

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Arsenic from Activated Carbon Used in Drinking Water Filtration Systems

April 19, 2012

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 of Violation is provided by the Center for Environmental Health, 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:

- Violator: The name and address of the violator is:  
**Prominent Systems, Inc.**  
13095 East Temple Ave  
City of Industry, CA 91746
- Time Period of Exposure: The violations have been occurring since at least April 19, 2009, and are continuing to this day.
- Provision of Proposition 65: This Notice of Violation covers both the "discharge provision" of Proposition 65 and the "warning provision" of Proposition 65, which are found at California Health and Safety Code Sections 25249.5 and 25249.6, respectively.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is Arsenic. Arsenic, as used herein, refers to arsenic (inorganic arsenic compounds) and arsenic (inorganic arsenic oxides). Discharges of Arsenic and exposures to Arsenic occur from use of the products identified in this Notice.
- Type of Product: The specific type of product causing these violations is activated carbon used in drinking water filtration systems utilizing activated carbon filters and replacement filters used in such systems. A non-exclusive example of this specific type of water filtration system using this activated carbon is Crystal Quest GAC Cartridge, Item No. CQE-RC-04048.
- Discharge Violations: Use of these products results in discharges or releases of Arsenic into a source of drinking water. Specifically, the activated carbon that is the subject of this Notice of Violation contains sufficient quantities of Arsenic such that Arsenic will leach from the filtration systems using the activated carbon into water that passes through them. Arsenic is contained in the activated carbon used in these systems. As the products connect to the plumbing system of homes and workplaces before the faucet, they are sources of drinking water under Proposition 65. The water in these filtration systems is a source of

drinking water. These discharges occur in homes, workplaces and everywhere else throughout California where these filtration systems are used.

- Warning Violations: Use of the products identified in this Notice also results in human exposures to Arsenic. Arsenic is contained in the activated carbon used in these water filtration systems. The route of exposure for the violations is ingestion of water containing Arsenic that is discharged through the filters. These exposures occur in homes, workplaces and everywhere else throughout California where these filtration systems are used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Arsenic.

**Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against the alleged violator unless the violator enters into a binding written agreement to: (1) recall products already sold; (2) take action to ensure that products sold in the future will not create unlawful exposures to and discharges of Arsenic; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to 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.

Please direct any inquiries regarding this Notice to CEH through its counsel Eric S. Somers (esomers at lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

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

I, Eric S. Somers, 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.

April 19, 2012

  
\_\_\_\_\_  
Eric S. Somers  
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 [jbanister@lexlawgroup.com](mailto:jbanister@lexlawgroup.com).

On April 19, 2012, 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 1:25 p.m. on April 19, 2012:

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  
Stanislaus County  
832 12<sup>th</sup> Street, Ste. 300  
Modesto, CA 95354  
[Prop65@standa.org](mailto:Prop65@standa.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

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

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Avenue, Rm. 224  
Visalia, CA 93291  
[Prop65@co.tulare.ca.us](mailto:Prop65@co.tulare.ca.us)

Gregory D. Totten, District Attorney Ventura  
County  
800 South Victoria Avenue  
Ventura, CA 93009  
[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

Rod Pacheco, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

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 April 19, 2012, at San Francisco, California.

Signed: \_\_\_\_\_

  
John Banister

## SERVICE LIST

District Attorney of Alameda County  
1225 Fallon Street, Rm. 900  
Oakland, CA 94612

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

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708 Court Street, Ste. 202  
Jackson, CA 95642

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

District Attorney of Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

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547 Market Street, Ste. 102  
Colusa, CA 95932

District Attorney of Del Norte County  
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District Attorney of El Dorado  
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2220 Tulare Street, Ste. 1000  
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Willows, CA 95988

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939 Main Street, Ste. 102  
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255 N. Forbes Street  
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220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

District Attorney of Los Angeles  
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Los Angeles, CA 90012-3210

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209 West Yosemite Avenue  
Madera, CA 93637

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2222 "M" Street  
Merced, CA 95340

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P.O. Box 617  
Bridgeport, CA 93546

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110 Union Street  
Nevada City, CA 95959

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240  
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Quincy, CA 95971

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Sacramento, CA 95814

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

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

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County  
330 West Broadway, Ste. 1300  
San Diego, CA 92101

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Francisco County  
850 Bryant Street, Rm. 325  
San Francisco, CA 94103

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County  
P.O. Box 990  
Stockton, CA 95202

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1050 Monterey Street, Rm. 450  
San Luis Obispo, CA 93408

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400 County Center, 3<sup>rd</sup> Fl.  
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Weaverville, CA 96093

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San Diego, CA 92101

San Francisco City Attorney's  
Office  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

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

KY Tran, President\*  
Prominent Systems, Inc.  
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