

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

1,3-Dichloropropene from Use of Soil Fumigants

June 25, 2021

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, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 508, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Kaya Sugerman is the Illegal Toxic Threats Program Director and a responsible individual within CEH.

Description of Violation:

- Violator: The name and address of the violator is:

Teleos Ag Solutions, Inc.
120 Applecross Road
Pinehurst, NC 28374
- Time Period of Exposure: The violations have been occurring since at least June 25, 2018, and are ongoing.
- Provision of Proposition 65: This Notice covers the "exposure provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is 1,3-Dichloropropene ("1,3-D"). 1,3-D is the active ingredient in soil fumigants sold and/or applied by Teleos Ag Solutions, Inc.
- Description of Exposure: This Notice addresses environmental exposures to 1,3-D. The use of soil fumigants containing 1,3-D as an active ingredient to control pests on agricultural crops results in human exposures to 1,3-D. 1,3-D is released into the air when these soil fumigant products are applied in accordance with their labels to agricultural crops. This Notice does not challenge the sufficiency of the labeling of these soil fumigant products.

- Route of Exposure: The route of exposure for the violations is inhalation when individuals breathe the 1,3-D emitted in the air following applications of fumigants containing 1,3-D to the soil of agricultural crops.
- Location of Exposures: The specific location of the exposure is in and around Township and Range 28S25E in Shafter, California. These exposures occur beyond any property owned or controlled by the alleged violator.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against Teleos Ag Solutions, Inc. unless it agrees in a binding written instrument to remedy the violations alleged herein and to pay an appropriate civil penalty in accordance with the factors set forth in Health and Safety Code Section 25249.7. CEH is not seeking any changes to the labels of any soil fumigants. If Teleos Ag Solutions, Inc. is interested in resolving this dispute without resorting to expensive and time-consuming litigation, please contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that the alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to exposures to 1,3-D caused by application of soil fumigants sold or applied by Teleos Ag Solutions, Inc.; efforts to comply with Proposition 65 with respect to such products; and communications with any person relating to exposures to 1,3-D from use of such products.

Please direct any inquiries regarding this Notice to CEH's counsel Howard Hirsch at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, hhirsch@lexlawgroup.com.

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Howard Hirsch, hereby declare:

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

2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 exposures to the listed chemical that is the subject of the action.

4. Based on the information obtained through those consultations, 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 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 the 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 & Safety Code § 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.

June 25, 2021



Howard Hirsch
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

1 **PROOF OF SERVICE**

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3 I, Alexis Pearson, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of
5 California. I am over the age of eighteen (18) years and not a party to this action. My business
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is
apearson@lexlawgroup.com.

7 On June 25, 2021, I served the following document(s) on all interested parties in this
8 action by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT;** and

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986**
13 **(PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an
14 asterisk).

15 ☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail
16 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the
18 ordinary course of business. On this date, I placed sealed envelopes containing the above
19 mentioned documents for collection and mailing following my firm's ordinary business practices.

20 *Please see attached service list.*

21 ☒ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via
22 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.
23 on the date executed.

24 Stacey Grassini, Deputy District Attorney
25 Contra Costa County
26 900 Ward Street
27 Martinez, CA 94553
28 sgrassini@contracostada.org

Bud Porter
Supervising Deputy District Attorney
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110
epu@da.sccgov.org

Thomas L. Hardy, District Attorney
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Allison Haley, District Attorney
Napa County
1127 First Street, Suite C
Napa, CA 94559
CEPD@countyofnapa.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Stephan R. Passalacqua, District Attorney
Sonoma County
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403
jbarnes@sonoma-county.org

1	Phillip J. Cline, District Attorney Tulare County 221 S. Mooney Avenue, Rm. 224 Visalia, CA 93291 Prop65@co.tulare.ca.us	Tori Verber Salazar, District Attorney San Joaquin County 222 E. Weber Avenue, Room 202 Stockton, CA 95202 DAConsumer.Environmental@sjcda.org
4	Paul E. Zellerbach, District Attorney Riverside County 4075 Main Street Riverside, CA 92501 Prop65@rivcoda.org	Christopher Dalbey, Deputy District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101 DAProp65@co.santa-barbara.ca.us
7	Jeff W. Reisig, District Attorney Yolo County 301 Second Street Woodland, CA 95695 cfepd@yolocounty.org	Valery Lopez, Deputy City Attorney 1390 Market Street, 7 th Floor Valerie.lopez@sfcityatty.org San Francisco, CA 94102
10	Walter W. Hall, District Attorney Mariposa County P.O. Box 730 Mariposa, CA 95338 mcda@mariposacounty.org	Summer Stephan, District Attorney San Diego County 330 West Broadway San Diego, CA 92101 SanDiegoDAProp65@sdcca.org
13	Kimberly Lewis, District Attorney Merced County 550 West Main Street Merced, CA 95340 Prop65@countyofmerced.com	Mark Ankorn, Deputy City Attorney San Diego County 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov
16	Jeannine M. Pacioni, Deputy DA Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us	Gregory D. Totten, District Attorney Ventura County 800 South Victoria Avenue Ventura, CA 93009 daspecialops@ventura.org
19	Clifford H. Newell, District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959 DA.prop65@co.nevada.ca.us	Athea M. Sargeant, Assistant DA 350 Rhode Island Street San Francisco, CA 94103 Athea.sargeant@sfgov.org
22	Morgan Briggs Gire, District Attorney Placer County Roseville, CA 95678 Prop65@placer.ca.gov	Anne Marie Schubert, District Attorney Sacramento Country 901 G Street Sacramento, CA 95814 Prop65@sacda.org
25	David Hollister, District Attorney Plumas County 520 Main Street Quincy, CA 95971 davidhollister@countyofplumas.com	Eric J. Dobroth, Deputy District Attorney San Luis Obispo County County Government Center Annex, 4th Floor San Luis Obispo, CA 93408 edobroth@co.slo.ca.us

1 Jeffrey S. Rosell, District Attorney
2 Santa Cruz County
3 701 Ocean Street
4 Santa Cruz, CA 95060
5 Prop65DA@santacruzcounty.us

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

4 Nancy O'Malley, District Attorney
5 Alameda County
6 7776 Oakport Street, Suite 650
7 Oakland, CA 94621
8 CEPDProp65@acgov.org

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

9 Executed on June 25, 2021 at San Francisco, California.

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12 _____
13 Alexis Pearson
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SERVICE LIST

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

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

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

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado County
778 Pacific Street
Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

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

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

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Los Angeles County
Hall of Justice
211 W. Temple Street, Ste. 1200
Los Angeles, CA 90012-3210

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

District Attorney of Marin County
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

District Attorney of Mendocino County
P.O. Box 1000
Ukiah, CA 95482

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

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

District Attorney of San Benito County
419 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415

District Attorney of San Mateo County
400 County Center, 3rd Fl.
Redwood City, CA 94063

District Attorney of Shasta County
1355 West Street
Redding, CA 96001

District Attorney of Sierra County
Courthouse
100 Courthouse Sq., 2nd Fl.
Downieville, CA 95936

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

District Attorney of Solano County
675 Texas Street, Ste. 4500
Fairfield, CA 94533

District Attorney of Stanislaus County
832 12th Street, Ste. 300
Modesto, CA 95354

District Attorney of Sutter County
446 Second Street
Yuba City, CA 95991

District Attorney of Tehama County
P.O. Box 519
Red Bluff, CA 96080

District Attorney of Trinity County
P.O. Box 310
11 Court Street
Weaverville, CA 96093

District Attorney of Tuolumne County
423 N. Washington Street
Sonora, CA 95370

District Attorney of Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm. 800
Los Angeles, CA 90012

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65 Coordinator and
Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

Dennis Lane*
President
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