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NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE § 25249

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL INFORMATION PURSUANT
TO EVIDENCE CODE SECTION 1040**

April 29, 2021

Via <https://oag.ca.gov/prop65>

Office of the Attorney General
300 S. Spring St., Ste. #1700
Los Angeles, CA 90013

Re: Violation of California Health & Safety Code § 25249.6

To Whom It May Concern:

My firm represents Katarina Ford, David Richard Ford, Ariana Olivia Ford, and Alissa Teresa Ford, Brian Edward Manning, Megan Therese Manning, Hunter Edward Manning, Hudson William Manning, Grace Ann Manning, Kyle Patrick Reilly, Chad Michael Tiskos, Vivian Maria Tiskos, Savannah Mary Tiskos, Brooklyn Amelia Tiskos, Kyle Warren Carlson, Jessica Danielle Carlson, Sophie Winona Carlson, Jake Warren Carlson, Katherine Jane Koscki, McKenna Jane Koscki, Megan Nicole Koscki, Kasey Ann Cahen, Seth Farley Cahen, Oliver August Cahen, Benjamin Nicholas Cahen, Robert Bruce Hertzing, Lisa Opal Hertzing, Lauren Alexa Hertzing, David Robert Goldman, Paul Reed Shouten, Darren Robert Wyre, Christine Ann Wyre, Kayla Nicole Wyre, Brandon Robert Wyre, Abigail Jenna Wyre, Zachary Drew Wyre, Jennifer Harriet Cook, Fredrick Montez, Abegae Agoncillo Donell, Todd Dalton Donell, Ryan Matthew Donell, Aubrey Sophia Donell, Sara Lamaine Arrington, Christopher Scott Arrington, Natalie Grace Arrington, Paige Elizabeth Arrington, Lauren Nicole Arrington, Jamie Lynn Brown, Sean Michael Brown, Madisyn Lynn Brown, Brooklyn Michele Brown, Hudson Michael Brown, Brandon Tuan Thai, Sarah Diem Pham, Dylan Long Thai, Ryan Loc Thai, Ethan Phu Thai, Samantha Thao Thai, Edward Landon, Deborah Landon, Aaron Landon, Hannah Landon, Myung Ki Lee, Anthony Ching, Benjapon Ching, Lindsey Ching, Ryan Ching, MD Asaduzzaman, Nure Afshana, Gloria Quijano-Siade, Gustavo Quijano-Siade, Andrew Quijano-Siade, Alexis Quijano-Siade, Debbie Craig, Jeff Craig, Jackson Varshawsky, Ryan Varshawsky, Sydney Varshawsky, Kristin Borland, William Borland, Peyton Madison Borland, Fletcher William Borland, Alivia Taylor Morrison, Eun Joo Gak, Keith Gak, Gregory Gak, Annie Gak, Sarah Johnson, Tanner Johnson, Grace Johnson, Henry Johnson, Lucille Johnson, Broek Johnson, Leslie Herman (Johnson), Raleigh Stanley, Sr., Shirley Stanley, David Nguyen, Kimilien Do, William Reaves, Grace Reaves, Malana Reaves, Blake Reaves, Nolan Reaves, Wayne Shaw, Paul Chun, Jose Ramos, Tina Batugo, Hamid Pishehvar, Diana Reyes, Lenore Post, Tim Richardson, Kyung Sil Kim, and Daryl Shoemaker.

This Notice of Violation (“Notice”) is provided to the public agencies listed on the distribution list accompanying the attached certificate of service. This Notice is also being provided to (1) Five Point Holdings, LLC; (2) Five Point Land LLC; (3) Five Point Operating Company, LP; (4) Five Point Opco GP, LP; and (5) Associated Tank Constructors, Inc; (the “Violators”) pursuant to and in compliance with California Health and Safety Code §25249.6, *et seq.* (“Proposition 65”).

This Notice satisfies a prerequisite for the Noticing Parties to commence an action against the Violators to enforce Proposition 65. The Noticing Parties intend to begin an enforcement action sixty (60) days after effective service of this Notice, unless the public enforcement agencies have commenced an action to rectify the violations discussed in this Notice.

The Noticing Parties

This notice is provided on behalf of Katarina Ford, David Richard Ford, Ariana Olivia Ford, and Alissa Teresa Ford, Brian Edward Manning, Megan Therese Manning, Hunter Edward Manning, Hudson William Manning, Grace Ann Manning, Kyle Patrick Reilly, Chad Michael Tiskos, Vivian Maria Tiskos, Savannah Mary Tiskos, Brooklyn Amelia Tiskos, Kyle Warren Carlson, Jessica Danielle Carlson, Sophie Winona Carlson, Jake Warren Carlson, Katherine Jane Koscki, McKenna Jane Koscki, Megan Nicole Koscki, Kasey Ann Cahen, Seth Farley Cahen, Oliver August Cahen, Benjamin Nicholas Cahen, Robert Bruce Hertzog, Lisa Opal Hertzog, Lauren Alexa Hertzog, David Robert Goldman, Paul Reed Shouten, Darren Robert Wyre, Christine Ann Wyre, Kayla Nicole Wyre, Brandon Robert Wyre, Abigail Jenna Wyre, Zachary Drew Wyre, Jennifer Harriet Cook, Fredrick Montez, Abegae Agoncillo Donell, Todd Dalton Donell, Ryan Matthew Donell, Aubrey Sophia Donell, Sara Lamaine Arrington, Christopher Scott Arrington, Natalie Grace Arrington, Paige Elizabeth Arrington, Lauren Nicole Arrington, Jamie Lynn Brown, Sean Michael Brown, Madisyn Lynn Brown, Brooklyn Michele Brown, Hudson Michael Brown, Brandon Tuan Thai, Sarah Diem Pham, Dylan Long Thai, Ryan Loc Thai, Ethan Phu Thai, Samantha Thao Thai, Edward Landon, Deborah Landon, Aaron Landon, Hannah Landon, Myung Ki Lee, Anthony Ching, Benjapon Ching, Lindsey Ching, Ryan Ching, MD Asaduzzaman, Nure Afshana, Gloria Quijano-Siade, Gustavo Quijano-Siade, Andrew Quijano-Siade, Alexis Quijano-Siade, Debbie Craig, Jeff Craig, Jackson Varshawsky, Ryan Varshawsky, Sydney Varshawsky, Kristin Borland, William Borland, Peyton Madison Borland, Fletcher William Borland, Alivia Taylor Morrison, Eun Joo Gak, Keith Gak, Gregory Gak, Annie Gak, Sarah Johnson, Tanner Johnson, Grace Johnson, Henry Johnson, Lucille Johnson, Broek Johnson, Leslie Herman (Johnson), Raleigh Stanley, Sr., Shirley Stanley, David Nguyen, Kimilien Do, William Reaves, Grace Reaves, Malana Reaves, Blake Reaves, Nolan Reaves, Wayne Shaw, Paul Chun, Jose Ramos, Tina Batugo, Hamid Pishehvar, Diana Reyes, Lenore Post, Tim Richardson, Kyung Sil Kim, and Daryl Shoemaker (“Noticing Parties”). The Noticing Parties are residents of Stevenson Ranch in the State of California. The Noticing Parties are acting in the public interest pursuant to California Health & Safety Code § 25249.7(d) and are dedicated to protecting the health of Californians. Please contact Noticing Parties through counsel and direct all questions concerning this Notice to counsel’s office at the following addresses:

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Names of the Violators

- Five Point Holdings, LLC
Gabriela Sanchez, CT Corporation System, Inc., Registered Agent
818 W 7th St, Suite 930, Los Angeles, CA 90017
- Five Point Land LLC
Gabriela Sanchez, CT Corporation System, Inc., Registered Agent
818 W 7th St, Suite 930, Los Angeles, CA 90017
- Five Point Operating Company, LP
Gabriela Sanchez, CT Corporation System, Inc., Registered Agent
818 W 7th St, Suite 930, Los Angeles, CA 90017
- Five Point Opco GP, LP
Gabriela Sanchez, CT Corporation System, Inc., Registered Agent
818 W 7th St, Suite 930, Los Angeles, CA 90017
- Associated Tank Constructors, Inc
Bryan Wombles, Registered Agent
23232 Peralta Dr Suite 109, Laguna Hills, CA 92653

Name of Listed Chemical

The violations covered by this Notice consist of the types of harm potentially resulting from exposure to Silica, crystalline (airborne particles of respirable size) known to the State of California to cause cancer.

Route of Exposure

Exposures to Silica, crystalline (airborne particles of respirable size) included, but were not limited to, inhalation, ingestion, and dermal contact.

Product/Service Causing the Violations

The Sandblasting work that occurred on the exterior of the Tank caused the violations. These Sandblasting services took place on a daily basis between approximately June 1, 2020 through October

31, 2020, beginning in the morning and continuing into the evening. The work was performed by Associated Tank Constructors, Inc. The Tank was/is owned and/or controlled by Five Point Holdings, LLC; Five Point Land LLC; Five Point Operating Company, LP; Five Point Opco GP, LP; Associated Tank Constructors, Inc; Santa Clarita Valley Water Agency; who were also responsible for overseeing the Sandblasting and ensuring proper safety protocols.

In addition to other hazardous emissions, the Violators' Sandblasting activities included discharge of Silica, crystalline (airborne particles of respirable size).

The Sandblasting was done on and around the Tank, which is situated on land adjacent to the residential homes of Stevenson Ranch, and the workers did not attempt to contain or abate the hazardous discharges in any way. The Silica, crystalline (airborne particles of respirable size) was therefore sprayed directly into and onto nearby residential homes, yards, pools, and streets, causing residents to unwittingly inhale and ingest the discharges.

The Tank is located directly behind, and to the west of, residential properties located at 26185 Lone Rock Court, and 26190 Lone Rock Court, Stevenson Ranch, California 91381. The Tank sits approximately 155 feet south of Westridge Parkway, and approximately 200 feet north of the parking lot surrounding West Ranch High School. The tank is a large cylindrical metal structure, approximately 40–60 feet in height and spans approximately 90–120 feet in diameter. It is situated next to another tank of similar shape and size.

Description of Violations

Beginning on or about June 2020, the Violators conducted daily sandblasting activities ("Sandblasting") on a large water tank adjacent to residential communities ("the Tank"). The Sandblasting began early in the morning and continued into the evening, continuing for approximately four months, and caused significant amounts of hazardous abrasives, particulates, and other toxins—including Silica, crystalline (airborne particles of respirable size)—to spew out into the air and permeate the surrounding communities, including the Stevenson Ranch Community and Westridge Valencia, where Noticing Parties reside, and surrounding communities, coating homes, vehicles, and yards with these materials. The Sandblasting continued until at least October of 2020.

The Sandblasting failed to follow industry standards or adhere to engineering and administrative protocols, by failing to implement reasonable safety practices; failing to properly inspect, assess, and/or evaluate the Sandblasting of the Tank in compliance with applicable safety standards and regulations; and failing to adequately, promptly and properly contain the dirt, silica, dust, and toxins. Additionally, the Violators performed the Sandblasting in violation of California Code of Regulations, Title 17, sections 92200, 92500, and 92503, by discharging these air contaminants for longer periods and at greater frequencies than those allowed by the statute, and by failing to use certified materials. Instead, the violators simply blasted hazardous substances, including Silica (crystalline) straight into residents' homes from morning until the evening, visibly coating the Stevenson Ranch community and other nearby neighborhoods with this abrasive dust, polluting the air and soil. The exposure from the Sandblasting therefore occurred beyond the property owned or controlled by the Violators.

As a result of the Sandblasting, residents unwittingly inhaled and ingested Silica (crystalline). During and/or immediately after the Sandblasting, residents from the surrounding communities, including the Noticing Parties, experienced symptoms including but not limited to severe headaches, coughing, throat irritation, sinus inflammation, nose bleeds, sleep disorders and hormonal issues. During and/or immediately after the Sandblasting, residents from the surrounding communities, including the Noticing Parties, noticed sand and silt accumulating on the surfaces of real and personal property, including automobiles, yards, and pools.

On October 1, 1989, the State of California officially listed Silica, Crystalline (airborne particles of respirable size) as a chemical known to the State to cause cancer. Violators have exposed and continue to expose residents, visitors, and homeowners within the State of California to Silica, Crystalline (airborne particles of respirable size) without providing a clear and reasonable warning of this exposure.

Approximate Time Period of the Violation

The Violation(s) occurred on or about June 1, 2020 through at least October 31, 2020.

Information Regarding Proposition 65

Attached to this Notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): a Summary." The attached Summary was prepared by the California Environmental Protection Agency and provides general information about Proposition 65. Pursuant to Title 11 of the California Code of Regulations § 3100, a certificate of merit is attached hereto. Please direct any inquiries regarding this Notice or any communication to the counsel for the Noticing Party.

Very truly yours,

BOUCHER LLP

By: 

MALLORY WHITELAW

Attachments

cc:

City of Santa Clarita
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CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated 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 have 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 plaintiff’s case can be established, and the information did not prove that the alleged violators 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.

April 29, 2021

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MALLORY WHITELAW