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ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

AUG 8 - 2011

John A. Clarke, Executive Officer/Clerk  
BY Mary Flores Deputy

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7 Attorneys for Plaintiff  
8 Environmental Research Center

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

11 ENVIRONMENTAL RESEARCH CENTER, )  
12 a non-profit California corporation, )  
13 Plaintiff, )  
14 v. )  
15 THE SUNRIDER CORPORATION, a Utah )  
16 corporation; DOES 1 through 10, )  
17 Defendant(s). )

Case No. BC 467138

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.5, *et seq.*

18 Plaintiff Environmental Research Center brings this action in the interests of the  
19 general public and, on information and belief, hereby alleges:

**INTRODUCTION**

21 1. This action seeks to remedy Defendant(s)' continuing failure to warn consumers  
22 in California that they are being exposed to lead, a substance known to the State of California  
23 to cause cancer, birth defects and other reproductive harm. Defendant(s) manufactures,  
24 packages, distributes, markets, and/or sells in California certain herbal products containing lead  
25 (the "PRODUCTS") including:

26 **Sunrider Alpha Herbal Concentrate 20C**  
**Sunrider Quinary Herbal Concentrate**

1           **Sunrider Dandelion Root Herb Concentrate**  
2           **Sunrider VitaShake Coco Concentrated Herbal Food**  
3           **Sunrider Korean White Ginseng**  
4           **Sunrider International NuPlus**  
5           **Sunrider International Liqui-Five**  
6           **Sunrider International Quinary**  
7           **Sunrider International Alpha 20C**  
8           **Sunrider International Sunrise**  
9           **Sunrider International Vitafruit**  
10           **Sunrider International Vitalite Sport Caps**  
11           **Sunrider International WuChiaPi Herb Concentrate**  
12           **Sunrider International Vitalite Slim Caps**  
13           **Sunrider International Assimilaid**  
14           **Sunrider International Vitalite Action Caps**  
15           **Sunrider International Tei-Fu Metashaper**  
16           **Sunrider International Dr. Chen Veros**  
17           **Sunrider International Vitalite Fibertone**  
18           **Sunrider International Lifestream**  
19           **Sunrider International Top**  
20           **Sunrider International Vitalite Vitataste**  
21           **Sunrider International Vitalite Sunfit**  
22           **Sunrider International Prime Again**  
23           **Sunrider International Spirulina**  
24           **Sunrider International Conco**  
25           **Sunrider International White Willow Bark**  
26           **Sunrider Corp. Vitalite Sun Trim**  
              **Sunrider International Dr. Chen Regular Secret Sauce**  
              **Sunrider International Nu Puffs Cocoa**  
              **Sunrider International Sunny Fresh**  
              **Sunrider Quinary Herbal Concentrate**

2.       Lead and lead compounds (hereinafter, the "LISTED CHEMICALS") are substances known to the State<sup>1</sup> of California to cause cancer, birth defects and other reproductive harm.

3.       The use and/or handling of the PRODUCTS causes exposures to the LISTED CHEMICALS at levels requiring a "clear and reasonable warning" under California's Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code ("H&S Code") §25249.5, *et seq.* (also known as "Proposition 65"). Defendant(s) has failed to provide the

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<sup>1</sup> All statutory and regulatory references herein are to California law, unless otherwise specified.

1 health hazard warnings required by Proposition 65.

2 4. Defendant(s)' continued manufacturing, packaging, distributing, marketing  
3 and/or sales of the PRODUCTS without the required health hazard warnings, causes  
4 individuals to be involuntarily and unwittingly exposed to levels of the LISTED CHEMICALS  
5 that violate Proposition 65.

6 5. Plaintiff seeks injunctive relief enjoining Defendant(s) from the continued  
7 manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS in  
8 California without provision of clear and reasonable warnings regarding the risks of cancer,  
9 birth defects and other reproductive harm posed by exposure to the LISTED CHEMICALS  
10 through the use and/or handling of the PRODUCTS. Plaintiff seeks an injunctive order  
11 compelling Defendant(s) to bring its business practices into compliance with Proposition 65 by  
12 providing a clear and reasonable warning to each individual who has been and who in the  
13 future may be exposed to LISTED CHEMICALS from the use of the PRODUCTS. Plaintiff  
14 also seeks an order compelling Defendant(s) to identify and locate each individual person who  
15 in the past has purchased the PRODUCTS, and to provide to each such purchaser a clear and  
16 reasonable warning that the use of the PRODUCTS will cause exposures to the LISTED  
17 CHEMICALS.

18 6. In addition to injunctive relief, Plaintiff seeks an assessment of civil penalties in  
19 excess of \$1 million to remedy Defendant(s)' failure to provide clear and reasonable warnings  
20 regarding exposures to the LISTED CHEMICALS.

21 **JURISDICTION AND VENUE**

22 7. This Court has jurisdiction over this action pursuant to California Constitution  
23 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all causes  
24 except those given by statute to other trial courts." The statute under which this action is  
25 brought does not specify any other basis for jurisdiction.

26 8. This Court has jurisdiction over Defendant(s) because, based on information

1 and belief, Defendant(s) is a business having sufficient minimum contacts with California, or  
2 otherwise intentionally availing itself of the California market through the distribution and sale  
3 of the PRODUCTS in the State of California to render the exercise of jurisdiction over it by the  
4 California courts consistent with traditional notions of fair play and substantial justice.

5 9. Venue in this action is proper in the Los Angeles Superior Court because the  
6 Defendant has violated California law in the County of Los Angeles.

7 **PARTIES**

8 10. PLAINTIFF Environmental Research Center (“PLAINTIFF”) is a corporation  
9 organized under California’s Corporation Law. ERC is dedicated to, among other causes,  
10 reducing the use and misuse of hazardous and toxic substances, consumer protection, worker  
11 safety and corporate responsibility.

12 11. ERC is a person within the meaning of H&S Code §25118 and brings this  
13 enforcement action in the public interest pursuant to H&S Code §25249.7(d).

14 12. Defendant THE SUNRIDER CORPORATION (“DEFENDANT” OR  
15 ‘SUNRIDER’), is a corporation organized under the laws of the State of Utah and a person  
16 doing business within the meaning of H&S Code §25249.11 with an office at 1625 Abalone,  
17 Torrance, CA. The Company’s website states that “Sunrider has grown to a global company in  
18 over 42 countries with 7,000 retail stores.”

19 13. Upon information and belief, and upon that basis, PLAINTIFF alleges that the  
20 true names, or capacities of DOES 1 through 10, inclusive (the “DOES”), whether individual,  
21 corporate, associate or otherwise, are presently unknown to PLAINTIFF, who therefore sue  
22 said Defendants by such fictitious names. PLAINTIFF will amend this Complaint to show  
23 their true names and capacities when the same have been ascertained.

24 14. DEFENDANT(S) manufactures, packages, distributes, markets and/or sells the  
25 PRODUCTS for sale or use in California and in Los Angeles County.

26 **STATUTORY BACKGROUND**

15. The People of the State of California have declared in Proposition 65 their right

1 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other  
2 reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

3 16. To effect this goal, Proposition 65 requires that individuals be provided with a  
4 "clear and reasonable warning" before being exposed to substances listed by the State of  
5 California as causing cancer or reproductive toxicity. H&S Code §25249.6 states, in pertinent  
6 part:

7 No person in the course of doing business shall knowingly and intentionally  
8 expose any individual to a chemical known to the state to cause cancer or  
9 reproductive toxicity without first giving clear and reasonable warning to such  
10 individual....

11 17. Proposition 65 provides that any person "violating or threatening to violate" the  
12 statute may be enjoined in a court of competent jurisdiction. (H&S Code §25249.7.) The phrase  
13 "threatening to violate" is defined to mean creating "a condition in which there is a substantial  
14 likelihood that a violation will occur." (H&S Code §25249.11(e).) Violators are liable for civil  
15 penalties of up to \$2,500 per day for each violation of the Act. (H&S Code §25249.7.)

#### 16 FACTUAL BACKGROUND

17 18. On February 27, 1987, the State of California officially listed the chemical lead  
18 as a chemical known to cause reproductive toxicity. Lead became subject to the warning  
19 requirement one year later and was therefore subject to the "clear and reasonable" warning  
20 requirements of Proposition 65 beginning on February 27, 1988. (27 California Code of  
21 Regulations ("CCR") §25000, *et seq.*; H&S Code §25249.5, *et seq.*)

22 19. On October 1, 1992, the State of California officially listed the chemicals lead  
23 and lead compounds as chemicals known to cause cancer. Lead and lead compounds became  
24 subject to the warning requirement one year later and were therefore subject to the "clear and  
25 reasonable" warning requirements of Proposition 65 beginning on October 1, 1993. (27 CCR §  
26 25000, *et seq.*; H&S Code §25249.6, *et seq.*) Due to the high toxicity of lead, the maximum  
allowable dose level for lead is .5 ug/day (micrograms a day) for reproductive toxicity.

20. To test SUNRIDER's PRODUCTS for lead, Plaintiff hired a well-respected and

1 accredited testing laboratory that designed the testing protocol used and approved by the  
2 California Attorney General years ago for testing heavy metals. The testing results undertaken  
3 by PLAINTIFF of SUNRIDER'S PRODUCTS show that in excess of thirty PRODUCTS  
4 tested were in violation of the Proposition 65 .5 ug/day "safe harbor" daily dose limit. Very  
5 significant is the fact that people are being exposed to lead through ingestion as opposed to  
6 other not as harmful methods of exposure such as dermal exposure. Ingestion of lead produces  
7 much higher exposure levels and health risks than dermal exposure to this chemical.

8 21. At all times relevant to this action, SUNRIDER therefore has knowingly and  
9 intentionally exposed the users and/or handlers of the PRODUCTS to LISTED CHEMICALS  
10 without first giving a clear and reasonable warning to such individuals.

11 22. SUNRIDER's website informs consumers that it "selects the finest raw herbs  
12 available and thoroughly cleans them by hand and machine to remove contaminants and *heavy*  
13 *metals*. Quality control *tests each batch* of product for contaminants throughout the  
14 manufacturing process — a standard almost unheard of" [*emphasis added*]. Sunrider's  
15 owners lead a team of scientists to research, formulate, and manufacture all of Sunrider's  
16 products and promise "You will *never* find questionable or unsafe ingredients in our products"  
17 [*emphasis added*].

18 23. Despite this, a review of SUNRIDER's product labels and its website covering  
19 each of the products does not provide any indication that the PRODUCTS contain lead and that  
20 consumers are being exposed to lead in excess of California Proposition 65 levels.  
21 PLAINTIFF is informed and believes, and based on such information and belief alleges the  
22 SUNRIDER PRODUCTS have been distributed and/or sold to individuals in California  
23 without clear and reasonable warning since at least August 3, 2008. The PRODUCTS continue  
24 to be distributed and sold in California without the requisite warning information.

25 24. As a proximate result of acts by SUNRIDER, as a person in the course of doing  
26 business within the meaning of Health & Safety Code §25249.11, individuals throughout the  
State of California, including in the County of Los Angeles, have been exposed to the LISTED

1 CHEMICALS without clear and reasonable warning. The individuals subject to the violative  
2 exposures include normal and foreseeable users of the PRODUCTS, as well as all other  
3 persons exposed to the PRODUCTS.

4 **FIRST CAUSE OF ACTION**

5 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**  
6 **the PRODUCTS described in PLAINTIFF's July 7, 2010, November 5, 2010 and January**  
7 **14, 2011 60-Day Notices of Violation)**  
8 **Against SUNRIDER and DOES**

9 25. PLAINTIFF realleges and incorporates by reference Paragraphs 1 through 24,  
10 inclusive, as if specifically set forth herein.

11 26. On July 7, 2010, November 5, 2010 and January 14, 2011, PLAINTIFF sent a  
12 60-Day Notice of Proposition 65 violations to the requisite public enforcement agencies, and  
13 to all defendants ("Notices") attached hereto as Exhibit A. The Notices were issued pursuant  
14 to, and in compliance with, the requirements of H&S Code §25249.7(d) and the statute's  
15 implementing regulations regarding the notice of the violations to be given to certain public  
16 enforcement agencies and to the violator. The notice given included, *inter alia*, the following  
17 information: the name, address, and telephone number of the noticing individual; the name of  
18 the alleged violator; the statute violated; the approximate time period during which violations  
19 occurred; and descriptions of the violations, including the chemicals involved, the routes of  
20 toxic exposure, and the specific product or type of product causing the violations, and was  
21 issued as follows:

- 22 a. DEFENDANT(S) and the California Attorney General were provided  
23 copies of the Notice by Certified Mail.
- 24 b. DEFENDANT(S) was provided a copy of a document entitled "The Safe  
25 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A  
26 Summary," which is also known as Appendix A to Title 27 of CCR  
§25903.
- c. The California Attorney General was provided with a Certificate of Merit  
by the attorney for the noticing party, stating that there is a reasonable

1 and meritorious case for this action, and attaching factual information  
2 sufficient to establish a basis for the certificate, including the identify of  
3 the persons consulted with and relied on by the certifier, and the facts  
4 studies, or other data reviewed by those persons, pursuant to H&S Code  
5 §25249.7(h) (2).

6 27. The appropriate public enforcement agencies have failed to commence and  
7 diligently prosecute a cause of action under H&S Code §25249.5, *et seq.* against  
8 DEFENDANT(S) based on the allegations herein.

9 28. By committing the acts alleged in this Complaint DEFENDANT(S) at all times  
10 relevant to this action, and continuing through the present, has violated H&S Code §25249.6 by,  
11 in the course of doing business, knowingly and intentionally exposing individuals who use or  
12 handle the PRODUCTS set forth in the Notices to the LISTED CHEMICALS, without first  
13 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§ 25249.6  
14 and 25249.11(f).

15 29. By the above-described acts, DEFENDANT(S) has violated H&S Code §  
16 25249.6 and is therefore subject to an injunction ordering DEFENDANT(S) to stop violating  
17 Proposition 65, to provide warnings to all present and future customers and to provide warnings  
18 to DEFENDANT(S)' past customers who purchased or used the PRODUCTS without  
19 receiving a clear and reasonable warning.

20 30. An action for injunctive relief under Proposition 65 is specifically authorized by  
21 Health & Safety Code §25249.7(a).

22 31. Continuing commission by DEFENDANT(S), of the acts alleged above will  
23 irreparably harm the citizens of the State of California, for which harm they have no plain,  
24 speedy, or adequate remedy at law.

25 Wherefore, PLAINTIFF prays judgment against DEFENDANT(S), as set forth  
26 hereafter.



1 PRAYER FOR RELIEF

2 Wherefore, PLAINTIFF accordingly prays for the following relief:

3 A. a preliminary and permanent injunction, pursuant to H&S Code §25249.7(b),  
4 enjoining DEFENDANT(S), its agents, employees, assigns and all persons acting in concert or  
5 participating with DEFENDANT(S), from distributing or selling the PRODUCTS in California  
6 without first providing a clear and reasonable warning, within the meaning of Proposition 65,  
7 that the users and/or handlers of the PRODUCTS are exposed to the LISTED CHEMICALS.

8 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling  
9 DEFENDANT(S) to identify and locate each individual who has purchased the PRODUCTS  
10 since October 22, 2007, and to provide a warning to such person that the use of the  
11 PRODUCTS will expose the user to chemicals known to cause cancer, birth defects, and other  
12 reproductive harm.

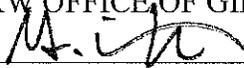
13 C. an assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),  
14 against Defendant in the amount of \$2,500 per day for each violation of Proposition 65, in an  
15 amount in excess of \$1 million;

16 D. an award to PLAINTIFF of its reasonable attorneys fees and costs of suit  
17 pursuant to California Code of Civil Procedure §1021.5, as PLAINTIFF shall specify in further  
18 application to the Court; and,

19 E. such other and further relief as may be just and proper.

20  
21 DATED: 8/8, 2011

LAW OFFICE OF GIDEON KRACOV

  
Gideon Kracov  
Attorneys for Plaintiff  
Environmental Research Center





## Environmental Research Center

5694 Mission Center Road #199  
San Diego, CA 92108  
619.309.4194

July 07, 2010

***VIA CERTIFIED MAIL***

Current President or CEO  
THE SUNRIDER CORPORATION  
1625 Abalone Ave  
Torrance, CA 90501

Re: Notice of Violation against THE SUNRIDER CORPORATION for Violation of California Health & Safety Code Section 25249.6

Dear Prosecutors:

The Environmental Research Center ("ERC"), the noticing entity is a non-profit California corporation whose mission is to safeguard the public from health hazards that impact families, workers and the environment. ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC is located at 5694 Mission Center Road, # 199, San Diego, CA 92108. Tel. (619) 309-4194. Through this Notice of Violation, ERC seeks to reduce exposure to the public from lead that is contained in the named products manufactured and distributed by THE SUNRIDER CORPORATION.

This letter constitutes notification that THE SUNRIDER CORPORATION, located at 1625 Abalone Avenue, Torrance, CA 90501 has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this company has manufactured and distributed products that have exposed and continue to expose numerous individuals within California to lead. Lead was listed pursuant to Proposition 65 as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Lead was listed pursuant to Proposition 65 as a carcinogen on October 1, 1992. The time period of these violations commenced one year after the listed dates above. The primary route of exposure has been oral through ingestion.

THE SUNRIDER CORPORATION is exposing people to lead from the following products:

- Fortune Delight Peach Concentrated Herbal Beverage
- Vita Shake Cocoa Concentrated Herbal Food
- Dandelion Root Herb Concentrate
- Sun Bar Chocolate Herbal Food Bar
- Chinese Goldenseal Root Herb Concentrate
- Metabalance 44 Herbal Concentrate
- Energy Plus Herbal Concentrate
- Alpha 20C Herbal Concentrate
- Dr. Chen Meta Booster
- Quinary Herbal Concentrate
- Don Quai
- Korean White Ginseng

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. THE SUNRIDER CORPORATION is in violation of Proposition 65 because the company failed to provide a warning to persons using their products that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to ERC from information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party. ERC remains open to discussing the possibility of resolving its grievances short of formal litigation. Such resolution will avoid both further unwarned consumer exposures to lead and expensive and time-consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Karen A. Evans, 4218 Biona Pl., San Diego, CA 92116, telephone no.: 619-640-8100, e-mail: [kaevans1@cox.net](mailto:kaevans1@cox.net).

Sincerely,

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

July 7, 2010

Page 3



Chris Heptinstall  
Executive Director, Environmental Research Center

cc: Karen A. Evans

Attachments

OEHHA Summary

Certificate of Merit (w/o AG attachments)

Certificate of Service

List of Service

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 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 toxicants"), 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 which has not been associated with an observable adverse reproductive or developmental effect. Discharges 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 listed 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 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.

## CERTIFICATE OF MERIT

### Health and Safety Code Section 25249.7 (d)

I, Karen A. Evans hereby declare:

1. This Certificate of Merit accompanies the Notice of Violation in which it is alleged that the party identified in the Notice has violated Health and Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am the attorney for the noticing party Environmental Research Center (“ERC”). ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. The Notice of Violation alleges that the party identified has exposed persons in California to lead from products that it manufactures and distributes. Please refer to the Notice of Violation for additional details regarding the alleged violations.
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 alleged exposure to the listed chemical that is the subject of the action. In particular, I have reviewed the resulting data from the laboratory that conducted the testing to determine the concentration of lead in the products identified in the Notice of Violation and I have relied on the testing results. The testing was conducted by a reputable testing laboratory with substantial experience in testing for lead. These facts, studies or other data derived through this investigation overwhelmingly demonstrate that the party identified in the Notice of Violation exposes persons to lead through oral exposure (ingestion).
4. Based on my consultation with persons of appropriate experience, the results of the laboratory testing, as well as published studies on lead, it is clear that there is sufficient evidence that

human exposures exist from exposure to the products from the noticed party. Furthermore, as a result of the above, I have concluded that 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 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 California Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health & Safety Code Section 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: July 07, 2010



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Karen A. Evans  
Attorney for Environmental Research Center

**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 of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On July 07, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; “SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: A SUMMARY”**

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

Current President or CEO  
THE SUNRIDER CORPORATION  
1625 Abalone Ave  
Torrance, CA 90501

On July 07, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On July 07, 2010, I served the following documents: **NOTICE OF VIOLATION, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on July 07, 2010, in Fort Oglethorpe, Georgia.



Chris Heptinstall

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

July 7, 2010

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Service List

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

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

District Attorney, Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive  
Oroville, CA 95965

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

District Attorney, Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney, Contra Costa County  
900 Ward Street  
Martinez, CA 94553

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

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

District Attorney, Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

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

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

District Attorney, Inyo County  
Post Office Drawer D  
Independence, CA 93526

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

District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

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

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

District Attorney, Los Angeles County  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

District Attorney, Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin County  
3501 Civic Center, Room 130  
San Rafael, CA 94903

District Attorney, Mariposa County  
Post Office Box 730  
Mariposa, CA 95338

District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced County  
2222 "M" Street  
Merced, CA 95340

District Attorney, Modoc County  
204 S Court Street, Room 202  
Alturas, CA 96101-4020

District Attorney, Mono County  
Post Office Box 617  
Bridgeport, CA 93517

District Attorney, Monterey County  
230 Church Street, Bldg 2  
Salinas, CA 93901

District Attorney, Napa County  
931 Parkway Mall  
Napa, CA 94559

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

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

July 7, 2010

Page 10

District Attorney, Placer County  
10810 Justice Center Drive, Ste 240  
Roseville, CA 95603

District Attorney, Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

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

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 95814

District Attorney, San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

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

District Attorney, San Diego County  
330 West Broadway, Room 1300  
San Diego, CA 92112

District Attorney, San Francisco County  
850 Bryant Street, Room 325  
San Francisco, CA 94103

District Attorney, San Joaquin County  
Post Office Box 990  
Stockton, CA 95202

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

District Attorney, San Mateo County  
400 County Ctr., 3<sup>rd</sup> Floor  
Redwood City, CA 94063

District Attorney, Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney, Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney, Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney, Sierra County  
100 Courthouse Square, 2<sup>nd</sup> Floor  
Downieville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

District Attorney, Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95353

District Attorney, Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tulare County  
221 S. Mooney Avenue, Room 224  
Visalia, CA 93291

District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

District Attorney, Yuba County  
215 Fifth Street  
Marysville, CA 95901

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

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

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

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



## Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

November 5, 2010

### ***VIA CERTIFIED MAIL***

Current CEO or President  
The Sunrider Corporation  
1625 Abalone Ave  
Torrance, CA 90501

Paul McCabe  
(The Sunrider Corporation's Registered  
Agent for Service of Process)  
1625 Abalone Ave  
Torrance, CA 90501

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

**Re: Notice of Violation against The Sunrider Corporation for Violation of California Health & Safety Code Section 25249.6**

Dear Prosecutors:

The Environmental Research Center ("ERC"), the noticing entity is a California corporation whose mission is to safeguard the public from health hazards that impact families, workers and the environment. ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC is located at 5694 Mission Center Road, # 199, San Diego, CA 92108. Tel. (619) 309-4194, Executive Director: Chris Heptinstall. Through this Notice of Violation, ERC seeks to reduce exposure to the public from lead that is contained in the named products manufactured and distributed by The Sunrider Corporation.

This letter constitutes notification that The Sunrider Corporation, located at 1625 Abalone Ave., Torrance, CA 90501, has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this Company has manufactured and distributed products that have exposed and continue to expose numerous individuals within California to lead. Lead was listed pursuant to Proposition 65 as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Lead was listed pursuant to Proposition 65 as a carcinogen on October 1, 1992. The time period of these violations commenced one year after the listed dates above, at least since November 5, 2007, 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 purchasers and users.

The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, the primary route of exposure for consumers has been oral through ingestion, but may also occur through the inhalation and/or dermal contact route of exposure.

The Sunrider Corporation is exposing people to lead from the following products:

- Sunrider International NuPlus
- Sunrider International Liqui-Five 5 Fl oz
- Sunrider International Quinary
- Sunrider International Alpha 20C 1.76 oz
- Sunrider International Sunrise 5 Fl oz
- Sunrider International Vitafruit 11 Fl oz
- Sunrider International Vitalite Sport Caps 1.85 oz
- Sunrider International WuChiaPi Herb Concentrate Net Wt 1.85 oz
- Sunrider International Vitalite Slim Caps Net Wt 1.94 oz
- Sunrider International Assimilaid Net Wt 1.76 oz
- Sunrider International Vitalite Action Caps Net Wt 1.85 oz
- Sunrider International Tei-Fu Metashaper Net Wt 1.94 oz

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. The Sunrider Corporation is in violation of Proposition 65 because the Company failed to provide a warning to persons using their products that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to ERC from information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against The Sunrider Corporation unless it agrees in an enforceable written instrument to: instrument to: (1) recall or reformulate the listed products so as to eliminate further unwarned exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
November 5, 2010  
Page 3

Please direct all questions concerning this notice to ERC's attorney, Gideon Kracov, 801 S. Grand Ave., 11<sup>th</sup> Fl., Los Angeles, CA 90017, 213-629-2071, gk@gideonlaw.net.

Sincerely,



---

Chris Heptinstall  
Executive Director  
Environmental Research Center

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to The Sunrider Corporation and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by The Sunrider Corporation**

I, Gideon Kracov, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 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 have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, 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 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California 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.



Dated: November 5, 2010

\_\_\_\_\_  
Gideon Kracov, Attorney At Law

**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 of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On November 5, 2010, I served the following documents: **NOTICE OF VIOLATIONS 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 party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current CEO or President  
The Sunrider Corporation  
1625 Abalone Ave  
Torrance, CA 90501

Paul McCabe  
(The Sunrider Corporation's Registered  
Agent for Service of Process)  
1625 Abalone Ave  
Torrance, CA 90501

On November 5, 2010, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On November 5, 2010, I served the following documents: **NOTICE OF VIOLATION, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on November 5, 2010, in Fort Oglethorpe, Georgia.



---

Chris Heptinstall

**Service List**

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

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

District Attorney, Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive  
Oroville, CA 95965

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

District Attorney, Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney, Contra Costa County  
900 Ward Street  
Martinez, CA 94553

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

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

District Attorney, Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

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

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

District Attorney, Inyo County  
230 W. Line Street  
Bishop, CA 93514

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

District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

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

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

District Attorney, Los Angeles County  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

District Attorney, Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin County  
3501 Civic Center, Room 130  
San Rafael, CA 94903

District Attorney, Mariposa County  
Post Office Box 730  
Mariposa, CA 95338

District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced County  
2222 M Street  
Merced, CA 95340

District Attorney, Modoc County  
204 S Court Street, Room 202  
Alturas, CA 96101-4020

District Attorney, Mono County  
Post Office Box 617  
Bridgeport, CA 93517

District Attorney, Monterey County  
230 Church Street, Bldg 2  
Salinas, CA 93901

District Attorney, Napa County  
931 Parkway Mall  
Napa, CA 94559

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

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

November 5, 2010

Page 7

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

District Attorney, Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

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

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 9581

District Attorney, San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

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

District Attorney, San Diego County  
330 West Broadway, Room 1300  
San Diego, CA 92101

District Attorney, San Francisco County  
850 Bryant Street, Room 325  
San Francisco, CA 94103

District Attorney, San Joaquin County  
Post Office Box 990  
Stockton, CA 95201

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

District Attorney, San Mateo County  
400 County Ctr., 3<sup>rd</sup> Floor  
Redwood City, CA 94063

District Attorney, Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney, Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney, Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney, Sierra County  
PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

District Attorney, Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95353

District Attorney, Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tulare County  
221 S. Mooney Avenue, Room 224  
Visalia, CA 93291

District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

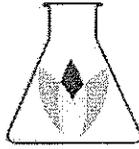
District Attorney, Yuba County  
215 Fifth Street  
Marysville, CA 95901

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

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

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

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



## Environmental Research Center

5694 Mission Center Road #199  
San Diego, CA 92108  
619.309.4194

January 14, 2011

### ***VIA CERTIFIED MAIL***

Current CEO or President  
The Sunrider Corporation  
1625 Abalone Ave  
Torrance, CA 90501

Paul McCabe  
(The Sunrider Corporation's Registered  
Agent for Service of Process)  
1625 Abalone Ave  
Torrance, CA 90501

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612-0550

**Re: Notice of Violation against The Sunrider Corporation for Violation of California Health & Safety Code Section 25249.6**

Dear Prosecutors:

The Environmental Research Center ("ERC"), the noticing entity is a California corporation whose mission is to safeguard the public from health hazards that impact families, workers and the environment. ERC is dedicated to reducing the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and encouraging corporate responsibility. ERC is located at 5694 Mission Center Road, # 199, San Diego, CA 92108. Tel. (619) 309-4194, Executive Director: Chris Heptinstall. Through this Notice of Violation, ERC seeks to reduce exposure to the public from lead that is contained in the named products manufactured and distributed by The Sunrider Corporation.

This letter constitutes notification that The Sunrider Corporation, located at 1625 Abalone Ave., Torrance, CA 90501, has violated the warning requirement of Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with section 25249.5 of the Health and Safety Code).

In particular, this Company has manufactured and distributed products that have exposed and continue to expose numerous individuals within California to lead. Lead was listed pursuant to Proposition 65 as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Lead was listed pursuant to Proposition 65 as a carcinogen on October 1, 1992. The time period of these violations commenced one year after the listed dates above, at least since January 14, 2008, 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 purchasers and users.

The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products by consumers. Accordingly, the primary route of exposure for consumers has been oral through ingestion, but may also occur through the inhalation and/or dermal contact route of exposure.

The Sunrider Corporation is exposing people to lead from the following products:

**Sunrider International Dr. Chen Veros 50 Capsules**  
**Sunrider International Vitalite Fibertone 100 Capsules**  
**Sunrider International Lifestream 100 Capsules**  
**Sunrider International Top 100 Capsules**  
**Sunrider International Vitalite Vitataste 100 Capsules**  
**Sunrider International Vitalite Sunfit 100 Capsules**  
**Sunrider International Prime Again 100 Capsules**  
**Sunrider International Spirulina 100 Capsules**  
**Sunrider International Conco 100 Capsules**  
**Sunrider International White Willow Bark 100 Capsules**  
**Sunrider Corp. Vitalite Sun Trim 100 Capsules**  
**Sunrider International Dr. Chen Regular Secret Sauce (425 g)**  
**Sunrider International Nu Puffs Cocoa 6 Packages**  
**Sunrider International Sunny Fresh 10 Bottles**  
**Sunrider Manufacturing L.P ElectroSport 10 Bottles**

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to certain listed chemicals. The Sunrider Corporation is in violation of Proposition 65 because the Company failed to provide a warning to persons using their products that they are being exposed to lead. (22 C.C.R. section 12601.) While in the course of doing business, the company is knowingly and intentionally exposing people to lead without first providing clear and reasonable warning. (Health and Safety Code section 25249.6.) The method of warning should be a warning that appears on the product's label. 22 C.C.R. section 12601 (b)(1) (A).

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to ERC from information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, and referenced as Appendix A, has been provided to the noticed party.

Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against The Sunrider Corporation unless it agrees in an enforceable written instrument to: instrument to: (1) recall or reformulate the listed products so as to eliminate further unwarned exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65, ERC is interested in

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
January 14, 2011  
Page 3

seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Gideon Kracov, 801 S. Grand Ave., 11<sup>th</sup> Fl., Los Angeles, CA 90017, 213-629-2071, [gk@gideonlaw.net](mailto:gk@gideonlaw.net).

Sincerely,



---

Chris Heptinstall  
Executive Director  
Environmental Research Center

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to The Sunrider Corporation and its Registered Agent for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center's Notice of Proposition 65 Violations by The Sunrider Corporation**

I, Gideon Kracov, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 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 have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, 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 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California 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.



Dated: January 14, 2011

\_\_\_\_\_  
Gideon Kracov, Attorney At Law

**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 of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On January 14, 2011, I served the following documents: **NOTICE OF VIOLATIONS 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 party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Current CEO or President  
The Sunrider Corporation  
1625 Abalone Ave  
Torrance, CA 90501

Paul McCabe  
(The Sunrider Corporation's Registered  
Agent for Service of Process)  
1625 Abalone Ave  
Torrance, CA 90501

On January 14, 2011, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Post Office Box 70550  
Oakland, CA 94612-0550

On January 14, 2011, I served the following documents: **NOTICE OF VIOLATION, 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 with the U.S. Postal Service for delivery by Priority Mail.

Executed on January 14, 2011, in Fort Oglethorpe, Georgia.



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Chris Heptinstall

Service List

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

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

District Attorney, Amador County  
708 Court Street, #202  
Jackson, CA 95642

District Attorney, Butte County  
25 County Center Drive  
Oroville, CA 95965

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

District Attorney, Colusa County  
547 Market Street  
Colusa, CA 95932

District Attorney, Contra Costa County  
900 Ward Street  
Martinez, CA 94553

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

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

District Attorney, Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney, Glenn County  
Post Office Box 430  
Willows, CA 95988

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

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

District Attorney, Inyo County  
230 W. Line Street  
Bishop, CA 93514

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

District Attorney, Kings County  
1400 West Lacey Boulevard  
Hanford, CA 93230

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

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

District Attorney, Los Angeles County  
210 West Temple Street, Rm 345  
Los Angeles, CA 90012

District Attorney, Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney, Marin County  
3501 Civic Center, Room 130  
San Rafael, CA 94903

District Attorney, Mariposa County  
Post Office Box 730  
Mariposa, CA 95338

District Attorney, Mendocino County  
Post Office Box 1000  
Ukiah, CA 95482

District Attorney, Merced County  
2222 M Street  
Merced, CA 95340

District Attorney, Modoc County  
204 S Court Street, Room 202  
Alturas, CA 96101-4020

District Attorney, Mono County  
Post Office Box 617  
Bridgeport, CA 93517

District Attorney, Monterey County  
230 Church Street, Bldg 2  
Salinas, CA 93901

District Attorney, Napa County  
931 Parkway Mall  
Napa, CA 94559

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

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

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

District Attorney, Plumas County  
520 Main Street, Room 404  
Quincy, CA 95971

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

District Attorney, Sacramento County  
901 "G" Street  
Sacramento, CA 9581

District Attorney, San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

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

District Attorney, San Diego County  
330 West Broadway, Room 1300  
San Diego, CA 92101

District Attorney, San Francisco County  
850 Bryant Street, Room 325  
San Francisco, CA 94103

District Attorney, San Joaquin County  
Post Office Box 990  
Stockton, CA 95201

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

District Attorney, San Mateo County  
400 County Ctr., 3<sup>rd</sup> Floor  
Redwood City, CA 94063

District Attorney, Santa Barbara County  
1105 Santa Barbara Street  
Santa Barbara, CA 93101

District Attorney, Santa Clara County  
70 West Hedding Street  
San Jose, CA 95110

District Attorney, Santa Cruz County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

District Attorney, Shasta County  
1525 Court Street, Third Floor  
Redding, CA 96001-1632

District Attorney, Sierra County  
PO Box 457  
Downieville, CA 95936

District Attorney, Siskiyou County  
Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano County  
675 Texas Street, Ste 4500  
Fairfield, CA 94533

District Attorney, Sonoma County  
600 Administration Drive, Room 212J  
Santa Rosa, CA 95403

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95353

District Attorney, Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney, Tehama County  
Post Office Box 519  
Red Bluff, CA 96080

District Attorney, Trinity County  
Post Office Box 310  
Weaverville, CA 96093

District Attorney, Tulare County  
221 S. Mooney Avenue, Room 224  
Visalia, CA 93291

District Attorney, Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney, Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009

District Attorney, Yolo County  
301 2<sup>nd</sup> Street  
Woodland, CA 95695

District Attorney, Yuba County  
215 Fifth Street  
Marysville, CA 95901

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

San Diego City Attorney's Office  
1200 3rd Avenue, Ste 1620  
San Diego, CA 92101

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

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