

SIXTY-DAY NOTICE OF VIOLATIONS

SAFE DRINKING WATER & TOXIC ENFORCEMENT ACT OF 1986 (Proposition 65)

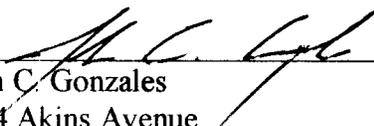
You, as president, surviving partner, or in another official executive capacity of **CARTER REESE AND ASSOCIATES (CARTER REESE)**, **SAN DIEGO GAS AND ELECTRIC, INC. (SDG&E)**, or **SEMPRA ENERGY (SEMPRA)** within the meaning of section 12903 of Title 22, California Code of Regulations, are served this **NOTICE OF VIOLATIONS**:

(1) **CARTER REESE, SDG&E, and SEMPRA** are in violation of California Health and Safety Code section 25249.5 in the discharge of a "Governor's List" substance known to cause cancer into a state-designated drinking water source. Specifically, there have been intermittent storm runoff discharges from the Encanto Gas Holder site located at or about 1350 San Altos Place in the City of Lemon Grove from early 2001 to March 2007, entering into the Encanto Branch of Chollas Creek via its federally-protected watershed. These storm runoff discharges include regulated asbestos containing material (RACM) that was a waste byproduct of mishandled asbestos abatement during the 2000-2001 decommissioning of the Encanto Gas Holder as a gas holding facility by **SDG&E**, its agent **SEMPRA**, and any of the contractors subsequently employed at the site during the decommissioning activity, as admitted into the record and heard in *United States v. SDG&E (2007)*, United States District Court in the Southern District of California. Some of the storm runoff violations have been cited by the San Diego Regional Water Quality Control Board. The most recent storm runoff discharges from the Encanto Gas Holder site were caused by acts or omissions of new property owner **CARTER REESE** in preparing the lot for residential construction as recently permitted by the City of Lemon Grove. These violations are a continuation of and in addition to those section 25249.5 alleged violations cited in **April 6, 2001 NOTICE OF VIOLATIONS (Cal. AG 2001-00515, Notice File No. 2410)**, with such **NOTICE** incorporated by reference.

(2) **CARTER REESE, SDG&E, and SEMPRA** are in violation of California Health and Safety Code section 25249.6 in failing to provide Proposition 65-compliant warnings to workers, neighborhood residents, and other individuals since September 2000 of the release of a hazardous cancer-causing substance and subsequent inhalation, ingestion, dermal contact, or other occupational or environmental exposure to that cancer-causing substance. Specifically, the processes used in decommissioning the Encanto Gas Holder facility by **SDG&E**, agent **SEMPRA**, and the contractors subsequently employed at the site, as admitted into the record and heard in *United States v. SDG&E (2007)*, have left residual uncontained quantities of RACM at and about the site. The mechanical pipe stripping processes reduced the non-friable asbestos containing pipe coating to a friable state as observed by inspectors of both the San Diego County Air Pollution Control District and the United States Environmental Protection Agency, despite lulling assurances by **SEMPRA** mailed on or about September 25, 2000, to all property owners within "1000 feet of the [gas holding facility] property line" that stated "this project is being done with all necessary permits, and is no threat to the health and safety of the neighborhood." **CARTER REESE** purchased the nearly 16 acre site from **SDG&E** in or after October 2006 after the lot had been in escrow since 1999, declaring to the City of Lemon Grove in the July 2006 and October 2006 permit hearings that **CARTER REESE** was fully informed and able to negotiate with California state agencies regarding environmental aspects of the Encanto Gas Holder/Citrus Heights development project for the purpose of obtaining all necessary permits for construction. These violations are a continuation of and in addition to those section 25249.6 alleged violations cited in the incorporated **April 6, 2001 NOTICE OF VIOLATIONS**.

(3) The failures by **VIOLATORS CARTER REESE, SDG&E, SEMPRA**, or any contractors, security guard employers, or other firms not exempt from provisions of **Proposition 65** to adequately warn anyone or subsequently prevent either the occupational or environmental exposure of hazardous substances to those unwarned persons do constitute separate multiple daily violations as specified above or otherwise incorporated by reference.

(4) Credible evidence exists and has been admitted at trial without objection or after closed hearing in *United States v. SDG&E (2007)* to show the **VIOLATORS'** lack of work practices implementing the National Emissions Standards for Hazardous Air Pollutants or other applicable standards at the Encanto Gas Holder decommissioning, resulting in a failure to prevent environmental or occupational exposures to friable asbestos during the site decommissioning or at any time thereafter as specified above or otherwise incorporated by reference. This notice alleges the violation of **Proposition 65** with respect to 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 the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliance in the general hazard communication requirements to comply with **Proposition 65**. It also requires that supplemental enforcement is 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 Attorney General.



John C. Gonzales
7044 Akins Avenue
San Diego, CA 92114
(619) 262-8549 (message)

July 3, 2007

Date

SERVE ON:

VIOLATOR CARTER REESE
VIOLATOR SDG&E
VIOLATOR SEMPRA
ATTORNEY GENERAL OF CALIFORNIA
DISTRICT ATTORNEY FOR COUNTY OF SAN DIEGO
CITY ATTORNEY FOR LEMON GROVE
CITY ATTORNEY FOR SAN DIEGO
UNITED STATES ATTORNEY, SOUTHERN DISTRICT OF CALIFORNIA
ENCANTO GAS HOLDER VICTIMS

ENCL:

CERTIFICATE OF MERIT
APPENDIX A – PROPOSITION 65 SUMMARY
APPENDIX B – MAILING LIST
NOTICE OF VIOLATIONS (Cal. AG 2001-00515, Notice File No. 2410)
CERTIFICATE OF SERVICE

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

I, **JOHN C. GONZALES** for myself (a natural person) and also for the **ENCANTO GAS HOLDER VICTIMS** (an un-incorporated association), hereby declare:

- (1) This Certificate of Merit accompanies the attached sixty-day notice(s) 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 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 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: _____

(Signature)

John C. Gonzales

Founder, Encanto Gas Holder Victims

7044 Akins Avenue

San Diego, CA 92114

(619) 262-8549 (message)

July 3, 2007

APPENDIX A - PROPOSITION 65 SUMMARY

CALIFORNIA CODE OF REGULATIONS, TITLE 22. SOCIAL SECURITY, DIVISION 2. DEPARTMENT OF SOCIAL SERVICES -DEPARTMENT OF HEALTH SERVICES, SUBDIVISION 1. HEALTH AND WELFARE AGENCY, CHAPTER 3. SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986, ARTICLE 9. MISCELLANEOUS

Office of Environmental Health Hazard Assessment California Environmental Protection Agency The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 735 chemical listings have been included as of November 16, 2001. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts: Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

FOR FURTHER INFORMATION. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

APPENDIX B - JULY 3, 2007, MAILING LIST

Donald E. Felsing
Chairman and Chief Executive Officer
Sempra Energy
101 Ash St.
San Diego, CA 92101-3017

Debra L. Reed
President And CEO
San Diego Gas & Electric
Executive Offices
8326 Century Park
San Diego, CA 92123-4150

Reese A. Jarrett
Carter Reese & Associates
2250 Fourth Ave., Suite 300
San Diego, CA 92101

Edmund G. Brown, Jr.
Attorney General of California
Proposition 65 Enforcement Reporting
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, California 94612-0550

Bonnie M. Dumanis
District Attorney, County of San Diego
Hall of Justice
330 W. Broadway
San Diego, CA 92101

Michael Aguirre
City Attorney of San Diego
Civic Center Plaza
1200 Third Ave., #1620
San Diego, CA 92101

City Attorney
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

Robert W. Larkins
Director, Community Development
3232 Main Street
Lemon Grove, CA 91945

Karen P. Hewitt
United States Attorney
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893

Encanto Gas Holder Victims
7042 Akins Avenue
San Diego, CA 92114

Encanto Gas Holder Victims
16907 Redhorse Pass
San Antonio, TX 78247-2833

Encanto Gas Holder Victims
919 69th Street
San Diego, CA 92114

Encanto Gas Holder Victims
1520 Clifftop Avenue
San Marcos, CA 92078

Encanto Gas Holder Victims
7050 Akins Avenue
San Diego, CA 92114

7044 Akins Avenue
San Diego, CA 92114
April 6, 2001

Edwin A. Guiles and/or Debbie L. Reed
San Diego Gas & Electric
8330 Century Park Court
Suite 4100
San Diego, CA 92123

**NOTICE OF VIOLATIONS:
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986**

You, as president or in another official executive capacity of San Diego Gas & Electric within the meaning of Title 22, section 12903 of the California Code of Regulations, are served with this **NOTICE OF VIOLATIONS**:

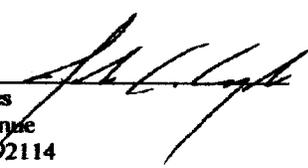
1. San Diego Gas & Electric (SDG&E), a Sempra Energy Company, or the employees, contractors, or other direct or subcontracted agents of SDG&E, may be in violation of California Health & Safety Code section 25249.5 in the discharge of a substance that is listed in the List of Hazardous Substances pursuant to Labor Code section 6380. Specifically, SDG&E has allowed friable asbestos to be introduced into the open storm drainage system on the south side of the intersection of Akins Avenue and Broadway in the Encanto Heights annex to the City of San Diego. The friable asbestos has been a byproduct of open-air or inadequately contained stripping of asbestos covering from several miles of large-diameter underground natural gas storage piping that was unearthed at the SDG&E site located at or about 1400 San Altos Place in the City of Lemon Grove, at the Lemon Grove/San Diego boundary beginning in September 2000. The quantity of asbestos covering that was removed from several miles of unearthed pipes is unknown to me but has been sufficient to fill several inadequately enclosed large dumpster bins, resulting in many pounds of friable asbestos being released onto the aforementioned SDG&E site before the friable asbestos was allowed to enter the storm drainage system during the Winter 2001 rainy season. As a result, the open air drainage trench that is immediately south of and parallel to Akins Avenue is now coated with the powdered residue from the storm runoff originating from the SDG&E site and is in plain view from Broadway to 69th Street, the location of a major five-way intersection with significant amounts of unprotected pedestrian traffic. A portion of this runoff is now migrating toward the waters of the Port of San Diego via the storm drainage system, on a path that will take a known hazardous substance through an existing and expanding shopping center adjacent to the Euclid Trolley Station. As the City of San Diego has publicly heard recent comments on and considered using waste water in a toilet-to-tap program and as the storm drainage system is a potential source of such waters, you may be in technical violation of the aforementioned Health & Safety Code section, in addition to placing the City of San Diego and the Port of San Diego at risk for technical violations of this and other sections of the Health & Safety Code, jeopardizing the security of public funds managed by government units and legislative bodies that are part of the State of California.

2. SDG&E or its employees, contractors, or other direct or subcontracted agents may in violation of Health & Safety Code section 25249.6 by having allowed the release of a hazardous substance without adequate warning and allowing the subsequent inhalation, ingestion, dermal contact, or other exposure to that hazardous substance. Specifically, SDG&E has failed to provide adequate warning to the surrounding residents of San Diego and Lemon Grove that asbestos was being removed from salvaged material as previously described, and that there have been shipments of salvaged material along public streets that were not adequately shielded to prevent exposing the public to pounds or perhaps tons of friable asbestos. As a result, children of both Lemon Grove and San Diego were not warned by SDG&E or its employees, contractors, or other direct or subcontracted agents of threat of friable asbestos inhalation, ingestion, dermal contact, or other exposure as these children were allowed to play in the open field in the vicinity of the aforementioned dumpster bins; nearby resident families have been exposed to friable asbestos inhalation, ingestion, dermal contact, or other exposure, including children who reside elsewhere but who also were enrolled in neighborhood licensed child care, or also were being supervised by resident families, during

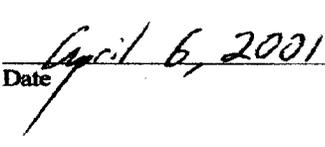
business hours concurrent to the aforementioned salvage operations on the SDG&E site; in addition, other local residents and SDG&E employees, contractors, or other direct or subcontracted agents have been exposed to inhalation, ingestion, dermal contact, or other exposure to the friable asbestos that has been released into the environment by the excavation, stripping, open air storage, and/or transport of the salvaged material from the SDG&E site. Any previous notice that was given to the surrounding residents of the SDG&E site failed to identify any hazardous substance that would be released into the environment by the actions of SDG&E or its employees, contractors, or other direct or subcontracted agents during the salvage operation. This salvage operation has continued without interruption since September 2000, excepting for two or more closures by the local Air Pollution Control District (APCD) on November 30, 2000, January 17, 2001, and any other APCD closure dates that resulted in APCD citing SDG&E or its employees, contractors, or other direct or subcontracted agents for the release of friable asbestos. To date, there are still no posted warnings of hazardous substance discharge into the environment on the perimeter fencing of the SDG&E site, despite the occasional use of masks or other protective gear by some informed contractors or direct or subcontracted agents that have begun using street sweepers up to a block away from the intersection of Broadway and Akins Street since the APCD closure of January 17, 2001. This weekly assumption of street sweeping in place or augmentation of the quarterly street sweeping done by the City of San Diego, in an attempt to clear Akins Avenue of a hazardous substance which SDG&E has publicly denied releasing into the environment, constitutes an implied admission on the part of SDG&E regarding the extent of release of hazardous substances from the SDG&E site.

3. The failure by SDG&E or its employees, contractors, or other direct or subcontracted agents to adequately warn of and subsequently prevent the discharge of friable asbestos from salvage recovery operations at the aforementioned SDG&E natural gas storage site may constitute separate multiple violations for each working day that SDG&E or its employees, contractors, or other direct or subcontracted agents have continued to use unsafe methods to excavate, store, and otherwise prepare the recovered pipes for transport away from the SDG&E site.

4. Evidence exists that shows the lack of negative ventilation or other protective equipment used by SDG&E employees, contractors, or other direct or subcontracted agents of SDG&E during the aforementioned excavation, storage, preparation and/or transport of salvaged materials with subsequent exposure to friable asbestos those individuals while working at the SDG&E site as described above. This notice alleges the violation of Proposition 65 with respect to 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 the conduct of manufacturers outside the state of California. The approval also provides that an employer may use the means of compliance in the general hazards communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is 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 Attorney General.


John C. Gonzales
7044 Akins Avenue
San Diego, CA 92114
(619) 262-8549 (message)

Date


April 6, 2001

encl: Appendix A - Proposition 65 summary
Appendix B - mailing matrix

CERTIFICATE OF SERVICE

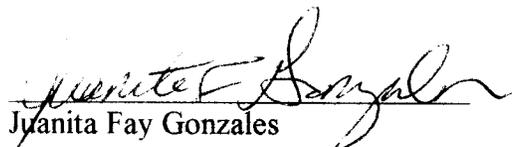
I, Juanita Fay Gonzales, declare under penalty of perjury under the laws of the State of California that:

- (1) I am over the age of 18;
- (2) I am not the party giving notice; and,
- (3) On July 3, 2007, I mailed the following writings to those persons and offices as they are listed in **APPENDIX B - MAILING LIST**:

- 1. **July 3, 2007 NOTICE OF VIOLATIONS**
- 2. **CERTIFICATE OF MERIT**
- 3. **APPENDIX A - PROPOSITION 65 SUMMARY**
- 4. **April 6, 2001 NOTICE OF VIOLATIONS (Cal. AG 2001-00515, Notice File No. 2410)**

The copies to the Attorney General of California contain additional writings as required by law pursuant to the Legislature's amendments to Proposition 65 regarding the **CERTIFICATE OF MERIT**

On each envelope, the words "**Hazard Communication Standard/Proposition 65 Supplemental Enforcement Matter**" appear prominently, and for the second copy addressed to the Attorney General of California, the words "**Attorney General Copy: Contains Official Information Pursuant to Evidence Code Section 1040**" appear on the front of the envelope.


Juanita Fay Gonzales
368 Anita Street #65
Chula Vista, California 91911

July 3, 2007
Date