



1 Drinking Water and Toxic Enforcement Act of 1986, Health and Safety Code Sections  
2 25249.5, et seq. (“Proposition 65”). In particular, Mateel alleges that Great Neck  
3 knowingly and intentionally exposed persons to brass hose fittings commonly used on  
4 pneumatic hoses (collectively “leaded brass fittings”) that are made of or that include a  
5 component made of leaded brass, without first providing a clear and reasonable warning  
6 to 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 July 22, 2010, Mateel sent a Notice of Violation letter (“Notice  
9 Letter”) to Great Neck, the California Attorney General, all California District Attorneys,  
10 and all City Attorneys of every California city with populations exceeding 750,000.

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

23       1.4       In the Complaint, Mateel alleges that Great Neck violated Cal. Health &  
24 Safety Code Section 25249.6 by knowingly and intentionally exposing persons to  
25 products that are made of brass, or include a component made of brass, that contain lead  
26 and/or lead compounds, without first providing a clear and reasonable warning to such  
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1 individuals. Lead and lead compounds are chemicals known to the State of California to  
2 cause cancer and birth defects or other reproductive harm.

3       **1.5** For purposes of this Consent Judgment, the term “Covered Products” shall  
4 be defined as: (a) brass products, as set forth in the Notice Letter, that are made from  
5 leaded brass or that have leaded brass components and that are manufactured, distributed,  
6 marketed and/or sold by Great Neck.

7       **1.6** For purposes of this Consent Judgment, the parties stipulate that this Court  
8 has jurisdiction over the allegations of violations contained in the Complaint and personal  
9 jurisdiction over Great Neck as to the acts alleged in the Complaints, that venue is proper  
10 in the County of San Francisco and that this Court has jurisdiction to enter this Consent  
11 Judgment as a full settlement and resolution of the allegations contained in the Complaint  
12 and of all claims that were or could have been raised by any person or entity based in  
13 whole or in part, directly or indirectly, on the facts alleged therein or arising therefrom or  
14 related thereto.

15       **1.7** This Consent Judgment resolves claims that are denied and disputed. The  
16 parties enter into this Consent Judgment pursuant to a full and final settlement of any and  
17 all claims between the parties for the purpose of avoiding prolonged litigation. This  
18 Consent Judgment shall not constitute an admission with respect to any material allegation  
19 of the Complaints, each and every allegation of which Great Neck denies, nor may this  
20 Consent Judgment or compliance with it be used as evidence of any wrongdoing,  
21 misconduct, culpability or liability on the part of Great Neck.

## 22       **2. SETTLEMENT PAYMENTS**

23       **2.1** In settlement of all of the claims referred to in this Consent Judgment,  
24 Great Neck shall collectively pay an aggregate of \$30,000 (thirty thousand dollars) in total  
25 monetary relief.

26       **2.2** Of the foregoing \$30,000 amount, a total of \$10,000 (ten thousand dollars)  
27 shall collectively be paid by the Great Neck in lieu of, and as an offset for, any civil  
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1 penalty. The \$10,000 amount shall be made payable to Californians for Alternatives to  
2 Toxics.

3           **2.3**       In addition, of the \$30,000 amount specified in Paragraph 2.1 above, a  
4 total amount of \$20,000 (twenty thousand dollars) shall be paid by the Great Neck to the  
5 Klamath Environmental Law Center ("KELC") as reimbursement for attorneys fees and  
6 costs incurred by KELC on behalf of Plaintiff in investigating and prosecuting this matter  
7 and in negotiating this Consent Judgment on behalf of itself and in the public interest.  
8 The payments described in Paragraphs 2.2 and 2.3 above shall be delivered at least 5 days  
9 prior to any hearing on a motion to approve this settlement, to William Verick, 424 First  
10 Street, Eureka, CA 95501. If payment has not been received as provided in this  
11 paragraph, Plaintiff may withdraw any motion to approve and enter the agreement and the  
12 agreement shall become null and void. If this Consent Judgment has not been approved  
13 and entered by the Court within 120 days of the execution of the agreement by the parties,  
14 the payments described above shall be promptly returned to Great Neck, and the terms of  
15 this agreement shall be null and void.

16           **2.4**       MEJF and KELC represent and warrant that Californians for Alternatives  
17 to Toxics is a tax exempt, section 501(c)(3) non-profit organization and that funds  
18 distributed to these organizations pursuant to this Consent Judgment may only be spent to  
19 reduce harm from toxic chemicals, or to increase consumer, worker and community  
20 awareness of health hazards posed by lead and other toxic chemicals.

21           **2.5**       Except as specifically provided in this Consent Judgment, each side shall  
22 bear its own costs and attorney's fees.

23           **3.       ENTRY OF CONSENT JUDGMENT**

24           **3.1**       The parties hereby request that the Court promptly enter this Consent  
25 Judgment. Upon entry of the Consent Judgment, Great Neck and Mateel waive their  
26 respective rights to a hearing or trial on the allegations of the Complaints.

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

**4.1** As to lead and lead compound exposures alleged to be caused by Covered Products, this Consent Judgment is a full, final and binding resolution between Great Neck and Mateel, acting on behalf of itself and the public interest pursuant to Health and Safety Code section 25249.7(d), of all matters that are or that could have been alleged in the Complaints, including any violation of Proposition 65, or the regulations promulgated thereunder, to the fullest extent that any violation could have been asserted by Mateel against the Great Neck based upon, arising out of, or relating to Great Neck' compliance with Proposition 65, or regulations promulgated thereunder, whether based on actions committed by Great Neck, or by any other entity within the chain of manufacture, distribution and sale of the Covered Products. As to alleged lead and lead compound exposures from Covered Products, compliance with the terms of this Consent Judgment resolves any issue, now and in the future, concerning compliance by Great Neck and their parents, subsidiaries or affiliates, divisions, predecessors, successors, assigns, officers, directors, shareholders, attorneys, representatives, agents, employees, and all manufacturers, customers, distributors, wholesalers, retailers or any other person in the course of doing business involving the Covered Products, and the successors and assigns of any of these who may manufacture, use, maintain, distribute, market or sell Covered Products, with the current requirements and standards of Proposition 65. This Consent Judgment also is a full, final, and binding resolution between Plaintiff and Great Neck as to any other claims that could have been asserted against Great Neck or its affiliates, parents or subsidiaries, divisions, successors, officers, directors, shareholders, attorneys, representatives, agents, assigns, distributors, manufacturers, retailers, or customers for failure to disclose the presence of lead (or lead compounds) in or associated with use of the Covered Products.

**4.2** As to alleged lead and lead compound exposures associated with Covered

1 Products, Mateel, acting on behalf of itself, and its agents, attorneys, representatives,  
2 successors and assigns, waives all rights to institute or participate in, directly, or  
3 indirectly, any form of legal action, and releases all claims as between Mateel and Great  
4 Neck, including, without limitation, all actions, and causes of action, in law or in equity,  
5 suits, liabilities, demands, obligations, agreements, promises, royalties, accountings,  
6 damages, costs, fines, penalties, losses, or expenses (including, but not limited to,  
7 investigation fees, expert fees, and attorney's fees) of any nature whatsoever, whether  
8 known or unknown, fixed or contingent (collectively "claims"), against Great Neck and its  
9 parents, subsidiaries or affiliates, predecessors, officers, directors, shareholders, attorneys,  
10 representatives, agents, employees, and all customers, manufacturers, distributors,  
11 wholesalers, retailers, or any other person in the course of doing business involving the  
12 Covered Products, and the successors and assigns of any of them, who may manufacture,  
13 use, maintain, distribute or sell the Covered Products or components found in the Covered  
14 Products, including, but not limited to, any claims regarding exposure to, and/or failure to  
15 warn with respect to, the Covered Products. In furtherance of the foregoing, Mateel on its  
16 own behalf hereby waives any and all rights and benefits which it now has, or in the future  
17 may have respecting the Covered Products, conferred upon it with respect to claims  
18 involving Covered Products by virtue of the provisions of Section 1542 of the California  
19 Civil Code, which provides as follows:

20 "A GENERAL RELEASE DOES NOT EXTEND TO  
21 CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR  
22 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE  
23 TIME OF EXECUTING THE RELEASE, WHICH IF  
24 KNOWN BY HIM OR HER MUST HAVE MATERIALLY  
25 AFFECTED HIS OR HER SETTLEMENT WITH THE  
26 DEBTOR."

24 Mateel understands and acknowledges that the significance and consequence of  
25 this waiver of California Civil Code Section 1542 is that even if Mateel suffers future  
26 damages arising out of or resulting from, or related directly or indirectly to, in whole or in  
27 part, the Covered Products, including but not limited to any exposure to, or failure to warn  
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1 with respect to exposure to lead or lead compounds from, the Covered Products, Mateel  
2 will not be able to make any claim for those damages against Great Neck, its parents,  
3 subsidiaries or affiliates, predecessors, officers, directors, shareholders, representatives,  
4 attorneys, agents, employees, and all customers, manufacturers, distributors, wholesalers,  
5 retailers or any other person in the course of doing business involving the Covered  
6 Products, and the successors and assigns of any of them, who may manufacture, use,  
7 maintain, distribute or sell the Covered Products. Furthermore, Mateel acknowledges that  
8 it intends these consequences for any such claims and any other claims which may exist as  
9 of the date of this release but which Mateel does not know exist, and which, if known,  
10 would materially affect its decision to enter into this Consent Judgment, regardless of  
11 whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or  
12 any other cause.

## 13 **5. ENFORCEMENT OF JUDGMENT**

14 **5.1** The terms of this Consent Judgment shall be enforced exclusively by the  
15 parties hereto. The parties may, by noticed motion or order to show cause before the  
16 Superior Court of San Francisco County, giving the notice required by law, enforce the  
17 terms and conditions contained herein. The parties hereto agree that prior to any such  
18 enforcement action, they will notify each other of any perceived violation of this Consent  
19 Judgment. The parties further agree to take no enforcement action for 30 days after such  
20 notice is given, in order to allow the parties to meet and confer in good faith in an effort to  
21 resolve the alleged violation.

## 22 **6. MODIFICATION OF JUDGMENT**

23 **6.1** Except as provided for in Paragraph 7.3(c), this Consent Judgment may be  
24 modified only upon written agreement of the parties and upon entry of a modified Consent  
25 Judgment by the Court thereon, or upon motion of any party as provided by law and upon  
26 entry of a modified Consent Judgment by the Court.

## 27 **7. INJUNCTIVE RELIEF - CLEAR AND REASONABLE WARNING**

1           7.1       Covered Products' brass components shall be deemed to comply with  
2 current requirements of Proposition 65 for lead and be exempt from any Proposition 65  
3 warning requirements for lead if the brass that is part of the Covered Products meets the  
4 following criteria: (a) the brass alloy from which the brass components are made shall  
5 have no intentionally added lead and a lead content by weight of no more than 0.03% (300  
6 parts per million, or "300 ppm"). Great Neck may comply with the above requirements  
7 by relying on information obtained from its suppliers regarding the content of the brass  
8 alloy from which the brass products or components are made, provided such reliance is in  
9 good faith. Obtaining test results showing that the lead content is no more than 0.03%,  
10 using a method of sufficient sensitivity to establish a limit of quantification (as  
11 distinguished from detection) of less than 300 ppm shall be deemed to establish good faith  
12 reliance.

13           7.2       Covered Products that do not meet the warning exemption standard set  
14 forth in Section 7.1 of the Consent Judgment shall be accompanied by a warning as  
15 described in paragraph 7.3 below. The warning requirements set forth in paragraph 7.3  
16 shall apply only to products Great Neck manufactures, distributes, markets, sells or ships  
17 for distribution after 120 days after the Effective Date for sale or use inside the State of  
18 California.

19           7.3       Great Neck shall provide Proposition 65 warnings as follows:

20           (a)       Great Neck shall provide either of the following warning statements:  
21           **WARNING:** This product contains lead, a chemical known to the State of  
22           California to cause cancer and birth defects or other reproductive harm. Do  
23           not place your hands in your mouth after handling the product. *Wash your*  
24           *hands after touching this product.*

25                       or

26           **WARNING:** This product contains one or more chemicals, including lead,  
27           known to the State of California to cause cancer and birth defects or other  
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1 reproductive harm. *Wash hands after handling.*

2 The word "WARNING" shall be in bold and capitalized. The words  
3 "Wash hands after handling" shall be in bold and italicized.

4 Great Neck shall provide such warning with the unit package of the  
5 Covered Products. Such warning shall be prominently affixed to or printed  
6 on each Covered Product's label or package. The warning shall be at least  
7 the same size as the largest of any other safety warnings, if any, on the  
8 product container. If printed on the label itself, the warning shall be  
9 contained in the same section that states other safety warnings, if any,  
10 concerning the use of the product.

11 (b) The requirements for product labeling, set forth in subparagraph (a)  
12 above are imposed pursuant to the terms of this Consent Judgment. The  
13 parties recognize that product labeling is not the exclusive method of  
14 providing a warning under Proposition 65 and its implementing regulations.

15 (c) If Proposition 65 warnings for lead or lead compounds should no  
16 longer be required, Great Neck shall have no further warning obligations  
17 pursuant to this Consent Judgment.

18 (d) If following 120 days after the Effective Date, Great Neck ships  
19 Covered Products to a retailer or distributor outside of California that  
20 neither provide the warnings specified in this paragraph nor meets the  
21 Reformulation Standard specified in paragraph 7.1 of this Consent Judgment  
22 ("Non-Conforming Covered Products"), and if the retailer or distributor then  
23 offers those Non-Conforming Covered Products for sale in California, then  
24 as to those Non-Conforming Covered Products, that retailer or distributor,  
25 and their customers, are not released pursuant to Sections 4.1 and 4.2 above.

26 (e) Except as provided in paragraph 4.2 hereof, nothing in this Consent  
27 Judgment shall create a limitation on a Proposition 65 enforcement action  
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based on future conduct if such future conduct is not in compliance with the injunctive terms of this Consent Judgment.

**8. AUTHORITY TO STIPULATE**

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

**9. RETENTION OF JURISDICTION**

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

**10. ENTIRE AGREEMENT**

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

**11. GOVERNING LAW**

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

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**12. NOTICES**

Unless specified herein, all correspondence and notices required to be provided pursuant to this Consent Judgment shall be in writing and personally delivered or sent by: (i) first-class, (registered or certified mail) return receipt requested; or (ii) overnight courier on any party by the other party at the following addresses:

To Mateel:

William Verick, Esq.  
Klamath Environmental Law Center  
424 First Street  
Eureka, CA 95501

To Great Neck:

With a copy to:

Robin Stafford, Esq.  
Morrison & Foerster LLP  
425 Market Street, 32nd Floor  
San Francisco, California 94105

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**13. COURT APPROVAL**

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

IT IS SO STIPULATED:

DATED:

MATEEL ENVIRONMENTAL JUSTICE  
FOUNDATION




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

DATED:

2/11/11

GREAT NECK SAW  
MANUFACTURERS, INC.

By:   
Its: V.P.

IT IS SO ORDERED, ADJUDGED AND DECREED:

DATED FEB 28 2011

LORETTA M. GIORGI  
JUDGE OF THE SUPERIOR COURT