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1 WILLIAM VERICK, SBN 140972  
2 FREDRIC EVENSON, SBN 198059  
3 KLAMATH ENVIRONMENTAL LAW CENTER  
4 424 First Street  
5 Eureka, CA 95501  
6 Telephone: (707) 268-8900  
7 Facsimile: (707) 268-8901  
8 E-mail: wverick@igc.org

9 DAVID WILLIAMS, SBN 144479  
10 BRIAN ACREE, SBN 202505  
11 PUBLIC INTEREST LAWYERS GROUP  
12 370 Grand Avenue, Suite 5  
13 Oakland, CA 94610  
14 Telephone: (510) 647-1900  
15 Facsimile: (510) 647-1905  
16 E-mail: davidhwilliams@earthlink.net

17 Attorneys for Plaintiff  
18 MATEEL ENVIRONMENTAL JUSTICE  
19 FOUNDATION

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
21 FOR THE COUNTY OF SAN FRANCISCO

22 MATEEL ENVIRONMENTAL  
23 JUSTICE FOUNDATION,,

24 Plaintiff.

25 v.

26 G.H. MEISER & CO., et al.,

27 Defendants.

Case No. 479007

CONSENT JUDGMENT AS TO  
DEFENDANT VERITAS TOOLS, INC.

ENDORSED  
FILED  
San Francisco County Superior Court

MAY 07 2009

GORDON PARK-LI, Clerk  
BY MARJORIE SCHWARTZ-SCOTT  
Deputy Clerk

28 1. INTRODUCTION

1.1 On August 21, 2008, the MATEEL ENVIRONMENTAL JUSTICE FOUNDATION ("Mateel") acting on behalf of itself and the general public, filed a Complaint for civil penalties and injunctive relief ("Complaint") in San Francisco Superior Court, Case No. 479007, against Defendant Veritas Tools, Inc. ("Veritas" or "Defendant" shall mean Veritas Tools, Inc., its parent, subsidiaries, affiliates and related companies). The Complaint alleges, among other things, that Defendant violated

NB1:705484.5

1 provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, Health and  
2 Safety Code Sections 25249.5, *et seq.* ("Proposition 65"). In particular, Mateel alleges  
3 that Veritas has knowingly and intentionally exposed persons to hand tools that are made  
4 of brass or that have brass components that contains lead and/or lead compounds  
5 (hereinafter "leaded brass"), without first providing a clear and reasonable warning to  
6 such individuals. Lead and lead compounds are chemicals known to the State of  
7 California to cause cancer and birth defects or other reproductive harm.

8       **1.2** On April 29, 2008, Mateel sent a 60-Day Notice letter ("Notice Letter") to  
9 Veritas, the California Attorney General, all California District Attorneys, and all City  
10 Attorneys of every California city with populations exceeding 750,000.

11       **1.3** Veritas is a business that employs ten or more persons and manufactures,  
12 distributes, and/or markets brass tools, within the State of California. Some of those brass  
13 products are alleged to contain lead and/or lead compounds. Lead and lead compounds  
14 are chemicals known to the State of California to cause cancer, and lead is a chemical  
15 known to the State of California to cause reproductive toxicity pursuant to Health and  
16 Safety Code Section 25249.9. Under specified circumstances, products containing lead  
17 and/or lead compounds that are sold or distributed in the State of California are subject to  
18 the Proposition 65 warning requirement set forth in Health and Safety Code Section  
19 25249.6. Plaintiff Mateel alleges that tools that are made from leaded brass, or that have  
20 leaded brass components, are manufactured, distributed, sold and/or marketed by Veritas  
21 for use in California and require a warning under Proposition 65.

22       **1.4** For purposes of this Consent Judgment, the term "Covered Products" shall  
23 be defined as tools that are made from leaded brass or that have leaded brass components  
24 that a consumer touches while using the tools in their normally intended manner, to the  
25 extent such products are distributed and sold within the state of California, and that are  
26 manufactured, distributed, marketed and/or sold by Veritas, regardless of whether they  
27 bear Veritas labels.

28

1           1.5 For purposes of this Consent Judgment, the parties stipulate that this Court  
2 has jurisdiction over the allegations of violations contained in the Complaint and personal  
3 jurisdiction over Veritas as to the acts alleged in the Complaint, that venue is proper in the  
4 County of San Francisco and that this Court has jurisdiction to enter this Consent  
5 Judgment as a full settlement and resolution of the allegations contained in the Complaint  
6 and of all claims that were or could have been raised by any person or entity based in  
7 whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or  
8 related thereto.

9           1.6 This Consent Judgment resolves claims that are denied and disputed. The  
10 parties enter into this Consent Judgment pursuant to a full and final settlement of any and  
11 all claims between the parties for the purpose of avoiding prolonged litigation. This  
12 Consent Judgment shall not constitute an admission with respect to any material allegation  
13 of the Complaint, each and every allegation of which Veritas denies, nor may this Consent  
14 Judgment or compliance with it be used as evidence of any wrongdoing, misconduct,  
15 culpability or liability on the part of Veritas.

16           2.     SETTLEMENT PAYMENT

17           2.1 In settlement of all of the claims referred to in this Consent Judgment  
18 against the Settling Defendant, within ten (10) days of entry of this Consent Judgment,  
19 Veritas shall pay \$ 20,000 to the Klamath Environmental Law Center ("KELC") to cover  
20 Mateel's attorneys' fees and costs.

21           2.2 Within ten (10) business days of notice of entry of this Consent Judgment,  
22 Veritas shall pay \$15,000 to the Environmental Protection Information Center ("EPIC"), a  
23 California non-profit tax exempt organization. This payment is to be used by EPIC to  
24 inform Californians about toxic chemicals or to eliminate or reduce exposures to toxic  
25 chemicals.

1           **3. ENTRY OF CONSENT JUDGMENT**

2           **3.1** The parties hereby request that the Court promptly enter this Consent  
3 Judgment. Upon entry of the Consent Judgment, Veritas and Mateel waive their  
4 respective rights to a hearing or trial on the allegations of the Complaint.

5           **4. MATTERS COVERED BY THIS CONSENT JUDGMENT**

6           **4.1** As to lead exposures caused by Covered Products, this Consent Judgment is  
7 a final and binding resolution between Mateel, acting on behalf of itself and, as to those  
8 matters raised in the Notice Letter, the general public, and Veritas, of: (i) any violation of  
9 Proposition 65 with respect to the Covered Products, and (ii) any other statutory or  
10 common law claim, to the fullest extent that any of the foregoing described in (i) or (ii)  
11 were or could have been asserted by Mateel against Veritas based upon those matters  
12 raised in the Notice Letter and arising out of or relating to Veritas's compliance with  
13 Proposition 65, or regulations promulgated thereunder, with respect to the Covered  
14 Products, and any other claim based in whole or part on the facts alleged in the Complaint,  
15 whether based on actions committed by Veritas or any entity within Veritas's chain of  
16 distribution, including, but not limited to, manufacturers, wholesale or retail sellers or  
17 distributors and any other person in the course of doing business. As to those matters  
18 raised in the Notice Letter concerning all Covered Products, compliance with the terms of  
19 this Consent Judgment resolves any issue, now and in the future, concerning compliance  
20 by Veritas and its parents, subsidiaries, affiliates or related companies, predecessors,  
21 officers, directors, employees, and all of their manufacturers, customers, distributors,  
22 wholesalers, retailers or any other person in the course of doing business, and the  
23 successors and assigns of any of these who may manufacture, use, maintain, distribute,  
24 market or sell Covered Products, with the requirements of Proposition 65.

25           **4.2** As to those alleged exposures to Covered Products raised in the Notice  
26 Letter concerning all Covered Products, Mateel, acting on behalf of itself and the general  
27 public, and Mateel's agents, successors and assigns, waive all rights to institute any form  
28 of legal action, and release all claims against Veritas and its parents, subsidiaries or

1 affiliates, predecessors, officers, directors, employees, and all of its customers,  
2 manufacturers, distributors, wholesalers, retailers or any other person in the course of  
3 doing business, and the successors and assigns of any of them, who may manufacture, use,  
4 maintain, distribute or sell the Covered Products, whether under Proposition 65 or  
5 otherwise, arising out of or resulting from, or related directly or indirectly to, in whole or  
6 in part, the claims identified in Mateel's Notice Letter concerning all Covered Products.  
7 In furtherance of the foregoing, Mateel, acting on behalf of itself hereby waives any and  
8 all rights and benefits which it now has, or in the future may have, conferred upon it with  
9 respect to the Covered Products by virtue of the provisions of Section 1542 of the  
10 California Civil Code, which provides as follows:

11 "A GENERAL RELEASE DOES NOT EXTEND TO  
12 CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR  
13 SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF  
14 EXECUTING THE RELEASE, WHICH IF KNOWN BY  
15 HIM MUST HAVE MATERIALLY AFFECTED HIS  
16 SETTLEMENT WITH THE DEBTOR."

17 Mateel understands and acknowledges that the significance and consequence of this  
18 waiver of California Civil Code Section 1542 is that even if Mateel suffers future damages  
19 arising out of or resulting from, or related directly or indirectly to, in whole or in part, the  
20 Covered Products, it will not be able to make any claim for those damages against Veritas,  
21 its parents, subsidiaries or affiliates, predecessors, officers, directors, employees, and all  
22 of its customers, manufacturers, distributors, wholesalers, retailers or any other person in  
23 the course of doing business, and the successors and assigns of any of them, who may  
24 manufacture, use, maintain, distribute or sell the Covered Products. Furthermore, Mateel  
25 acknowledges that it intends these consequences for any such claims which may exist as  
26 of the date of this release but which Mateel does not know exist, and which, if known,  
27 would materially affect its decision to enter into this Consent Judgment, regardless of  
28 whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or

1 any other cause.

2 **5. ENFORCEMENT OF JUDGMENT**

3 5.1 The terms of this Consent Judgment shall be enforced exclusively by the  
4 parties hereto. The parties may, by noticed motion or order to show cause before the  
5 Superior Court of San Francisco County, giving the notice required by law, enforce the  
6 terms and conditions contained herein.

7 **6. MODIFICATION OF JUDGMENT**

8 Except as provided for in Paragraph 7.3(c), this Consent Judgment may be  
9 modified only upon written agreement of the parties and upon entry of a modified Consent  
10 Judgment by the Court thereon, or upon motion of any party as provided by law and upon  
11 entry of a modified Consent Judgment by the Court.

12 **7. INJUNCTIVE RELIEF - CLEAR AND REASONABLE WARNING**

13 7.1 Covered Products shall be deemed to comply with Proposition 65 and be  
14 exempt from any Proposition 65 warning requirements if the brass that is part of the  
15 Covered Products meets the following criteria: (a) the brass alloy from which the brass  
16 fittings are made shall have a lead content by weight of no more than 0.03% (300 parts per  
17 million, or "300 ppm"). Veritas may comply with the above requirements by relying on  
18 information obtained from its suppliers regarding the content of the brass alloy from  
19 which the brass fittings are made, provided such reliance is in good faith. Obtaining test  
20 results showing that the lead content is no more than 0.03%, using a method of sufficient  
21 sensitivity to establish a limit of quantification (as distinguished from detection) of less  
22 than 300 ppm shall be deemed to establish good faith reliance.

23 7.2 Covered Products that do not meet the warning exemption standard set forth  
24 in Section 7.1 of the Consent Judgment shall be accompanied by a warning as described in  
25 paragraph 7.3 below. The warning requirements set forth in paragraph 7.3 shall apply  
26 only to: Covered Products that Veritas ships for distribution after 270 days after entry of  
27 this Consent Judgment ("the Effective Date") that are shipped by Veritas for sale or  
28 distribution by Veritas inside the State of California.

1           7.3    At the time Veritas ships the Covered Products for sale or distribution by  
2 Veritas inside the State of California, Veritas shall provide Proposition 65 warnings as  
3 follows:

4           (a)    Defendant Veritas shall provide either of the following warning  
5                    statements:

6           **WARNING:** This product contains lead, a chemical known to the State of  
7 California to cause cancer and birth defects or other reproductive harm. Do  
8 not place your hands in your mouth after handling the product. *Wash your*  
9 *hands after touching this product.*

10                    or

11           **WARNING:** This product contains one or more chemicals known to the  
12 State of California to cause cancer and birth defects or other reproductive  
13 harm. *Wash hands after handling.*

14           The word "WARNING" shall be in bold. The words "Wash hands  
15 after handling" shall be in bold and italicized.

16           For Covered Products shipped by Veritas to a distributor or retail  
17 seller, Veritas shall provide such warning with the unit package of the  
18 Covered Products. Such warning shall be prominently affixed to or printed  
19 on each Covered Product's label or package. The warning shall be at least  
20 the same size as the largest of any other safety warnings, if any, on the  
21 product container. If printed on the label itself, the warning shall be  
22 contained in the same section that states other safety warnings, if any,  
23 concerning the use of the product.

24           For Covered Products shipped by Veritas directly to an end user,  
25 Veritas shall provide such warnings on the invoice for the Covered Products.

26           (b)    The requirements for product labeling, set forth in subparagraph (a)  
27 above are imposed pursuant to the terms of this Consent Judgment. The  
28

1 parties recognize that product labeling is not the exclusive method of  
2 providing a warning under Proposition 65 and its implementing regulations.

3 (c) If Proposition 65 warnings for lead or lead compounds should no  
4 longer be required, Veritas shall have no further warning obligations  
5 pursuant to this Consent Judgment. In the event that Veritas ceases to  
6 implement or modifies the warnings required under this Consent Judgment  
7 (because of a change in the law or otherwise), Veritas shall provide written  
8 notice to Mateel (through KELC) of its intent to do so, and of the basis for  
9 its intent, no less than thirty (30) days in advance. Mateel shall notify  
10 Veritas in writing of any objection within thirty (30) days of its receipt of  
11 such notice, or such objection by Mateel shall be waived.

12 (d) If after the Effective Date, Veritas ships Covered Products to a  
13 retailer or distributor outside of California that neither provide the warnings  
14 specified in this paragraph nor meet the Reformulation Standard specified in  
15 paragraphs 7.1 through 7.3 of this Consent Judgment ("Non-Conforming  
16 Covered Products"), and if the retailer or distributor then offers those Non-  
17 Conforming Covered Products for sale in California, then as to those Non-  
18 Conforming Covered Products, that retailer or distributor, and their  
19 customers, are not released pursuant to Sections 4.1 and 4.2 above.

20 **8. AUTHORITY TO STIPULATE**

21 Each signatory to this Consent Judgment certifies that he or she is fully  
22 authorized by the party he or she represents to enter into this Consent Judgment and to  
23 execute it on behalf of the party represented and legally to bind that party.

24 **9. RETENTION OF JURISDICTION**

25 This Court shall retain jurisdiction of this matter to implement the Consent  
26 Judgment.

27 **10. ENTIRE AGREEMENT**



1 This Consent Judgment contains the sole and entire agreement and  
2 understanding of the parties with respect to the entire subject matter hereof, and any and  
3 all prior discussions, negotiations, commitments and understandings related hereto. No  
4 representations, oral or otherwise, express or implied, other than those contained herein  
5 have been made by any party hereto. No other agreements not specifically referred to  
6 herein, oral or otherwise, shall be deemed to exist or to bind any of the parties.

7 **11. GOVERNING LAW**

8 The validity, construction and performance of this Consent Judgment shall  
9 be governed by the laws of the State of California, without reference to any conflicts of  
10 law provisions of California law.

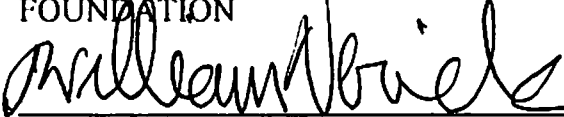
11 **12. COURT APPROVAL**

12 If this Consent Judgment is not approved by the Court, it shall be of no force  
13 or effect, and cannot be used in any proceeding for any purpose.

14 **IT IS SO STIPULATED:**

15 DATED:

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION



William Verick  
CEO Mateel Environmental Justice  
Foundation,  
Klamath Environmental Law Center

20 DATED:

VERITAS TOOLS, INC.



By: NICOLE BURNS  
Its: CHIEF FINANCIAL OFFICER

24 **IT IS SO ORDERED, ADJUDGED AND DECREED:**

26 DATED:

**MAY 07 2009**

RONALD E. QUIDACHAY  
JUDGE OF THE SUPERIOR COURT

RONALD E. QUIDACHAY