

## NOTICE OF VIOLATION

California Safe Drinking Water  
and Toxic Enforcement Act

Arsenic from Drinking Water Filtration Systems

Omnipure Filter Company, Inc.

March 3, 2009

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. Michael Green is the Executive Director of and a responsible individual within CEH.

### Description of Violation:

- Violator: The name and address of the violator is Omnipure Filter Company, Inc., 1904 Industrial Way, Caldwell, ID 83605.
- Time Period of Discharge: The violations have been occurring since at least March 3, 2006, 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 drinking water filtration systems utilizing activated carbon filters and replacement filters used in such systems. A non-exclusive example of this specific type of product is the in-line GAC 2.5" x 12" 1/4 QC St. Conn., No. K5633JJ. The Arsenic is contained in the activated carbon used in this product.
- Discharge Violations: Use of these products results in discharges or releases of Arsenic into a source of drinking water. Specifically, the drinking water filtration systems that are the subject of this Notice of Violation contain sufficient quantities of Arsenic such that Arsenic will leach from the filtration systems 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 result in human exposures to Arsenic. The filtration systems are constructed of materials that contain Arsenic. Arsenic is contained in the activated carbon used in these systems. The route of exposure for the violations is ingestion of water 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.

Please direct any inquiries regarding this notice to counsel for CEH: Eric Somers, Lexington Law Group, LLP, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, esomers at lexlawgroup.com.

CERTIFICATE OF MERIT

**Health & Safety Code §25249.7(d)**

I, Eric 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, LLP, and I represent the noticing party, the Center for Environmental Health ("CEH").

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.

Dated: March 3, 2009



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Eric S. Somers  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 1627 Irving Street, San Francisco, California 94122. I am over the age of 18 years and not a party to the within cause.

On March 3, 2009, 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 asterisks).

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.***

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 3, 2009, at San Francisco, California.

Signed: \_\_\_\_\_  
Ellen Reed

## SERVICE LIST

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

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

District Attorney of Contra Costa  
County  
627 Ferry Street  
Martinez, CA 94553

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

District Attorney of Del Norte  
County  
450 H Street, Ste 171  
Crescent City, CA 95531

District Attorney of Amador County  
708 Court Street, #202  
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District Attorney of Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney of El Dorado  
County  
515 Main Street  
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District Attorney of Calaveras  
County  
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San Andreas, CA 95249

District Attorney of Fresno County  
2220 Tulare Street, #1000  
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Independence, CA 93526

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210 W. Temple Street, Room 345  
Los Angeles, CA 90012

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District Attorney of Kern County  
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Bakersfield, CA 93301

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Bridgeport, CA 93517

District Attorney of Mariposa County  
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Mariposa, CA 95338

District Attorney of Monterey County  
230 Church Street, Bldg. 2  
Salinas, CA 93901

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

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

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2222 "M" Street  
Merced, CA 95340

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201 Church St., Suite 8  
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San Bernardino, CA 92415

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Riverside, CA 92501

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Hollister, CA 95023

District Attorney of San Mateo  
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400 County Ctr, 3<sup>rd</sup> Fl  
Redwood City, CA 94063

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

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

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Yreka, CA 96097

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675 Texas Street, Suite 4500  
Fairfield, CA 94533

District Attorney of Santa Clara County  
70 West Hedding Street, West Wing  
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Santa Cruz, CA 95060

District Attorney of Sonoma County  
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Santa Rosa, CA 95403

District Attorney of Shasta County  
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Redding, CA 96001-1632

District Attorney of Stanislaus County  
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San Jose, CA 95113

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200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue #1620  
San Diego, CA 92101

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

California Attorney General's Office  
Attention: Proposition 65  
Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612

Roger P. Reid\*  
President  
Omnipure Filter Company  
1904 Industrial Way  
Caldwell, ID 83605