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FILED  
SANTA BARBARA  
SUPERIOR COURT

SEP 25 2006

GARY M. BLAIR, EXEC. OFFICER

By Robert A. Wilber  
ROBERT A. WILBER, Deputy Clerk

7 Attorneys for Plaintiff,  
8 PEOPLE OF THE STATE OF CALIFORNIA

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10  
11 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 IN AND FOR THE COUNTY OF SANTA BARBARA

13 PEOPLE OF THE STATE OF  
14 CALIFORNIA,

15 Plaintiff,

16 v.

17 ROBERT HANKENSON, BASELINE  
18 ENTERPRISES dba CENTRAL COAST  
TANK TESTING,

19 Defendants,

No. 1221249

CONSENT AGREEMENT AND  
STIPULATION FOR ENTRY OF  
FINAL JUDGMENT;  
~~PROPOSED~~ ORDER

20 WHEREAS, the Plaintiff, People of the State of California, has engaged in  
21 settlement negotiations with ROBERT HANKENSON and BASELINE ENTERPRISES dba  
22 CENTRAL COAST TANK TESTING ("Settling Defendants"). Plaintiff and the Settling  
23 Defendants (hereinafter collectively referred to as "the Parties") have agreed to settle the  
24 investigation without litigation and by lodging this settlement simultaneously with a complaint.  
25 Plaintiff believes that the resolution of the violations alleged in the Complaint is fair and  
26 reasonable and fulfills the Plaintiff's enforcement objectives, that no further action is warranted  
27 concerning the specific violations alleged in the Complaint except as provided pursuant to the  
28 Consent Judgment. and that this Consent Judgment is in the best interest of the general public.

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 **1. INTRODUCTION.**

3 In this action, Plaintiff filed a civil complaint (the "Complaint") in Santa Barbara  
4 County Superior Court against Settling Defendants. The Parties settle this action on the terms  
5 set forth in this Consent Agreement and Stipulation for Entry of Final Judgment (hereinafter  
6 "Consent Judgment").

7 **2. COMPLAINT.**

8 The Complaint in this action alleges that the Settling Defendant violated certain  
9 provisions of Chapter 6.7 of Division 20 of the Health and Safety Code, and Section 17200 *et*  
10 *seq.* of the Business and Professions Code. A true and accurate copy of the Complaint is  
11 attached as Exhibit "B" hereto.

12 **3. JURISDICTION.**

13 The Plaintiff and Settling Defendants agree that the Superior Court of California,  
14 County of Santa Barbara has subject matter jurisdiction over the matters alleged in this action  
15 and personal jurisdiction over the parties to this Consent Judgment.

16 **4. SETTLEMENT OF DISPUTED CLAIMS.**

17 Settling Defendants expressly deny the allegations in the Complaint and the  
18 Consent Judgment. The Consent Judgment is not an admission by Settling Defendants  
19 regarding any issue of law or fact in the above-captioned matter or any violation of any law.  
20 The Parties enter into this Consent Judgment pursuant to a compromise and settlement of  
21 disputed claims set forth in the Complaint for the purpose of furthering the public interest.  
22 Settling Defendants waive their right to a hearing on any matter covered by the Complaint prior  
23 to the entry of this Consent Judgment.

24 **5. CIVIL PENALTIES AND COSTS OF INVESTIGATION.**

25 5.1 **Amount of Payment:** Settling Defendants shall be liable for a total of  
26 FORTY THOUSAND DOLLARS (\$40,000) which will be allocated as follows:

27 a. **Penalties:** Settling Defendants will be liable for a total civil penalty of  
28 THIRTY-FIVE THOUSAND -DOLLARS (\$35,000). Of this amount,

1 TWENTY- FIVE THOUSAND DOLLARS (\$25,000) is suspended subject to the  
2 provisions of Paragraph 5.3. The remaining TEN THOUSAND DOLLARS  
3 (\$10,000) shall be paid to the Underground Storage Tank Tester Account.

4 b. **Costs of Investigation and Enforcement:** Settling Defendants shall  
5 partially reimburse Plaintiff its costs of investigation and enforcement in the  
6 total amount of FIVE THOUSAND DOLLARS (\$5,000) which shall be  
7 allocated as follows:

- 8 i. TWO THOUSAND DOLLARS (\$2,000) to the Los Angeles  
9 County Department of Public Works;  
10 ii. THREE THOUSAND DOLLARS (\$3,000) to the California  
11 Department of Justice.

12 5.2 Settling Defendants shall satisfy their payment obligations to the  
13 Plaintiffs under Paragraph 5.1 by issuing cashier's or certified checks to the following payees:

- 14 i. \$10,000 Underground Storage Tank Tester Account, State Water  
15 Resources Control Board  
16 ii. \$ 2,000 Los Angeles County Department of Public Works  
17 iii. \$ 3,000 California Department of Justice

18 Each payment shall be paid within thirty (30) days after the entry of the Consent  
19 Judgment. Each check shall bear on its face the Case name, the Superior Court docket number,  
20 and the Attorney General's internal docket number for this matter - SA2006900033. The  
21 payments shall be sent to the respective addresses indicated on Exhibit "A".

22 5.3 If, within the next three (3) years following the entry of this Consent  
23 Judgment, Settling Defendants, or any of them, engage in a violation of Health and Safety Code  
24 section 25284.4, Plaintiff shall be awarded the entire suspended penalty of TWENTY-FIVE  
25 THOUSAND DOLLARS (\$25,000) from the Settling Defendant that engages in the violation.  
26 Plaintiff shall obtain payment of the suspended penalty from Settling Defendant by noticed  
27 motion which will identify the governmental entity or entities which will be paid the suspended  
28 penalty. The payment of the suspended penalties shall not preclude, reduce or offset any

1 penalties that are otherwise provided for under the Business and Professions Code, Health and  
2 Safety Code, or any other law, statute or regulation for such further violations. In any additional  
3 proceedings alleging such further misconduct, the Parties agree that this Consent Judgment may  
4 be presented as evidence of prior conduct by Settling Defendants.

5           5.4     A photocopy of all checks and payments made pursuant to this Consent  
6 Judgment shall be sent, at the same time, to Deputy Attorney General Sally Magnani Knox,  
7 Office of the Attorney General, 1300 "I" Street, Suite 1101, P.O. Box 944255, Sacramento, CA  
8 94244-2550.

9           **6. INJUNCTIVE RELIEF.**

10           Pursuant to provisions of Business and Professions Code Section 17203, and the Court's  
11 equitable powers, Settling Defendants shall take the following actions:

- 12           a.     Defendant Hankenson's California tank tester's license will be suspended for 120  
13 days starting fifteen (15) days after the entry of judgment. Within fifteen (15)  
14 days of the entry of judgment, Hankenson must forfeit his California tank tester's  
15 license to the State Water Resources Control Board ("SWRCB") by providing  
16 this license to the following address:

17           Leslie Graves  
18           State Water Resources Control Board  
19           1001 "T" Street  
20           P.O.Box 100  
21           Sacramento, California 95812

22           During the suspension period, Hankenson can not perform any testing that would  
23 require a tank tester's license. At the end of the suspension period, the SWRCB  
24 will return the tank tester's license to Defendant Hankenson in care of his  
25 counsel, Stephen Penner. Defendant Hankenson shall then be on probation for  
26 one-year. If Defendant Hankenson engages in another violation of the applicable  
27 tank tester requirements during the probationary period, he will be subject to  
28 immediate revocation of the license.

- 29           b.     If it has not already been done, within fifteen (15) days of the entry of judgment,  
30 Defendant Hankenson shall notify, by certified mail, the local agency (also

1 known as the Certified Unified Program Agency (CUPA)) and the underground  
2 storage tank ("UST") owner and operator that the three (3) tank integrity tests,  
3 conducted on November 7, 2005, at the High Desert Oil gas station located at  
4 23950 Lyons Road, Newhall were not valid since the tests were conducted by an  
5 individual who did not possess a valid California tank tester's license nor were  
6 the tests performed under the direct and personal supervision of a tank tester  
7 licensed in California. Defendant Hankenson may provide the retest provided it  
8 occurs under the direct and personal supervision of a tank tester licensed in  
9 California and with 48-hour notification to the local agency. Copies of all  
10 notifications to the local agency as required herein and the results of any retest  
11 shall be provided to Leslie Graves or any member of her staff on the SWRCB.  
12 The notifications and results of any retest shall be provided to the address  
13 identified in Paragraph 6.a.

- 14 c) Settling Defendants shall submit copies of all reports for UST work and testing  
15 performed under the authority of the California tank tester's license for work and  
16 testing performed from January 1, 2005 to the date of suspension of the tank  
17 tester's license. Those reports must be provided to the address identified in  
18 Paragraph 6.a.

19 **7. MATTERS COVERED BY THIS CONSENT JUDGMENT.**

20 7.1 The Consent Judgment is a final and binding resolution and settlement of  
21 all claims, violations or causes of action alleged by the Complaint in this matter or which could  
22 have been asserted based on the specific facts alleged in the Complaint against the Settling  
23 Defendants, and their officers, directors, partners, employees, representatives, and agents. The  
24 provisions of this Paragraph 7.1. are expressly conditioned on the Settling Defendants' full  
25 payment of the civil penalty and costs by the deadlines specified in the Consent Judgment;  
26 provided, however, that after full payment of such civil penalty and costs, the provisions of this  
27 Paragraph 7.1 will remain in full force and effect.

28 7.2 Paragraph 7.1 shall have no effect on the ability of Plaintiff to enforce the

1 terms of the Consent Judgment.

2           7.3     The matters which are addressed as set forth in Paragraph 7.1 are a  
3 “Covered Matter”.

4           7.4     Any violations of law, statute, regulation or ordinance, including but not  
5 limited to Chapter 6.7 of the California Health and Safety Code, which are based on facts not  
6 expressly addressed as a Covered Matter are not resolved, settled, or covered by this Consent  
7 Judgment.

8           7.5     Settling Defendants covenant not to sue or pursue any civil or  
9 administrative claims against Plaintiff or agencies of the State of California, including but not  
10 limited to, the State Water Resources Control Board, arising out of or related to the Cover  
11 Matters except for the purpose of enforcing Plaintiff’s obligations under this Consent Judgment.

12           7.6     Except as provided by this Consent Judgment, the Parties reserve the  
13 right to pursue any claims not covered by this Consent Judgment and any defense to such  
14 reserved claims.

15           **8.     NECESSITY FOR WRITTEN APPROVALS**

16           All approvals and decisions of the Plaintiff regarding any matter requiring  
17 approval or decision of the Plaintiff under the terms of this Consent Judgment shall be  
18 communicated in writing to Settling Defendant. No informal oral advice, guidance, suggestions,  
19 or comments by employees or officials of the Plaintiff or representatives of any instrumentality,  
20 agency, board or department of the State of California, including the California Environmental  
21 Protection Agency, regarding submissions or notices shall be construed to relieve Settling  
22 Defendants of their obligations to obtain the final written approvals required by this Consent  
23 Judgment. All approvals and decisions of Settling Defendants regarding any matter requiring  
24 approval or decision of Settling Defendant under the terms of this Consent Judgment shall be  
25 communicated in writing.

26           **9.     EFFECT OF JUDGMENT.**

27           Except as expressly provided in this Consent Judgment, nothing in this Consent  
28 Judgment is intended nor shall it be construed to preclude Plaintiff or any state agency,

1 department, board or entity or any local agency from exercising its authority under any law,  
2 statute, or regulation.

3 **10. PLAINTIFF IS NOT LIABLE.**

4 The Plaintiff shall not be liable for any injury or damage to persons or property  
5 resulting from acts or omissions by Settling Defendants, their directors, officers, employees,  
6 agents, representatives or contractors in carrying out activities pursuant to this Consent  
7 Judgment, nor shall the Plaintiff be held as a party to or guarantor of any contract entered into by  
8 Settling Defendants, their directors, officers, employees, agents, representatives or contractors in  
9 carrying out activities required pursuant to this Consent Judgment.

10 **11. INTERPRETATION.**

11 This Consent Judgment shall be deemed to have been drafted equally by all  
12 parties hereto. Accordingly, the Parties hereby agree that any and all rules of construction to the  
13 effect that ambiguity is construed against the drafting party shall be inapplicable in any dispute  
14 concerning the terms, meaning, or interpretation of this Consent Judgment.

15 **12. NO WAIVER OF RIGHT TO ENFORCE.**

16 The failure of the Plaintiff to enforce any provision of this Consent Judgment  
17 shall in no way be deemed a waiver of such provision, or in any way affect the validity of this  
18 Consent Judgment. The failure of the Plaintiff to enforce any such provision shall not preclude  
19 it from later enforcing the same or any other provision of this Consent Judgment. No oral  
20 advice, guidance, suggestions or comments by employees or officials of any Party regarding  
21 matters covered in this Consent Judgment shall be construed to relieve any Party of its  
22 obligations required by this Consent Judgment.

23 **13. REGULATORY CHANGES.**

24 Nothing in this Consent Judgment shall excuse Settling Defendants from meeting  
25 any more stringent requirements which may be imposed hereafter by changes in applicable and  
26 legally binding legislation or regulations.

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1                   **14.    APPLICATION OF CONSENT JUDGMENT.**

2                   This Consent Judgment shall apply to and be binding upon the Plaintiff, Settling  
3 Defendants, and each of them, and the successors or assigns of each of them.

4                   **15.    AUTHORITY TO ENTER CONSENT JUDGMENT.**

5                   Each signatory to this Consent Judgment certifies that he or she is fully  
6 authorized by the party he or she represents to enter into this Consent Judgment, to execute it on  
7 behalf of the party represented and legally to bind that party.

8                   **16.    CONTINUING JURISDICTION.**

9                   The Court shall retain continuing jurisdiction to enforce the terms of this Consent  
10 Judgment.

11                   **17.    PENALTIES FOR NONCOMPLIANCE.**

12                   Any Party may, by noticed motion or order to show cause, enforce the terms and  
13 conditions contained in this Consent Judgment. Failure to comply with the terms of this  
14 Consent Judgment shall subject a party to further relief and for any attorneys fees, expert  
15 witness fees or costs reasonably incurred by the prevailing party in enforcing the terms of this  
16 Consent Judgment. Plaintiff may move this court to enjoin Settling Defendants from any  
17 violation of any provision of this Consent Judgment and for penalties as provided by law.  
18 Settling Defendants, and each of them, shall be liable for a stipulated civil penalty of \$500 for  
19 each day that each of the payments required pursuant to Paragraph 5.1 is late. The Parties shall  
20 meet-and-confer prior to the filing of any motion to assess penalties pursuant to this Paragraph  
21 and shall negotiate in good faith in an effort to resolve any penalty assessments pursuant to this  
22 Paragraph without judicial intervention.

23                   **18.    INTEGRATION.**

24                   This Consent Judgment constitutes the entire agreement between the parties and  
25 may not be amended or supplemented except as provided for in the Consent Judgment.

26                   **19.    MODIFICATION OF CONSENT JUDGMENT.**

27                   This Consent Judgment may be modified only upon written consent by the  
28 parties hereto and the approval of the court.



1                   **21.    ENFORCEMENT OF JUDGMENT.**

2                   In the event that a Party brings an action to enforce any of the terms of this  
3 Consent Judgment, the prevailing party shall be entitled to its reasonable costs of enforcement,  
4 including attorney fees and costs, including any costs for expert witnesses or other costs of  
5 enforcement.

6                   **22.    SETTLING DEFENDANT'S LITIGATION EXPENSES AND**  
7                   **FEES.**

8                   Settling Defendant shall pay its own attorney fees, expert witness fees and costs,  
9 and all other costs of litigation incurred to date.

10                  **23.    NOTICE.**

11                  Unless otherwise provided in this Consent Judgment, all submissions and notices  
12 required by this Consent Judgment shall be sent to:

13 For Plaintiff:

14                               Sally Magnani Knox, Esq.  
15                               Deputy Attorney General  
16                               Office of the Attorney General  
17                               1300 "I" Street  
18                               P.O. Box 944255  
19                               Sacramento, California 94244-2550

20 For Settling Defendants:

21                               The Law Office of Stephen E. Penner  
22                               1215 De La Vina Street, Suite K  
23                               Santa Barbara, California 93101

24                  Any Party may change the address for purpose of notices to that Party by a notice  
25 specifying a new address, but no such change is effective until it is actually received by the Party  
26 sought to be charged with its contents. All notices and other communications required or  
27 permitted under this Consent Judgment that are addressed as provided in this Paragraph are  
28 effective upon delivery if delivered personally or by overnight mail, or are effective five (5) days  
following deposit in the United States mail, postage prepaid, if delivered by mail.

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**24. COUNTERPART SIGNATURES.**

This Consent Judgment may be executed by the parties in counterpart, and when a copy is signed by an authorized representative of each party, the stipulation shall be effective as if a single document were signed by all parties.

**IT IS SO STIPULATED:**

**FOR THE PLAINTIFF**

Dated: ~~May~~ <sup>July</sup> 18, 2006

BILL LOCKYER, Attorney General  
of the State of California  
TOM GREENE  
Chief Assistant Attorney General  
THEODORA P. BERGER  
Senior Assistant Attorney General

Sally Magnani Knox  
SALLY MAGNANI KNOX  
Deputy Attorney General  
Attorneys for Plaintiff, People of the State  
of California

**FOR THE SETTLING DEFENDANT, ROBERT HANKENSON:**

Dated: ~~May~~ <sup>July 11</sup>, 2006

Robert Hankenson  
ROBERT HANKENSON

**FOR THE SETTLING DEFENDANT, BASELINE ENTERPRISES:**

Dated: ~~May~~ <sup>July 11</sup>, 2006

Robert Hankenson  
ROBERT HANKENSON  
(Position)  
Baseline Enterprises

**Approved as to Form:**

THE LAW OFFICE OF  
STEPHEN E. PENNER

Dated: ~~May~~ <sup>JULY 11</sup>, 2006

Stephen E. Penner  
STEPHEN E. PENNER

Attorney for Robert Hankenson and  
Baseline Enterprises

SO ORDERED  
September 7, 2006

Judge Denise de Bellefeuille

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~~IT IS SO ORDERED,~~

Dated: \_\_\_\_\_

\_\_\_\_\_  
~~JUDGE  
SUPERIOR COURT OF SANTA  
BARBARA COUNTY~~

1 Exhibit "A"

2 1. Los County Department of Public Works

3 County of Los Angeles  
4 Department of Public Works  
5 c/o Joseph C. Baiocco  
6 Supervising Waste Control Engineering Inspector II  
7 Environmental Programs Division  
8 P.O. Box 1460  
9 Alhambra, CA 91802-1460

7 2. Underground Storage Tank Tester Account

8 Leslie Graves  
9 State Water Resources Control Board  
10 1001 "I" Street  
11 P.O. Box 100  
12 Sacramento, California 95812

11 3. California Department of Justice

12 Sally Magnani Knox, Esq.  
13 Deputy Attorney General  
14 Office of the Attorney General  
15 1300 "I" Street  
16 P.O. Box 944255  
17 Sacramento, California 94244-2550

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