

NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

Exposures to Diesel Engine Exhaust from the Operation of Diesel Generators at the Cannabis Cultivation Facility Located at or Around 5601 and 5733 San Leandro Street, Oakland, California 94621

September 23, 2022

This Notice of Violation 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 Oakland Cannery Collective (the “Collective”), Environmental Democracy Project (“EDP”), and Center for Environmental Health (“CEH”).
 - The Collective’s address is 5733 San Leandro Street, Oakland, CA 94621, and its phone number is (415) 971-5640. The Collective may only be contacted through counsel. The Collective is a live/work community of artists in East Oakland that seeks to protect Oakland’s culture, and enrich and beautify Oakland’s environment, while forming alliances to educate the public about the Collective’s process and history through cultural platforms. Alistair Monroe is the President of the Collective. He is a responsible individual within the Collective for purposes of this Notice.
 - EDP’s address is 3630 High Street, #18554, Oakland, CA 94619, and its phone number is (510) 932-5416. EDP may only be contacted through counsel. EDP is a 501(c)(3) nonprofit corporation dedicated to representing communities of color exposed to disproportionate amounts of pollution. Tanya Boyce is EDP’s Executive Director. She is a responsible individual within EDP for purposes of this Notice.
 - CEH’s address is 2201 Broadway, Suite 508, Oakland, CA 94612, and its phone number is (510) 655-3900. CEH may only be contacted through counsel. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Kaya Allan Sugerman is CEH’s Illegal Toxic Threats Program

Director. She is a responsible individual within CEH for purposes of this Notice.

Description of Violation:

- Violators: The violators are companies that are responsible for exposures to diesel engine exhaust emitted from diesel generators placed at or near a warehouse complex located at 5601 and 5733 San Leandro Street, Oakland, California (the “Facility”). The Facility includes indoor cannabis cultivation operations, live-work residential lofts, and other uses. The Facility consists of two large buildings known as “The Oakland Cannery” and “The Oakland Tinnery.” The names of the violators are as follows:
 - **XYZ Connections, Inc.**
 - **Magic Bowl, LLC**
 - **RNK Pacific Investments, LLC**
 - **Bundle Boiz LLC**
 - **Dr. Toke, LLC**
- Time Period of Exposure: The violations occurred for more than two years, beginning on or about July 30, 2020 and continuing twenty-four hours a day, seven days a week until on or about September 6, 2022.
- Provision of Proposition 65: This Notice covers California Health and Safety Code Section 25249.6’s warning provision. No clear and reasonable warnings have been provided to individuals prior to exposure to diesel engine exhaust emitted from large diesel generators used to provide electricity to the Facility.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is diesel engine exhaust. Diesel engine exhaust is listed under Proposition 65 as a chemical known to the State of California to cause cancer.
- Route of the Exposures. The route of the exposure to diesel engine exhaust is inhalation when individuals breath diesel engine exhaust emitted from the Facility’s generators.
- Location of the Source of the Exposures: The location of the source of the exposures to diesel engine exhaust is the approximately seven to nine large diesel generators operated at the Facility. The generators operated twenty-four hours a day, seven days a week, from July 2020 to September 2022. The Facility is located in a community of color in East Oakland. Individuals are exposed to diesel engine exhaust when they breathe the air contaminated with diesel engine exhaust emitted from the Facility’s large diesel generators. The exposures to diesel engine exhaust extend beyond the property owned or controlled by the

violators.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, EDP, the Collective, and CEH intend to file a citizen enforcement lawsuit against each violator unless it agrees in a binding written instrument to: (1) immediately cease causing unwarned exposures to diesel engine exhaust; (2) provide clear and reasonable warnings for past and ongoing exposures to diesel engine exhaust from the Facility; and (3) pay appropriate civil penalties based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to litigation, please feel free to contact the Collective, EDP, and CEH through their counsel identified below. These parties 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 the 60-day Notice. Thus, while reaching an agreement with the Collective, EDP, and CEH will resolve their claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each 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 use of generators at the Facility; emissions from the generators; efforts to comply with Proposition 65 with respect to such emissions; communications with any person relating to diesel engine exhaust emissions; and the type and number of diesel generators used during the time period.

Please direct any inquiries regarding this Notice to the Collective, EDP, and CEH's counsel Lucas Williams at Williams Environmental Law, 490 43rd Street, #23, Oakland, California 94609, (707) 849-5198, lucas@williams-envirolaw.com, and Howard Hirsch at Lexington Law Group, 503 Divisadero Street, San Francisco, California 94117, (415) 913-7800, hhirsch@lexlawgroup.com

CERTIFICATE OF MERIT

Health & Safety Code § 25249.7(d)

I, Lucas Williams, 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 Williams Environmental Law, and I represent the noticing parties, the Oakland Cannery Collective, Environmental Democracy Project, and Center for Environmental Health.

3. Members of my firm, co-counsel, 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 plaintiffs’ 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 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.

September 23, 2022



Lucas Williams
Attorney for ENVIRONMENTAL
DEMOCRACY PROJECT, CENTER FOR
ENVIRONMENTAL HEALTH and the
OAKLAND CANNERY COLLECTIVE