

## AMENDED NOTICE OF VIOLATION

California Safe Drinking Water  
and Toxic Enforcement Act

Lead from Leaded Aviation Gasoline

August 16, 2011

This Amended Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). This Amended Notice supercedes the Notice of Violation previously issued on May 9, 2011 (Attorney General No. 2011-00444).

- 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 Amended Notice of Violation is provided by the Center for Environmental Health ("CEH"), 2201 Broadway, Suite 302, Oakland, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

### Description of Violation:

- Violators: The names and addresses of the violators are attached hereto as Exhibit 1.
- Time Period of Violation: The violations have been occurring since at least May 9, 2008 and are continuing to this day.
- Provision of Proposition 65: This Amended Notice of Violation covers the "warning provision" of Proposition 65, which is found at Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the leaded aviation gasoline supplied by the violators listed on Exhibit 1.
- Description of Exposure: This Amended Notice addresses environmental exposures to Lead. Use of the Leaded aviation gasoline supplied by the violators listed on Exhibit 1 results in human exposures to Lead. Lead is contained in the aviation gasoline that is supplied by the alleged violators and is emitted as airplanes fueled with the Leaded aviation fuel supplied by the alleged violators take off, land and fly throughout the state, including, but not limited to take-offs and landings at the airports identified in Exhibit 1.
- Route of Exposure: The route of exposure for the violations is primarily inhalation, when individuals breath the Lead from aviation gasoline emitted by airplanes supplied with gasoline by the alleged violators. The route of exposure also includes ingestion via hand to mouth contact and dermal absorption directly through the skin when individuals touch or handle dust laden with Lead deposited throughout the state from the aviation fuel supplied by the alleged violators.

- Location of Source of Exposure: The sources of the exposures to Lead identified in this Amended Notice are the airplanes supplied with the alleged violators' Leaded aviation gasoline. Such airplanes take-off and land at airports throughout the State, causing exposures to the areas surrounding such airports, including, but not limited to the airports listed on Exhibit 1. The exposures occur beyond the property owned or operated by the violators.

**Resolution of Noticed Claims:**

- o Based on the allegations set forth in this Amended Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless the alleged violator agrees in a binding written instrument to remedy the violations alleged herein by: (a) complying with Proposition 65 either by ceasing sale of all leaded aviation fuel in California or by providing warnings to the individuals who reside or pass through the areas surrounding the airports as identified in Exhibit 1; and (b) paying an appropriate civil penalty in accordance with the factors set forth in Health and Safety Code Section 25249.7. If any of the alleged violators 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 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.

Please direct any inquiries regarding this notice to counsel for CEH: Mark N. Todzo, Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

**EXHIBIT 1**  
**August 16, 2011 Amended Notice of Violation**  
**Lead from Leaded Aviation Gasoline**

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)
<p align="center"><b>Air BP</b> 1790 16th St. SE Salem, OR 97302</p> <p align="center"><b>Air BP Aviation Services</b> 1790 16th St. SE Salem, OR 97302</p> <p align="center"><b>BP America Inc.</b> 501 Westlake Park Blvd. Houston, TX 77079</p> <p align="center"><b>BP Products North America Inc.</b> 4101 Winfield Rd. Warrenville, IL 60555</p> <p align="center"><b>Epic Aviation, LLC</b> 1790 16th St. SE Salem, OR 97302</p>	<p align="center">Brown Field Municipal Airport 1424 Continental St. San Diego, CA 92154</p>
	<p align="center">Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>
	<p align="center">Chino Airport County of San Bernardino Department of Airports 7000 Merrill Avenue Chino, CA 91710</p>
	<p align="center">Gillespie Field 1960 Joe Crosson Drive El Cajon, CA 92020</p>
	<p align="center">Hayward Executive Airport 20301 Skywest Drive Hayward, CA 94541</p>
	<p align="center">Los Angeles International Airport 1 World Way Los Angeles, CA 90045</p>
	<p align="center">McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011</p>
	<p align="center">Meadows Field Airport 3701 Wings Way Bakersfield, CA 93308</p>
	<p align="center">Montgomery Field 3750 John J. Montgomery Dr. San Diego, CA 92123</p>
	<p align="center">Napa County Airport 2030 Airport Road Napa, CA 94558</p>
	<p align="center">Reid-Hillview Airport 2500 Cunningham Ave San Jose, CA 95122</p>
	<p align="center">Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>
<p align="center">Zamperini Field 3301 Airport Drive Torrance, CA 90505</p>	

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)
<p><b>Avfuel Corporation</b>  47 W. Ellsworth Road  Ann Arbor, MI 48108</p>	Brackett Field 1615 McKinley Ave La Verne, CA 91750
	Brown Field Municipal Airport 1424 Continental St San Diego, CA 92154
	Buchanan Field 550 Sally Ride Drive Concord, CA 94520
	Chino Airport County of San Bernardino, Department of Airports 7000 Merrill Avenue Chino, CA 91710
	El Monte Airport 4233 N. Santa Anita Ave. El Monte, CA 91731
	Gillespie Field 1960 Joe Crosson Drive El Cajon, CA 92020
	McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011
	Meadows Field Airport 3701 Wings Way Bakersfield, CA 93308
	Santa Monica Municipal Airport 3223 Donald Douglas Loop South Santa Monica, CA 90405
	Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)
<p><b>Chevron Corporation</b> 6001 Bollinger Canyon Rd. V2322/A San Ramon, CA</p> <p><b>Chevron Global Aviation</b> 1500 Louisiana Street 6<sup>th</sup> Floor Houston, TX 77002</p>	<p>Buchanan Field 550 Sally Ride Drive Concord, CA 94520</p>
	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>
	<p>John Wayne Airport 18601 Airport Way Santa Ana, CA 92707</p>
	<p>Livermore Municipal Airport 636 Terminal Cir Livermore, CA 94551</p>
	<p>McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011</p>
	<p>Meadows Field Airport 3701 Wings Way Bakersfield, CA 93308</p>
	<p>Montgomery Field 3750 John J. Montgomery Dr. San Diego, CA 92123</p>
	<p>Oakland International Airport 1 Airport Drive Oakland, CA 94621</p>
	<p>Palo Alto Airport 1925 Embarcadero Road Palo Alto, CA 94303</p>
	<p>Reid-Hillview Airport 2500 Cunningham Ave San Jose, CA 95122</p>
	<p>San Carlos Airport 620 Airport Drive San Carlos, CA 94070</p>
	<p>Santa Barbara Municipal Airport 500 Fowler Road Santa Barbara, CA 93117</p>
	<p>Santa Monica Municipal Airport 3223 Donald Douglas Loop South Santa Monica, CA 90405</p>
<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	
<p>Zamperini Field 3301 Airport Drive Torrance, CA 90505</p>	

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)
<p><b>Exxon Mobil Corporation</b> 5959 Las Colinas Blvd. Irving, TX 75039</p> <p><b>ExxonMobil Aviation, Inc.</b> 3225 Gailows Road Fairfax, VA 22037</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>
	<p>Long Beach Airport (Daugherty Field) 4100 East Donald Douglas Dr. Long Beach, CA 90806</p>
	<p>Los Angeles International Airport 1 World Way Los Angeles, CA 90045</p>
	<p>Oakland International Airport 1 Airport Drive Oakland, CA 94621</p>
	<p>Palo Alto Airport 1925 Embarcadero Road Palo Alto, CA 94303</p>
<p><b>Shell Oil Company</b> 910 Louisiana Street Houston, TX 77002</p> <p><b>Shell Oil Products Company LLC</b> 910 Louisiana Street Houston, TX 77002</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>
	<p>Hayward Executive Airport 20301 Skywest Drive Hayward, CA 94541</p>
	<p>Marin County Airport at Gness Field 451 Airport Road Novato, CA 94945</p>
	<p>McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011</p>

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

I, Mark N. Todzo, 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 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.

August 16, 2011



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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is [pcarey@lexlawgroup.com](mailto:pcarey@lexlawgroup.com).

On August 16, 2011, I served true copies of the following documents:

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

**CERTIFICATE OF MERIT; and**

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

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

*Please see attached service list.*

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at \_\_\_\_:\_\_\_\_ .m. on August 16, 2011:

Lon Wixson, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
[lwixson@contracostada.org](mailto:lwixson@contracostada.org)

Karyn Sinunu-Towery,  
Assistant District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Birgit Fladager, District Attorney  
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832 12<sup>th</sup> Street, Ste. 300  
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931 Parkway Mall  
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4075 Main Street  
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The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on August 16, 2011, at San Francisco, California.

Signed: \_\_\_\_\_  
Patrick Carey

SERVICE LIST

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