VICTOR C. ROSE (1907-1972)
ALFRED M. KLEIN (1913-2000)
EUGENE MARIAS (1919-1982)
*ROBERT B. STEINBERG
*HOWARD N. LEHMAN
*JASON A. GOTTLIEB
*HERBERT I. GALPERSON
MARVIN N. SHAPIRO
*BARRY I. GOLDMAN
*G. RONALD FEENBERG
DENNIS D. WELCH
GREGORY STAMOS
DENNIS J. SHERWIN
*STEVEN M. HOFFBERG
*ROBERT I. VINES
*MANUEL L. NUNES
DAVID A. ROSEN
RICHARD G. BARONE
WILLIAM M. GREWE
CHRISTOPHER P. RIDOUT
TONI RAYKOVICH

* DENOTES PROFESSIONAL CORPORATION
† ADMITTED ONLY IN SWEDEN

LAW OFFICES OF
ROSE, KLEIN & MARIAS LLP
801 SOUTH GRAND AVENUE
18TH FLOOR
LOS ANGELES, CALIFORNIA 90017-4645
FAX (213) 623-7755
(213) 626-0571

WENDY HAYWARD-MARSHALL
ANDREW J. SHORENSTEIN
BABETTE F. BEMEL
LILIA BALLESTEROS
DAVID S. GALPERSON
ARLYN M. LATIN
†RONNY MARTINSSON
HARRY H. SAMARGHACHIAN
SCOTT M. RUBEL
JANET U. KROPP
ALAN P. RIFFEL
JULIE A. CRABTREE
JOAN L. COLLIER
G. LAUREN BELGER
ROSA E. SAHAGÚN
CHRISTEL A. SCHOENFELDER
TRACY K. SMITH
JORDAN BLUMENFELD-JAMES

October 27, 2005

Thomas C. Nelson, President
NATIONAL GYPSUM COMPANY
1850 Pier B Street
Long Beach, CA 90813

CC: *care of* Agent for Service of Process
The Prentice-Hall Corporation System, Inc.
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833

Dear Mr. Nelson:

Alice J. Bradfield, Kristina Bradfield, Daniel Bradfield, Merideth Bradfield and Hillary Bradfield (the "Bradfields") are residents of the City of San Pedro, County of Los Angeles, State of California, which is in close proximity to the Port of Los Angeles and Port of Long Beach. The Bradfields have an interest in reducing health hazards to the public posed by toxic chemicals and protecting the public from harmful substances.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq*. Specifically, this entity has violated and continues to violate the warning requirement at § 25249.6 of the California Health and Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

<u>Alleged Violator:</u> NATIONAL GYPSUM COMPANY

NATIONAL GYPSUM COMPANY, operates a dry bulk terminal and diesel-powered ships that load and off-load cargo at Pier B Berths B82 at the Port of Long Beach. Operation of this

401 E. OCEAN BOULEVARD, SUITE 300
LONG BEACH, CALIFORNIA 90802-4965
(562) 436-4696 • FAX (562) 436-6157

333 SOUTH ANITA DRIVE, SUITE 700
ORANGE, CALIFORNIA 92868-3320
(714) 937-9205 • FAX (714) 937-9218

3633 E. INLAND EMPIRE BLVD., SUITE 400
ONTARIO, CALIFORNIA 91764-4922
(909) 944-1711 • FAX (909) 944-1722

5740 RALSTON STREET, SUITE 301
VENTURA, CALIFORNIA 93003-6043
(805) 642-7101 • FAX (805) 642-9627

15910 VENTURA BOULEVARD, 18TH FLOOR
ENCINO, CALIFORNIA 91436-2819
(818) 781-1420 • FAX (213) 623-7755

555 WEST BEECH STREET, SUITE 205
SAN DIEGO, CALIFORNIA 92101-2938
(619) 234-3621 • FAX (619) 234-0649

1290 CENTER COURT DRIVE
COVINA, CALIFORNIA 91724
(626) 967-1408 • FAX (909) 944-1722

827 STATE STREET, SUITE 10
SANTA BARBARA, CALIFORNIA 93101
(805) 564-4226 • FAX (805) 642-9627

terminal consists of the use of locomotives, on-road heavy duty trucks, and cargo handling equipment including, but not limited to, yard trucks, side-picks, rubber tired gantry cranes, and forklifts. Operation of this equipment causes the release of diesel engine exhaust into the environment. Operation of the diesel-powered ships also causes the release of diesel engine exhaust while at birth. Diesel engine exhaust is known to the State of California to cause cancer.

At all relevant times and continuing to the present time, this entity has exposed and continues to expose residents within the State of California including, but not limited to, the Bradfields, to high levels of diesel engine exhaust, a carcinogen. Exposure has occurred, and continues to occur, through breathing in, and dermal contact with, the diesel engine exhaust released by this entity. The above referenced exposure occurs beyond the property owned, operated or controlled by this entity and affects many individuals, but not limited to the Bradfields who reside, work or are otherwise located in proximity to the property owned, operated, or controlled by this entity.

Because diesel engine exhaust is a chemical listed in Proposition 65 as a cancer-causing chemical, pursuant to Health and Safety Code § 25249.6 this entity was, and is, required to provide clear and reasonable warnings to all persons who come into contact with, or who may come into contact with, this carcinogen. The warnings must state that a chemical known by the State of California to cause cancer are present. Pursuant to Health and Safety Code § 25249.7(d), the Bradfields intend to bring suit in the public interest against the above named entity sixty days hereafter to correct the violation occasioned by the failure to warn all California residents to the exposure of diesel engine exhaust.

Pursuant to 22 California Code of Regulations § 12903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby includes the attached Certificate of Merit, to wit, that the undersigned has consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believes there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

The Bradfields reside at, 207 Amar Street, San Pedro, California, 90731, telephone (310)514-1525. They are represented in this matter by the law firm of Rose, Klein & Marias LLP: 801 S. Grand Ave., 11th Floor, Los Angeles, CA 90017-4645. All communications concerning this matter should be directed to Christopher P. Ridout of Rose, Klein & Marias, LLP.

Very truly yours,

ROSE, KLEIN & MARIAS LLP

Christopher P. Ridout

CPR:rmb
Enclosures

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Christopher P. Ridout, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am attorney for Alice J. Bradfield, Kristin Bradfield, David Bradfield, Merideth Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield, and Hillary Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield.

(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has/have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is subject to 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: October 27, 2005

Christopher P. Ridout
Rose, Klein & Marias LLP
801 South Grand Avenue 11th Floor
Los Angeles, CA 90017-4645
Attorney on behalf of Alice J. Bradfield, Kristin Bradfield, David Bradfield, Merideth Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield, and Hillary Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)
)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 801 S. Grand Avenue, Eleventh Floor, Los Angeles, California 90017-4645.

On October 27, 2005, I served the foregoing document described as **PROP 65 LETTER AND ENCLOSURES** on all interested parties in this action by placing

[X] a true copy
[ ] the original

thereof enclosed in sealed envelopes addressed as follows:

(SEE ATTACHED SERVICE LIST)

[X] (BY CERTIFIED MAIL 1013a, 2015.5 C.C.P.)
I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] (STATE)
I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[ ] (FEDERAL)
I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 27, 2005, at Los Angeles, California.

Rosa M. Bitar

PROP 65 LETTER AND ENCLOSURES
SERVICE LIST

The Honorable Steve Cooley
District Attorney
LOS ANGELES COUNTY
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Rockard Delgadillo
City Attorney
CITY OF LOS ANGELES
200 N. Main Street
Los Angeles, CA 90012

Attorney General of California
Prop 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Edward Weil
Prop 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Thomas M. Reeves
City Prosecutor
Office of the City Prosecutor
333 W. Ocean Blvd., 2nd Floor
Long Beach, CA 90802

Robert E. Shannon
City Attorney
333 West Ocean Blvd., 11th Floor
Long Beach, CA 90802-4664

Thomas C. Nelson, President
NATIONAL GYPSUM COMPANY
1850 Pier B Street
Long Beach, CA 90813

Agent for Service of Process
The Prentice-Hall Corporation System, Inc.
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833

VICTOR C. ROSE (1907-1972)
ALFRED M. KLEIN (1913-2000)
EUGENE MARIAS (1919-1982)

*ROBERT B. STEINBERG
*HOWARD N. LEHMAN
*JASON A. GOTTLIEB
*HERBERT I. GALPERSON
MARVIN N. SHAPIRO
*BARRY I. GOLDMAN
*G. RONALD FEENBERG
DENNIS D. WELCH
GREGORY STAMOS
DENNIS J. SHERWIN
*STEVEN M. HOFFBERG
*ROBERT I. VINES
*MANUEL L. NUNES
DAVID A. ROSEN
RICHARD G. BARONE
WILLIAM M. GREWE
CHRISTOPHER P. RIDOUT
TONI RAYKOVICH

* DENOTES PROFESSIONAL CORPORATION
† ADMITTED ONLY IN SWEDEN

LAW OFFICES OF
ROSE, KLEIN & MARIAS LLP
801 SOUTH GRAND AVENUE, 11TH FLOOR
LOS ANGELES, CALIFORNIA 90017-4645
FAX (213) 623-7755
(213) 626-0571

WENDY HAYWARD-MARSHALL
ANDREW J. SHORENSTEIN
BABETTE F. BEMEL
LILIA BALLESTEROS
DAVID S. GALPERSON
ARLYN M. LATIN
†RONNY MARTINSSON
HARRY H. SAMARGHACHIAN
SCOTT M. RUBEL
JANET U. KROPP
ALAN P. RIFFEL
JULIE A. CRABTREE
JOAN L. COLLIER
G. LAUREN BELGER
ROSA E. SAHAGÚN
CHRISTEL A. SCHOENFELDER
TRACY K. SMITH
JORDAN BLUMENFELD-JAMES
MARCUS S. LOO
MIA R. ELLIS
KEVIN MAHONEY
LISA F. JOU

October 27, 2005

Thomas C. Nelson, President
NATIONAL GYPSUM CO.
2001 Rexford Rd.
Charlotte, NC 28211

CC: *care of* Agent for Service of Process
The Prentice-Hall Corporation System, Inc.
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833

Dear Mr. Nelson:

Alice J. Bradfield, Kristina Bradfield, Daniel Bradfield, Merideth Bradfield and Hillary Bradfield (the "Bradfields") are residents of the City of San Pedro, County of Los Angeles, State of California, which is in close proximity to the Port of Los Angeles and Port of Long Beach. The Bradfields have an interest in reducing health hazards to the public posed by toxic chemicals and protecting the public from harmful substances.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq*. Specifically, this entity has violated and continues to violate the warning requirement at § 25249.6 of the California Health and Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

<u>Alleged Violator:</u> NATIONAL GYPSUM CO.

NATIONAL GYPSUM CO., operates a dry bulk terminal and diesel-powered ships that load and off-load cargo at Pier B Berths B82 at the Port of Long Beach. Operation of this terminal

401 E. OCEAN BOULEVARD, SUITE 300
LONG BEACH, CALIFORNIA 90802-4965
(562) 436-4696 • FAX (562) 436-6157

333 SOUTH ANITA DRIVE, SUITE 700
ORANGE, CALIFORNIA 92868-3320
(714) 937-9205 • FAX (714) 937-9218

3633 E. INLAND EMPIRE BLVD., SUITE 400
ONTARIO, CALIFORNIA 91764-4922
(909) 944-1711 • FAX (909) 944-1722

5740 RALSTON STREET, SUITE 301
VENTURA, CALIFORNIA 93003-6043
(805) 642-7101 • FAX (805) 642-9627

15910 VENTURA BOULEVARD, 18TH FLOOR
ENCINO, CALIFORNIA 91436-2819
(818) 781-1420 • FAX (213) 623-7755

555 WEST BEECH STREET, SUITE 205
SAN DIEGO, CALIFORNIA 92101-2938
(619) 234-3621 • FAX (619) 234-0649

1290 CENTER COURT DRIVE
COVINA, CALIFORNIA 91724
(626) 967-1408 • FAX (909) 944-1722

827 STATE STREET, SUITE 10
SANTA BARBARA, CALIFORNIA 93101
(805) 564-4226 • FAX (805) 642-9627

consists of the use of locomotives, on-road heavy duty trucks, and cargo handling equipment including, but not limited to, yard trucks, side-picks, rubber tired gantry cranes, and forklifts. Operation of this equipment causes the release of diesel engine exhaust into the environment. Operation of the diesel-powered ships also causes the release of diesel engine exhaust while at birth. Diesel engine exhaust is known to the State of California to cause cancer.

At all relevant times and continuing to the present time, this entity has exposed and continues to expose residents within the State of California including, but not limited to, the Bradfields, to high levels of diesel engine exhaust, a carcinogen. Exposure has occurred, and continues to occur, through breathing in, and dermal contact with, the diesel engine exhaust released by this entity. The above referenced exposure occurs beyond the property owned, operated or controlled by this entity and affects many individuals, but not limited to the Bradfields who reside, work or are otherwise located in proximity to the property owned, operated, or controlled by this entity.

Because diesel engine exhaust is a chemical listed in Proposition 65 as a cancer-causing chemical, pursuant to Health and Safety Code § 25249.6 this entity was, and is, required to provide clear and reasonable warnings to all persons who come into contact with, or who may come into contact with, this carcinogen. The warnings must state that a chemical known by the State of California to cause cancer are present. Pursuant to Health and Safety Code § 25249.7(d), the Bradfields intend to bring suit in the public interest against the above named entity sixty days hereafter to correct the violation occasioned by the failure to warn all California residents to the exposure of diesel engine exhaust.

Pursuant to 22 California Code of Regulations § 12903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby includes the attached Certificate of Merit, to wit, that the undersigned has consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believes there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

The Bradfields reside at, 207 Amar Street, San Pedro, California, 90731, telephone (310)514-1525. They are represented in this matter by the law firm of Rose, Klein & Marias LLP: 801 S. Grand Ave., 11th Floor, Los Angeles, CA 90017-4645. All communications concerning this matter should be directed to Christopher P. Ridout of Rose, Klein & Marias, LLP.

Very truly yours,

ROSE, KLEIN & MARIAS LLP

Christopher P. Ridout

CPR:rmb
Enclosures

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Christopher P. Ridout, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am attorney for Alice J. Bradfield, Kristin Bradfield, David Bradfield, Merideth Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield, and Hillary Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield.

(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has/have reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is subject to 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: October 27, 2005

Christopher P. Ridout
Rose, Klein & Marias LLP
801 South Grand Avenue 11th Floor
Los Angeles, CA 90017-4645
Attorney on behalf of Alice J. Bradfield, Kristin Bradfield, David Bradfield, Merideth Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield, and Hillary Bradfield, a minor by and through her guardian ad litem, Kristin Bradfield.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)
)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 801 S. Grand Avenue, Eleventh Floor, Los Angeles, California 90017-4645.

On October 27, 2005, I served the foregoing document described as **PROP 65 LETTER AND ENCLOSURES** on all interested parties in this action by placing

[X] a true copy
[ ] the original

thereof enclosed in sealed envelopes addressed as follows:

(SEE ATTACHED SERVICE LIST)

[X] (BY CERTIFIED MAIL 1013a, 2015.5 C.C.P.)
I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] (STATE)
I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

[ ] (FEDERAL)
I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 27, 2005, at Los Angeles, California.

Rosa M. Bitar

PROP 65 LETTER AND ENCLOSURES
SERVICE LIST

The Honorable Steve Cooley
District Attorney
LOS ANGELES COUNTY
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable Rockard Delgadillo
City Attorney
CITY OF LOS ANGELES
200 N. Main Street
Los Angeles, CA 90012

Attorney General of California
Prop 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Edward Weil
Prop 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

Thomas M. Reeves
City Prosecutor
Office of the City Prosecutor
333 W. Ocean Blvd., 2nd Floor
Long Beach, CA 90802

Robert E. Shannon
City Attorney
333 West Ocean Blvd., 11th Floor
Long Beach, CA 90802-4664

Thomas C. Nelson, President
NATIONAL GYPSUM CO.
2001 Rexford Rd.
Charlotte, NC 28211

Agent for Service of Process
The Prentice-Hall Corporation System, Inc.
2730 Gateway Oaks Dr., Suite 100
Sacramento, CA 95833