

1 ELLEN M. MAHAN  
2 Deputy Chief, Environmental Enforcement Section  
3 U.S. Department of Justice  
4 Environment and Natural Resources Division

5 KARL J. FINGERHOOD (PA Bar No. 63260)  
6 Senior Counsel  
7 Environmental Enforcement Section  
8 Environment and Natural Resources Division  
9 U.S. Department of Justice  
10 P.O. Box 7611  
11 Washington, D.C. 20044-7611  
12 Telephone: (202) 514-7519  
13 Email: [karl.fingerhood@usdoj.gov](mailto:karl.fingerhood@usdoj.gov)

14 *Attorneys for Plaintiff United States of America*

15 *(Names and addresses of attorneys continued on following page)*

16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA  
18 WESTERN DIVISION

19 UNITED STATES OF AMERICA, and the  
20 CALIFORNIA DEPARTMENT OF TOXIC  
21 SUBSTANCES CONTROL

22 Plaintiffs,

23 v.

24 JERVIS B. WEBB COMPANY and JERVIS  
25 B. WEBB COMPANY OF CALIFORNIA,

26 Defendants.

Case No.

**COMPLAINT**

1 JIM COLLINS  
2 Assistant Regional Counsel  
3 U.S. Environmental Protection Agency  
4 Region 9  
5 75 Hawthorne Street  
6 San Francisco, CA 94105  
7 Tel: (415) 972-3218  
8 Email: [collins.jim@epa.gov](mailto:collins.jim@epa.gov)

9 *Of Counsel for Plaintiff United States of America*

10 XAVIER BECERRA  
11 Attorney General of California  
12 EDWARD H. OCHOA  
13 Supervising Deputy Attorney General  
14 OLIVIA W. KARLIN (CA Bar No. 150432)  
15 Deputy Attorney General  
16 300 South Spring Street, Suite 1702  
17 Los Angeles, CA 90013  
18 Tel.: (213) 269-6333  
19 Fax: (213) 897-2802  
20 Email: [olivia.karlin@doj.ca.gov](mailto:olivia.karlin@doj.ca.gov)

21 *Attorneys for Plaintiff State of California*  
22 *Department of Toxic Substances Control*  
23  
24  
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1 The United States of America ("United States"), by authority of the Attorney  
2 General of the United States and through the undersigned attorneys, acting at the  
3 request of the Administrator of the United States Environmental Protection Agency  
4 ("EPA"), and the California Department of Toxic Substances Control ("DTSC"),  
5 collectively referred to as "Plaintiffs," allege as follows:

6 **STATEMENT OF THE ACTION**

7 1. This is a civil action by the United States of America for recovery of  
8 response costs incurred or to be incurred under Section 107 of the Comprehensive  
9 Environmental Response, Compensation, and Liability Act of 1980, as amended  
10 ("CERCLA"), 42 U.S.C. § 9607, related to the releases and threatened releases of  
11 hazardous substances at the Jervis B. Webb Superfund Site in South Gate, Los  
12 Angeles County, California (the "Site").

13 2. This is also a civil action by DTSC for recovery of costs under  
14 Section 107 of CERCLA, 42 U.S.C. § 9607 and for a declaratory judgment  
15 pursuant to section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), that each  
16 Defendant is jointly and severally liable to DTSC for future response costs that it  
17 incurs that is not inconsistent with the NCP in responding to releases and  
18 threatened releases of hazardous substances at, beneath, and/or related to the Site.

19 3. Plaintiffs have incurred response costs and expect to continue to incur  
20 response costs in connection with actions taken in response to releases and/or  
21 threatened releases of hazardous substances at the Site.

22 4. Jervis B. Webb Company of California ("Webb-Cal") is among the  
23 parties the Plaintiffs have determined to be potentially responsible parties ("PRPs")  
24 for the Site.

25 5. This is also a civil action by the United States against Jervis B. Webb  
26 Company ("JBW") under the Federal Debt Collection and Procedures Act  
27 ("FDCPA"), 28 U.S.C. §§ 3001-3308 *et seq.*, to recover assets transferred from  
28

1 Webb-Cal to JBW at a time when Webb-Cal was insolvent and indebted to the  
2 United States.

3 **JURISDICTION AND VENUE**

4 6. This Court has jurisdiction over the subject matter of this action and  
5 over Defendants pursuant to 28 U.S.C. §§ 1331, 1367, and 1345; CERCLA  
6 Sections 107, and 113(b), 42 U.S.C. §§ 9607, and 9613(b).

7 7. Venue is proper in this district under Section 113(b) of CERCLA, 42  
8 U.S.C. § 9613(b), because the claims arose, and/or the threatened and actual  
9 releases of hazardous substances occurred, in the Western Division of the Central  
10 District of California.

11 **PLAINTIFFS**

12 8. Plaintiff the United States of America is acting at the request of EPA,  
13 an agency of the United States.

14 9. Plaintiff DTSC is a public agency of the State of California existing  
15 under and pursuant to sections 58000-58018 of the California Health and Safety  
16 Code. DTSC is a state agency responsible under state law for determining whether  
17 there has been a release and/or threatened release of a hazardous substance into the  
18 environment, and for determining the actions to be taken in response thereto.  
19

20 **DEFENDANTS**

21 10. The defendants to this action (collectively "Defendants") are Webb-  
22 Cal and JBW.

23 11. JBW is a Michigan corporation with its principal place of business in  
24 Farmington Hills, Michigan.

25 12. Webb-Cal was a California corporation from 1949 until its dissolution  
26 in 2003. JBW was a shareholder in Webb-Cal from the time of Webb-Cal's  
27 incorporation until its dissolution. From 1992 until the dissolution of Webb-Cal,  
28



1 JBW owned 100% of the shares of Webb-Cal, and Webb-Cal was a wholly owned  
2 subsidiary of JBW.

3 13. Each of the Defendants is a “person” within the meaning of Section  
4 101(21) of CERCLA, 42 U.S.C. § 9601(21).

### 5 THE SITE

6 14. The Site comprises approximately 3.82 acres in South Gate, Los  
7 Angeles County, California, and was used for various manufacturing operations  
8 dating back to the 1950s. Volatile organic compounds, including trichloroethene  
9 (“TCE”), have been confirmed in the soils and groundwater at the site. Industrial  
10 conveyor belt systems were manufactured from the 1950s to early 1996 on the  
11 southeast portion of the site. Aluminum and stainless steel aircraft rivets were  
12 produced on the northwest portion of the site, until about 1981. Site investigations  
13 and cleanup planning are ongoing.

### 14 GENERAL ALLEGATIONS

#### 15 A. Webb-Cal

16 15. From approximately 1953 to 2003, Webb-Cal owned and operated  
17 portions of or the whole of the Site. At various times during its ownership and  
18 operation, Webb-Cal manufactured cranes and conveyors on the Site. From  
19 approximately 1975 to 1984, Webb-Cal leased a portion of the Site to Blake Rivet  
20 Company (“Blake”). Blake manufactured aircraft rivets on a portion of the Site  
21 from the 1950s until approximately 1984. Blake has ceased doing business and is  
22 insolvent.

23 16. The Site is upgradient of the Cooper Drum Company Superfund Site  
24 and first came to the attention of the regulatory authorities during sampling related  
25 to the Copper Drum Company Superfund Site. EPA performed a Preliminary  
26 Assessment/Site Investigation in 1994. Soil borings taken in the late 1990s  
27 detected elevated levels of TCE and perchloroethene (“PCE”) in the soils at the  
28

1 northern part of the Site. In 1998 five groundwater wells were installed at the Site  
2 and subsequent sampling detected elevated levels of TCE and PCE in Site  
3 groundwater.

4 17. Hazardous substances, such as the volatile organic compounds PCE  
5 and TCE, were detected in Site soils and groundwater in sampling performed by  
6 Webb-Cal pursuant to directives of the Los Angeles Regional Water Quality  
7 Control Board ("RWQCB") between 1997 and 2005. PCE and TCE are  
8 "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42  
9 U.S.C. § 9601(14).

10 18. Under the direction of the RWQCB, Webb-Cal installed and operated  
11 a soil vapor extraction system from 1998 through 2001 at a portion of the Site. In  
12 addition, in 1997 TCE was detected in on-site soils. In 1999, Webb-Cal excavated  
13 and removed the contaminated soil and backfilled it with clean material under the  
14 oversight of the RWQCB. Sampling results indicated that elevated levels of TCE  
15 remained in the groundwater (approximately 33,000 ppb of TCE) after the soil  
16 excavation was complete.

17 19. In 2001, following the soil excavation, Webb-Cal requested a "no  
18 further action letter" from the RWQCB. In early 2003, the RWQCB refused to  
19 issue a "no further action letter" for the groundwater contamination at the Site, as  
20 groundwater sampling at the Site consistently detected levels of TCE thousands of  
21 times higher than the maximum contamination level.

22 20. In April of 2006, the RWQCB transferred oversight of the Site to  
23 DTSC.  
24

25 21. On October 23, 2008, DTSC sent a letter to Webb-Cal transmitting a  
26 draft Imminent and Substantial Endangerment Determination and draft Consent  
27 Order.  
28

1       22. On February 2, 2010, DTSC issued an Imminent and Substantial  
2 Endangerment Order to JBW.

3       23. In performing the response actions at the Site, DTSC has incurred  
4 response costs and may incur additional response costs in the future.

5       24. On January 18, 2011, DTSC referred the Site to EPA to assume lead  
6 oversight responsibilities.

7       25. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed  
8 the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B,  
9 by publication in the Federal Register on May 5, 2012, 77 Fed. Reg. 27,368.

10       26. EPA has undertaken a Remedial Investigation/Feasibility Study  
11 (“RI/FS”) of the Site pursuant to 40 C.F.R. § 300.430. The RI/FS commenced in  
12 2014 and is ongoing. In performing this response action at the Site, EPA has  
13 incurred response costs and will incur additional response costs in the future.

14       27. The United States, as of November 7, 2017, has incurred at least \$ 3.1  
15 million in unreimbursed response costs (including interest), as defined in Section  
16 101(25) of CERCLA, 42 U.S.C. § 9601(25), by responding to the releases or  
17 threatened releases of hazardous substances at the Site. DTSC has incurred at least  
18 \$68,746.99 in unreimbursed response costs (including interest), as defined in  
19 Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), and California Health and  
20 Safety Code section 25323.3, by responding to the releases or threatened releases  
21 of hazardous substances at the Site.

22       28. Plaintiffs’ response costs are not inconsistent with the National  
23 Contingency Plan, which is codified at 40 C.F.R. Part 300. Plaintiffs’ response  
24 actions include, but are not limited to, the initial investigation of the Site and the  
25 performance of a combined Remedial Investigation/Feasibility Study.  
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1        29. The Site is a “facility” within the meaning of Section 101(9) of  
2 CERCLA, 42 U.S.C. § 9601(9), and a “site” within the meaning of California  
3 Health and Safety Code Section 25323.9.

4        30. There were and are “releases” and threatened “releases” of hazardous  
5 substances at and from the Site into the environment, within the meaning of  
6 Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and the Site poses threats or  
7 potential threats to human health and/or the environment.

8        31. Defendant Webb-Cal is a “person who at the time of disposal of any  
9 hazardous substance owned or operated any facility at which such hazardous  
10 substances were disposed of,” within the meaning of Sections 107(a)(2) of  
11 CERCLA, 42 U.S.C. § 9607(a)(2).  
12

13  
14 **B. JBW**

15        32. At the time of its dissolution in 2003, Webb-Cal transferred to JBW,  
16 and JBW received from Webb-Cal, all of Webb-Cal’s remaining assets in an  
17 amount exceeding \$2.7 million.

18        33. At the time of its dissolution, the President and the sole Director of  
19 Webb-Cal was also President and a Director of JBW.

20        34. At the time of its dissolution, Webb-Cal was aware of EPA and the  
21 RWQCB’s investigations at the Site as well as the extensive TCE contamination in  
22 the groundwater at the Site.

23        35. At the time of its dissolution, Webb-Cal was indebted to the United  
24 States for the costs incurred and to be incurred in response to the hazardous  
25 substances released at and from the Site.

26        36. The FDCPA provides that transfers that are fraudulent as to a debt to  
27 the United States can be voided to the extent necessary to satisfy a debt to the  
28 United States. 28 U.S.C. § 3306.



1        37. The statute defines "debtor" as a person who is liable for a "debt" or  
2 against whom there is a "claim". 28 U.S.C. § 3001. A "debt" is defined as, among  
3 other things, "an amount that is owing to the United States on account of fine, . . . ,  
4 penalty, . . . interest." *Id.* A "claim" means "a right to payment, whether or not the  
5 right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured,  
6 unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." 28  
7 U.S.C. § 3301. A "transfer" means "every mode, direct or indirect, absolute or  
8 conditional, voluntary, or involuntary, of disposing of or parting with an asset or an  
9 interest in an asset . . . ." *Id.* An "insider" includes an affiliate or a person in control  
10 of the debtor. *Id.* A debtor is considered "insolvent" if the sum of the debtor's debts  
11 is greater than all the debtor's assets at a fair valuation. 28 U.S.C. § 3302(a). For  
12 purposes of Section 3302, assets do not include the transferred assets. *Id.* at §  
13 3302(d).

14        38. A transfer made by a debtor is fraudulent as to a debt to the United  
15 States, whether such debt arises before or after the transfer is made, if the debtor  
16 makes the transfer with actual intent to hinder, delay, or defraud a creditor. 28  
17 U.S.C. § 3304(b)(1)(A).

18        39. In determining actual intent, consideration may be given to the  
19 following factors, among others: whether the transfer was made to an insider;  
20 whether the transfer was disclosed; whether before the transfer was made or  
21 obligation was incurred, the debtor had been sued or threatened with suit; whether  
22 the value of the consideration received by the debtor was reasonably equivalent to  
23 the value of the asset transferred; whether the transfer was of substantially all the  
24 debtor's assets; whether the debtor was insolvent or became insolvent after the  
25 transfer was made; whether the transfer occurred shortly before or shortly after a  
26 substantial debt was incurred. 28 U.S.C. § 3304(b)(2).  
27  
28

1       40. The transfer of all its assets to JBW by Webb-Cal at the time of its  
2 dissolution rendered Webb-Cal insolvent.

3       41. The transfer of assets from Webb-Cal to JBW was made with the  
4 actual intent to hinder, delay, or defraud the United States as a creditor of Webb-  
5 Cal.

### 6                   **FIRST CLAIM FOR RELIEF**

7       42. Paragraphs 1-31 are realleged and incorporated herein by reference.

8       43. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides in  
9 pertinent part:

10           (2) any person who at the time of disposal of any hazardous substance  
11 owned or operated any facility at which such hazardous substances  
12 were disposed of . . .

13           shall be liable for –

14           (A) all costs of removal or remedial action incurred by the United States  
15 Government or a State not inconsistent with the national contingency plan...

16       44. Defendant Webb-Cal is liable under Section 107(a)(2) of CERCLA,  
17 42 U.S.C. §§ 9607(a)(2), as a person which owned or operated a facility at the time  
18 at which hazardous substances were disposed of.

19       45. Plaintiffs have incurred and will continue to incur costs of removal  
20 and remedial actions not inconsistent with the National Contingency Plan to  
21 respond to the release or threatened release of hazardous substances at the Site, or  
22 of hazardous substances which came to be located at the Site, within the meaning  
23 of sections 101(23), 101(24), and 101(25) of CERCLA, 42 U.S.C. §§ 9601(23),  
24 (24), and (25).

25       46. Webb-Cal is liable to Plaintiffs pursuant to CERCLA Section 107(a),  
26 42 U.S.C. § 9607(a), for all unrecovered response costs, plus interest on those  
27 response costs, incurred by Plaintiffs in connection with the Site.  
28

1 47. Plaintiffs are entitled to a declaratory judgment on liability against  
 2 Webb-Cal, pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2),  
 3 that will be binding in any subsequent action to recover further response costs  
 4 incurred by Plaintiffs in connection with the Site.

### 5 **SECOND CLAIM FOR RELIEF**

6 48. Paragraphs 1-41 are realleged and incorporated herein by reference.

7 49. Webb-Cal transferred \$2.7 million to JBW, an insider, at the time of  
 8 its dissolution; such transfer was of substantially all of Webb-Cal's assets and  
 9 rendered Webb-Cal insolvent; and such transfer was made after the United States  
 10 had incurred response costs at the Site and shortly before or after the RWQCB  
 11 refused to issue a "no further action letter" for the groundwater contamination at  
 12 the Site.

13 50. Webb-Cal's transfer to JBW was made with actual intent to hinder,  
 14 delay, or defraud the United States. 28 U.S.C. § 3304(b)(1)(A).

15 51. JBW is liable to the United States for the value of the assets received  
 16 by JBW from Webb-Cal pursuant to the provisions of sections 3304(b) and 3306 of  
 17 the FDCPA, 28 U.S.C. §§ 3304(b) and 3306.

### 18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs respectfully request that the Court enter:

20 1. Against Defendant Webb-Cal, a judgment pursuant to Section 107(a) of  
 21 CERCLA, 42 U.S.C. § 9607(a), for all costs incurred by Plaintiffs relating to the  
 22 Site through November 7, 2017, plus interest;

23 2. Against Defendant Webb-Cal, a declaratory judgment, pursuant to  
 24 Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), of Defendant's liability,  
 25 which will be binding in any subsequent action against Defendant seeking to  
 26 recover further response costs incurred by Plaintiffs in connection with the Site;  
 27  
 28



1 3. An order pursuant to 28 U.S.C. § 3306, requiring that the transfer to  
2 Defendant JBW from Defendant Webb-Cal be voided in order to satisfy the  
3 judgment in this case; and

4 4. Against Defendants, an order granting such other relief as the Court  
5 deems appropriate.

6 Respectfully submitted,

7 FOR THE UNITED STATES OF  
8 AMERICA

9 JEFFREY H. WOOD

10 Acting Assistant Attorney General  
11 Environment & Natural Resources  
12 Division

13 ELLEN M. MAHAN

14 Deputy Chief  
15 Environmental Enforcement Section  
16 Environment and Natural Resources  
17 Division

18 1/10/18  
19 Date

20   
21 KARL A. FINGERHOOD

22 Senior Counsel  
23 Environmental Enforcement Section  
24 Environment and Natural Resources  
25 Division  
26 U.S. Department of Justice

27 OF COUNSEL FOR THE UNITED STATES OF AMERICA:

28 JIM COLLINS

Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 9



FOR THE STATE OF CALIFORNIA  
DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL AND TOXIC  
SUBSTANCES CONTROL ACCOUNT

XAVIER BECERRA  
Attorney General of California  
EDWARD H. OCHOA  
Supervising Deputy Attorney General

Jan 10, 2018  
Date

Olivia W. Karlin

OLIVIA W. KARLIN  
Deputy Attorney General  
Attorneys for California Department of  
Toxic Substances Control

