

ENVIRONMENTAL WORLD WATCH, INC  
C/O of Weinreb, Weinreb and Mandell  
19400 Business Circle Drive, Suite 102  
Northridge, CA 91324

**Oct. 2, 2003**

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND  
TOXIC ENFORCEMENT ACT OF 1986  
(California Health and Safety Code §25249.5 *et seq.*)

**BY**  
**BRUNSWICK CORPORATION**

First Class Mail-Certified Mail-Proof of Service Attached

TO THE PARTIES LISTED ON THE  
ATTACHED DISTRIBUTION LIST

Re: **Brunswick Corporation-Carbon Monoxide, et al.**

Dear CEO Mr. George W. Buckley:

**Environmental World Watch, Inc.** (the "Noticing Party") serves this Notice of Violation ("Notice") upon **Brunswick Corporation**, (hereinafter "Noticed Party") pursuant to and in compliance with California Health and Safety Code ("H&S Code") §25249.7(d) and 22 California Code of Regulations ("CCR") §12903. This Notice satisfies a prerequisite for a Noticing Party to commence an action against Boat Manufacturers to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986. The violations addressed by this Notice occur in 58 or more counties and cities in California. This Notice is being served upon each violator, the California Attorney General, the district attorney of every California county and the City Attorney of every California city with a population (according to the most recent decennial census) of over 750,000. If the Noticed Party has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel, this Notice is being addressed to, and served upon, one of those persons.

Attached as Exhibit A to this Notice is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): "A Summary." The attached Summary was prepared by the California EPA and provides general information about the Safe Drinking Water and Toxic Enforcement Act of 1986. Copies of the Summary are not required to be, and are not being, provided to the public enforcement agencies.

Description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice:

- ◆ This Notice is provided by Environmental World Watch, Inc. Environmental World Watch (hereinafter "EWW"), is based in Los Angeles and is registered as a corporation and is acting in the public interest pursuant to H&S Code §25249.7(d), and is dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

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- ◆ The violators' names and addresses are: Brunswick Corporation  
1 N Field Court  
Lake Forest, IL 60045-4811
- ◆ The violations addressed by this Notice began on or after Oct 1, 1991, have occurred on numerous occasions each and every day since said date, and are ongoing and continuing.
- ◆ This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code §25249.6; specifically delineated at 22 CCR 12601 et seq.
- ◆ The name of each Chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice is identified at Appendix A; (the "Listed Chemicals"). The Listed Chemicals are listed (and have been so listed for more than twelve months) by the Governor of the State of California as being a Chemicals known to the State of California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity.
- ◆ The route of exposure for the violations addressed by this Notice is inhalation. There is also a danger of a dermal exposure while walking around the engine or exhaust of the Boats manufactured by the Noticed Party.
- ◆ The type of exposures addressed by this Notice are environmental, and exposures are to the Chemicals delineated herein. The Carbon Monoxide is from both Diesel and Gasoline Exhaust.
- ◆ There are numerous sources of the exposures addressed in this Notice. These exposures occur on or near the Noticed Party manufactured Boats, on the docks where these Boats are boarded and stored, in and near the parking areas of the Marinas at Marina Del Rey, Newport Beach, Long Beach, Castaic Lake, Pyramid Lake and everywhere else in California where these Boats operate, idle and park. These exposures occur principally off the property of the Noticed Party.
- ◆ In the course of doing business, the Noticed Party has knowingly and intentionally exposed, and continue to expose, individuals (especially pregnant women) to the Listed Chemicals. No clear and reasonable warning is or has been provided by the Noticed Party to individuals regarding exposure to the Listed Chemicals.
- ◆ These exposures have gone on from 1991 until 2003 as EWW believes and so alleges that the Noticed Party has tolled the statute of limitations by fraudulent concealment of the constituents of the exhaust emissions and or a violation of Civil Code section 1709-1710, to the detriment of those persons that required warning in the waters and docks where Noticed Party Boats operate in California. The engine compartment and dash boards of these Boats are further absent any warning that would meet the definition delineated at title 22 CCR §12601 (d).
- ◆ The principal route of exposure is through an "inhalation exposure" via normal breathing of the ambient air. There is a further danger of contacting these toxins via a wet or dry deposition on the skin. This exposure has gone on since Oct 1, 1991 and through Sept. 26, 2003 at every place in California that the Noticed Party Boats operate and to the listed Chemicals in Appendix A. All references to "exposure" in this notice shall be understood to be exposures to the constituents

of said Boats exhaust. Traveling, touring, cruising, fishing and skiing behind these same Boats without warnings is a violation of law and an egregious danger to pregnant women as Carbon Monoxide emission concentrations above 5 PPM have shown to cause reduced weight fetus's.

- ◆ The location of these alleged exposures are many and varied while occurring within the 58 counties of the state of California as evidenced by the District Attorneys addressed in the enclosed distribution list. EWW believes and so alleges that at least one of the jurisdictions identified had Noticed Party Boats operating within its county by a purchaser of a Noticed Party Boat and a subsequent exposure.
- ◆ The Noticed Party makes Sea Ray, Bayliner, Maxum, Hatteras, Meridian and Sealine pleasure boats; Baja high-performance boats; Boston Whaler and Trophy offshore fishing boats; and Princecraft fishing, deck and pontoon boats.

Please direct any inquiries regarding this notice or any communication with the responsible Party, William Dunlap, for the noticing entity, Environmental World Watch, to:

#### APPENDIX A

- **Carbon Monoxide**
- **Gasoline Engine Exhaust**
- **Benzene**

**EXHIBIT A**  
**OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**  
**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACTION 1986**  
**(PROPOSITION 65): A SUMMARY**

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

***WHAT DOES PROPOSITION 65 REQUIRE?***

***The "Governor's List."*** Proposition 65 requires the Governor to publish a list of Chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 Chemicals have been listed as of May 1, 1996. Only those Chemicals that are on the list are regulated under this law. Businesses that produce, use, release, or otherwise engage in activities involving those Chemicals must comply with the following:

***Clear and reasonable warnings.*** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed Chemical. The warning given must be "clear and reasonable." This means that the warning must:(1) clearly make known that the Chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the Chemical.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed Chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the Chemical.

***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

**Yes. The law exempts:**

***Governmental agencies and public water utilities.*** All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

***Exposures that pose no significant risk of cancer.*** For Chemicals that are listed as known to the State to cause cancer (“carcinogens”), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “no significant risk” levels for more than 250 listed carcinogens.

***Exposures that will produce no observable reproductive effect at 1,000 times the level in question.*** For Chemicals known to the State to cause birth defects or other reproductive harm (“reproductive toxicant”), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level (NOEL), “divided by a 1,000-fold safety or uncertainty factor. The “no observable effect level” is the highest dose level that has not been associated with an observable adverse reproductive or developmental effect.

***Discharge that do not result in a “significant amount” of the listed Chemical entering into any source of drinking water.*** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the list Chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” or “no observable effect” test if an individual were exposed to such an amount in drinking water.

***HOW IS PROPOSITION 65 ENFORCED?***

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of

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**Regulations, Section 12903). A private Party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.**

**A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.**

**FOR FURTHER INFORMATION**

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

**CERTIFICATE OF MERIT**  
**HEALTH AND SAFETY CODE SECTION 25249.7(d)**

- **CARBON MONOXIDE,**
- **GASOLINE ENGINE EXHAUST**
- **BENZENE.**

NOTICED PARTY:

**BRUNSWICK CORPORATION**

I, Robert J. Mandell, on behalf of Environmental World Watch, hereby declare:

This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the parties identified in the notices have violated California Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the 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 Chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and 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 private action" means that the information provides a credible basis that all the elements of the plaintiffs' case can be established and 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 section 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: Oct 02, 2003

## CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 19400 Business Center Drive, Suite 102, Granada Hills, CA.

On Oct. 2, 2003, I served copies of the documents listed immediately hereafter by first class mail by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Northridge, California. Said envelopes were addressed as follows:

### SEE ATTACHED DISTRIBUTION LIST

*(sent via certified mail with applicable postage to those parties listed with an asterisk)*

Documents mailed:

1. **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code §25249.5 et seq.)**

**TO: Brunswick Corporation**  
1 N Field Court  
Lake Forest, IL 60045-4811

**Brunswick Boat Group**  
First Tennessee Plaza Building Seventeenth Floor  
800 South Gay Street  
Knoxville, Tennessee 37929

2. **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY (only sent to those parties listed with an asterisk)**
3. **CERTIFICATE OF MERIT – (attachments only sent to California Attorney General's Office)**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on Oct. 2, 2003, at Los Angeles, California



## DISTRIBUTION LIST

\*Mr. George W. Buckley  
Chief Executive Officer  
Brunswick Corporation  
1 N Field Court  
Lake Forest, IL 60045-4811

Agent for Service:  
CT CORPORATION SYSTEM  
818 West Seventh Street  
Los Angeles, CA 90017

Brunswick Boat Group  
First Tennessee Plaza Building  
Seventeenth Floor  
800 South Gay Street  
Knoxville, Tennessee 37929

**\*CALIFORNIA ATTORNEY GENERAL**  
CA Department of Justice  
**PROP. 65 ENFORCEMENT REPORTING**  
Attn: Prop 65 Coordinator  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

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

Los Angeles City Attorney's Office  
1800 City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
Civic Center Plaza  
1200 3rd Avenue, Suite 1200  
San Diego, CA 92101

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

San Jose City Attorney's Office  
151 West Mission Street  
San Jose, CA 95110

Office of the District Attorney of  
Amador County  
708 Court Street, Room 202  
Jackson, CA 95642

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

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

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

Office of the District Attorney of  
Contra Costa County  
PO Box 670  
Martinez, CA 94553

Office of the District Attorney of  
Calaveras County  
County Government Center  
891 Mountain Ranch Road  
San Andreas, CA 95249

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

Office of the District Attorney of  
Fresno County  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721

Office of the District Attorney of  
Del Norte County  
County Courthouse  
450 H Street, Suite 171  
Crescent City, CA 95531

Office of the District Attorney of  
Humboldt County  
825 Fifth Street  
Eureka, CA 95501

Office of the District Attorney of  
Imperial County  
County Courthouse, Rm. 202  
939 W. Main Street  
El Centro, CA 92243

Office of the District Attorney of  
Glenn County  
540 W. Sycamore Street  
P.O. Box 430  
Willows, CA 95988

Office of the District Attorney of  
Kern County  
1215 Truxtun Avenue, 4<sup>th</sup> Floor  
Bakersfield, CA 93301

Office of the District Attorney of  
Kings County  
Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

Office of the District Attorney of  
Inyo County  
168 N. Edwards Street  
P.O. Drawer D  
Independence, CA 93526

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

Office of the District Attorney of  
Los Angeles County  
18000 Criminal Courts Building  
210 W. Temple Street  
Los Angeles, CA 90012

Office of the District Attorney of  
Lake County  
255 N. Forbes Street, Ste. 424  
Lakeport, CA 95453

Office of the District Attorney of  
Marin County  
Hall of Justice, Room 183  
3501 Civic Center Drive  
San Rafael, CA 94903

Office of the District Attorney of  
Mariposa County  
P.O. Box 748  
Mariposa, CA 95338

Office of the District Attorney of  
Madera County  
209 W. Yosemite Avenue  
Madera, CA 93637

Office of the District Attorney of  
Merced County  
2222 "M" Street  
Merced, CA 95340

Office of the District Attorney of  
Modoc County  
County Courthouse  
P.O. Box 1171  
Alturas, CA 96101

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

Office of the District Attorney of  
Monterey County  
240 Church Street  
Salinas, CA 93901

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

Office of the District Attorney of  
Mono County  
County Courthouse  
P.O. Box 617  
Bridgeport, CA 93517

Office of the District Attorney of  
Orange County  
700 Civic Center Drive West, 2<sup>nd</sup> Floor  
P.O. Box 808  
Santa Ana, CA 92702

Office of the District Attorney of  
Placer County  
11562 "B" Avenue, DeWitt Center  
Auburn, CA 95603

Office of the District Attorney of  
Nevada County  
Courthouse Annex  
201 Church Street, Suite 8  
Nevada City, CA 95959-2504

Office of the District Attorney of  
Riverside County  
4075 Main Street, 1st Floor  
Riverside, CA 92501

Office of the District Attorney of  
Sacramento County  
901 "G" Street  
P.O. Box 749  
Sacramento, CA 95814

Office of the District Attorney of  
Plumas County  
520 Main Street, Room 404  
P.O. Box 10716  
Quincy, CA 95971

Office of the District Attorney of  
San Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415-0004

Office of the District Attorney of  
San Diego County  
330 West Broadway, Ste. 1320  
San Diego, CA 92112

Office of the District Attorney of  
San Benito County  
419 4th Street  
Hollister, CA 95023-3801

Office of the District Attorney of  
San Joaquin County  
222 E. Weber, Room 202  
P.O. Box 990  
Stockton, CA 95201

Office of the District Attorney of  
San Luis Obispo County  
1050 Monterey Street, Room 450  
San Luis Obispo, CA 93408

Office of the District Attorney of  
San Francisco County  
Hall of Justice  
880 Bryant Street  
San Francisco, CA 94103

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

Office of the District Attorney of  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110

Office of the District Attorney of  
San Mateo County  
400 County Center, 3rd Floor  
Redwood City, CA 94063

Office of the District Attorney of  
Shasta County  
1525 Court Street, Third Floor  
P.O. Box 1320  
Redding, CA 96001-1632

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

Office of the District Attorney of  
Santa Cruz County  
701 Ocean Street, Ste. 200  
Santa Cruz, CA 95061

Office of the District Attorney of  
Solano County  
600 Union Avenue  
Fairfield, CA 94533

Office of the District Attorney of  
Sonoma County  
Hall of Justice  
600 Administration Drive, Room 212-J  
Santa Rosa, CA 95403

Office of the District Attorney of  
Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

Office of the District Attorney of  
Sutter County  
Courthouse Annex Box 1555  
446 Second Street  
Yuba City, CA 95991

Office of the District Attorney of  
Tehama County  
County Courthouse  
P.O. Box 519  
Red Bluff, CA 96080-0519

Office of the District Attorney of  
Stanislaus County  
1100 I Street, Room 200  
P.O. Box 442  
Modesto, CA 95353

Office of the District Attorney of  
Tulare County  
County Civic Center  
2350 Burrel Avenue, Room 224  
Visalia, CA 93291-4593

Office of the District Attorney of  
Tuolumne County  
2 South Green Street  
Sonora, CA 95370

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

Office of the District Attorney of  
Ventura County  
800 South Victoria Avenue, Rm. 314  
Ventura, CA 93009

Office of the District Attorney of  
Yolo County  
204 4th Street  
Woodland, CA 95695

Office of the District Attorney of  
Yuba County  
County Courthouse  
215 - 5th Street  
Marysville, CA 95901