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16 Attorneys for Plaintiff,
17 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF SAN FRANCISCO
20 (Unlimited Jurisdiction)

21 CGC · 08 · 482167

22 MATEEL ENVIRONMENTAL
23 JUSTICE FOUNDATION,

24 CASE NO.

25 Plaintiff,

26 COMPLAINT FOR INJUNCTIVE RELIEF
27 AND CIVIL PENALTIES

28 v.

SMITH & HAWKEN, LTD; and TEKNOR
APEX COMPANY.

Defendants.

BUSINESS TORT

MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction to remedy the continuing failure of defendants SMITH & HAWKEN, LTD; and TEKNOR APEX COMPANY (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of California, who handle and use hose nozzles made from leaded brass (hereinafter referred to as "leaded-brass hose nozzles"), that handling and use of these products causes those residents to be exposed to lead

ENDORSED FILED
SUPERIOR COURT
COUNTY OF SAN FRANCISCO

NOV 21 2008

GORDON PARK-LI, CLERK
BY: PARAM NATT
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

APR 24 2009 - 9⁰⁰ AM

DEPARTMENT 212

1 and lead compounds, lead acetate, lead phosphate, and lead subacetate (hereinafter, collectively,
2 “lead”). The specific types of products at issue in the complaint are those listed in the Products
3 Lists of the Proposition 65 60-Day Notice Letters that are attached to this complaint and which
4 are incorporated into this complaint. Lead is known to the State of California to cause cancer,
5 birth defects and male and female reproductive toxicity. Defendants manufacture, distribute,
6 and/or market leaded-brass hose nozzles. These products cause exposures to lead and lead
7 compounds, which are chemicals known to the State of California to cause cancer, birth defects
8 and other reproductive harm.

9 2. Defendants are businesses that manufacture, market, and/or distribute leaded-
10 brass hose nozzles. Defendants intend that residents of California handle and use leaded-brass
11 hose nozzles that Defendants manufacture, market, and/or distribute. When these products are
12 handled and used in their normally intended manner, they expose people to lead. In spite of
13 knowing that residents of California were and are being exposed to these chemicals when they
14 handle and use leaded-brass hose nozzles, Defendants did not and do not provide clear and
15 reasonable warnings that these products cause exposure to chemicals known to cause cancer,
16 birth defects and other reproductive harm.

17 3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7
18 to compel Defendants to bring their business practices into compliance with section 25249.5 et
19 seq. by providing a clear and reasonable warning to each individual who has been and who in the
20 future may be exposed to the above mentioned toxic chemicals from the use of Defendants’
21 products.

22 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
23 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
24 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that
25 defendants identify and locate each individual person who in the past has purchased leaded-brass
26 hose nozzles and to provide to each such purchaser a clear and reasonable warning that the
27 leaded-brass hose nozzles will cause exposures to chemicals known to cause birth defects.

PARTIES

1
2 5. Plaintiff MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel")
3 is a non-profit organization dedicated to, among other causes, the protection of the environment,
4 promotion of human health, environmental education, and consumer rights. Mateel is based in
5 Eureka, California, and is incorporated under the laws of the State of California. Mateel is a
6 "person" pursuant to Health & Safety Code Section 25118. Mateel brings this enforcement
7 action in the public interest pursuant to Health & Safety Code §25249.7(d). Residents of
8 California are regularly exposed to lead and lead compounds from leaded-brass hose nozzles
9 manufactured, distributed or marketed by Defendants and are so exposed without a clear and
10 reasonable Proposition 65 warning.

11 6. Defendants are each a person doing business within the meaning of Health &
12 Safety Code Section 25249.11. Defendants are businesses that manufacture, distribute, and/or
13 market leaded-brass hose nozzles in California, including the City and County of San Francisco.
14 Manufacture, distribution and/or marketing of these products in the City and County of San
15 Francisco and/or to people who live in San Francisco, causes people to be exposed to lead and
16 lead compounds while they are physically present in the City and County of San Francisco.

17 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
18 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference are copies 60-
19 day Notice letter dated June 25, 2008, which Mateel sent to California's Attorney General. Letters
20 identical in substance were sent to every District Attorney in the state, and to the City Attorneys
21 of every California city with a population greater than 750,000. On that same date, Mateel sent
22 an identical 60-Day Notice letter to each defendant. Attached to the 60-Day Notice Letter sent to
23 each defendant was a summary of Proposition 65 that was prepared by California's Office of
24 Environmental Health Hazard Assessment. In addition, each 60-Day Notice Letter plaintiff sent
25 was accompanied by a Certificate of Service attesting to the service of the 60-Day Notice Letter
26 on each entity which received it. Pursuant to California Health & Safety Code Section
27 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the action
28 was also sent with each 60-Day Notice Letter. Factual information sufficient to establish the

1 basis of the Certificate of Merit was enclosed with the 60-Day Notice letter Mateel sent to the
2 Attorney General.

3 8. Defendants are all businesses that employ more than ten people.

4 JURISDICTION

5 9. The Court has jurisdiction over this action pursuant to California Health & Safety
6 Code Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court
7 "original jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6
8 of the Health & Safety Code, which contains the statutes under which this action is brought, does
9 not grant jurisdiction to any other trial court.

10 10. This Court also has jurisdiction over Defendants because they are businesses that
11 have sufficient minimum contacts in California and within the City and County of San Francisco.
12 Defendants intentionally availed themselves of the California and San Francisco County markets
13 for leaded-brass hose nozzles. It is thus consistent with traditional notions of fair play and
14 substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

15 11. Venue is proper in this Court because Defendants market their leaded-brass hose
16 nozzles in and around San Francisco and thus cause people to be exposed to lead and lead
17 compounds while those people are physically present in San Francisco. Liability for Plaintiff's
18 causes of action, or some parts thereof, has accordingly arisen in San Francisco during the times
19 relevant to this Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

20 FIRST CAUSE OF ACTION
21 (Claim for Injunctive Relief)

22 12. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as
23 if specifically set forth herein, paragraphs 1 through 11, inclusive.

24 13. The People of the State of California have declared by referendum under
25 Proposition 65 (California Health & Safety Code § 25249.5 et seq.) their right "[t]o be informed
26 about exposures to chemicals that cause cancer, birth defects, and reproductive harm."

27 14. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
28 that persons who, in the course of doing business, knowingly and intentionally expose any

1 individual to a chemical known to the State of California to cause cancer or birth defects must
2 first provide a clear and reasonable warning to such individual prior to the exposure.

3 15. Since at least June 25, 2005, Defendants have engaged in conduct that violates
4 Health and Safety Code Section 25249.6 et seq. This conduct includes knowingly and
5 intentionally exposing to the above mentioned toxic chemicals, those California residents who
6 handle and use leaded-brass hose nozzles. The normally intended use of leaded-brass hose
7 nozzles causes exposure to lead and lead compounds, which are chemicals known to the State of
8 California to cause cancer, birth defects and other reproductive harm. Defendants have not
9 provided clear and reasonable warnings, within the meaning of Health & Safety Code Sections
10 25249.6 and 25249.11.

11 16. At all times relevant to this action, Defendants knew that the leaded-brass hose
12 nozzles they manufactured, distributed or marketed were causing exposures to lead and lead
13 compounds. Defendants intended that residents of California handle and use leaded-brass hose
14 nozzles in such ways as would lead to significant exposures to these chemicals.

15 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
16 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
17 65, requiring them to provide warnings to their past customers who purchased defendants'
18 products without receiving a clear and reasonable warning, and to provide warnings to future
19 customers.

20 SECOND CAUSE OF ACTION
21 (Claim for Civil Penalties)

22 18. Plaintiff realleges and incorporates by reference into this First Claim for Relief, as
23 if specifically set forth herein, paragraphs 1 through 17, inclusive.

24 19. By the above described acts, Defendants are liable and should be liable pursuant
25 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
26
27
28

1 individual exposed to lead and lead compounds from the handling or use of Defendants' leaded-
2 brass hose nozzles.

3 PRAYER FOR RELIEF

4 Wherefore, plaintiff prays for judgment against DEFENDANTS, as follows:

5 A. Pursuant to the First Cause of Action, that all Defendants be enjoined, restrained,
6 and ordered to comply with the provisions of Section 25249.6 of the California Health & Safety
7 Code;

8 B. Pursuant to the Second Cause of Action, that each Defendants be assessed a civil
9 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
10 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
11 Defendants' manufacturing, distributing or marketing of leaded-brass hose nozzles;

12 C. That Defendants be ordered to identify and locate each individual who purchased
13 leaded-brass hose nozzles and provide a warning to each such person that the leaded-brass hose
14 nozzles the person purchased will expose that person to chemicals known to cause birth defects.

15 D. That Defendants be ordered to pay Mateel's attorney's fees and costs incurred in
16 prosecuting this action.

17 E. For such other relief as this court deems just and proper.

18 Dated: November 18, 2008

19 KLAMATH ENVIRONMENTAL LAW
CENTER

20 By 

21 William Verick
22 Attorney for Plaintiff
23 Mateel Environmental Justice Foundation
24
25
26
27
28



Klamath

ENVIRONMENTAL
LAW CENTER

June 25, 2008

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private companies listed on the attached service list, have been, are, will be and threaten to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual at both Mateel and this office. The above referenced violations occur when California residents come into contact with brass hose nozzles, brass quick connects, and other brass home and garden irrigation products, all of which are made from leaded-brass, (hereinafter "brass hose nozzles"). The listed businesses market these products. A list of specific examples of the specific types of products at issue is attached. The brass hose nozzles that people handle are made from leaded brass, which contains lead and lead compounds ("lead"), which are chemicals known to cause cancer, birth defects and other reproductive harm. California residents are exposed to lead when they handle brass hose nozzles. Lead is transferred from the brass hose nozzles to peoples' hands and to other parts of their skin. This lead is then absorbed through the skin, taken into cuts and abrasions, absorbed through mucous membranes, and transferred from the skin to the mouth via oral contact either directly with the lead-contaminated skin, and when lead is transferred from contaminated skin to cigarettes and food and the contaminated cigarettes and food are smoked and/or eaten. These lead exposures thus occur via the dermal absorption, subcutaneous, mucous membrane, ingestion and inhalation routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. These violations have occurred every day since at least June 25, 2005, and will continue every day until the lead is removed from the brass hose nozzles, or until clear and reasonable warnings are given. The above-referenced violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any brass hose nozzles made outside of California, except as to workplaces the companies themselves maintain in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the companies private business properties and in each of California's 58 counties.

Cordially,

William Verick

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 12TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
PO BOX 1948
SACRAMENTO, CA 95812-1948

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
200 EAST SANTA CLARA STREET
SAN JOSE, CA 95113

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO CONSUMER &
ENVIRONMENTAL PROTECTION
1200 THIRD AVENUE, SUITE 700
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
1225 FALLON STREET ROOM 900
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
708 COURT STREET
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
891 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET STREET
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94553

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTUN AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST # 424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
220 SOUTH LASSEN ST. STE 8
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 93637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 730
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
PO BOX 1000
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
204 SOUTH COURT STREET
ALTURAS, CA 96101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93517

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF MONTEREY
240 CHURCH STREET
P.O. BOX 1131
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
401 CIVIC CENTER DR WEST
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
AUBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
520 MAIN STREET #404
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4075 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
901 G STREET
SACRAMENTO, CA 95814

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
330 W. BROADWAY
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 93408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #212J
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF STANISLAUS
1100 I ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONORA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
800 SOUTH VICTORIA AVE
VENTURA, CA 93009

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YOLO
301 SECOND STREET
WOODLAND, CA 95695

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

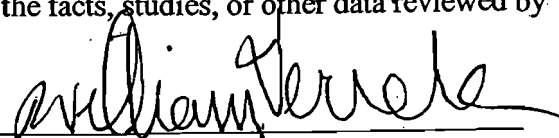
GORDON M. ERICKSON, CEO
SMITH & HAWKEN, LTD
14111 SCOTTS LAWN ROAD
MARYSVILLE, OH 43041

JONATHAN D. FAIN
TEKNOR APEX COMPANY
505 CENTRAL AVENUE
PAWTUCKET, RI 02861-1945

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 25, 2008



William Verick

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On June 25, 2008, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 25, 2008, at Eureka, California.



Nicole Frank

PRODUCTS LIST

SMITH & HAWKEN LTD

NOZZLE SPRAY GUN 06 # 864702 UPC: 841348 This product description pertains not only to the specific model of the product listed, but also for all units of all models of similar types of brass hose accessories.

TEKNOR APEX COMPANY

INSULATED WATER NOZZLE YELLOW UPC: 031724 140895 ORBIT PREMIUM
NOZZLE BLACK UPC: 031724 253694 These product descriptions pertain not only to the specific models of the products listed, but also for all units of all models of similar types of brass hose accessories.