



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
michael@lozeaudrury.com

December 13, 2010

(See attached Certificate of Service)

**NOTICE OF VIOLATION
OF
CALIFORNIA HEALTH & SAFETY CODE
§ 25249.5 ET SEQ.**

Dear Public Enforcement Agencies and Mssrs. Ratto, Salyers, and Holiday:

This office represents the California Sportfishing Protection Alliance (“CSPA”) and the Petaluma River Council (“PRC”). CSPA is a non-profit public benefit corporation dedicated to the preservation, protection, and defense of the environment, wildlife, and natural resources of the Russian River, Laguna de Santa Rosa, and other California waters. PRC is an unincorporated organization of concerned citizens, residing in Sonoma County, committed to protecting and improving the health and character of the Petaluma River, the Russian River, the Laguna de Santa Rosa, and other California waters and their surrounding environment.

CSPA and PRC have documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as “Proposition 65”). This letter serves to provide you and the Violators with CSPA’s and PRC’s notification of these violations. Pursuant to §25249.7(d) of the statute, CSPA and PRC intend to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies commence and diligently prosecute an action against these violations. A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

The names of the violators covered by this notice are Redwood Empire Disposal, Inc. and Redwood Empire Disposal Sonoma County, Inc. (collectively “Redwood Empire”). These violations involve the discharge of lead and lead compounds, arsenic, cadmium, mercury and nickel into sources of drinking water. These Proposition 65-listed toxins have been discharged, and are likely to continue to be discharged, by Redwood Empire from the facility located at 3400 Standish Avenue in Santa Rosa, California, to outfalls that flow into drainages, channels, culverts through natural creeks and watercourses that are tributary to the Laguna de Santa Rosa and the Russian River. The Laguna de Santa Rosa, the Russian River and their tributaries are

Notice of Violation, Health & Safety Code §25249.5 *et seq.*

December 13, 2010

Page 2

designated as sources of drinking water in the "Water Quality Control Plan for the North Coast Region" generally referred to as the "Basin Plan."

Information available to CSPA and PRC indicates that these ongoing unlawful discharges have been occurring since at least approximately January 2008. As part of its public interest mission and to rectify these ongoing violations of California law, CSPA and PRC are interested in resolving these violations expeditiously, without the necessity of costly and protracted litigation.

CSPA's address is 3536 Rainier Avenue, Stockton, CA 95204. The name and telephone number of the noticing individual within CSPA is Bill Jennings, Executive Director, (209) 464-5067. PRC's address is 1327 I Street, Petaluma, CA 94952. The name and telephone number of the noticing individual within PRC is David Keller, (707) 763-9336. CSPA and PRC have retained legal counsel to represent it in this matter. Therefore, please direct all communications regarding this notice to CSPA's and PRC's outside counsel in this matter:

Michael R. Lozeau
Richard T. Drury
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200
Fax. (510) 836-4205
michael@lozeaudrury.com
richard@lozeaudrury.com

Sincerely,



Michael R. Lozeau
Lozeau Drury LLP
Attorneys for California Sportfishing Protection Alliance
and Petaluma River Council

**APPENDIX A -- OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY**

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Governor’s List.” Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemical listings have been included as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicants”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL),” divided by a 1,000-fold safety or uncertainty factor. The “no observable effect level” is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a “significant amount” of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice. A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION...

Contact the Office of Environmental Health Hazard Assessment’s Proposition 65 Implementation Office at (916) 445-6900.

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct. I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 410 12th Street, Suite 250, Oakland, California 94607.

On December 13, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a U.S. Postal Service Office for delivery by Certified Mail:

James Ratto, President
James Salyers, Vice-President
Rick Holiday, Operations Manager
Redwood Empire Disposal, Inc.
Redwood Empire Disposal Sonoma
County, Inc.
3400 Standish Avenue
Santa Rosa, CA 95407

Proposition 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

On December 13, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.;** on the following party by placing a true and correct copy thereof in a sealed envelope, and depositing it in a US Postal Service Office for delivery by First Class Mail:

The Honorable Stephan Passalacqua
Sonoma County District Attorney
Hall of Justice, Second Floor
600 Administration Drive, Room 212-J
Santa Rosa, California 95403

Executed on December 13, 2010, in Oakland, California.



Toyer Grear