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SAN LUIS OBISPO SUPERIOR COURT
BY M. Zepeda
M. Zepeda, Deputy Clerk

8 *Attorneys for Plaintiff State Water Resources*
9 *Control Board*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN LUIS OBISPO

12
13 **CV** - 128129

14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA ex rel. State Water**
16 **Resources Control Board,**

Case No.

17 Plaintiff,

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

18 v.

(Health & Saf. Code, Div. 20, Chapter 6.7)

19 **JACO OIL COMPANY, a corporation;**
FASTRIP FOOD STORES, INC., a
20 **corporation; FASTRIP FOOD STORES,**
INC. OF FRESNO, a corporation; JACO-
21 **JAMIESON COMPANY, LLC, a limited**
liability corporation; FASTRIP
22 **FINANCIAL, LP, a limited partnership;**
FASTRIP OIL COMPANY, LP, a limited
23 **partnership; BASIC PROPERTIES, LP, a**
limited partnership; JACO HILL
24 **COMPANY, a partnership; and**
JAMIESON HILL COMPANY, a
25 **partnership; and DOES 1-10,**

26 Defendants

1 **PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. STATE**
2 **WATER RESOURCES CONTROL BOARD**, based on information and belief, alleges as
3 follows:

4 **PLAINTIFF**

5 1. Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA ex rel. STATE WATER
6 RESOURCES CONTROL BOARD (“Plaintiff”), brings this action by and through Kamala D.
7 Harris, the Attorney General of the State of California (“Attorney General”).

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

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

17 **DEFENDANTS**

18 4. Defendant Jaco Oil Company (“Jaco Oil”) is a corporation organized under the laws
19 of California, which does or did business in California.

20 5. Defendant Fastrup Food Stores, Inc (“Fastrip”) is a corporation organized under the
21 laws of California, which does or did business in California.

22 6. Defendant Fastrup Food Stores, Inc. of Fresno (“Fastrip-Fresno”) is a corporation
23 organized under the laws of California, which does or did business in California.

24 7. Defendant Fastrup Financial, LP (“Fastrip Financial”) is a limited partnership
25 organized under the laws of California, which does or did business in California.

26 8. Defendant Fastrup Oil Company, LP (“Fastrip Oil”) is a limited partnership organized
27 under the laws of California, which does or did business in California.
28

1 9. Defendant Jaco-Jamieson Company, LLC ("Jaco-Jamieson") is a limited liability
2 corporation organized under the laws of California, which does or did business in California.

3 10. Defendant Basic Properties, LP ("Basic Properties") is a limited partnership
4 organized under the laws of California, which does business in California.

5 11. Defendant Jaco Hill Company ("Jaco Hill") is a partnership organized under the laws
6 of California, which does business in California.

7 12. Defendant Jamieson Hill Company ("Jamieson Hill") is a partnership organized under
8 the laws of California, which does business in California.

9 13. Defendants Jaco Oil Company; Fastrip Food Stores, Inc.; Fastrip Food Stores, Inc. of
10 Fresno; Jaco-Jamieson Company, LLC; Fastrip Financial, LP; Fastrip Oil Company, LP; Basic
11 Properties, LP; Jaco Hill Company; and Jamieson Hill Company (collectively, the "Defendants"),
12 and each of them, at all times relevant herein, owned and/or operated UST systems at one or more
13 of the facilities identified in Exhibit "A" and incorporated herein by reference (hereinafter
14 collectively referred to as "Covered Facilities").

15 14. The Defendants, at all times relevant to the claims in this Complaint, were and are
16 legally responsible for compliance with the provisions of the Health and Safety Code, including
17 Chapter 6.7 of Division 20 at the Covered Facilities.

18 15. The Plaintiff is ignorant of the names of those defendants identified as Does 1
19 through 10, who are therefore sued under fictitious names. When the true names of these
20 defendants have been ascertained, the Plaintiff will amend the complaint to substitute the true
21 names of each Doe defendant in place of the fictitious names.

22 **JURISDICTION AND VENUE**

23 16. This Court has jurisdiction pursuant to Article 6, section 10 of the California
24 Constitution.

25 17. Venue is proper in this County pursuant to Health and Safety Code section 25299.03,
26 in that certain of the violations of Chapter 6.7 alleged in the Complaint occurred in the County of

1 San Luis Obispo and the other violations alleged in the Complaint, which occurred at locations
2 outside this County, are related to such violations and penalties sought.

3 18. The Plaintiff and the Defendants entered into tolling agreements to toll any applicable
4 statute of limitations for the period of time from March 15, 2011 through September 14, 2012,
5 inclusive ("Tolling Period"). As a result of these tolling agreements, the statute of limitations
6 applicable to the claims and causes of action that are the subject of this action were tolled during
7 the Tolling Period.

8 GENERAL ALLEGATIONS

9 19. The allegations in this Complaint relate solely to Defendants' compliance with laws
10 and regulations governing the operation and maintenance of USTs and UST systems at the
11 Covered Facilities from on or about March 15, 2006, until on or about March 30, 2011. Nothing
12 in this Complaint relates to or pertains to any existing or potential claims or causes of action for
13 corrective action, remediation, cleanup, contamination, or other such actions arising out of any
14 past, present, or future release, spill, leak, or discharge, from or as a result of: (a) the operation of
15 any UST or UST system; or (b) the disposal or deposit at any unauthorized point of any
16 hazardous waste or hazardous substance, caused or contributed to by Defendants, or any of them,
17 that has occurred or may in the future occur at, upon, or from any of the Covered Facilities, and
18 such claims or causes of action, if any, are reserved by the Plaintiff.

19 20. Based on the Plaintiff's investigation of the Covered Facilities, the Plaintiff is
20 informed and believes and thereupon alleges that the Defendants, from March 15, 2006 to March
21 30, 2011, engaged in the following actions and/or omissions, at one or more of the Covered
22 Facilities, in violation of California Health and Safety Code, Division 20, Chapter 6.7, at one or
23 more of the Covered Facilities, including but not limited to:

24 a. Failed to perform secondary containment testing in violation of Title 23
25 of the California Code of Regulations, section 2637.

26 b. Failed to maintain secondary containment for its product line in violation
27 of Health and Safety Code sections 25290.1(c), 25290.2(c) and 25291(a).

1 c. Failed to maintain automatic Line Leak Detector (“LLD”) in violation of
2 Health and Safety Code sections 25290.1(h); 25290.2(g); 25291(f); 25292(e), and
3 California Code of Regulations sections 2636(f)(2), and 2643(c).

4 d. Failed to maintain UST monitoring system in violation of Health and
5 Safety Code sections 25290.1(d), 25290.2(d), and 25292(a) and Title 23 of the
6 California Code of Regulations, sections 2641(a) and 2630(d).

7 e. Failed to maintain interstitial space of underground storage tank in
8 violation of the requirements of Health and Safety Code section 25290.1(d) and (e).

9 f. Failed to maintain spill containment in violation of Title 23 of the
10 California Code of Regulations, section 2635(b)(1).

11 g. Failed to monitor UST systems in accordance with the associated
12 monitoring plan in violation of Health and Safety Code section 25293 and Title 23 of
13 the California Code of Regulations, sections 2632(b), 2634(b) and 2641(a).

14 h. Failed to operate UST systems in accordance with the associated
15 operating permit on-site in violation Health and Safety Code section 25286(a).

16 i. Failed to maintain corrosion protection in violation of Title 23 of the
17 California Code of Regulations, sections 2635(a)(2) and 2662(c).

18 j. Failed to accurately report UST Unified Program (“UP”) form
19 information in violation of Health and Safety Code section 25286(a), and Title 23 of
20 the California Code of Regulations, section 2711(a).

21 k. Failed to maintain current monitoring plan in violation of Title 23 of the
22 California Code of Regulations, sections 2632(b), and (d); and 2641, (g) and (h).

23 l. Failed to maintain current release response plan in violation of Title 23 of
24 the California Code of Regulations, sections 2632(d)(2), 2634(e) and 2641(h).

25 m. Failed to perform the 10 year lining inspection required by Title 23 of the
26 California Code of Regulations, section 2663(h).

27
28

1 n. Failed to maintain records of monitoring, testing, repair, and designated
2 operator records on-site in violation of Health and Safety Code section 25293 and
3 Title 23 of the California Code of Regulations, sections 2712(b) and 2715(e).

4 o. Failed to test cathodic protection system, in violation of Title 23 of the
5 California Code of Regulations, section 2635(a)(2)

6 p. Failed to comply with designated operator training and related records
7 maintenance requirements, in violation of Title 23 of the California Code of
8 Regulations, section 2715(f).

9 q. Failed to comply with designated operator inspection requirements in
10 violation of Title 23 of the California Code of Regulations, section 2715(c).

11 r. Failed to maintain equipment to prevent spills and overfills, in violation
12 of Health and Safety Code sections 25290.1(f), 25290.2(e), 25291(c), 25292(d) and
13 25292.1(a) and Title 23 of the California Code of Regulations, sections 2635(b)(2)
14 and 2665.

15 s. Failed to maintain under dispenser containment, in violation of Title 23 of
16 the California Code of Regulations, sections 2636(g) and 2666(e).

17 t. Failed to enter into written agreement with operator, in violation of
18 Health and Safety Code section 25284(a)(3) and Title 23 of the California Code of
19 Regulations, section 2620(b).

20 u. Failed to maintain primary and secondary containment "product tight" in
21 violation of Health and Safety Code sections 25290.1(c), 25290.2(c) and 25291(a).

22 v. Failed to monitor single walled underground pressurized piping using
23 either an annual 0.1 gallon per hour test, or a monthly 0.2 gallon per hour test, in
24 violation of Title 23 of the California Code of Regulations, section 2643(c).

25 w. Failed to comply with quantitative release detection method and related
26 records maintenance requirements, in violation of Title 23 of the California Code of
27 Regulations, sections 2643(b) and 2712(b).

28

1 x. Failed to perform the annual monitoring certification required by Title 23
2 of the California Code of Regulations, section 2638.

3 y. Failed to maintain turbine shutdown when a leak is detected in violation
4 of Title 23 of the California Code of Regulations, section 2636(f).

5 z. Failed to maintain turbine shut down when line leak detector fails or is
6 disconnected, in violation of Title 23 of the California Code of Regulations, section
7 2666(c).

8 aa. Failed to maintain evidence of financial responsibility in violation of
9 Health and Safety Code section 25292.2(a).

10 21. Defendants' noncompliance with UST laws and regulations threatened public health
11 and safety, and the environment

12 **FIRST CAUSE OF ACTION**

13 22. Plaintiff realleges and incorporates by reference paragraphs 1 through 21 inclusive.

14 23. To the extent that Defendants, or any of them, are the operator of the underground
15 storage tank system at the Covered Facilities, Defendants are liable for civil penalties as set forth
16 in Health and Safety Code section 25299, subdivision (a), for each violation of the rules,
17 regulations, standards, or requirements applicable to each underground storage tank as set forth in
18 the above allegations.

19 24. Defendants, or any of them, as the operator of the underground storage tank systems,
20 must immediately and permanently be enjoined from further violations of Chapter 6.7.

21 **SECOND CAUSE OF ACTION**

22 25. Plaintiff realleges paragraphs 1 through 24 inclusive.

23 26. To the extent that Defendants, or any of them, are the owner of the underground tank
24 systems at the Covered Facilities, Defendants are liable for civil penalties as set forth in Health
25 and Safety Code section 25299, subdivision (b), for each violation of the rules, regulations,
26 standards, or requirements applicable to each underground storage tank as set forth in the above
27 allegations.

1 27. Defendants, as the owner of the underground storage tank systems, must immediately
2 and permanently be enjoined from further violations of Chapter 6.7.

3 **PRAYER**

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

- 5 1. A Permanent Injunction requiring Defendants to comply with the requirements
6 of California Health and Safety Code, Division 20, Chapter 6.7;
- 7 2. Civil Penalties according to proof against each Defendant pursuant to
8 California Health and Safety Code section 25299;
- 9 3. Grant the Plaintiff its cost of inspection, investigation, attorney's fees,
10 enforcement, prosecution, and suit, herein; and
- 11 4. Grant such other and further relief as the Court deems just and proper.

12
13 Dated: June 26 2011

Respectfully Submitted,

14 KAMALA D. HARRIS
15 Attorney General of California
16 BRIAN HEMBACHER
17 Supervising Deputy Attorney General

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19 SARAH E. MORRISON
20 Deputy Attorney General
21 *Attorneys for Plaintiff*

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Exhibit A

EXHIBIT A

JACO OIL COMPANY COVERED FACILITIES

Covered Facilities	
Location	Address
Dulai Mini Mart	1915 North Chester Avenue, Bakersfield, CA 93308
Greenacres Market	9629 Rosedale Highway, Bakersfield, CA 93308
Howard's Mini Mart #790	1332 Bernard Street, Bakersfield, CA 93305
Jaco Oil Company Yard	3101 State Road, Bakersfield, CA 93308
Fastrip #45	8601 California City Boulevard, California City, CA 93505
Fastrip #44	466 Cecil Avenue, Delano, CA 93215
Fastrip #891	805 West Garces Highway, Delano, CA 93215
Howard's Mini Mart #798	851 West Upjohns Avenue, Ridgecrest, CA 93555
Fastrip Food Store #2	105 East Lerdo Highway, Shafter, CA 93263
Towne & Country Liquor	1209 Highway 46, Wasco, CA 93280
Shannon's Market	369 South Highway 59, Merced, CA 95340
Chalk Mountain Liquor	9990 El Camino Real, Atascadero, CA 93423
Appy's Liquor	2816 Spring Street, Paso Robles, CA 93446
Wayside Liquors #222	703 Creston Road, Paso Robles, CA 93446