

## NOTICE OF VIOLATION

California Safe Drinking Water  
and Toxic Enforcement Act

Re: Moth Preventatives Containing Naphthalene

April 24, 2006

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health, 528 61<sup>st</sup> Street, Suite A, Oakland, CA 94609, (510) 594-9864. The Center for Environmental Health is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within the Center for Environmental Health.

### Description of Violation:

- The name of the violator is Willert Home Products, which is located at 4044 Park Avenue, St. Louis, MO 63110.
- The violations have been occurring since at least April 19, 2003 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The name of the listed chemical involved in these violations is Naphthalene. Exposures to Naphthalene occur from use of the products identified in this notice.
- The specific type of products causing these violations is moth preventatives containing naphthalene including, but not limited to mothballs, moth flakes and moth ice crystals (the "Products"). A non-exclusive example of the Products is Enoz Old Fashioned Moth Balls.
- Description of Violations: Use of the Products identified in this notice results in human exposures to Naphthalene. The moth preventatives contain Naphthalene. The route of exposure for the violations is inhalation when consumers inhale the vapors from the Products, dermal absorption directly through the skin when consumers handle the Products, and ingestion via hand to mouth contact after consumers touch or handle the Products. The Products are designed to be used wherever clothing and other materials requiring protection from moths are stored. These exposures occur in homes, schools, workplaces and everywhere else throughout California where the Products, are touched or handled. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards of Naphthalene.

Please direct any inquiries regarding this notice to counsel for the Center for Environmental Health: Mark N. Todzo, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

## CERTIFICATE OF MERIT

### Health & Safety Code §25249.7(d)

I, Mark N. Todzo, hereby declare:

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

2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health (“CEH”).

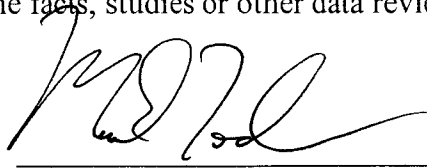
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies or other data regarding the exposures to the listed chemical that is the subject of the action.

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 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 the 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 & 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: April 21, 2006



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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On April 24, 2006, I served true copies of the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**CERTIFICATE OF MERIT; and**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisks).

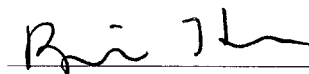
I placed a true copy of this paper in an envelope addressed to:

*See Attached Service List.*

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on April 24, 2006, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on April 24, 2006, at San Francisco, California.

Signed:

  
Baine Kerr

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Room 900  
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