

FILED
SAN FRANCISCO COUNTY
SUPERIOR COURT

2011 JUN -9 AM 1:08

CLERK OF COURT

BY: ~~DEMS~~ CLERK

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10 Attorneys for Plaintiff,
11 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO
14 (Unlimited Jurisdiction)

15 MATEEL ENVIRONMENTAL
16 JUSTICE FOUNDATION,

CASE NO. CGC-11-511593

17 Plaintiff,

COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES

18 v.

19 ORCHARD SUPPLY HARDWARE, LLC ;
20 and SEARS, ROEBUCK AND CO.;

TOXIC TORT/ENVIRONMENTAL

21 Defendants.

22 _____ /
23 MATEEL ENVIRONMENTAL JUSTICE FOUNDATION alleges as follows:

24 INTRODUCTION

25 1. This Complaint seeks civil penalties and an injunction to remedy the continuing
26 failure of defendants ORCHARD SUPPLY HARDWARE, LLC; and SEARS, ROEBUCK AND
27 CO., (hereinafter "Defendants"), to give clear and reasonable warnings to those residents of
28 California, who handle, use and/or maintain sprayers and sprayer accessories marketed by H. D.

1 Hudson Manufacturing company ("H.D.Hudson") that handling and use of H.D. Hudson's
2 sprayers causes those residents to be exposed to lead and lead compounds, lead acetate, lead
3 phosphate, and lead subacetate (hereinafter, collectively, "lead"). These sprayers and sprayer
4 accessories (collectively hereinafter "sprayers") utilize components that are made of leaded brass.
5 The specific H.D. Hudson sprayers at issue in the complaint are those listed in the Product Lists
6 of the Proposition 65 Notice of Violations Letters that are attached to this complaint and which
7 are incorporated into it. Lead is known to the State of California to cause cancer, birth defects
8 and male and female reproductive toxicity. Defendants manufacture, distribute, sell at retail or
9 otherwise market H.D.Hudson sprayers. These products cause exposures to lead and lead
10 compounds, which are chemicals known to the State of California to cause cancer, birth defects
11 and other reproductive harm..

12 2. Defendants are businesses that manufacture, market, and/or distribute H. D.
13 Hudson sprayers. Defendants intend that residents of California handle and use H. D. Hudson
14 Sprayers that Defendants manufacture, market, and/or distribute. When these products are
15 handled and used in their normally intended manner, they expose people to lead and lead
16 compounds. In spite of knowing that residents of California were and are being exposed to these
17 chemicals when they handle and use H. D. Hudson Sprayers, Defendants did not and do not
18 provide clear and reasonable warnings that these products cause exposure to chemicals known to
19 cause cancer, birth defects and other reproductive harm.

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

25 4. In addition to injunctive relief, plaintiff seeks civil penalties to remedy the failure
26 of Defendants to provide clear and reasonable warnings regarding exposure to chemicals known
27 to cause cancer, birth defects and other reproductive harm. Plaintiff also seeks an order that
28 defendants identify and locate each individual person who in the past has purchased H. D.

1 Hudson Sprayers and to provide to each such purchaser a clear and reasonable warning that the
2 H. D. Hudson Sprayers will cause exposures to chemicals known to cause birth defects.

3 PARTIES

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

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

19 7. Plaintiff brings this enforcement action against Defendants pursuant to Health &
20 Safety Code Section 25249.7(d). Attached hereto and incorporated by reference is a copy of a
21 60-day Notice letter, dated January 13, 2011, which Mateel sent to California's Attorney General.
22 Substantially identical letters were sent to every District Attorney in the state, and to the City
23 Attorneys of every California city with a population greater than 750,000. On that same date,
24 Mateel sent to Defendant, Orchard Supply Hardware, LLC, a letter substantively identical to the
25 Notice letter it sent on that date to the Attorney General. Attached to the 60-Day Notice Letters
26 sent to Defendant, Orchard Supply Hardware, LLC, was a summary of Proposition 65 that was
27 prepared by California's Office of Environmental Health Hazard Assessment. In addition, the
28 60-Day Notice Letter plaintiff sent was accompanied by a Certificate of Service attesting to the

1 service of the 60-Day Notice Letter on each entity which received it. Pursuant to California
2 Health & Safety Code Section 25249.7(d), a Certificate of Merit attesting to the reasonable and
3 meritorious basis for the action was also sent with each 60-Day Notice Letter. Factual
4 information sufficient to establish the basis of the Certificate of Merit was enclosed with the 60-
5 Day Notice letter dated January 13, 2011 Mateel sent to the Attorney General.

6 8. Attached hereto and incorporated by reference is a copy of a 60-day Notice letter,
7 dated March 3, 2011, which Mateel sent to California's Attorney General. Substantially identical
8 letters were sent to every District Attorney in the state, and to the City Attorneys of every
9 California city with a population greater than 750,000. On that same date, Mateel sent to
10 Defendant, Sears, Roebuck and Co., a letter substantively identical to the Notice letter it sent on
11 that date to the Attorney General. Attached to the 60-Day Notice Letters sent to Defendant,
12 Sears, Roebuck and Co., was a summary of Proposition 65 that was prepared by California's
13 Office of Environmental Health Hazard Assessment. In addition, the 60-Day Notice Letter
14 plaintiff sent was accompanied by a Certificate of Service attesting to the service of the 60-Day
15 Notice Letter on each entity which received it. Pursuant to California Health & Safety Code
16 Section 25249.7(d), a Certificate of Merit attesting to the reasonable and meritorious basis for the
17 action was also sent with each 60-Day Notice Letter. Factual information sufficient to establish
18 the basis of the Certificate of Merit was enclosed with the 60-Day Notice letter dated March 3,
19 2011, Mateel sent to the Attorney General.

20 9. Defendants are all businesses that employ more than ten people.

21 JURISDICTION

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

27 11. This Court also has jurisdiction over Defendants because they are businesses that
28 have sufficient minimum contacts in California and within the City and County of San Francisco.

1 Defendants intentionally availed themselves of the California and San Francisco County markets
2 for H. D. Hudson Sprayers. It is thus consistent with traditional notions of fair play and
3 substantial justice for the San Francisco Superior Court to exercise jurisdiction over them.

4 12. Venue is proper in this Court because Defendants market their H.D. Hudson
5 sprayers in and around San Francisco and thus cause people to be exposed to lead and lead
6 compounds while those people are physically present in San Francisco. Liability for Plaintiff's
7 causes of action, or some parts thereof, has accordingly arisen in San Francisco during the times
8 relevant to this Complaint and Plaintiff seeks civil penalties and forfeitures imposed by statutes.

9 FIRST CAUSE OF ACTION
10 (Claim for Injunctive Relief)

11 13. Plaintiff realleges and incorporates by reference into this First Cause of Action, as
12 if specifically set forth herein, paragraphs 1 through 13, inclusive.

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

16 15. To effectuate this goal, Section 25249.6 of the Health and Safety Code mandates
17 that persons who, in the course of doing business, knowingly and intentionally expose any
18 individual to a chemical known to the State of California to cause cancer or birth defects must
19 first provide a clear and reasonable warning to such individual prior to the exposure.

20 155 Since at least 3 years prior to the filing of the Complaint in this action all
21 defendants have engaged in conduct that violates Health and Safety Code Section 25249.6 et seq.
22 This conduct includes knowingly and intentionally exposing to the above mentioned toxic
23 chemicals, those California residents who handle and use H. D. Hudson Sprayers. The normally
24 intended use of these H. D. Hudson Sprayers causes exposure to lead and lead compounds, which
25 are chemicals known to the State of California to cause cancer, birth defects and other
26 reproductive harm. Defendants have not provided clear and reasonable warnings, within the
27 meaning of Health & Safety Code Sections 25249.6 and 25249.11.

28 16. At all times relevant to this action, Defendants knew that the H. D. Hudson
Sprayers they manufactured, distributed or marketed were causing exposures to lead and lead

1 compounds. Defendants intended that residents of California handle and use H. D. Hudson
2 Sprayers in such ways as would lead to significant exposures to these chemicals.

3 17. By the above described acts, Defendants have violated Cal. Health & Safety Code
4 § 25249.6 and are therefore subject to an injunction ordering them to stop violating Proposition
5 65, to provide warnings to all present and future customers, and to provide warnings to their past
6 customers who purchased defendants' products without receiving a clear and reasonable warning.

7 SECOND CAUSE OF ACTION
8 (Claim for Civil Penalties)

9 18. Plaintiff realleges and incorporates by reference into this Second Cause of Action,
10 as if specifically set forth herein, paragraphs 1 through 17, inclusive.

11 19. By the above described acts, Defendants are liable and should be liable pursuant
12 to Health & Safety Code § 25249.7(b), for a civil penalty of \$2,500.00 per day for each
13 individual exposed without proper warning to lead and lead compounds from the handling or use
14 of Defendants' H. D. Hudson sprayers.

15 PRAYER FOR RELIEF

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

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

20 B. Pursuant to the Second Cause of Action, that Defendants be assessed a civil
21 penalty in an amount equal to \$2,500.00 per day per individual exposed, in violation of Section
22 25249.6 of the California Health & Safety Code, to lead and lead compounds as the result of
23 Defendants' manufacturing, distributing or marketing of H. D. Hudson Sprayers;

24 C. That Defendants be ordered to identify and locate each individual who purchased
25 H. D. Hudson Sprayers and provide a warning to each such person that the H. D. Hudson
26 sprayers the person purchased will expose that person to chemicals known to cause birth defects.


27 D. That, pursuant to Civil Procedure Code § 1021.5, Defendants be ordered to pay to
28 Plaintiff the attorneys fees and costs it incurred in bringing this enforcement action.

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

Dated: June 1, 2011

LAW OFFICES OF DAVID H. WILLIAMS

By 
David Williams
Attorney for Plaintiff
Mateel Environmental Justice Foundation



Klamath

ENVIRONMENTAL
LAW CENTER

January 13, 2011

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that Orchard Supply Hardware LLC has been, is, will be and threatens 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 for both Mateel and this office. The above referenced violations occur when California residents use and/or maintain the sprayers and sprayer accessories (hereinafter collectively, "sprayers") listed on the attached Product List. These sprayers are manufactured and/or marketed by H.D. Hudson Mfg. Co. These sprayers expose people to lead and lead compounds (hereinafter "lead") while those people are physically present within the geographical boundaries of the state of California. These sprayers cause lead exposures when people touch components of these products that are made of leaded brass. Components of these products that are made of leaded brass are: the control valves, the spray wands, the extension assemblies, the connectors, and the nozzles and nozzle assemblies (hereinafter "leaded brass components"). People have to touch these leaded brass components when they hold the spray wand while spraying, when they adjust the spray pattern, and when they maintain or replace the spray wands. Lead is continuously on the surface of the leaded brass components and when people touch the leaded brass components, lead from the components comes off on the hands of these people. Lead is thus transferred from the sprayers to the hands of the people using and/or maintaining these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions, when the lead-exposed sprayer-users touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. Orchard Supply Hardware LLC did not and does not provide people with clear and reasonable warnings before it exposes them to lead. The above referenced violations have occurred every day since at least January 13, 2008, and will continue every day until the lead is taken out of these products or until warnings are given. These 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 leaded-brass or bronze tools made outside of California, except as to workplaces Orchard Supply Hardware LLC itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Orchard Supply Hardware LLC's properties and in each of California's 58 counties.

Cordially,

William Verick

424 First Street, Eureka, CA 95501 • 707.268.8900 (phone) 707.268.8901 (fax)

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE 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 B
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
110 UNION STREET
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
10810 JUSTICE CENTER DR. STE 240
ROSEVILLE, CA 95678

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, SUITE 1100
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
DOWNTONVILLE, CA 95936

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 94503

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

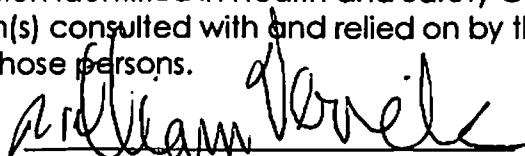
OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

ALLEN RAVAS,
ROBERT LYNCH
CHIEF ADMINISTRATIVE OFFICER AND DIRECTOR
ORCHARD SUPPLY HARDWARE LLC
6450 VIA DEL ORO
SAN JOSE, CA 95119

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: January 13, 2011


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 January 13, 2011, 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 NOTICE OF VIOLATION 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 January 13, 2011, at Eureka, California.


Nicole Frank

PRODUCT LIST

ORCHARD SUPPLY HARDWARE LLC

HUDSON BUGWISER SPRAYER 1.3 GALLON MODEL 67215 UPC CODE: 029925 672154; HUDSON

GENUINE SPRAYER SERVICE PARTS CONE-NOZZLE-BRASS 69940 UPC CODE: 029925 699403;

GENUINE SPRAYER SERVICE PARTS FLAT FAN NOZZLE-BRASS 115-405 UPC CODE: 029925 154056;

***HUDSON PARTS FAN NOZZLE CAP SKU 9206905 115-405/115-403;* HUDSON EXT-18' CURVED BRASS**

W/BRASS CONE NOZZLE REPLACEMENT SPRAY WAND 141-102 UPC CODE: 029925 414020



Klamath

ENVIRONMENTAL
LAW CENTER

March 3, 2011

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private businesses 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 for both Mateel and this office. The above referenced violations occur when California residents use and/or maintain the sprayers, and sprayer accessories, and sprayer components (hereinafter collectively, "sprayers") listed on the attached Product List that these companies market or produce. While a specific model or UPC code may be provided, this notice pertains to all units of all models of similar types of sprayers. These sprayers expose people to lead and lead compounds (hereinafter "lead") while those people are physically present within the geographical boundaries of the state of California. These sprayers cause lead exposures when people touch components of these products that are made of leaded brass. Components of these products that are made of leaded brass are: the control valves, the spray wands, the extension assemblies, the connectors, and the nozzles and nozzle assemblies (hereinafter "leaded brass components"). People have to touch these leaded brass components when they hold the spray wand while spraying, when they adjust the spray pattern, and when they maintain or replace the spray wands. Lead is continuously on the surface of the leaded brass components and when people touch the leaded brass components, lead from the components comes off on the hands of these people. Lead is thus transferred from the sprayers to the hands of the people using and/or maintaining these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions, when the lead-exposed sprayer-users touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. The listed companies did not and do not provide people with clear and reasonable warnings before they expose them to lead. The above referenced violations have occurred every day since at least March 3, 2008, and will continue every day until the lead is taken out of these products or until warnings are given. These violations are alleged for occupational and consumer product exposures. We do not allege occupational exposure violations as to any brass sprayers made outside of California, except as to workplaces these companies themselves maintain in California. This notice does not allege any environmental exposure violations.

Cordially,

William Verick

SERVICE LIST

PROPOSITION 65 ENFORCEMENT
REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
POST OFFICE 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 B
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
110 UNION STREET
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
10810 JUSTICE CENTER DR. STE 240
ROSEVILLE, CA 95678

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, SUITE 1100
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
DOWNIEVILLE, CA 95936

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 94504

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

BRETT HENRY, CEO
ROBERT BOSCH TOOL CORPORATION
492 DRUM AVE
SOMERSET, PA 15501

MANFRED SEITZ, CEO
ROBERT BOSCH TOOL CORPORATION
1800 W. CENTRAL RD.
MT. PROSPECT, IL 60056

PRESIDENT OR CEO
GILMOUR MANUFACTURING CO.
P.O. BOX 838
492 DRUM AVE
SOMERSET, PA 15501

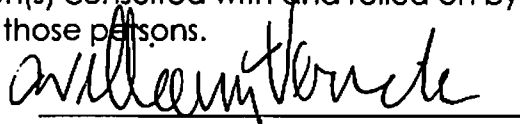
PRESIDENT OR CEO
GILMOUR CORPORATE OFFICE
1981 BISHOP LANE, SUITE 102
LOUISVILLE, KY 40218

W. BRUCE JOHNSON, PRESIDENT
SEARS, ROEBUCK AND CO.
3333 BEVERLY ROAD 82-100B
HOFFMAN ESTATES, IL 60179

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached notice(s) of violation 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: March 3, 2011



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 March 3, 2011, I caused the attached NOTICE OF VIOLATION 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 NOTICE OF VIOLATION 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 March 3, 2011, at Eureka, California.



Nicole Frank

PRODUCT LIST

GILMOUR MANUFACTURING CO.

ROBERT BOSCH TOOL CORPORATION

GILMOUR PROFESSIONAL WAND & DISCHARGE VALVE REPLACEMENT SPRAYER PARTS UNIVERSAL WAND R1458PW UPC CODE: 034411 201459 This notice pertains to all units of all models of similar types of sprayers.

SEARS ROEBUCK & CO.

HUDSON BUGWISER MULTI PURPOSE SPRAYER 2 GALLON MODEL #65222; HUDSON COMMANDO 2 GALLON GALVENIZED SPRAYER MODEL #96302E; HUDSON BUGWISER SS SPRAYER 2 GALLON MODEL# 67220; HUDSON SPRAYER PARTS 69940 CONE NOZZLE-BRASS; HUDSON SPRAYER PARTS TEEJET NOZZLE 9801; HUDSON 22"-37" TELESCOPIC EXTENSION #69925 This notice pertains to all units of all models of similar types of sprayers.