June 11, 2009

As You Sow
Planting Seeds for Social Change
311 California Street, Suite 510
San Francisco, CA 94104
T 415.391.3212
F 415.391.3245
www.asyousow.org

NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.

Dear Public Enforcement Agencies:

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

AYS has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 *et seq.* This letter serves to provide AYS' notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, AYS intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

Alleged violator. The name of the violators covered by this notice are **TOSCALITO ENTERPRISES, INC.**

Chemicals. These violations involve exposures to lead and lead compounds from the products listed below. On February 27, 1987, the State of California officially listed lead as a chemical known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

Consumer products. The products that are the subject of this notice are lead/lead compound tire weights which are imported, exported, manufactured, packaged, distributed, marketed, sold and/or placed on or removed by Toscalito Enterprises, Inc. on tire rims which are balanced by Toscalito Enterprises, Inc. .

Route of exposure. The workplace exposures that are the subject of this notice result from the purchase, acquisition, handling and use of these products. Workers exposures have occurred and continue to occur primarily through inhalation and/or and dermal contact; however, when lead tire weights drop off tires, and onto roadways and/or waters of the State of California, exposure may also occur through dermal contact and/or ingestion, by any person, including workers and consumers.

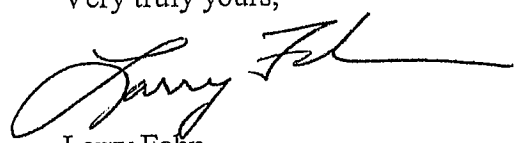
Duration of violations. Each of these ongoing violations has occurred on every day for at least five years, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, C.C.R. § 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

Mark S. Pollock
Pollock & James, Attorneys at Law
952 Jefferson Street
Napa, CA 94559
Tel: 707-257-3089 Fax: 707-257-3096

Very truly yours,



Larry Fahn
Executive Director

Enclosure

CERTIFICATE OF MERIT

(Notice of Proposition 65 Violation on Toscalito Enterprises, Inc.)

I, Mark S. Pollock, declare:

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

2. I am an attorney for 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 exposure 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 that 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 §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: 06.11.09

Mark S. Pollock

Attachments (for Attorney General copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is: 311 California Street, Suite 510, San Francisco CA 94104.

On June 11, 2009, I served the following documents:

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the parties listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

KENNETH TOSCANINI, President
TOSCALITO ENTERPRISES, INC
670 IRWIN ST
SAN RAFAEL, CA 94901

On June 11, 2009, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Attn: Ed Weil, Deputy Attorney General
California Department of Justice
1515 Clay Street, Suite 2000
Oakland, CA 94612

On June 11, 2009, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on June 11, 2009, at San Francisco, California.

Karalyn Buchner

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

ALAMEDA COUNTY DISTRICT ATTORNEY
1225 FALLON ST RM 900
OAKLAND CA 94612

ALPINE COUNTY DISTRICT ATTORNEY
PO BOX 248
MARKLEEVILLE CA 96120

AMADOR COUNTY DISTRICT ATTORNEY
708 COURT ST STE 202
JACKSON CA 95642

BUTTE COUNTY DISTRICT ATTORNEY
25 COUNTY CTR DR
OROVILLE CA 95965

CALAVERAS COUNTY DISTRICT ATTORNEY
891 MTN RANCH RD
SAN ANDREAS CA 95249

COLUSA COUNTY DISTRICT ATTORNEY
547 MARKET ST STE 102
COLUSA CA 95932

CONTRA COSTA COUNTY DISTRICT ATTORNEY
725 COURT ST 4TH FLR
MARTINEZ CA 94553

DEL NORTE COUNTY DISTRICT ATTORNEY
450 H ST STE 171
CRESCENT CITY CA 95531

EL DORADO COUNTY DISTRICT ATTORNEY
515 MAIN ST
PLACERVILLE CA 95667

FRESNO COUNTY DISTRICT ATTORNEY
2220 TULARE ST STE 1000
FRESNO CA 93721

GLENN COUNTY DISTRICT ATTORNEY
PO BOX 430
WILLOWS CA 95988

HUMBOLDT COUNTY DISTRICT ATTORNEY
825 FIFTH ST
EUREKA CA 95501

IMPERIAL COUNTY DISTRICT ATTORNEY
940 W MAIN ST
EL CENTRO CA 92243

INYO COUNTY DISTRICT ATTORNEY
PO BOX D
INDEPENDENCE CA 93526

KERN COUNTY DISTRICT ATTORNEY
1215 TRUXTUN AVE
BAKERSFIELD CA 93301

KINGS COUNTY DISTRICT ATTORNEY
1400 W LACEY BLVD
HANFORD CA 93230

LAKE COUNTY DISTRICT ATTORNEY
255 N FORBES ST
LAKEPORT CA 95453

LASSEN COUNTY DISTRICT ATTORNEY
220 S LASSEN ST STE 8
SUSANVILLE CA 96130

L A COUNTY DISTRICT ATTORNEY
210 W TEMPLE ST STE 18000
LOS ANGELES CA 90012-3210

MADERA COUNTY DISTRICT ATTORNEY
209 W YOSEMITE AVE
MADERA CA 93637

MARIN COUNTY DISTRICT ATTORNEY
3501 CIVIC CTR DR RM 130
SAN RAFAEL CA 94903

MARIPOSA COUNTY DISTRICT ATTORNEY
PO BOX 730
MARIPOSA CA 95338

MENDOCINO COUNTY DISTRICT ATTORNEY
PO BOX 1000
UKIAH CA 95482

MERCED COUNTY DISTRICT ATTORNEY
2222 M ST
MERCED CA 95340

MODOC COUNTY DISTRICT ATTORNEY
204 S COURT ST RM 202
ALTURAS CA 96101-4020

MONO COUNTY DISTRICT ATTORNEY
PO BOX 617
BRIDGEPORT CA 93517

MONTEREY COUNTY DISTRICT ATTORNEY
PO BOX 1131
SALINAS CA 93902

NAPA COUNTY DISTRICT ATTORNEY
931 PARKWAY MALL
NAPA CA 94559

NEVADA COUNTY DISTRICT ATTORNEY
201 CHURCH ST STE 8
NEVADA CITY CA 95959

ORANGE COUNTY DISTRICT ATTORNEY
401 CIVIC CTR DR WEST
SANTA ANA CA 92701

PLACER COUNTY DISTRICT ATTORNEY
11562 B AVE
AUBURN CA 95603

PLUMAS COUNTY DISTRICT ATTORNEY
520 MAIN ST RM 404
QUINCY CA 95971

RIVERSIDE COUNTY DISTRICT ATTORNEY
4075 MAIN ST
RIVERSIDE CA 92501

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

SACRAMENTO COUNTY DISTRICT ATTORNEY
901 G ST
SACRAMENTO CA 95814

SAN BENITO COUNTY DISTRICT ATTORNEY
419 FOURTH ST, FL 2
HOLLISTER CA 95023

SAN BERNARDINO COUNTY DISTRICT ATTORNEY
316 N MTN VIEW AVE
SAN BERNARDINO CA 92415-0004

SAN DIEGO COUNTY DISTRICT ATTORNEY
330 W BROADWAY
SAN DIEGO CA 92101

SAN FRANCISCO COUNTY DISTRICT ATTORNEY
850 BRYANT ST RM 325
SAN FRANCISCO CA 94103

SAN JOAQUIN COUNTY DISTRICT ATTORNEY
PO BOX 990
STOCKTON CA 95201-0990

SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY
CITY GOVERNMENT CTR, 4TH FLR
SAN LUIS OBISPO CA 93408

SAN MATEO COUNTY DISTRICT ATTORNEY
400 COUNTY CTR FL 3
REDWOOD CITY CA 94063

SANTA BARBARA COUNTY DISTRICT ATTORNEY
1112 SANTA BARBARA ST
SANTA BARBARA CA 93101

SANTA CLARA COUNTY DISTRICT ATTORNEY
70 W HEDDING ST WEST WING
SAN JOSE CA 95110

SANTA CRUZ COUNTY DISTRICT ATTORNEY
701 OCEAN ST RM 200
SANTA CRUZ CA 95060

SHASTA COUNTY DISTRICT ATTORNEY
1525 COURT ST FL 3
REDDING CA 96001

SIERRA COUNTY DISTRICT ATTORNEY
PO BOX 457
DOWNIEVILLE CA 95936

SISKIYOU COUNTY DISTRICT ATTORNEY
PO BOX 986
YREKA CA 96097

SOLANO COUNTY DISTRICT ATTORNEY
675 TEXAS ST STE 4500
FAIRFIELD CA 94533

SONOMA COUNTY DISTRICT ATTORNEY
600 ADMINISTRATION DR RM 212-J
SANTA ROSA CA 95403

STANISLAUS COUNTY DISTRICT ATTORNEY
PO BOX 442
MODESTO CA 95353

SUTTER COUNTY DISTRICT ATTORNEY
446 SECOND ST
YUBA CITY CA 95991

TEHAMA COUNTY DISTRICT ATTORNEY
PO BOX 519
RED BLUFF CA 96080

TRINITY COUNTY DISTRICT ATTORNEY
PO BOX 310
WEAVERVILLE CA 96093

TULARE COUNTY DISTRICT ATTORNEY
221 S MOONEY BLVD RM 224
VISALIA CA 93291

TUOLUMNE COUNTY DISTRICT ATTORNEY
423 N WASHINGTON ST
SONORA CA 95370

VENTURA COUNTY DISTRICT ATTORNEY
800 S VICTORIA AVE
VENTURA CA 93009

YOLO COUNTY DISTRICT ATTORNEY
301 SECOND ST
WOODLAND CA 95695

YUBA COUNTY DISTRICT ATTORNEY
215 FIFTH ST
MARYSVILLE CA 95901

LOS ANGELES CITY ATTORNEY'S OFFICE
800 CITY HALL EAST
200 N MAIN ST
LOS ANGELES CA 90012

SAN DIEGO CITY ATTORNEY'S OFFICE
CIVIC CENTER PLAZA
1200 THIRD AVE STE 1620
SAN DIEGO CA 92101

SAN JOSE CITY ATTORNEY'S OFFICE
200 E SANTA CLARA ST FL 6
SAN JOSE CA 95113

SAN FRANCISCO CITY ATTORNEY'S OFFICE
CITY HALL RM 234
SAN FRANCISCO, CA 94102