2631, 2640, 2641 and 2642.
- 5 B. Failed to have a Line Leak Detector (LLD) for piping pass
- 6 testing in violation of Title 23 of the California Code of Regulations, sections 2641 and 2643;
- 7 C. The Certificate of Financial Responsibility was not current
- 8 as required Health and Safety Code section 25292.2 and Title 23 of the California Code of
- 9 Regulations, section 2711(11);
- 10 D. Failed to submit and maintain a current approved release
- 11 response plan in violation of Title 23 of the California Code of Regulations, section 2632(d);
- 12 E. Failed to identify the current designated UST operator in
- 13 violation of Title 23 of the California Code of Regulations, section 2715(a); and,
- 14 F. Failed to have current underground storage tank information
- 15 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
- 16 Code of Regulations, section 2711.
- 17 m. At Defendants' facility located at 4502 E. Rosecrans, Compton, California,
- 18 the following unlawful acts and omissions were committed by Defendants:
- 19 1. On or about August 10, 2007, Defendants:
- 20 A. Failed to operate tanks with proper leak detection as
- 21 required by Title 23 of the California Code of Regulations, sections 2636(f) and 2630(d);
- 22 B. Failed to identify the current designated UST operator in
- 23 violation of Title 23 of the California Code of Regulations, section 2715(a); and,
- 24 C. Failed to have current underground storage tank information
- 25 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
- 26 Code of Regulations, section 2711.
- 27 2. On or about August 7 and September 2, 2008, Defendants:
- 28 / / /

1 A. Failed to have maintenance and monitoring records
2 available at their station sites in violation of Health and Safety Code section 25299(a)(2), and
3 Title 23 of the California Code of Regulations, section 2712(b); and,

4 B. Failed to have current underground storage tank information
5 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
6 Code of Regulations, section 2711.

7 3. On or about August 11, 2009, Defendants:

8 A. Failed to have proof of financial responsibility current on
9 site as required by Health and Safety Code sections 25292.2 and 25299.3; and,

10 B. Failed to certify their continuous monitoring systems
11 annually in violation of Health and Safety Code section 25284.2, and Title 23 of the California
12 Code of Regulations, section 2638.

13 4. On or about August 17, 2010, Defendants:

14 A. Failed to certify UST monitoring systems in violation of
15 Health and Safety Code section 25284.1, and Title 23 of the California Code of Regulations,
16 sections 2630(d) and 2641;

17 B. Failed to certify Line Leak Detectors (LLD) for piping in
18 violation of Title 23 of the California Code of Regulations, sections 2641 and 2643; and,

19 C. Failed to provide a copy of the secondary containment
20 system test report to the local agency, as required by Title 23 of the California Code of
21 Regulations, section 2637(e).

22 n. At Defendants' facility located at 15003 Imperial Highway, La Mirada,
23 California, the following unlawful acts and omissions were committed by Defendants:

24 1. On or about September 7, 2007, Defendants:

25 A. Failed to provide a copy of the secondary containment
26 system test report to the local agency, as required by Title 23 of the California Code of
27 Regulations, section 2637(e).

28 2. On or about September 9, 2008, and October 3, 2009, Defendants:

1 A. Failed to provide proof of adequately training employees in
2 violation of Title 23 of the California Code of Regulations, section 2715(f);

3 o. At Defendants' facility located at 105 S. Vincent Avenue, West Covina,
4 California, the following unlawful acts and omissions were committed by Defendants:

5 1. On or about July 11, 2007, Defendants:

6 A. Failed to monitor a single-wall UST system in violation of
7 Title 23 of the California Code of Regulations, sections 2640, 2641 and 2643;

8 B. Failed to have Line Leak Detector (LLD) for piping pass
9 tests in violation of Title 23 of the California Code of Regulations, sections 2641 and 2643; and,

10 C. Failed to have current underground storage tank information
11 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
12 Code of Regulations, section 2711.

13 2. On or about September 6 and 28, 2007, Defendants:

14 A. Failed to have maintenance and monitoring records
15 available at their station sites in violation of Health and Safety Code section 25299(a)(2), and
16 Title 23 of the California Code of Regulations, section 2712(b).

17 3. On or about April 3, 2009, and July 15, 2009, Defendants:

18 A. Failed to provide proof of adequately training employees in
19 violation of Title 23 of the California Code of Regulations, section 2715(f).

20 p. At Defendants' facility located at 551 Sunset Avenue, La Puente,
21 California, the following unlawful acts and omissions were committed by Defendants:

22 1. On or about June 29, 2009, Defendants:

23 A. Failed to have a current approved written monitoring and
24 response plan in violation of Title 23 of the California Code of Regulations, section 2712; and,

25 B. Failed to have current underground storage tank information
26 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
27 Code of Regulations, section 2712.

28 2. On or about March 11, 2011, Defendants:

1 A. Failed to provide a copy of the secondary containment
2 system test report to the local agency, as required by Title 23 of the California Code of
3 Regulations, section 2637(e);

4 B. Failed to provide proof of financial responsibility as
5 required by Health and Safety Code sections 25292.2 and 25299.3;

6 C. Failed to identify the current designated UST operator in
7 violation of Title 23 of the California Code of Regulations, section 2715(a); and,

8 D. Failed to have current underground storage tank information
9 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
10 Code of Regulations, section 2711.

11 3. On or about March 29, 2011, Defendants:

12 A. Failed secondary containment system components were not
13 repaired, as required by Title 23 of the California Code of Regulations, section 2637; and,

14 B. Failed to have current underground storage tank information
15 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
16 Code of Regulations, section 2711.

17 q. At Defendants' facility located at 1696 Azusa Avenue, City of Industry,
18 California, the following unlawful acts and omissions were committed by Defendants:

19 1. On or about January 29, 2007, Defendants:

20 A. Failed to provide proof of adequately and timely training
21 employees in violation of Title 23 of the California Code of Regulations, section 2715(f).

22 2. On or about June 6, 2007, Defendants:

23 A. Failed to have leak line detectors installed and functioning
24 properly as required by Title 23 of the California Code of Regulations, sections 2636(f)(2) and
25 2641(f);

26 B. Failed secondary containment system components were not
27 repaired, as required by Title 23 of the California Code of Regulations, section 2637;

28 / / /

1 C. Failed to provide proof of financial responsibility as
2 required by Health and Safety Code sections 25292.2 and 25299.3; and,

3 D. Dispenser turbine sumps contained debris and liquid in
4 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
5 of Regulations, sections 2631, 2640, 2641 and 2643.

6 3. On or about August 10, 2007, Defendants:

7 A. Failed secondary containment system components were not
8 repaired, as required by Title 23 of the California Code of Regulations, section 2637; and,

9 B. Failed to provide proof of financial responsibility as
10 required by Health and Safety Code sections 25292.2 and 25299.3.

11 4. On or about July 24, 2008, Defendants:

12 A. Dispenser turbine sumps contained debris and liquid in
13 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
14 of Regulations, sections 2631, 2640, 2641 and 2643.

15 r. At Defendants' facility located at 28203 Dorothy Drive, Agoura,
16 California, the following unlawful acts and omissions were committed by Defendants:

17 1. On or about April 10, 2009, Defendants:

18 A. Failed to have leak line detectors installed and functioning
19 properly as required by Title 23 of the California Code of Regulations, sections 2636 and 2641;

20 B. Failed to provide proof of financial responsibility as
21 required by Health and Safety Code sections 25292.2 and 25299.3; and,

22 C. Failed to provide proof of adequately and timely training
23 employees in violation of Title 23 of the California Code of Regulations, section 2715(f).

24 2. On or about July 16 and July 24, 2009, Defendants:

25 A. Failed to certify their continuous monitoring systems
26 annually in violation of Health and Safety Code section 25284.2, and Title 23 of the California
27 Code of Regulations, section 2638;

28 / / /

1 B. Failed to have Line Leak Detector (LLD) system certified
2 in violation of Title 23 of the California Code of Regulations, sections 2641 and 2643; and,

3 C. Failed to have overspill containment pass annual test as
4 required by Health and Safety Code section 25284.2.

5 s. At Defendants' facility located at 12806 S. Prairie, Hawthorne, California,
6 the following unlawful acts and omissions were committed by Defendants:

7 1. On or about June 14, 2007, Defendants':

8 A. Dispenser turbine sumps contained debris and liquid in
9 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
10 of Regulations, sections 2631, 2640, 2641 and 2643.

11 2. On or about June 30, 2008, Defendants:

12 A. Failed to have maintenance and monitoring records
13 available at their station sites in violation of Health and Safety Code section 25299(a)(2), and
14 Title 23 of the California Code of Regulations, section 2712(b);

15 B. Failed to have Line Leak Detector (LLD) system certified
16 in violation of Title 23 of the California Code of Regulations, sections 2641 and 2643; and,

17 C. Failed to have overspill containment pass annual test as
18 required by Health and Safety Code section 25284.2; and,

19 D. Failed to have current underground storage tank information
20 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
21 Code of Regulations, section 2711.

22 3. On or about October 21, 2008, Defendants':

23 A. Dispenser turbine sumps contained debris and liquid in
24 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
25 of Regulations, sections 2631, 2640, 2641 and 2643; and,

26 B. Failed to have current underground storage tank information
27 forms on file with the appropriate local agency or CUPA in violation of Title 23 of the California
28 Code of Regulations, section 2711.

1 t. At Defendants' facility located at 1411 V Street, Merced, California, the
2 following unlawful acts and omissions were committed by Defendants:

3 1. On or about October 26, 2007, Defendants':

4 A. UST system piping serving the two eastern fuel dispensers
5 was leaking in violation of Title 23 of the California Code of Regulations, section 2643;

6 B. Failed to respond to two leaks that were identified on the
7 fuel dispensers in violation of Title 23 of the California Code of Regulations, section 2643;

8 2. On or about August 19, 2008, Defendants:

9 A. The Line Leak Detector (LLD) for the 91 Octane piping
10 failed testing in violation of Title 23 of the California Code of Regulations, section 2643;

11 B. The Line Leak Detector (LLD) for the Diesel piping failed
12 testing in violation of Title 23 of the California Code of Regulations, section 2643;

13 C. The Certificate of Financial Responsibility was not current
14 as required Health and Safety Code section 25292.2 and Title 23 of the California Code of
15 Regulations, section 2711(11);

16 D. Dispenser turbine sumps contained debris and liquid in
17 violation of Health and Safety Code sections 25288, 25290.2, and Title 23 of the California Code
18 of Regulations, section 2631.

19 u. At Defendants' facility located at 1600 Fremont Blvd., Seaside, California,
20 the following unlawful acts and omissions were committed by Defendants:

21 1. On or about October 26, 2007, Defendants:

22 A. Failed to have proper Forms A and B present at the facility
23 in violation of Health and Safety Code section 25286;

24 B. Failed to have an approved monitoring plan in violation of
25 Title 23 of the California Code of Regulations, sections 2632(h), 2634(d) and 2711(a)(9); and,

26 C. Failed to maintain its spill container in good condition and
27 liquid-free in violation of Title 23 of the California Code of Regulations, section 2635(b)(2);

28 / / /

1 2. On or about May 19, 2008, Defendants:

2 A. The facility failed to have proper Forms A and B present at

3 the facility in violation of Health and Safety Code section 25286;

4 B. The facility did not have an approved monitoring plan in

5 violation of Title 23 of the California Code of Regulations, sections 2632(h), 2634(d) and

6 2711(a)(9);

7 3. On or about April 14, 2009, Defendants:

8 A. Failed to have an approved monitoring plan in violation of

9 Title 23 of the California Code of Regulations, sections 2632(h), 2634(d) and 2711(a)(9).

10 v. At Defendants' facility located at 2325 Sunset Blvd., Rocklin, California,

11 the following unlawful acts and omissions were committed by Defendants:

12 1. On or about June 7, 2007, Defendants:

13 A. Defendants maintained a 55 gallon drum with the cap

14 removed in violation of Title 22 of the California Code of Regulations, section 66265.173.

15 B. Defendants failed, refused and neglected to possess and

16 maintain on site hazardous waste disposal documents for a 3 year period prior to June 7, 2007, in

17 violation of Title 22 of the California Code of Regulations, section 66262.42.

18 w. At Defendants' facility located at 1702 Mentone Boulevard, Mentone,

19 California, the following unlawful acts and omissions were committed by Defendants:

20 1. On or about April 19, 2007, Defendants:

21 A. Failed to maintain Form A & B permits current on site, as

22 required by Health and Safety Code section 25286(a);

23 B. Failed to have proof of financial responsibility current on

24 site, as required by Health and Safety Code section 25292.2(a);

25 C. Failed to submit a new and accurate monitoring plan, as

26 required by Title 23 of the California Code of Regulations, section 2632(b) and (d);

27 D. Failed to submit an updated business plan, as required by

28 Health and Safety Code section 25505;

1 E. Failed to have operational audio or visual alarms, as
2 required by Title 23 of the California Code of Regulations, sections 2632(c)(2)(B) and 2638(f)(1);

3 F. Failed to keep containment sumps free of debris or liquid, as
4 required by Title 23 of the California Code of Regulations, section 2590.21(c)(3); and,

5 G. Failed to operate Underground Storage Tanks in manner to
6 prevent unauthorized releases, as required by Health and Safety Code section 25292.1(a).

7 2. On or about March 15, 2008, Defendants:

8 A. Failed to submit corrected secondary containment test
9 results in violation of Title 23 of the California Code of Regulations, section 2637.

10 x. At Defendants' facility located at 3008 N. E Street, San Bernardino,
11 California, the following unlawful acts and omissions were committed by Defendants:

12 1. On or about June 5, 2006, Defendants:

13 A. Failed to maintain Form A & B permits current on site as
14 required by Health and Safety Code section 25286(a);

15 B. Failed to submit a new and accurate monitoring plan as
16 required by Title 23 of the California Code of Regulations, section 2632(b) and (d);

17 C. Failed to correct prior Underground Storage Tank violations
18 within 30 days as required by Title 23 of the California Code of Regulations, section 2712(f);

19 D. Failed to have leak line detectors installed and functioning
20 properly as required by Title 23 of the California Code of Regulations, sections 2636(f)(2) and
21 2641(f);

22 E. Failed to have overspill containment pass annual test as
23 required by Health and Safety Code section 25284.2.

24 F. Failed to operate underground storage tank system to
25 prevent spills and/or overfills as required by Health and Safety Code section 25291(c).

26 y. At Defendants' facility located at 920 W. Bloomington, Rialto, California,
27 the following unlawful acts and omissions were committed by Defendants:

28 1. On or about October 11, 2007, Defendants:

1 A. Failed to have proof of financial responsibility current on
2 site as required by Health and Safety Code section 25292.2(a);

3 B. Failed to maintain Form A & B permits current on site as
4 required by Health and Safety Code section 25286(a);

5 C. Failed to maintain Owner/Operator agreement available as
6 required by Health and Safety Code section 25284(a)(3);

7 D. Failed to submit a new and accurate monitoring plan as
8 required by Title 23 of the California Code of Regulations, section 2632(b) and (d);

9 E. Failed to have monthly inspections properly completed by a
10 designated operator as required by Title 22 of the California Code of Regulations, section
11 2715(c);

12 F. Failed to operate tanks with proper leak detection as
13 required by Health and Safety Code section 25299(f)(2); and

14 G. Failed to keep containment sumps free of debris as required
15 by Title 22 of the California Code of Regulations, section 2590.21(c)(3);

16 2. On or about March 15, 2008, Defendants:

17 A. Failed to properly repair and report results of secondary
18 containment tests as required by Title 23 of the California Code of Regulations, section 2637;

19 3. On or about June 18, 2008, Defendants:

20 A. Failed to properly correct prior UST violations and failed to
21 properly test secondary containment system components as required by Title 23 of the California
22 Code of Regulations, section 2712(f) and 2637(a);

23 4. On or about June 11, 2010, Defendants:

24 A. Failed to submit an updated business plan as required by
25 Health and Safety Code section 25505; and

26 B. Failed to keep containment sumps free of debris or liquid as
27 required by Title 23 of the California Code of Regulations, section 2590.21(c)(3).

28 / / /

1 **WHEREFORE, PLAINTIFF PRAYS FOR THE FOLLOWING RELIEF:**

2 1. A Permanent Injunction requiring Defendants to comply with the requirements
3 of California Health and Safety Code, Division 20, Chapter 6.5;

4 2. A Permanent Injunction requiring Defendants to comply with the requirements
5 of California Health and Safety Code, Division 20, Chapter 6.7;

6 3. A Permanent Injunction requiring Defendants to comply with the requirements
7 of California Health and Safety Code, Division 20, Chapter 6.95;

8 4. A Permanent Injunction prohibiting Defendants from engaging in activity that
9 violates Chapters 6.5, 6.7, and 6.95 of Division 20 of the California Health and Safety Code,
10 which would thereby constitute unfair competition within the meaning of California Business and
11 Professions Code Section 17200;

12 5. Civil penalties according to proof against each Defendant pursuant to California
13 Health and Safety Code section 25299, subdivision (a), for each violation of the provisions of
14 Chapter 6.7 of the Health & Safety Code and its implementing regulations;

15 6. Civil penalties according to proof against each Defendant pursuant to California
16 Health and Safety Code section 25299, subdivision (b), for each violation of the provisions of
17 Chapter 6.7 of the Health & Safety Code and its implementing regulations;

18 7. Civil penalties according to proof against each Defendant pursuant to California
19 Health and Safety Code section 25189, subdivision (b), for each intentional or negligent violation
20 of the provisions of Chapter 6.5 of the Health and Safety Code and its implementing regulations;

21 8. Civil penalties according to proof against each Defendant pursuant to California
22 Health and Safety Code section 25189.2, subdivision (b), for each strict liability violation of the
23 provisions of Chapter 6.5 of the Health and Safety Code and its implementing regulations;

24 9. Civil penalties according to proof against each Defendant pursuant to California
25 Health and Safety Code section 25514, subdivision (b), for each knowing violation of the
26 provisions of Chapter 6.95 of the Health and Safety Code and its implementing regulations;

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28 / / /

1 10. Civil penalties according to proof against each Defendant pursuant to California
2 Health and Safety Code section 25514, subdivision (a), for each strict liability violation of the
3 provisions of Chapter 6.95 of the Health and Safety Code and its implementing regulations;

4 11. Civil penalties according to proof against each Defendant pursuant to California
5 Business and Professions Code section 17206 for each act of unfair competition engaged in by
6 each Defendant;

7 12. Grant the Plaintiff its cost of inspection, investigation, attorney's fees,
8 enforcement, prosecution, and suit, herein, as provided by law;

9 13. Grant such other and further relief as the Court deems just and proper.

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12 Dated: December 28, 2012

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California

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DEBORAH R. HALBERSTADT
Deputy Attorney General
Attorney for Plaintiff
People of the State of California

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20
21 Dated: December 28, 2012

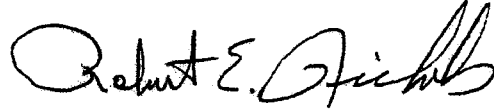
NANCY O'MALLEY
District Attorney of Alameda County

22
23 

KENNETH A. MIFSUD
Senior Deputy District Attorney
Attorneys for Plaintiff
The People of the State of California

1 Dated: December 28, 2012

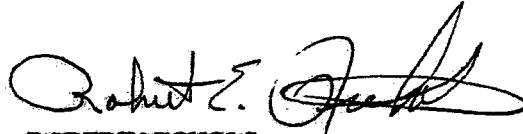
VERN PIERSON
District Attorney of El Dorado County

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4 

5 ROBERT NICHOLS
6 Deputy District Attorney
7 Attorneys for Plaintiff
8 The People of the State of California

9
10 Dated: December 28, 2012

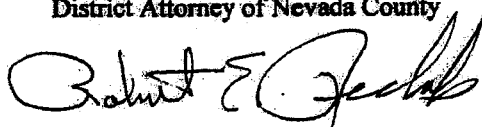
LARRY MORSE, II
District Attorney of Merced County

11 

12 ROBERT NICHOLS
13 Deputy District Attorney
14 Attorneys for Plaintiff
15 The People of the State of California

16 Dated: December 28, 2012

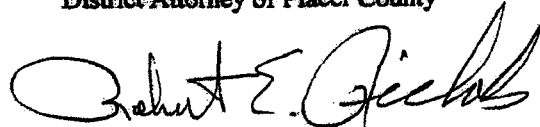
CLIFFORD NEWELL
District Attorney of Nevada County

17 

18 ROBERT NICHOLS
19 Deputy District Attorney
20 Attorneys for Plaintiff
21 The People of the State of California

22 Dated: December 28, 2012

R. SCOTT OWENS
District Attorney of Placer County

23 

24 ROBERT NICHOLS
25 Deputy District Attorney
26 Attorneys for Plaintiff
27 The People of the State of California

1 Dated: December 31st, 2012:

MICHAEL A. RAMOS
District Attorney of San Bernardino County



DANIEL I. SILVERMAN
Deputy District Attorney
Attorneys for Plaintiff
The People of the State of California

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9 Dated: December _____, 2012:

BIRGIT FLADAGER
District Attorney of Stanislaus County

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11
12
13 ROBERT NICHOLS
Deputy District Attorney
Attorneys for Plaintiff
The People of the State of California
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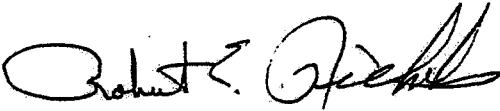
Dated: December _____, 2012:

MICHAEL A. RAMOS
District Attorney of San Bernardino County

DANIEL I. SILVERMAN
Deputy District Attorney
Attorneys for Plaintiff
The People of the State of California

Dated: December 28, 2012:

BIRGIT FLADAGER
District Attorney of Stanislaus County



ROBERT NICHOLS
Deputy District Attorney
Attorneys for Plaintiff
The People of the State of California