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***VIA CERTIFIED MAIL -
RETURN RECEIPT REQUESTED***

February 13, 2008

William Klesse, CEO
Valero Refining Company – California
Valero Energy Corporation
One Valero Way
San Antonio, TX 78249-1112

**Re: Notice of Violations and Intent to File Suit under the California Safe
Drinking Water And Toxic Enforcement Act (Proposition 65)**

Dear Mr. Klesse:

I. NOTICE

The California Safe Drinking Water & Toxic Enforcement Act (California Health and Safety Code § 25249.5 et seq.) also known as, and hereafter referred to as “Proposition 65”, requires that sixty (60) days prior to the initiation of a civil action, a private party must give notice of the violation to the alleged violator, the California Attorney General, and the District Attorney (and any City Attorney for cities with a population exceeding 750,000) in whose jurisdiction the violation is alleged to have occurred.

On behalf of Northern California River Watch (“River Watch”), I am providing statutory notification to the Valero Refining Company (California) and to the Valero Energy Corporation (hereafter (“Valero”)) of continuing and ongoing violations of discharges of prohibited chemicals into actual or potential sources of drinking water in violation of Proposition 65 in conjunction with Valero’s continuing operations at its Northern California refinery site located in Benicia, California.

River Watch hereby places Valero on notice that following the expiration of sixty (60) days from the date of this notice, River Watch intends to bring suit against Valero under Proposition 65 for knowingly discharging or releasing chemicals known to the State of California to cause cancer or reproductive toxicity into water or onto or into land where such chemicals pass or probably will pass into a source of drinking water.

II. SITE - VALERO BENICIA REFINERY - 3400 EAST SECOND ST. BENECIA, CA

The Valero Benecia Refinery ("Refinery") is located just north of the Carquinez Strait in Suisun Bay. Site topography consists of irregular hills with surface drainage directed towards Sulphur Springs Creek, which flows south to Carquinez Strait. Surrounding properties are either open space or commercial. Sulphur Springs Creek borders the Refinery on the east. The Refinery produces hydrocarbon products, by-products, and intermediates, and is classified as a cracking refinery (as defined by the U.S. Environmental Protection Agency (Title 40 C.F.R. § 419.20)).

The Refinery began operating in 1969, and currently processes approximately 135,000 barrels of oil per day. It consists of a Main Refinery Site in the Process Block area, the Lower Level Storage Tank Area and blending area ("LLSA"), the Upper Level Storage Area ("ULSA"), and the Crude Oil Storage Area ("COSA") located on a hilltop to the south of the Refinery. A Waste Water Treatment Plant ("WWTP") is located in reclaimed wetlands to the southeast of the Refinery which includes several ponds used either continuously or intermittently. The Marketing Terminal (at 3410 East Second Street, Benecia, CA) receives refined petroleum products from the Refinery's Day Tank area, including unleaded gasoline, liquefied petroleum gas ("LPG"), and diesel. Products are transported from the facility to other bulk terminals and service stations via pipelines, tanker trucks, and railcars. The Refinery and its assorted facilities are built on a series of large terraces which were constructed by cutting and filling the pre-existing topography. At the main Refinery site, elevations range from 4.5 to 235 feet above msl.

Crude Field Retention Ponds at the Refinery site are now called COSA ponds. A 1991 Order from the Regional Water Quality Control Board ("RWQCB") divided the Refinery into 12 areas and required a comprehensive investigation of the soil and groundwater in each area to assess petroleum hydrocarbon impact. Like the Main Refinery Site, the COSA is constructed on a series of large-scale terraces. Elevations at the COSA range from 90 feet to 154 feet msl. This site, which is approximately 14 acres, includes 6 crude oil storage tanks, a crude oil pumping pad, pipelines, and 3 large ponds. The northernmost pond is lined and used to store clean, emergency water in case of fire. The other 2 ponds are used for temporary storage of treated wastewater, when preliminary data indicate the wastewater might exceed effluent limits.

Sulphur Springs Creek is a tidally influenced, channelized stream which runs along the eastern boundary of the Main Refinery Site. Beaver Creek runs through the western portion of the site and along its southern boundary. These surface waters represent the primary receptors adjacent to the Main Refinery Site. No domestic groundwater production wells have been documented to exist within a quarter mile of the Refinery boundary. The Refinery's Chemical Waste Treatment Area, its Retention Pond, Equalization Pond, 20-Year Pond, and its Final Pond lie within several

hundred feet (east and south) of Sulphur Springs Creek. The site's Waste Water Diversion Area (Area 3) lies only several hundred feet to the west (upgradient) of the Creek. The Refinery site is bounded by Suisun Bay to the south and east. The Chemical Waste Treatment Area lies less than 1,500 feet from the shores of the Bay.

The WWTP (Area 1) is located southeast of the Main Refinery Site. This area was marshland reclaimed by placement of fill materials in the 1960s. The surface topography of the WWTP is flat, with surface elevations ranging from 0 feet to 10.3 feet msl. Higher elevations occur along the levee crests, averaging about 9 feet msl. The WWTP is bounded by Southern Pacific railroad tracks on the north and south, Sulphur Springs Creek to the west, and a wetlands area to the north, south, and east. The WWTP consists of 4 ponds (final, equalization, retention, and 20-year ponds), the biological-oxidation unit, the primary separation units, the selenium treatment unit, and the wastewater laboratory. Wastewater moving to the WWTP consists of 3 streams. The WWTP treats stripped sour wastewater, chemical process water, oily and non-oily process wastewater, and from time to time, storm water. The storm water enters through the surge and equalization tanks. Since this sewer system receives storm water, there is a diversion line to the storm water retention ponds used when the equalization tank capacities have been exceeded.

In terms of general site geology, the Refinery is underlain by sedimentary rock. Artificial fill overlays naturally occurring geological units in most areas. The fill, ranging in thickness from a few inches to more than 50 feet, was derived from areas where bedrock was excavated from the surface and re-used as engineered fill. The fill material consists primarily of gravelly clay and gravelly, sandy clay. The bedrock consists primarily of thinly imbedded mudstone, sandstone and shale, with mudstone predominant. Beneath the WWTP bedrock is encountered from 60 feet bgs to more than 100 feet bgs. Alluvium overlies the bedrock in this area, in addition to a thick layer of bay mud. The thickness of artificial fill is 5 feet or less at the WWTP, except in the surrounding levees and the retention ponds.

The groundwater hydrology at the Refinery is classified as marginal for stock or single-family domestic use due to the low-yield soils and rock (yields are less than 200 gallons per day). Seasonal fluctuations in groundwater elevation at the Main Refinery Site range from less than 1 foot to almost 15 feet. The groundwater flow direction at the Main Refinery Site is predominantly towards Sulphur Springs Creek, except in the southern portion of the Refinery, where the flow direction is southerly toward Beaver Creek.

In many of the defined plume areas of the Refinery, monitored natural attenuation ("MNA") has been authorized by the lead agency (e.g. the plumes in Areas 5 and 7m Well 408 Area, the Powerformer Reformate Plume area, the Process Block area, the Day Tank area, the Old Dock Pipeline Site, the COSA, and the WWTP), although remediation by means of MNA is not expected to achieve water quality objectives within a reasonable period of time. Before MNA effectively reduces the groundwater contamination, the Carquinez Strait and Suisun Bay will inevitably be further impacted by the many areas of runoff from the Refinery.

The COSA area itself contains a number of serious environmental conditions which remain unmitigated by the efforts of Valero. There is a 10,000 cubic yard biosludge plot in the wastewater and retention ponds. This stockpile covers about a 3 acre section of Lake Lund on the Refinery site. There has also been a 500 barrel release of crude oil into the Tank 1704 fire wall in approximately 1989, and a 6750 barrel release of crude oil into the Tank 1702 fire wall which occurred in 2003.

Following a number of documented unauthorized petroleum hydrocarbon releases at Refinery, groundwater monitoring has been conducted since 1992.

At the present time, despite the number of plumes, there are only 4 extraction-related remediation systems in use (in the Marketing Terminal Area), in addition to 2 extraction systems at the ULSA and LLSA interceptor trenches which were installed to protect Sulphur Springs Creek. In addition to the 6 extraction systems, some of the plumes are being treated with enhanced bioremediation in the nature of oxygen release compound injections. However, the effectiveness of this method of bioremediation is still undetermined.

Groundwater levels are measured at 225 locations throughout the Refinery. Sampling is conducted at 85 of these locations. In samples taken during the 1st Quarter of 2007, the presence of free-phase petroleum hydrocarbons (FPH) was found in 20 different groundwater samples, some of which are regularly bailed. TPHg has recently been detected in 32 of 85 groundwater locations sampled, with a range of between 54 ug/l and 60,000 ug/l. TPHd has been detected in 35 of 85 wells recently sampled, ranging between 54 ug/l and 10,000 ug/l. Benzene has been detected in 21 of the 85 locations, ranging between 0.57 ug/l and 6,800 ug/l. Toluene has been detected in concentrations as high as 1,400 ug/l in 2006.

Water elevations at the Refinery lie between 1.13 feet above msl and 187.5 feet above msl. The groundwater flow direction is deemed to be to the southeast, towards the Bay. The Refinery also contains a number of retention and wastewater ponds which have the potential for surface and subsurface water contamination during major rain events causing contaminants to reach the surface waters of the Carquinez Strait and Suisun Bay. River Watch also alleges subsurface migration of pollutants from leakage in the ponds to hydrologically connected groundwater which migrates to adjacent surface waters.

On July 26, 2004 Valero provided written documentation of acute bioassay failures after several successive tests starting on July 12, 2004 revealed that the survival rates of the test species (trout) was at approximately 25% – far below the 70% threshold for meeting permit requirements. During this period TOC load rates were double and ammonia levels were high. As a result of the bioassay failures then and again on or about July 25, 2004, effluent discharges to the Bay were discontinued and the effluent was diverted to the Crude Field Retention Ponds.

On November 11, 2004 a rainwater event caused crude oil (motor oil) to overflow from a sewer manhole structure resulting in a discharge of the oil into Sulphur Springs Creek. The spill was still being remediated in July, 2005 via sediment removal in the Creek itself.

On or about January 5, 2005 there was an exceedance of Mercury due apparently to polymer injection problems at the WWTP, which led to an unauthorized discharge of this contaminant into Sulphur Springs Creek and/or Suisun Bay via the wastewater discharge system at the Refinery.

In late December, 2005 and the first few days of January, 2006, heavy rains caused storm water piped to the WWTP ponds to exceed the ponds' capacity and overflow into Sulphur Springs Creek. The WWTP continued to process water, but storm water and flooded Creek water was bypassed from the treatment process, sent back into the Creek, and ultimately into the Bay. As a result the daily maximum limit for cyanide was exceeded on January 1, 2006. Monitoring was suspended for several days and other exceedances and unauthorized discharges may well have occurred during this event. From December 31, 2005 to January 5, 2006, bypassed storm water was discharged into the Bay.

Also in January, 2006 the monthly average TEQ dioxin concentration of 0.54 pg/l exceeded the permit limit of 0.14 pg/l. Valero denies that this exceedance was due to Valero's conduct, requesting that no enforcement action be taken. From January 1, 2006 thru January 6, 2006 the TEQ dioxin limit of water into Sulphur Springs Creek ranged from 0.2 pg/l to 4.8 pg/l.

In February, 2006 cyanide concentrations exceeding NPDES limits were allowed to discharge into Suisun Bay from the Refinery emergency retention ponds. This exceedance was duly reported to the RWQCB and corrected, but resulted from apparent equipment malfunction with the Refinery's process unit corrosion control system.

On March 14, 2007 there was still another cyanide exceedance, apparently due to a defect in the Coker Unit in the WWTP. The exceedance resulted in an unauthorized discharge to surface waters above the allowable limits of the Refinery's NPDES permit.

River Watch is informed that since March of 2000, pursuant to a purchase and sale agreement of the Refinery between EXXON and Valero, Valero has become the successor in interest to the rights and obligations of EXXON with respect to the environmental remediation responsibility for the existing contamination at the Refinery. It is on this basis that River Watch implicates Valero as responsible for the historical petroleum hydrocarbon releases, including those prior to March of 2000. Commencing as early as the mid-1980's, Valero (standing in the shoes of EXXON) has caused petroleum contaminants, petroleum constituents and other pollutants to be discharged or deposited into surface waters adjacent to the Refinery. The discharge and threatened discharge of such petroleum waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

III. REGULATORY STANDARDS

Water Quality Objectives exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. Alternative cleanup and abatement

actions need to be considered that evaluate the feasibility of, at a minimum: (1) cleanup to background levels, (2) cleanup to levels attainable through application of best practicable technology, and (3) cleanup to protective water quality criteria levels.

Existing and potential beneficial uses of area groundwater include domestic, agricultural, industrial and municipal water supply. The Regional Water Quality Control Board has adopted a Water Quality Control Plan ("Basin Plan") which designates all surface and groundwater within the North Coast and San Francisco Bay regions as capable of supporting domestic water supply. The Board has adopted Maximum Contaminant Levels ("MCLs") and/or Water Quality Objectives ("WQOs") for petroleum constituents in surface and groundwater within the region of 50 ppb for TPHg, 1 ppb for benzene, 150 ppb for toluene and 5 ppb for MTBE.

IV. VIOLATIONS

Valero has caused or permitted, causes or permits, or threatens to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state, and creates or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of waste is deleterious to the beneficial uses of water, and is creating and threatens to create a condition of pollution and nuisance which will continue unless the discharge and threatened discharge is permanently abated.

Valero has contaminated groundwater and drinking water sources in and around the Refinery site with both benzene and toluene. Benzene (CAS Registry No. 71432, listed 2/27/1987) is a known carcinogen. Toluene (CAS Registry No. 108883, listed 1/01/1991) is known to cause human reproductive toxicity.

Surface and groundwater at the refinery site are potential sources of drinking water under the Basin Plan. In the course of doing business, Valero has discharged benzene and toluene to surface and groundwater at the Refinery site on a daily basis since the mid-1980's. Under Proposition 65 a violator is subject to a maximum civil penalty of \$2,500 per day per violation. Valero uses and stores petroleum at the Refinery in a manner which has allowed significant quantities of hazardous petroleum and petroleum constituents to be discharged into soil and groundwater beneath the site and adjacent properties, and into surface waters including Suisun Bay.

The discharges by Valero as alleged in this Notice are both knowing and intentional. Valero uses, stores and sells petroleum products at the Refinery which are known to contain benzene and toluene, and it intends that such products will be sold to and used by the public. Valero has known of the contamination at the Refinery since at least March of 2000 when it became the successor in interest to the rights and obligations of EXXON with respect to the environmental remediation responsibility for the existing contamination at this Refinery.

Valero is also aware that failing to remediate the pollution allows the contamination to migrate through soil and groundwater at the Refinery site, and to continually contaminate and re-contaminate actual and potential sources of drinking water.

Violations of Proposition 65 of the type alleged herein are a major cause of the continuing decline in water quality and a continuing threat to existing and future drinking water supplies in Northern California. With every discharge groundwater supplies are contaminated. These discharges can and must be controlled in order for the groundwater supply to be returned to a safe source of drinking water.

In addition to the violations set forth above, this Notice is intended to cover all violations of Proposition 65 evidenced by information which becomes available to River Watch after the date of this Notice.

V. ENTITY GIVING NOTICE

Northern California River Watch, the entity giving this Notice, is a non-profit corporation dedicated to the protection and enhancement of the waters of the State of California, including all rivers, creeks, streams and groundwater in Northern California. River Watch is organized under the laws of the State of California. Its address is 6741 Sebastopol Avenue, Suite 140, Sebastopol, CA, 95472. telephone number is (707) 824-4372.

The violations of Valero as set forth in this Notice affect the health and enjoyment of members of River Watch who reside and recreate in the affected watershed areas. The members of River Watch use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by these violations of Proposition 65.

VI. CONTACT INFORMATION

River Watch has retained legal counsel to represent them in this matter. All communications should be addressed to:

Jack Silver, Esquire
Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. (707) 527-8175
Fax (707) 542-7139

VII. CONCLUSION

River Watch believes that this Notice sufficiently states the grounds for filing suit under the statutory and regulatory provisions of Proposition 65 as to the Refinery. At the close of the notice periods or shortly thereafter, River Watch intends to file a suit against Valero under Proposition 65 for each of the violations as alleged herein, and with respect to the existing conditions at the Refinery.

During the 60-day notice period, however, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If Valero wishes to pursue such discussions in the absence of litigation, we would encourage you to initiate such discussions immediately so that we might be on track to resolving the issues raised in this Notice before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the 60-day notice period ends.

Very truly yours,



Jack Silver

Enclosure: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

cc:

✓ Edmund G. Brown Jr.
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Operations Manager
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APPENDIX A

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.

AUTHORITY: Note: Authority cited: Sections 25249.12, Health and Safety Code. Reference: Section 25249.7, Health and Safety Code