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People of the State of California *ex rel.* Edmund G.
Brown Jr., Attorney General of the State of
11 California

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF RIVERSIDE
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17 **PEOPLE OF THE STATE OF**
CALIFORNIA,
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19 Plaintiff,
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21 **TRAVELCENTERS OF AMERICA LLC,**
ET AL.,
22
23 Defendants.

Case No.: RIC 503258

COMPLAINT IN INTERVENTION

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25 PLAINTIFF IN INTERVENTION, PEOPLE OF THE STATE OF CALIFORNIA *ex rel* Edmund
26 G. Brown Jr., Attorney General of the State of California (“Plaintiff in Intervention”), is informed
27 and believes, and based thereon, alleges as follows:
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PLAINTIFF IN INTERVENTION

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2 1. Under Government Code section 12511, the Attorney General has charge of all
3 legal matters in which the State is involved. The Attorney General also has the express power to
4 protect the environment and natural resources of the State of California pursuant to Government
5 Code section 12600. Pursuant to Government Code section 12606, the Attorney General has an
6 unconditional right to intervene in any judicial or administrative proceeding in which facts are
7 alleged concerning adverse environmental effects which could affect the public generally, such as
8 in this action.

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

13 3. Chapter 6.5 was promulgated to protect the public health and the environment and
14 to conserve natural resources by establishing regulations and incentives to ensure that the
15 generators of hazardous waste employ technology and management practices for the safe
16 handling, treatment, recycling, and disposal of hazardous wastes.

17 4. Pursuant to California Health and Safety Code section 25299 *et seq.*, the Attorney
18 General may bring an action for civil penalties and injunctive relief in the name of the People of
19 the State of California for violations of Chapter 6.7 of Division 20 of the California Health and
20 Safety Code ("Chapter 6.7").

21 5. Chapter 6.7 was promulgated to protect the environment and the public health and
22 safety by requiring that underground storage tanks be properly maintained, inspected, tested, and
23 upgraded.

24 6. Pursuant to California Health and Safety Code section 25516, the Attorney
25 General may bring an action to enjoin a violation of Chapter 6.95 of Division 20 of the California
26 Health and Safety Code ("Chapter 6.95"). Pursuant to the California Health and Safety Code
27 sections 25514 and 25516.1, the Attorney General may bring an action for civil penalties for
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1 violations of California Health and Safety Code sections 25503.5 to 25505, inclusive, and
2 sections 25508 to 25520, inclusive.

3 7. Chapter 6.95 was promulgated in order to prevent or mitigate the damage to the
4 health and safety of the public and the environment from the release of hazardous materials into
5 the workplace and environment. In enacting Chapter 6.95, the California Legislature declared
6 that in order to protect the public health and safety and the environment, it was necessary to
7 establish business and area plans relating to the handling and release or threatened release of
8 hazardous materials.

9 8. Pursuant to California Business and Professions Code sections 17203, 17204, and
10 17206, the Attorney General may bring an action in the name of the People of the State of
11 California for an injunction against any person who engages, had engaged, or proposes to engage
12 in unfair and/or unlawful competition and for civil penalties for each act of unfair and/or unlawful
13 competition.

14 9. The Attorney General brings this action without prejudice to any other action or
15 claims which it may have based on separate, independent, and unrelated violations of Chapters
16 6.5, 6.7, or 6.95 of Division 20 of the California Health and Safety Code or Business and
17 Professions Codes section 17200 *et seq.* by the defendants and/or on facts which are not alleged
18 in this Complaint in Intervention.

19 **DEFENDANTS**

20 10. Defendants TravelCenters of America LLC, TravelCenters of America Holding
21 Company LLC, TA Operating LLC, TravelCenters of America, Inc., and TA Operating
22 Corporation, (collectively hereinafter "TravelCenters" or "defendants") are foreign business
23 entities which currently do or have done business within the State of California during the period
24 of time applicable to this lawsuit. During the period of time at issue in this lawsuit, TravelCenters
25 owned and/or operated the underground tank systems at a facility located at 46-155 Dillon Road
26 in Coachella, CA (hereinafter "the Facility") that were used to store motor vehicle fuel, including
27 gasoline and diesel, for retail sale. TravelCenters of America LLC, TravelCenters of America
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1 Holding Company LLC, and TA Operating LLC currently own and/or operate the underground
2 tank systems at the Facility that are used to store motor vehicle fuel, including gasoline and diesel
3 for retail sale. TravelCenters of America, Inc., and TA Operating Corporation are former owners
4 and/or operators of underground tank systems at the Facility that were used to store motor vehicle
5 fuel including gasoline and diesel, for retail sale.

6 11. TravelCenters is, or at all times relevant to the claims in this Complaint in
7 Intervention was, legally responsible for compliance with the provisions of the California Health
8 and Safety Code including Chapters 6.5, 6.7, and 6.95 of Division 20 at the Facility.

9 12. When, in this Complaint in Intervention, reference is made to any act of the
10 defendants, such allegations shall be deemed to mean that the officers, directors, agents,
11 employees, or representatives of said defendants did, or authorized such acts, or failed to
12 adequately or properly supervise, control, or direct their employees and agents while engaged in
13 the management, direction, operation, or control of the affairs of said business organization, and
14 did so while acting in the scope of their employment or agency.

15 13. The names and capacities, whether individual, corporate or otherwise of
16 defendants named herein as Does 1 through 50, inclusive, are unknown at this time to Plaintiff in
17 Intervention, who therefore sues said defendants by such fictitious names and Plaintiff in
18 Intervention will amend this Complaint in Intervention to show their true names and capacities
19 when the same have been ascertained.

20 **ALTER-EGO, AGENTS, AIDERS, ABETTORS, AND CO-CONSPIRATORS**

21 14. At all times mentioned herein, a unity of interest and ownership existed among
22 defendants TravelCenters of America LLC, TravelCenters of America Holding Company LLC,
23 TA Operating LLC, TravelCenters of America, Inc., and TA Operating Corporation, such that the
24 separateness of these defendants from each other never existed.

25 15. Defendants at all relevant times, acted as the principal, agent, or representative of
26 each of the other defendants, and in doing the acts alleged, each defendant was acting within the
27 course and scope of the agency relationship with each of the other defendants.
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- 1 d. Failed to maintain documentation of training of employees in violation of
2 California Code of Regulations, Title 22, section 66265.16.
- 3 e. Failed to have an evacuation plan for the Facility in violation of California Code of
4 Regulations, Title 22, section 66265.51.
- 5 f. Failed to have a Contingency Plan on site at the Facility in violation of California
6 Code of Regulations, Title 22, section 66265.53.
- 7 g. Failed to identify an emergency coordinator in violation of California Code of
8 Regulations, Title 22, section 66265.55.
- 9 h. Failed to comply with emergency procedures for the Facility in violation of
10 California Code of Regulations, Title 22, section 66265.56.
- 11 i. Failed to inspect container storage areas in violation of California Code of
12 Regulations, Title 22, section 66265.174.
- 13 j. Failed to store incompatible wastes in separate containers in violation of California
14 Code of Regulations, Title 22, section 66265.177.
- 15 k. Failed to have adequate containment and detection equipment in violation of
16 California Code of Regulations, Title 22, section 66265.193.
- 17 l. Failed to properly operate above ground storage tanks in violation of California
18 Code of Regulations, Title 22, section 66265.194.
- 19 m. Failed to inspect above ground storage tanks in violation of California Code of
20 Regulations, Title 22, section 66265.195.
- 21 n. Failed to have required equipment in violation of California Code of Regulations,
22 Title 22, section 66265.32.
- 23 o. Failed to properly handle used batteries in violation of California Code of
24 Regulations, Title 22, section 66266.81.
- 25 p. Failed to properly handle used oil filters in violation of California Code of
26 Regulations, Title 22, section 66266.130.
- 27 q. Failed to properly handle used oil in violation of Health and Safety Code section
28 25250.4.

1 r. Failed to have a spill control plan in violation of Health and Safety Code section
2 25270.5.

3 21. Plaintiff in Intervention is informed and believes and thereupon alleges that
4 TravelCenters has violated the California Health and Safety Code, including Chapter 6.7 of
5 Division 20, and Business and Professions Codes section 17200 at the Facility. TravelCenters'
6 violations include, but are not limited to, the following representative actions:

7 a. Improperly raised, altered the position of, tampered with, disabled, or otherwise
8 rendered nonfunctional sensors in spill boxes, under dispenser containment, or sumps,
9 which prevented the sensors from providing continuous monitoring for leak detection in
10 violation of California Code of Regulations, Title 23, section 2636(f)(1).

11 b. Improperly raised, altered the position of, tampered with, disabled, or otherwise
12 rendered nonfunctional the sensors in spill boxes, under dispenser containment or sumps
13 so that the sensors were unable to detect a leak at the earliest possible opportunity in
14 violation of California Code of Regulations, Title 23, sections 2630(d).

15 c. Failed to maintain evidence of financial responsibility for taking corrective action
16 and for compensating third parties as required by California Health and Safety Code
17 section 25292.2.

18 d. Failed to promptly remove accumulated liquid or debris from the secondary
19 containment system in violation of the maintenance and operating requirements contained
20 in California Code of Regulations, Title 23, sections 2630(d), 2631(d)(4), 2632(d)(2), and
21 2635(c)(6).

22 e. Failed to ensure that a qualified designated underground storage tank operator
23 conducted employee training as required by California Code of Regulations, Title 23,
24 section 2715(f).

25 f. Failed to ensure that a qualified designated underground storage tank operator
26 performed a visual inspection of every underground storage tank system every month as
27 required by California Code of Regulations, Title 23, section 2715(b).

28 g. Failed to maintain monitoring equipment in proper condition as required by

1 California Code of Regulations, Title 23, section 2638(a).

2 h. Failed to have an operational audible/visual alarm system connected for
3 continuous monitoring in violation of California Code of Regulations, Title 23, sections
4 2632(c)(2)(B) and 2636(f)(1).

5 i. Failed to maintain monitoring and maintenance records in violation of California
6 Code of Regulations, Title 23, section 2712(b).

7 j. Failed to have their monitoring plan approved by the Riverside County
8 Department of Environmental Health as required in California Code of Regulations, Title
9 23, section 2632(b).

10 k. Failed to retain at the Facility, a current unauthorized release response plan as
11 required by California Code of Regulations, Title 23, section 2632(c)(2)(D)(2).

12 l. Failed to conduct annual certification of monitoring equipment as required by
13 California Code of Regulations, Title 23, section 2638.

14 m. Failed to conduct annual pipeline integrity tests as required by California Code of
15 Regulations, Title 23, section 2636(f)(4).

16 n. Failed to conduct annual line leak detector tests as required by California Code of
17 Regulations, Title 23, section 2637(b).

18 o. Failed to retain at the Facility, a permit issued by the local agency to operate a
19 underground storage tank as required by California Code of Regulations, Title 23, section
20 2712(i).

21 p. Failed to have under dispenser containment as required by California Code of
22 Regulations, Title 23, section 2636(h)(1).

23 q. Failed to ensure that test boots at turbine sumps, transition sumps, and piping
24 sumps are properly placed so that piping drains to a monitored sump as required by
25 California Code of Regulations, Title 23, sections 2631 and 2636.

26 22. Plaintiff in Intervention is informed and believes and thereupon alleges that
27 TravelCenters has violated the California Health and Safety Code, including Chapter 6.95 of
28 Division 20, and Business and Professions Codes section 17200 at the Facility. TravelCenters'

1 violations include, but are not limited to, the following representative actions:

- 2 a. Failed to post hazardous material storage signs in violation of Health and Safety
3 Code section 25503.5.
- 4 b. Failed to have emergency response plans and procedures in place in violation of
5 Health and Safety Code section 25504(b).
- 6 c. Failed to document employee training in violation of Health and Safety Code
7 section 25504(c).
- 8 d. Failed to have a hazardous materials business plan at the Facility in violation of
9 Health and Safety Code section 25505(e)(1).
- 10 e. Had an incomplete chemical inventory in violation of Health and Safety Code
11 section 25509(a).
- 12 f. Failed to have a facility map and/or sufficient information about the location of
13 hazardous materials in violation of in violation of Health and Safety Code section
14 25509(a)(5).
- 15 g. Failed to post emergency telephone numbers in violation of Health and Safety
16 Code section 25507(a)(7).

17 **FIRST CAUSE OF ACTION**

18 **(Intentional Violations of Hazardous Waste Control Laws)**

19 23. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1
20 through 22, inclusive, as if fully set forth here.

21 24. Defendants are liable for civil penalties as set forth in California Health and Safety
22 Code section 25189(b) for each intentional violation of any provision of Chapter 6.5 of the
23 California Health and Safety Code and any permit, rule, regulation, standard, or requirement
24 issued or promulgated pursuant thereto which occurred within five years after the discovery of the
25 facts constituting grounds for commencing the action on these claims.

26 25. Defendants must be immediately and permanently enjoined from further violations
27 of Chapter 6.5.

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SECOND CAUSE OF ACTION
(Negligent Violations of Hazardous Waste Control Laws)

26. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1 through 22, inclusive, as if fully set forth here.

27. Defendants are liable for civil penalties as set forth in California Health and Safety Code section 25189(b) for each negligent violation of any provision of Chapter 6.5 of the California Health and Safety Code and any permit, rule, regulation, standard, or requirement issued or promulgated pursuant thereto which occurred within five years after the discovery of the facts constituting grounds for commencing the action on these claims.

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

THIRD CAUSE OF ACTION
(Strict Liability for Violations of Hazardous Waste Control Laws)

29. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1 through 22, inclusive, as if fully set forth here.

30. Defendants are strictly liable for civil penalties as set forth in California Health and Safety Code section 25189.2(b) for each violation of any provision of Chapter 6.5 of the California Health and Safety Code and any permit, rule, regulation, standard, or requirement issued or promulgated pursuant thereto which occurred within five years after the discovery of the facts constituting grounds for commencing the action on these claims.

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

FOURTH CAUSE OF ACTION
(Strict Liability for violations of Underground Storage Tank Laws)

32. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1 through 22, inclusive, as if fully set forth here.

33. Defendants are strictly liable for civil penalties as set forth in California Health and Safety Code section 25299 for each violation of the rules, regulations, standards, or

1 requirements applicable to each underground storage tank as set forth above which occurred
2 within five years after discovery of the facts constituting grounds for commencing the action on
3 these claims.

4 34. Defendants must be immediately and permanently enjoined from further
5 violations of Chapter 6.7.

6 **FIFTH CAUSE OF ACTION**
7 **(Violations of Hazardous Materials Release Response Plans and Inventory Laws)**

8 35. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1
9 through 22, inclusive, as if fully set forth here.

10 36. Defendants are strictly liable for civil penalties as set forth in California Health
11 and Safety Code section 25514 for each violation of California Health and Safety Code sections
12 25503.5 to 25505 and 25508 to 25520, inclusive, as set forth above.

13 37. Defendants must be immediately and permanently enjoined from further violations
14 of Chapter 6.95.

15 **SIXTH CAUSE OF ACTION**
16 **(Violations of Unfair Competition Laws)**

17 38. Plaintiff in Intervention realleges and incorporates by reference Paragraphs 1
18 through 37, inclusive, as if fully set forth here.

19 39. By the acts described herein, engaged in daily acts of unlawful and/or unfair
20 competition prohibited by California Business and Professions Code sections 17200-17208. Each
21 act constitutes an unlawful and/or unfair business practice.

22 40. Pursuant to California Business and Professions Code section 17206, defendants
23 are strictly liable for civil penalties for each violation that accrued within four years of this
24 complaint.

25 41. Defendants must be immediately and permanently enjoined from engaging in
26 activities that, as alleged in this Complaint, violate Chapters 6.5, 6.7, and 6.95 of Division 20 of
27 the California Health and Safety Code, and local ordinances, and which thereby constitute unfair
28 competition within the meaning of California Business and Professions Code section 17200.

PRAYER

WHEREFORE, Plaintiff in Intervention prays for judgment as follows:

1. Civil penalties according to proof against TravelCenters, pursuant to California Health and Safety Code section 25189(b), at the statutory maximum of twenty-five thousand dollars (\$25,000) for each day of each violation;
2. Civil penalties according to proof against TravelCenters, pursuant to California Health and Safety Code section 25189.2(b), at the statutory maximum of twenty-five thousand dollars (\$25,000) for each day of each violation;
3. Civil penalties according to proof against TravelCenters pursuant to California Health and Safety Code section 25299 at the statutory maximum of five thousand dollars (\$5,000) for each underground storage tank system violation for each day of each violation;
4. Civil penalties according to proof against TravelCenters pursuant to California Health and Safety Code section 25514 at the statutory maximum of five thousand dollars (\$5,000) for each day of each violation;
5. Civil penalties according to proof against TravelCenters pursuant to California Business and Professions Code section 17206 at the statutory maximum of two thousand five hundred dollars (\$2,500) for each violation of Business and Professions Code section 17200;
6. A permanent injunction requiring TravelCenters to comply with those provisions of California Health and Safety Code, Division 20, Chapter 6.5 as alleged in the Complaint in Intervention;
7. A permanent injunction requiring TravelCenters to comply with the specific requirements of California Health and Safety Code, Division 20, Chapter 6.7 as alleged in the Complaint in Intervention;
8. A permanent injunction requiring TravelCenters to comply with the specific requirements of California Health and Safety Code, Division 20, Chapter 6.95 as alleged in the Complaint in Intervention;
9. A permanent injunction prohibiting TravelCenters from engaging in activity that violates the provisions of Chapters 6.5, 6.7, and 6.95 of Division 20 of the California Health and

1 Safety Code as alleged in the Complaint in Intervention which thereby constitute unfair
2 competition within the meaning of Business and Professions Code section 17200;

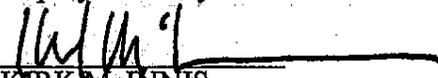
3 10. Grant the Plaintiff in Intervention its cost of inspection, investigation, attorneys
4 fees, enforcement, prosecution, and suit, including but not limited to such costs as are authorized
5 for reimbursement pursuant to Code of Civil Procedure section 1021.8; and

6 11. Grant such other and further relief as the Court deems just and proper.

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8 Dated: April 6, 2009

9 Respectfully submitted,

10 EDMUND G. BROWN JR.
11 Attorney General of the State of California
12 MARGARITA PADILLA
13 Supervising Deputy Attorney General
14 EDWARD OCHOA
15 Deputy Attorney General

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