

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Lead and Arsenic Exposures Resulting From Operations at 720 South Seventh Avenue,  
City of Industry, California 91746

November 20, 2018

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 and Clean Air Coalition of North Whittier & Avocado Heights (“Clean Air Coalition”), 13022 Via Del Sol Avenue, Whittier CA 90601-1434, (562) 665-5669. 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. Clean Air Coalition is a community organization committed to defending the environment and quality of life in the North Whittier and Avocado Heights community. Rebecca Overmyer-Velázquez is the Coordinator of the Clean Air Coalition and a responsible individual within the organization.

#### Description of Violation:

- Violators: The name and address of each violator is:

**Quemetco, Inc.**  
2777 N. Stemmons Freeway, Suite 1800  
Dallas, Texas 75207

**Quemetco West, LLC**  
2777 N. Stemmons Freeway, Suite 1800  
Dallas, Texas 75207

**RSR Corporation**  
2777 N. Stemmons Freeway, Suite 1800  
Dallas, Texas 75207

- Time Period of Exposure: The violations have been occurring since at least November 20, 2015 and are continuing up through the present. There is a substantial threat of ongoing and future violations unless and until the alleged

violators abate the threat of additional lead and arsenic exposures from past, ongoing and future operations.

- Provision of Proposition 65: This Notice of Violation covers the “warning provision” of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemicals Involved: The names of the listed chemicals involved in these violations are lead and lead compounds (collectively, “Lead”) and arsenic (inorganic oxides and inorganic arsenic compounds) (collectively, “Arsenic”). Lead and Arsenic are chemicals known to cause cancer, birth defects and other reproductive harm.
- Location of the Exposures: The specific location of the source of the exposures is the alleged violators’ lead-acid battery recycling operation at 720 South Seventh Avenue, City of Industry, California 91746 (the “Facility”). The exposures to Lead and Arsenic caused by the Facility’s operations occur at residential properties within a 0.25 mile radius of the Facility.
- Description of Exposure: This Notice addresses environmental exposures to Lead and Arsenic. These exposures are caused by the Facility’s lead-acid batteries recycling operations. The Facility’s operations emit significant quantities of Lead and Arsenic into the air, which has contaminated the soil of residential properties in the neighborhood surrounding the Facility. Individuals living in the neighborhood surrounding the Facility are exposed to Lead and Arsenic in the soil at their residences. The primary routes of exposure for the violations are direct ingestion when individuals (including children) ingest the soil contaminated with Lead and Arsenic; ingestion via hand to mouth contact after individuals touch or handle the soil contaminated with Lead and Arsenic; and inhalation when individuals breathe the Lead and Arsenic emitted from the Facility. No clear and reasonable warning is provided to residents in the neighborhood surrounding the Facility regarding the health hazards associated with Lead and Arsenic.

#### **Resolution of Noticed Claims:**

Based on the allegations set forth in this Notice, CEH and the Clean Air Coalition intend to bring a citizen enforcement lawsuit against the alleged violators unless such violators agree in a binding written instrument to: (1) provide clear and reasonable warnings; (2) immediately abate the threat of additional Lead and Arsenic exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violators are interested in resolving this dispute without resort to expensive and time-consuming litigation, please feel free to contact CEH and the Clean Air Coalition through its counsel identified below. It should be noted that CEH and the Clean Air Coalition 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 the 60-day Notice. Therefore, while reaching an agreement with CEH and the Clean Air Coalition will resolve their claims, such agreement may not satisfy the public prosecutors.

**Preservation of Relevant Evidence:**

This Notice also serves as a demand that the alleged violators preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such relevant evidence includes but is not limited to all documents relating to Lead and Arsenic releases from the alleged violators' operations, actual or potential exposures to Lead and Arsenic from the alleged violators' operations, efforts to comply with Proposition 65, and communications with any person relating to actual or potential exposures to Lead and Arsenic from the alleged violators' operations since November 20, 2015 through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to CEH and the Clean Air Coalition's counsel Mark N. Todzo at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800, [mtodzo@lexlawgroup.com](mailto:mtodzo@lexlawgroup.com).

**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 has violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

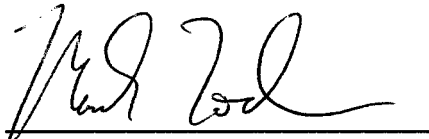
2. I am an attorney with the Lexington Law Group, and I represent the noticing parties, the Center for Environmental Health and the Clean Air Coalition of North Whittier & Avocado Heights.

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.

November 20, 2018

A handwritten signature in black ink, appearing to read 'Mark N. Todzo', written over a horizontal line.

Mark N. Todzo  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH and CLEAN  
AIR COALITION OF NORTH WHITTIER &  
AVOCADO HEIGHTS

1 **PROOF OF SERVICE**

2

3 I, Nick Redfield, declare:

4 I am a citizen of the United States and employed in the County of San Francisco, State of  
5 California. I am over the age of eighteen (18) years and not a party to this action. My business  
6 address is 503 Divisadero Street, San Francisco, CA 94117 and my email address is  
nredfield@lexlawgroup.com.

7 On November 20, 2018, I served the following document(s) on all interested parties in this  
8 action by placing a true copy thereof in the manner and at the addresses indicated below:

9 **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND  
10 TOXIC ENFORCEMENT ACT;**

11 **CERTIFICATE OF MERIT; and**

12 **THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986**

13 **(PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an  
14 asterisk).

15 ☒ **BY MAIL:** I am readily familiar with the firm's practice for collecting and processing mail  
16 with the United States Postal Service ("USPS"). Under that practice, mail would be deposited  
17 with USPS that same day with postage thereon fully prepaid at San Francisco, California in the  
18 ordinary course of business. On this date, I placed sealed envelopes containing the above  
19 mentioned documents for collection and mailing following my firm's ordinary business practices.

20 *Please see attached service list.*

21 ☐ **BY FACSIMILE:** I caused all pages of the document(s) listed above to be transmitted via  
22 facsimile to the fax number(s) as indicated and said transmission was reported as complete and  
23 without error.

24 ☐ **BY ELECTRONIC MAIL:** I transmitted a PDF version of the document(s) listed above via  
25 email to the email address(es) indicated on the attached service list [or noted above] before 5 p.m.  
26 on the date executed.

27 ☐ **BY PERSONAL DELIVERY:** I placed all pages of the document(s) listed above in a sealed  
28 envelope addressed to the party(ies) listed above, and caused such envelope to be delivered by  
hand to the addressee(s) as indicated.

☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility  
regularly maintained by FedEx, or delivered such document(s) to a courier or driver authorized by  
FedEx, with delivery fees paid or provided for, and addressed to the person(s) being served.

I declare under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

Executed on November 20, 2018 at San Francisco, California.



Nick Redfield

## **SERVICE LIST**

District Attorney of Los Angeles County  
Hall of Justice  
211 W. Temple Street, Ste. 1200  
Los Angeles, CA 90012-3210

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

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

Robert Finn, President & CEO\*  
Quemetco, Inc.  
2777 N. Stemmons Freeway, Suite 1800  
Dallas, Texas 75207

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Quemetco West, LLC  
2777 N. Stemmons Freeway, Suite 1800  
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