

## BARON & BUDD

A PROFESSIONAL CORPORATION  
ATTORNEYS AND COUNSELORS  
SUITE 1100

3102 OAK LAWN AVENUE  
DALLAS, TEXAS 75219-4281  
(214) 521-3605  
TELECOPIER (214) 520-1181

FREDERICK M. BARON  
RUSSELL W. BUDD  
BRENT M. ROSENTHAL  
LISA A. BLUE, Ph.D.  
MARY E. SKELNIK  
STEVEN D. WOLENS  
MELISSA K. HUTTS  
STEVE BAUGHMAN JENSEN  
ALLEN M. STEWART  
RICHARD I. NEMEROFF  
LISA R. KIVETT  
LEANNE JACKSON  
LAURA BAUGHMAN  
LAURIE J. MEGGESIN  
LADO R. GIBKE  
ALAN B. RICH  
ELLEN A. PRESBY  
SCOTT SUMMY  
MISTY A. FARRIS  
KEVIN D. MCHARGUE

JAMES D. RIEL  
S. ANN SAUCER  
LANCE A. POOL

SPECIAL COUNSEL  
CARLOS LOPEZ

DIANE M. ANDREW\*  
SAM T. RICHARD  
CHRISTINA E. MANCUSO  
SCOTT MORRISON  
WESLEY K. YOUNG  
STEPHEN C. JOHNSTON  
WILLIAM K. TAPSCOTT, JR.  
ASHLEY HIGGINS JETER  
BEN K. DUBOSE  
AMY J. SHAHAN  
TAERI IM OH  
ANN TUTOKY HARPER  
CAREN LOCK HANSON

\*LAWRENCE G. GETTYS  
ALICIA D. BUTLER  
\*PATRICK O'NEAL  
ANDREA S. BOURNE  
VIRGINIA L. ADAMS  
JOYCELL M. HOLLINS  
MARTY A. MORRIS  
LAURA M. CABUTTO  
SCOTT R. FRIELING  
THOMAS M. SIMS  
JOHN J. SPILLANE  
NATALIE F. DUNCAN  
MONTY WADE SULLIVAN  
AMY M. CARTER  
FRANK E. GOODRICH  
CARLA M. BURKE  
SCOTT L. FROST  
TIFFANY NEWLIN  
JACQUELINE MONTEJANO  
JULIANNE J. MAERSCHEL

BRIAN P. MIN  
REY FERNÁNDEZ  
EDMOND L. MARTIN  
DONNA J. BLEVINS  
STEPHANIE N. BROOKS  
DAVID T. RITTER  
CHRIS J. PANATIER  
J. KAMA DAVIS  
ANGELA R. OWENS  
RENÉE MELANÇON  
\*THERESA L. NELSON  
D. CARL MONEY  
CELESTE A. EVANGELISTI  
MICHAEL R. ROSS  
CHAD R. COTTEN  
BRIAN K. PEACOCK  
BRIE D. SHERWIN  
BRIAN M. BOUFFARD  
MONICA WALTERS  
SHAWN E. RAVER

June 19, 2003

\*LICENSED IN STATES OTHER THAN TEXAS

### NOTICE OF VIOLATION OF PROPOSITION 65, CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5.

To: Bill Lockyer, Attorney General for the State of California  
Grover Trask, Riverside County District Attorney  
The Chairman and Chief Executive Officers of ExxonMobil Corporation and ExxonMobil Oil Corporation and any of their consolidated subsidiaries or related divisions including but not limited to Exxon Corporation, Mobil Oil Corporation, Mobil Oil Refining Corporation, Mobil Corporation, Mobil California Pipeline Company, ExxonMobil Pipeline Company, ExxonMobil Development Company, ExxonMobil Sales and Supply Corporation, and ExxonMobil Global Services Company (hereinafter collectively referred to as "ExxonMobil").

RE: **Violations of Proposition 65: Discharge of Listed Chemicals into a Source of Drinking Water in and around EXXONMOBIL's Operations**

This 60-day Notice alerts you to violations of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health & Safety Code Section 25249.5. Members of the noticing party include Communities for a Better Environment ("CBE") and Nicole McAdam, an individual (hereinafter collectively referred to as "noticing party"). CBE is an environmental health and justice 501(c)(3) nonprofit organization. CBE has offices in Huntington Park and Oakland, California. With over 20,000 members statewide, CBE has worked effectively throughout California to prevent and reduce pollution and pledges to cooperate with public prosecutors in this matter to ensure that the violations discussed herein are remedied. CBE and its attorneys have extensive experience in prosecuting violators of Proposition 65.

The noticing party intends to bring suit sixty days hereafter to correct these violations, pursuant to Health & Safety Code Section 25249.7(d). The public prosecutors may also do so within the next sixty (60)-days pursuant to Health & Safety Code Section 25249.7(c).

### **Chemicals Discharged**

The specific violations alleged here are past and ongoing discharges or releases of Benzene, CAS Number 71432 and Toluene, CAS Number 108883. Benzene and Toluene are chemicals known by the State of California to cause cancer or reproductive toxicity. 22 California Code of Regulations Section 12000. Benzene has been listed as a human carcinogen or reproductive toxin under Proposition 65 since February 27, 1987. Likewise, Toluene has been listed as a human carcinogen or reproductive toxin since January 1, 1991.

### **Identities of Violators**

The persons who in the course of doing business have committed the violations alleged herein are the employees, officers and directors of ExxonMobil ("Violator"). ExxonMobil has been sent a copy of this 60-day Notice through Federal Express mail (as noted) and/or certified mail, return receipt requested to the addresses and persons listed at the end of this letter.

### **Location of Source of Drinking Water**

The violator named herein has knowingly discharged or released each of the chemicals listed above into water or onto or into land where each chemical has passed, currently passes, or will probably pass into a source, or potential source, of drinking water under and around the facilities listed in Attachment 1 attached hereto.

The discharging and/or releasing of chemicals includes, but is not limited to, the leaching of chemicals listed herein into water or onto or into land where each chemical has passed, currently passes, or will probably pass into a source, or potential source, of drinking water. These discharges and releases have occurred and are occurring through the leaching of chemicals as a result of direct releases from underground storage tanks, and/or gasoline storage, transfer, delivery, and dispensing systems (hereinafter "USTs" or "gasoline systems") into and onto soil and subsurface groundwater surrounding the above mentioned ExxonMobil facilities. These releases from the USTs and gasoline systems enter into surrounding groundwater and soil and migrate toward actual and potential sources of drinking water. Listed chemical discharges also occur through stormwater run-off from the facilities.

A “source of drinking water” means either a present source of drinking water or water that is identified in a water quality control plan as being suitable for domestic or municipal uses. Health & Safety Code Section 25249.11(d).

The groundwater under and around the facilities has been used for domestic and/or municipal purposes and/or has been designated as a potential source of drinking water. The subsurface groundwater into which the violator has and continues to discharge contaminants are potential sources of drinking water, and/or are tributaries to potential sources of drinking water.

Therefore, the violator here named has discharged or released the chemicals here named into water or onto or into land where such chemicals have passed, are passing, and/or will probably pass into a source of drinking water. The violator named herein has violated, is violating, and currently threatens to violate Health & Safety Code Section 25249.5 within the meaning of Section 25249.5 and Section 25249.11(e).

#### **Approximate Time Period of Violations**

The violator has discharged the chemicals listed above in the manner described herein continuously since approximately December 1994. Such violations have been ongoing since that time.

Each and every day during which the violator has discharged or released the chemicals names herein into the groundwater and/or surface water under and around the listed ExxonMobil facility constitutes a separate violation of Health & Safety Code Section 25249.5, and each chemical released or discharged constitutes a separate violation for each day on which each chemical was released or discharged.

**Knowing Discharge of Chemicals**

The violator named herein has known of its discharges or releases of the chemicals listed above. Therefore, the violations here described have been knowing on the part of the violator.

**Identity of Noticing Party**

The name, address, and telephone number of the noticing party is as follows:

Scott R. Summy, Esq.  
Laura Baughman, Esq.  
Baron & Budd, P.C.  
3102 Oak Lawn Avenue, Suite 1100  
Dallas, TX 75219  
(214) 521-3605 & (800) 222-2766

Other responsible individuals representing CBE and Nicole McAdam are:

Scott Kuhn, Esq.  
Communities for a Better Environment  
5610 Pacific Boulevard, Suite 203  
Huntington Park, CA 90255  
(323) 826-9771

Edward L. Masry, Esq.  
Nancy Eichler, Esq.  
Law Offices of Masry & Vititoe  
5707 Corsa Avenue, 2<sup>nd</sup> Floor  
Westlake Village, CA 91362

Walter P. Lack, Esq.  
Brian Leinbach, Esq.  
Engstrom, Lipscomb & Lack, P.C.  
10100 Santa Monica Blvd., 16<sup>th</sup> Floor  
Los Angeles, CA 90067

The noticing party would appreciate receiving prompt notification from you as to whether you will pursue action under Health & Safety code Section 25249.7(c) so that we may make our decisions under Health & Safety Code Section 25249.7(d). We pledge to cooperate with you in this matter and look forward to hearing from you in the near future. If you have any

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for Violations of Proposition 65  
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questions or desire any further information, please contact one of the attorneys listed above at Baron & Budd, P.C., (214) 521-3605 or (800) 222-2766.

With this letter, noticing party gives notice of the alleged violations by your facilities to the Attorney General of California, to the District Attorney for the county of Riverside, and to The Chairmen and Chief Executive Officers of ExxonMobil Corporation and ExxonMobil Oil Corporation and any of their consolidated subsidiaries or related divisions including but not limited to Mobil Oil Refining Corporation, Mobil Corporation, Mobil California Pipeline Company, Exxon Corporation, ExxonMobil Pipeline Company, ExxonMobil Development Company, ExxonMobil Sales and Supply Corporation, and ExxonMobil Global Services Company, via service of their attorneys of record. This notice covers all violations of the Act that are known to Plaintiffs from public records now available to us. When filed, this suit may also address such other violations as may occur or become apparent after service of this notice letter.

Enclosures: Appendix A: *The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary.*

Attachment 1: List of sites noticed for violation of Proposition 65

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cc: (Via First Class Certified Mail, Return Receipt Requested and First Class Mail as noted)

Bill Lockyer, Esq. (Via First Class Certified Mail, Return Receipt Requested)  
California Attorney General  
Prop 65 Coordinator  
1515 Clay Street  
Oakland, CA 94612

Tom Sneddon, Esq. (Via First Class Certified Mail, Return Receipt Requested)  
Santa Barbara County  
District Attorney  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

Diana Martin, Esq. (Via First Class Certified Mail, Return Receipt Requested)  
Bingham McCutchen LLP  
355 South Grant Avenue, Suite 4400  
Los Angeles, California 90071-1560  
On Behalf of the following entities:

EXXON MOBIL CORPORATION  
EXXONMOBIL OIL CORPORATION  
EXXON CORPORATION  
MOBIL OIL CORPORATION  
MOBIL OIL REFINING CORPORATION  
MOBIL CORPORATION  
MOBIL CALIFORNIA PIPELINE COMPANY  
EXXONMOBIL PIPELINE COMPANY  
EXXONMOBIL DEVELOPMENT COMPANY  
EXXONMOBIL SALES AND SUPPLY CORPORATION  
EXXONMOBIL GLOBAL SERVICES COMPANY

Edward L. Masry, Esq. (via First Class Mail)  
Nancy Eichler, Esq.  
Law Offices of Masry & Vititoe  
5707 Corsa Avenue, 2<sup>nd</sup> Floor  
Westlake Village, CA 91362

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Walter P. Lack, Esq. (via First Class Mail)  
Brian Leinbach, Esq.  
Engstrom, Lipscomb & Lack, P.C.  
10100 Santa Monica Blvd., 16<sup>th</sup> Floor  
Los Angeles, CA 90067

Scott Kuhn, Esq. (via First Class Mail)  
Communities for a Better Environment  
5610 Pacific Boulevard, Suite 203  
Huntington Park, CA 90255

## 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 Office of Environmental Health Hazard Assessment, 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 its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. 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 22 of the California Code of Regulations, Sections 12000 through 14000.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

**The "Governor's List."** Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those 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. 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. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

**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. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

#### *DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?*

Yes. The law exempts:

**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.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business 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 for more than 250 listed carcinogens.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business 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 (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

**Discharges that do not result in a "significant amount" of the listed chemical entering into 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 enter any drinking water source, 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" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

#### **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 (those in cities with a population exceeding 750,000). 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. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an 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 of law to stop committing the violation.

#### **For Further Information**

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

## ATTACHMENT 1

## RIVERSIDE COUNTY

Retail Facility ID	Retail Facility Address	City	State	Zip	County
13190	2192 W RAMSEY ST	BANNING	CA	92220-4283	Riverside
17797	300 S. HIGHLAND SPRINGS AVE	BANNING	CA	92220	Riverside
12997	68-990 RAMON ROAD	CATHEDRAL CITY	CA	92234-4902	Riverside
12999	28051 DATE PALM DRIVE	CATHEDRAL CITY	CA	92234-3339	Riverside
10819	431 N MCKINLEY	CORONA	CA	91720	Riverside
10872	1204 MAGNOLIA AVE	CORONA	CA	91719-3225	Riverside
11406	1580 W 6TH ST	CORONA	CA	91720-2950	Riverside
17857	616 PASEO GRANDE	CORONA	CA	92882-2837	Riverside
80328	819 N MAIN ST	CORONA	CA	92880	Riverside
19004	79-985 HWY 111	INDIO	CA	92201	Riverside
18822	HWY 111 & JEFFERSON	INDIO	CA	92201	Riverside
10626	29300 CENTRAL	LAKE ELSINORE	CA	92530	Riverside
11443	31702 MISSION TRL	LAKE ELSINORE	CA	92530-4532	Riverside
12985	24440 ALESSANDRO BLVD	MORENO VALLEY	CA	92553-3502	Riverside
15903	12625 FREDRICK STREET	MORENO VALLEY	CA	92553	Riverside
10923	39850 LOS ALAMOS	MURRIETA	CA	92562	Riverside
10400	78005 COUNTRY CLUB DR	PALM DESERT	CA	92211-7277	Riverside
11409	73-611 HWY 111	PALM DESERT	CA	92260	Riverside
11431	73-001 COUNTRY CLUB DR	PALM DESERT	CA	92260-2301	Riverside
18824	75-000 GERALD FORD DR	PALM DESERT	CA	92211	Riverside
10747	3995 N PERRIS	PERRIS	CA	92571	Riverside
11503	1675 N. PERRIS	PERRIS	CA	92570	Riverside
10004	6608 INDIANA AVE	RIVERSIDE	CA	92506-4327	Riverside
10197	3480 MADISON ST	RIVERSIDE	CA	92504-3717	Riverside
10615	7850 LIMONITE AVE	RIVERSIDE	CA	92509-5360	Riverside
10773	3399 ADAMS ST	RIVERSIDE	CA	92504-4063	Riverside
11817	5599 MISSION BLVD	RIVERSIDE	CA	92509-4503	Riverside
12342	6424 VALLEY WAY	RIVERSIDE	CA	92509-3422	Riverside
12737	1147 UNIVERSITY AVE	RIVERSIDE	CA	92507-4587	Riverside
13212	7290 ARLINGTON AVE	RIVERSIDE	CA	92503-1510	Riverside
13231	11880 MAGNOLIA AVE	RIVERSIDE	CA	92503-4916	Riverside
17853	9505 MAGNOLIA AVE	RIVERSIDE	CA	92503-3605	Riverside
11408	26820 MCCALL BLVD	SUN CITY	CA	92586-2226	Riverside
10193	44520 BEDFORD CT	TEMECULA	CA	92590	Riverside
10840	29500 RANCHO CALIFORNIA RD	TEMECULA	CA	92591-5294	Riverside
19137	33295 HIGHWAY 79 SOUTH	TEMECULA	CA	92591	Riverside