

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

January 17, 2020

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act ("Proposition 65"), please see the attached summary prepared by California's Office of Environmental Health Hazard Assessment.
- This Notice is provided by Maria Elizabeth Romero, a concerned citizen of the State of California and resident of Monterey County.

Description of Violation:

- Violators: BioVision, Inc.
- Time Period of Exposure: The violations have been occurring since at latest January 17, 2018, and are ongoing.
- Statutory Authority: This Notice is provided for failure to comply with the warning requirements of Proposition 65, found at California Health and Safety Code section 25249.6.
- Chemicals Involved: The chemicals involved in these violations are listed in Attachment B hereto, and have been identified by the State of California as causing cancer or reproductive harm.
- Type of Product: All products offered for sale by BioVision, Inc. on the Web site at <https://www.biovision.com> whose primary component is a chemical listed on Attachment B ("Covered Products").
- Description of Exposure: Student use of the Covered Products in academic laboratories results in human exposure to toxic chemicals via dermal contact, eye contact, ingestion, inhalation, and accidental injection. No clear and reasonable warning of toxicity is provided by BioVision, Inc. in connection with the Covered Products.

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Resolution of Noticed Claim:

Within the next 60 days, California's Office of the Attorney General and other government attorneys may choose to bring an enforcement action against you in this matter. After this time, Mrs. Romero will file a citizen enforcement lawsuit against you unless you agree in a binding written settlement to: (1) provide Proposition 65-compliant warnings to California residents prior to sales of products containing Listed Chemicals; (2) provide Proposition 65-compliant warnings on the labels of Covered Products sold to California residents (to protect end users); and (3) require that any entity involved in resale of Covered Products also provide compliant warnings – or to cease all sales to residents of California. Any settlement agreement will also contain an enforcement mechanism providing for substantial penalties in case of non-compliance. Please note that final resolution of this matter will be subject to the oversight and approval of public prosecutors.

Contact Us:

Please consider this a formal notice of anticipated litigation and demand that BioVision, Inc. preserve all evidence related to sales of the Covered Products or to warnings of product toxicity, including sales records, Web pages, data sheets, written sales protocols and procedures, product labels, box labels, and internal correspondence. Any inquiries regarding this notice should be directed to Mrs. Romero's counsel, Benjamin D. Weston, with Agency D&L, 1968 South Coast Highway, Suite 1200, Laguna Beach, California 92651. Mr. Weston may be contacted by telephone at 650.250.5075, by facsimile at 650.206.9844 and by e-mail at ben@agencydl.com.

Enclosures:

Appendix A (BioVision copy only)

Attachment B

Certificate of Merit

Proof of Service

Factual Information (A.G. copy only)

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. The reader is directed to the statute and OEHHA 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 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 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 Period. 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 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 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 and 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 copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

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 2017

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.

Agency D&L

BioVision, Inc. Notice of Violation

January 17, 2020

ATTACHMENT B

***List of Chemicals Sold by BioVision, Inc.
in Violation of Proposition 65***

Chemical Name	CAS No.	Chemical Name	CAS No.
Actinomycin D	50-76-0	Fluorouracil	51-21-8
All-trans retinoic acid	302-79-4	Ganciclovir	82410-32-0
Altretamine	645-05-6	Lovastatin	75330-75-5
Amikacin sulfate	39831-55-5	Medroxyprogesterone acetate	71-58-9
Aminoglutethimide	125-84-8	Megestrol acetate	595-33-5
Aminoglycosides	---	Metronidazole	443-48-1
Amiodarone hydrochloride	19774-82-4	Mitomycin C	50-07-7
Amsacrine	51264-14-3	Paclitaxel	33069-62-4
Angiotensin converting enzyme (ACE) inhibitors	---	Pentostatin	53910-25-1
Auranofin	34031-32-8	Pimozide	2062-78-4
Azacitidine	320-67-2	Pioglitazone	111025-46-8
Azathioprine	446-86-6	Plicamycin	18378-89-7
1,4-Butanediol	55-98-1	Progesterone	57-83-0
dimethanesulfonate (Busulfan)			
Caffeic acid	331-39-5	Ribavirin	36791-04-5
Carbamazepine	298-46-4	Rifampin	13292-46-1
Carboplatin	41575-94-4	Streptomycin sulfate	3810-74-0
Chenodiol	474-25-9	Streptozotocin (streptozocin)	18883-66-4
Ciclosporin (Cyclosporin A; Cyclosporine)	59865-13-3; 79217-60-0	Sulfasalazine (Salicylazosulfapyridine)	599-79-1
Cisplatin	15663-27-1	Tamoxifen citrate	54965-24-1
Cladribine	4291-63-8	Thalidomide	50-35-1
Colchicine	64-86-8	Tobramycin sulfate	49842-07-1
Cycloheximide	66-81-9	Trypan blue (commercial grade)	72-57-1
Cyclophosphamide (hydrated)	6055-19-2	Vinblastine sulfate	143-67-9
Daminozide	1596-84-5	Vincristine sulfate	2068-78-2
Daunorubicin hydrochloride	23541-50-6	Vismodegib	879085-55-9
Diltiazem hydrochloride	33286-22-5	Zidovudine (AZT)	30516-87-1
Doxorubicin hydrochloride (Adriamycin)	25316-40-9	Zileuton	111406-87-2
Etoposide	33419-42-0		

CERTIFICATE OF MERIT

California Safe Drinking Water and Toxic Enforcement Act

January 17, 2020
(Romero v. BioVision, Inc.)

I, Benjamin D. Weston, hereby declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notices have violated California Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

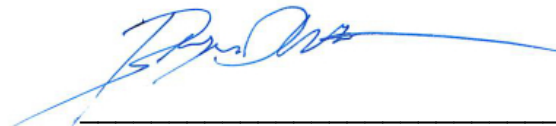
2. I am the attorney for the noticing party.

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 alleged exposures 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 plaintiff's 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.

Respectfully submitted,



Benjamin D. Weston
Cal. Bar No. 240641

Certificate of Service

I, Chris Johnson, hereby declare:

1. I am, and was at the time of service hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 498 Calle Principal, Monterey, California 93940.
2. On January 17, 2020, I served the following documents:
 - 60-Day Notice of Violation
 - Certificate of Merit

on each of the parties on the service list attached hereto by the method described below.

BY MAIL: I deposited such envelope in the mail at Monterey, California, with postage thereon fully prepaid. I am readily familiar with my company's practice of preparing 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 in the ordinary course of business. I am aware that service is presumed invalid if the postal cancellation date or postage meter date is more than one (1) day after date of my signature below.

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

Dated: January 17, 2020

Chris Johnson

I, Benjamin D. Weston, hereby declare:

1. I am, and was at the time of service hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 1968 South Coast Highway, Suite 1200, Laguna Beach, CA 92651.
 2. On January 17, 2020, I served the following documents:
 - 60-Day Notice of Violation
 - Certificate of Merit
- on the following persons by causing a true and correct .PDF copy thereof to be sent via electronic mail to the parties listed below, pursuant to Cal. Code Regs., title. 27, § 25903(c)(l):

Alameda County District Attorney CEPDProp65@acgov.org	Calaveras County District Attorney Prop65Env@co.calaveras.ca.us
Contra Costa County District Attorney sgrassini@contracostada.org	Inyo County District Attorney inyoda@inyocounty.us
Lassen County District Attorney mlatimer@co.lassen.ca.us	Monterey County District Attorney Prop65DA@co.monterey.ca.us
Napa County District Attorney CEPD@countyofnapa.org	Riverside County District Attorney Prop65@rivcoda.org
Sacramento County District Attorney Prop65@sacda.org	San Diego City Attorney CityAttyProp65@sandiego.gov
San Diego County District Attorney CityAttyCrimProp65@sandiego.gov	San Francisco County District Attorney gregory.alker@sfgov.org
San Francisco City Attorney Valerie.Lopez@sfcityatty.org	San Joaquin County District Attorney DA DAConsumer.Environmental@sjcda.org
San Luis Obispo County District Attorney edobroth@co.slo.ca.us	Santa Barbara County District Attorney DAProp65@co.santa-barbara.ca.us
Santa Clara County District Attorney EPU@da.sccgov.org	Santa Cruz County District Attorney Prop65DA@santacruzcounty.us
Sonoma County District Attorney jbarnes@sonoma-county.org	Tulare County District Attorney Prop65@co.tulare.ca.us
Ventura County District Attorney daspecialops@ventura.org	Yolo County District Attorney cfepd@yolocounty.org

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

Dated: January 17, 2020

Benjamin D. Weston

List for Service by Mail

Alpine County District Attorney
P.O. Box 248
Markleeville, CA 96120

Amador County District Attorney
708 Court Street #202
Jackson, CA 95642

Butte County District Attorney
25 County Center Drive, Suite 245
Oroville, CA 95965

Colusa County District Attorney
346 Fifth Street, Suite 101
Colusa, CA 95932

Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

Fresno County District Attorney
2220 Tulare Street, Suite 1000
Fresno, CA 93721

Glenn County District Attorney
P.O. Box 430
Willows, CA 95988

Humboldt County District Attorney
825 5th Street, 4th Floor
Eureka, CA 95501

Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

Kern County District Attorney
1215 Truxtun Avenue, 4th Floor
Bakersfield, CA 93301

Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

Los Angeles County District Attorney
211 West Temple Street
Suite 1200
Los Angeles, CA 90012

Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903

Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338

Mendocino County District Attorney
100 North State Street, P.O. Box 1000
Ukiah, CA 95482

Merced County District Attorney
550 W. Main Street
Merced, CA 95340

Modoc County District Attorney
204 S. Court Street, Suite 202
Alturas, CA 96101

Mono County District Attorney
278 Main St
Bridgeport, CA 93517

Nevada County District Attorney
201 Commercial Street
Nevada City, CA 95959

Orange County District Attorney
401 Civic Center Drive
West Santa Ana, CA 92701

Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678

Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971

San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203

San Bernardino County District Attorney
303 West 3rd Street, 6th Floor
San Bernardino, CA 92415-0502

San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

Shasta County District Attorney
1355 West Street
Redding, CA 96001

Sierra County District Attorney
100 Courthouse Square
Downieville, CA 95936

Siskiyou County District Attorney
P.O. Box 986
Yreka, CA 96097

Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533

Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354

Sutter County District Attorney
466 Second Street, Suite 102
Yuba City, CA 95991

Tehama County District Attorney
444 Oak Street, Room L
Red Bluff, CA 96080

Trinity County District Attorney
P.O. Box 310
Weaverville, CA 96093

Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370

Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901

Office of the City Attorney, Los Angeles
City Hall East
200 North Main Street
Los Angeles, CA 90012

Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

Office of the City Attorney, San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

BioVision, Inc.
Attn: CEO, Gloria Guohong Zhang
155 South Milpitas Boulevard
Milpitas, California 95035