

1 LEXINGTON LAW GROUP, LLP  
2 Lucas Williams (State Bar No. 264518)  
3 Mary Haley Ousley (State Bar No. 332711)  
4 503 Divisadero Street  
5 San Francisco, CA 94117  
6 Telephone: (415) 913-7800  
7 Facsimile: (415) 759-4112  
8 lwilliams@lexlawgroup.com  
9 mhousley@lexlawgroup.com

Per local Rule, This case is assigned to  
Judge Treat, Charles S, for all purposes.

SUMMONS ISSUED

7 Attorneys for Plaintiffs  
8 ENVIRONMENTAL DEMOCRACY PROJECT

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF CONTRA COSTA

13 ENVIRONMENTAL DEMOCRACY PROJECT,  
14 a non-profit corporation,

15 Plaintiffs,

16 v.

17 PBF ENERGY, INC.; PBF ENERGY WESTERN  
18 REGION LLC; MARTINEZ REFINING  
19 COMPANY LLC; and DOES 1 through 20,  
20 inclusive,

21 Defendants.

Case No. C24-02851

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Health & Safety Code § 25249.6, *et seq.*

(Other)

1 Plaintiff Environmental Democracy Project, in the public interest, based on information  
2 and belief and investigation of counsel, except for information based on knowledge, hereby  
3 makes the following allegations:

4 **INTRODUCTION**

5 1. This Complaint seeks to remedy PBF Energy, Inc., PBF Western Region LLC, and  
6 Martinez Refining Company LLC's (Defendants) continuing failure to warn individuals in  
7 California that they are being exposed to chromium (hexavalent compounds) (Hexavalent  
8 Chromium), lead and lead compounds (Lead), nickel and nickel compounds (Nickel), hydrogen  
9 cyanide and cyanide salts (HCN and CN Salts), 1,3-butadiene, and formaldehyde (collectively,  
10 the Chemicals). Defendants own and operate one of the largest oil refineries in California located  
11 at and around 3485 Pacheco Boulevard in Martinez, California 94553 (the Refinery). The  
12 Refinery is located adjacent to densely populated neighborhoods in Martinez, California. The  
13 Refinery emits significant amounts of the Chemicals, which are known to the State of California  
14 to cause cancer, birth defects, and/or other reproductive harm, into the air in neighborhoods near  
15 the Refinery. Individuals living and working in neighborhoods surrounding the Refinery are  
16 exposed to the Chemicals when they breathe the Chemicals emitted from the Refinery.

17 2. Under California's Proposition 65, Health & Safety Code § 25249.5, *et seq.*, it is  
18 unlawful for businesses to knowingly and intentionally expose individuals in California to  
19 chemicals known to the State to cause cancer, birth defects, and other reproductive harm without  
20 providing clear and reasonable warnings to individuals prior to their exposure. Defendants'  
21 operations at the Refinery emit the Chemicals into the air which expose individuals in the area to  
22 the Chemicals.

23 3. Despite the fact that Defendants expose individuals to the Chemicals, Defendants  
24 do not provide clear and reasonable warnings about the carcinogenic and/or reproductive hazards  
25 associated with the exposures. Thus, Defendants' conduct violates the warning provision of  
26 Proposition 65, Health & Safety Code § 25249.6.

1 **PARTIES**

2 4. Plaintiff ENVIRONMENTAL DEMOCRACY PROJECT (EDP) is a non-profit  
3 corporation dedicated to representing communities exposed to pollution. EDP is incorporated  
4 under the laws of the State of California. EDP is a “person” within the meaning of Health &  
5 Safety Code § 25249.11(a) and brings this enforcement action in the public interest under Health  
6 & Safety Code § 25249.7(d).

7 5. Defendant PBF ENERGY, INC. is a person in the course of doing business within  
8 the meaning of Health & Safety Code § 25249.11. PBF Energy, Inc. owns or operates the  
9 Refinery which emits the Chemicals into the air, polluting the air in the neighborhoods near the  
10 Refinery. The Refinery is located at and around 3485 Pacheco Boulevard in Martinez, California  
11 94553. PBF Energy, Inc. exposes individuals living in the neighborhoods near the Refinery to  
12 Hexavalent Chromium, Lead, Nickel, HCN and CN Salts, 1,3-butadiene, and formaldehyde in the  
13 air without first providing such individuals with clear and reasonable warnings.

14 6. Defendant PBF ENERGY WESTERN REGION LLC is a person in the course of  
15 doing business within the meaning of Health & Safety Code § 25249.11. PBF Western Region  
16 LLC owns or operates the Refinery which emits the Chemicals into the air, polluting the air in the  
17 neighborhoods near the Refinery. The Refinery is located at and around 3485 Pacheco Boulevard  
18 in Martinez, California 94553. PBF Western Region LLC exposes individuals living in the  
19 neighborhoods near the Refinery to Hexavalent Chromium, Lead, Nickel, HCN and CN Salts,  
20 1,3-butadiene, and formaldehyde in the air without first providing such individuals with clear and  
21 reasonable warnings.

22 7. Defendant MARTINEZ REFINING COMPANY LLC is a person in the course of  
23 doing business within the meaning of Health & Safety Code § 25249.11. Martinez Refining  
24 Company LLC owns or operates the Refinery which emits the Chemicals into the air, polluting  
25 the air in the neighborhoods near the Refinery. The Refinery is located at and around 3485  
26 Pacheco Boulevard in Martinez, California 94553. Martinez Refining Company LLC exposes  
27 individuals living in the neighborhoods near the Refinery to Hexavalent Chromium, Lead, Nickel,  
28

1 HCN and CN Salts, 1,3-butadiene, and formaldehyde in the air without first providing such  
2 individuals with clear and reasonable warnings.

3 8. DOES 1 through 20 are each a person in the course of doing business within the  
4 meaning of Health & Safety Code § 25249.11. DOES 1 through 20 own and/or operate the  
5 Refinery which exposes individuals to the Chemicals.

6 9. The true names of DOES 1 through 20 are unknown to Plaintiff at this time. When  
7 their identities are ascertained, the Complaint shall be amended to reflect their true names.

8 10. The defendants identified in Paragraphs 5 through 7 and DOES 1 through 20 are  
9 collectively referred to herein as “Defendants.”

### 10 **JURISDICTION AND VENUE**

11 11. The Court has jurisdiction over this action under Health & Safety Code § 25249.7,  
12 which allows enforcement in any court of competent jurisdiction, and under the California  
13 Constitution, Article VI, Section 10, because this case is a cause not given by statute to other trial  
14 courts.

15 12. This Court has jurisdiction over Defendants because each is a business entity that  
16 does sufficient business, has sufficient minimum contacts in California, or otherwise intentionally  
17 avails itself of the California market through the ownership and/or operation of the Refinery, or  
18 by having such other contacts with California so as to render the exercise of jurisdiction over it by  
19 the California courts consistent with traditional notions of fair play and substantial justice.

20 13. Venue is proper in the Contra Costa County Superior Court because Defendants’  
21 Refinery is located in Contra Costa County and the violations arise in Contra Costa County.

### 22 **BACKGROUND FACTS**

23 14. The People of the State of California have declared by initiative under Proposition  
24 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or  
25 other reproductive harm.” Proposition 65, § 1(b).

26 15. To effectuate this goal, Proposition 65 prohibits exposing people to chemicals  
27 listed by the State of California as known to cause cancer, birth defects, or other reproductive  
28 harm above certain levels without a “clear and reasonable warning” unless the business

1 responsible for the exposure can prove that it fits within a statutory exemption. Health & Safety  
2 Code § 25249.6 states, in pertinent part:

3 No person in the course of doing business shall knowingly and  
4 intentionally expose any individual to a chemical known to the state to  
5 cause cancer or reproductive toxicity without first giving clear and  
6 reasonable warning to such individual[.]

7 16. On February 27, 1987, the State of California officially listed chromium  
8 (hexavalent compounds) as a chemical known to cause cancer. On February 27, 1988, one year  
9 after it was listed as a chemical known to cause cancer, chromium (hexavalent compounds)  
10 became subject to the clear and reasonable warning requirement regarding carcinogens under  
11 Proposition 65. 27 California Code of Regulations (C.C.R.) § 27001(b); Health & Safety Code §  
12 25249.10(b).

13 17. On December 19, 2008, the State of California officially listed chromium  
14 (hexavalent compounds) as a chemical known to cause reproductive toxicity. Chromium  
15 (hexavalent compounds) is specifically identified as a reproductive toxicant under three  
16 subcategories: “developmental reproductive toxicity,” which means harm to the developing fetus,  
17 “female reproductive toxicity,” which means harm to the female reproductive system, and “male  
18 reproductive toxicity,” which means harm to the male reproductive system. 27 C.C.R. §  
19 27001(c). On December 19, 2009, one year after it was listed as a chemical known to cause  
20 reproductive toxicity, chromium (hexavalent compounds) became subject to the clear and  
21 reasonable warning requirement regarding reproductive toxicants under Proposition 65. *Id.*;  
22 Health & Safety Code § 25249.10(b).

23 18. On February 27, 1987, the State of California officially listed lead as a chemical  
24 known to cause reproductive toxicity. Lead is specifically identified as a reproductive toxicant  
25 under three subcategories: “developmental reproductive toxicity,” which means harm to the  
26 developing fetus, “female reproductive toxicity,” which means harm to the female reproductive  
27 system, and “male reproductive toxicity,” which means harm to the male reproductive system. 27  
28 C.C.R. § 27001(c). On February 27, 1988, one year later, lead became subject to the clear and

1 reasonable warning requirement regarding reproductive toxicants under Proposition 65. *Id.*;  
2 Health & Safety Code § 25249.10(b).

3 19. On October 1, 1992, the State of California officially listed lead and lead  
4 compounds as chemicals known to cause cancer. On October 1, 1993, one year later, lead and  
5 lead compounds became subject to the clear and reasonable warning requirement regarding  
6 carcinogens under Proposition 65. 27 C.C.R. § 27001(b); Health & Safety Code § 25249.10(b).

7 20. On October 1, 1989, the State of California officially listed nickel as a chemical  
8 known to cause cancer. On October 1, 1990, one year later, nickel became subject to the clear  
9 and reasonable warning requirement regarding carcinogens under Proposition 65. 27 C.C.R. §  
10 27001(b); Health & Safety Code § 25249.10(b).

11 21. On May 7, 2004, the State of California officially listed nickel compounds as  
12 chemicals known to cause cancer. On May 7, 2005, one year later, nickel compounds became  
13 subject to the clear and reasonable warning requirement regarding carcinogens under Proposition  
14 65. 27 C.C.R. § 27001(b); Health & Safety Code § 25249.10(b).

15 22. On July 5, 2013, the State of California officially listed hydrogen cyanide (HCN)  
16 and cyanide salts (CN Salts) as chemicals known to cause reproductive toxicity. Hydrogen  
17 cyanide and cyanide salts are specifically identified as a reproductive toxicant under the “male  
18 reproductive toxicity” category, which means harm to the male reproductive system. 27 C.C.R. §  
19 27001(c). On July 5, 2014, one year later, hydrogen cyanide and cyanide salts became subject to  
20 the clear and reasonable warning requirement regarding reproductive toxicants under Proposition  
21 65. *Id.*; Health & Safety Code § 25249.10(b).

22 23. On April 1, 1998, the State of California officially listed 1,3-butadiene as a  
23 chemical known to cause cancer. On April 1, 1999, one year later, 1,3-butadiene became subject  
24 to the clear and reasonable warning requirement regarding carcinogens under Proposition 65. 27  
25 C.C.R. § 27001(b); Health & Safety Code § 25249.10(b).

26 24. On April 16, 2004, the State of California officially listed 1,3-butadiene as a  
27 chemical known to cause reproductive toxicity. 1,3-butadiene is specifically identified as a  
28 reproductive toxicant under three subcategories: “developmental reproductive toxicity,” which

1 means harm to the developing fetus, “female reproductive toxicity,” which means harm to the  
2 female reproductive system, and “male reproductive toxicity,” which means harm to the male  
3 reproductive system. 27 C.C.R. § 27001(c). On April 16, 2005, one year later, 1,3-butadiene  
4 became subject to the clear and reasonable warning requirement regarding reproductive toxicants  
5 under Proposition 65. *Id.*; Health & Safety Code § 25249.10(b).

6 25. On January 1, 1988, the State of California officially listed formaldehyde as a  
7 chemical known to cause cancer. 27 C.C.R. § 27001(b). On January 1, 1989, one year after it  
8 was listed as a chemical known to cause cancer, formaldehyde became subject to the clear and  
9 reasonable warning requirement regarding carcinogenicity under Proposition 65. *Id.*; Health &  
10 Safety Code § 25249.10(b).

11 26. The Refinery’s operations emit significant quantities of Hexavalent Chromium,  
12 Lead, Nickel, HCN and CN Salts, 1,3-butadiene, and formaldehyde into the air, which has  
13 polluted the air in the neighborhoods surrounding the Refinery. Individuals living in the  
14 neighborhoods surrounding the Refinery are exposed to these Chemicals when they breathe the  
15 Chemicals emitted from the Refinery. The primary route of exposure for the violations is  
16 inhalation when individuals breathe the Chemicals emitted from the Refinery. No clear and  
17 reasonable warning is provided to residents in the neighborhoods surrounding the Refinery  
18 regarding the health hazards associated with these Chemicals.

19 27. Any person acting in the public interest can enforce Proposition 65 violations  
20 when that person has supplied the requisite public enforcers with a valid 60-Day Notice of  
21 Violation and the public enforcers are not diligently prosecuting the action within 60 days.  
22 Health & Safety Code § 25249.7(d).

23 28. On August 12, 2024, more than sixty days prior to naming each Defendant in this  
24 lawsuit, Plaintiff provided a 60-Day “Notice of Violation of Proposition 65” to the California  
25 Attorney General, the District Attorney of Contra Costa County, and each of the named  
26 Defendants. In compliance with Health & Safety Code § 25249.7(d) and 27 C.C.R. § 25903(b),  
27 the Notice included the following information: (1) the name and address of each violator; (2) the  
28 statute violated; (3) the time period during which the violations occurred; (4) specific descriptions

1 of the violations, including (a) the routes of exposure to the Chemicals, and (b) the locations of  
2 the sources of the exposures to the Chemicals; and (5) the name of the specific Proposition 65-  
3 listed chemicals that are the subject of the violations described in the Notice.

4 29. Plaintiffs also sent a Certificate of Merit for each Notice to the California Attorney  
5 General, the District Attorney of Contra Costa County, and each of the named Defendants. In  
6 compliance with Health & Safety Code § 25249.7(d) and 11 C.C.R. § 3101, the Certificate  
7 certified that Plaintiffs' counsel: (1) has consulted with one or more persons with relevant and  
8 appropriate experience or expertise who reviewed facts, studies, or other data regarding the  
9 exposures to the Chemicals alleged in the Notice; and (2) based on the information obtained  
10 through such consultations, believes that there is a reasonable and meritorious case for a citizen  
11 enforcement action based on the facts alleged in the Notice. In compliance with Health & Safety  
12 Code § 25249.7(d) and 11 C.C.R. § 3102, the Certificate served on the Attorney General included  
13 factual information—provided on a confidential basis—sufficient to establish the basis for the  
14 Certificate, including the identity of the person( consulted by Plaintiff's counsel and the facts,  
15 studies, or other data reviewed by such persons.

16 30. None of the public prosecutors with the authority to prosecute violations of  
17 Proposition 65 has commenced and is diligently prosecuting a cause of action against Defendants  
18 under Health & Safety Code § 25249.5, *et seq.*, based on the claims asserted in Plaintiff's Notice.

19 31. Defendants know that their Refinery has, for many years, emitted and continues to  
20 emit significant quantities of the Chemicals into the air, which pollutes the air in the  
21 neighborhoods surrounding the Refinery. Defendants know that the Refinery's emissions expose  
22 individuals living in the neighborhoods surrounding the Refinery to the Chemicals when such  
23 individuals breathe the air. Defendants intend that their Refinery is operated in a manner that  
24 results in exposures to the Chemicals.

25 32. Under Proposition 65, an exposure is “knowing” where the party responsible for  
26 such exposure has:

27 knowledge of the fact that a[n] . . . exposure to a chemical listed pursuant  
28 to [Health & Safety Code § 25249.8(a)] is occurring. No knowledge that  
the . . . exposure is unlawful is required.



1 27 C.C.R. § 25102(n). This knowledge may be either actual or constructive. *See, e.g.*, Final  
2 Statement of Reasons Revised (November 4, 1988) (pursuant to former 22 C.C.R. Division 2,  
3 § 12601).

4 33. Defendants have actual knowledge of the Chemicals exposures described herein.  
5 For example, Defendants are required to report the amount of the Refinery’s Hexavalent  
6 Chromium, Lead, Nickel, hydrogen cyanide and cyanide, 1,3-butadiene, and formaldehyde air  
7 emissions, to the Bay Area Air Quality Management District. In addition, the Refinery has on  
8 numerous occasions spewed petroleum coke dust—which contains Nickel and chromium, among  
9 other harmful chemicals—into the neighborhoods surrounding the Refinery. Defendants have  
10 also been informed of the Chemicals exposures caused by the Refinery by means of the 60-Day  
11 Notice of Violation and accompanying Certificate of Merit served on them by Plaintiff.

12 34. The exposures to the Chemicals in the neighborhoods surrounding the Refinery are  
13 the natural consequence of Defendants operating a refinery near densely populated  
14 neighborhoods.

15 35. Plaintiffs have engaged in good faith efforts to resolve the claims alleged herein  
16 prior to filing this Complaint.

17 36. Nevertheless, Defendants have failed, and continue to fail, to provide clear and  
18 reasonable warnings regarding the carcinogenic and/or reproductive hazards of the Chemicals to  
19 individuals in the neighborhoods surrounding Defendants’ Refinery. Nor have Defendants  
20 undertaken to eliminate the exposures to the Chemicals caused by the Refinery’s operations. By  
21 committing the acts alleged above, Defendants have at all times relevant to this Complaint  
22 violated Proposition 65 by knowingly and intentionally exposing individuals to the Chemicals.

23 37. Any person “violating or threatening to violate” Proposition 65 may be enjoined in  
24 any court of competent jurisdiction. Health & Safety Code § 25249.7. “Threaten to violate” is  
25 defined to mean “to create a condition in which there is a substantial probability that a violation  
26 will occur.” Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not  
27 to exceed \$2,500 per day for each violation of Proposition 65.  
28

1 **FIRST CAUSE OF ACTION**  
2 **(Violations of Health & Safety Code § 25249.6)**

3 38. Plaintiffs reallege and incorporate by reference as if specifically set forth herein  
4 Paragraphs 1 through 37, inclusive.

5 39. Each Defendant is a person in the course of doing business within the meaning of  
6 Health & Safety Code § 25249.11.

7 40. Hexavalent Chromium, Lead, and 1,3-butadiene are known to the State of  
8 California to cause cancer, birth defects and other reproductive harm. Nickel and formaldehyde  
9 are known to the State of California to cause cancer. HCN and CN Salts are known to the State  
10 of California to cause birth defects and other reproductive harm.

11 41. Defendants know and intend that the Chemicals from their Refinery are emitted  
12 into the air, which pollutes the air in the neighborhoods surrounding the Refinery, thereby  
13 exposing individuals to the Chemicals.

14 42. Defendants have failed, and continue to fail, to provide clear and reasonable  
15 warnings regarding the carcinogenicity and/or reproductive toxicity of the Chemicals to  
16 individuals living in the neighborhoods surrounding the Refinery.

17 43. By committing the acts alleged above, Defendants have at all times relevant to this  
18 Complaint violated Proposition 65 by knowingly and intentionally exposing individuals to the  
19 Chemicals without first giving clear and reasonable warnings to such individuals regarding the  
20 carcinogenicity and/or reproductive toxicity of these chemicals.

21 **PRAYER FOR RELIEF**

22 Plaintiffs pray for judgment against Defendants as follows:

23 1. That the Court, pursuant to Health & Safety Code § 25249.7(a), preliminarily and  
24 permanently enjoin Defendants from exposing individuals living in the neighborhoods  
25 surrounding Defendants' Refinery to Hexavalent Chromium, Lead, Nickel, HCN and CN Salts,  
26 1,3-butadiene, and formaldehyde without first providing clear and reasonable warnings, as  
27 Plaintiffs shall specify in further application to the Court;

