

June 1, 2009

**NOTICE OF VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

As You Sow ("AYS") is a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

AYS has documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code §25249.5 *et seq.* This letter serves to provide AYS' notification of these violations to the public enforcement agencies and to the violator. Pursuant to §25249.7(d) of the statute, AYS intends to bring an enforcement action sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

**Alleged violator.** The name of the violators covered by this notice are **BIG O TIRE DEALERS OF AMERICA and BIG O TIRE DEALERS OF NOR/CAL AND NOR/NEVA** (hereinafter Big O Tire).

**Chemicals.** These violations involve exposures to lead and lead compounds from the products listed below. On February 27, 1987, the State of California officially listed lead as a chemical known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

**Consumer products.** The products that are the subject of this notice are lead/lead compound tire weights which are imported, exported, manufactured, packaged, distributed, marketed, sold and/or placed by Big O Tire on tire rims which are balanced by Big O Tire.

**Route of exposure.** The workplace exposures that are the subject of this notice result from the purchase, acquisition, handling and use of these products. Workers exposures have occurred and continue to occur primarily through inhalation and/or and dermal contact; however, when lead tire weights drop off tires, and onto roadways and/or waters of the State of California, exposure may also occur through dermal contact and/or ingestion, by any person, including workers and consumers.

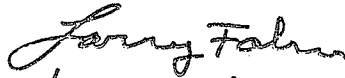

**Duration of violations.** Each of these ongoing violations has occurred on every day for at least five years, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, C.C.R. § 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

**Mark S. Pollock**  
**Pollock & James, Attorneys at Law**  
**952 Jefferson Street**  
**Napa, CA 94559**  
**Tel: 707-257-3089 Fax: 707-257-3096**

Very truly yours,

  
  
Larry Fahn  
Executive Director

Enclosure

**CERTIFICATE OF MERIT**

(Notice of Proposition 65 Violation on Big O Tire Dealers of America and Big O Tire Dealers of Nor/Cal and Nor/Neva.

I, Mark S. Pollock, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.
2. I am an 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 chemicals that are the subject of the action.
4. Based on the information obtained through those consultations, and on 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 the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and that 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 §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: 6/1/09

  
Mark S. Pollock

Attachments (for Attorney General copy only)

### CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is: 952 Jefferson Street, Napa, CA 94559.

On June 1, 2009, I served the following documents:

- Notice of Violation of California Health & Safety Code § 25249.5 *et seq.*
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the parties listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Bruce Cherry, CEO  
Big O Tire Dealers of America  
4980 Allison Parkway  
Vacaville CA 95688

Bruce Cherry, CEO  
Big O Tire Dealers of Nor/Cal and Nor/Neva  
4980 Allison Parkway  
Vacaville, CA 95688

On June 1, 2009, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 *et seq.*
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:


Attn: Ed Weil, Deputy Attorney General  
California Department of Justice  
1515 Clay Street, Suite 2000  
Oakland, CA 94612

On June 1, 2009, I served the following document(s):

- Notice of Violation of California Health & Safety Code § 25249.5 *et seq.*
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on June 1, 2009, at Napa, California.

  
\_\_\_\_\_  
C. Evangelina James

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

ALAMEDA COUNTY DISTRICT ATTORNEY  
1225 FALLON ST RM 900  
OAKLAND CA 94612

ALPINE COUNTY DISTRICT ATTORNEY  
PO BOX 248  
MARKLEEVILLE CA 96120

AMADOR COUNTY DISTRICT ATTORNEY  
708 COURT ST STE 202  
JACKSON CA 95642

BUTTE COUNTY DISTRICT ATTORNEY  
25 COUNTY CTR DR  
OROVILLE CA 95965

CALAVERAS COUNTY DISTRICT ATTORNEY  
891 MTN RANCH RD  
SAN ANDREAS CA 95249

COLUSA COUNTY DISTRICT ATTORNEY  
547 MARKET ST STE 102  
COLUSA CA 95932

CONTRA COSTA COUNTY DISTRICT  
ATTORNEY  
725 COURT ST 4<sup>TH</sup> FLR  
MARTINEZ CA 94553

DEL NORTE COUNTY DISTRICT ATTORNEY  
450 H ST STE 171  
CRESCENT CITY CA 95531

EL DORADO COUNTY DISTRICT ATTORNEY  
515 MAIN ST  
PLACERVILLE CA 95667

FRESNO COUNTY DISTRICT ATTORNEY  
2220 TULARE ST STE 1000  
FRESNO CA 93721

GLENN COUNTY DISTRICT ATTORNEY  
PO BOX 430  
WILLOWS CA 95988

HUMBOLDT COUNTY DISTRICT ATTORNEY  
825 FIFTH ST  
EUREKA CA 95501

IMPERIAL COUNTY DISTRICT ATTORNEY  
940 W MAIN ST  
EL CENTRO CA 92243

INYO COUNTY DISTRICT ATTORNEY  
PO BOX D  
INDEPENDENCE CA 93526

KERN COUNTY DISTRICT ATTORNEY  
1215 TRUXTUN AVE  
BAKERSFIELD CA 93301

KINGS COUNTY DISTRICT ATTORNEY  
1400 W LACEY BLVD  
HANFORD CA 93230

LAKE COUNTY DISTRICT ATTORNEY  
255 N FORBES ST  
LAKEPORT CA 95453

LASSEN COUNTY DISTRICT ATTORNEY  
220 S LASSEN ST STE 8  
SUSANVILLE CA 96130

LA COUNTY DISTRICT ATTORNEY  
210 W TEMPLE ST STE 18000  
LOS ANGELES CA 90012-3210

MADERA COUNTY DISTRICT ATTORNEY  
209 W YOSEMITE AVE  
MADERA CA 93637

MARIN COUNTY DISTRICT ATTORNEY  
3501 CIVIC CTR DR RM 130  
SAN RAFAEL CA 94903

MARIPOSA COUNTY DISTRICT ATTORNEY  
PO BOX 730  
MARIPOSA CA 95338

MENDOCINO COUNTY DISTRICT  
ATTORNEY  
PO BOX 1000  
UKIAH CA 95482

MERCED COUNTY DISTRICT ATTORNEY  
2222 M ST  
MERCED CA 95340

MODOC COUNTY DISTRICT ATTORNEY  
204 S COURT ST RM 202  
ALTURAS CA 96101-4020

MONO COUNTY DISTRICT ATTORNEY  
PO BOX 617  
BRIDGEPORT CA 93517

MONTEREY COUNTY DISTRICT ATTORNEY  
PO BOX 1131  
SALINAS CA 93902

NAPA COUNTY DISTRICT ATTORNEY  
931 PARKWAY MALL  
NAPA CA 94559

NEVADA COUNTY DISTRICT ATTORNEY  
201 CHURCH ST STE 8  
NEVADA CITY CA 95959

ORANGE COUNTY DISTRICT ATTORNEY  
401 CIVIC CTR DR WEST  
SANTA ANA CA 92701

PLACER COUNTY DISTRICT ATTORNEY  
11562 B AVE  
AUBURN CA 95603

PLUMAS COUNTY DISTRICT ATTORNEY  
520 MAIN ST RM 404  
QUINCY CA 95971

RIVERSIDE COUNTY DISTRICT ATTORNEY  
4075 MAIN ST  
RIVERSIDE CA 92501

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

SACRAMENTO COUNTY DISTRICT  
ATTORNEY  
901 G ST  
SACRAMENTO CA 95814

SAN BENITO COUNTY DISTRICT ATTORNEY  
419 FOURTH ST, FL 2  
HOLLISTER CA 95023

SAN BERNARDINO COUNTY DISTRICT  
ATTORNEY  
316 N MTN VIEW AVE  
SAN BERNARDINO CA 92415-0004

SAN DIEGO COUNTY DISTRICT ATTORNEY  
330 W BROADWAY  
SAN DIEGO CA 92101

SAN FRANCISCO COUNTY DISTRICT  
ATTORNEY  
850 BRYANT ST RM 325  
SAN FRANCISCO CA 94103

SAN JOAQUIN COUNTY DISTRICT  
ATTORNEY  
PO BOX 990  
STOCKTON CA 95201-0990

SAN LUIS OBISPO COUNTY DISTRICT  
ATTORNEY  
CITY GOVERNMENT CTR, 4<sup>TH</sup> FLR  
SAN LUIS OBISPO CA 93408

SAN MATEO COUNTY DISTRICT ATTORNEY  
400 COUNTY CTR FL 3  
REDWOOD CITY CA 94063

SANTA BARBARA COUNTY DISTRICT  
ATTORNEY  
1112 SANTA BARBARA ST  
SANTA BARBARA CA 93101

SANTA CLARA COUNTY DISTRICT  
ATTORNEY  
70 W HEDDING ST WEST WING  
SAN JOSE CA 95110

SANTA CRUZ COUNTY DISTRICT  
ATTORNEY  
701 OCEAN ST RM 200  
SANTA CRUZ CA 95060

SHASTA COUNTY DISTRICT ATTORNEY  
1525 COURT ST FL 3  
REDDING CA 96001

SIERRA COUNTY DISTRICT ATTORNEY  
PO BOX 457  
DOWNIEVILLE CA 95936

SISKIYOU COUNTY DISTRICT ATTORNEY  
PO BOX 986  
YREKA CA 96097

SOLANO COUNTY DISTRICT ATTORNEY  
675 TEXAS ST STE 4500  
FAIRFIELD CA 94533

SONOMA COUNTY DISTRICT ATTORNEY  
600 ADMINISTRATION DR RM 212-J  
SANTA ROSA CA 95403

STANISLAUS COUNTY DISTRICT  
ATTORNEY  
PO BOX 442  
MODESTO CA 95353

SUTTER COUNTY DISTRICT ATTORNEY  
446 SECOND ST  
YUBA CITY CA 95991

TEHAMA COUNTY DISTRICT ATTORNEY  
PO BOX 519  
RED BLUFF CA 96080

TRINITY COUNTY DISTRICT ATTORNEY  
PO BOX 310  
WEAVERVILLE CA 96093

TULARE COUNTY DISTRICT ATTORNEY  
221 S MOONEY BLVD RM 224  
VISALIA CA 93291

TUOLUMNE COUNTY DISTRICT ATTORNEY  
423 N WASHINGTON ST  
SONORA CA 95370

VENTURA COUNTY DISTRICT ATTORNEY  
800 S VICTORIA AVE  
VENTURA CA 93009

YOLO COUNTY DISTRICT ATTORNEY  
301 SECOND ST  
WOODLAND CA 95695

YUBA COUNTY DISTRICT ATTORNEY  
215 FIFTH ST  
MARYSVILLE CA 95901

LOS ANGELES CITY ATTORNEY'S OFFICE  
800 CITY HALL EAST  
200 N MAIN ST  
LOS ANGELES CA 90012

SAN DIEGO CITY ATTORNEY'S OFFICE  
CIVIC CENTER PLAZA  
1200 THIRD AVE STE 1620  
SAN DIEGO CA 92101

SAN JOSE CITY ATTORNEY'S OFFICE  
200 E SANTA CLARA ST FL 6  
SAN JOSE CA 95113

SAN FRANCISCO CITY ATTORNEY'S  
OFFICE  
CITY HALL RM 234  
SAN FRANCISCO, CA 94102