ENVIRONMENTAL WORLD WATCH, INC
C/O of Weinreb, Weinreb and Mandell
19400 Business Circle Drive, Suite 102
Northridge, CA 91324

Oct. 3, 2003

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(California Health and Safety Code §25249.5 *et seq.*)

BY
ADVANTAGE BOATS, INC.

First Class Mail-Certified Mail-Proof of Service Attached

TO THE PARTIES LISTED ON THE
ATTACHED DISTRIBUTION LIST

Re: **Advantage Boats, Inc.-Carbon Monoxide, et al.**

Dear Mr. Larry Kennedy; President:

Environmental World Watch, Inc. (the "Noticing Party") serves this Notice of Violation ("Notice") upon **Advantage Boats, Inc.,** (hereinafter "Noticed Party") pursuant to and in compliance with California Health and Safety Code ("H&S Code") §25249.7(d) and 22 California Code of Regulations ("CCR") §12903. This Notice satisfies a prerequisite for a Noticing Party to commence an action against Boat Manufactures to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986. The violations addressed by this Notice occur in 58 or more counties and cities in California. This Notice is being served upon each violator, the California Attorney General, the district attorney of every California county and the City Attorney of every California city with a population (according to the most recent decennial census) of over 750,000. If the Noticed Party has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel, this Notice is being addressed to, and served upon, one of those persons.

Attached as Exhibit A to this Notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): "A Summary." The attached Summary was prepared by the California EPA and provides general information about the Safe Drinking Water and Toxic Enforcement Act of 1986. Copies of the Summary are not required to be, and are not being, provided to the public enforcement agencies.

Description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice:

- This Notice is provided by Environmental World Watch, Inc. Environmental World Watch (hereinafter "EWW"), is based in Los Angeles and is registered as a corporation and is acting in the public interest pursuant to H&S Code §25249.7(d), and is dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

- The Violator/Noticed Party names and addresses are: **Advantage Boats, Inc.**
  1000 N. Lake Havasu
  Lake Havasu City, AZ 86403

- The violations addressed by this Notice began on or after Oct 1, 1991, have occurred on numerous occasions each and every day since said date, and are ongoing and continuing.

- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code §25249.6; specifically delineated at 22 CCR 12601 et seq.

- The name of each Chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice is identified at Appendix A; (the "Listed Chemicals"). The Listed Chemicals are listed (and have been so listed for more than twelve months) by the Governor of the State of California as being a Chemicals known to the State of California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity.

- The route of exposure for the violations addressed by this Notice is inhalation. There is also a danger of a dermal exposure while walking around the engine or exhaust or swimming near the Boats manufactured by the Noticed Party.

- The type of exposures addressed by this Notice are environmental, and exposures are to chemicals delineated herein.

- There are numerous sources of the exposures addressed in this Notice. These exposures occur on or near the Noticed Party manufactured Boats, on the docks where these Boats are boarded and stored, in and near the parking areas of the Marinas at Marina Del Rey, Newport Beach, Castaic Lake, Pyramid Lake and everywhere else in California where these Boats operate, idle and park. These exposures occur principally off the property of the Noticed Party.

- In the course of doing business, the Noticed Party has knowingly and intentionally exposed, and continue to expose, individuals (especially pregnant women) to the Listed Chemicals. No clear and reasonable warning is or has been provided by the Noticed Party to individuals regarding exposure to the Listed Chemicals.

- These exposures have gone on from 1991 until 2003 as EWW believes and so alleges that the Noticed Party has tolled the statute of limitations by fraudulent concealment of the constituents of the exhaust emissions and or a violation of Civil Code section 1709-1710, to the detriment of those persons that required warning in the waters and docks where Noticed Party Boats operate

in California. The engine compartment and dash boards of these Boats are further absent any warning that would meet the definition delineated at title 22 CCR §12601 (d).

- The principal route of exposure is through an "inhalation exposure" via normal breathing of the ambient air. There is a further danger of contacting these toxins via a wet or dry deposition on the skin. This exposure has gone on since Oct 1, 1991 and through Sept. 26, 2003 at every place in California that the Noticed Party Boats operate and to the listed Chemicals in Appendix A. All references to "exposure" in this notice shall be understood to be exposures to the constituents of said Boats exhaust. Traveling, touring, cruising, fishing and skiing behind these same Boats without warnings is a violation of law and an egregious danger to pregnant women as Carbon Monoxide emission concentrations above 5 PPM have shown to cause reduced weight fetus's.

- The location of these alleged exposures are many and varied while occurring within the 58 counties of the state of California as evidenced by the District Attorneys addressed in the enclosed distribution list. EWW believes and so alleges that at least one of the jurisdictions identified had Noticed Party Boats operating within its county by a purchaser of a Noticed Party Boat and a subsequent exposure to the owners, friends, family and others in the immediate vicinity of said Boat while the motor is running.

Please direct any inquiries regarding this notice or any communication with the responsible Party, William Dunlap, for the noticing entity Environmental World Watch, to:

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APPENDIX A

- **Carbon Monoxide**
- **Gasoline Engine Exhaust**
- **Benzene**

EXHIBIT A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 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 toxicant"), 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 that has not been associated with an observable adverse reproductive or developmental effect.**

Discharge 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 list 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.

CERTIFICATE OF MERIT

HEALTH AND SAFETY CODE SECTION 25249.7(d)

- **CARBON MONOXIDE,**
- **GASOLINE ENGINE EXHAUST**
- **BENZENE.**

NOTICED PARTY:

ADVANTAGE BOATS, INC.

I, Robert J. Mandell, on behalf of Environmental World Watch, hereby declare:

This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the parties identified in the notices have violated California Health and 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 has reviewed facts, studies, or other data regarding the exposure to the listed Chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and all 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 private action" means that the information provides a credible basis that all the elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this 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 and safety Code section 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: Oct 03, 2003

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 19400 Business Center Drive, Suite 102, Granada Hills, CA.

On Oct. 03, 2003, I served copies of the documents listed immediately hereafter by first class mail by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Northridge, California. Said envelopes were addressed as follows:

SEE ATTACHED DISTRIBUTION LIST
(sent via certified mail with applicable postage to those parties listed with an asterisk)

Documents mailed:

1. **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code §25249.5 et seq.)**

   TO: Advantage Boats, Inc.
   1000 N. Lake Havasu
   Lake Havasu City, AZ 86403

2. **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those parties listed with an asterisk)**

3. **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on Oct. 03, 2003, at Los Angeles, California

DISTRIBUTION LIST

*Mr. Larry Kennedy; President
Advantage Boats, Inc.
1000 N. Lake Havasu
Lake Havasu City, AZ 86403.

***CALIFORNIA ATTORNEY GENERAL**
CA Department of Justice
PROP. 65 ENFORCEMENT REPORTING
Attn: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

Los Angeles City Attorney's Office
1800 City Hall East
200 N. Main Street
Los Angeles, CA 90012

San Diego City Attorney's Office
Civic Center Plaza
1200 3rd Avenue, Suite 1200
San Diego, CA 92101

Office of the District Attorney of
Alameda County
1225 Fallon Street, Room 900
Oakland, CA 94612

San Jose City Attorney's Office
151 West Mission Street
San Jose, CA 95110

Office of the District Attorney of
Amador County
708 Court Street, Room 202
Jackson, CA 95642

Office of the District Attorney of
Butte County
Administration Building
25 County Center Drive
Oroville, CA 95965

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

Office of the District Attorney of
Colusa County
547 Market Street
Colusa, CA 95932

Office of the District Attorney of
Contra Costa County
PO Box 670
Martinez, CA 94553

Office of the District Attorney of
Calaveras County
County Government Center
891 Mountain Ranch Road
San Andreas, CA 95249

Office of the District Attorney of
El Dorado County
515 Main Street
Placerville, CA 95667

Office of the District Attorney of
Fresno County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

Office of the District Attorney of
Del Norte County
County Courthouse
450 H Street, Suite 171
Crescent City, CA 95531

Office of the District Attorney of
Humboldt County
825 Fifth Street
Eureka, CA 95501

Office of the District Attorney of
Imperial County
County Courthouse, Rm. 202
939 W. Main Street
El Centro, CA 92243

Office of the District Attorney of
Glenn County
540 W. Sycamore Street
P.O. Box 430
Willows, CA 95988

Office of the District Attorney of
Kern County
1215 Truxtun Avenue, 4th Floor
Bakersfield, CA 93301

Office of the District Attorney of
Kings County
Government Center
1400 West Lacey Boulevard
Hanford, CA 93230

Office of the District Attorney of
Inyo County
168 N. Edwards Street
P.O. Drawer D
Independence, CA 93526

Office of the District Attorney of
Lassen County
County Courthouse
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

Office of the District Attorney of
Los Angeles County
18000 Criminal Courts Building
210 W. Temple Street
Los Angeles, CA 90012

Office of the District Attorney of
Lake County
255 N. Forbes Street, Ste. 424
Lakeport, CA 95453

Office of the District Attorney of
Marin County
Hall of Justice, Room 183
3501 Civic Center Drive
San Rafael, CA 94903

Office of the District Attorney of
Mariposa County
P.O. Box 748
Mariposa, CA 95338

Office of the District Attorney of
Madera County
209 W. Yosemite Avenue
Madera, CA 93637

Office of the District Attorney of
Merced County
2222 "M" Street
Merced, CA 95340

Office of the District Attorney of
Modoc County
County Courthouse
P.O. Box 1171
Alturas, CA 96101

Office of the District Attorney of
Mendocino County
County Courthouse
P.O. Box 1000
Ukiah, CA 95482

Office of the District Attorney of
Monterey County
240 Church Street
Salinas, CA 93901

Office of the District Attorney of
Napa County
931 Parkway Mall
Napa, CA 94559

Office of the District Attorney of
Mono County
County Courthouse
P.O. Box 617
Bridgeport, CA 93517

Office of the District Attorney of
Orange County
700 Civic Center Drive West, 2nd Floor
P.O. Box 808
Santa Ana, CA 92702

Office of the District Attorney of
Placer County
11562 "B" Avenue, DeWitt Center
Auburn, CA 95603

Office of the District Attorney of
Nevada County
Courthouse Annex
201 Church Street, Suite 8
Nevada City, CA 95959-2504

Office of the District Attorney of
Riverside County
4075 Main Street, 1st Floor
Riverside, CA 92501

Office of the District Attorney of
Sacramento County
901 "G" Street
P.O. Box 749
Sacramento, CA 95814

Office of the District Attorney of
Plumas County
520 Main Street, Room 404
P.O. Box 10716
Quincy, CA 95971

Office of the District Attorney of
San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0004

Office of the District Attorney of
San Diego County
330 West Broadway, Ste. 1320
San Diego, CA 92112

Office of the District Attorney of
San Benito County
419 4th Street
Hollister, CA 95023-3801

Office of the District Attorney of
San Joaquin County
222 E. Weber, Room 202
P.O. Box 990
Stockton, CA 95201

Office of the District Attorney of
San Luis Obispo County
1050 Monterey Street, Room 450
San Luis Obispo, CA 93408

Office of the District Attorney of
Santa Clara County
70 West Hedding Street, West Wing
San Jose, CA 95110

Office of the District Attorney of
Sierra County
County Courthouse
P.O. Box 457
Downieville, CA 95936

Office of the District Attorney of
Sonoma County
Hall of Justice
600 Administration Drive, Room 212-J
Santa Rosa, CA 95403

Office of the District Attorney of
Tehama County
County Courthouse
P.O. Box 519
Red Bluff, CA 96080-0519

Office of the District Attorney of
Tuolumne County
2 South Green Street
Sonora, CA 95370

Office of the District Attorney of
San Francisco County
Hall of Justice
880 Bryant Street
San Francisco, CA 94103

Office of the District Attorney of
San Mateo County
400 County Center, 3rd Floor
Redwood City, CA 94063

Office of the District Attorney of
Santa Cruz County
701 Ocean Street, Ste. 200
Santa Cruz, CA 95061

Office of the District Attorney of
Siskiyou County
P.O. Box 986
Yreka, CA 96097

Office of the District Attorney of
Stanislaus County
1100 I Street, Room 200
P.O. Box 442
Modesto, CA 95353

Office of the District Attorney of
Trinity County
P.O. Box 310
Weaverville, CA 96093

Office of the District Attorney of
Yolo County
204 4th Street
Woodland, CA 95695

Office of the District Attorney of
Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

Office of the District Attorney of
Shasta County
1525 Court Street, Third Floor
P.O. Box 1320
Redding, CA 96001-1632

Office of the District Attorney of
Solano County
600 Union Avenue
Fairfield, CA 94533

Office of the District Attorney of
Sutter County
Courthouse Annex Box 1555
446 Second Street
Yuba City, CA 95991

Office of the District Attorney of
Tulare County
County Civic Center
2350 Burrel Avenue, Room 224
Visalia, CA 93291-4593

Office of the District Attorney of
Ventura County
800 South Victoria Avenue, Rm. 314
Ventura, CA 93009

Office of the District Attorney of
Yuba County
County Courthouse
215 - 5th Street
Marysville, CA 95901