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OF COUNSEL

JAMIE L. CROOK
FELLOW

February 6, 2009

CEO or President
Pet Club Stores
3535 Hollis Street
Emeryville, CA 94608

Dear CEO or President:

I represent the Natural Resources Defense Council ("NRDC"), a national nonprofit organization dedicated to safeguarding the Earth: its people, its plants and animals, and the natural systems on which all life depends. NRDC has a long history of advocating for stricter regulation of the use of harmful chemicals in consumer products.

This letter constitutes notice that the entity listed below has violated and is violating the provisions of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code § 25249.5 *et seq.* Specifically, this entity has violated and is violating Section 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer . . . without first providing a clear and reasonable warning to such individual . . . ."

<u>Alleged Violator:</u> Pet Club Stores

Flea collars, including but not limited to: Scratchex Color-Full Formula 5 Flea & Tick Collar for Dogs, Zema Dual Action Flea & Tick Collar for Dogs, and Zodiac Featrol Flea & Tick Collar for Small Dogs, which are produced, distributed, and/or sold by this entity, contain propoxur, a chemical known to the State of California to cause cancer. Since the relevant date and continuing to the present, this entity has knowingly and intentionally exposed and continues knowingly and intentionally to expose consumers within the State of California to propoxur at

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levels that exceed the No Significant Risk Level without providing a clear and reasonable warning of this exposure. Exposure occurs, *inter alia*, via dermal exposure and hand-to-mouth contact.

Pursuant to California Code of Regulations title 27, § 25903, attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," prepared by the Office of Environmental Health Hazard Assessment and the California Environmental Protection Agency. Pursuant to Section 25249.7(d)(1) of the Health and Safety Code, also attached is a Certificate of Merit pertaining to the noticing party's allegations.

Although violations are occurring throughout the State of California, at this time the noticing party lacks sufficient knowledge whether violations are occurring in each of California's 58 counties. The noticing party is therefore providing this notice to the California Attorney General, the District Attorney for each California county, and the City Attorney for the Cities of Los Angeles, San Diego, San Francisco, and San Jose, pursuant to California Code of Regulations title 27, § 25903(c)(3).

The noticing party NRDC is located at 111 Sutter Street, 20th Floor, San Francisco, California, 94108. All communications concerning this matter should be directed to:

Jamie L. Crook
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

Sincerely,

Jamie L. Crook

Enclosures

cc (without "Proposition 65: A Summary" attachment):

Attorney General (with attached confidential factual information supporting Certificate of Merit)
District Attorneys for California's 58 Counties
City Attorneys for the Cities of Los Angeles, San Diego, San Francisco, and San Jose

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

I, Jamie L. Crook, hereby declare:

I am an attorney in good standing with the California Bar and represent the noticing party, the Natural Resources Defense Council.

This Certificate of Merit accompanies the attached 60-day notice, which alleges that the noticed entity or entities have violated and are violating Section 25249.6 of the Health and Safety Code by, in the course of doing business, knowingly and intentionally exposing individuals to propoxur, which has been designated as a chemical known to the State of California to cause cancer, without a clear and reasonable warning.

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 exposure to the listed chemical that is the subject of the action.

Based on the information that I have obtained through these consultations, I believe that 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 I have obtained (1) establishes a reasonable basis for concluding that this entire action has merit and that the noticing party will be able to prevail on each element for which it bears the burden of proof, and (2) does not prove that any affirmative defense set forth in Section 25249.5 *et seq.* of the Health and Safety Code has merit.

Attached to the copy of the Certificate of Merit that has been served on the Attorney General is factual information sufficient to establish the basis for this certificate, including the information required by Section 25249.7(h)(2) of the Health and Safety Code.

Dated 2/6/09

Jamie L. Crook
Attorney for Natural Resources Defense Council

PROOF OF SERVICE

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, San Francisco, California 94108.

On **February 6, 2009**, I served the following document(s):

Sixty-Day Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), Section 25249.6 of the California Health and Safety Code, for Exposing Consumers to Propoxur in Flea-and-Tick Collars Without Warning

on the entity listed below by placing true copies thereof in a sealed envelope addressed as follows for service by Certified Mail, Return Receipt Requested. I am readily familiar with the practice of Altshuler Berzon LLP for the collection and processing of correspondence for mailing with the United States Postal Service.

Pet Club
3535 Hollis Street
Emeryville, CA 94608

I declare under penalty of perjury under laws of the State of California that the foregoing is true and correct. Executed this **February 6, 2009** at San Francisco, California.

Sally Mendez