

CONSUMER DEFENSE GROUP ACTION

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Sixty Day Notice of Intent to Sue Alpha Therapeutic Corporation; Alpha/Owens Corning (AOC) LLC; Betterbilt Chemicals; Cambro Manufacturing; Catalina Yachts; Century Laminators; Century Plastics; Gruber Systems, Inc.; Harrington Industrial Plastics; Hydro Systems, Inc.; JBI Inc.; Park International Corporation; Performance Catamarans; Plastics Research Corporation; Resinart; Semtech Corporation, Silvestri Studios; Three Bond International, Inc.; and Watkins Manufacturing Corporation For Violations of Health & Safety Code Sections 25249.5 and 25249.6

This Sixty Day Notice of Intent to Sue Under Health & Safety Code Section 25249.5 and 25249.6 ("the Notice") is given by the Consumer Defense Group Action ("the Noticing Party") to Alpha Therapeutic Corporation, a California corporation; Alpha/Owens Corning (AOC) LLC, a California corporation; Betterbilt Chemicals, a California corporation; Cambro Manufacturing, a California corporation; Catalina Yachts, a California corporation; Century Laminators, a California corporation; Century Plastics, a California corporation; Gruber Systems, Inc., a California corporation; Harrington Industrial Plastics, a California corporation; Hydro Systems, Inc., a California corporation; JBI Inc., a California corporation; Park International Corporation, a California corporation; Performance Catamarans, a California corporation; Plastics Research Corporation, a California corporation; Resinart, a California corporation; Semtech Corporation, a Delaware corporation; Silvestri Studios, a California corporation; Three Bond International, Inc., a California corporation; and Watkins Manufacturing Corporation, a California corporation (hereinafter referred to collectively as "the Violator"), as well as the entities on the attached proof of service. The Noticing Party must be contacted through its legal representative: Graham & Martin, LLP, 3 Park Plaza, Suite 2030, Irvine, California 92614.

This Notice constitutes notification that the Violator has violated The Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) (hereinafter "Proposition 65") and that the Noticing Party intends to file suit after the expiration of sixty days from the date of this Notice.

Summary of Violations

Proposition 65 provides that when a party, such as the Violator, has been and is knowingly and intentionally releasing or threatening to "release chemicals known to the State of California to cause cancer or reproductive toxicity into water or onto or into land where such chemical passes or probably will pass into any source of drinking water", it is in violation of Health & Safety Code Section 25249.5. For such a violation, the Violator is liable to be enjoined from such conduct and "shall" also be liable for civil penalties. Proposition 65 also provides that when a party, such as the Violator, has been and is knowingly and intentionally exposing the

public and/or its employees to chemicals designated by the State of California to cause cancer and/or reproductive toxicity ("the Designated Chemicals") it has violated Health & Safety Code Section 25249.6 unless, prior to such exposure, it provides clear and reasonable warning of that potential exposure to the potentially exposed persons. For such a violation, the Violator is liable to be enjoined from such conduct and "shall" also be liable for civil penalties.

The Violator has violated, threatens to violate and continues to violate both sections of the Health & Safety Code at the site located at 1550 North Bonnie Beach Place, Los Angeles, California 90063 (the "Property") and the areal extent of contamination that resulted from activities on the Property (hereinafter, the "Site"). The Violator is a former operator, transporter of and generators of wastes sent to the hazardous waste facility located at the Property. The Violator formerly contaminated the Property by the disposal or treatment of hazardous substances, including Designated Chemicals. Further, the Violator has been and presently is, by reason of that conduct, under a duty to prevent the actual and threatened "release" of Designated Chemicals from the site and "exposures" to Designated Chemicals affecting both onsite and offsite persons.

The Factual Basis for this Notice

In September - December, 2002 the Violator entered into a Consent Order (Docket Number I&ISE-CO 02/03-001) (hereinafter, the "Consent Order") wherein the Violator was specifically identified by the Department of Toxic Substances Control ("DTSC") as a "responsible party" or "liable person", as defined in Health & Safety Code section 25323.5. The Violator has been so identified since it arranged for the disposal or treatment of hazardous substances at 1550 North Bonnie Beach Place, Los Angeles, California 90063. The Violator, and each of them, is thus responsible for the clean up of the Property and the Site. Since the Violator is responsible for such future clean up it is not only responsible for the current dangerous condition of the Property and Site but also under a current duty to ensure that the Property and Site is operated in such a manner as to ensure (i) that there are no releases of any Designated Chemicals at or from the Site and (ii) to inform the public that proximity to the Site will result in exposure to Designated Chemicals. The Violator is currently not fulfilling either of those duties.

The Property consists of approximately 1/3 acre in east Los Angeles in a light industrial area with some residential use. It is located on a hillside with significant grade; the northern portion of the Property is topographically downhill from the buildings and other improvements on the Property. A site reconnaissance visit by Ecology and Environment, Inc. in 1992 for the U.S. EPA, revealed evidence of poor housekeeping, significant spillage of waste solvents and resin, and deteriorated concrete flooring throughout the facility. There are two single-family residences close to the Property, one directly adjacent to the southeastern property boundary and the other across Bonnie Beach Place. The Property is in an industrial/residential area; future land uses may include redevelopment for residential or industrial purposes. Approximately 461,287 people live within 4 miles of the Site. The Property is currently vacant and is identified by Los Angeles County Assessor's Parcel Number 2122-009-02938 acres.

The Site sits on the Repetto Hills which is underlain by the Puente Formation consisting

of marine siltstone, sandstone, shale, conglomerate, limestone and tuff. DTSC has found that, because surface and subsurface flow from the Repetto Hills provides recharge to the aquifers of the Central Groundwater Basin, a potential for exposure through groundwater exists. Moreover, the boundary of the Central Groundwater Basin is approximately 1 mile south of the Site. DTSC has found that levels of some volatile organic compounds increasing with depth, thereby raising the possibility that groundwater, if it exists beneath the Site, may be contaminated. The DTSC has therefore expressly found that the potential for groundwater contamination exists.

The solvents managed at the facility through the recycling process included acetone, methylene chloride, trichloroethane (TCA), trichloroethene (TCE), tetrachloroethene (PCE), xylene, methyl ethyl ketone (MEK), isopropyl alcohol (IPA), toluene, methanol, ethanol, and paint thinners. Tetrachloroethene (“PCE”) is a volatile organic compound that can affect the central nervous system and cause anesthesia. It may cause liver damage and is known to be carcinogenic. 1,1,2,2-Tetrachloroethane is a chemical known to the State of California to cause cancer. Toluene is a chemical known to the State of California to cause developmental reproductive toxicity. 1,1,2,2-Tetrachloroethane and Toluene are therefore Designated Chemicals.

The route of exposure for the chemicals noted herein is as follows: volatile waste components present at the Property may volatilize from the surface and disperse in the atmosphere which may cause exposure to people both onsite and offsite via inhalation. Moreover, disturbance of the soil may result in the release of vapors or hazardous particulates into the atmosphere where persons may inhale or ingest such substances. Moreover, though the Site is fenced, there is evidence that trespassers are regularly onsite and there is therefore a potential for direct contact with contaminated soils and accumulated contaminated runoff by persons either legally at the Site (such as investigators or site workers) or by trespassers.

According to the DTSC the levels of some volatile organic compounds have been found to increase with depth. The DTSC has therefore expressly found that the potential for groundwater contamination exists. This threat will exist until the waste materials at the Site are effectively contained. Further, until effectively contained there exists the potential for future migration of the waste materials from the Site.

The DTSC has specifically found that at the Property and Site there have been “releases” and that there is presently a “threatened release” of the Designated Chemicals noted herein, as the term “release” is defined by Health & Safety Code section 25320 [“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment”]. Moreover, the DTSC has specifically found that the actual and threatened release of the Designated Chemicals noted herein (as well as the other hazardous chemicals listed in Paragraph 2.4 of the Consent Order) presents an imminent and substantial endangerment to the public health or welfare.

Based on all of the facts known to the Noticing Party at this time, the Violator has violated Health & Safety Code section 25249.5 since it has, “in the course of doing business”, “knowingly and intentionally released chemicals known to the State of California to cause cancer

or reproductive toxicity into water or onto or into land where such chemical passes or probably will pass into any source of drinking water, notwithstanding any other provision or authorization of law except as provided in Section 25249.9". It has done so by failing to effectively contain at the Property the Designated Chemicals it disposed of at the Property and for which it is currently responsible.

Upon filing of the Complaint relating to this violation, the Noticing Party will seek an injunction requiring that the Violator immediately take effective action to safely contain the Designated Chemicals at the Site so as to prevent further actual or potential releases, until such time as the clean up required by the Consent Order is completed pursuant to Health & Safety Code section 25249.7. The Noticing Party will also seek civil penalties against the Violator for its past and ongoing violations of Health & Safety Code section 25249.5.

The Violator has also violated Health & Safety Code section 25249.6 since it has "in the course of doing business" "knowingly and intentionally expose[ed] [persons] to a chemical known to the State of California to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual." Investigators for the Noticing Party visited the Site on August 12, 2003 and again on September 25, 2003. They examined the entire perimeter of the Property and saw no clear and reasonable warning sign even purporting to comply with the requirements of Health & Safety Code section 25249.6, nor the regulations relating to that code section. Upon filing of the Complaint relating to this violation the Noticing Party will seek an injunction requiring that the Violator immediately take effective action to inform all likely affected persons of the likely exposures to Designated Chemicals in a clear and reasonable manner. The Noticing Party will also seek civil penalties against the Violator for its past and ongoing violations of Health & Safety Code Section 25249.6.

Both as to violations of Health & Safety Code Section 25249.5 and Health & Safety Code Section 25249.6 the Noticing Party will seek civil penalties for the maximum period allowed by law, which the Noticing Party believes is at least one year prior to the date of this Notice. With this Notice the Noticing Party has also included a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary." If you have any questions or comments, please do not hesitate to contact the undersigned at your earliest convenience.

Dated: October 30, 2003

GRAHAM & MARTIN, LLP

By:

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”) the entities identified in the Notice (hereinafter referred to collectively as “the Violator”) 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 any of the alleged violators 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 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 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 28, 2003.

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.) Sixty Day Notice of Intent to Sue Under Health & Safety Code Sections 24249.5 and 25249.6;
- 2.) Certificate of Merit;
- 3.) Copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" (*sent only to Violators*)
- 4.) Supporting Documents (*sent only 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 29, 2003

Place of Mailing: Irvine, California

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

California Attorney General
Office of Proposition 65 Enforcement
1515 Clay Street
20th Floor, P.O. Box 70550
Oakland, CA 94612-0550

L.A. County District Attorney
210 W. Temple Street, 18th Floor
Los Angeles, California 90012

L.A. City Attorney
200 N. Main Street N.E.
Los Angeles, CA 90012

Edward Colton, President
Alpha Therapeutic Corporation
5555 Valley Blvd.
Los Angeles, CA 90032

Gerald Griffin, President
Alpha/Owens Corning (AOC LLC)
19991 Seaton Avenue
Perris, CA 92570

Gayl Swinehart, Pres.
Betterbilt Chemicals
1455 Palomares Ave.
La Verne, CA 91750

Argyle Campbell, President
Cambro Manufacturing
7601 Clay Avenue
Huntington Beach, CA 92648

Frank Butler, President
Catalina Yachts
21200 Victory Blvd.
Woodland Hills, CA 91367

Gary Behunin, Pres.
Century Laminators
1182 Knollwood Cir.
Anaheim, CA 92801

Joe Bonadona, President
Century Plastics
1435 Soth Santa Fe
Compton, CA 90221

Louis A. Garasi, Pres.
Gruber Systems, Inc.
25636 Stanford Avenue
Valencia, CA 91355

Scott Steinhardt, Pres.
Hydro Systems, Inc.
50 Moreland Road
Simi Valley, CA
93065

William McCollum, CEO
Harrington Industrial Plastics
162 East Freedom Avenue
Anaheim, CA 92801

Jay Buchbinder, Pres.
JBI Inc.
2650 El Presidio Street
Long Beach, CA 90810

Gary Uecker, President
Resinart
1621 Placentia Avenue
Costa Mesa, CA 92627

Ann Palmer, President
Park International Corporation
1401 Freeman Avenue
Long Beach, CA 90804

Frank Butler, President
Performance Catamarans
1800 East Borchard Avenue
Santa Ana, CA 92705

Alan Levi, President
Silvestri Studios
1733 Cordova Street
Los Angeles, CA 9007

Robert Black, President
Plastics Research Corporation
13538 Excelsior Drive
Santa Fe Springs, CA 90670

Noboru Kobayashi, President
Three Bond International, Inc.
373 Van Ness Avenue
Torrance, CA 90501

David G. Franz, Jr.,
President/CEO
Semtech Corporation
652 Mitchell Road
Newbury Park, CA
91320

Steve Hamcock, President
Watkins Manufacturing Corporation
1232 Los Vallecitos Blvd.
San Marcos, CA 92069

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

Dated: October 29, 2003
