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8 *People of the State of California ex rel. The State*
Water Resources Control Board

EXEMPT FROM FILING FEES
[GOV. CODE, § 6103]

FILED
MAY - 7 2010
FRESNO COUNTY SUPERIOR COURT
CLERK

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF FRESNO

13 **PEOPLE OF THE STATE OF**
14 **CALIFORNIA ex rel. THE STATE**
15 **WATER RESOURCES CONTROL**
BOARD,

16 Plaintiff,

17 v.

18 **FRANZEN-HILL CORPORATION,**
19 **DAVID L. MARTIN, EXEQUIEL SINCO,**
20 **and DOES ONE through TEN, inclusive,**

21 Defendants.

CASE NO.:

10 CE CG 01636

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

This case has been assigned to
Judge Adolfo M. Corona for all purposes

22
23 Plaintiff the People of The State of California ex rel. the State Water Resources Control
24 Board (State Water Board) alleges on information and belief as follows:

25 1. Plaintiff brings this action against Defendants Franzen-Hill Corporation, Mr. David
26 L. Martin, Mr. Exequiel Sinco, and Does 1 through 10 to obtain civil penalties and injunctive
27 relief pursuant to Health and Safety Code sections 25284.4 and 25299.01.
28

COPY

1 2. The State Water Board is a public agency of the State of California. The State Water
2 Board's jurisdiction includes the regulation and protection of the waters of the State of California,
3 including its rivers, creeks, and groundwater.

4 3. The Franzen-Hill Corporation is a California corporation, located at 1100 North J
5 Street, Tulare, California. It designs, builds, and maintains fueling facilities, including
6 underground storage tanks for petroleum products.

7 4. Mr. David L. Martin is an individual. He is and was at all relevant times herein an
8 employee of the Franzen-Hill Corporation.

9 5. Mr. Exequiel Sinco is an individual. He is and was at all relevant times herein an
10 employee of the Franzen-Hill Corporation.

11 6. Plaintiff is not aware of the true names and capacities of the defendants sued as Does
12 1 through 10, inclusive, and therefore sues these defendants by such fictitious names, pursuant to
13 Code of Civil Procedure section 474. Each of these fictitiously named defendants is responsible
14 in some manner for the activities alleged in this complaint. Plaintiffs will amend this complaint
15 to add the true names of the fictitiously named defendants once they are discovered.

16 7. Hereinafter, Franzen-Hill Corporation, David L. Martin, Exequiel Sinco, and Does 1
17 through 10 are collectively referred to as the Defendants.

18 8. At all relevant times, each Defendant committed the acts, caused or directed others to
19 commit the acts, ratified the acts, or permitted others to commit the acts alleged in this complaint.
20 Additionally, some or all of the Defendants acted as the agent of the other Defendants, and all of
21 the Defendants acted within the scope of their agency if acting as an agent of another.

22 9. At all relevant times, each Defendant knew or realized that the other Defendants were
23 engaging in or planned to engage in the violations of law alleged in this Complaint. Knowing or
24 realizing that other Defendants were engaging in or planning to engage in unlawful conduct, each
25 Defendant nevertheless facilitated the commission of those unlawful acts. Each Defendant
26 intended to and did encourage, facilitate, or assist in the commission of the unlawful acts, and
27 thereby aided and abetted the other Defendants in the unlawful conduct.
28

1 **VENUE**

2 10. This action is venued in Fresno County because Franzen-Hill Corporation has its
3 principal place of business in Tulare County, and the nearest Attorney General's Office is in
4 Fresno County, pursuant to Health and Safety Code section 25299.03.

5 **BACKGROUND**

6 11. Pursuant to Health and Safety Code section 25284.4, subdivision (a), all tank integrity
7 tests shall be performed only by, or under the direct and personal supervision of, a tank tester with
8 a currently valid tank testing license. Furthermore, no person shall engage in the business of tank
9 integrity testing, or act in the capacity of a tank tester, within California without first obtaining a
10 tank testing license from the State Water Board. Any person who violates section 25284.4,
11 subdivision (a), may be subject to civil penalties of up to \$2,500 per day for each violation,
12 pursuant to section 25284.4, subdivision (g).

13 12. Pursuant to Health and Safety Code section 25299.01, when any person has violated
14 Chapter 6.7 of Division 20 of the Health and Safety Code, including section 25284.4, the Superior
15 Court may issue any order enjoining these acts or practices, or for an order directing compliance.

16 **FIRST CAUSE OF ACTION:**
17 **PERFORMING TANK INTEGRITY TESTS WITHOUT A CURRENTLY VALID TANK**
18 **TESTING LICENSE FROM THE STATE WATER BOARD**
(Against All Defendants)

19 13. Plaintiff incorporates by this reference each and all of the allegations contained in
20 paragraphs 1 through 12 of this complaint, as though fully set forth herein.

21 14. Between 2005 and the present, Defendants performed tank integrity tests, engaged in
22 the business of tank integrity testing, and acted in the capacity of a tank tester at least thirty times
23 in California.

24 15. Between 2005 and the present, Franzen-Hill Corporation's agents or employees
25 performed these thirty or more tank integrity tests without having a currently valid tank testing
26 license from the State Water Board and without being under the direct and personal supervision
27 of someone having such a license.
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4. For such other and further relief as the Court deems just and proper.

Dated: May 6, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
SARA J. RUSSELL
Supervising Deputy Attorney General



NICHOLAS STERN
Deputy Attorney General
Attorneys for Plaintiff
People of the State of California ex rel. The
State Water Resources Control Board

**[Note: Code Civ. Proc., § 446 requires verification of the Answer to this Complaint.
General denials are not permitted in verified answers.]**

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **PEOPLE OF THE STATE OF CALIFORNIA V. FRANZEN-HILL CORP.**

No.: NO COURT NUMBER

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

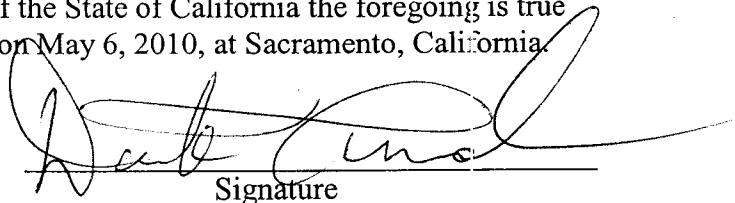
On May 6, 2010, I served the attached **COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Nathan Ide
Attorney at Law
110 W. Center Street, Suite A
Visalia, CA 93279

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 6, 2010, at Sacramento, California.

Deborah Trudeau

Declarant



Signature