

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

#### Lead from Leaded Aviation Gasoline

May 9, 2011

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 ("CEH"), 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. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

#### Description of Violation:

- Violators: The names and addresses of the violators are attached hereto as Exhibit 1.
- Time Period of Violation: The violations have been occurring since at least May 9, 2008 and are continuing to this day.
- Provisions of Proposition 65: This Notice of Violation covers both the "discharge prohibition" of Proposition 65, which is found at California Health and Safety Code Section 25249.5, and the "warning provision" of Proposition 65, which is found at Health and Safety Code Section 25249.6.
- Chemical(s) Involved: The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to, and discharges of Lead occur from use of the Leaded aviation gasoline supplied by the violators listed on Exhibit 1.
- Description of Exposure: This Notice addresses environmental exposures to Lead as to all of the alleged violators listed on the attached Exhibit 1. Use of the Leaded aviation gasoline supplied by the violators listed on Exhibit 1 results in human exposures to Lead. Lead is contained in the aviation gasoline that is supplied by the alleged violators and is emitted as airplanes fueled by the alleged violators take off and land at the airports identified in Exhibit 1.
  - Route of Exposure: The route of exposure for the violations is primarily inhalation, when individuals breath the Lead emitted by the airplanes fueled by the alleged violators, but also includes ingestion via hand to mouth contact and dermal absorption directly through the skin when individuals within the vicinity of the airports listed on Exhibit 1 touch or handle dust laden with Lead from the aviation fuel.
  - Location of Source of Exposure: The source of the exposures to Lead identified in this Notice are the airports listed on Exhibit 1. The exposures to Lead from the leaded aviation fuel occur in the vicinity of the airports

listed on Exhibit 1 as described therein. The exposures occur beyond the property owned or operated by the violators.

- Identification of Discharge and Sources of Drinking Water: Ordinary use of the Leaded aviation fuel supplied by the alleged violators results in discharges or releases of Lead into water or onto land where Lead passes or probably will pass into a source of drinking water. Specifically, the aviation fuel that is the subject of this Notice of Violation is made with and contains Lead. The Lead-containing aviation fuel is supplied by the alleged violators and is emitted as airplanes fueled by the alleged violators take off and land at the airports identified in Exhibit 1. The Lead that is emitted into the air is deposited both directly into sources of drinking water including, but not limited to, the sources of drinking water identified on Exhibit 1, and also onto the ground surrounding the airports identified on Exhibit 1 where it passes into groundwater and sources of drinking water adjacent to the airports including, but not limited to, the sources of drinking water identified on Exhibit 1.

**Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless the alleged violator agrees in a binding written instrument to remedy the violations alleged herein by: (a) providing warnings to the individuals who reside or pass through the areas surrounding the airports as identified in Exhibit 1; (b) ceasing use of all Leaded aviation fuel in order to cease the discharge of Lead alleged herein; (c) taking remedial action to clean the Lead from the source of drinking water identified on Exhibit 1; and (d) paying an appropriate civil penalty in accordance with the factors set forth in Health and Safety Code Section 25249.7. If any of the alleged violators is interested in resolving this dispute without resorting to expensive and time-consuming litigation, please contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this notice to counsel for CEH: Mark N. Todzo, Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 759-4111.

**EXHIBIT 1**  
**May 9, 2011 Notice of Violation**  
**Lead from Leaded Aviation Gasoline**

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)	Radial Distance From Airport Within Which Exposures Occur	Non-Exclusive Example of Source of Drinking Water
<p style="text-align: center;"><b>American Airports Corporation</b>            2425 Olympic Boulevard            Suite 650 East            Santa Monica, CA 90404</p>	<p style="text-align: center;">Brackett Field            1615 McKinley Ave            La Verne, CA 91750</p>	1.0 mile	<p style="text-align: center;">Puddingstone Reservoir            San Dimas, CA 91773</p>
	<p style="text-align: center;">El Monte Airport            4233 N. Santa Anita Ave.            El Monte, CA 91731</p>	0.8 mile	<p style="text-align: center;">Rio Hondo            El Monte, CA 91731</p>
<p style="text-align: center;"><b>Atlantic Aviation Corporation</b>            6504 International Parkway            Suite 2400            Plano, TX 75093</p> <p style="text-align: center;"><b>Atlantic Aviation FBO Inc.</b>            6504 International Parkway            Suite 2400            Plano, TX 75093</p>	<p style="text-align: center;">Santa Barbara Municipal Airport            500 Fowler Road            Santa Barbara, CA 93117</p>	0.8 mile	<p style="text-align: center;">San Pedro Creek            Goleta, CA 93117</p>
	<p style="text-align: center;">Hayward Executive Airport            20301 Skywest Drive            Hayward, CA 94541</p>	0.8 mile	
	<p style="text-align: center;">John Wayne Airport            18601 Airport Way            Santa Ana, CA 92707</p>	1.2 miles	
	<p style="text-align: center;">Los Angeles International Airport            1 World Way            Los Angeles, CA 90045</p>	0.8 mile	
	<p style="text-align: center;">Meadows Field Airport            3701 Wings Way            Bakersfield, CA 93308</p>	0.8 mile	
	<p style="text-align: center;">Santa Monica Municipal Airport            3223 Donald Douglas Loop South            Santa Monica, CA 90405</p>	0.8 mile	

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)	Radial Distance From Airport Within Which Exposures Occur	Non-Exclusive Example of Source of Drinking Water
<p><b>Avantair, Inc.</b> 4311 General Howard Drive Clearwater, FL 33762</p> <p><b>Avantair Jet Center</b> 4311 General Howard Drive Clearwater, FL 33762</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>	<p>1.0 mile</p>	<p>Revolon Slough Camarillo, CA 93010</p>
<p><b>Castle &amp; Cooke, Inc.</b> 10900 Wilshire Blvd. Suite 1600 Los Angeles, CA 90024</p> <p><b>Castle &amp; Cooke Aviation Services, Inc.</b> 10900 Wilshire Blvd. Suite 1600 Los Angeles, CA 90024</p>	<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	<p>1.4 miles</p>	<p>Sepulveda Flood Control Basin Van Nuys, CA 91406</p>
<p><b>Channel Islands Aviation, Inc.</b> 305 Durley Ave Camarillo, CA 93010</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>	<p>1.0 mile</p>	<p>Revolon Slough Camarillo, CA 93010</p>
<p><b>Clay Lacy Aviation, Inc.</b> 7435 Valjean Ave Van Nuys, CA 91406</p>	<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	<p>1.4 miles</p>	<p>Sepulveda Flood Control Basin Van Nuys, CA 91406</p>
<p><b>Maguire Aviation, Inc.</b> 1733 Ocean Avenue 4<sup>th</sup> Floor Santa Monica, CA 90401</p> <p><b>Maguire Aviation Group, LLC</b> 1733 Ocean Avenue 4<sup>th</sup> Floor Santa Monica, CA 90401</p>	<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	<p>1.4 miles</p>	<p>Sepulveda Flood Control Basin Van Nuys, CA 91406</p>

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)	Radial Distance From Airport Within Which Exposures Occur	Non-Exclusive Example of Source of Drinking Water
<p><b>Pentastar Aviation, LLC</b> 7310 Highland Road Waterford, MI 48327</p> <p><b>Pentastar Aviation of California, LLC</b> 16644 Roscoe Boulevard Van Nuys, CA 91406</p>	<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	<p>1.4 miles</p>	<p>Sepulveda Flood Control Basin Van Nuys, CA 91406</p>
<p><b>Premier Jet</b> 2100 Palomar Airport Road Suite 101 Carlsbad, CA 92011</p> <p><b>Palomar Airport Center LLC</b> 2100 Palomar Airport Road Carlsbad, CA 92011</p> <p><b>Palomar Airport Fuel LLC</b> 2100 Palomar Airport Road Carlsbad, CA 92011</p>	<p>McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011</p>	<p>1.0 mile</p>	<p>Agua Hedionda Creek Carlsbad, CA 92011</p>
<p><b>Signature Flight Support Corporation</b> 201 South Orange Avenue Suite 1100 Orlando, FL 32801</p> <p><b>BBA Aviation USA, Inc.</b> 201 South Orange Avenue Suite 1290 Orlando, FL 32801</p>	<p>Van Nuys Airport 16461 Sherman Way Van Nuys, CA 91406</p>	<p>1.4 miles</p>	<p>Sepulveda Flood Control Basin Van Nuys, CA 91406</p>
	<p>Santa Barbara Municipal Airport 500 Fowler Road Santa Barbara, CA 93117</p>	<p>0.8 mile</p>	<p>San Pedro Creek Goleta, CA 93117</p>
	<p>Fresno Yosemite International Airport 5175 E. Clinton Way Fresno, CA 93727</p>	<p>0.8 mile</p>	
	<p>John Wayne Airport 18601 Airport Way Santa Ana, CA 92707</p>	<p>1.2 miles</p>	
	<p>Long Beach Airport (Daugherty Field) 4100 East Donald Douglas Drive Long Beach, CA 90806</p>	<p>1.2 miles</p>	

Names and Addresses of Responsible Parties	Location of the Source of the Exposure (Airport Where Responsible Party Operates)	Radial Distance From Airport Within Which Exposures Occur	Non-Exclusive Example of Source of Drinking Water
<p><b>Sun Air Jets, LLC</b> 855 Aviation Dr. Camarillo, CA 93010</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>	<p>1.0 mile</p>	<p>Revolon Slough Camarillo, CA 93010</p>
<p><b>Western Cardinal, Inc</b> 205 Durley Avenue Camarillo, CA 93010</p>	<p>Camarillo Airport 555 Airport Way Camarillo, CA 93010</p>	<p>1.0 mile</p>	<p>Revolon Slough Camarillo, CA 93010</p>
<p><b>Western Flight, Inc.</b> 2210 Palomar Airport Road Carlsbad, CA 92011</p> <p><b>Western Flight Services, LLC</b> 3993 Howard Hughes Parkway, Suite 850 Las Vegas, NV 89129</p> <p><b>Jet Source, Inc.</b> 2056 Palomar Airport Road Carlsbad, CA 92011</p>	<p>McClellan-Palomar Airport 2192 Palomar Airport Road Carlsbad, CA 92011</p>	<p>1.0 mile</p>	<p>Agua Hedionda Creek Carlsbad, CA 92011</p>

**CERTIFICATE OF MERIT**  
**Health & Safety Code § 25249.7(d)**

I, Mark N. Todzo, 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.

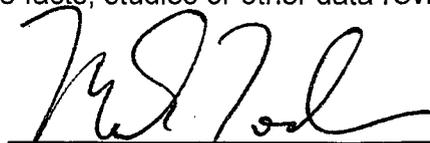
2. I am an attorney with the Lexington Law Group, and I represent the noticing party, the Center for Environmental Health.

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.

May 9, 2011



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Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL AND ELECTRONIC 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 and my electronic notification address is jbanister@lexlawgroup.com.

On May 9, 2011, 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 asterisk).

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.*

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 2:25 p.m. on May 9, 2011:

Lon Wixson, Deputy District  
Attorney  
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Martinez, CA 94553  
[lwixson@contracostada.org](mailto:lwixson@contracostada.org)

Karyn Sinunu-Towery,  
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70 West Hedding Street, West Wing  
San Jose, CA 95110  
[epu@da.sccgov.org](mailto:epu@da.sccgov.org)

Birgit Fladager, District Attorney  
Stanislaus County  
832 12<sup>th</sup> Street, Ste. 300  
Modesto, CA 95354  
[Prop65@standa.org](mailto:Prop65@standa.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Dije Ndreu, Deputy District Attorney  
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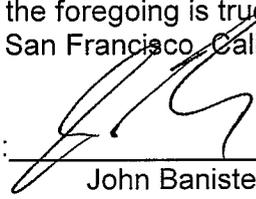
Gregory D. Totten, District Attorney Ventura  
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[daspecialops@ventura.org](mailto:daspecialops@ventura.org)

Rod Pacheco, District Attorney  
Riverside County  
4075 Main Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on May 9, 2011, at San Francisco, California.

Signed: \_\_\_\_\_



John Banister

## SERVICE LIST

District Attorney of Alameda County  
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Oakland, CA 94612

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Markleeville, CA 96120

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Jackson, CA 95642

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Colusa, CA 95932

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Susanville, CA 96130

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Ukiah, CA 95482

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Merced, CA 95340

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Alturas, CA 96101-4020

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Bridgeport, CA 93546

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San Bernardino, CA 92415

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San Diego, CA 92101

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Los Angeles, CA 90012

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1200 Third Avenue, Ste. 1620  
San Diego, CA 92101

San Francisco City Attorney's  
Office  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113

California Attorney General's Office  
Attention: Proposition 65  
Coordinator and Robert Thomas  
1515 Clay Street, Ste. 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

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