



# As You Sow

Tel: (415) 391-3212

A Foundation Planting Seeds for Social Change

Fax: (415) 391-3245

A NON-PROFIT CORPORATION  
311 California Street, Suite 510  
San Francisco, California 94104  
www.asyousow.org

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL  
INFORMATION PER EVIDENCE CODE SECTION 1040**

January 6, 2003

**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 **A. Y. MCDONALD MANUFACTURING CO.** ("AYMM"). On October 10, 2002, As You Sow previously noticed AYMM for violations involving discharges of lead and lead compounds from a variety of products manufactured, distributed and/or sold by AYMM. As You Sow, by this notice, notices AYMM for additional violations from the same products. These violations involve exposures to the users of the products to lead and lead compounds from a variety of products manufactured, distributed and/or sold by AYMM as described more fully below.

These products are specifically copper alloy (both bronze and brass) curb stops (or curb valves), meter stops (or meter valves or service valves), main stops, corporation stops, tail pieces, couplings, compression tees (or service tees), and elbows that come into contact with drinking water in drinking water distribution systems, including but not limited to the products listed in Exhibit A attached hereto (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

January 6, 2003

Page 2

State of California officially listed lead and lead compounds as chemicals known to cause cancer (Title 22 California Code of Regulations §12000, *et seq.*).

Curb stops (or curb valves) are valves used to open and/or close the water flow, often at the curb, near the water meter. These are typically accessed by the public water supplier to regulate the flow of water to an individual building. Meter stops (or meter valves or service valves) are valves used to open and close the water flow immediate upstream of a water meter. Main stops and corporation stops are valves used to open and close the flow of water, typically at a point adjacent to the water main. Tail pieces are used to connect the water meter and/or curb stop to the supply line to a building. Couplings are used to connect two sections of drinking water supply lines. Compression tees (or service tees) are a "T" shaped device used to split the flow of water into two directions. Elbows are used to alter the direction of the flow of water.

**Exposure without a clear and reasonable warning.** In violation of Health & Safety Code §25249.6, AYMM is knowingly and intentionally exposing individuals in the State of California to lead and lead compounds without providing a clear and reasonable warning. These toxic exposures have occurred and continue to occur primarily through ingestion of drinking water but also through dermal contact and inhalation exposure to drinking water. A Certificate of Merit in support of these violations is being served concurrently on the Attorney General for the State of California. (Title 11 C.C.R. §3100 *et seq.*)

**Individuals exposed.** Persons consuming or using water that has passed through or otherwise comes into contact with the Products as described above.

**Duration of violations.** These ongoing violations of the statute have occurred every day since at least January 6, 1999, and will continue every day until clear and reasonable warnings are provided. Under Proposition 65, 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**

Enclosures

EXHIBIT A

A. Y. McDonald Manufacturing Co.

<u>Product ID</u>	<u>Product Description</u>
3131B	Ball Valve Corporation Stop 3/4" MIP x MIP Main Stop
6101	Ball Style Curb Stop 3/4" FIP x FIP Ball Valve Curb Stop
6101W	Ball Style Curb Stop 3/4" FIP x FIP F/Port Straight Meter Valve w/Lockwing
4779M-22	Elbow 3/4" Comp x MIP Elbow Coupling
4754-22	Straight Coupling 3/4" Comp x FIP Coupling
4760-22	Service Tee 3/4" x 3/4" Comp Tee
6100-22	Ball Style Curb Stop 3/4" Comp x Comp Ball Valve Curb Stop

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL  
INFORMATION PER EVIDENCE CODE SECTION 1040**

**CERTIFICATE OF MERIT**  
**(for As You Sow's Notice of Proposition 65 Violation  
on A. Y. MCDONALD MANUFACTURING CO.)**

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that **A. Y. MCDONALD MANUFACTURING CO.** has violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: January 5, 2008

**Attachments (for Attorney General Copy only)**

## CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is: 311 California Street, Suite 510, San Francisco, California 94104.

On January 6, 2003, I served the following documents:

- **Notice of Violation of California Health & Safety Code §25249.5 et seq., including Exhibit A**
- **Certificate of Merit**
- **“The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary”**

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

**A. Y. McDonald Manufacturing Co.  
Robert D. McDonald, III, CEO  
P.O. Box 508  
Dubuque, IA 52002**

On January 6, 2003, I served the following document(s):

- **Notice of Violation of California Health & Safety Code §25249.5 et seq., including Exhibit A**
- **Certificate of Merit (“Attorney General Copy”)**

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

**Attn: Craig Thompson, Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
Post Office Box 944255  
Sacramento, CA 94244-2550**

On January 6, 2003, I served the following document(s):

- **Notice of Violation of California Health & Safety Code §25249.5 et seq., including Exhibit A**
- **Certificate of Merit**

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on January 6, 2003, at San Francisco, California.

**PUBLIC ENFORCEMENT AGENCIES SERVICE LIST** (updated 09/23/02)

THE HONORABLE THOMAS J ORLOFF  
ALAMEDA COUNTY DISTRICT ATTORNEY  
1225 FALLON ST RM 900  
OAKLAND CA 94612

THE HONORABLE L ALAN TURNER  
ALPINE COUNTY DISTRICT ATTORNEY  
PO BOX 248  
MARKLEEVILLE CA 96120

THE HONORABLE TODD D RIEBE  
AMADOR COUNTY DISTRICT ATTORNEY  
708 COURT ST STE 202  
JACKSON CA 95642

THE HONORABLE MICHAEL RAMSEY  
BUTTE COUNTY DISTRICT ATTORNEY  
25 COUNTY CTR DR  
OROVILLE CA 95965

THE HONORABLE JEFFREY TUTTLE  
CALAVERAS COUNTY DISTRICT ATTORNEY  
891 MTN RANCH RD  
SAN ANDREAS CA 95249

THE HONORABLE JOHN POYNER  
COLUSA COUNTY DISTRICT ATTORNEY  
547 MARKET ST  
COLUSA CA 95932

THE HONORABLE GARY T YANCEY  
CONTRA COSTA COUNTY DISTRICT ATTORNEY  
PO BOX 670  
MARTINEZ CA 94553

THE HONORABLE ROBERT J DROSSEL  
DEL NORTE COUNTY DISTRICT ATTORNEY  
450 H ST  
CRESCENT CITY CA 95531

THE HONORABLE GARY L LACY  
EL DORADO COUNTY DISTRICT ATTORNEY  
515 MAIN ST  
PLACERVILLE CA 95667

THE HONORABLE EDWARD W HUNT  
FRESNO COUNTY DISTRICT ATTORNEY  
2220 TULARE ST STE 1000  
FRESNO CA 93721

THE HONORABLE ROBERT HOLZAPFEL  
GLENN COUNTY DISTRICT ATTORNEY  
PO BOX 430  
WILLOWS CA 95988

THE HONORABLE TERRY R FARMER  
HUMBOLDT COUNTY DISTRICT ATTORNEY  
825 FIFTH ST  
EUREKA CA 95501

THE HONORABLE GILBERT OTERO  
IMPERIAL COUNTY DISTRICT ATTORNEY  
939 W MAIN ST  
EL CENTRO CA 92243

THE HONORABLE PHILIP MCDOWELL  
INYO COUNTY DISTRICT ATTORNEY  
PO DRAWER D  
INDEPENDENCE CA 93526

THE HONORABLE EDWARD R JAGELS  
KERN COUNTY DISTRICT ATTORNEY  
1215 TRUXTUN AVE  
BAKERSFIELD CA 93301

THE HONORABLE RON CALHOUN  
KINGS COUNTY DISTRICT ATTORNEY  
1400 W LACEY BLVD  
HANFORD CA 93230

THE HONORABLE GARY LUCK  
LAKE COUNTY DISTRICT ATTORNEY  
255 N FORBES ST  
LAKEPORT CA 95453

THE HONORABLE ROBERT BURNS  
LASSEN COUNTY DISTRICT ATTORNEY  
220 S LASSEN ST STE 8  
SUSANVILLE CA 96130

THE HONORABLE STEVE COOLEY  
LA COUNTY DISTRICT ATTORNEY  
210 W TEMPLE ST STE 18000  
LOS ANGELES CA 90012-3210

THE HONORABLE ERNEST LICALSI  
MADERA COUNTY DISTRICT ATTORNEY  
209 W YOSEMITE AVE  
MADERA CA 93637

THE HONORABLE PAULA FRESCHI KAMENA  
MARIN COUNTY DISTRICT ATTORNEY  
3501 CIVIC CTR DR RM 130  
SAN RAFAEL CA 94903

THE HONORABLE CHRISTINE A JOHNSON  
MARIPOSA COUNTY DISTRICT ATTORNEY  
PO BOX 748  
MARIPOSA CA 95338

THE HONORABLE NORMAN VROMAN  
MENDOCINO COUNTY DISTRICT ATTORNEY  
PO BOX 1000  
UKIAH CA 95482

THE HONORABLE GORDON SPENCER  
MERCED COUNTY DISTRICT ATTORNEY  
2222 M ST  
MERCED CA 95340

THE HONORABLE TOM BUCKWALTER  
MODOC COUNTY DISTRICT ATTORNEY  
PO BOX 1171  
ALTURAS CA 96101

THE HONORABLE GEORGE BOOTH  
MONO COUNTY DISTRICT ATTORNEY  
PO BOX 617  
BRIDGEPORT CA 93517

THE HONORABLE DEAN FLIPPO  
MONTEREY COUNTY DISTRICT ATTORNEY  
240 CHURCH ST #101  
SALINAS CA 93902

THE HONORABLE GARY LIEBERSTEIN  
NAPA COUNTY DISTRICT ATTORNEY  
931 PARKWAY MALL  
NAPA CA 94559

THE HONORABLE MICHAEL FERGUSON  
NEVADA COUNTY DISTRICT ATTORNEY  
201 CHURCH ST STE 8  
NEVADA CITY CA 95959

THE HONORABLE TONY RACKAUCKAS  
ORANGE COUNTY DISTRICT ATTORNEY  
401 CIVIC CTR DR  
SANTA ANA CA 92701

THE HONORABLE BRAD FENOCCHIO  
PLACER COUNTY DISTRICT ATTORNEY  
11562 B AVE  
AUBURN CA 95603

THE HONORABLE JAMES REICHL  
PLUMAS COUNTY DISTRICT ATTORNEY  
520 MAIN ST RM 404  
QUINCY CA 95971

THE HONORABLE GROVER C TRASK II  
RIVERSIDE COUNTY DISTRICT ATTORNEY  
4075 MAIN ST  
RIVERSIDE CA 92501

THE HONORABLE JAN SCULLY  
SACRAMENTO COUNTY DISTRICT ATTORNEY  
901 G ST  
SACRAMENTO CA 95814

THE HONORABLE HARRY J DAMKAR  
SAN BENITO COUNTY DISTRICT ATTORNEY  
419 FOURTH ST  
HOLLISTER CA 95023-3801

THE HONORABLE DENNIS L STOUT  
SAN BERNARDINO COUNTY DISTRICT ATTORNEY  
316 N MTN VIEW AVE  
SAN BERNARDINO CA 92415-0004

THE HONORABLE PAUL PFINGST  
SAN DIEGO COUNTY DISTRICT ATTORNEY  
330 W BROADWAY RM 1300  
SAN DIEGO CA 92112

THE HONORABLE TERENCE HALLINAN  
SAN FRANCISCO COUNTY DISTRICT ATTORNEY  
880 BRYANT ST STE 325  
SAN FRANCISCO CA 94103

THE HONORABLE JOHN D PHILLIPS  
SAN JOAQUIN COUNTY DISTRICT ATTORNEY  
222 E WEBER ST RM 202  
STOCKTON CA 95202

THE HONORABLE GERALD T SHEA  
SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY  
COUNTY GOVERNMENT CTR RM 450  
SAN LUIS OBISPO CA 93408

THE HONORABLE DAVID L CROSS  
TRINITY COUNTY DISTRICT ATTORNEY  
PO BOX 310  
WEAVERVILLE CA 96093

THE HONORABLE JAMES P FOX  
SAN MATEO COUNTY DISTRICT ATTORNEY  
400 COUNTY CTR FL 3  
REDWOOD CITY CA 94063

THE HONORABLE PHILLIP J CLINE  
TULARE COUNTY DISTRICT ATTORNEY  
221 S MOONEY BLVD # 224  
VISALIA CA 93291

THE HONORABLE THOMAS W SNEDDON JR  
SANTA BARBARA COUNTY DISTRICT ATTORNEY  
1105 SANTA BARBARA ST  
SANTA BARBARA CA 93101

THE HONORABLE DONALD I SEGERSTROM  
TUOLUMNE COUNTY DISTRICT ATTORNEY  
2 S GREEN ST  
SONORA CA 95370

THE HONORABLE GEORGE KENNEDY  
SANTA CLARA COUNTY DISTRICT ATTORNEY  
70 W HEDDING ST  
SAN JOSE CA 95110

THE HONORABLE MICHAEL D BRADBURY  
VENTURA COUNTY DISTRICT ATTORNEY  
800 S VICTORIA AVE  
VENTURA CA 93009

THE HONORABLE RONALD L RUIZ  
SANTA CRUZ COUNTY DISTRICT ATTORNEY  
701 OCEAN ST STE 200  
SANTA CRUZ CA 95060

THE HONORABLE DAVID C HENDERSON  
YOLO COUNTY DISTRICT ATTORNEY  
301 SECOND ST  
WOODLAND CA 95695

THE HONORABLE MCGREGOR SCOTT  
SHASTA COUNTY DISTRICT ATTORNEY  
1525 COURT ST FL 3  
REDDING CA 96001

THE HONORABLE PATRICK MCGRATH  
YUBA COUNTY DISTRICT ATTORNEY  
215 FIFTH ST  
MARYSVILLE CA 95901

THE HONORABLE SHARON O SULLIVAN  
SIERRA COUNTY DISTRICT ATTORNEY  
PO BOX 457  
DOWNIEVILLE CA 95936

LOS ANGELES CITY ATTORNEY'S OFFICE  
200 N MAIN ST RM 1800  
LOS ANGELES CA 90012

THE HONORABLE PETER F KNOLL  
SISKIYOU COUNTY DISTRICT ATTORNEY  
PO BOX 986  
YREKA CA 96097

SAN DIEGO CITY ATTORNEY'S OFFICE  
CIVIC CENTER PLAZA  
1200 THIRD AVE STE 1200  
SAN DIEGO CA 92101

THE HONORABLE DAVID W PAULSON  
SOLANO COUNTY DISTRICT ATTORNEY  
600 UNION AVE  
FAIRFIELD CA 94533

SAN JOSE CITY ATTORNEY'S OFFICE  
151 W MISSION ST  
SAN JOSE CA 95110

THE HONORABLE J MICHAEL MULLINS  
SONOMA COUNTY DISTRICT ATTORNEY  
600 ADMINISTRATION DR RM 212  
SANTA ROSA CA 95403

SAN FRANCISCO CITY ATTORNEY'S OFFICE  
CITY HALL, ROOM 234  
SAN FRANCISCO, CA 94102

THE HONORABLE JAMES C BRAZELTON  
STANISLAUS COUNTY DISTRICT ATTORNEY  
PO BOX 442  
MODESTO CA 95353

THE HONORABLE CARL V ADAMS  
SUTTER COUNTY DISTRICT ATTORNEY  
446 SECOND ST  
YUBA CITY CA 95991

THE HONORABLE GREGG COHEN  
TEHAMA COUNTY DISTRICT ATTORNEY  
PO BOX 519  
RED BLUFF CA 96080