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7 SLOW RIVER, LLC, a California Limited
8 Liability Company

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 SLOW RIVER, LLC, a California)
12 Limited Liability Company,)
13 Plaintiff,)

14 vs.)

15 Estate of JAMES JONES (Deceased))
16 an individual dba JIFFY FOOD)
17 STORE; Estate of DOUGLAS)
18 CARPENTER (Deceased) an)
19 individual dba JIFFY FOOD STORE;)
20 E-Z SERVE PETROLEUM)
21 MARKETING COMPANY, a)
22 forfeited Delaware corporation; E-Z)
23 SERVE PETROLEUM)
24 MARKETING COMPANY OF)
25 CALIFORNIA, a suspended)
26 California corporation;)
27 RESTRUCTURE PETROLEUM)
28 MARKETING SERVICES OF)
CALIFORNIA, INC., a suspended)
California corporation; ERSIN)
AKSOY an individual; BAY)
AREA/DIABLO PETROLEUM, CO.,)
a California corporation doing)
business as GOLDEN GATE)
PETROLEUM COMPANY; and)
DOES 1-10, inclusive,)

26 Defendants.)

CASE NO.: 2:20-cv-6088

COMPLAINT FOR:

- (1) STRICT LIABILITY (RCRA-42 U.S.C. § 6972);
- (2) (CAL HEALTH AND SAFETY CODE HWCL- §25100 ET SEQ.);
- (3) CONTINUING PUBLIC NUISANCE;
- (4) CONTINUING PRIVATE NUISANCE;
- (5) NUISANCE PER SE;
- (6) BREACH OF CONTRACT/LEASE;
- (7) NEGLIGENT INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE;
- (8) INTENTIONAL INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE;
- (9) UNFAIR COMPETITION (CAL. BUS. & PROF CODE § 17200)
- (10) STATUTORY FAILURE TO DISCLOSE (CAL. HEALTH AND SAFETY CODE § 25359.7);
- (11) EQUITABLE INDEMNITY;
- (12) DECLARATORY RELIEF (STATE AND FEDERAL)

DEMAND FOR JURY TRIAL

1 Plaintiff SLOW RIVER, LLC, a California Limited Liability Company,
2 (hereinafter "Plaintiff") alleges as follows:

3 **JURISDICTIONAL ALLEGATIONS**

4 1. This court has jurisdiction over this subject matter because federal
5 questions exist pursuant to 42 U.S.C. § 6972(b)(2)(A) ("RCRA").

6 2. Venue is proper in this district under 28 U.S.C. § 1391(b) because the
7 claims arise at properties located at 995 Los Osos Valley Road, Los Osos, California
8 ("Impacted Site"). The Impacted Site is located within the boundaries of this court's
9 jurisdiction.

10 3. This court has jurisdiction to hear the state law and common law claims
11 brought because they arise out of the same common nucleus of facts, acts and
12 occurrences as the federal questions presented. Furthermore, considerations of judicial
13 economy, convenience and fairness to the parties require the claims be tried together in
14 one jurisdictional proceeding.

15 **FACTUAL ALLEGATIONS**

16 4. JAMES JONES is an individual that did business as JIFFY FOOD
17 STORE and is deceased with an estate established after his death whom did business
18 and operated in the State of California and owned or operated on the Impacted Site
19 from approximately 1971 through 1986.

20 5. DOUGLAS CARPENTER is an individual that did business as JIFFY
21 FOOD STORE and is deceased with an estate established after his death whom did
22 business and operated in the State of California and owned or operated on the Impacted
23 Site from approximately 1971 through 1986.

24 6. E-Z SERVE PETROLEUM MARKETING COMPANY is a forfeited
25 Delaware corporation that did business and operated in the State of California and
26 owned or operated on the Impacted Site from approximately 1986-1992.

27 7. E-Z SERVE PETROLEUM MARKETING COMPANY OF
28 CALIFORNIA is a suspended California corporation that did business and operated in

1 the State of California and owned or operated on the Impacted Site from approximately
2 1986-1992.

3 8. RESTRUCTURE PETROLEUM MARKETING SERVICES OF
4 CALIFORNIA, INC. (“Restructure”) is a suspended California corporation that did
5 business and operated in the State of California and owned or operated on the Impacted
6 Site from approximately 1986-1992.

7 9. ERSIN AKSOY is an individual that did business and operated in the
8 State of California and owned or operated on the Impacted Site from approximately
9 1993-1997.

10 10. BAY AREA/DIABLO PETROLEUM, CO. is a California corporation
11 doing business as GOLDEN GATE PETROLEUM COMPANY that did business and
12 operated in the State of California, and owned the Impacted Site from at least
13 approximately 1997 through 2007, and operated on the Impacted Site from 1997
14 through the present (hereinafter referred to as “Bay Area/Diablo”).

15 11. Plaintiff is unaware of the true names and capacities, whether individual,
16 associate, and corporate or otherwise, of Defendants Does 1-10, and therefore sues
17 such Defendants by fictitious name. Plaintiff alleges that Does 1-10, and each of them,
18 were doing business within the State of California during the relevant time frame.
19 Plaintiff will seek leave of this Court to amend the Complaint when the identities of
20 these persons or entities are ascertained.

21 12. Plaintiff is informed and believes and thereon alleges at all relevant times
22 herein mentioned, each of the Defendants were the agent, representative, principal,
23 servant, employee, partner, alter ego, joint venturer, successor-in-interest, assistant,
24 and/or consultant of each and every remaining Defendant, and as such, was at all times
25 acting within the course, scope, purpose and authority of such agency, partnership,
26 employment and/or venture, and with the express or implied knowledge, permission,
27 authority, approval, ratification and consent of the remaining Defendants, whether said
28 authority was actual, ostensible, or apparent; and each Defendant was negligent and

1 reckless in the selection, hiring, and supervision of each and every other Defendant as
2 an agent, representative, principal, servant, employee, partner, alter ego, joint venturer,
3 successor-in-interest, assistant, and/or consultant. Plaintiff at all material times
4 beginning in 2007 has been the fee owner of the Impacted Site.

5 13. Plaintiff alleges that since at least 1971 the Defendants, and each of them,
6 stored and used, allowed the storage and use, or authorized the storage and use of:
7 liquid, solid and hazardous wastes, including but not limited to:
8 waste oils; motor oils; oil; petroleum hydrocarbons; gasoline; diesel; benzene, toluene,
9 ethylbenzene, xylenes (“BTEX”); methyl-tertiary-butyl-ether (“MTBE”); and tertiary
10 butyl alcohol (“TBA”) (collectively “Hazardous Substances” and/or “Hazardous
11 Wastes”) as liquid and hazardous wastes and other contaminants in numerous places.
12 These places included but were not limited to: aboveground drums; barrels and other
13 storage containers; aboveground storage tanks; underground storage tanks;
14 aboveground pipe lines; underground pipe lines; dispensing systems; sumps; surface
15 impoundments; surface gutters; surface troughs; clarifiers; slab drains; sewer laterals;
16 and holding basins and other facility receptacles. Plaintiffs further allege these
17 Hazardous Substances and Hazardous Wastes releases are now present on the Impacted
18 Site in soil, soil vapor and/or groundwater. Plaintiffs further allege the Defendants
19 owned and/or operated a treatment, storage and/or disposal facility as defined by
20 RCRA in performing these operations.

21 14. Plaintiff alleges on occasion, the waste storage containers, devices, and
22 other improvements allowed sudden and accidental leaking, discharging and disposing
23 of the liquid, solid and hazardous wastes and other contaminants stored in them into
24 the soil and groundwater at and beneath the Impacted Site and extending beneath
25 surrounding areas. Since the date the waste storage containers, devices and other
26 improvements began to suddenly and accidentally leak, discharge and dispose of the
27 liquid, solid and hazardous wastes and other contaminants stored in them, said wastes
28 have been disposed, discharged, released, spilled, leaked, leached and/or migrated into

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1 the soil and groundwater at and beneath the Impacted Site. Thereafter, continuing to
2 the present, said liquid, solid, Hazardous Substances and Hazardous Wastes from the
3 Impacted Site have leached, migrated and caused damage, including the contamination
4 of the soil and groundwater at, beneath and adjacent to the Impacted Site.

5 15. Plaintiff alleges that the Defendants have handled, stored, treated,
6 transported and/or disposed of Hazardous Substances and Hazardous Wastes at the
7 Impacted Site in a manner which caused those wastes to suddenly and accidentally
8 contaminate the soil and groundwater at, beneath and adjacent to the Impacted Site and
9 thus caused an imminent and substantial endangerment to health or the environment.

10 16. In the most recent round of groundwater testing performed by the
11 Defendants, benzene contamination was detected as high as 2300 micrograms per liter
12 (“ug/l”) (also referred to as parts per billion (“ppb”)). These concentrations
13 substantially exceeding both the federal and California state governments have set
14 Maximum Contaminant Levels (“MCL’s”) and/or cleanup goals for benzene (almost
15 800 times the Federal MCL, and 2300 times the State MCL and/or cleanup goal).
16 These MCL and/or cleanup goal standards establish permissible concentration levels
17 for contaminants occurring in drinking water to prevent cancer exposure. The
18 California MCL and/or cleanup goal for benzene is 1 ppb, and the Federal MCL is 5
19 ppb. Based on these carcinogenic contamination concentrations, Plaintiffs allege on
20 information and belief that Benzene and BTEX contamination located on the Impacted
21 Site released by the Defendants will be identified by the Regional Board as chemicals
22 of concern that it will direct be further investigated and remediated. Plaintiffs further
23 allege these Petroleum Wastes may potentially be drawn into the remediation system
24 and/or underneath and into Plaintiffs’ buildings when and if soil and/or groundwater
25 remediation is performed.

26 17. Plaintiff alleges in 2003 Bay Area/Diablo Defendants misrepresented
27 facts to the State Water Resources Control Board (“State Board”) concerning the
28 source of pollution present at the Impacted Site. This misrepresentation ultimately

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