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Attorneys for Defendant
ALL METALS PROCESSING OF ORANGE COUNTY, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR ORANGE COUNTY

CALIFORNIA TOXINS PROJECT LLC,

Plaintiff,

vs.

ALL METALS PROCESSING OF ORANGE COUNTY, INC. and Does 1-100,

Defendant.

CASE NO. 30-2021-01216949-CU-MC-CJC

ASSIGNED FOR ALL PURPOSES TO:
JUDGE WALTER SCHWARM
DEPT. 19

SECOND AMENDED STIPULATED CONSENT JUDGMENT

Complaint Filed: August 19, 2021

1. INTRODUCTION

1.1 On August 19, 2021 Plaintiff California Toxins Project, LLC ("CTP"), a California non-profit corporation, as a private enforcer and in the public interest, initiated this action by filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the "Complaint") pursuant to the provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code section 25249.5 et seq. ("Proposition 65"), against All Metals Processing Company of Orange County, Inc. ("All Metals") and Does 1-100. In this action, CTP alleges that during the course of business, All Metals emitted chromium (hexavalent compounds) into the air from its Stanton, California facility and exposed people living and working in the surrounding area to the chemical without providing a clear and reasonable warning. Chromium (hexavalent compounds) is a chemical listed under Proposition 65 as a chemical known to cause cancer and reproductive toxicity. CTP and All Metals are hereinafter referred to individually as a "Party" or collectively as the "Parties."

1.2 CTP is a 501 (c)(3) California non-profit corporation dedicated to, among other causes, preventing and reducing chemical toxins from adversely impacting the environment and human health in communities throughout California. CTP is, and at all times set forth herein has been, acting in the public interest under provisions of Proposition 65, as fully set forth at Health & Safety Code section 25249.7, subdivision (d).

1.3 All Metals Processing Company of Orange County is a corporation licensed to do business in the State of California that operates at 8401 Standustrial Street, Stanton, California 90680 (the "Facility"). For purposes of this Second Amended Stipulated Consent Judgment, the Parties agree that All Metals is a business that employs ten or more persons at all times relevant to this action, and qualifies as a "person in the course of doing business" within the meaning of Proposition 65.

1.4 The Complaint is based on allegations contained in CTP's Notice of Violation dated July 2, 2020 that was served on the California Attorney General, other public enforcers, and All Metals ("Notice"). A true and correct copy of the Notice is attached hereto as Exhibit A and incorporated herein by reference. More than 60 days have passed since the Notice was served on the Attorney General, public enforcers, and All Metals and no designated governmental entity has filed a Complaint against All Metals with regard to the alleged violations in the Notice.

1.5 CTP's Notice and Complaint allege that All Metals knowingly and intentionally exposed persons in the vicinity of the Facility to chromium (hexavalent compounds) emissions without first providing clear and reasonable warnings, in violation of California Health and Safety Code section 25249.6. All Metals denies all allegations contained in the Notice and Complaint, and denies that emissions from the Facility violate Proposition 65. All Metals enters into this Second Amended Stipulated Consent Judgment solely to avoid the legal costs and inconveniences that would be incurred in defending against the allegations in the Complaint.

1.6 The Parties have entered into this Second Amended Stipulated Consent Judgment in order to settle, compromise, and resolve disputed claims and thus avoid prolonged and costly litigation. CTP has diligently prosecuted this matter and is settling this case in the public interest. CTP has complied with the requirements of Proposition 65 and all related regulations governing this Second Amended Stipulated Consent Judgment, as a requirement for submission of this Second Amended Stipulated Consent Judgment for entry by the Court. Those requirements including, but are not limited to, providing a copy of this Second Amended Stipulated Consent Judgment to the California Attorney General to effectuate a complete settlement of the claims and matters settled herein.

1.7 Nothing in this Second Amended Stipulated Consent Judgment nor compliance with this Second Amended Stipulated Consent Judgment shall constitute or be construed as an admission by any of the Parties or by any of their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact, issue of law, or violation of law.

1.8 The Parties enter into this Second Amended Stipulated Consent Judgment as a full and final settlement of all claims which were or could have been raised in the Complaint. By execution of this Second Amended Stipulated Consent Judgment and agreeing to comply with its terms, the Parties do not admit any fact, conclusion of law, or violation of law, nor shall compliance with the Second Amended Stipulated Consent Judgment constitute or be construed as an admission by the Parties of any fact, conclusion of law, or violation of law. All Metals denies the material, factual, and legal allegations in the Notice and Complaint and expressly denies any wrongdoing whatsoever. Except as expressly set forth herein, nothing in this Second Amended Stipulated Consent Judgment shall prejudice, waive, or impair

any right, remedy, argument, or defense the Parties may have in any current or future legal proceeding unrelated to these proceedings.

1.9 The Effective Date of this Second Amended Stipulated Consent Judgment is the date on which it is entered as a Judgment by this Court.

2. JURISDICTION AND VENUE

For purposes of this Second Amended Stipulated Consent Judgment and any further court action that may become necessary to enforce this Second Amended Stipulated Consent Judgment, the Parties stipulate that this Court has subject matter jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction over All Metals as to the acts alleged in the Complaint, that venue is proper in Orange County, and that this Court has jurisdiction to enter this Second Amended Stipulated Consent Judgment as a full and final resolution of all claims up through and including the Effective Date that were or could have been asserted in this action based on the facts alleged in the Notice and Complaint with respect to exposures to chromium (hexavalent compounds) caused by emissions from the Facility.

3. INJUNCTIVE RELIEF

3.1 Emission Controls

All Metals has filed an application for permit to construct with South Coast Air Quality Management District ("South Coast") regarding the installation of a HEPA filtration system. Within one hundred twenty (120) days of All Metals receiving notice of approval of the permit to construct (the "Compliance Date"), All Metals shall install the HEPA filtration system at the Facility, as more fully described in Exhibit B. Should the materials or labor necessary to complete the installation not reasonably be available prior to the Compliance Date, All Metals may request a reasonable extension of time and CTP shall not unreasonably reject that request.

3.2 Clear and Reasonable Warnings

Installation of the HEPA filtration system will reduce chromium (hexavalent compounds) emissions to levels that will not require All Metals to provide a Proposition 65 Warning. If emissions increase in the future so as to cause levels of annual chromium (hexavalent compounds) emitted to exceed 0.3 pounds per calendar year from the Facility, as reported to or determined by South Coast, or as established by some other scientifically valid method that is proven by CTP, All Metals shall provide

clear and reasonable warnings to such persons based on the affected area as determined by air dispersion modeling conducted pursuant to Section 3.4 and adhere to the following warning requirements:

(a) Provide a warning sign posted at all public entrances, at a minimum on each side of the outer perimeter to the Facility, in no smaller than 72-point type. The warning signs shall be provided in a conspicuous manner and under such conditions as to make them likely to be seen, read, and understood by an ordinary individual in the course of normal daily activity, and be provided in English. Such signs shall be deemed to provide warning to those facilities that have a direct line of site to the Facility;

(b) Provide quarterly postcard warnings in English, delivered to each address in the affected area that identifies the Facility and the affected area, on a quarterly basis.

Should warnings be required, All Metals may choose whether to use method (a) or method (b), or a combination of both, so long as each address in the affected area receives a warning each quarter a warning is required.

3.3 Content of the Warnings

The warning provided in accordance with this Section shall state the following:

⚠ WARNING

Entering an area within [ ] of All Metals Processing of Orange County, Inc.'s facility located at 8401 Standustrial Street, Stanton, CA 90680 can expose you to chemical including chromium (hexavalent compounds), a chemical known to the State of California to cause cancer and birth defects or other reproductive harm from All Metals Processing of Orange County, Inc. For more information go to www.P65Warnings.ca.gov.

The bracket shall include the distance in feet, yard, or miles that the modeling in Section 3.4 demonstrates exceeds the pertinent warning threshold. A map shall be included with the warning that shows the area surrounding the Facility that requires a warning.

3.4 Chromium (Hexavalent Compounds) Air Concentrations and Warning Thresholds

If the Facility does not comply with Section 3.2 by emitting more than 0.3 pounds of chromium (hexavalent compounds) in a given calendar year, as reported to or determined by South Coast, or as

established by some other scientifically valid method that is proven by CTP, All Metals will not be required to provide warnings pursuant to this Section to the extent it can demonstrate that its emissions do not result in air concentrations above 0.00024 ug/m3 in residential areas or .00051 ug/m3 in occupational areas, based on the results of AERMOD Dispersion Modeling using Version 18081 (or subsequent versions) using: (1) annualized emissions data from the most recently ended quarter prior to the date on which warnings would otherwise be required; and (2) the modeling assumptions set forth in South Coast's Modeling Guidance for AERMOD available at the South Coast website. Under this Section, warnings shall be required at an address around the Facility only to the extent the AERMOD Dispersion Model shows that the residential or commercial warning threshold is exceeded as to the entire building structure at a given address. To the extent All Metals must provide an AERMOD Dispersion Model pursuant to this Section, it is not obligated to Model more than once a year. Further, All Metals' Model for a certain calendar year may, at All Metals' discretion, be deemed to cover subsequent year(s) if annual chromium (hexavalent compounds) emissions at the Facility in the subsequent calendar year(s), as reported to South Coast, are lower than the already Modeled year.

4. SETTLEMENT PAYMENT

4.1 In full satisfaction of all potential civil penalties, additional settlement payments, attorney's fees, and costs, All Metals shall make a total payment of $37,500.00. ("Total Settlement Amount") to CTP within 10 business days of the Effective Date ("Due Date"). Other than the specified attorney's fees set forth in Section 4.4 to be mailed to Michael Freund & Associates at the address set forth in Section 11, All Metals shall make all of the remaining payments as described below by wire transfer to CTP's bank account for which All Metals will be provided with the necessary account information. The Total Settlement Amount shall be apportioned as follows:

4.2 $1,500.00 shall be considered a civil penalty pursuant to California Health and Safety Code section 25249.7(b)(1). CTP shall remit 75% ($1,125.00) of the civil penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety Code section 25249.12(c). CTP will retain the remaining 25% ($375.00) of the civil penalty.

4.3 $2,495.00 shall be distributed to CTP as reimbursement to CTP for reasonable costs

incurred in bringing this action.

4.4 $1,710.00 shall be distributed to CTP as an Additional Settlement Payment ("ASP"), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d) and 3204. CTP will utilize the ASP for activities that address the same public harm as allegedly caused by Defendant in this matter. These activities include but are not limited to the research and investigation of companies emitting toxic chemicals in California, obtaining records, consulting with experts, actual monitoring of toxic air emissions from facilities throughout the State, air dispersion modeling of emissions, and litigation support, all in support of CTP's overarching goal of reducing and/or eliminating hazardous and toxic chemical emissions in California. CTP's activities will have, a direct and primary effect within the State of California because California communities will be benefitted by the reduction and/or elimination of Proposition 65 listed chemicals emitted into the atmosphere and by providing clear and reasonable warnings to persons being exposed to levels of chemicals requiring a warning, when warranted.

CTP shall be fully accountable in that it will maintain adequate records to document and will be able to demonstrate how the ASP funds will be spent and can assure that the funds are being spent only for the proper, designated purposes described in this Second Amended Stipulated Consent Judgment. CTP shall provide the Attorney General, within thirty days of any request, copies of documentation demonstrating how such funds have been spent.

All Metals shall provide all payments.

4.5 $30,916.25 shall be distributed to Michael Freund as reimbursement of CTP's attorney's fees, while $878.75 shall be distributed to CTP for its work in conducting research and investigation in this case. Except as explicitly provided herein, each Party shall bear its own fees and costs.

4.6 In the event that All Metals fails to remit the Total Settlement Amount owed under Section 4 of this Second Amended Stipulated Consent Judgment on or before the Due Date, All Metals shall be deemed to be in material breach of its obligations under this Second Amended Stipulated Consent Judgment. CTP shall provide written notice of the delinquency to All Metals via electronic mail. If All Metals fails to deliver the Total Settlement Amount within five (5) days from the written notice, the Total Settlement Amount shall accrue interest at the statutory judgment interest rate provided in the California Code of Civil Procedure section 685.010. Additionally, All Metals agrees to pay CTP's reasonable

attorney's fees and costs for any efforts to collect the payment due under this Second Amended Stipulated Consent Judgment.

5. MODIFICATION OF SECOND AMENDED STIPULATED CONSENT JUDGMENT

5.1 This Second Amended Stipulated Consent Judgment may be modified from time to time or terminated by express written agreement of the Parties, with the approval of the Court, or by an order of this Court upon motion and in accordance with law. The Parties agree that if Proposition 65 or its implementing regulations (including but not limited to the safe harbor "no significant risk level" for chromium (hexavalent chromium) are changed from their terms as they exist on the Effective Date in a manner that impacts the warning thresholds, then All Metals may seek to modify or terminate this Second Amended Stipulated Consent Judgment. Any modification or termination of this Second Amended Stipulated Consent Judgment shall not impact All Metals payment obligations.

6. RETENTION OF JURISDICTION, ENFORCEMENT OF SECOND AMENDED STIPULATED CONSENT JUDGMENT

6.1 This Court shall retain jurisdiction of this matter to enforce, modify, or terminate this Second Amended Stipulated Consent Judgment.

6.2 If CTP alleges that All Metals is in violation of this Second Amended Stipulated Consent Judgment, CTP shall inform All Metals in a reasonably prompt manner of the basis for its contention, including but not limited to AERMOD modeling or air monitoring results. All Metals shall, within thirty (30) days following such notice, provide CTP with any information demonstrating All Metals's compliance with the Second Amended Stipulated Consent Judgment. The Parties shall first attempt to resolve the matter prior to CTP taking any further legal action.

6.3 Should such attempts at informal resolution fail, CTP may file its enforcement motion or application against All Metals for its alleged breach of this Second Amended Stipulated Consent Judgment. The prevailing party on any motion or application to enforce this Second Amended Stipulated Consent Judgment may seek reasonable attorneys' fees and costs incurred as a result of such motion or application. This Second Amended Stipulated Consent Judgment may only be enforced by the Parties.

7. APPLICATION OF SECOND AMENDED STIPULATED CONSENT JUDGMENT

This Second Amended Stipulated Consent Judgment may apply to, be binding upon, and benefit the Parties and their respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, franchisees, licensees, predecessors, successors, and assigns.

8. BINDING EFFECT, CLAIMS COVERED AND RELEASED

8.1 This Second Amended Stipulated Consent Judgment is a full, final, and binding resolution between CTP, on behalf of itself and in the public interest, and All Metals and its respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries, affiliates, divisions, subdivisions, and the predecessors, successors, and assigns of any of them (collectively, "Released Parties") of all claims alleged in the Complaint arising from any alleged violation of Proposition 65 that have been asserted in the public interest against All Metals and the Released Parties regarding the failure to warn about exposure to chromium (hexavalent chromium) emissions from the Facility prior to the Compliance Date. CTP, on behalf of itself and in the public interest, hereby fully releases and discharges the Released Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses as to any alleged violation of Proposition 65 asserted by CTP arising from the failure to provide Proposition 65 warnings to persons residing and working in the vicinity of the Facility from exposure to chromium (hexavalent compounds) up to and including the Compliance Date.

8.2 CTP on its own behalf only further releases any other claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and expenses that could have been asserted as to any alleged violation of Proposition 65, its implementing regulations, or any other statutory or common law claims that have been or could have been asserted by CTP arising from the failure to provide Proposition 65 warnings to persons residing and working in the vicinity of the Facility from exposure to chromium (hexavalent compounds) up to and including the Compliance Date. CTP on its own behalf only, and All Metals on its own behalf only, further waive and release any and all claims they may have against each other for all actions or statements made or undertaken in the course of seeking or opposing enforcement of Proposition 65 in connection with the Notice and Complaint up through and including the Compliance Date, provided, however, that nothing in Section 8 shall affect or limit any Party's right to seek to enforce the terms of this Second Amended Stipulated Consent Judgment.

8.3 It is possible that other claims not known to the Parties, arising out of the facts alleged in

the Notice and Complaint, and relating to the Covered Products, will develop or be discovered. CTP on behalf of itself only, and All Metals on behalf of itself only, acknowledge that this Second Amended Stipulated Consent Judgment is expressly intended to cover and include all such claims up through and including the Compliance Date, including all rights of action therefore. CTP and All Metals acknowledge that the claims released in Sections 8.1 and 8.2 above may include unknown claims, and nevertheless waive California Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542 reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

CTP on behalf of itself only, and All Metals on behalf of itself only, acknowledge and understand the significance and consequences of this specific waiver of California Civil Code section 1542.

8.4 Compliance with the terms of this Second Amended Stipulated Consent Judgment shall be deemed to constitute compliance with Proposition 65 by any of the Released Parties regarding alleged exposures to chromium (hexavalent compounds) from the Facility as set forth in the Notice and Complaint.

9. GOVERNING LAW

The terms and conditions of this Second Amended Stipulated Consent Judgment shall be governed by and construed in accordance with the laws of the State of California.

10. PROVISION OF NOTICE

All notices required to be given to either Party to this Second Amended Stipulated Consent Judgment by the other shall be in writing and sent to the following agents listed below via first-class mail or via electronic mail where required. Courtesy copies via email may also be sent. Any Party may modify the person and address to whom the notice is to be sent by sending the other Parties notice by first class and electronic mail.

FOR CALIFORNIA TOXINS PROJECT, LLC:

Lorell Long, Director
California Toxins Road
Penryn, CA 95663

Email: ctp@aceweb.com

With a copy to:

Michael Freund
Michael Freund & Associates
1919 Addison Street, Suite 105
Berkeley, CA 94704
Ph: (510) 499-1992
Email: freund1@aol.com

FOR ALL METALS PROCESSING OF ORANGE COUNTY, INC.:

Scott Chistman
All Metals Processing of Orange County, LLC
8401 Standustrial Street
Stanton, CA 90680

With a copy to:
Willis Wagner
Arnold & Porter
Three Embarcadero Center, 10th Floor
San Francisco, CA 94111
Email: will.wagner@arnoldporter.com

11. COURT APPROVAL

11.1 Upon execution of this Second Amended Stipulated Consent Judgment by the Parties, CTP shall notice a Motion for Court Approval. The Parties shall use their best efforts to support entry of this Second Amended Stipulated Consent Judgment.

11.2 If the California Attorney General objects to any term in this Second Amended Stipulated Consent Judgment, the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to the hearing on the motion.

11.3 If this Second Amended Stipulated Consent Judgment is not approved by the Court, it shall be void and have no force or effect and shall not be introduced into evidence or otherwise used in any proceeding for any purpose.

12. EXECUTION AND COUNTERPARTS

This Second Amended Stipulated Consent Judgment may be executed in counterparts, which taken together shall be deemed to constitute one document. A facsimile or pdf signature shall be construed to be as valid as the original signature.

13. DRAFTING

The terms of this Second Amended Stipulated Consent Judgment have been reviewed by the respective counsel for each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and construction of this Second Amended Stipulated Consent Judgment, no inference, assumption, or presumption shall be drawn, and no provision of this Second Amended Stipulated Consent Judgment shall be construed against any Party, based on the fact that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any portion of the Second Amended Stipulated Consent Judgment. It is conclusively presumed that all of the Parties participated equally in the preparation and drafting of this Second Amended Stipulated Consent Judgment.

14. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES

If a dispute arises with respect to either Party's compliance with the terms of this Second Amended Stipulated Consent Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the absence of such a good faith attempt to resolve the dispute beforehand.

15. ENTIRE AGREEMENT, AUTHORIZATION

15.1 This Second Amended Stipulated Consent Judgment contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter herein, including any and all prior discussions, negotiations, commitments, and understandings related thereto. No representations, oral or otherwise, express or implied, other than those contained herein have been made by any Party. No other agreements, oral or otherwise, unless specifically referred to herein, shall be deemed to exist or to bind any Party.

15.2 No supplementation, modification, waiver, or termination of this Second Amended Stipulated Consent Judgment shall be binding unless executed in writing by the Party to be bound thereby.

15.3 No waiver of any of the provisions of this Second Amended Stipulated Consent Judgment shall be deemed or shall constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver constitute a continuing waiver.

15.4 Each signatory to this Second Amended Stipulated Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Second Amended Stipulated

Consent Judgment.

16. COMPLIANCE WITH HEALTH & SAFETY CODE § 25249.7(F)/COURT APPROVAL

CTP agrees to comply with the requirements set forth in California Health & Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Second Amended Stipulated Consent Judgment and All Metals shall support approval of such Motion. This Second Amended Stipulated Consent Judgment shall not be effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within twelve months after it has been fully executed by the Parties.

17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF SECOND AMENDED STIPULATED CONSENT JUDGMENT

This Second Amended Stipulated Consent Judgment has come before the Court upon the request of the Parties. The Parties request the Court to fully review this Second Amended Stipulated Consent Judgment and, being fully informed regarding the matters which are the subject of this action, to:

(1) Find that the terms and provisions of this Second Amended Stipulated Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and

(2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4), approve the Settlement, and approve this Second Amended Stipulated Consent Judgment.

IT IS SO STIPULATED:

Dated: April 18, 2022

CALIFORNIA TOXINS PROJECT, LLC

By: _____
Lorell Long, Executive Director

Dated:

ALL METAL PROCESSING OF ORANGE COUNTY, INC.

By: _____
Name:
Title:

Consent Judgment.

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CTP agrees to comply with the requirements set forth in California Health & Safety Code §25249.7(f) and to promptly bring a Motion for Approval of this Second Amended Stipulated Consent Judgment and All Metals shall support approval of such Motion. This Second Amended Stipulated Consent Judgment shall not be effective until it is approved and entered by the Court and shall be null and void if, for any reason, it is not approved and entered by the Court within twelve months after it has been fully executed by the Parties.

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(1) Find that the terms and provisions of this Second Amended Stipulated Consent Judgment represent a fair and equitable settlement of all matters raised by the allegations of the Complaint that the matter has been diligently prosecuted, and that the public interest is served by such settlement; and

(2) Make the findings pursuant to California Health and Safety Code section 25249.7(f)(4), approve the Settlement, and approve this Second Amended Stipulated Consent Judgment.

IT IS SO STIPULATED:

Dated:

CALIFORNIA TOXINS PROJECT, LLC

By:_____
Lorell Long, Executive Director

Dated: April 18, 2022

ALL METAL PROCESSING OF ORANGE COUNTY, INC.

By:_____
Name: Scott Christman
Title: CFO

APPROVED AS TO FORM:

Dated: 4/18/22

MICHAEL FREUND & ASSOCIATES

By: _____
Michael Freund
Attorney for Plaintiff
CALIFORNIA TOXINS PROJECT, LLC

Dated: April 18, 2022

ARNOLD & PORTER KAYE SCHOLER LLP

By: _____
Willis M. Wagner
Attorneys for Defendant
ALL METALS PROCESSING OF ORANGE COUNTY, INC.

ORDER AND JUDGMENT

Based upon the Parties' Stipulation, and good cause appearing, this Second Amended Stipulated Consent Judgment is approved and Judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____

_____
Judge Walter Schwarm

EXHIBIT A

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

July 2, 2020

NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE SECTION 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 based on the level of chromium (hexavalent compounds) emissions from All Metals Processing of Orange County, LLC, located at 8401 Standustrial Street, Stanton, CA 90680, the company 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 in and around the Stanton 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 Violator.

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

All Metals Processing of Orange County, 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.

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 .5 miles from the facility.

The exposures that are the subject of this Notice of Violation occur through inhalation.

Approximate Time Periods of Violations: Ongoing violations have occurred each day during the ordinary course of business operations since at least July 2, 2017 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 Violator 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.

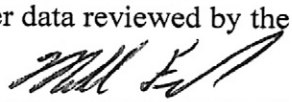
2. I am the attorney for the noticing party.

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 2, 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 2, 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:

James D. Watson, Registered Agent
All Metals Processing of Orange County LLC
8401 Standustrial Street
Stanton, CA 90680

On July 2, 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

On July 2, 2020, I served the following documents: Notice of Violation of California Health & Safety Code § 25249.5 et seq; and Certificate of Merit 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:

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 2, 2020 at Berkeley, California.

Michael Freund

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

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[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 contaminant[2] 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.

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[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.

EXHIBIT B

The HEPA filtration system will reduce hexavalent chromium air emissions through the introduction of tank covers and a push-and-pull air system that blankets the processing-solution surface to capture any mists and vapors. The reduced tank width in the anodize department will lessen the overall surface area exposure of the solution bath to the air. All tank covers remain closed except during part transfer activities. Suspended moisture droplets rising above the solution surface are continuously transferred by forced air and an extraction blower through slot-type hoods to a mist elimination stage, with condensate being returned to the processing tanks. Residual extraction air is then forced through a High-Efficiency Particulate Absorbing (HEPA) filter before being exhausted from the system. HEPA filters are rated to remove 99.97% of airborne particulate and are considered the Best Available Control Technology for hexavalent chromium particulate capture by the South Coast Air Quality Management District.