

CONFORM COPY

1 EDMUND G. BROWN JR.
ATTORNEY GENERAL OF THE STATE OF CALIFORNIA
2 RICHARD J. MAGASIN
SUPERVISING DEPUTY ATTORNEY GENERAL
3 MARILYN H. LEVIN, STATE BAR No. 92800
DEPUTY ATTORNEY GENERAL
4 300 SOUTH SPRING STREET, 11TH FLOOR-NORTH
LOS ANGELES, CALIFORNIA 90013
5 TELEPHONE: (213) 897-2612
FAX: (213) 897-2802
6 E-MAIL: MARILYN.LEVIN@DOJ.CA.GOV

[Exempt from fees pursuant to
Government Code section 6103]

**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

JAN 21 2010

John A. Clarke, Executive Officer/Clerk
By A.E. LaFleur-Clayton, Deputy

7 ATTORNEYS FOR PLAINTIFF, PEOPLE OF THE STATE OF
CALIFORNIA EX REL. STATE WATER RESOURCES
8 CONTROL BOARD

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

BC430178

12 **PEOPLE OF THE STATE OF CALIFORNIA EX**
13 **REL. STATE WATER RESOURCES CONTROL**
14 **BOARD**

Case No.

COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE
RELIEF

15 **PLAINTIFF,**

16 v.

17 **CITY OF LONG BEACH, A MUNICIPAL**
18 **CORPORATION AND DOES 1-20 INCLUSIVE.**

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

19 **DEFENDANTS.**

20 PLAINTIFF, PEOPLE OF THE STATE OF CALIFORNIA, ex rel. STATE WATER
21 RESOURCES CONTROL BOARD, is informed and believes and based on such information and
22 belief alleges as follows:

23 **PLAINTIFF**

24 1. Plaintiff, People of the State of California ex rel. State Water Resources Control
25 Board ("State Water Board" or "Plaintiff") brings its action by and through Edmund G. Brown
26 Jr., Attorney General of the State of California ("Attorney General") on behalf of the State Water
27 Board.
28

1 d. Failed to equip and/or maintain USTs in a manner to prevent releases due to
2 spills during product delivery (evidenced by failure to pass spill containment structure test and/or
3 to include spill bucket equipment meeting requirements), as required by Health and Safety Code
4 sections 25291(c) and 25292(d), and California Code of Regulations, title 23, sections 2635(b)
5 and 2665.

6 e. Failed to operate and maintain USTs to prevent spills by failing to remove
7 liquid and debris from spill containment structures, as required by Health and Safety Code section
8 25292.1(a) and California Code of Regulations, title 23, sections 2635(b)(1)(B) and 2665.

9 f. Failed to design, construct, and install under-dispenser containment or an
10 under-dispenser containment and control system as required under California Code of
11 Regulations, title 23, sections 2636(g) and 2666(e).

12 g. Failed to remove liquid from under-dispenser containment resulting in failure to
13 detect releases at the earliest possible opportunity, in violation of Health and Safety Code section
14 25291(e), and California Code of Regulations, title 23, sections 2630(d), 2631(d)(4), 2632(d)(2)
15 and 2641(a).

16 h. Failed to monitor piping and under-dispenser containment in compliance with
17 the provisions of Health and Safety Code sections 25290.1(d), 25290.2(d), 25291(b) and
18 25292(a), and California Code of Regulations, title 23, sections 2630(d), 2636(f)(1) and 2641(a).

19 i. Failed to annually test and certify UST monitoring equipment, as required
20 under California Code of Regulations, title 23, section 2638.

21 j. Failed to install and/or maintain automatic line leak detectors on underground
22 pressurized piping in accordance with the requirements of Health and Safety Code sections
23 25290.1(h), 25290.2(g), 25291(f) and 25292(e)(1), and California Code of Regulations, title 23,
24 section 2636(f)(2).

25 k. Failed to maintain functional overfill prevention systems, as required by Health
26 and Safety Code sections 25290.1(f), 25290.2(e), 25291(c) and 25292(d), and California Code of
27 Regulations, title 23, sections 2635(b) and 2665.

1 1. Failed to perform monthly visual inspections of UST systems and record
2 monthly inspection reports, as required under California Code of Regulations, title 23, sections
3 2715(c) and 2715(e).

4 m. Failed to report unauthorized releases to the designated local agency as required
5 by Health and Safety Code section 25295 and California Code of Regulations, title 23, sections
6 2650 and 2652.

7 12. Defendant's noncompliance threatened and continues to threaten public health and
8 safety, and the environment.

9 **FIRST CAUSE OF ACTION**

10 13. Plaintiff realleges and incorporates by reference as though fully set forth herein all
11 allegations contained in Paragraphs 1 through 12, inclusive.

12 14. Long Beach, as operator of the underground tank systems at the Covered Facilities, is
13 liable for civil penalties as set forth in California Health and Safety Code section 25299(a) for
14 each daily violation of the rules, regulations, standards or requirements of Chapter 6.7, or adopted
15 pursuant to Chapter 6.7, as to each underground storage tank at the Covered Facilities and as set
16 forth above which occurred within five years prior to January 1, 2008. The statutes of limitation
17 for the claims and causes of action that are the subject of this action were tolled by agreement of
18 the parties during the period from January 1, 2008 to January 30, 2010.

19 15. Long Beach, as the operator of the underground tank systems, must immediately and
20 permanently be enjoined from further violations of Chapter 6.7.

21 **SECOND CAUSE OF ACTION**

22 16. Plaintiff realleges and incorporates by reference as though fully set forth herein all
23 allegations contained in Paragraphs 1 through 11, inclusive.

24 17. Long Beach, as the owner of the underground tank systems at the Covered Facilities,
25 is liable for civil penalties as set forth in California Health and Safety Code section 25299(b) for
26 each daily violation of the rules, regulations, standards or requirements of Chapter 6.7, or adopted
27 pursuant to Chapter 6.7, as to each underground storage tank at the Covered Facilities and as set
28 forth above which occurred within five years prior to January 1, 2008. The statutes of limitation

1 for the claims and causes of action that are the subject of this action were tolled by agreement of
2 the parties during the period from January 1, 2008 to January 30, 2010.

3 18. Long Beach, as the owner of underground tank systems, must immediately and
4 permanently be enjoined from further violations of Chapter 6.7.

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

6 1. A preliminary and permanent injunction requiring Defendant to comply with
7 the specific requirements of California Health and Safety Code, Division 20, Chapter 6.7, as
8 alleged in this Complaint;

9 2. Civil penalties according to proof against Long Beach pursuant to California
10 Health and Safety Code section 25299(a) at the statutory maximum of five thousand dollars
11 (\$5,000) for each underground storage tank system violation for each day of violation.

12 3. Civil penalties according to proof against Long Beach pursuant to California
13 Health and Safety Code section 25299(b) at the statutory maximum of five thousand dollars
14 (\$5,000) for each underground storage tank system violation for each day of violation.

15 4. Plaintiff's costs of inspection, investigation, attorneys fees, enforcement,
16 prosecution, and suit herein pursuant to Code of Civil Procedure section 1021.8, and all other
17 authority; and

18 5. Such other and further relief as the Court deems just and proper.

19 Respectfully Submitted:

20
21 Dated: *January 4, 2010*

EDMUND G. BROWN JR.
Attorney General of the State of California
MARILYN H. LEVIN
Deputy Attorney General

22
23
24 By:

Marilyn H. Levin

MARILYN H. LEVIN
Attorneys for Plaintiff
People of the State of California ex rel. State
Water Resources Control Board

**EXHIBIT A to COMPLAINT FOR CIVIL PENALTIES AND
INJUNCTIVE RELIEF—Covered Facilities**

	UST FACILITY ADDRESS	TYPE OF UST	NAME OF FACILITY (TYPE OF FACILITY)
1	2475 Adriatic Ave.	Fuel Dispensing	Fire Station (#13)
2	2249 Argonne Ave.	Fuel Dispensing	Fire Station (Training Center)
3	400 West Broadway	Fuel Dispensing	Police Department (Downtown)
4	3501 Lakewood Blvd.	Fuel Dispensing	Police Department (Heliport)
5	160 Market St.	Fuel Dispensing	Fire Station (#11)
6	4320 Olympic Plaza	Fuel Dispensing	Maintenance Yard (#54)
7	1417 Peterson Ave.	Fuel Dispensing	Fire Station (#10)
8	1725 San Francisco Ave.	Fuel Dispensing	Maintenance Yard (Public Works)
9	1835 Santa Fe Ave.	Fuel Dispensing	Police Department (West #39)
10	700 East Shoreline Dr.	Fuel Dispensing	Shoreline Marina Fueling Dock
11	2400 East Spring St.	Fuel Dispensing	Long Beach Gas Department
12	2760 Studebaker Rd.	Fuel Dispensing	Maintenance Yard (Parks and Recreation - El Dorado Park)
13	1800 East Wardlow Rd.	Fuel Dispensing	Maintenance Yard (Water Department)
14	2890 East Wardlow Rd.	Fuel Dispensing	Fire Station (#16)
15	6204 East 2nd St.	Fuel Dispensing	Park and Recreation (Alimitos Bay)
16	4600 Pasadena Ave.	Fuel Dispensing	Maintenance Yard (Parks and Recreation - Scherer Park)
17	3150 St. Louis Ave.	Fuel Dispensing	Maintenance Yard (Long Beach Airport)
18	4891 North Atlantic Ave.	Fuel Dispensing	Police Department (North)
19	5200 Eliot St.	Fuel Dispensing	Fire Station (#14)
20	2950 Redondo Ave.	Fuel Dispensing & Emergency Generator	Water Treatment Plant
21	333 West Ocean Blvd.	Emergency Generator	City Hall
22	4105 East Donald Douglas Dr.	Emergency Generator	Long Beach Airport
23	2990 Redondo Ave.	Emergency Generator	Police 911 Call Center
24	1475 Peterson Ave.	Fuel Dispensing & Emergency Generator	Fire Department (HQ)
25	6101 Appian Way	Waste Oil	Alimitos Bay Marina
26	160 East Shoreline Dr	Waste Oil	Shoreline Marina
27	250 East Shoreline Dr.	Waste Oil	Shoreline Marina
28	300 East Shoreline Dr.	Waste Oil	Shoreline Marina
29	350 East Shoreline Dr.	Waste Oil	Shoreline Marina
30	400 East Shoreline Dr.	Waste Oil	Shoreline Marina
31	500 East Shoreline Dr.	Waste Oil	Shoreline Marina
32	207 Marina Dr.	Waste Oil	Alimitos Bay Marina
33	221 Marina Dr.	Waste Oil	Alimitos Bay Marina
34	235 East Marina Dr.	Waste Oil	Alimitos Bay Marina
35	237 East Marina Dr.	Waste Oil	Alimitos Bay Marina
36	6201 Marina Dr.	Waste Oil	Alimitos Bay Marina
37	6460 East Marina Dr.	Waste Oil	Alimitos Bay Marina
38	6530 East Marina Dr.	Waste Oil	Alimitos Bay Marina
39	6610 East Marina Dr.	Waste Oil	Alimitos Bay Marina
40	6264 Pacific Coast Hwy.	Waste Oil	Alimitos Bay Marina