

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice (510) 540-1992 Fax (510) 371-0885
Email: freund1@aol.com

July 28, 2020

Xavier Becerra
California Attorney General
1515 Clay Street, Suite 2000
Oakland, CA 94612-1413

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

Michael Coburn, CEO c/o Embee Processing, LLC
2136-68 S. Hathaway Street
Santa Ana, CA 92705

**Re: Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986,
California Health & Safety Code Sections 25249.5 et. seq. ("Proposition 65")**

Dear Alleged Violator and the Appropriate Proposition 65 Public Enforcement Agencies:

I represent California Toxins Project LLC ("CTP"), 7993 Rock Springs Road, Penryn, California 95663; Tel. (916) 223-4033. CTP's Executive Director is Lorell Long. CTP is a California non-profit corporation whose primary mission is to prevent chemical toxins from adversely impacting the environment and human health in California communities. This letter constitutes notification that Embee Processing LLC, located at 2136-68 S. Hathaway Street, Santa Ana, CA 92705 has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act which is codified at Health & Safety Code § 25249.5 *et seq.*

CTP has identified violations of Proposition 65 from the alleged Violator identified below. The alleged Violator has exposed and continues to expose individuals situated in and around the facility to chromium (hexavalent compounds) without providing a clear and reasonable warning to these persons. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7, subdivision (d), CTP intends to file a private enforcement action in the public interest 60 days after effective service of this Notice of Violation unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information About Proposition 65: A copy of a summary of Proposition, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators.

Alleged Violator: The name of the company covered by this Notice of Violation that violated Proposition 65:

Embee Processing, LLC

Information Pertaining to Hexavalent chromium and Proposition 65: On February 27, 1987, the State of California officially listed chromium (hexavalent compounds) as a chemical known to cause cancer. On December 19, 2008, the State of California officially listed chromium (hexavalent compounds) as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. OEHHA has established a No Significant Risk Level for inhalation of chromium (hexavalent compounds) of 0.001 micrograms per day. (Cal. Code Regs., tit. 27, § 25705 (b) (1).)

General Geographic Location of the Unlawful Exposure and Route of Exposure: The general geographic location of the unlawful exposure extends within a radius of approximately .4 miles from the facility. The exposures that are the subject of this Notice of Violation occur through inhalation. The alleged Violator's operations involve processing and treating metals. The methods and operations utilized at the facility emit chromium (hexavalent compounds) into the air that is inhaled by people in the surrounding vicinity.

Approximate Time Period of Violations: Ongoing violations have occurred each day during the ordinary course of business operations since at least July 28, 2019 and will continue every day until clear and reasonable warnings are provided to those persons exposed to hexavalent chromium or until the level of emission from the facility is reduced to allowable levels.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. Based on the environmental exposure at issue, the method of warning should be one or more of the methods required in the California Code of Regulations ("CCR"), title 27, Section 25604. CTP believes that the method of warning most likely to be seen, read, and understood by an ordinary individual in the course of normal daily activity would be "a warning provided in a notice mailed, sent electronically, or otherwise delivered to each occupant in the affected area." 27 CCR Section 25604, subdivision (a) (2). As required by Section 25604, subdivision (a) (2) (A-D) the warning must clearly identify the source of the exposure, include a map that clearly identifies the affected area, be provided at least every three months, and be provided in English and in any other language ordinarily used by the person to communicate with the public.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, CTP is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the alleged Violators to (1) take immediate measures to reduce the amount of chromium (hexavalent compounds) emitted from its facility so as to reduce or eliminate further exposures to this dangerous chemical; 2) provide clear and reasonable warnings compliant with Proposition 65 to those persons exposed to a significant risk of cancer from the emissions; and 3) pay an appropriate civil penalty. Such a resolution will prevent further unwarranted exposures to the identified chemical, as well as expensive and time-consuming litigation.

Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.

Sincerely,



Michael Freund
Attorney for California Toxins Project

Attachments: Certificate of Merit, Certificate of Service, OEHHA Summary (to Violators only), and Additional Supporting Information for Certificate of Merit (to Attorney General only)

CERTIFICATE OF MERIT

Re: California Toxins Project LLC Notice of Proposition 65 Violation

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the Notice of Violation violated California Health & 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 have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the Notice of Violation.

4. Based on the information obtained through this consultation, and on 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 that the information did not provide that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & 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 the individual.

Dated: July 28, 2020



Michael Freund

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the County of Alameda. I am over the age of eighteen years and not a party to the within entitled action. My business address is 1919 Addison Street, Suite 105, Berkeley, CA 94704.

On July 28 2020, I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; Certificate of Merit; and 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" on the following parties by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, at a United States Postal Service Office in Berkeley, California for delivery by Certified Mail addressed as follows:

Michael Coburn, CEO
Embee Processing, LLC
2136-68 S. Hathaway Street
Santa Ana, CA 92705

On July 28, 2020, I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; Certificate of Merit; and Additional Supporting Information for Certificate of Merit by uploading to the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

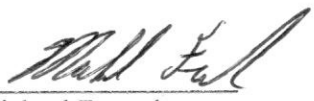
California Attorney General/Proposition 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550

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

I, Michael Freund declare under penalty of perjury that the foregoing is true and correct.

Executed on July 28, 2020 at Berkeley, California.


Michael Freund