

# **CONSUMER DEFENSE GROUP ACTION**

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## **Amended 60 Day Notice of Intent to Sue VALERO ENERGY CORPORATION And Its Affiliated Entities VALERO REFINING COMPANY – CALIFORNIA and ULTRAMAR, INC. Under Health & Safety Code Sections 25249.5 and 25249.7**

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 William E. Greehey, the Chairman and CEO of VALERO ENERGY CORPORATION, and its affiliated entities VALERO REFINING COMPANY – CALIFORNIA and ULTRAMAR, INC. (hereinafter referred to collectively as “VALERO”), 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.

### **Summary of Violation**

This Notice is intended to inform VALERO that it is in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) (hereinafter “Proposition 65”). Proposition 65 absolutely prohibits any business from contaminating the drinking water supplies of California. VALERO is in violation of proposition 65 because it has and is knowingly and intentionally 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,” at each of the facilities listed on Exhibit A hereto (hereinafter “the Facilities”), which are VALERO branded gasoline stations with underground storage tank systems. Health & Safety Code Section 25249.5 and 25249.7. Proposition 65 provides that when a party, such as VALERO, an entity with more than ten employees, has been and is knowingly and intentionally 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 violating Health & Safety Code Section 25249.5 and may be enjoined from such conduct pursuant to Health & Safety Code Section 25249.7. The chemicals which VALERO is threatening to release are benzene and toluene (“the Designated Chemicals”), which are contained in the gasoline and other refined petroleum products which VALERO markets and stores within underground storage tank systems owned and/or operated by VALERO located at the Facilities. In order to be in compliance with Proposition 65 VALERO must effectively contain the Designated Chemicals in a UST system that is “product tight.” For these purposes, “product tight” means that the operations must be impervious to the liquid and vapor of the substance (“the Designated Chemicals”) that is or are contained or to be contained, in the underground storage tank systems so as to prevent seepage of the Designated Chemicals from the containment and in to or on to the ground where the Designated Chemicals will pass or probably will pass into any source of drinking water.

effectively, even at the lax warning level used by VALERO. Further, since such sensors, even when working properly, do not prevent leaks but, at best, simply record them, they are ineffective to avoid liability under Health & Safety Code sections 25249.5 and 25249.7. In order to be in compliance with Proposition 65 VALERO must therefore effectively contain the Designated Chemicals in a UST system which is "product tight", as defined above.

The gasoline service operations of VALERO therefore pose and threaten to pose an imminent threat to human health or safety or the environment and therefore create a substantial probability of harm since there is a substantial likelihood that the majority of the USTs operated and maintained by VALERO are either currently or likely will shortly discharge/release gasoline and other refined petroleum products into or on to the land. Such a discharge/release of the Designated Chemicals from the USTs at the Facilities "probably will pass into [a] source of drinking water." It is clear therefore that for the entire period of time that VALERO has owned and/or controlled the USTs located at the Facilities, VALERO has been and continues to be in violation of Proposition 65. Given that the maximum prior period of potential liability pursuant to Proposition 65, Business & Professions Code §17200 and Fish & Game Code §5650 (which are the operative statutes pursuant to which a complaint will be filed against VALERO) is four years, this Notice is intended to inform VALERO that it has been in violation of Proposition 65 from the time period from four years prior to the date of this notice and continues to be in violation, for every day upon which VALERO owns and/or controls the underground storage tank systems for any Facility listed on Exhibit A.

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

Dated: March 19, 2004

By:

Beacon #3659 4514 W. Shaw Fresno, CA 93722	Valero #7982 2101 Sommersville Road Antioch, CA 94509
Beacon #3787 5783 N. Palm Ave. Fresno, CA 93704	Lonetree Petr. Services 2843 Lonetree Way Antioch, CA 94509
Beacon #3406 1105 W. Sheilds Fresno, CA 93705	Antioch Beacon 3629 E. 18 <sup>th</sup> Street Antioch, CA 94509
UDS (ARCO) #3615 1625 N. Chestnut Fresno, CA 93703	Pic N Pump 21270 Bear Valley Road Apple Valley, CA 92307
Beacon #3481 6390 N. Blackstone Fresno, CA 93710	The Depot #6 17928 Highway 18 Apple Valley, CA 92307
UDS (ARCO) #3616 4001 N. Marks Fresno, CA 93722	Apple Valley Gas Mart 21898 Highway 18 Apple Valley, CA 92307
Harder Road Beacon 392 W. Harder Road Hayward, CA 94544	Valero #7230 334 San Antonio Road Mountain View, CA 94040
Valero #7800 390 West Jackson Hayward, CA 94544	Valero #7864 59 El Camino Real West Mountain View, CA 94040
Valero #7218 23990 Hesperian Blvd. Hayward, CA 94541	Valero #7528 495 Moffett Mountain View, CA 94043
Valero #7105 193 Winton Ave Hayward, CA 94544	Valero #7542 584 N. Rengstorff Mountain View, CA 94043
Valero #7217 26978 Hesperian Blvd. Hayward, CA 94545	CJ's Market 2963 Archibald Ontario, CA 91761
Gilroy Valero 700 First Street Gilroy, CA 95020	Ultramar Station 1724 S. Euclid Ontario, CA 91761
Ultramar #3722 1190 1 <sup>st</sup> Street Gilroy, CA 95020	Beacon #3657 700 Lighthouse Monterey, CA 93940

Sangs Beacon 633 West Market Street Salinas, CA 93901	Beacon #3517 100 East Bellevue Atwater, CA 95301
Ultramar Station 47 John St. Salinas, CA 93901	Ultramar #3768 67890 Highway 111 Cathedral City, CA 92234
Ultramar #3732 430 N. Main Street Salinas, CA 93906	Avinder & Bose Ultramar 28201 Date Palm Dr. Cathedral City, 92235
Valero #7567 3192 Santa Rita Road Pleasanton, CA 94566	Ultramar #3667 69123 Ramon Road Cathedral City, CA 92234
Valero #7399 2991 Hopyard Road Pleasanton, CA 94588	Concord Alliance, Inc. 3180 Willow Pass Road Concord, CA 94521
Valero #7240 532 East Washington Petaluma, CA 94952	Rain & Shine Car Wash 4595 Clayton Road Concord, CA 94521
Valero #7241 5153 Old Redwood Highway Petaluma, CA 94952	Solano Way Beacon 2020 Solano Way Concord, CA 94520
Pinole Valley Beacon 2810 Pinole Valley Road Pinole, CA 94564	Valero #7205 5399 Clayton Road Concord, CA 94521
Pinole Beacon 2298 Appian Way Pinole, CA 94564	Beacon #3006 33190 Hubert Way Kettleman City, CA 93239
Valero #3805 2401 Appian Way Pinole, CA 94564	Beacon #3005 50940 Mesa Verda Road King City, CA 93930
Sullivan Valero & Food Mart 1690 Sullivan Avenue Daly City, CA 94015	UDS (ARCO) #3636 1400 Yosemite Parkway Merced, CA 95340
Rene's Beacon 1210 R Street Merced, CA 95340	Beacon #3614 1975 E. Childs Ave. Merced, CA 95340
Beacon #3505 3006 G Street Merced, CA 95340	Beacon #3788 1107 West Olive Ave. Merced, CA 95348

Napa County DA  
931 Parkway Mall  
Napa, CA 94559

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

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

Yuba County DA  
215 5<sup>th</sup> Street  
Marysville, CA 95901

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

Merced County DA  
445 I Street  
Los Banos CA 93635

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

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

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

Solano County DA  
321 Tuolomne Street  
Valejo, CA 94590

Butte County DA  
25 County Center Drive  
Oroville, CA 95695

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

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

Kings County DA  
1400 W Lacey Blvd  
Hanford CA 93230