As You Sow
A Foundation Planting Seeds for Social Change
Tel: (415) 391-3212 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 **THE FORD METER BOX COMPANY, INC.** ("Ford"). On October 10, 2002, As You Sow previously noticed Ford for violations involving discharges of lead and lead compounds from a variety of products manufactured, distributed and/or sold by Ford. As You Sow, by this notice, notices Ford 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 Ford 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

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, Ford 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

The Ford Meter Box Co., Inc.

Product ID	Product Description	
B11-333W	Ball Valve Curb Stop	3/4" FIP x FIP F/Port Straight Meter Valve w/Lockwing
L84-33	Pack Joint Coupling	3/4" Comp x MIP Elbow Coupling
C14-33	Pack Joint Coupling	3/4" Comp x FIP Coupling
T444-333	Pack Joint Tee	3/4" x 3/4" Comp Tee
B11-777	Ball Valve Curb Stop	2" FIP x FIP Ball Valve w/Handle
BA13-444W	Angle Ball Meter Valve	1" FIP x Meter Nut F/Port Angle Meter Valve
B11-333	Ball Valve Curb Stop	3/4" FIP x FIP Ball Valve Curb Stop
FB500-3	Ballcorp Corporation Stop	3/4" MIP x MIP Main Stop
B44-333	Ball Valve Curb Stop	3/4" FIP x Comp Ball Valve Curb Stop

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CERTIFICATE OF MERIT
(for As You Sow's Notice of Proposition 65 Violation on THE FORD METER BOX COMPANY, INC.)

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that **THE FORD METER BOX COMPANY, INC.** 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 8, 2003

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:

The Ford Meter Box Company, Inc.
Thomas Hodson, President
P.O. Box 443
Wabash, IN 46992

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
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PO BOX 248
MARKLEEVILLE CA 96120

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255 N FORBES ST
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SUSANVILLE CA 96130

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L A COUNTY DISTRICT ATTORNEY
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