NOTICE OF VIOLATION

California Safe Drinking Water
and Toxic Enforcement Act

Arsenic from Drinking Water Filtration Systems

September 30, 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, 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 listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least September 30, 2008, 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 listed on the attached Exhibit 1.
- 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 results 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 containing Arsenic that is 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.

Resolution of Noticed Claims:

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the alleged violators unless such violators enters into a binding written agreement to: (1) recall products already sold; (2) reformulate products sold in the future to eliminate the Arsenic exposures and discharges; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any of the alleged violators is interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to 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 CEH through its counsel Eric S. Somers (esomers at lexlawgroup.com) or Howard Hirsch (hhirsch at lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

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

I, Eric S. 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 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.

September 30, 2011

Eric S. Somers
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

EXHIBIT 1
September 30, 2011 Notice of Violation
Arsenic from Drinking Water Filtration Systems
Non-Exclusive Example of the Product

Names and Addresses of Responsible Party	Non-Exclusive Examples of the Products	Item or SKU # or Further Description
Filtrex Technologies USA 119 N. El Camino Real, Ste. E-165 Encinitas, CA 92024 **Exelon Filtration, LLC** 119 N. El Camino Real, Ste. E-165 Encinitas, CA 92024 **Fresh Water Systems, Inc.** 85 Commerce Center Greenville, SC 29615	Filtrex FX-VOC Carbon Block Filter Cartridge	Model No. FX10VOC

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. 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 September 30, 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 3 :50 p .m. on September 30, 2011:

Lon Wixson, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
lwixson@contracostada.org

Karyn Sinunu-Towery,
Assistant District Attorney
Santa Clara County
70 West Hedding Street, West Wing
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epu@da.sccgov.org

Birgit Fladager, District Attorney
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Modesto, CA 95354
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Prop65DA@co.monterey.ca.us

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jbarnes@sonoma-county.org

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800 South Victoria Avenue
Ventura, CA 93009
daspecialops@ventura.org

Rod Pacheco, District Attorney
Riverside County
4075 Main Street
Riverside, CA 92501
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 September 30, 2011, at San Francisco, California.

Signed:_____
John Banister

SERVICE LIST

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

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

District Attorney of Amador County
708 Court Street, Ste. 202
Jackson, CA 95642

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

District Attorney of Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249

District Attorney of Colusa County
547 Market Street, Ste. 102
Colusa, CA 95932

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

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

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

District Attorney of Glenn County
P.O. Box 430
Willows, CA 95988

District Attorney of Humboldt County
825 5th Street
Eureka, CA 95501

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

District Attorney of Inyo County
P.O. Drawer D
Independence, CA 93526

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

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

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210 W. Temple Street, Ste. 1800
Los Angeles, CA 90012-3210

District Attorney of Madera County
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Madera, CA 93637

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3501 Civic Center Drive, Rm. 130
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P.O. Box 730
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2222 "M" Street
Merced, CA 95340

District Attorney of Modoc County
204 S. Court Street, Rm. 202
Alturas, CA 96101-4020

District Attorney of Mono County
P.O. Box 617
Bridgeport, CA 93546

District Attorney of Nevada County
110 Union Street
Nevada City, CA 95959

District Attorney of Orange County
401 Civic Center Drive West
Santa Ana, CA 92701

District Attorney of Placer County
10810 Justice Center Drive, Ste. 240
Roseville, CA 95678

District Attorney of Plumas County
520 Main Street, Rm. 404
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District Attorney of Sacramento County
901 "G" Street
Sacramento, CA 95814

District Attorney of San Benito County
419 Fourth Street, 2nd Fl.
Hollister, CA 95023

District Attorney of San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415

District Attorney of San Diego County
330 West Broadway, Ste. 1300
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850 Bryant Street, Rm. 325
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1050 Monterey Street, Rm. 450
San Luis Obispo, CA 93408

District Attorney of San Mateo County
400 County Center, 3rd Fl.
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Attn: Jerry Lule-Jian
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District Attorney of Shasta County
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District Attorney of Sierra County Courthouse
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District Attorney of Solano County
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Fairfield, CA 94533

District Attorney of Sutter County
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Yuba City, CA 95991

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P.O. Box 519
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District Attorney of Trinity County
P.O. Box 310
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Weaverville, CA 96093

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301 Second Street
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Los Angeles City Attorney's Office
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200 N. Main Street, Rm. 800
Los Angeles, CA 90012

San Diego City Attorney's Office
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

President*
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