

60-Day Notice of Intent to Sue Under Health & Safety Code section 25249.6

January 4, 2005

VIA U.S. MAIL
TO THE PARTIES LISTED ON THE
ATTACHED CERTIFICATE OF SERVICE

Environmental World Watch, Inc. and William Dunlap, an individual (hereinafter “**Noticing Parties**”), whose contact for the purpose of this notice is Reuben Yeroushalmi, Esq., Yeroushalmi & Associates, 3700 Wilshire Blvd., Ste. 480, Los Angeles, CA 90010, 213-382-3183, hereby provides this **NOTICE**. Noticing parties believe that the Alleged Violator, **The National Hot Rod Association (hereinafter “NHRA”)**, is in violation of The Safe Drinking Water and Toxic Enforcement Act (Health & Saf. Code, § 25249.5, et seq.) (“**Proposition 65**”). It is our further belief that absent an action by any governmental agency as defined at Health & Saf. Code, § 25249.7 (c), that **NOTICING PARTIES** may proceed in a court of competent jurisdiction with an action on behalf of the People of the State of California to remedy all the violations delineated herein.

1. BACKGROUND AND ALLEGATIONS

NOTICING PARTIES possess the Mates II study results by the South Coast Air Quality Management District, which identify the chemicals and concentrations in the ambient air near the Pomona and Sonoma race tracks. **NOTICING PARTIES** also possess other evidence from years of drag racing that shows that each NHRA drag strip, in its normal course of business, exposed and continues to expose spectators, racers, employees, and others in the environment to carcinogens and reproductive toxins listed under Proposition 65 at title 22 CCR 12000.

NOTICING PARTIES believe and so allege that, since December 30, 2000, NHRA has failed to supply the warnings required by Proposition 65 before exposing persons to listed chemicals as described above.

The listed carcinogens and reproductive toxins subject to the warning requirements of Health & Saf. Code, § 25249.6, to which the NHRA exposed persons as described herein, are the following:

Reproductive Toxins

1. Carbon Disulfide
2. Methyl Chloride
3. Toluene
4. Carbon Monoxide
5. Benzene
6. Lead

Carcinogens

7. Perchloroethylene
8. Chrysene
9. Nickel and Nickel Compounds
10. Formaldehyde
11. 1, 3 Butadiene
12. 1, 4 Dichlorobenzene
13. Carbon Tetrachloride
14. Trichloroethylene
15. Chloroform
16. Chromium VI
17. Nitromethane
18. Gasoline Engine Exhaust
19. Diesel Exhaust Particulate
20. Benzene
21. Lead

The places where the NHRA exposed persons to the chemicals above are the:

1. Pomona Raceway; 2780 Fairplex Dr. Pomona, CA 91768; 340527N; 1174619W
2. Infineon Raceway; 29305 Arnold Dr., Sonoma, California 95476; Highways 37 & 121 Sonoma, California 95476;

The aforementioned carcinogens, reproductive/developmental toxins are on the Governor's list (Proposition 65 List) as expressed at Title 22 C.C.R. 12000. These chemicals are known to the State of California to cause cancer and reproductive harm to humans requiring special warning and care in handling and use.

This notice alleges environmental exposures in violation of the warning requirements of Proposition 65 as defined at Title 22 CCR 12601 (d). These exposures, without a clear and reasonable warning, occur principally on the property controlled by the NHRA. The NHRA exposed and continues to expose persons to the listed chemicals noted above at the Pomona and Sonoma drag strips during racing events, constituting environmental exposures. The exposed persons include but are not limited to spectators, passers-by, motorists, delivery people, children, pregnant women, and others not in the direct employ of the NHRA. Any other person in the normal course of their daily activities inside residences or businesses that brought them within one city block of those drag strips, and off the property of the NHRA, were also exposed. Breathing the ambient air in the described area on the race track proper or adjacent to the drag strip caused exposures through contact with the eyes, nose, esophagus, throat, and lungs.

This notice further alleges a violation of the warning requirements of Proposition 65 under occupational exposures as defined at Title 22 CCR 12601 (c). These occupational exposures were to all track personnel including such duties as sweeping, starting, crowd control, and security. All other personnel in the employ of others such as concession sales and souvenir sales, display people, sales people, tire changers and mounting people were also exposed.

This notice alleges the violation of Proposition 65 concerning occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997.

This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to (a.) the conduct of manufacturers occurring outside the State of California; and (b.) employers with less than 10 employees. The approval also provides that an employer may use any means of compliance in the general hazard communication requirements to comply with Proposition 65.* It also requires that supplemental enforcement be subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the California Attorney General.

The NHRA entertain spectators or cause races between competitors who burn different fuels, which emit these chemicals in the exhaust. Other vehicles emit other exhaust on the drag strip property that exposes persons to said toxicants. NOTICING PARTIES believe and further allege that these exposures by the NHRA were allowed to take place without the requisite warnings as delineated by the applicable statutes specified in this notice.

The routes of exposure for both occupational and environmental exposures to the above listed chemicals is through inhalation. There is also a dermal exposure danger as racers' hands come in contact with chemicals during rebuilding and fueling race cars. There is a further dermal danger around the eyes as workers and drivers remove their gloves and inadvertently touch their faces.

NOTICING PARTIES believe and further allege that the NHRA never provided a "clear and reasonable" or "conspicuous" warning as required by Proposition 65 from December 30, 2000 through December 30, 2004 to those identified employees (occupational exposures) and non-employees (environmental exposures) set forth above, while providing a racing venue at the places and locations so delineated herein.

Proposition 65 was passed in 1986 and some of the chemicals addressed in this Notice were added to the Prop. 65 list on July 1, 1987 and were subject to the warning requirements 12 months after their listing. Other chemicals set forth in this notice were added to the list at later dates and were subject to the warning requirements 12 months after their listing.

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* One may refer to the Hazard Communication Standard (HCS) requirements.

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Proposition 65 requires that notice and intent to sue be given to the violator(s) 60 days before the suit is filed. With this letter NOTICING PARTIES give notice of the alleged violations to Violator and the appropriate governmental authorities. In absence of any action by the appropriate governmental authorities of 60 days of the sending of this notice, NOTICING PARTIES may file suit. This notice covers all violations of Proposition 65 that NOTICING PARTIES currently know of from information now available to it. The copy of this notice submitted to Violator includes a copy of *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary*.

By: 

Reuben Yeroushalmi on behalf of
Environmental World Watch, Inc.
and William Dunlap, individually

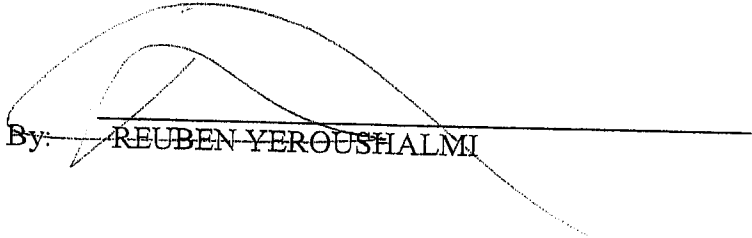
CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Reuben Yeroushalmi, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the party(s) identified in the notice(s) has violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
3. I have consulted with at least one person with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is 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 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 section 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: 01/04/05

By: 
~~REUBEN YEROUSHALMI~~

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 mail occurred. My business address is 3700 Wilshire Boulevard, Suite 480, Los Angeles, CA 90010.

I SERVED THE FOLLOWING:

- 1) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 25249.6
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit: Health and Safety Code Section 25249.7(d) *Attorney General Copy (only sent to Attor. General)*
- 4) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary by enclosing a true copy of the same, along with an unsigned copy of this declaration, in a sealed envelope addressed to each person shown below and depositing the envelope in the United States mail with the postage fully prepaid.
Place of Mailing: Los Angeles, CA

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

Mr. Tom Compton
President
National Hot Rod Association
2035 Financial Way
Glendora, CA 91741

NAME AND ADDRESS OF EACH PUBLIC PROSECUTOR TO WHOM DOCUMENTS WERE MAILED:

Los Angeles City Attorney 200 N Main St Ste 1800 Los Angeles CA 90012	Los Angeles County District Attorney 210 W Temple St, 18th Floor Los Angeles, CA 90012	Office of the Attorney General P.O. Box 70550 Oakland, CA 94612-0550
Sonoma County District Attorney 600 Administration Dr. Room 212-J Santa Rosa, CA 95403		

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

Dated: 01/04/05

By: _____

