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May 2, 2008

Sixty Day Notice of Intent to Sue Viking Propane, Inc. and All of Its Operating Affiliates Under Health & Safety Code §25249.6 served by Noticing Party Dr. Richard F. Sowinski

Dr. Richard F. Sowinski, a California resident (hereinafter the "Noticing Party") hereby gives Notice of Intent to Sue Under Health & Safety Code Section 25249.5, *et seq* (the "Notice") to Viking propane, Inc. and all of its operating affiliates (hereinafter referred to collectively as "VIKING"), as well as the governmental entities on the attached proof of service. The Noticing Party, Dr. Sowinski, lives at 1457 Ramsey Circle, Walnut Creek, CA 94597, telephone number (925) 938-2693. Dr. Sowinski is represented by counsel and requests that he be contacted at the following address: Dr. Richard F. Sowinski, Attn: Anthony G. Graham, Graham & Martin LLP, 950 South Coast Drive, Ste. 220, Costa Mesa, CA 92626, telephone number (714) 850-9390, facsimile number (714) 850-9392..

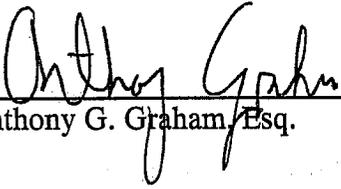
This Notice is intended to inform VIKING that it is in violation of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with California Health & Safety Code Section 25249.5) (hereinafter "Proposition 65"), specifically Section 25249.6. Proposition 65 states that when a party, such as VIKING, an entity with more than ten employees, has been or is knowingly and intentionally exposing its customers and end users to a detectable level of any chemical designated by the State of California to cause cancer or reproductive toxicity (the "Designated Chemical"), it has violated the statute unless, prior to such exposure, it provides clear and reasonable warning of the exposure to the potentially exposed persons (Health & Safety Code § 25249.6).

In the ordinary course of business, VIKING, since at least April 11, 2004 through the present date, manufactures, sells and/or distributes throughout California liquid propane gas ("LPG"). Major uses for LPG include heating, powering large vehicles, and drying crops. When LPG is burned it produces hazardous emissions in significant amounts that poses a serious health risk to unsuspecting people. When LPG is burned it produces benzene at levels that exceed the allowable threshold exposure level set forth in California Health & Safety Code §25249.6. Benzene is a chemical known to the State of California to cause cancer and reproductive toxicity. Persons near VIKING LPG when it is burned will be exposed to Benzene primarily via inhalation, that is, by breathing in the chemical. VIKING however has never provided a clear and reasonable warning that use of LPG produced, manufactured, sold and/or distributed by VIKING will expose persons to Benzene. VIKING now and for at least the four years prior to this Notice has failed to provide its customers with a clear and reasonable warning of this potential exposure. VIKING therefore had been and is violating Health & Safety Code § 25249.6.

Proposition 65 requires that notice and intent to sue be given to VIKING sixty days before a suit is filed. With this letter, Dr. Sowinski gives notice of the alleged violations to VIKING and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to Dr. Sowinski from information now available to him. Dr. Sowinski reserves the right to amend this Notice to inform VIKING of other violations and/or exposures as it gathers further

right to amend this Notice to inform VIKING of other violations and/or exposures as it gathers further information. With the copy of this notice submitted to VIKING, a copy is provided of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary."

By:



Anthony G. Graham, Esq.

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

I, Anthony G. Graham, hereby declare:

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

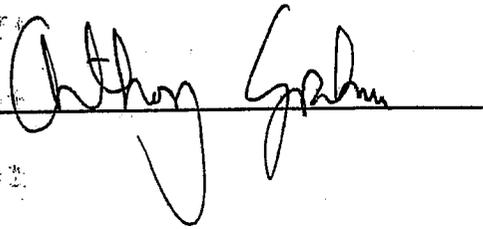
2. I am member of the State Bar of California, a partner of the law firm of Graham & Martin, LLP, and attorney for noticing party Dr. Richard F. Sowinski.

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 exposures to the listed chemicals that are 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.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Costa Mesa, California on May 2, 2008.



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 550 chemicals have been listed as of May 1, 1996. 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 on discharges into drinking water does not apply if the discharger can 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" "no observable effect" test if an individual were exposed to such 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, 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 12900). 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 penalties of up to \$2,500 per day for each violation. In addition, the court 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.

§ 14000. Chemicals Required by State or Federal Law Have Been Tested for Potential to Cause Cancer or Reproductive Toxicity, but Which Have Not Been Adequately Tested As Required.

(a) The Safe Drinking Water and Toxic Enforcement Act of 1986 requires the Governor to publish a list of chemicals formally require state or federal agencies to have testing for carcinogenicity or reproductive toxicity, but that the state's qualified experts have not found been adequately tested as required (Health and Safety Code 25249.5).

Chemical

| Chemical | Data Requirements |
|------------------------------------|-------------------|
| Dodine | onc, repro, lera |
| Endothal and salts | onc, repro, lera |
| Ethofumesate | onc |
| Ethoxyquin | lera |
| Fenthion | lera |
| Fenvalerate | onc, repro, lera |
| Fluvalinate | repro, lera |
| Hydroxy-methylthiocarbamate | lera |
| Imazalil | onc |
| Inorganic chlorates | onc, repro, lera |
| Inorganic sulfites | onc, repro, lera |
| Iodine-potassium iodide | lera |
| Iprodione | lera |
| Irgasan | onc, repro, lera |
| Lampicide | onc, repro |
| Magnesium phosphide | onc |
| Malathion | onc |
| Maneb | onc, lera |
| MCPB and salts | lera |
| Melfluidide and salts | lera |
| Mepiquat chloride | onc, lera |
| Metalddehyde | onc, repro, lera |
| Methoxychlor | lera |
| Methyl isothiocyanate | lera |
| Methyl parathion | repro |
| Methylthiocarbamate | lera |
| MOK 264 | repro |
| Molinate | repro |
| Naphthalene | onc |
| Naphthaleneacetic acid | onc, repro |
| Naphthenate salts | lera |
| Napropamide | repro |
| Niclosamide | onc, lera |
| Nicotinic and derivatives | onc, lera |
| Nitrapyrin | onc, repro, lera |
| 4-Nitrophenol | onc, repro, lera |
| Ocethlinox | lera |
| Oil of Pennyroyal | lera |
| Ornadine salts | onc, repro, lera |
| Oxadiazon | repro |
| Oxyfluorfen | onc |
| Febulaz | lera |
| Perfluidone | lera |
| Pencmedipham | onc |
| Phenol and salts | lera |
| 2-Phenylphenol and salts | onc, lera |
| Pine oils | lera |
| Piperonyl butoxide | lera |
| Poly (hexamethylene biguanide) | onc, repro |
| Polyethoxylated aliphatic alcohols | onc, repro, lera |
| Prometon | lera |
| Propachlor | onc |

Chemical

| Chemical | Data Requirements |
|---------------------------|-------------------|
| Propanil | onc, repro |
| Propetamphos | lera |
| Propiconazole | onc |
| Propylene oxide | lera |
| Pyrazon | onc, repro |
| Pyrethrin and derivatives | onc, lera |
| Pyrimidinone | onc, lera |
| Sethoxydim | onc |
| Siduron | onc, repro, lera |
| Sodium fluoride | lera |
| Sulfometuron-methyl | onc, lera |
| TBT-containing compounds | onc, lera |
| TCMB | onc, repro, lera |
| Temephos | onc, lera |
| Tetrachlorovinphos | onc |
| Tetramethrin | onc |
| Thiabendazole and salts | onc, repro, lera |
| Thidiazuron | onc, repro, lera |
| Thiodicarb | lera |
| Thiophanate-methyl | onc, lera |
| Thiram | onc |
| Triadimefon | onc, repro |
| Triclopyr and salts | onc |
| Vernolate | onc, repro |

Revised: January 1, 1998

History

1. New section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 89, No. 17).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 90, No. 2).
3. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 17).
4. Editorial correction of subsection (d) (Register 91, No. 31).
5. Editorial correction of printing error (Register 91, No. 43).
6. Editorial correction instituting inadvertently omitted amendment. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 93, No. 20).
7. Editorial correction of printing errors (Register 93, No. 45).
8. Amendment of subsection (d) filed 8-1-94. Submitted to OAL for printing on (Register 94, No. 31).
9. Amendment of subsections (b), (c), and (d) filed 12-23-94. Submitted to OAL for printing only (Register 95, No. 1).
10. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 95, No. 52).
11. Amendment filed 1-30-97; operative 1-30-97. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 97, No. 5).
12. Amendment of subsections (b), (c) and (d) filed 2-13-98; operative 2-13-98. Submitted to OAL for printing only pursuant to Health and Safety Code section 25249.8 (Register 98, No. 7).

[The next page is 201.]

SERVICE LIST

Public Enforcers:

The Honorable Tom Orloff
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street, #202
Jackson, CA 95642

The Honorable Michael Rarasy
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Oroville, CA 95965

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Calaveras County District Attorney
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San Andreas, CA 95249

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Colusa, CA 95932

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The Honorable Arthur Maillet
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Napa, CA 94559

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Sacramento, CA 95814

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Santa Barbara, CA 93101

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Santa Cruz County District Attorney
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Santa Cruz, CA 95060

The Honorable Gerald Benito
Shasta County District Attorney
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The Honorable Lawrence Allen
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Downieville, CA 95936

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The Honorable Carol Shipley
Stanislaus County District Attorney
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Modesto, CA 95353

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Red Bluff, CA 96080

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Sacramento, CA 95814

The Honorable Dennis J. Herrera
City Attorney, San Francisco
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
City Attorney, San Jose
200 East Santa Clara Street
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 950 South Coast Drive, Suite 220, Costa Mesa, California 92626.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6;
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (only sent to violators);
- 3.) Certificate of Merit (with supporting papers sent to Office of Attorney General only).

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Date of Mailing: May 2, 2008
Place of Mailing: Costa Mesa, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

| | |
|--|--|
| Marlin Karstad, President Viking Propane, Inc. 17834 Railroad St. P.O. Box 70 Madison, CA | |
|--|--|

And all entities on the attachment hereto

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: May 2, 2008

