

# SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)

FEBRUARY 14, 2006

**To:** Russell Heffner, President – Russell & Jill Heffner, Inc.  
Russell Heffner, President – Valley Meat Co.

California Attorney General's Office;  
District Attorney's Office for 58 Counties;  
City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles;

**FROM:** Whitney R. Leeman

## I. INTRODUCTION

My name is Whitney R. Leeman. I hold a Doctor of Philosophy degree in Environmental Engineering. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 *et seq.* ("Proposition 65") and supplements the notice sent to Valley Meat Co. on November 3, 2004. As noted above, notice is being provided to the violators, Russell & Jill Heffner, Inc. and Valley Meat Co. (the "Violators"). The violations covered by this Notice consist of the product exposures, routes of exposures, and types of harm potentially resulting from exposure(s) to the following toxic chemicals ("listed chemicals"):

<i>Listed Chemicals</i>	<i>Routes of Exposure</i>	<i>Types of Harm</i>	<i>Product Exposures</i>
Polychlorinated dibenzofurans	Ingestion	Cancer	See Section VI. Exhibit A
Polychlorinated dibenzo- <i>p</i> -dioxins	Ingestion	Cancer	See Section VI. Exhibit A
Polychlorinated biphenyls	Ingestion	Cancer; Birth Defects and Other Reproductive Harm	See Section VI. Exhibit A

## **II. NATURE OF ALLEGED VIOLATION (CONSUMER PRODUCT EXPOSURE)**

The type of products containing the listed chemicals and exposing consumers to the listed chemicals is *Ground Beef Products* (hereafter the “products”). A specific example of the type of products that are causing consumer exposures in violation of Proposition 65 (and that are covered by this notice) is listed on Exhibit A in section VI below. The Violators’ sales of these ground beef products have been occurring from at least February 14, 2005 to the present. As a result of the sales of these products, exposures to the listed chemicals have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemicals in the products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure from reasonably foreseeable use of the products.

California consumers, through the act of consuming the products, are exposed to the listed chemicals. By way of example but not limitation, exposures occur when California citizens eat, sample or otherwise consume the products. These acts cause consumers to be exposed through the routine consumption of the parts or portions of the products containing the listed chemicals. Additionally, exposures can occur through the routine consumption of other food products (*e.g.*, Burger Buns) that become contaminated with the listed chemicals through contact with the products and are routinely consumed with the products. People likely to be exposed include both children and adults.

## **III. CONTACT INFORMATION**

Please direct all questions concerning this notice to my counsel at the following address:

Clifford A. Chanler  
Hirst & Chanler LLP  
The Whitney Building  
71 Elm Street, Suite 8  
New Canaan, CT 06840  
Telephone: (203) 966-9911  
Facsimile: (203) 801-5222

## **IV. PROPOSITION 65 INFORMATION**

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health Hazard Assessment’s (“OEHHA”) Proposition 65 Implementation Office at (916) 445-6900. For the Violators’ reference, I have attached a copy of “Proposition 65: A Summary” which has been prepared by OEHHA.

**V. ADDITIONAL NOTICE INFORMATION**

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER CAL. CODE REGS., TITLE 22 §12903(b)(4).

Identified below is a specific example of the category or type of offending food products recently purchased and witnessed as being available for purchase or consumption in California. Based on publicly available information, the retailers, distributors and/or manufacturers of the example of the category or type of products at issue are also provided below. Dr. Leeman believes and alleges that the sale and consumption of the offending products has also occurred without the requisite warning at other locations throughout the State of California including, but not limited to, transactions made over-the-counter and/or from business-to-business by the Violators (and other distributors and retailers of the manufacturer).

<i>Products*</i>	<i>Retailer(s)</i>	<i>Manufacturer(s)/Distributors</i>
100% All Beef Patties, 30% Fat, 3 LB Packaged (#0 87816 25759 0)	Food Source (Raley's Inc.)	Russell & Jill Heffner, Inc.; Valley Meat Co.

**VI. EXHIBIT A**

<i>Product Category</i>	<i>Such As*</i>	<i>Toxins</i>
Ground Beef	100% All Beef Patties, 30% Fat, 3 LB Packaged (#0 87816 25759 0)	Polychlorinated dibenzofurans
Ground Beef	100% All Beef Patties, 30% Fat, 3 LB Packaged (#0 87816 25759 0)	Polychlorinated dibenzo- <i>p</i> -dioxins
Ground Beef	100% All Beef Patties, 30% Fat, 3 LB Packaged (#0 87816 25759 0)	Polychlorinated biphenyls

\*Any specifically identified example of the type of food products which are subject to this Notice is for the benefit of each recipient to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemicals from other items within the product category listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category" in Exhibit A. Further, it is this citizen's position that the alleged violators are obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped or stored (or otherwise within the noticed recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase or consumption.

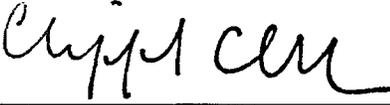
## CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code §25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party.
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 *alleged* exposure to the listed chemicals that is the subject of this 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 plaintiff's case can be established and the information did not prove that the alleged violators 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 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: 2/14/06

  
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Clifford A. Chanler

**PROOF OF SERVICE**

I, the undersigned, declare under penalty of perjury:

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 2560 Ninth Street, Suite 214, Berkeley, CA 94710.

On February 14, 2006, I served the following document:

**SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);**

**PROPOSITION 65: A SUMMARY;**

**CERTIFICATE OF MERIT; AND**

**CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)**

served on the Violators listed below via Standard Overnight Air Service by placing a true and correct copy in a sealed envelope, addressed to each Violator and placing each such envelope in a Federal Express Drop-Off Box:

Russ Heffner, President  
Russell & Jill Heffner, Inc.; Valley Meat Co.  
4801 Enterprise Way  
Modesto, CA 95356-8719  
Tel. (209) 545-1900

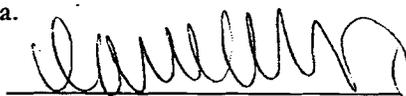
Russ Heffner, President  
Valley Meat Co.  
4801 Enterprise Way  
Modesto, CA 95356-8719  
Tel. (209) 545-1900

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below, and served as follows:

<i>Via Standard Overnight Air Service by placing such envelope in a Federal Express Drop-Off Box:</i>	The Attorney General of the State of California;
<i>By placing each envelope in a United States Postal Service mailbox, first class postage prepaid:</i>	The District Attorney for Each of the 58 counties in California; and  The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento;

*A list of addresses for each of these recipients is attached.*

Executed on February 14, 2006, at Berkeley, California.

  
Caroline Liang