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**SAN FRANCISCO BAYKEEPER**

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**SAN FRANCISCO BAYKEEPER**, a  
California non-profit corporation,

Plaintiff,

v.

**AMPORTS, INC.**, a Delaware Corporation;  
**APS WEST COAST, INC.**, a Delaware  
Corporation; **BENICIA PORT TERMINAL  
COMPANY**, a Delaware Corporation; and  
**VALERO REFINING COMPANY –  
CALIFORNIA**, a Delaware Corporation

Defendants.

Civil Case No.:

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND CIVIL  
PENALTIES**

1. Clean Water Act – Illegal Discharge of Pollutants
2. Clean Water Act -- Failure to apply for NPDES Permit
3. Clean Water Act – Failure to comply with NPDES Permit
4. Clean Water Act – Illegal Storm Water Discharge
5. Clean Water Act – Storm Water Discharges without Complying with Technology Based Effluent Limitations
6. Clean Water Act – Discharges of Storm Wa in Violation of Receiving Water Limitations
7. Clean Water Act – Failure to Have a Valid Storm Water Pollution Prevention Plan
8. Clean Water Act – Failure to Conduct Monitoring and Reporting
9. Clean Water Act – Failure to Perform Annual Comprehensive Review of Storm Water Discharges
10. Unfair Competition Law – Unlawful Conduct under Bus. & Prof. Code § 17200

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1 **I. INTRODUCTION**

2 1. Federal law prohibits the discharge of pollutants into waters of the United States without  
3 a valid permit, and California law prohibits the discharge of petroleum into its jurisdictional waters.  
4 Defendants Amports, Inc., APS West Coast, Inc., and Benicia Port Terminal Company (collectively,  
5 “Amports”), and Defendant Valero Refining Company (“Valero,” and with Amports, “Defendants”)   
6 directly discharge petroleum coke into the Carquinez Strait at the Port of Benicia. Defendants do so  
7 without a valid permit under the Clean Water Act and in violation of California law. San Francisco  
8 Baykeeper brings this lawsuit to put an end to Defendants’ ongoing illegal conduct.

9 2. Petroleum coke, or petcoke, is a byproduct of petroleum refining. Petcoke dust is small  
10 particulate matter that is visible in the air, on the ground or other surfaces, and when it enters the water  
11 appears as an oil-like sheen stretching across the surface. Petcoke is harmful and deleterious to aquatic  
12 ecosystems, animal and plant species in and around waters, and poses risks to human health.

13 3. Amports leases the Port of Benicia, including adjacent submerged tidelands, from the  
14 City of Benicia (the “Port” or “Facility”). Among the activities at the Port is petcoke storage and ship  
15 loading. When a ship is in the Port to be loaded with petcoke, Amports transports the petcoke from  
16 storage silos, up a conveyor, into a crane, and then out of a nozzle into the cargo hold of the ship. During  
17 that process, in addition to entering the ship’s cargo hold, petcoke is discharged: directly into the  
18 Carquinez Strait as overspray; onto the deck of the ship and the nearby wharf as overspray; indirectly  
19 into the Carquinez Strait, onto the ship, and onto the wharf from plumes of petcoke that escape from the  
20 ship’s cargo hold due to remobilization; into the Carquinez Strait nearby the Facility, onto the ship, and  
21 onto the wharf after travelling in plumes through the air; and onto the Facility and eventually into storm  
22 water systems and the Bay during rain events. In addition, once full (requiring several iterations of the  
23 loading process), the ship is hosed down and the petcoke on the ship is washed directly into the  
24 Carquinez Strait. The Amports Defendants pay the employees who do the loading work, both at the Port  
25 and on the ship.

26 4. The discharge of petcoke into the Carquinez Strait causes harm to Baykeeper and its  
27 members. Baykeeper’s members live near, recreate near, and use the waters of the Carquinez Strait and  
28

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