



Klamath

ENVIRONMENTAL
LAW CENTER

March 11, 2010

PROPOSITION 65 ENFORCEMENT REPORTING
ATTENTION: PROP 65 COORDINATOR
1515 CLAY STREET, SUITE 2000
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that Dubois and Nowling, Inc. has been, is, will be and threatens to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual for both Mateel and this office. The above referenced violations occur when California residents come into contact with used railroad ties the surfaces of which contain the following Proposition 65-listed chemicals: benzo[b]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, chrysene, creosotes, dibenz[a,h]anthracene, hexachlorobenzene, indeno[1,2,3-cd]pyrene, naphthalene, pentachlorophenol, polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans. Railroad ties are wooden timbers treated with creosote and/or pentachlorophenol. These timbers supported rails in the bed of a railroad track until they were salvaged and removed from the roadbed. These old railroad ties are sold by Dubois and Nowling, Inc. mainly for gardening and landscaping purposes. The surfaces of these used railroad ties, which users of them contact, contain the above-listed Proposition 65-listed chemicals. When a user contacts these railroad ties, the chemicals are transferred from the railroad ties to the hands or other skin surfaces of the people contacting them. These chemicals come off on peoples' skin and then enter their bodies when the chemicals are absorbed directly through the skin, through mucous membranes, through wood splinters entering their bodies, or through cuts and/or abrasions and when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal contact, dermal absorption, mucous membrane, subcutaneous, inhalation and ingestion routes. It is of note that most of these chemicals cause cancer from simple dermal contact. Dubois and Nowling, Inc. did not and does not provide people with clear and reasonable warnings before it exposes them to the above-referenced chemicals. The above referenced violations have occurred every day since at least March 11, 2007 and will continue every day until the warnings are given. These violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any of these products manufactured outside of California, except as to workplaces Dubois itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off Dubois and Nowling, Inc.'s properties and in each of California's 58 counties.

Cordially,

William Verick

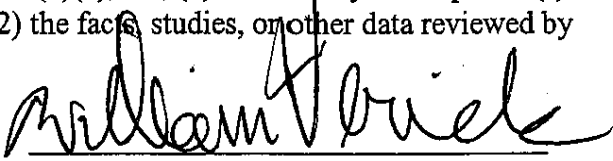
SERVICE LIST

PROPOSITION 65 ENFORCEMENT REPORTING ATTENTION: PROP 65 COORDINATOR 1515 CLAY STREET, SUITE 2000 POST OFFICE BOX 70550 OAKLAND, CA 94612-0550	COUNTY OF IMPERIAL COURTHOUSE, FLOOR 2 939 W. MAIN ST BL. CENTRO, CA 92243	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ORANGE 401 CIVIC CENTER DR WEST SANTA ANA, CA 92701	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF STANISLAUS 1100 I ST. #200 MODESTO, CA 95354
OFFICE OF THE CITY ATTORNEY CITY OF OAKLAND 505 14TH ST 12TH FLOOR OAKLAND, CA 94612	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF INYO P.O. DRAWER D INDEPENDENCE, CA 93526	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF PLACER 10810 JUSTICE CENTER DR., STE 240 ROSEVILLE, CA 95678	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SUTTER 1160 CIVIC CENTER BLVD. #A YUBA CITY, CA 95993
OFFICE OF THE CITY ATTORNEY CITY OF SAN FRANCISCO CITY HALL ROOM 206 400 VAN NESS SAN FRANCISCO, CA 94102	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF KERN 1215 TRUXTUN AVE. FLOOR 4 BAKERSFIELD, CA 93301	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF PLUMAS 520 MAIN STREET #404 QUINCY, CA 95971	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TEHAMA P.O. BOX 519 REDBLUFF, CA 96080
OFFICE OF THE CITY ATTORNEY CITY OF SACRAMENTO PO BOX 1948 SACRAMENTO, CA 95812-1948	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF KINGS 1400 W. LACEY BLVD. HANFORD, CA 93230	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF RIVERSIDE 4075 MAIN ST. RIVERSIDE, CA 92501	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TRINITY P.O. BOX 310 WEAVERVILLE, CA 96093
OFFICE OF THE CITY ATTORNEY CITY OF SAN JOSE 200 EAST SANTA CLARA STREET SAN JOSE, CA 95113	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LAKE 255 N. FORBES ST # 424 LAKEPORT, CA 95453	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SACRAMENTO 901 G STREET SACRAMENTO, CA 95814	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TULARE COURTHOUSE #224 VISALIA, CA 93291
OFFICE OF THE CITY ATTORNEY CITY OF LOS ANGELES 200 N. MAIN ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LASSEN 220 SOUTH LASSEN ST. STE 8 SUSANVILLE, CA 96130	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN BERNARDINO 316 MT. VIEW AVE. SAN BERNARDINO, CA 92415-0004	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF TUOLUMNE 2 S. GREEN ST. SONORA, CA 95370
OFFICE OF THE CITY ATTORNEY CITY OF SAN DIEGO CONSUMER & ENVIRONMENTAL PROTECTION 1200 THIRD AVENUE, SUITE 700 SAN DIEGO, CA 92101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF LOS ANGELES 18000 CRIMINAL COURTS BUILDING 210 W. TEMPLE ST. LOS ANGELES, CA 90012	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN DIEGO 330 W. BROADWAY, SUITE 1100 SAN DIEGO, CA 92101	VENTURA COUNTY DISTRICT ATTORNEY'S OFFICE 800 SOUTH VICTORIA AVE VENTURA, CA 93009
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALAMEDA 1225 FALLON STREET ROOM 900 OAKLAND, CA 94612	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MADIRA 209 W. YOSEMITE AVE. MADERA, CA 93637	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN FRANCISCO 850 BRYANT ST #322 SAN FRANCISCO, CA 94103	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YOLO 301 SECOND STREET WOODLAND, CA 95695
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF ALPINE P.O. BOX 248 MARKLEEVILLE, CA 96120	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIN HALL OF JUSTICE #183 SAN RAFAEL, CA 94903	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN JOAQUIN 222 E. WEBER AVE #202 STOCKTON, CA 95202	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF YUBA 215 5TH ST. MARYSVILLE, CA 95901
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF AMADOR 708 COURT STREET JACKSON, CA 95642	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MARIPOSA P.O. BOX 730 MARIPOSA, CA 95338	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN LUIS OBISPO COUNTY GOVERNMENT CENTER #450 SAN LUIS OBISPO, CA 93408	DAVE NOWLING, PRESIDENT DUBOIS AND NOWLING, INC. 589 E GISH RD SAN JOSE, CA 95112
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF BUTTE 25 COUNTY CENTER DR. OROVILLE, CA 95965	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MENDOCINO PO BOX 1000 UKIAH, CA 95482	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SAN MATEO HALL OF JUSTICE AND RECORDS REDWOOD CITY, CA 94063	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CALAVERAS GOVERNMENT CENTER 891 MOUNTAIN RANCH ROAD SAN ANDREAS, CA 95249	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MERCED 2222 M ST. MERCED, CA 95340	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA BARBARA 1112 SANTA BARBARA ST SANTA BARBARA, CA 93101	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF COLUSA 547 MARKET STREET COLUSA, CA 95932	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MODOC 204 SOUTH COURT STREET ALTURAS, CA 96101	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CLARA 70 W. HEDDING ST. SAN JOSE, CA 95110	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF CONTRA COSTA P.O. BOX 670 MARTINEZ, CA 94553	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONTE REY 240 CHURCH STREET P.O. BOX 1131 SALINAS, CA 93902	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SANTA CRUZ 701 OCEAN ST. #200 SANTA CRUZ, CA 95060	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF DEL NORTE 450 H ST #171 CRESCENT CITY, CA 95531	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MONO P.O. BOX 617 BRIDGEPORT, CA 93517	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SHASTA 1525 COURT ST. REDDING, CA 96001	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF EL DORADO 515 MAIN ST. PLACERVILLE, CA 95667	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF NAPA 931 PARKWAY MALL. P.O. BOX 720 NAPA, CA 94559-0720	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SIERRA P.O. BOX 457 DOWNIEVILLE, CA 95936	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF FRESNO 2220 TULARE ST #1000 FRESNO, CA 93721	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF NEVADA 110 UNION STREET NEVADA CITY, CA 95959	OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SISKIYOU P.O. BOX 986 YREKA, CA 96097	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF GLENN P.O. BOX 430 WILLOWS, CA 95988		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SOLANO 600 UNION AVE FAIRFIELD, CA 94533	
OFFICE OF THE DISTRICT ATTORNEY COUNTY OF HUMBOLDT 825 5TH ST. EUREKA, CA 95501		OFFICE OF THE DISTRICT ATTORNEY COUNTY OF SONOMA 600 ADMINISTRATION DR. #212J SANTA ROSA, CA 95403	

CERTIFICATE OF MERIT

I, William Verick, hereby declare: 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. I am the attorney for the noticing party. 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 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. 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 person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: March 11, 2010

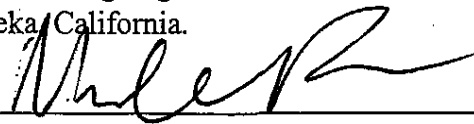

William Verick

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 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 compliances 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.

CERTIFICATE OF SERVICE

I, Nicole Frank, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On March 11, 2010, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 11, 2010, at Eureka, California.


Nicole Frank