

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

**Oct. 6, 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**  
**MALIBU BOATS WEST, INC.**

First Class Mail-Certified Mail-Proof of Service Attached

TO THE PARTIES LISTED ON THE  
ATTACHED DISTRIBUTION LIST

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

Dear Mr. Bob Alkema; President:

**Environmental World Watch, Inc.** (the "Noticing Party") serves this Notice of Violation ("Notice") upon **Malibu Boats West, 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 Manufacturers 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.

Notice of Environmental Violations

**Malibu Boats West, Inc. -Carbon Monoxide, et al.**

Oct. 06, 2003

Page 2

- ◆ The Violator/Noticed Party names and addresses are: Malibu Boats West, Inc..  
1 Malibu Court  
Merced, CA 95340
- ◆ 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

Notice of Environmental Violations

**Malibu Boats West, Inc. -Carbon Monoxide, et al.**

Oct. 06, 2003

Page 3

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:

**APPENDIX A**

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

**CERTIFICATE OF MERIT**  
**HEALTH AND SAFETY CODE SECTION 25249.7(d)**

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

NOTICED PARTY:

**MALIBU BOATS WEST, 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 06, 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. 07, 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: Malibu Boats West, Inc.**  
**1 Malibu Court**  
**Merced, CA 95340**
  
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. 07, 2003, at Los Angeles, California

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## DISTRIBUTION LIST

Mr. Bob Alkema; President  
Malibu Boats West, Inc.  
1 Malibu Court  
Merced, CA 95340

Agent For Service  
Mr. Richard P. Nash  
1 Malibu Court  
Merced, CA 95340

**\*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  
Kings County  
Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

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  
Mariposa County  
P.O. Box 748  
Mariposa, CA 95338

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

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

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

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

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

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  
Inyo County  
168 N. Edwards Street  
P.O. Drawer D  
Independence, CA 93526

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

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

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

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

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  
Plumas County  
520 Main Street, Room 404  
P.O. Box 10716  
Quincy, CA 95971

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

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

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

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

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

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

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

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 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  
San Francisco County  
Hall of Justice  
880 Bryant Street  
San Francisco, CA 94103

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

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  
San Mateo County  
400 County Center, 3rd Floor  
Redwood City, CA 94063

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  
Sierra County  
County Courthouse  
P.O. Box 457  
Downieville, CA 95936

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

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

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  
Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

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  
Tehama County  
County Courthouse  
P.O. Box 519  
Red Bluff, CA 96080-0519

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  
Tulare County  
County Civic Center  
2350 Burrel Avenue, Room 224  
Visalia, CA 93291-4593

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

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

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

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

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