



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](http://www.asyousow.org)

May 20, 2004

**NOTICE OF VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS 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.

AYS 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 AYS' notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, AYS 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.

**Alleged violator.** The name of the violator covered by this notice is **HOT TOPIC, INC.** ("HT").

**Chemicals.** These violations involve exposures to lead and lead compounds from the products described below. 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.*)

**Consumer products.** The products that are the subject of this notice are jewelry manufactured, distributed or sold by HT including, but not limited to, the products identified in Exhibit A attached hereto.

**Route of exposure.** The consumer exposures that are the subject of this notice result from the handling and/or wearing of these products. Accordingly, the consumer exposures have occurred and continue to occur through the dermal contact and ingestion.

**Duration of violations.** Each of these ongoing violations has occurred on every day since May 20, 2000, and will continue every day until clear and reasonable warnings are provided or until these deleterious chemicals are removed from the products. Under Proposition 65, each 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.*

Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is attached hereto.

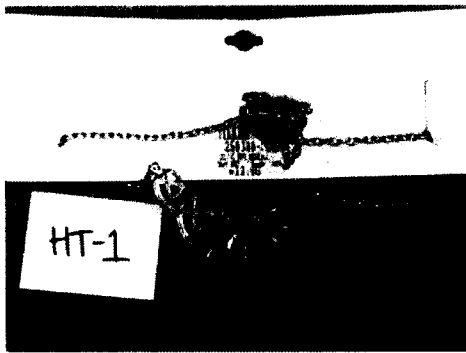
In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

**Babak Naficy, Esq.**  
**1204 Nipoma Street**  
**San Luis Obispo, CA 93401**  
**Telephone: (805) 593-0926**  
**Facsimile: (805) 593-0946**

---

Enclosure

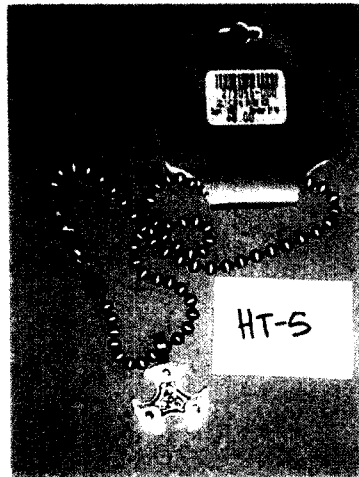
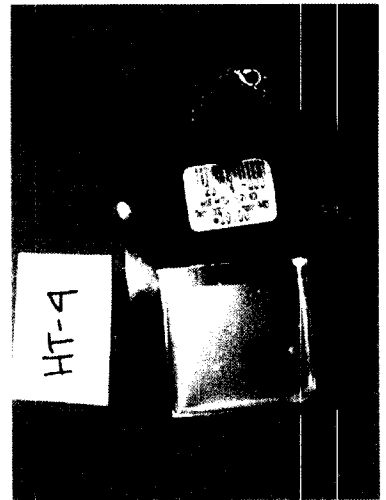
EXHIBIT A (HOT TOPIC, INC.)



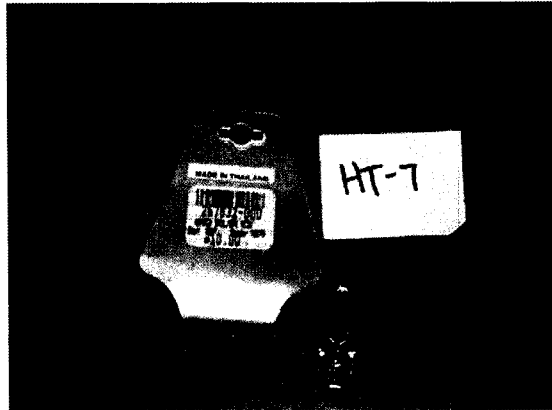
Product ID 258388-000



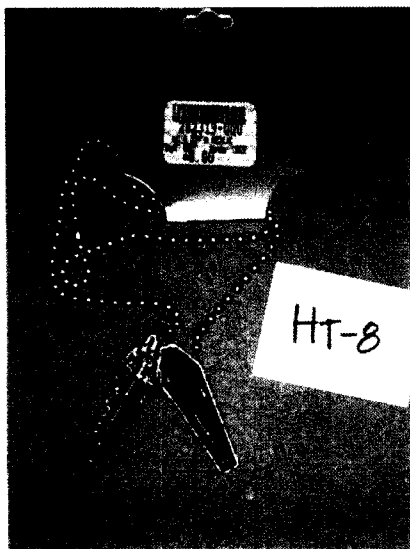
Product ID 237044-000



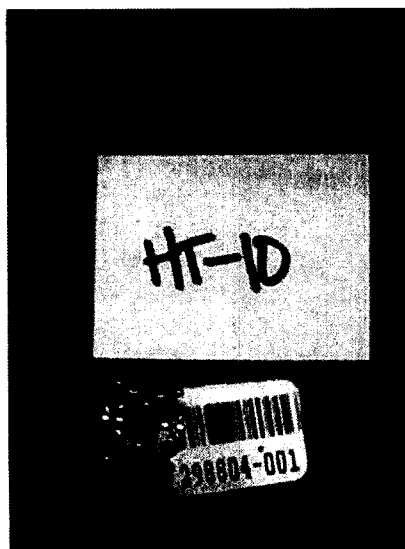
Product ID 279056-000



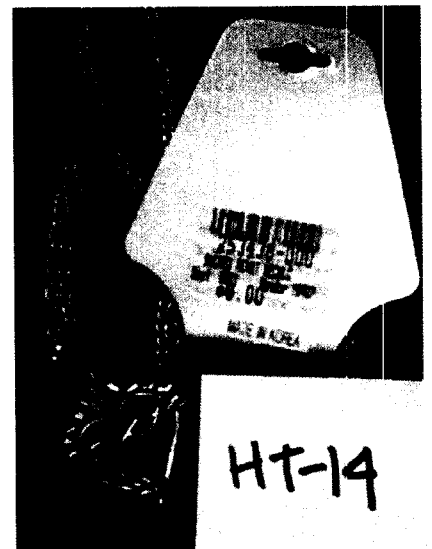
Product ID 267832-000



Product ID 282319-000



Product ID 298804-001



Product ID 253438-000



**CERTIFICATE OF MERIT**  
**(for As You Sow's Notice of Proposition 65 Violation on HOT TOPIC, INC.)**

I, Lawrence E. Fahn, declare:

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

2. I am the Executive Director of the noticing party, As You Sow.

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: 5/19/04



## 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 May 20, 2004, I served the following documents:

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- 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:

Elizabeth McLaughlin, CEO  
Hot Topic, Inc.  
18305 E. San Jose Avenue  
City of Industry, CA 91748

On May 20, 2004, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

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  
P.O. Box 944255  
Sacramento, CA 94244-2550

On May 20, 2004, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- 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 May 20, 2004, at San Francisco, California.

\_\_\_\_\_





PUBLIC ENFORCEMENT AGENCIES SERVICE LIST (updated 03/25/04)

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

THE HONORABLE ARTHUR MAILLET  
INYO COUNTY DISTRICT ATTORNEY  
PO DRAWER D  
INDEPENDENCE CA 93526

THE HONORABLE DEAN FLIPPO  
MONTEREY COUNTY DISTRICT ATTORNEY  
PO BOX 1131  
SALINAS CA 93902

THE HONORABLE WILLIAM RICHMOND  
ALPINE COUNTY DISTRICT ATTORNEY  
PO BOX 248  
MARKLEEVILLE CA 96120

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

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

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

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

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

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

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

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

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

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

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

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

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

THE HONORABLE JEFF CUNAN  
PLUMAS COUNTY DISTRICT ATTORNEY  
520 MAIN ST RM 404  
QUINCY CA 95971

THE HONORABLE ROBERT KOCHLY  
CONTRA COSTA COUNTY DISTRICT ATTORNEY  
PO BOX 670  
MARTINEZ CA 94553

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

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

THE HONORABLE MICHAEL RIESE  
DEL NORTE COUNTY DISTRICT ATTORNEY  
450 H ST STE 171  
CRESCENT CITY CA 95531

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

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

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

THE HONORABLE ROBERT BROWN  
MARIPOSA COUNTY DISTRICT ATTORNEY  
PO BOX 730  
MARIPOSA CA 95338

THE HONORABLE JOHN SANSFIELD  
SAN BENITO COUNTY DISTRICT ATTORNEY  
419 FOURTH ST, FL 2  
HOLLISTER CA 95023

THE HONORABLE ELIZABETH EGAN  
FRESNO COUNTY DISTRICT ATTORNEY  
2220 TULARE ST STE 1000  
FRESNO CA 93721

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

THE HONORABLE MICHAEL RAMOS  
SAN BERNARDINO COUNTY DISTRICT ATTORNEY  
316 N MTN VIEW AVE  
SAN BERNARDINO CA 92415-0004

THE HONORABLE ROBERT HOLZAPFEL  
GLENN COUNTY DISTRICT ATTORNEY  
PO BOX 430  
WILLOWS CA 95986

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

THE HONORABLE BONNIE DUMANIS  
SAN DIEGO COUNTY DISTRICT ATTORNEY  
330 W BROADWAY STE 1320  
SAN DIEGO CA 92101

THE HONORABLE PAUL GALLEGOS  
HUMBOLDT COUNTY DISTRICT ATTORNEY  
825 FIFTH ST  
EUREKA CA 95501

THE HONORABLE JORDAN FUNK  
MODOC COUNTY DISTRICT ATTORNEY  
204 S COURT ST RM 202  
ALTURAS CA 96101-4020

THE HONORABLE KAMALA HARRIS  
SAN FRANCISCO COUNTY DISTRICT ATTORNEY  
880 BRYANT ST RM 325  
SAN FRANCISCO CA 94103

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

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

THE HONORABLE JOHN D PHILLIPS  
SAN JOAQUIN COUNTY DISTRICT ATTORNEY  
PO BOX 990  
STOCKTON CA 95201-0990

PUBLIC ENFORCEMENT AGENCIES SERVICE LIST (updated 03/25/04)

THE HONORABLE GERALD T SHEA  
SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY  
1050 MONTEREY ST RM 450  
SAN LUIS OBISPO CA 93408

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

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

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

THE HONORABLE BOB LEE  
SANTA CRUZ COUNTY DISTRICT ATTORNEY  
701 OCEAN ST RM 200  
SANTA CRUZ CA 95060

THE HONORABLE GERALD C. BENITO  
SHASTA COUNTY DISTRICT ATTORNEY  
1525 COURT ST FL 3  
REDDING CA 96001

THE HONORABLE LAWRENCE ALLEN  
SIERRA COUNTY DISTRICT ATTORNEY  
PO BOX 457  
DOWNIEVILLE CA 95936

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

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

THE HONORABLE STEPHEN PASSALACQUA  
SONOMA COUNTY DISTRICT ATTORNEY  
600 ADMINISTRATION DR RM 212-J  
SANTA ROSA CA 95403

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

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

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

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

THE HONORABLE GREG TOTTEN  
VENTURA COUNTY DISTRICT ATTORNEY  
800 S VICTORIA AVE  
VENTURA CA 93009

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

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

LOS ANGELES CITY ATTORNEY'S OFFICE  
800 CITY HALL EAST  
200 N MAIN ST  
LOS ANGELES CA 90012

SAN DIEGO CITY ATTORNEY'S OFFICE  
CIVIC CENTER PLAZA  
1200 THIRD AVE STE 1620  
SAN DIEGO CA 92101

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

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