

60-day Notice of Violation
HIXSON
April 2, 2014
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RBC Four Co. LLC.
LOS ANGELES, CALIFORNIA

April 2, 2014

**NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT OF 1986
(California Health and Safety Code §25249.5 et seq.)**

NOTICE

TO: HIXSON METAL FINISHING

PRIORITY MAIL-
AND FIRST CLASS MAIL TO THE PARTIES LISTED
ON THE ATTACHED DISTRIBUTION LIST
TO:
Mr Douglas Green, President
Hixson Metal Finishing
817-853 Production Place
Newport Beach, CA 92663

Dear Mr. President:

RBC Four Co. LLC (the "Noticing Party") serves this Notice of Violation ("Notice") upon Hixson Metal Finishing (hereinafter "VIOLATORS") pursuant to and in compliance with California Health and Safety Code ("H&S Code") §25249.7(d) and California Code of Regulations ("CCR") §25903.

This Notice satisfies a prerequisite for the Noticing Party to commence an action against the VIOLATORS to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986, Prop 65. The violations addressed by this Notice occur in Orange County and the cities of Newport Beach and Santa Ana and at least Irvine California. This Notice is being served upon the VIOLATOR, the California Attorney General, the district attorney of Orange County. The above VIOLATOR has a current registration with the California Secretary of State or other corporate website that identifies a President, this Notice is being addressed to, and served upon him and the Agent for Service.

Attached hereto these Notice[s] are copies of "The Safe Drinking Water and Toxic Enforcement Act

of 1986 (Proposition 65): "A Summary". Copies of the Summary are being provided here in this new NOTICE.

The description of the Noticing Party, the alleged VIOLATOR and the alleged Violations addressed by this Notice:

- This Notice is provided by RBC Four Co. LLC. and William Dunlap DBA RBC Co (hereinafter "RBC"), which is based in Ventura and/or is registered in California as a Limited Liability Company with the office of the California Secretary of State. RBC is acting in the public interest pursuant to H&S Code §25249.7(d), and is dedicated to protecting the environment, improving human health and supporting environmentally sound practices.
- The VIOLATORS name is:

Hixson Metal Finishing.
- The first violation addressed by this Notice began on or after April 4, 2013, and has occurred on numerous occasions each and every day since that date and are ongoing and continuing failures to warn in conformity with CCR Tit. 27 §25601. The air exposures caused by these emissions of specifically Chromium compounds, "Cr VI" and carbon monoxide are violations of statute and are a "continuing violations", tolling any statutory protection normally afforded the alleged VIOLATOR.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code §25249.6.
- There is a second allegation that the VIOLATOR has contaminated sources of drinking water within the state in violation of H&S Code §25249.5 for specifically Cr VI as they have discharged onto land or into land where the chemical may pass into a source of drinking water.
- The name of each chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 and involved in the violations addressed by this Notice are:
 1. Hexavalent Chromium and its compounds,
 2. Carbon Monoxide,
- The above Chemicals are listed (and have been so listed for more than twelve months) by the Governor of the State of California as being a chemical known to the State of California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity. See

Exhibit B attached hereto.

- The route of exposure for the violations addressed by this Notice is inhalation, however there also is a danger of ingestion and dermal exposures. There is also a danger of a dermal and ingestion exposure while rain events wash the VIOLATOR discharged Listed Chemicals out of the ambient air.
- Further there is a danger of ingestion of the Listed Chemicals as the releases and or discharges are into the air where they may pass into a source of drinking water or the release and or discharge may be to land or into land where it may pass into a source of drinking water. And where said release and or discharge may threaten sources of water such as “groundwater or surface water”.¹
- The types of exposures alleged herein are environmental and occupational exposures while the VIOLATOR was conducting business in its normal knowing, intentional and supervised fashion. These emissions cause global exposures in the adjacent counties as the heavy metal particulate matter smaller than 1 micron is highly mobile in air dispersion models. The specific concentrations of lead, carbon monoxide and hexavalent chromium released by the VIOLATOR are further cancer and reproductive burdens on the ambient air and larger air basins adjacent for which the VIOLATOR is also responsible under the theory of “Enterprise Liability”.
- There are numerous diverse geographical areas of the exposures addressed in this Notice. These exposures occur in homes, via surface water, groundwater, soil, on most solid surfaces and in the workplace of the VIOLATOR and in all 3 counties adjacent to the VIOLATORS Newport Beach facility. The air basins of Orange, Riverside and San Bernardino contain actionable levels of carbon monoxide, Cr VI to such an extent that a Court will have to adjudicate the VIOLATOR proportion contribution and liability at trial.
- This contamination can be gauged and quantified by a percentage “contribution” to the permanent damage to the environment in each of the 2 counties of California identified above, besides Orange County. Innocent persons have been breathing and will continue to breathe these same Listed Chemicals to their detriment absent environmental warnings, including but not limited to advertisements on television and in the print media, media vehicles such as billboards. These exposures occur principally off the property of the Noticed Company and alleged VIOLATOR.
- In the course of doing business, the VIOLATOR has and did knowingly expose, and continues to expose, individuals (especially pregnant and post-partum women) to the Listed Chemicals. As a proximate cause of the releases and or discharges alleged above no clear and reasonable warning is or has been provided by the VIOLATOR to individuals or

¹ Tit. 27 CCR § 25102 (w).

groups in the 3 counties where persons are exposed.

- These exposures have gone on from at least April 4, 2013 as to Cr VI and carbon monoxide and are ongoing and continuing as RBC alleges that the VIOLATOR has never ceased releases and or discharges in accordance with statutory guidelines.
- Further these exposures have gone on from at least Jan. 1, 1990 as to identified herein listed chemicals including but not limited to Cr VI, and carbon monoxide which is released during the Newport Beach Facility normal business operations. The Noticing party believes that the VIOLATOR, as the original source will continue to withhold any meaningful information from those persons that required warning, absent this enforcement action.

All 3 of the counties identified in this Notice have levels or contributions of air contamination from these same above listed chemicals. These counties are identified by EPA as non-attainment by the various levels of just one listed reproductive toxicant, released by the VIOLATOR and a part of this Notice: carbon monoxide.

OCCUPATIONAL ADVISEMENT

The release and or discharge by the VIOLATOR constitutes exposures to numerous known carcinogenic chemicals in the environment and the release will cause the subsequent occupational exposures to employees of the Vernon Facility without a clear and reasonable warning as to each chemical released.

“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. The approval also provides that an employer may use the means of compliance 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.”

ENVIRONMENTAL ADVISEMENT

The location of these alleged exposures are varied while occurring within the 4 counties of the state of California as evidenced by the identification above. RBC believes and so alleges that most if not all of the jurisdictions identified had VIOLATORS waste streams in that ambient air and that after that air dispersion fell to ground where they threaten sources of drinking water and cause a subsequent environmental exposure.

- Further, that these releases caused exposures in possibly all of these 3 jurisdictions to the listed chemicals by the VIOLATOR and were allowed to take place without the prerequisite warnings as delineated by the applicable statutes.
- Please direct any inquiries regarding this Notice or any communication with the responsible party for the noticing parties at RBC Co.:

Mr. William Dunlap
PO Box 828
Fillmore, CA 93016
805 625-3063

EXHIBIT A – LIST OF PARTIES GIVING NOTICE

NOTICE

NOTICED PARTY: HIXSON METAL FINISHING

INDIVIDUAL NOTICING PARTY:

1. William Dunlap

**TO BE FURTHER AMENDED AS COMPLAINANTS ARE NOTIFIED AND/OR
IDENTIFIED AS EXPOSED.**

EXHIBIT B

**NOTICED PARTY:
HIXSON METAL FINISHING**

List Of Chemicals Contained In The Attached 60-Day Notice of Violation That Are Listed By The Governor Of The State Of California As Being Known To The State Of California To Cause Cancer Or Reproductive Toxicity

CARCINOGENS

<u>Chemical</u>	<u>CAS No.</u>	<u>Date Added to List</u>
Hexavalent Chromium and its compounds.	*****	Feb 27, 1987

REPRODUCTIVE TOXICANT

Chemical	CAS No.	Date Added to List
Carbon Monoxide	630-08-0	July 1, 1989
Hexavalent Chromium and its compounds.	*****	Dec 19, 2008

CERTIFICATE OF MERIT
HEALTH AND SAFETY CODE SECTION 25249.7(d)

NOTICED PARTY:

HIXSON METAL FINISHING

I, William Dunlap, on behalf of RBC Four Co. LLC, RBC Co and also individually hereby declare:

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

2. I am the expert for the noticing entities and/or a noticing party.

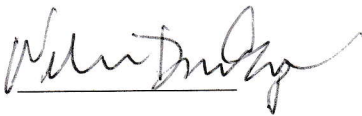
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the Listed chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and 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 private action" means that the information provides a credible basis that all the 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 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: April 1, 2014

Signed by:



William Dunlap

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PROOF OF SERVICE

I reside in the City of Fillmore, County of Ventura, California. I am over the age of 18 years and not a party to the above referenced action. My mailing address is c/o PO Box 828, Fillmore, CA 93016. On April 2, 2014 I served the foregoing documents described as:

1. **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code § 25249.5 et seq.)**
2. **EXHIBIT A – LIST OF PARTIES GIVING NOTICE**
3. **EXHIBIT- SUMMARY OF PROP 65**
4. **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

On the person below by placing a true copy thereof in a sealed envelope addressed as follows:

Mr. Dale W. Young Jr., Agent for Service
Hixson Metal Finishing
829 Production Place
Newport Beach, CA 92663

X (BY MAIL SERVICE) I am "readily familiar" with my practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Fillmore, California in the ordinary course of business.

Executed on April 2, 2014, at Fillmore, Ventura County, California.

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

Nannette Keller
Nannette Keller

April 2, 2014

**EXHIBIT
OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 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 27 of the California Code of Regulations, Sections 25102 through 27001.

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 that has not been associated with an observable adverse reproductive or developmental effect.

Discharge 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 list 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” tests 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 27, California Code of Regulations, section 25903). 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.

DISTRIBUTION LIST

<p>Orange County District Attorney Office of the District Attorney 401 Civic Center Drive Santa Ana, CA 92701</p>	<p>Riverside County District Attorney 3960 Orange Street Riverside, CA 92501</p>
<p>California Attorney General State of California Department of Justice Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator 1515 Clay Street, Suite 2000 Post Office Box 70550 Oakland, CA 94612-0550</p>	<p>San Bernardino District Attorney 303 W. 3rd Street San Bernardino, CA 92415</p>