

**60-Day Notice of Violations:
Failure to Warn Public About Exposure to Chemicals Listed Under Section 25249.8
H.&S.C. & 27 C.C.R. §27001**

December 22, 2015

VIA CERTIFIED MAIL, RRR

SEMPRA ENERGY
488 8th Avenue
San Diego, CA 92101

CSC – Lawyers
Incorporating Service
Agent for: SEMBRA
ENERGY
2710 Gateway Oak Drive
Suite 150N
Sacramento, CA 95833

SOUTHERN
CALIFORNIA GAS
COMPANY
555 W. 5th Street
Los Angeles, CA 90013

CSC – Lawyers
Incorporating Service
Agent for: SOUTHERN
CALIFORNIA GAS
COMPANY
2710 Gateway Oak Drive
Suite 150N
Sacramento, CA 95833

The Honorable Jackie Lacey,
District Attorney's Office,
Los Angeles County
210 West Temple Street, Suite 18000
Los Angeles, CA 90012-3210

VIA ONLINE SUBMISSION

Office of the California Attorney General

Re: Notice of Violations of California Health & Safety Code § 25249.6

Dear Addressees,

KJT Law Group, LLP represents Aram Kaloustian (“Claimant”), a citizen of the State of California acting in the interest of the general public, in connection with this notice of violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code §§ 25249.5 *et seq.*

This letter constitutes notification that SOUTHERN CALIFORNIA GAS COMPANY, a subsidiary of SEMBRA ENERGY, has violated Proposition 65 by failing to provide clear and reasonable warnings required by State law prior to exposing persons to hazardous chemicals listed pursuant to § 25249.8 H.&S.C. and 27 C.C.R. § 27001. Furthermore, this notice serves to provide notice of the intent to sue in the public interest, based thereon.

Pursuant to § 25249.7(d) of the statute, Claimant intends to bring an enforcement action against the above-referenced addressees sixty (60) days after the effective service of this notice unless 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 Office of Environmental Hazard Assessment, the lead agency designated under the State, is enclosed with the copy of this notice served upon the violators ("APPENDIX A"). The specific details of the violations that are the subject of this notice are provided below.

Violators Covered Under This Notice

This Notice of Violation is brought pursuant to the "Exposure Prohibition" of Health and Safety Code Section 25249.6.

Notices are "person(s) in the course of doing business," as defined in Health & Safety Code § 25249.11, who have discharged, deposited, and release into the environment and who continue to discharge, deposit, and release, a Proposition 65-listed chemical into the ambient air in and about Porter Ranch, California, which is commonly referred to as the Aliso Canyon gas leak or the Aliso Canyon methane leak.

SOUTHERN CALIFORNIA GAS COMPANY, a subsidiary of SEMPRA ENERGY, (collectively, the "Notices") are the violators covered under this notice.

Description of Discharge, Deposits, and Releases

The Notices are involved in the ownership and operation of natural gas wells, reservoirs, and pipelines, and are involved in the sale, distribution, storage, and transportation of natural gas in the State of California, including in the area in or about Aliso Canyon (located north of Porter Ranch and Northridge).

Beginning in October 2015, Notices informed the State of California of a natural gas leak at its Aliso Canyon natural gas storage facility. A component of what has been commonly referred to as the leaking "natural gas" or "methane" is the Proposition 65-listed chemical benzene, a chemical known to the State of California to be both a carcinogen and a reproductive toxicant, which has been discharged, released, or deposited, and which continues to be discharged, released, or deposited, into the ambient air. Said listed chemical benzene has been inhaled, and continues to be inhaled, by Claimant, residents, and/or visitors of the affected area surrounding Aliso Canyon.

Information available to Claimant and their representatives indicates that the Notices have been discharging, releasing, and depositing, and continue to discharge, release, and deposit, the listed chemical benzene into the ambient air, thereby exposing thousands of residents and visitors of the affected area.

The State of California officially lists benzene as a chemical known to the State to cause cancer and reproductive toxicity. Therefore, Notices knowingly discharged, released or

deposited, and continue to knowingly discharge, release, or deposit, a Proposition 65-listed chemical into the ambient air and for which no warning has been or is currently given, as mandated by § 25249.6 H.&S.C.

Environmental Warnings at Issue

The Claimant, residents, and visitors of the affected area were and are entitled to warnings that they will be exposed to benzene within the affected area. Claimant, residents, and visitors were not warned and continue to not be warned of the threat from exposure to benzene released within the affected area from October 2015 to the present.

The name of the listed chemicals involved in this violation is:

- Benzene

The chemical listed above has been on the Proposition 65 list longer than twenty months. (Health & Safety Code § 25249.9(a).) Benzene was listed as a carcinogen on February 27, 1987, and as a reproductive toxicant on December 26, 1997. The above-listed Proposition 65 chemical, benzene, has been knowingly discharged, released, and deposited by the Noticees, continues to be knowingly discharged, released, and deposited by the Noticees, and is likely to continue to be knowingly discharged, released, or deposited by Noticees in the future into the ambient air from which it is being inhaled.

Route of Exposure

The manner in which the Noticees permitted Claimant, residents, and visitors to be exposed to benzene is through inhalation on or after October 2015. Claimant, residents, and visitors continue to be so exposed.

Duration of Violations

These violations were first reported in October 2015 and have continued every day until the present date. Noticees have publically admitted that these violations will continue into the future. Some of the residents of the affected area have already moved out—temporarily or permanently—during the intervening period between when the exposure began and the present. However, thousands of residents and visitors continue to be exposed to the present date.

Counsel

The Claimant is represented in connection with this matter by and may only be contacted through:

Vache Thomassian, Esq.
KJT Law Group, LLP
230 North Maryland Ave. Suite 306 Glendale, CA 91206
Telephone: (818) 507-8525
Email: Vache@KJTLawGroup.com

In keeping with the public interest goals of the statute and the objective of protecting individuals and the community at-large from further toxic exposures, KJT Law Group, LLP is interested in seeking a constructive and immediate resolution of this matter in order to avoid continuing unwarned exposure to listed chemicals.

Upon expiration of sixty (60) days following service of this notice, Claimant will file a complaint with claims under Proposition 65 against the addressees/defendants if state or local officials do not undertake enforcement action by that time.

All communications regarding this notice may be made to Vache Thomassian, Esq. at the above listed firm address and telephone number.

Regards,

A handwritten signature in black ink, appearing to read 'V. Thomassian', with a horizontal line extending from the top of the signature.

Vache Thomassian, Esq.
KJT Law Group, LLP

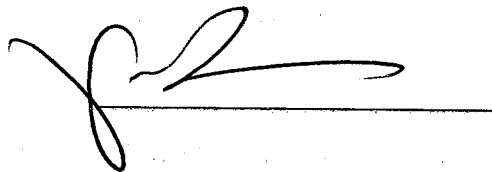
Enclosure: Appendix A –Proposition 65: A Summary, Certificate of Merit

CERTIFICATE OF MERIT
(CONFIDENTIAL ATTORNEY GENERAL COPY)
Health & Safety Code Section 25249.7(d)

I, Vache Thomassian, hereby declare:

- 1) This Certificate of Merit accompanies the attached sixty (60) day notice in which it is alleged the parties identified in the notice have violated Health & Safety Code section 25249.6 by failing to provide clear and reasonable warnings.
- 2) I am the attorney for the noticing parties.
- 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 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 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.

Dated: 12/22/2015



Vache Thomassian, Esq.
KJT Law Group, LLP

APPENDIX A

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 California Office of Environmental Health Hazard Assessment (OEHHA), 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. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly say 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

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. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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. This includes all full and part-time employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in a Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering 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 listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, 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” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4)

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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27, sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties or any reimbursement for costs and attorney's fees, if the notice of violation was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city greater than 750,000 in population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>. The notice is reproduced here:

Date:

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Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

**SPECIAL COMPLIANCE PROCEDURE
PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

1. You have actually taken the corrective steps that you have certified in this form.
2. The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice.
3. The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.
4. This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

IMPORTANT NOTES:

1. You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.
2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action

over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Date :

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Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately showing its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

Certification

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Signature of alleged violator or authorized representative Date

Name and title of signatory

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2014

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 230 North Maryland Avenue, Suite 306, Glendale, CA 91206.

On **December 22**, 2015 I served the foregoing document described as:

- **60-DAY NOTICE OF VIOLATIONS**
- **CERTIFICATE OF MERIT (CONFIDENTIAL ATTORNEY GENERAL COPY)**
- **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

"SEE ATTACHED MAILING LIST"

XX VIA ONLINE SUBMISSION

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

Executed on **December 22**, 2015 at Glendale, California.


Aleena Sivazlian

SERVICE LIST

Office of the California Attorney General