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14 Attorneys for Plaintiff
15 AS YOU SOW

ENDORSED
FILED
San Francisco County Superior Court

MAY 31 2005

GORDON PARK-LI, Clerk
BY: JOSE RIOS MERIDA
Deputy Clerk

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 CITY AND COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION

18 AS YOU SOW, a non-profit corporation,

19 Plaintiff,

20 vs.

21 CONBRACO INDUSTRIES; et. al.,

22 Defendants.

) Case No.: 400568

) ~~PROPOSED~~ ORDER GRANTING
) MOTION FOR APPROVAL OF
) PROPOSITION 65 CONSENT
) JUDGMENT AND FOR ENTRY OF
) CONSENT JUDGMENT AS TO LEGEND
) VALVE & FITTING, INC.

23 Plaintiff As You Sow's ("AYS") motion to approve Proposition 65 settlement and for
24 entry of Consent Judgment as to Defendant Legend Valve & Fitting, Inc. came on for hearing by
25 the court on May 31, 2005. AYS appeared through its counsel, Andrew L. Packard. Defendant
26 appeared through its counsel, Michael J. Van Zandt.

1 After consideration of the papers submitted, and the oral arguments of counsel, the Court
2 makes the following findings pursuant to Health & Safety Code §25249.7(f)(4):

- 3 (a) Any warning that is required by the settlement complies with Chapter 6.6 of
4 the Health & Safety Code;
- 5 (b) the award of attorney's fees is reasonable under California law; and,
- 6 (c) the penalty amount is reasonable based on the criteria set forth in Health &
7 Safety Code §25249.7(b)(2).

8 The Court therefore approves the settlement and orders entry of the judgment in accordance with
9 the terms of the [Proposed] Consent Judgment.

10 **IT IS THEREFORE ORDERED THAT:**

- 11 (1) Plaintiff's motion is GRANTED; and,
- 12 (2) Judgment as to Defendant LEGEND VALVE & FITTING, INC. shall be entered
13 in accordance with the terms of the ~~[Proposed]~~ Consent Judgment.
14

15
16 DATED: May 31, 2005

15
16 *RS/* **RICHARD A. KRAMER**

17 Hon. Richard A. Kramer
18 Judge of the Superior Court



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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 CITY AND COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION
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14 AS YOU SOW, a non-profit corporation,
15
16 Plaintiff,
17 vs.
18 CONBRACO INDUSTRIES, et al.,
19 Defendants.

) Case No.: 400568
)
)

) ~~PROPOSED~~
) **CONSENT JUDGMENT AS TO LEGEND**
) **VALVE & FITTING, INC.**
)
)
)

20
21 IT IS HEREBY STIPULATED AND AGREED between Plaintiff AS YOU SOW and
22 Defendant LEGEND VALVE & FITTING, INC. as follows:

23 **WHEREAS:**

24 A. As You Sow (hereafter "AYS") is a non-profit corporation dedicated to, among other
25 causes, the protection of the environment, the promotion of human health, the improvement of
26 worker and consumer safety, and environmental education. AYS is based in San Francisco,
California and incorporated under the laws of the State of California;

1 B. LEGEND VALVE & FITTING, INC. (hereafter "LEGEND") is a Michigan
2 corporation that manufactures, distributes, and/or sells certain copper alloy (both bronze and
3 brass) backflow preventers, pressure regulators, pressure reducing valves, ball valves, gate
4 valves, check valves, stop valves, plumbing valves, and/or strainers containing lead and lead
5 compounds that come into contact with sources of drinking water (hereafter referred to as the
6 "Products").

7 C. The full product name, product model and inventory part number (or "SKU number") of
8 each of the Products are set forth in **Exhibit A**, attached hereto. Any products not appearing on
9 Exhibit A hereto are not covered by the injunctive provisions of this Consent Judgment (except
10 as specifically provided in Section 4 herein) or the release of liability provided in Section 13
11 herein.

12 D. On February 27, 1987, the State of California officially listed the chemical lead as a
13 chemical known to cause reproductive toxicity, pursuant to California Health and Safety Code
14 §25249.8;

15 E. On October 1, 1992, the State of California officially listed the chemicals lead and lead
16 compounds as chemicals known to cause cancer, pursuant to California Health and Safety Code
17 §25249.8;

18 F. AYS alleges that the Products have been sold by LEGEND for use in California since at
19 least October 25, 1997;

20 G. On or about April 12, 2001, AYS served LEGEND and each of the appropriate public
21 enforcement agencies with a document entitled "60-Day Notice" that provided LEGEND and the
22 public enforcement agencies with notice that LEGEND was allegedly in violation of California
23 Health and Safety Code §25249.5, *et seq.* ("Proposition 65") for discharging lead and lead
24 compounds to sources of drinking water and for failing to warn the purchasers and individuals
25 using the Products that the use of the Products exposes them to lead and lead compounds. A
26 copy of the "60-Day Notice" is attached hereto as **Exhibit B**;

1 H. On October 25, 2001, AYS filed a complaint against LEGEND entitled As You Sow v.
2 Conbraco Industries, Inc., et al., San Francisco Superior Court Case Number 400568 (the
3 "Action"), alleging violations of Proposition 65 and California Business and Professions Code
4 §17200, *et seq.* (the "UCL");

5 I. The Action was brought by AYS in the public interest and is part of a citizen enforcement
6 effort by AYS to redress unlawful discharges of lead and lead compounds to sources of drinking
7 water and unlawful exposures to lead and lead compounds without clear and reasonable
8 warnings arising out of the use of copper alloy plumbing products; the claims herein were
9 brought against LEGEND at least sixty (60) days after AYS provided notice of the alleged
10 Proposition 65 violations to LEGEND and the appropriate public enforcement agencies; and,
11 none of the public enforcement agencies commenced and began diligently prosecuting an action
12 against LEGEND for such alleged violations;

13 J. LEGEND answered the complaint on January 9, 2002 and has denied all of the
14 allegations contained therein.

15 K. LEGEND, without admitting any liability with regard to any allegations contained in the
16 AYS complaint, is desirous of settling this litigation in order to avoid future litigation costs and
17 in order to resolve this matter in a more efficient and cost-effective way.

18 L. The Effective Date of this Agreement shall be the date upon which this Consent
19 Judgment is entered by the Court.

20 **NOW, THEREFORE**, in consideration of the promises, covenants and agreements herein
21 contained and for other consideration, the sufficiency and adequacy of which is hereby
22 acknowledged by the parties to this agreement and without admitting any liability:

23 **1. Mandatory Testing & Affidavit For All Products Sold For Potential Use In**
24 **California Drinking Water.** LEGEND shall cause the Products it intends to sell in California
25 or knows (or has reason to know) will be sold or used in California and that it desires to sell in
26 California without being accompanied by the warning and the statement "NOT FOR USE IN

1 DRINKING WATER SYSTEMS IN CALIFORNIA,” as set forth in Section 2 and Exhibit C
2 herein, to be tested as set forth below (except that test results obtained by LEGEND for the
3 Products that pre-date this Agreement shall be deemed to comply with the testing requirements
4 under this paragraph, however LEGEND’s reliance upon any such test results is subject to
5 challenge by AYS pursuant to the Confirmation testing provisions of Section 5 and the
6 provisions of Section 19 herein). The testing will be done in accordance with the procedures and
7 processes set forth in “NSF/ANSI 61, Drinking Water System Components – Health Effects,
8 Section 8, Mechanical Devices,” and all applicable Sections and Annexes, as adopted by NSF
9 and in effect at the time of testing (“Standard 61”) to ascertain whether, within the meaning of
10 Standard 61, following an actual 12-hour exposure time, the normalized concentration for lead is
11 five (5) or fewer parts per billion under static conditions.

12 The parties understand and agree that product testing for Mechanical Devices (as defined
13 in Standard 61) pursuant to Standard 61 does not require the testing of each and every device that
14 may reasonably be encompassed by the definition of “Products” in this Consent Judgment, but
15 instead contemplates the testing of one or more devices that represent the complete size range of
16 a particular “model” (the range of sizes of a particular “model” – or the only size if there is only
17 one size – are hereinafter referred to as a “Product Family”). Each Product’s Family designation
18 is set forth herein on Exhibit A. In the event that only part of a Product Family is tested, a single
19 device may represent other devices of varying sizes in the same Product Family when the
20 Testing Laboratory determines, in accordance with Standard 61, that such device is
21 representative. See NSF/ANSI 61, Drinking Water System Components – Health Effects,
22 Section 8, Mechanical Devices, Annex B.4.1.1. or the equivalent language in any future updates
23 of the Standard 61 protocol. A single device may represent other devices of varying sizes in the
24 same Product Family when the Testing Laboratory determines, *inter alia*, that each of the
25 following conditions, as set forth in Standard 61, is met:

- 26 (1) materials are of the same alloy, composition, or formulation;

1 (2) the materials have undergone the same manufacturing process;

2 (3) the designs are analogous; and,

3 (4) it has the greatest exposed wetted surface area-to-volume ratio.

4 The testing of a single device as representative of a Product Family, or part of a Product Family,
5 as described in this Section shall be referred to as "Representative Testing."

6 All product testing shall be done by NSF International, Underwriter's Laboratories,
7 Truesdail Laboratories, LAPMO Testing & Services, CSA International, or other similarly
8 qualified laboratories, as the parties may agree (so long as these laboratories maintain an ANSI-
9 accredited "Product Certification Program" for "Drinking Water Additives – Health Effects")
10 (individually "Testing Laboratory").

11 On or before June 1, 2005, and yearly thereafter as required by Section 5 herein,

12 LEGEND shall serve AYS with an affidavit (the "Section 1 Affidavit") setting forth, by Product
13 name, product model, inventory part number (or SKU), and manufacturer (whether LEGEND or
14 another entity), the following:

- 15 (a) each Product that, based on testing performed by an independent laboratory as set
16 forth above, within the meaning of Standard 61, following an actual maximum
17 12-hour exposure time, has achieved a normalized concentration of five (5) or
18 fewer parts per billion of lead under static conditions and for which the
19 independent laboratory has formally certified that the Product achieves this
20 concentration and also meets all of the requirements of Standard 61 as to all
21 contaminants (referred to hereafter as "Section 1(a) Products"); and, separately,
22 (b) each Product that, based on testing performed by an independent laboratory as set
23 forth above, within the meaning of Standard 61, following an actual maximum
24 12-hour exposure time, has achieved a normalized concentration of five (5) or
25 fewer parts per billion of lead under static conditions but for which the
26 independent laboratory has not formally certified that the Product achieves this

1 concentration (referred to hereafter as "Section 1(b) Products"); and, separately,

2 (c) each Product that has not been tested, or has not achieved, following an actual
3 maximum 12-hour exposure time, a normalized concentration of five (5) or fewer
4 parts per billion of lead under static conditions within the meaning of Standard 61
5 (referred to hereafter as "Section 1(c) Products").

6 For each Product tested (including Products designated as Section 1(c) Products), this affidavit
7 shall be accompanied by documentation of all laboratory test results upon which the attestations
8 set forth in the affidavit are based, (including a copy of the laboratory's certification as an ANSI-
9 accredited "Product Certification Program" for "*Drinking Water Additives - Health Effects*", and
10 product certificates). LEGEND shall also specifically attest that the sample(s) of each Product
11 provided to the independent laboratory for testing is/are identical in all material respects to the
12 individual units of that Product that LEGEND intends to sell in California.

13 To the extent LEGEND has undertaken Representative Testing, LEGEND shall
14 specifically disclose in the affidavit: (1) the identity of each Product Family (if any) that has been
15 the subject of Representative Testing; (2) the identity of each device actually tested within each
16 such Product Family; (3) the wetted surface area-to-volume ratio of each Product actually tested
17 and of each Product not tested but for which a tested Product should be deemed
18 "Representative", as confirmed in writing by the independent laboratory testing the Products;
19 and (4) written confirmation from the Testing Laboratory as to which Products, if any, are
20 "Represented" by the Product(s) actually tested within the meaning of the four criteria for
21 Representative Testing set forth above. Any Products for which documentation is incomplete or
22 is otherwise inadequate shall be deemed Section 1(c) Products until documentation is provided to
23 AYS to support such Products' designation as Section 1(a) or Section 1(b) Products.

24 AYS agrees that it will not, without the express written authorization of LEGEND,
25 disclose or discuss any of the documents or test results provided to AYS pursuant to this Section,
26 including the Section 1 Affidavit and any annual updates thereto as required under Section 5,

1 with any other party to this action or any other entity or person, other than AYS' attorneys,
2 experts or consultants. AYS further agrees that all such discussions and/or disclosures will be
3 subject to the provisions of the stipulated Protective Order entered into by the parties, and
4 approved by the Court herein.

5 **2. Prohibition Against The Sale Of Any Products Failing To Achieve A Normalized**
6 **Contaminant Concentration Under Static Conditions, Within The Meaning Of Standard**
7 **61, Of Five (5) Or Fewer Parts Per Billion Of Lead, When Tested Under Standard 61.**

8 Beginning on July 1, 2005, LEGEND shall not offer for sale or use in California, or ship or cause
9 to be shipped to California, any of the Products unless the Product:

- 10 (a) has been designated as a Section 1(a) or Section 1(b) Product pursuant to Section
11 1 herein; or,
12 (b) bears a clear and reasonable statement on the Product (and on the package label, if
13 the packaging is such that the statement on the Product unit is not conspicuous, as
14 compared with other words, statements, or designs so as to render it likely to be
15 read and understood by an ordinary individual purchasing the Product without
16 removing the Product from the packaging) stating that the Product is "Not For
17 Use In Drinking Water Systems in California", and providing the warning as
18 specified in Exhibit C hereto.

19 **3. Consistency of Obligations.** AYS expressly recognizes and agrees that it will seek to
20 apply the provisions set forth in Sections 1 and 2 herein as standards applicable to each
21 defendant, whether already named and served as of, or after, the Effective Date of this Consent
22 Judgment who manufactures the products at issue in the Action for sale or distribution into
23 California. AYS further recognizes that it would impose an unreasonable and improper burden
24 upon LEGEND if LEGEND is required to comply with the provisions of Sections 1 and 2 of this
25 Consent Judgment if other defendants engaged in the manufacture of the products at issue in the
26 Action for sale or distribution in California are not required to comply with substantially similar

1 provisions. Consequently, to the extent that a less burdensome provision is agreed to between
2 AYS and any other manufacturing defendant to this action (whether already named and served as
3 of, or after the Effective Date of this Consent Judgment), or ordered by the Court or any
4 government entity, after the Effective Date of this Consent Judgment, then LEGEND shall be
5 entitled to seek a modification of this Judgment, pursuant to Section 18 herein, allowing
6 LEGEND to comply with such less burdensome provision as may be agreed to between AYS
7 and any other manufacturing defendant in the Action, or ordered by the Court or any government
8 entity, and entered as a judgment subsequent to the Effective Date of this Consent Judgment. In
9 determining whether any provision agreed to between AYS and any other manufacturing
10 defendant in the Action, or ordered by the Court or any government entity, is "less burdensome,"
11 the timeframe for complying with such provision shall not be a factor.

12 **4. Product Changes/Testing & Affidavit Requirements.** In the event there should occur
13 any change in the design, materials, manufacturing process or any other aspect of any Products
14 that LEGEND could reasonably expect to cause such Products to be designated in any manner
15 other than the manner initially designated in Section 1 herein and which has not resulted in a
16 change in the name, model, or part number of the Product, or in the event that LEGEND should
17 release any new copper alloy (both bronze and brass) backflow preventers, pressure regulators,
18 pressure reducing valves, ball valves, gate valves, check valves, stop valves, plumbing valves,
19 and/or strainers containing lead and lead compounds intended for sale in California not shown on
20 Exhibit A, LEGEND shall, before selling the changed Product(s) or new product(s) in California,
21 cause any such changed Product(s) or new product(s) to be tested for lead in accordance with
22 Standard 61 by an independent laboratory as set forth above in Section 1 and provide AYS with
23 an affidavit attesting to the fact that each such changed Product or new product has been so
24 tested and achieved, following a maximum 12-hour exposure, a normalized contaminant
25 concentration under static conditions, within the meaning of Standard 61, of five (5) or fewer
26 parts per billion of lead. This affidavit shall be accompanied by documentation of all laboratory

1 test results upon which the attestations set forth in the affidavit are based, including a copy of the
2 laboratory's certification as an ANSI-accredited "Product Certification Program" for "Drinking
3 Water Additives – Health Effects." The parties agree that such new product(s) shall then become
4 subject to all of the terms of this Consent Judgment thirty (30) days after AYS' receipt, by proper
5 notice as provided herein below, of such affidavit.

6 **5. Quality Assurance/Confirmation Testing.** In addition to any testing that may be
7 undertaken by AYS pursuant to Section 19, quality assurance/confirmation testing for lead shall
8 be conducted in the following manner:

9 (a) For a period of five years following the initial due date of the Section 1 Affidavit,
10 and on each June 1st of each such year, LEGEND shall provide AYS with an up-
11 to-date Section 1 Affidavit, which shall report to AYS and provide documentation
12 for any changes in the lists of Products or their categorization as among Section
13 1(a), 1(b) and 1(c). The affidavit shall comply with all of the requirements set
14 forth in Section 1 herein. LEGEND shall have the right to change the category of
15 a Product without penalty. LEGEND agrees to act promptly to change the
16 designated product category by notifying AYS of the category change pursuant to
17 the Notice requirements set forth herein prior to any California sale of the altered
18 Product. The date on which the initial Section 1 Affidavit and such updated
19 Section 1 Affidavits are provided to AYS shall initiate a new Testing Year, as
20 described more fully below;

21 (b) At any time (but no more frequently than once per Testing Year), AYS may select
22 for confirmation testing up to ten percent (rounded up to the nearest whole
23 number) of the individual Section 1(b) Products (i.e., not ten percent of the
24 models or "Product Families") from the most recent Section 1 Affidavit received
25 from LEGEND, identify these Products for LEGEND, and identify for LEGEND
26 which one laboratory listed in Section 1 should receive the Products for testing. It

1 is understood that LEGEND may use Representative Testing and is not obligated
2 to test each and every product identified by AYS from the list of ten percent of the
3 Products, provided that the lab properly applies the Representative Testing
4 scheme set forth herein;

5 (c) Within 30 days following receipt of AYS' selections, LEGEND shall then send a
6 minimum of six units of each Product or Representative Product identified by
7 AYS, according to the Representative Testing under Paragraph 1, to the
8 laboratory chosen by AYS, for testing in accordance with Section 1 herein and
9 copy AYS on this and any other correspondence with the laboratory. LEGEND
10 agrees to pay for this quality assurance/confirmation test for each Product
11 identified by AYS, including Representative Testing under Paragraph 1.

12 LEGEND shall arrange for such quality assurance/confirmation testing to be
13 completed within the laboratory's standard turn-around period following the
14 laboratory's receipt of the Product units to be tested and shall require that the
15 results from such testing be sent to both AYS and LEGEND simultaneously and
16 shall copy AYS on any correspondence with the Testing Laboratory;

17 (d) For purposes of any such quality assurance/confirmation testing, the laboratory
18 named by AYS shall apply the same testing criteria as set forth in Section 1. The
19 testing shall be done in accordance with the procedures and processes set forth in
20 "NSF/ANSI 61, Drinking Water System Components – Health Effects, Section 8,
21 Mechanical Devices," and all applicable Sections and Annexes, as adopted by
22 NSF and in effect at the time of testing ("Standard 61");

23 (e) If the quality assurance/confirmation test results for any Product show a
24 normalized concentration of greater than five (5) parts per billion of lead under
25 static conditions within the meaning of Standard 61, following an actual 12-hour
26 exposure time (a "Non-Conforming Test Result"), the Parties shall meet and

1 confer in good faith for a period of thirty (30) days in an effort to resolve the
2 matter. A second confirmation test, to be performed at a laboratory of AYS'
3 choosing, of any such Product shall be performed at LEGEND's expense if
4 requested either by AYS or by LEGEND. LEGEND shall require that the results
5 from such testing be sent to both AYS and LEGEND simultaneously and shall
6 copy AYS on any correspondence with the Testing Laboratory. In the event that
7 this second test also constitutes a Non-Conforming Test Result, within sixty (60)
8 days of AYS' receipt of any such test, LEGEND shall produce certified copies of
9 its Franchise Tax Board ("FTB") sales reports, or if such records were not
10 submitted to the FTB, its other certified business records showing its sales in
11 California of the Product receiving the Non-Conforming Test Result from the
12 beginning of the current Testing Year (which business records shall be treated as
13 "Confidential" pursuant to the Protective Order entered in this action). In the
14 event the Parties are unable to resolve the matter, AYS shall be entitled to move
15 for enforcement of the Consent Judgment with the Court. In any such
16 enforcement proceeding, these business records, together with a Non-Conforming
17 Test result that has not been contradicted by the result of a second confirmation
18 test performed as provided above, shall constitute a "satisfactory evidentiary
19 showing" under Section 7 herein. In the event that AYS seeks to enforce this
20 Agreement, LEGEND shall have the right to defend itself by proving that the tests
21 with Non-Conforming Test results were not administered properly by retesting
22 once, at the same laboratory designated by AYS and at LEGEND's expense, the
23 product(s) and obtaining results for lead of less than or equal to five parts per
24 billion, provided however that it produces such test result to AYS within sixty
25 (60) days of AYS' receipt of the second non-conforming test result. The Court
26 shall determine, in AYS' motion to enforce the consent judgment, whether the

1 additional test result constitutes "proof" that the tests with Non-Conforming Test
2 results were not administered properly. The stipulated civil penalties provided for
3 under Section 7 shall be applied to all sales violative of this Consent Judgment for
4 the Product(s) attaining a Non-Conforming Test Result that has not been
5 contradicted by the result of a second confirmation test (and all Products
6 representative thereof, within the meaning of Representative Testing) dating back
7 to the beginning of the current Testing Year;

8 (f) if at any point during the five year quality assurance/confirmation testing
9 program, a second confirmation test performed pursuant to Section 5(e) returns a
10 result for any Product showing a normalized concentration of greater than five (5)
11 parts per billion of lead under static conditions within the meaning of Standard 61,
12 following an actual 12-hour exposure time, then this quality
13 assurance/confirmation testing program shall be extended by a period of three
14 years.

15 **6. Cost Reduction.** Both parties agree to use reasonable efforts to reduce overall costs
16 associated with compliance with, and enforcement of, this Consent Judgment whenever possible,
17 provided that this term does not require the use of the least expensive alternative in any particular
18 situation.

19 **7. Stipulated Civil Penalties For Future Violations of This Agreement.** Proposition 65
20 provides for penalties of up to \$2,500 per violation, per day. Any sale of a Product by LEGEND
21 contrary to the terms of Sections 1 or 2 of this Agreement is a violation of this Agreement. The
22 parties stipulate to a civil penalty in the amount of \$100 per individual unit item sold by
23 LEGEND in violation of Sections 1 or 2 of this Agreement, subject to a satisfactory evidentiary
24 showing by AYS of such violations, if LEGEND fails to prove that the test was improperly
25 administered. Notwithstanding the above, in no event shall the penalties under this ¶ 7 exceed
26 \$67,500 in any single Testing Year. The parties further agree that, subject to the meet and confer

1 procedure set forth in Section 17 herein, AYS may enforce this judgment and obtain the
2 foregoing civil penalties, and all reasonable investigative, expert and legal fees and costs
3 associated with such enforcement, by a duly noticed motion in the San Francisco Superior Court.
4 AYS shall remit 75% of penalties obtained to the State of California pursuant to Health & Safety
5 Code §25192.

6 **8. Civil Penalties.** In consideration of LEGEND's agreement to settle the action and make
7 a monetary contribution to non-profit groups dedicated to reducing exposures to toxic chemicals
8 and to increase consumer, worker and community awareness of the health hazards posed by toxic
9 chemicals (as set forth in Section 9; below); LEGEND agrees to pay a civil penalty in the amount
10 of \$5,000 in accordance with the terms of Section 11 herein. AYS shall remit 75% of this
11 amount to the State of California pursuant to Health & Safety Code §25192.

12 **9. Payment In Lieu of Civil Penalties.** In lieu of further civil penalties, LEGEND agrees
13 to make a payment in the amount of \$27,250, in accordance with the terms of Section 11 herein.
14 These funds shall be used to make grants to qualifying third-party non-profit organizations and
15 by AYS to reduce exposures to toxic chemicals and to increase consumer, worker and
16 community awareness of the health hazards posed by toxic chemicals in California. In deciding
17 among grantee proposals, the AYS Board of Directors considers, and will consider, a number of
18 important factors, including: (1) the nexus between the harm done in the underlying case(s), and
19 the grant program work; (2) the potential for toxics reduction, prevention, remediation or
20 education benefits to California citizens from the proposal; (3) the budget requirements of the
21 proposed grantee and the alternate funding sources available to it for its project; and (4) the
22 Board's assessment of the grantee's chances for success in its program work.

23 **10. Reimbursement of Fees and Costs.** LEGEND agrees to reimburse AYS for a portion of
24 its reasonable investigative, expert and legal fees and costs incurred as a result of investigating,
25 bringing this matter to LEGEND's attention, and negotiating a settlement in the public interest,
26 in accordance with the terms of Section 11 herein. The amount of these fees and costs is \$59,000.

1 11. **Payment Schedule.** Pursuant to Sections 8, 9 and 10 herein, and in fulfillment of all
2 monetary obligations of LEGEND thereunder, LEGEND agrees to remit the total amount of
3 \$91,250 AYS, payable to "As You Sow" (Employer Identification Number 94-3169008) within
4 fifteen (15) days after the Effective Date.

5 12. **No Admission of Liability.** None of the provisions herein, or compliance with them,
6 shall be construed as an admission by any party of any fact, finding, issue of law, or violation of
7 law, including Proposition 65, the UCL, or any other statute, regulation, or common law
8 requirement related to alleged discharges or exposures from the Products. However, this Section
9 shall not diminish or otherwise affect the obligation, responsibilities, and duties of the parties
10 under this Consent Judgment.

11 13. **AYS Release of LEGEND.** AYS, by this Agreement, waives all rights to institute any
12 form of legal action against LEGEND, its officers, directors, attorneys, employees,
13 representatives and any entity within its chain of distribution, including but not limited to past
14 and present distributors, retailers, dealers and installers (including well drillers) under
15 Proposition 65 or Business & Professions Code §§17200 et seq. based on any discharges or
16 releases of lead and lead compounds to sources of drinking water by any of the Products sold or
17 shipped by LEGEND on or before July 1, 2005 or based on any exposures to lead and lead
18 compounds in drinking water caused by any of the Products sold or shipped by LEGEND on or
19 before July 1, 2005.

20 14. **LEGEND Release of AYS.** LEGEND, by this Agreement, waives all rights to institute
21 any form of legal action against AYS, its officers, directors, attorneys, employees and
22 representatives (the "AYS Releasees") for all actions or statements made or undertaken by the
23 AYS Releasees in the course of seeking enforcement of Proposition 65 or Business & Profession
24 Code §§17200 et seq. against LEGEND.

25 15. **Consent Judgment.** Upon execution of this [Proposed] Consent Judgment, and
26 consistent with the regulations implementing Proposition 65, Plaintiff shall notice a Motion for

1 Approval & Entry of Consent Judgment in the San Francisco Superior Court. Pursuant to Title
2 11, Cal. Code of Regs. §3003, this motion shall be served upon all of the parties to the Action
3 and upon the California Attorney General's Office. AYS further agrees that it will serve
4 LEGEND with all Motions for Approval & Entry of Consent Judgment (and all supporting
5 briefs, attachments and declarations) filed after the Effective Date of this Consent Judgment.

6 The Court shall either approve or disapprove of this [Proposed] Consent Judgment in its entirety,
7 without alteration, deletion or amendment, unless otherwise so stipulated by the parties or their
8 counsel at the hearing on the motion to approve this Consent Judgment. LEGEND agrees to
9 support the motion to approve this Consent Judgment in full, and shall take all reasonable
10 measures to ensure that it is entered without delay.

11 **16. Severability After Entry Of Judgment Pursuant To This Consent Judgment.** If after
12 entry of judgment pursuant to this Consent Judgment, any of the provisions of this Agreement
13 (other than Sections 7 – 11) are held by a court to be unenforceable, the validity of the
14 enforceable provisions shall not be adversely affected.

15 **17. Enforcement.** In the event that a dispute arises with respect to any of the provisions of
16 this Judgment, this Judgment may be enforced pursuant to Code of Civil Procedure §664.6 or
17 any other valid provision of law. Any party to this Judgment wishing to raise a good faith
18 dispute under the Judgment, shall provide all other parties to the Judgment notice, in accordance
19 with the Notice provisions herein, of such intent and the grounds therefore. The parties agree to
20 meet and confer in good faith for a period of thirty (30) days in an effort to resolve any disputes
21 before filing any motion to enforce the terms of this Consent Judgment. The parties agree
22 pursuant to Code of Civil Procedure §664.6 that the court shall retain jurisdiction over the parties
23 to enforce this agreement. The prevailing party in any such dispute shall be awarded reasonable
24 attorney's fees and costs incurred.

25 **18. Modification.** This Judgment may be modified only upon the written agreement of the
26 parties or by a properly noticed motion. Any party to this Judgment wishing to modify the

1 Judgment in accordance with Section 3 herein shall provide all other parties to the Judgment
2 notice, in accordance with the Notice provisions herein, of such intent and the grounds therefore.
3 The parties agree to meet and confer in good faith for a period of thirty (30) days in an effort to
4 resolve any proposed amendments before filing any motion to amend the terms of this Judgment.
5 In the event that the Court determines that a party seeking or opposing an amendment did so
6 without justification or failed to meet and confer in good faith in seeking or opposing the
7 amendment, the other party shall be awarded reasonable attorney's fees and costs incurred.

8 **19. Compliance Monitoring.** For purposes of monitoring LEGEND's compliance with this
9 Consent Judgment, AYS reserves the right to test any Product for up to ten years after the
10 Effective Date (including after the termination of the quality assurance/confirmation testing
11 program under Section 5(f) herein) under the procedures set forth in Section 1 herein, including
12 Representative Testing. For purposes of any such testing undertaken by AYS or testing pursuant
13 to the quality assurance/confirmation testing program herein, Representative Testing shall apply
14 the same criteria as set forth in Section 1, as determined by the Testing Laboratory. The testing
15 will be done in accordance with the procedures and processes set forth in "NSF/ANSI 61,
16 Drinking Water System Components – Health Effects, Section 8, Mechanical Devices," and all
17 applicable Sections and Annexes, as adopted by NSF and in effect at the time of testing
18 ("Standard 61"). The Product(s) shall be tested to ascertain whether, within the meaning of
19 Standard 61, following an actual 12-hour exposure time, the normalized concentration for lead is
20 five (5) or fewer parts per billion under static conditions. When acquiring products for testing,
21 AYS shall purchase at least double the minimum number of products required by the designated
22 laboratory for testing under NSF/ANSI 61, Section 8 (i.e. at least 12 specimens) and shall make
23 every effort to purchase products in their original packaging cartons so that the product batch
24 information is retained. AYS shall retain one-half of the product specimens tested for follow-up
25 testing by LEGEND in the event that AYS' test results exceed five parts per billion for lead.
26 AYS shall maintain a clear and complete chain of custody record for all products purchased. In

1 the event that the products tested by AYS do not achieve the test result stated above, then AYS
2 shall send to LEGEND the remaining purchased specimens for testing by an approved laboratory
3 as specified by this Consent Judgment. The parties shall meet and confer on the test results
4 obtained from both rounds of testing. After July 1, 2005, the sale in California of any Product
5 designated by the affidavit as a Section 1(a) or Section 1(b) Product, including Products tested
6 under the Representative Testing regime described herein, that fails to achieve this lead
7 concentration shall constitute a material violation of this [Proposed] Consent Judgment and be
8 the subject of the stipulated penalties procedure set forth in Section 7 herein unless, following a
9 meet and confer between the parties, LEGEND is able to prove that the products were
10 contaminated before testing or the test was improperly administered and follow-up tests
11 performed on the retained products have results of less than or equal to five parts per billion for
12 lead. In proving such violations, AYS may use Representative Testing as described herein.

13 **20. Governing Law.** The terms of this Agreement shall be governed by the laws of the State
14 of California.

15 **21. Notices.** All correspondence and notices required to be provided under this Agreement
16 shall be in writing and shall be sent by first class registered or certified mail addressed as
17 follows:

18 If to AYS: Attn: Lawrence E. Fahn, Executive Director
19 As You Sow
20 311 California Street, Suite 510
21 San Francisco, CA 94104

22 With a copy to: Andrew L. Packard
23 The Law Offices of Andrew L. Packard
24 294 Page Street
25 San Francisco, CA 94102

26 If to LEGEND: Legend Valve & Fitting, Inc.
 Attn: President
 51245 Filomena Drive
 Shelby Township, MI 48315

1 With a copy to: Michael J. Van Zandt, Esq.
2 McQuaid Bedford & Van Zandt, LLP
3 221 Main Street, 16th Floor
4 San Francisco, CA 94106

5 **22. Integration.** This Agreement, together with the Exhibits hereto which are specifically
6 incorporated herein by this reference, constitutes the entire agreement between the parties
7 relating to the rights and obligations herein granted and assumed, and supersedes all prior
8 agreements and understandings between the parties.

9 **23. Effect of Pending Proceedings On This Agreement.** As of the date of the signing of
10 this Agreement, AYS' appeal of the Court's judgment in this case with respect to other
11 defendants is still pending. The parties stipulate and agree, as part of the full settlement and
12 compromise of all disputed claims herein, that this [Proposed] Consent Judgment and the Court's
13 consideration thereof pursuant to Health & Safety Code Section 25249.7(f)(4) shall not be
14 affected by any judgment or order issued by the Court of Appeal, any stay ordered by this Court
15 or the Court of Appeal, or any other development in the Action, with the exception that, if the
16 Court should not approve this [Proposed] Consent Judgment in its entirety, unless otherwise so
17 stipulated by the parties or their counsel at the hearing on the motion to approve this Consent
18 Judgment, this [Proposed] Consent Judgment shall be of no further force or effect.

19 **24. Counterparts.** This Agreement may be executed in counterparts, each of which shall be
20 deemed an original, and all of which, when taken together, shall constitute one and the same
21 document.

22 //

23 //

24 //

25 //

26 //

25. **Authorization.** The undersigned are authorized to execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

DATED: 3-21-05 BY: Lawrence E. Fahn
Lawrence E. Fahn
Executive Director
AS YOU SOW

DATED: _____ BY: _____
Walter Jann
Executive Vice-President
LEGEND VALVE & FITTING, INC.

AS TO FORM:

DATED: April 8, 2005 BY: Andrew L. Packard
Andrew L. Packard
LAW OFFICES OF ANDREW L. PACKARD
Attorneys for Plaintiff
As You Sow

DATED: _____ BY: _____
Michael J. Van Zandt, Esq.
McQuaid Bedford & Van Zandt, LLP
Attorneys for Defendant
Legend Valve & Fitting, Inc.

IT IS SO ORDERED.

Dated: 5/31/05

/s/ **RICHARD A. KRAMER**

Judge of the Superior Court



- Index:**
EXHIBIT A - [LEGEND Product List]
EXHIBIT B - [Notice of Violation]
EXHIBIT C - [Clear and Reasonable Statement Concerning Products Not For Use In Drinking Water Systems for Section 1(c) Products]
EXHIBIT D - [Products For Which it is Impossible or Impracticable to Attach a Hang Tag]



25. Authorization. The undersigned are authorized to execute this Consent Judgment on behalf of their respective parties and have read, understood, and agree to all of the terms and conditions of this Consent Judgment.

DATED: _____ BY: Lawrence E. Fahr
Executive Director
AS YOU SOW

DATED: 4.8.05 BY: Walter Jann
Walter Jann
Executive Vice-President
LEGEND VALVE & FITTING, INC.

AS TO FORM:

DATED: _____ BY: Andrew L. Packard
LAW OFFICES OF ANDREW L. PACKARD
Attorneys for Plaintiff
As You Sow

DATED: 4-8-05 BY: Michael J. Van Zandt, Esq.
McQuaid Bedford & Van Zandt, LLP
Attorneys for Defendant
Legend Valve & Fitting, Inc.

IT IS SO ORDERED.

Dated: _____

Judge of the Superior Court

Index:

- EXHIBIT A - [LEGEND Product List]
- EXHIBIT B - [Notice of Violation]
- EXHIBIT C - [Clear and Reasonable Statement Concerning Products Not For Use In Drinking Water Systems for Section 1(c) Products]
- EXHIBIT D - [Products For Which it is Impossible or Impracticable to Attach a Hang Tag]

1 25. **Authorization.** The undersigned are authorized to execute this Consent Judgment on
2 behalf of their respective parties and have read, understood, and agree to all of the terms and
3 conditions of this Consent Judgment.

4 DATED: _____ BY: _____
5 Lawrence E. Fahn
6 Executive Director
7 AS YOU SOW

8 DATED: 4.8.05 BY: Walter Jann
9 Walter Jann
10 Executive Vice-President
11 LEGEND VALVE & FITTING, INC.

12 AS TO FORM:
13 DATED: _____ BY: _____
14 Andrew L. Packard
15 LAW OFFICES OF ANDREW L. PACKARD
16 Attorneys for Plaintiff
17 As You Sow

18 DATED: 4-8-05 BY: Michael J. Van Zandt, Esq.
19 Michael J. Van Zandt, Esq.
20 McQuaid Bedford & Van Zandt, LLP
21 Attorneys for Defendant
22 Legend Valve & Fitting, Inc.

23 **IT IS SO ORDERED.**

24 Dated: _____
25 _____
26 Judge of the Superior Court

- Index:**
20 **EXHIBIT A** - [LEGEND Product List]
21 **EXHIBIT B** - [Notice of Violation]
22 **EXHIBIT C** - [Clear and Reasonable Statement Concerning Products Not For Use In Drinking
23 Water Systems for Section 1(c) Products]
24 **EXHIBIT D** - [Products For Which it is Impossible or Impracticable to Attach a Hang Tag]

EXHIBIT A

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 1 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
A	Ball valve	T-1000 I.P.S.	101-003 101-004 101-005 101-006 101-007 101-008
A	Ball valve	T-1004 I.P.S.	101-013 101-014 101-015 101-016 101-017 101-018 101-019 101-020 101-021
A	Ball valve	S-1004	101-033 101-034 101-035 101-036 101-037 101-038 101-039 101-040
A	Ball valve	T-1001 I.P.S.	101-300 101-101 101-102 101-023 101-024 101-025 101-026 101-027 101-028 101-109 101-110 101-111
A	Ball valve	S-1001 CxC	101-043 101-044 101-045 101-046 101-047 101-048 101-209 101-210 101-211

Legend Valve & Fitting, Inc.
Exhibit "A" Product List (Page 2 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
A	Ball valve	T-2000 I.P.S.	101-253 101-254 101-255 101-256 101-257 101-258
A	Ball valve	S-2000 CxC	101-263 101-264 101-265 101-266 101-267 101-268
A	Ball valve	T-1100 I.P.S.	101-503 101-504 101-505
A	Ball valve	S-1100 CxC	101-513 101-514 101-515
A	Ball valve	T-1009	101-643 101-644 101-645
A	Ball valve	T-1001-T	101-653 101-654 101-655
A	Ball valve	S-1001-T CxC	101-633 101-634 101-635
A	Ball valve	T-900 I.P.S.	101-103 101-104 101-105 101-106 101-107 101-108
A	Ball valve	T-900 MxF	101-520 101-521 101-522 101-523 101-524 101-525

Legend Valve & Fitting, Inc.
Exhibit "A" Product List (Page 3 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
A	Ball valve	T-800-T I.P.S.	101-540 101-541 101-542 101-543 101-545 101-546
A	Ball valve	T-900 MxF-T	101-530 101-531 101-532 101-533 101-534 101-535
A	Ball valve	T-537 MALE	107-167 107-168
A	Ball valve	T-540 M.I.P. x Hose	107-169
A	Ball valve	T-538 F.I.P. x Hose	107-234
A	Ball valve	T-805 (swt x barb)	101-583 101-584
A	Ball valve	T-806 BxB (barb x barb)	101-585 101-586 101-587
A-1	Backflow preventer	T-457 I.P.S.	115-103 115-104 115-105
B	Gate valve	T-401 I.P.S.	104-301 104-302 104-303 104-304 104-305 104-306 104-307 104-308 104-309 104-310 104-311

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 4 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
B	Gate valve	S-401 CxC	104-403 104-404 104-405 104-406 104-407 104-408 104-409 104-410
B	Gate valve	T-400 I.P.S.	104-463 104-464 104-465 104-466 104-467 104-468 104-469 104-470 104-471
B	Gate valve	S-400 CxC	104-473 104-474 104-475 104-476 104-477 104-478
C	Stop valve	T-501 I.P.S.	107-103 107-104
C	Stop valve	S-501 CxC	107-113 107-114
C	Stop valve	T-503 I.P.S.	107-116 107-117
C	Stop valve	S-503 CxC	107-118 107-119
C	Stop valve	T-511 I.P.S.	107-123 107-124
C	Stop valve	S-511 CxC	107-133 107-134
C	Stop valve	T-512	107-316 107-317

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 5 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.		
D	Ball valve	T-1002 I.P.S.	101-061 101-062 101-063 101-064 101-065 101-066 101-067 101-068 101-069 101-070		
		T-1002 ST I.P.S.	101-723 101-724 101-725 101-726 101-727 101-728		
		T-1002 STLD	101-733 101-734 101-735 101-736 101-737 101-738		
		T-1002 LD	101-611 101-612 101-613 101-614 101-615 101-616 101-617 101-618		
		D	Ball valve	S-1002 CxC	101-082 101-083 101-084 101-085 101-086 101-087 101-088 101-089 101-090

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 6 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
D	Ball valve	T-800 I.P.S.	101-301 101-302 101-303 101-304 101-305 101-306 101-307 101-308 101-309 101-310 101-311
D	Ball valve	S-800 CxC	101-403 101-404 101-405 101-406 101-407 101-408
D	Ball valve	S-1102 CxC	101-603 101-604 101-605
D	Ball valve	T-806 BxB	101-585 101-586
D	Ball valve	T-802	101-553 101-554 101-555
D	Ball valve	T-1007 I.P.S. x SWT	101-623 101-624 101-625

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 7 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.		
E	Supply stop	T-581	114-101 114-102 114-103 114-104 114-107 114-116 114-123 114-124 114-126		
		T-581P	114-109		
		T-581RB	114-153 114-154 114-163		
		T-581PB	114-304		
		T-581 LS	114-143 114-144 114-146		
		E	Supply stop	S-581	114-113
				S-581ET	114-115
		E	Supply stop	T-583	114-133 114-134 114-136
		E	Supply stop	T-582	114-200 114-201 114-202 114-203 114-204 114-207 114-231 114-233 114-234
				T-582P	114-209
E	Supply stop	S-582	114-213 114-236		
		S-582ET	114-215		

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 8 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
E	Supply stop	T-587	114-402 114-403 114-404 114-413 114-423 114-424 114-406
F	Supply stop	T-594	114-753 114-754
F	Supply stop	T-595	114-602 114-603 114-604 114-607 114-609 114-613 114-614 114-624
F	Supply stop	T-596	114-702 114-703 114-704 114-707 114-709 114-710 114-713 114-724
F	Supply stop	T-597	114-803 114-804 114-823 114-824
G	IPS stop valve	R-680	107-503 107-504
G	CXC stop valve	R-681	107-513 107-514
G	IPS stop & Waste	R-680P	107-523 107-524
G	CXC stop & Waste	R-681P	107-533 107-534
G	Male boiler drain	R-670	107-543 107-544
G	FIP boiler drain	R-672	107-554 107-555

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 9 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
G	Male no-kink hose bibb	R-671	107-567 107-568
G	IPS sillcock	R-673	107-574 107-575
G	Sweat sillcock	R-674	107-584 107-585
H	frost-free sillcock	T-550	108-151 108-152 108-153 108-154 108-155 108-156 108-157 108-158 108-159 108-160
I	frostfree sillcock	T-552	108-121 108-122 108-123 108-124 108-125 108-126 108-133 108-134 108-135
N/A	Ball valve	T-901 I.P.S.	101-221 101-222 101-223 101-224 101-225 101-226 101-227 101-228 101-229 101-230
N/A	Ball valve	S-901 CxC	101-233 101-234 101-235 101-236 101-237 101-238
N/A	Ball valve	T-1005	101-563 101-564 101-565

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 10 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
N/A	Ball valve	T-801	101-550 101-551
N/A	Gate valve	T-417 I.P.S.	104-623 104-624 104-625 104-626 104-627 104-628 104-629 104-630
N/A	Gate valve	S-417	104-633 104-634 104-635 104-636 104-637 104-638
N/A	Gate valve	T-414 I.P.S.	104-653 104-654 104-655 104-656 104-657 104-658
N/A	Gate valve	S-414 CxC	104-663 104-664 104-665 104-666 104-667 104-668
N/A	Gate valve	T-415 I.P.S.	104-501 104-502 104-503 104-504 104-505 104-506 104-507 104-508 104-509 104-510 104-511

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 11 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
N/A	Gate valve	S-415 CxC	104-603 104-604 104-605 104-606 104-607 104-608 104-609 104-610 104-611
N/A	Globe valve	T-421 I.P.S.	103-103 103-104 103-105 103-106 103-107 103-108
N/A	Check valve	T-453 I.P.S.	105-303 105-304 105-305 105-306 105-307 105-308
N/A	Check valve	S-453 CxC	105-403 105-404 105-405 105-406 105-407 105-408
N/A	Check valve	T-455 I.P.S.	105-443 105-444 105-445 105-446 105-447 105-448
N/A	Check valve	S-455 CxC	105-463 105-464 105-465 105-466 105-467 105-468

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 12 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
N/A	Check valve	T-450 I.P.S.	105-423 105-424 105-425 105-426 105-427 105-428 105-430 105-431
N/A	Check valve	T-450 FxM	105-433 105-434
N/A	Check valve	T-450H I.P.S.	105-437 105-438
N/A	Check valve	T-448 I.P.S.	105-474 105-475 105-476 105-477 105-478 105-480 105-481
N/A	Check valve	T-448 FxM	105-495
N/A	Strainer	T-15 I.P.S.	105-501 105-502 105-503 105-504 105-505 105-506 105-507 105-508 105-509 105-510
N/A	Strainer	S-15 CxC	105-513 105-514 105-515 105-516 105-517 105-518 105-519 105-520
N/A	Ground key stop and drain	T-25 I.P.S.	111-213 111-214 111-215
N/A	Backflow preventer	T-459 I.P.S.	115-113 115-114

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 13 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
N/A	Backflow preventer	S-459 CxC	115-117 115-118
N/A	Pressure relief valve	T-50 I.P.S.	111-303 111-304
L	Check valve	T-451 I.P.S.	105-101 105-102 105-103 105-104 105-105 105-106 105-107 105-108 105-109 105-110 105-111
L	Check valve	S-451 CxC	105-203 105-204 105-205 105-206 105-207 105-208 105-209 105-210
C	Stop valve	S-511P	107-130 107-131
C	Stop valve	S-501P	107-110 107-111
J	Backflow preventer	T-553 G.H.T.	107-194
J	Backflow preventer	T-553C	107-195
J	Backflow preventer	T-554 G.H.T.	107-196
K	Stop valve	T-504 I.P.S.	107-253
K	Stop valve	S-504 CxC	107-255 107-256
K	Stop valve	T-505 I.P.S.	107-257
K	Stop valve	S-505 CxC	107-259

Legend Valve & Fitting, Inc.
 Exhibit "A" Product List (Page 14 of 14)

FAMILY	PRODUCT NAME	MODEL NO.	PART NO.
K	Gate valve	T-408 I.P.S.	104-703 104-704 104-705 104-706 104-707 104-708 104-709 104-710 104-711
K	Gate valve	S-408 CxC	104-723 104-724 104-725 104-726 104-727 104-728
K	Gate valve	T-408X I.P.S.	104-733 104-734 104-735 104-736 104-737 104-738
K	Gate valve	T-402	104-423 104-424 104-425
K	Gate valve	T-404 C.T.S.	104-447 104-448
K	Gate valve	T-403 I.P.S.	104-433 104-434 104-435
K	Gate valve	S-403 CxC	104-443 104-444 104-445
K	Stop valve	T-501X I.P.S.	107-106 107-107
N/A	Stop valve	T-502 C.T.S.	107-108 107-109
N/A	Stop valve	T-513	107-136 107-137

EXHIBIT B

A NON-PROFIT CORPORATION
540 Pacific Avenue
San Francisco, California 94133
www.asyousow.org

April 12, 2001

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

Dear Public Enforcement Agencies:

As You Sow is a non-profit foundation organized under the State of California's Non-Profit Public Benefit Corporation Law. As You Sow is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

As You Sow has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 *et seq.* This letter serves to provide As You Sow's notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, As You Sow intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify 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 noticing party is As You Sow. The name of the violator covered by this notice is **LEGEND VALVE & FITTING, INC.** ("Legend"). These violations involve discharges and exposures to lead and lead compounds found in a variety of drinking water system components manufactured, distributed or sold by Legend as described more fully below.

These products are specifically copper alloy (both bronze and brass) backflow preventers, pressure regulators, pressure reducing valves, ball valves, gate valves, check valves, stop valves, plumbing valves, and strainers that come into contact with drinking water in drinking water distribution systems (the "Products"). The copper alloys used in these products contain high levels of **lead and lead compounds** that are discharged to sources of drinking water and cause exposures to the users of the products.

On February 27, 1987, the State of California officially listed lead as a chemical known to cause reproductive toxicity (Title 22 California Code of Regulations §12000, *et seq.*). On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer (Title 22 California Code of Regulations §12000, *et seq.*).

Backflow preventers are installed in drinking water piping systems to prevent the flow of used or non-potable water into the pure, potable water distribution system. Pressure regulators and pressure reducing valves are utilized in drinking water piping systems to reduce a high inlet pressure to a lower pressure. Ball valves, gate valves, check valves, stop valves, and plumbing valves are installed in



drinking water piping systems to control or shut off the flow of potable water. Strainers are installed in drinking water piping systems to remove sediment and other particles from potable water.

Discharge into a source of drinking water. Legend is knowingly and intentionally discharging or releasing lead and lead chemicals, chemicals known to the State of California to cause cancer and reproductive toxicity, into a source of drinking water, in violation of Health & Safety Code §25249.5. The discharges and releases occur from the leaching of lead and lead compounds from Legend's Products into all sources of drinking water, including residential and commercial tap water, that comes into contact with Legend's Products.

Exposure without a clear and reasonable warning. In addition, Legend is knowingly and intentionally exposing individuals in the State of California to lead and lead compounds without providing a the clear and reasonable warning, in violation of Health & Safety Code §25249.6. These toxic exposures have occurred and continue to occur primarily through ingestion of drinking water but also through dermal contact and inhalation exposure routes.

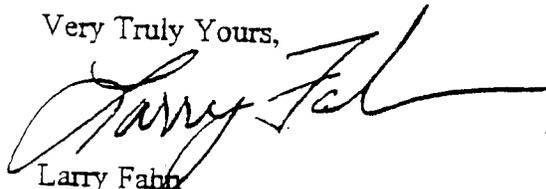
Individuals exposed. Persons consuming or using drinking water that has passed through or otherwise come into contact with Legend's Products.

Duration of violations. These ongoing violations of the statute have occurred every day since at least April 12, 1997, and will continue every day until clear and reasonable warnings are provided and until the ongoing discharges to sources of drinking water are terminated. Under Proposition 65, each discharge, release and exposure constitutes a separate violation. Health & Safety Code §25249.7(b). The maximum civil penalty for each such violation is \$2,500. *Id.* These same facts constitute a violation of Business and Professions Code §17200 *et seq.*

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, As You Sow is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to As You Sow's counsel in this matter:

Andrew L. Packard, Esq.
Law Offices of Andrew L. Packard
294 Page Street
San Francisco, CA 94102
Telephone: (415) 431-2970
Fax: (415) 431-0410

Very Truly Yours,



Larry Fahg
Executive Director

Enclosures

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EXHIBIT C

**Clear & Reasonable Statement Concerning
Products Not For Use In Drinking Water Systems**

In order to comply with Section 2(b) of this Consent Judgment, all Products failing to achieve, following an actual 12-hour exposure time, a normalized contaminant concentration of five (5) or fewer parts per billion of lead under static conditions within the meaning of Standard 61, and offered for sale or use in the State of California or shipped to California, shall bear the following statement on the Product unit (and on the package label, if the packaging is such that the statement on the Product unit is not conspicuous, as compared with other words, statements, or designs so as to render it likely to be read and understood by an ordinary individual purchasing the Product without removing the Product from the packaging) stating:

**NOT FOR USE IN
DRINKING WATER SYSTEMS IN CALIFORNIA**

WARNING:

This product contains lead, a chemical known to the State of California to cause cancer and birth defects or other reproductive harm.

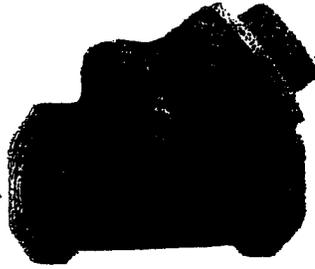
The statement on the Product unit shall either (a) be in the form of a permanent "hang tag" bearing the statement above; or, (b) be printed on the Product handle. Both statements shall be prominent and displayed with such conspicuousness, as compared with other words, statements, or designs, so as to render it likely to be read and understood by an ordinary individual purchasing or using the Product.

For the Products set forth in Exhibit D, the warning language will be printed on each individual box or plastic bag containing the Products. LEGEND will submit the format (i.e. size and font) of the warning language for AYS' approval before including it with the Products. In all instances, the warning shall be prominent and conspicuous, as compared with other words, statements, or designs, so as to render it likely to be read and understood by an ordinary individual purchasing or using the Product.

EXHIBIT D

Legend Valve & Fitting, Inc.
Exhibit "D" Products For Which it is Impossible or
Impracticable to Attach a Hang Tag (Page 1 of 3)

T-453:



S-453:



T-455:

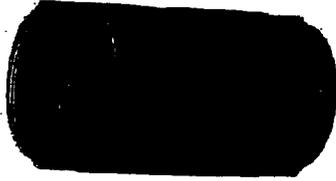


S-455:



Legend Valve & Fitting, Inc.
Exhibit "D" Products For Which it is Impossible or
Impracticable to Attach a Hang Tag (Page 2 of 3)

T-450:



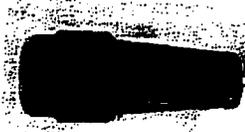
T-450 FxM:



T-450H:



T-448:

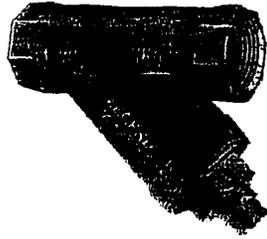


T-448 FxM:



Legend Valve & Fitting, Inc.
Exhibit "D" Products For Which it is Impossible or
Impracticable to Attach a Hang Tag (Page 3 of 3)

T-15:



S-15:



T-459:



S-459:

