

CONSUMER DEFENSE GROUP ACTION

GRAHAM & MARTIN, LLP

3 Park Plaza, Suite 2030

Irvine, CA 92614

Telephone: (949) 474 - 1022

Facsimile: (949) 474 - 1217

60 Day Notice of Intent to Sue The Home Depot, Inc. Under Health & Safety Code Section 25249.6

Consumer Defense Group Action, a California corporation (hereinafter "CDG" or the "Noticing Party") hereby gives Notice of Intent to Sue Under Health & Safety Code Section 25249.5 (the "Notice") to Robert L. Nardelli, the President/CEO/Chairman of The Home Depot, Inc. (hereinafter referred to as "Home Depot"), as well as the governmental entities on the attached proof of service. The Noticing Party must be contacted through the following entity: Law Offices of Graham & Martin, LLP, 3 Park Plaza, Suite 2030, Irvine, California 92614.

This Notice is intended to inform HOME DEPOT that it has violated Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) (hereinafter "Proposition 65") by failing and refusing to post clear and reasonable warnings at each of the facilities listed on Exhibit A hereto (which are owned/managed by Home Depot) (hereinafter "the Facilities") that Home Depot, in the ordinary course of business, sells and cuts to order at each of the Facilities highly hazardous lumber infused with the arsenic-containing pesticide CCA.

Proposition 65 provides that when a party, such as Home Depot, has been and is knowingly and intentionally exposing its customers, visitors, employees and the general public to a chemical designated by the State of California to cause cancer and developmental toxicity ("the Designated Chemical") it has violated the statute unless, prior to such exposure, it provides clear and reasonable warning of that potential exposure to the potentially exposed persons (Health & Safety Code Section 24249.6). Arsenic (inorganic arsenic compounds) is a chemical known to the state of California to cause cancer. Arsenic (inorganic oxides) is a chemical known to the State of California to cause developmental reproductive toxicity. Hereinafter, arsenic (inorganic arsenic compounds) and arsenic (inorganic oxides) are referred to as the Designated Chemicals.

During the period from May 1, 2003 through August 29, 2003, persons representing CDG have investigated the activities permitted by HOME DEPOT at the Facilities (hereinafter referred to as the "Investigation Period"). During that investigations CDG discovered that the Facilities are owned and/or managed by HOME DEPOT, and that HOME DEPOT has more than nine employees. Those investigations also showed that HOME DEPOT has chosen to allow its customers, visitors and employees at each of the Facilities to be exposed to the Designated Chemicals by offering for sale lumber treated with CCA. The standard formulation for CCA used in wood is 22% arsenic. At the Facilities HOME DEPOT has also chosen to expose its customers (including children) and employees to the Designated Chemicals by cutting the wood to various lengths on site. The areas where the exposures take place at the Facilities are those areas where the CCA-treated wood is stored in inventory, where the lumber stacked for sale on the shop floor and in the areas where the wood is cut. Of course, there are also exposures when the CCA-treated wood is taken home by the customer and used.

In the Facilities and areas noted HOME DEPOT has chosen to allow its customers, visitors and employees to be exposed to the Designated Chemicals but has specifically chosen to ignore the

requirements of Proposition 65 and has failed to post clear and reasonable warnings at any of the entrances to the Facilities, in the parking areas, in the areas leading into the Facilities from the parking areas, at the entrances to the areas where the wood is stored in inventory, where it is stacked for sale on the shop floor, or in the areas where the wood is cut, so that its customers, visitors and employees, who may not wish to be exposed, can be warned that, upon entering any of those areas, they may be exposed to the Designated Chemicals.

It is clear therefore that for the entire period of time that HOME DEPOT has owned and/or controlled the Facilities prior to the Investigation Period, HOME DEPOT has failed to post clear and reasonable warning signs at the Facilities in compliance with Proposition 65. Given that the maximum period of potential liability pursuant to Proposition 65 and Business & Professions Code §17200 (which are the operative statutes pursuant to which a complaint will be filed against HOME DEPOT) is four years, this Notice is intended to inform HOME DEPOT that it has been in violation of Proposition 65 from the time period from four years prior to the last date of the Investigation Period noted above, for every day upon which HOME DEPOT owned and/or controlled any Facility listed on Exhibit A.

The written reports prepared by the investigators for CDG, prepared contemporaneously with the investigations conducted during the Initial Investigation Period, together with supporting data, studies and reports, and other evidence from the Facilities, has been provided to the Office of the Attorney General responsible for Proposition 65 enforcement.

Environmental Exposures:

While in the course of doing business at the Facilities, during the Investigation Period, and for up to four years prior to that time, HOME DEPOT has been and is knowingly and intentionally exposing its customers and the public to the Designated Chemicals without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 24249.6). The sources of exposure are (1) CCA-treated wood offered for sale by HOME DEPOT at the Facilities, and (2) CCA-treated wood cut to order onsite by HOME DEPOT employees at the Facilities. The areas at the Facilities where customers, visitors and employees are being exposed to the Designated Chemicals are where the CCA-treated wood is stored in inventory, stacked for sale on the shop floor and in the areas where the wood is cut.

Occupational Exposures:

While in the course of doing business at the Facilities, during the Investigation Period, and for up to four years prior to that time, HOME DEPOT has been and is knowingly and intentionally exposing its employees to the Designated Chemicals without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 24249.6). The sources of exposure are (1) CCA-treated wood offered for sale by HOME DEPOT at the Facilities, and (2) CCA-treated wood cut to order onsite by HOME DEPOT employees at the Facilities. The areas at the Facilities where HOME DEPOT employees are being exposed to the Designated Chemicals are where the CCA-treated wood is stored in inventory, where it is stacked for sale on the shop floor and in the areas where the wood is cut. The employees exposed to the Designated Chemicals include those working in the areas in the Facilities where CCA-treated wood is stored in inventory and stacked for sale, the employees working in and around the area where the wood is cut by HOME DEPOT employees, the employees who do the cutting of the lumber and those handling the wood both prior to sale and who assist customers with the wood at the point of sale and thereafter deliver the wood to the customer's residence or car.

Consumer Product Exposures:

While in the course of doing business at the Facilities, during the Investigation Period, and for up to four years prior to that time, HOME DEPOT has been and is knowingly and intentionally exposing its customers and the public to the Designated Chemicals contained in the CCA treated wood it offers for sale at each of the Facilities without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 24249.6). The sources of exposure are (1) CCA-treated wood offered for sale by HOME DEPOT at the Facilities, and (2) CCA-treated wood cut to order onsite by HOME DEPOT employees at the Facilities. The areas at the Facilities where customers, visitors and employees are being exposed to the Designated Chemicals are where the CCA-treated wood is stored in inventory, stacked for sale on the shop floor and in the areas where the wood is cut. Customers are also exposed to the Designated Chemicals when they use the wood after purchase.

The route of exposure for Occupational Exposures, Environmental Exposures and Consumer product Exposures to the Designated Chemicals has been via inhalation, ingestion and dermal contact with the wood and with wood dust from the lumber. In other words, via breathing and contact with the skin of customers, visitors and employees with CCA treated wood and wood dust, and by ingestion through the mouth after touching of the CCA treated wood and wood dust.

Proposition 65 requires that notice and intent to sue be given to HOME DEPOT sixty days before a suit is filed. With this letter, CDG gives notice of the alleged violations to HOME DEPOT and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to CDG from information now available to them. CDG reserves the right to amend this Notice to inform HOME DEPOT of other violations and/or exposures as it gathers further information. With the copy of this amended notice submitted to HOME DEPOT, a copy is provided of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary".

Dated: October 24, 2003

By:

EXHIBIT A

1. 6975 Marketplace Drive, Goleta, CA 93117
2. 2655 Shadow Hills Drive, San Bernardino, CA 92407
3. 6975 Marketplace Drive, Goleta, CA 93117
4. 18131 Gale Avenue, Rowland Heights, CA 91748
5. 3040 East Slauson Avenue, Huntington Park, CA 90255
6. 2450 Cherry Avenue, Signal Hill, CA 90755
7. 975 South De Anza Boulevard, Cupertino, CA 95014
8. 27401 La Paz Road, Laguna Niguel, CA 92677
9. 1177 Great Mall Drive, Milpitas, CA 95035
10. 1860 East Main Street, Woodland, CA 95776
11. 1305 South Lone Hill Avenue, Glendora, CA 91740
12. 18300 South Harlan Rd, Lathrop, CA 95330
13. 1001 North El Camino Real, Encinitas, CA 92024
14. 1675 Wilshire Boulevard, Los Angeles, CA 90017
15. 4720 Mission Gorge Place, San Diego, CA 92120
16. 16800 Roscoe Boulevard, Van Nuys, CA 91406
17. 27401 La Paz Road, Laguna Niguel, CA 92677
18. 32020 State Highway 79, Temecula, CA 92590
19. 401 West Esplanade Drive, Oxnard, CA 93036
20. 701 D'Arcy Pkwy, Lathrop, CA 95330
21. 12975 Jeffersn Boulevard, Playa Del Rey, CA 90293
22. 7803 Othello Avenue, San Diego, CA 92111
23. 401 West Esplanade Drive, Oxnard, CA 93030
24. 5040 San Fernando Road, Glendale, CA 91204
25. 9353 Activity Road, San Diego, CA 92126
26. 2839 Whipple Road, Union City, CA 94587
27. 1000 East Victoria Street, Carson, CA 90747
28. 9350 Oso Avenue, Chatsworth, CA 91311
29. 7870 Van Nuys Boulevard, Panorama City, CA 91402
30. 1348 North Azusa Avenue, Covina, CA 91722
31. 1550 West Valley Parkway, Escondido, CA 92029
32. 3838 Vista Way, Oceanside, CA 92056
33. 1055 West 21st Street, San Bernardino, CA 92405
34. 525 Saturn Boulevard, Imperial Beach, CA 91932
35. 16800 Roscoe Boulevard, Van Nuys, CA 91406
36. 800 North Brookhurst Street, Anaheim, CA 92801
37. 2782 El Camino Real, Tustin, CA 92782
38. 4825 Redwood Drive, Rohnert Park, CA 94928
39. 2059 Pacific Coast Highway, Lomita, CA 90717
40. 5600 W Sunset Blvd, Hollywood, CA 90028
41. 7015 Telegraph Rd, Los Angeles, CA 90040
42. 7121 Firestone Blvd, Downey, CA 90241
43. 24451 Crenshaw Blvd, Torrance, CA 90505

44. 12322 Washington Blvd, Whittier, CA 90606
45. 10930 Alondra Blvd, Cerritos, CA 90703
46. 5000 Hardwick St, Lakewood, CA 90712
47. 1625 S Mountain Ave, Monrovia, CA 91016
48. 20642 Golden Triangle Rd, Santa Clarita, CA 91351
49. 6345 Variel Ave, Woodland Hills, CA 91367
50. 3200 Puente Ave, Baldwin Park, CA 91706
51. 9700 Lower Azusa Rd, El Monte, CA 91731
52. 250 S Mountain Ave, Upland, CA 91786
53. 500 S Marengo Ave, Alhambra, CA 91803
54. 550 W San Marcos Blvd, San Marcos, CA 92069
55. 3555 Sports Arena Blvd, San Diego, CA 92110
56. 4255 Genesee Ave, San Diego, CA 92117
57. 5920 Fairmount Ave, San Diego, CA 92120
58. 10604 Westview Pkwy, San Diego, CA 92126
59. 12185 Carmel Mountain Rd, San Diego, CA 92128
60. 79900 Us Highway 111, La Quinta, CA 92253
61. 34249 Monterey Ave, Rancho Mirage, CA 92270
62. 1451 W Foothill Blvd, Rialto, CA 92376
63. 15150 Bear Valley Rd, Victorville, CA 92392
64. 3323 Madison St, Riverside, CA 92504
65. 3400 W Florida Ave, Hemet, CA 92545
66. 12255 Pigeon Pass Rd, Moreno Valley, CA 92557
67. 25100 Madison Ave, Murrieta, CA 92562
68. 7100 Warner Ave, Huntington Beach, CA 92647
69. 490 N McKinley St, Corona, CA 92879
70. 23001 Savi Ranch Pkwy, Yorba Linda, CA 92887
71. 575 Cochran St, Simi Valley, CA 93065
72. 4700 Gosford Rd, Bakersfield, CA 93313
73. 2120 S Bradley Rd, Santa Maria, CA 93455
74. 44226 20th St W, Lancaster, CA 93534
75. 845 W Shaw Ave, Clovis, CA 93612
76. 2745 Teller Rd, Thousand Oaks, CA 91320
77. 1461 Meadowview Rd, Sacramento, CA 95832
78. 5010 Feather River Dr, Stockton, CA 95219
79. 740 W 182nd St, Gardena, CA 90248
80. 255 Town Center Pkwy, Santee, CA 92071
81. 25 Plaza Ct, Chula Vista, CA 91910
82. 7530 Broadway, Lemon Grove, CA 91945
83. 6633 Westminster Blvd, Westminster, CA 92683
84. 800 N Brookhurst St, Anaheim, CA 92801
85. 435 W Katella Ave, Orange, CA 92867
86. 10801 Garden Grove Blvd, Garden Grove, CA 92843
87. 601 S Placentia Ave, Fullerton, CA 92831
88. 5800 Lincoln Ave, Cypress, CA 90630

89. 2782 El Camino Real, Tustin, CA 92782
90. 3500 W Macarthur Blvd, Santa Ana, CA 92704
91. 1001 N El Camino Real, Encinitas, CA 92024
92. 7870 Van Nuys Blvd, Panorama City, CA 91402
93. 11600 Sherman Way, North Hollywood, CA 91605
94. 695 E Hospitality Ln, San Bernardino, CA 92408
95. 11884 Foothill Blvd, Rancho Cucamonga, CA 91730
96. 27952 Hillcrest, Mission Viejo, CA 92692
97. 24332 El Toro Rd, Laguna Hills, CA 92653
98. 2800 Countryside Dr, Turlock, CA 95380
99. 10001 Fairway Dr, Roseville, CA 95678
100. 3500 S Demaree St, Visalia, CA 93277
101. 12960 Foothill Blvd, Sylmar, CA 91342
102. 905 El Camino Real, Atascadero, CA 93422
103. 250 Commerce Ave, Manteca, CA 95336
104. 965 Arnele Ave, El Cajon, CA 92020
105. 3363 W Century Blvd, Inglewood, CA 90303
106. 1830 W Slauson Ave, Los Angeles, CA 90047
107. 340 W Rancho Vista Blvd, Palmdale, CA 93551
108. 9200 Whittier Blvd, Pico Rivera, CA 90660
109. 510 Orange Dr, Vacaville, CA 95687
110. 1550 W Valley Pkwy, Escondido, CA 92029
111. 3838 Vista Way, Oceanside, CA 92056
112. 4603 Ocean Gate Ave, Hawthorne, CA 90250
113. 1100 Tharp Rd, Yuba City, CA 95993
114. 6400 Alondra Blvd, Paramount, CA 90723
115. 12300 La Mirada Blvd, La Mirada, CA 90638
116. 950 Dennery Rd, San Diego, CA 92154
117. 1348 N Azusa Ave, Covina, CA 91722
118. 320 Wake Ave, El Centro, CA 92243
119. 21218 Roscoe Blvd, Canoga Park, CA 91304
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210. 16800 Roscoe Blvd, Van Nuys, CA 91406

of the location referenced in the Notice and by investigation of relevant information, documents, data, and reports Consumer Defense Group Action discovered that:

- (1) the Violator is responsible for, and thus “operates”, the specific subject property or properties for purposes of Health and Safety Code section 25249.5 and 25249.6;
- (2) the Violator has more than nine employees;
- (3) the Violator permits and has permitted the “release” of the chemicals set forth in the Notice and such “releases” threaten to pass in sources of drinking water;
- (4) exposures to the chemicals set forth in the Notice have occurred and continue to occur both to offsite and onsite persons;
- (5) the Violator has not put in place a clear and reasonable warning as required under Health & Safety Code section 25249.6, or any other sign purporting to comply with the requirements of that section.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Irvine, California on October 27, 2003.

CERTIFICATE OF MERIT

I, Anthony G. Graham, declare as follows:

1. I am a member of the State Bar of California, a partner of the law firm of Graham & Martin LLP, and one of the attorneys principally responsible for representing The Consumer Defense Group Action, the “Noticing Party” as to the “60 Day Notice of Intent to Sue” (hereinafter, “the Notice”) served concurrently herewith. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify competently thereto.

2. I have consulted with appropriate and qualified scientific experts and, having reviewed relevant scientific data and results of relevant test reports, as well as having reviewed the facts as set forth below and the documentary evidence of those facts regarding the exposures to the chemicals as set forth in the Notice, I have a good faith basis for believing that the exposures set forth in the Notice are likely to be above the minimum significant risk level for the chemicals at issue. I have provided the information, documents, data, reports and/or opinions I have relied upon to the Attorney General’s office as required by the regulations promulgated under Proposition 65.

3. 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 the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

4. The information referred to in paragraph 3 is as follows; by physical investigation

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3 Park Plaza, Suite 2030, Irvine, California 92614.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6;
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (*only sent to violators*); and
- 3.) Certificate of Merit;
- 4.) Supporting documents (*only sent to Office of Attorney General*)

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Date of Mailing: October 24, 2003

Place of Mailing: Irvine, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

Robert L. Nardelli, President/CEO/Chairman The Home Depot, Inc. 2455 Paces Ferry Rd. Atlanta, GA 30339-4024	California Attorney General (Proposition 65 Enforcement Division) 1515 Clay Street, 20th Floor Oakland, CA
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Each District Attorney and City Attorney listed on the attachment to this Proof of Service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 24, 2003

ATTACHMENT TO PROOF OF SERVICE

Sacramento County DA
P.O. Box 749
Sacramento, CA 95812

San Diego City Attorney
1200 3rd Ave. Ste. 1620
San Diego, CA 92101

Humboldt County DA
825 5th Street
Eureka, CA 95501

San Mateo District Attorney
1050 Mission Road
South San Francisco, CA 94080

Riverside County DA
4075 Main St., 1st Fl.
Riverside, CA 92501

Sonoma County DA
600 Administrative Dr.
Santa Rosa, CA 95403

San Jose City Attorney
151 W. Mission St.
San Jose, CA 95110

Yolo County D A
301 2nd Street
Woodland, CA 95695

El Dorado County DA
1360 Johnson Blvd. #105
South Lake Tahoe, CA 96150

Napa County DA
931 Parkway Mall
Napa, CA 94559

Inyo County DA
386 W. Line Street
Bishop, CA 93514

San Diego County District Attorney
330 Broadway
San Diego, CA 92101

Los Angeles City Attorney
200 N. Main St. N.E.
Los Angeles, CA 90012

Shasta County District Attorney
1525 Court Street
Redding, CA 96001-1632

Marin County DA
3501 Civic Center Dr. #130
San Rafael, CA 94903

Santa Barbara County DA
1105 Santa Barbara St.
Santa Barbara, CA 93101

San Francisco City Attorney
1390 Market Street
San Francisco, CA 94102

Contra Costa County DA
727 Court Street
Martinez, CA 94553

District Attorney
1430 Freedom Blvd.
Watsonville, CA 95076

Ventura County DA
800 South Victoria Avenue
Ventura, CA 95695

Kern County DA
2100 College Avenue
Bakersfield, CA 93305

San Joaquin DA
225 W. Elm Street #C
Lodi, CA 95240

Solano County DA
321 Tuolumne St
Vallejo CA 94590

Glenn County DA
540 W Sycamore St
Willows CA 95988

Kings County DA
1400 W Lacey Blvd
Hanford CA 93230

Riverside DA
82675 US Hwy 111 FL4
Indio CA 92201

Santa Rosa D.A.
111 N Pythian Rd
Santa Rosa CA 95409

Placer County DA
11562 B Avenue
Auburn, CA 95603

Fresno County DA
2220 Tulare Street, #1000
Fresno, CA 93721

San Francisco County DA
880 Bryant Street
San Francisco, CA 94103

Siskyou County DA
P.O. Box 986
Yreka, CA 96097

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 28, 2003

Lake County DA
255 N. Forbes St.
Lakeport, CA 95453

Solano County DA
321 Tuolumne Street
Valejo, CA 94590

Stanislaus County DA
300 Starr Avenue
Turlock, CA 95380

District Attorney
14227 Road 28
Madera, CA 93638

Santa Clara County DA
2645 Zanker Road
San Jose, CA 95134

Mariposa County DA
P.O. Box 748
Mariposa, CA 95338

Nevada County DA
201 Church Street, Suite 8
Nevada City, CA 95959

San Luis Obispo County DA
1050 Monterey Street, Rm. 450
San Luis Obispo, CA 93408

San Bernardino County DA
316 N. Mountain View Av.
San Bernardino, CA 92415

Merced County DA
445 I Street
Los Banos CA 93635

Mendocino County DA
204 S Court Street
Aituras CA 96101

Mendocino County DA
700 S. Franklin St.
Fort Bragg, CA 94537

Los Angeles County District Attorney
210 W. Temple Street, 18th Floor
Los Angeles, CA 90012

Butte County DA
25 County Center Drive
Oroville, CA 95695

Orange County District Attorney
700 Civic Center Dr. W., 2nd Fl.
Santa Ana, CA 92701

Sutter County DA
446 Second Street
Yuba City, CA 95991

Santa Cruz County DA
701 Ocean Street
Santa Cruz, CA 95061

Alameda County DA
1225 Fallon Street
Oakland, CA 94612

Del Norte County DA
450 H Street
Crescent City, CA 95531

Mono County DA
P.O. Box 617
Bridgeport, CA 93517

Sacramento County DA
P.O. Box 749
Sacramento, CA 95812

Santa Clara DA
2645 Zanker Rd
San Jose CA 95134