

1 KAMALA D. HARRIS
Attorney General of California
2 Chief Assistant Attorney General
SALLY MAGNANI
3 Acting Senior Assistant Attorney General
BRIAN HEMBACHER
4 Supervising Deputy Attorney General
State Bar No. 90428
5 300 S. Spring St, Suite 1700
Los Angeles, CA 90013
6 Telephone: (213) 897-2638
Fax: (213) 897-2802
7 E-mail: Brian.Hembacher@doj.ca.gov

EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103

**COURTESY COPY TO
CHAMBERS OF**

VENTURA
SUPERIOR COURT
FILED

OCT 31 2011

MICHAEL D. PLANET
Executive Officer and Clerk
BY: _____, Deputy

8 *Attorneys for Plaintiff*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF VENTURA

12 **THE PEOPLE OF THE STATE OF CALIFORNIA,**
13 **EX REL. CALIFORNIA STATE WATER**
14 **RESOURCES CONTROL BOARD**
15 *Plaintiff,*
16 **v.**
17 **TESORO COMPANIES, INC. AND TESORO WEST**
18 **COAST COMPANY, LLC,**
19 *Defendants.*

Case No.
**COMPLAINT FOR
PERMANENT INJUNCTION,
CIVIL PENALTIES AND
OTHER EQUITABLE RELIEF**

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

21 **PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA,** ex rel. California
22 State Resources Control Board, based on information and belief, alleges as follows:

23 **PLAINTIFF**

24 1. Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. California State
25 Water Resources Control Board ("Plaintiff"), brings this action by and through Kamala D. Harris,
26 the Attorney General of the State of California ("Attorney General").

27 2. Pursuant to Health and Safety Code section 25299.02, the Attorney General may
28 bring a civil action in the name of the People of the State of California for violations of state law

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Debra Ramos

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28 bring a civil action in the name of the People of the State of California for violations of state law

1 relating to the underground storage of hazardous substances, underground storage tanks
2 (“USTs”), and UST systems, as set forth in Chapter 6.7 of Division 20 of the Health and Safety
3 Code (hereinafter “Chapter 6.7”).

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

8 **DEFENDANTS**

9 4. Defendants are Tesoro West Coast Company, LLC, a Delaware Limited Liability
10 Company, and Tesoro Companies, Inc., a Delaware Corporation. The Defendants, or their
11 predecessors in interest, conduct and/or have conducted business in the State of California at its
12 facilities located at 2014 Oro Dam Blvd, Oroville, California; 1021 South Street, Orland,
13 California; 960 North Imperial Avenue, El Centro, California; 200 N. 4th Street, El Centro,
14 California; 1002 Imperial Avenue, Calexico, California; 1302 South Imperial Avenue, El Centro,
15 California; 525 East 5th Street, Holtville, California; 305 Carmen Drive, Camarillo, California,
16 1790 East Pleasant Valley Road, Oxnard, California; 1185 Hoff Way, Orland, California; 1497
17 West Adams Road, El Centro, California, and 5040 Saviers Road, Oxnard, California (hereinafter
18 collectively referred to as the “Covered Facilities”). The Defendants, own and/or operate, or
19 previously have owned and/or operated, underground storage tanks systems at the Covered
20 Facilities. Tesoro West Coast Company, LLC has an office in Wilmington, Los Angeles County,
21 California.

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

25 **JURISDICTION**

26 6. This Court has jurisdiction pursuant to Article 6, section 10 of the California
27 Constitution.

1
2 **GENERAL ALLEGATIONS**

3 7. The allegations in this Complaint relate solely to Defendants' compliance with laws
4 and regulations governing (a) the operation and maintenance of underground storage tanks
5 ("USTs") and UST systems at Defendants' facilities in California from on or about May 1, 2007
6 until on or about January 14, 2011. Nothing in this Complaint relates to or pertains to any
7 existing or potential claims or causes of action for corrective action, remediation, cleanup,
8 contamination, or other such actions arising out of any past, present, or future release, spill, leak,
9 or discharge, from or as a result of: (a) the operation of any UST or UST system; or (b) the
10 disposal or deposit at any unauthorized point of any hazardous waste or hazardous substance,
11 caused or contributed to by Defendants, or any of them, that has occurred or may in the future
12 occur at, upon, or from any of the Covered Facilities, and such claims or causes of action, if any,
13 are reserved by Plaintiff the People of the State of California.

14 8. Plaintiff is informed and believes and thereupon alleges that the Defendants, from
15 May 1, 2007 to January 14, 2011, engaged in the following actions and/or omissions, among
16 others, at one or more of the Covered Facilities:

- 17 a. Failed to maintain secondary containment for its product line in violation of
18 Health and Safety Code sections 25290.1(c), 25290.2(c) and 25291(a).
- 19 b. Failed to maintain automatic Line Leak Detector ("LLD") in violation of
20 Health and Safety Code sections 25290.1(h); 25290.2(g); 25291(f); 25292(e),
21 and California Code of Regulations sections 2636(f)(2), 2641(c)(1) and
22 2643(d).
- 23 c. Failed to maintain Underground Storage Tank ("UST") in violation of Title 23
24 of the California Code of Regulations, sections 2641(a) and 2630(d).
- 25 d. Failed to maintain spill containment in violation of Health and Safety Code
26 section 25284.2 and Title 23 of the California Code of Regulations, section
27 2635(b)(1).
28

- 1 e. Failed to maintain a monitoring plan and release response plan on-site in
2 violation of Title 23 of the California Code of Regulations, section 2712(i).
- 3 f. Failed to maintain a plot plan and site map on-site in violation of Title 23 of
4 the California Code of Regulations, section 2712(i).
- 5 g. Failed to maintain an operating permit on-site in violation of Title 23 of the
6 California Code of Regulations, section 2712(i).
- 7 h. Failed to perform corrosion protection certification in violation of Title 23 of
8 the California Code of Regulations, section 2635(a)(2).
- 9 i. Failed to monitor product piping in violation of Title 23 of the California Code
10 of Regulations, sections 2630(d); 2636(f); and 2666(a).
- 11 j. Failed to accurately report UST Unified Program (“UP”) form information in
12 violation of Health and Safety Code section 25286(a), and Title 23 of the
13 California Code of Regulations, section 2711(a).
- 14 k. Failed to monitor tanks in violation of Health and Safety Code sections
15 25290.1(d), 25290.2(d), 25291(a) and (b).
- 16 l. Failed to maintain current monitoring plan in violation of Title 23 of the
17 California Code of Regulations, sections 2632(d); 2634(d); and 2641(h).
- 18 m. Failed to perform the 10 year lining inspection required by Title 23 of the
19 California Code of Regulations, section 2663(h).
- 20 n. Failed to maintain monitoring testing or Designated Operator (“DO”) records
21 on-site in violation of Health and Safety Code section 25293 and Title 23 of
22 the California Code of Regulations, sections 2712(b); 2715(e); and 2715(f)(3).
- 23 o. Failed to maintain primary and secondary containment “product tight” in
24 violation of Health and Safety Code sections 25290.1(c), 25290.2(c) and
25 25291(a).
- 26 p. Failed to perform the annual monitoring certification required by Title 23 of
27 the California Code of Regulations, section 2638.
- 28

1 q. Failed to maintain continuous vacuum, pressure, hydrostatic (“VPH”) monitoring of tank system in violation of Health and Safety Code sections 25290.1(d).

4 r. Failed to maintain turbine shutdown in violation of Title 23 of the California Code of Regulations, section 2636(f)(1).

6 s. Failed to have a properly functional spill container, as required by Title 23 of the California Code of Regulations, section 2635(b)(1)(C).

8 9. Defendant’s noncompliance threatened public health and safety, and the environment.

9 **TOLLING OF STATUTE OF LIMITATIONS**

10 10. During the investigation of this case, Plaintiff entered into tolling agreements with Defendants preserving Plaintiff’s right to pursue violations beyond the typical limitations period provided by statute. These tolling agreements were reached through negotiation with counsel for Defendants and on behalf of Defendants. As a result of the agreement, the parties have agreed that the time period from March 15, 2011 through December 15, 2011, inclusive (“Tolling Period”), will not be included in computing the time limits created by any statutory limitation period for pursuing causes of action against Defendants that may arise out of claims covered by the tolling agreement. Those claims include some of the causes of action alleged herein against Defendants.

19 **FIRST CAUSE OF ACTION**

20 11. Plaintiff realleges paragraphs one through ten inclusive.

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

25 13. Defendants, as the operator of the underground storage tank systems, must immediately and permanently be enjoined from further violations of Chapter 6.7.

27 **SECOND CAUSE OF ACTION**

28 14. Plaintiff realleges paragraphs one through ten inclusive.

1 15. To the extent that Defendants are the owner of the underground tank systems at the
2 Covered Facilities, Defendants are liable for civil penalties as set forth in Health and Safety Code
3 section 25299, subdivision (b), for each violation of the rules, regulations, standards, or
4 requirements applicable to each underground storage tank as set forth in the above allegations.

5 22. Defendants, as the owner of the underground storage tank systems, must immediately
6 and permanently be enjoined from further violations of Chapter 6.7.

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

8 1. A Permanent Injunction requiring Defendants to comply with the requirements
9 of California Health and Safety Code, Division 20, 6.7;

10 2. A Permanent Injunction prohibiting Defendants from engaging in activity that
11 violates Chapters 6.7 of Division 20 of the California Health and Safety Code.

12 3. Civil Penalties according to proof against each Defendant pursuant to
13 California Health and Safety Code section 25299;

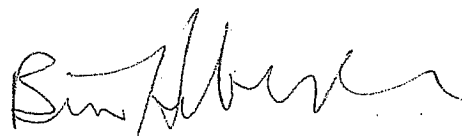
14 4. Grant the Plaintiff its cost of inspection, investigation, attorney's fees,
15 enforcement, prosecution, and suit, herein pursuant to Code of Civil Procedure section 1021.8,
16 and all other authority; and

17 5. Grant such other and further relief as the Court deems just and proper.

18
19 Dated: October 25, 2011

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California

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23 BRIAN W. HEMBACHER
24 Deputy Attorney General
25 *Attorneys for the People of the State of
26 California, et al.*

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