

ENDORSED
FILED
ALAMEDA COUNTY

OCT '24 2016

By SUE PESKO

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Attorneys for Plaintiff
ENVIRONMENTAL RESEARCH CENTER, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

ENVIRONMENTAL RESEARCH CENTER,
INC., a non-profit California corporation,

Plaintiff,

v.

ARIIX, LLC, a Utah limited liability
company, dba ARIIX,
Defendant.

Case No. RG16818149

ASSIGNED FOR ALL PURPOSES TO:
JUDGE BRAD SELIGMAN
DEPT. 30

**FIRST AMENDED COMPLAINT FOR
INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

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

Complaint Filed: June 3, 2016

Plaintiff Environmental Research Center, Inc. ("PLAINTIFF" or "ERC") brings this
action in the interests of the general public and, on information and belief, hereby alleges:

INTRODUCTION

1. This action seeks to remedy the continuing failure of Defendant ARIIX, LLC, a
Utah limited liability company, doing business as ARIIX ("ARIIX" or "DEFENDANT") to
warn consumers in California that they are being exposed to lead, a substance known to the
State of California to cause cancer, birth defects, and other reproductive harm. DEFENDANT

1 manufactures, packages, distributes, markets, and/or sells in California certain products
2 containing lead (collectively, the “PRODUCTS”):

- 3 **1. ARIIX Slenderiiz PureNourish Natural Flavor**
- 4 **2. ARIIX Nutrifii Restoriix**
- 5 **3. TrueStar Health Inc. Be True TrueDetox and Cleanse**
- 6 **4. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Women**
- 7 **5. TrueStar Health (U.S.) Holdings Inc. Be True TrueSleep – Lead**
- 8 **6. TrueStar Health (U.S.) Holdings Inc. Be True TrueCraving Control – Lead**
- 9 **7. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Athletes –**
10 **Lead**
- 11 **8. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics with Lean**
12 **Extreme**
- 13 **9. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Men – Lead**
- 14 **10. TrueStar Health (U.S.) Holdings Inc. Be True TrueEndurance – Lead**
- 15 **11. TrueStar Health (U.S.) Holdings Inc. Be True TrueKids**
- 16 **12. Ariix Slenderiiz Power Boost Cocoa Flavor**

17 2. Lead (hereinafter, the “LISTED CHEMICAL”) is a substance known to the State¹
18 of California to cause cancer, birth defects, and other reproductive harm.

19 3. The use and/or handling of the PRODUCTS causes exposures to the LISTED
20 CHEMICAL at levels requiring a “clear and reasonable warning” under California's Safe
21 Drinking Water and Toxic Enforcement Act of 1986, Health & Safety Code (“H&S Code”) §
22 25249.5, *et seq.* (also known as “Proposition 65”). DEFENDANT has failed to provide the
23 health hazard warnings required by Proposition 65.

24 4. DEFENDANT’s past sales and continued manufacturing, packaging,
25 distributing, marketing and/or sales of the PRODUCTS without the required health hazard
26

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

1 warnings, causes or threatens to cause individuals to be involuntarily and unwittingly exposed
2 to levels of the LISTED CHEMICAL that violates or threatens to violate Proposition 65.

3 5. PLAINTIFF seeks injunctive relief enjoining DEFENDANT from the continued
4 manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS in
5 California without provision of clear and reasonable warnings regarding the risks of cancer,
6 birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICAL
7 through the use and/or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order
8 compelling DEFENDANT to bring its business practices into compliance with Proposition 65
9 by providing a clear and reasonable warning to each individual who has been and who in the
10 future may be exposed to the LISTED CHEMICAL from the use of the PRODUCTS.

11 PLAINTIFF also seeks an order compelling DEFENDANT to identify and locate each
12 individual person who in the past has purchased the PRODUCTS, and to provide to each such
13 purchaser a clear and reasonable warning that the use of the PRODUCTS will cause exposures
14 to the LISTED CHEMICAL.

15 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil
16 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by
17 Proposition 65 to remedy DEFENDANT's failure to provide clear and reasonable warnings
18 regarding exposures to the LISTED CHEMICAL.

19 **JURISDICTION AND VENUE**

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

24 8. This Court has jurisdiction over DEFENDANT because, based on information
25 and belief, DEFENDANT is a businesses having sufficient minimum contacts with California,
26 or otherwise intentionally availing themselves of the California market through the distribution

1 and sale of the PRODUCTS in the State of California to render the exercise of jurisdiction over
2 them by the California courts consistent with traditional notions of fair play and substantial
3 justice.

4 9. Venue in this action is proper in the Alameda Superior Court because the
5 DEFENDANTS have violated or threaten to violate California law in the County of Alameda.

6 10. On November 5, 2015, PLAINTIFF sent a 60-Day Notice of Proposition 65
7 Violation to the requisite public enforcement agencies, and to DEFENDANT regarding two
8 products. On April 29, 2016 and July 29, 2016, PLAINTIFF sent a second and third 60-Day
9 Notice of Proposition 65 Violation (the "NOTICES") regarding ten additional products. The
10 NOTICES was issued pursuant to, and in compliance with, the requirements of H&S Code §
11 25249.7(d) and the statute's implementing regulations regarding the notice of the violation to
12 be given to certain public enforcement agencies and to the violators. Each of the NOTICES
13 included, *inter alia*, the following information: the name, address, and telephone number of the
14 noticing individuals; the name of the alleged violator; the statute violated; the approximate
15 time period during which violations occurred; and descriptions of the violations, including the
16 chemicals involved, the routes of toxic exposure, and the specific product or type of product
17 causing the violations, and was issued as follows for each of the NOTICES:

- 18 a. DEFENDANT was provided a copy of the NOTICE by Certified Mail.
- 19 b. DEFENDANT was provided a copy of a document entitled "The Safe
20 Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A
21 Summary," which is also known as Appendix A to Title 27 of CCR §25903.
- 22 c. The California Attorney General was provided a copy of the NOTICE via
23 online submission.
- 24 d. The California Attorney General was provided with a Certificate of Merit by
25 the attorney for the noticing parties, stating that there is a reasonable and
26 meritorious case for this action, and attaching factual information sufficient

1 to establish a basis for the certificate, including the identity of the persons
2 consulted with and relied on by the certifier, and the facts, studies, or other
3 data reviewed by those persons, pursuant to H&S Code § 25249.7(h)(2).

4 11. At least 60-days have elapsed since PLAINTIFF sent the NOTICES to
5 DEFENDANT. The appropriate public enforcement agencies have failed to commence and
6 diligently prosecute a cause of action under H&S Code § 25249.5, *et seq.* against
7 DEFENDANT based on the allegations herein.

8 **PARTIES**

9 12. PLAINTIFF is a non-profit corporation organized under California's
10 Corporation Law. ERC is dedicated to, among other causes, reducing the use and misuse of
11 hazardous and toxic substances, consumer protection, worker safety, and corporate
12 responsibility.

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

15 14. DEFENDANT ARIIX, LLC, doing business as ARIIX, is a limited
16 liability company organized under the State of Utah's Corporation Law and is a person
17 doing business within the meaning of H&S Code § 25249.11.

18 15. DEFENDANT manufactured, packaged, distributed, marketed and /or sold the
19 PRODUCTS for sale or use in California and the County of Alameda. ERC is informed and
20 believes, and thereupon alleges, that DEFENDANT continue to manufacture, package,
21 distribute, market and/or sell the PRODUCTS for sale or use in California and in Alameda
22 County.

23 **STATUTORY BACKGROUND**

24 16. The People of the State of California have declared in Proposition 65 their right
25 "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
26 reproductive harm." (Section 1(b) of Initiative Measure, Proposition 65).

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

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

9 18. “‘Knowingly’ refers only to knowledge of the fact that a discharge of, release of,
10 or exposure to a chemical listed pursuant to Section 25249.8(a) of the Act is occurring. No
11 knowledge that the discharge, release or exposure is unlawful is required.” (27 California Code
12 of Regulations (“CCR”) § 25102(n).)

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

18 **FACTUAL BACKGROUND**

19 20. On February 27, 1987, the State of California officially listed the chemical lead
20 as a chemical known to cause reproductive toxicity. Lead became subject to the warning
21 requirement one year later and was therefore subject to the “clear and reasonable” warning
22 requirements of Proposition 65 beginning on February 27, 1988. (27 CCR § 25000, *et seq.*;
23 H&S Code § 25249.5, *et seq.*) Due to the high toxicity of lead, the maximum allowable dose
24 level for lead is 0.5 ug/day (micrograms a day) for reproductive toxicity. (27 CCR
25 § 25805(b).)

26 21. On October 1, 1992, the State of California officially listed the chemicals lead
and lead compounds as chemicals known to cause cancer. Lead and lead compounds became
subject to the warning requirement one year later and were therefore subject to the “clear and

reasonable” warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR § 25000, *et seq.*; H&S Code §25249.6 *et seq.*) Due to the carcinogenicity of lead, the no significant risk level for lead is 15 ug/day (micrograms a day). (27 CCR § 25705(b)(1).)

22. To test DEFENDANT’s PRODUCTS for lead, PLAINTIFF hired a well-respected and accredited testing laboratory. The results of testing undertaken by PLAINTIFF of DEFENDANT’s PRODUCTS show that the PRODUCTS tested were in violation of the 0.5 ug/day for lead “safe harbor” daily dose limits set forth in Proposition 65’s regulations. Very significant is the fact that people are being exposed to lead through ingestion as opposed to other not as harmful methods of exposure such as dermal exposure. Ingestion of lead produces much higher exposure levels and health risks than dermal exposure to these chemicals.

23. At all times relevant to this action, DEFENDANT, therefore, has knowingly and intentionally exposed the users and/or handlers of the PRODUCTS to the LISTED CHEMICAL without first giving a clear and reasonable warning to such individuals.

24. The PRODUCTS have allegedly been sold by DEFENDANT for use in California since at least November 5, 2012. The PRODUCTS continue to be distributed and sold in California without the requisite warning information.

25. On November 5, 2015, April 29, 2016, and July 29, 2016, ERC served DEFENDANT and each of the appropriate public enforcement agencies with Proposition 65 Notices, a document entitled “Notice of Violation of California Health & Safety Code Section 25249.5” that provided DEFENDANT and the public enforcement agencies with notice that DEFENDANT was in violation of Proposition 65 for failing to warn purchasers and individuals using the PRODUCTS that the use of the PRODUCTS exposes them to lead, a chemical known to the State of California to cause cancer and/or reproductive toxicity (a true and correct copy of each of the three 60-Day NOTICES are attached hereto as **Exhibit A** and are incorporated by reference).

26. As a proximate result of acts by DEFENDANT, as persons in the course of doing

1 business within the meaning of Health & Safety Code §25249.11, individuals throughout the
2 State of California, including in the County of Alameda, have been exposed to the LISTED
3 CHEMICAL without a clear and reasonable warning. The individuals subject to the illegal
4 exposures include normal and foreseeable users of the PRODUCTS, as well as all other
5 persons exposed to the PRODUCTS.

6 **FIRST CAUSE OF ACTION**
7 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**
8 **the PRODUCTS described in the November 5, 2015,**
9 **Prop. 65 NOTICE) Against DEFENDANT**

10 28. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through
11 27, inclusive, as if specifically set forth herein.

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

18 30. By the above-described acts, DEFENDANT has violated and/or threatens to
19 violate H&S Code § 25249.6 and is therefore subject to an injunction ordering DEFENDANT
20 to stop violating Proposition 65, to provide warnings to all present and future customers, and to
21 provide warnings to DEFENDANT's past customers who purchased or used the PRODUCTS
22 without receiving a clear and reasonable warning.

23 31. An action for injunctive relief under Proposition 65 is specifically authorized by
24 Health & Safety Code § 25249.7(a).

25 32. Continuing commission by DEFENDANT of the acts alleged above will
26 irreparably harm the citizens of the State of California, for which harm they have no plain,
speedy, or adequate remedy at law.

1 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth
2 hereafter.

3 **SECOND CAUSE OF ACTION**
4 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, *et seq.* concerning the**
5 **PRODUCTS described in PLAINTIFF's NOTICE)**
6 **Against DEFENDANT**

7 33. PLAINTIFF re-alleges and incorporates by reference Paragraphs 1 through 32,
8 inclusive, as if specifically set forth herein.

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

15 35. By the above-described acts, DEFENDANT is liable, pursuant to H&S Code
16 §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to
17 the LISTED CHEMICAL from the PRODUCTS.

18 Wherefore, PLAINTIFF prays for judgment against DEFENDANT, as set forth
19 hereafter.

20 **THE NEED FOR INJUNCTIVE RELIEF**

21 36. PLAINTIFF re-alleges and incorporates by this reference Paragraphs 1 through
22 35, inclusive, as if specifically set forth herein.

23 37. By committing the acts alleged in this Complaint, DEFENDANT has caused or
24 threatens to cause irreparable harm for which there is no plain, speedy or adequate remedy at
25 law. In the absence of equitable relief, DEFENDANT will continue to create a substantial risk
26 of irreparable injury by continuing to cause or threatening to cause consumers to be
involuntarily and unwittingly exposed to the LISTED CHEMICAL through the use and/or

1 handling of the PRODUCTS.

2 **PRAYER FOR RELIEF**

3 Wherefore, PLAINTIFF accordingly prays for the following relief:

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

9 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling
10 DEFENDANT to identify and locate each individual who has purchased the PRODUCTS since
11 November 5, 2012, and to provide a warning to such person that the use of the PRODUCTS
12 will expose the user to chemicals known to birth defects and other 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;

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

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

19
20 DATED: October 24, 2016

LOZEAU | DRURY LLP

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22 
23 Richard T. Drury
24 Rebecca L. Davis
25 Attorneys for Plaintiff
26 Environmental Research Center, Inc.

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EXHIBIT A



T 510.836.4200
F 510.836.4205

410 12th Street, Suite 250
Oakland, Ca 94607

www.lozeaudrury.com
richard@lozeaudrury.com

VIA CERTIFIED MAIL

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey Yates
(ARIIX LLC dba ARIIX's
Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 340
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Jeffrey A. Yates
(ARIIX Holdings, LLC dba ARIIX's
Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

VIA CERTIFIED MAIL

ARIIX LLC
(ARIIX's Registered Agent for Service of
Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA ELECTRONIC MAIL

Yolo County District Attorney
301 2nd Street
Woodland, CA 95695
cfepd@yolocounty.org

VIA PRIORITY MAIL

District Attorneys of Select California
Counties and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

ARIIX LLC dba ARIIX
ARIIX Holdings, LLC dba ARIIX

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

ARIIX Slenderiiz PureNourish Natural Flavor – Lead
ARIIX Nutrifii Restoriix - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the 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, is enclosed with the copy of this letter to the Violators.

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable

November 5, 2015

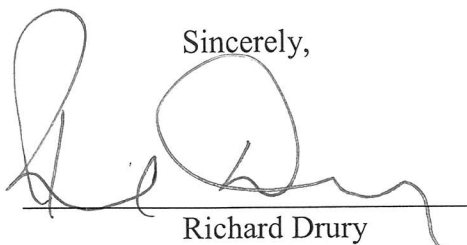
Page 3

warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since November 5, 2012, 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 product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard Drury', is written over a horizontal line. The signature is fluid and cursive.

Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to ARIIX LLC dba ARIIX, ARIIX Holdings, LLC dba ARIIX,
and their Registered Agents for Service of Process only)

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

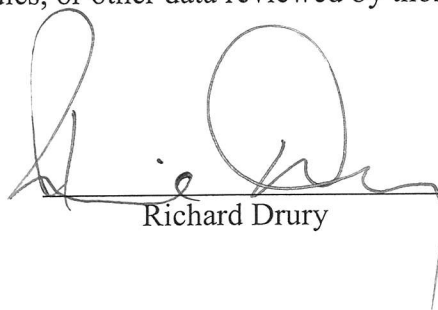
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by ARIIX LLC dba ARIIX and ARIIX Holdings, LLC dba ARIIX**

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties 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 Violators 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, 2015



Richard Drury

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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On November 5, 2015, 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 U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

ARIIX LLC
(ARIIX’s Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
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Bountiful, UT 84010

Jeffrey A. Yates
(ARIIX Holdings, LLC dba ARIIX’s
Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

On November 5, 2015, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party

when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

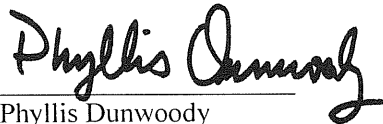
Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550

On November 5, 2015, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following party when a true and correct copy thereof was sent via electronic mail to the party listed below:

Yolo County District Attorney
301 2nd Street
Woodland, CA 95695
cfepd@yolocounty.org

On November 5, 2015, I served the following documents: **NOTICE OF VIOLATIONS, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on November 5, 2015, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

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District Attorney, Alpine
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County
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245
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District Attorney, Calaveras
County
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District Attorney, Colusa
County
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District Attorney, Contra Costa
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District Attorney, Del Norte
County
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District Attorney, El Dorado
County
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District Attorney, Inyo County
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Bishop, CA 93514

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1215 Truxtun Avenue
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District Attorney, Lake County
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Susanville, CA 96130

District Attorney, Los Angeles
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Los Angeles, CA 90012

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

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), 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. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. The warning given must be “clear and

reasonable.” This means that the warning must: (1) clearly say 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

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. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

<http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at:

<http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering 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 pass into or probably pass into a source of drinking water, 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” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that 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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off- premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;

- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the notice was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$5B500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

The notice is reproduced here:

Date: November 5, 2015

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.

Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108

Phone number: 619-500-3090

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

- 1. You have actually taken the corrective steps that you have certified in this form**
- 2. The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice**
- 3. The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.**
- 4. This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

The alleged violation is for an exposure to: (check one)

☐ Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

☐ A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

☐ Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

☐ Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

IMPORTANT NOTES:

- 1. You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.**
- 2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.**

Date: November 5, 2015

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.

Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108

Phone number: 619-500-3090

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- ☐ Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- ☐ Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately its placement on my premises; OR
- ☐ Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

Certification

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Signature of alleged violator or authorized representative Date

Name and title of signatory

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2014

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

² See Section 25501(a)(4).

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New Appendix A filed 4-22-97; operative 4-22-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 17).
2. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12903 and Appendix A to title 27, section 25903 and Appendix A, including amendment of appendix, filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).
4. Amendment filed 11-19-2012; operative 12-19-2012 (Register 2012, No. 47).
5. Amendment of appendix and Note filed 11-19-2014; operative 1-1-2015 (Register 2014, No. 47).

This database is current through 9/18/15 Register 2015, No. 38

27 CCR Appendix A, 27 CA ADC Appendix A



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Current CEO or President
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Jeffrey Yates
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VIA CERTIFIED MAIL

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April 29, 2016

Page 2

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VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA PRIORITY MAIL

District Attorneys of Select California
Counties and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

ARIIX LLC dba ARIIX
ARIIX Holdings, LLC dba ARIIX

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. TrueStar Health Inc. Be True TrueDetox and Cleanse - Lead**
- 2. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Women - Lead**
- 3. TrueStar Health (U.S.) Holdings Inc. Be True TrueSleep - Lead**
- 4. TrueStar Health (U.S.) Holdings Inc. Be True TrueCraving Control - Lead**
- 5. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Athletes - Lead**
- 6. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics with Lean Extreme - Lead**
- 7. TrueStar Health (U.S.) Holdings Inc. Be True TrueBasics for Men - Lead**
- 8. TrueStar Health (U.S.) Holdings Inc. Be True TrueEndurance - Lead**
- 9. TrueStar Health (U.S.) Holdings Inc. Be True TrueKids - Lead**

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the 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, is enclosed with the copy of this letter to the Violators.

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers.

April 29, 2016

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The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since April 29, 2013, 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 product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,

A handwritten signature in dark ink, appearing to be 'Rebecca Davis', written over a horizontal line.

Rebecca Davis

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to ARIIX LLC dba ARIIX, ARIIX Holdings, LLC dba ARIIX, and their Registered Agents for Service of Process only)

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

CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by ARIIX LLC dba ARIIX and ARIIX Holdings, LLC dba ARIIX**

I, Rebecca Davis, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties 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 Violators 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: April 29, 2016



Rebecca Davis

April 29, 2016

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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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On April 29, 2016, 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 U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey A. Yates
(ARIIX Holdings, LLC dba ARIIX's
Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey Yates
(ARIIX LLC dba ARIIX's Registered
Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

ARIIX LLC
(ARIIX's Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

On April 29, 2016, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

April 29, 2016

Page 7

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

On April 29, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
Riverside County
3072 Orange Street
Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
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901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Gregory Alker, Assistant District Attorney
San Francisco County
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San Francisco, CA 94103
gregory.alker@sfgov.org

Eric J. Dobroth, Deputy District Attorney
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County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Yen Dang, Supervising Deputy District Attorney
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San Jose, CA 95110
EPU@da.sccgov.org

Stephan R. Passalacqua, District Attorney
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Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

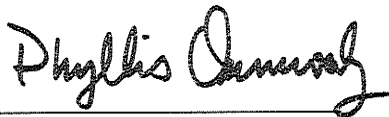
Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

April 29, 2016

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On April 29, 2016, I served the following documents: **NOTICE OF VIOLATIONS, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on April 29, 2016, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink, appearing to read "Phyllis Dunwoody", written over a horizontal line.

Phyllis Dunwoody

April 29, 2016

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Service List

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

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

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

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

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

District Attorney, Colusa
County
346 Fifth Street Suite 101
Colusa, CA 95932

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

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

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

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

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial
County
940 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, Los
Angeles County
210 West Temple Street,
Suite 18000
Los Angeles, CA 90012

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

District Attorney, Marin
County
3501 Civic Center Drive,
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
550 W. Main 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, Nevada
County
201 Commercial Street
Nevada City, CA 95959

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

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, San Benito
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419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San
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San Bernardino, CA 92415-
0004

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330 West Broadway, Suite
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San Diego, CA 92101

District Attorney, San
Joaquin County
222 E. Weber Ave. Rm. 202
Stockton, CA 95202

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

District Attorney, Santa
Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101

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

District Attorney, Shasta
County
1355 West Street
Redding, CA 96001

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, Stanislaus
County
832 12th Street, Ste 300
Modesto, CA 95354

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

District Attorney, Yuba
County
215 Fifth Street, Suite 152
Marysville, CA 95901

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

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

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

San Jose City Attorney's
Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), 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. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. 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 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed 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 unless an exemption applies. The warning given must be “clear and

reasonable.” This means that the warning must: (1) clearly say 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

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. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

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. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure 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” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

<http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure 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” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at:

<http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering 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 pass into or probably pass into a source of drinking water, 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” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that 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. 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. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement 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 to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off- premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;

- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the notice was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$5B500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

The notice is reproduced here:

Date: April 29, 2016

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.

Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108

Phone number: 619-500-3090

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

- 1. You have actually taken the corrective steps that you have certified in this form**
- 2. The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice**
- 3. The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.**
- 4. This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

The alleged violation is for an exposure to: (check one)

☐ Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

☐ A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

☐ Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

☐ Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

IMPORTANT NOTES:

- 1. You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.**
- 2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.**

Date: April 29, 2016

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.

Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108

Phone number: 619-500-3090

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- ☐ Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- ☐ Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately its placement on my premises; OR
- ☐ Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

Certification

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Signature of alleged violator or authorized representative Date

Name and title of signatory

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2014

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

² See Section 25501(a)(4).

Note: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

HISTORY

1. New Appendix A filed 4-22-97; operative 4-22-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 17).
2. Amendment filed 1-7-2003; operative 2-6-2003 (Register 2003, No. 2).
3. Change without regulatory effect renumbering title 22, section 12903 and Appendix A to title 27, section 25903 and Appendix A, including amendment of appendix, filed 6-18-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).
4. Amendment filed 11-19-2012; operative 12-19-2012 (Register 2012, No. 47).
5. Amendment of appendix and Note filed 11-19-2014; operative 1-1-2015 (Register 2014, No. 47).

This database is current through 9/18/15 Register 2015, No. 38

27 CCR Appendix A, 27 CA ADC Appendix A



T 510.836.4200
F 510.836.4205

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rebecca@lozeaudrury.com

VIA CERTIFIED MAIL

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Current CEO or President
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563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey Yates
(ARIIX LLC dba ARIIX's Registered
Agent for Service of Process)
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey A. Yates
(ARIIX Holdings, LLC dba ARIIX's
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Bountiful, UT 84010

VIA CERTIFIED MAIL

ARIIX LLC
(ARIIX's Registered Agent for Service of
Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
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VIA ELECTRONIC MAIL

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VIA ELECTRONIC MAIL

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Napa County
931 Parkway Mall
Napa, CA 94559
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Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
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Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th
Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

VIA ELECTRONIC MAIL

Yen Dang, Supervising Deputy District
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Santa Clara County
70 W Hedding St
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Stephan R. Passalacqua, District Attorney
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600 Administration Dr
Sonoma, CA 95403
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

VIA ONLINE SUBMISSION

Office of the California Attorney General

VIA PRIORITY MAIL

District Attorneys of Select California
Counties and Select City Attorneys
(See Attached Certificate of Service)

Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.*

Dear Addressees:

I represent Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

The names of the Companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

ARIIX LLC dba ARIIX
ARIIX Holdings, LLC dba ARIIX

The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels are:

Ariix Slenderiiz Power Boost Cocoa Flavor - Lead

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

This letter is a notice to each of the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed product. This notice covers all violations of Proposition 65 involving the Violators currently known to ERC from the 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, is enclosed with the copy of this letter to each of the Violators.

Each of the Violators has manufactured, marketed, distributed, and/or sold the listed product, which has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of this product by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product’s label. Each of the Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling this product that they are being exposed to lead. Each of these ongoing violations has occurred on every day since July 29, 2013, as well as every day since the

July 29, 2016

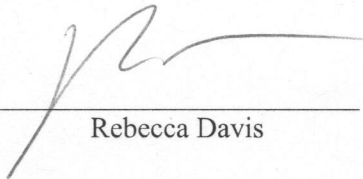
Page 4

product was introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed product so as to eliminate further exposures to the identified chemical; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above product in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



Rebecca Davis

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to ARIIX LLC dba ARIIX, ARIIX Holdings, LLC dba ARIIX, and their Registered Agents for Service of Process only)

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

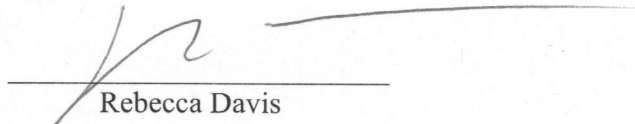
CERTIFICATE OF MERIT

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations
by ARIIX LLC dba ARIIX and ARIIX Holdings, LLC dba ARIIX**

I, Rebecca Davis, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties 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 Violators 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: July 29, 2016



Rebecca Davis

July 29, 2016

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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. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On July 29, 2016, 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 U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Jeffrey A. Yates
(ARIIX Holdings, LLC dba ARIIX’s
Registered Agent for Service of Process)
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

ARIIX LLC
(ARIIX’s Registered Agent for Service of Process)
563 West 500 South, Suite 340
Bountiful, UT 84010

Jeffrey Yates
(ARIIX LLC dba ARIIX’s Registered
Agent for Service of Process)
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 300
Bountiful, UT 84010

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
2620 Decker Lake Boulevard, Suite 500
Salt Lake City, UT 84119

Current CEO or President
ARIIX Holdings, LLC dba ARIIX
563 West 500 South, Suite 340
Bountiful, UT 84010

On July 29, 2016, I verified the following documents **NOTICE OF VIOLATIONS, 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)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

July 29, 2016

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

On July 29, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Stacey Grassini, Deputy District Attorney
Contra Costa County
900 Ward Street
Martinez, CA 94553
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator
Lassen County
220 S. Lassen Street
Susanville, CA 96130
mlatimer@co.lassen.ca.us

Dije Ndreu, Deputy District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

Paul E. Zellerbach, District Attorney
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Riverside, CA 92501
Prop65@rivcoda.org

Anne Marie Schubert, District Attorney
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901 G Street
Sacramento, CA 95814
Prop65@sacda.org

Gregory Alker, Assistant District Attorney
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gregory.alker@sfgov.org

Tori Verber Salazar, District Attorney
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Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

Eric J. Dobroth, Deputy District Attorney
San Luis Obispo County
County Government Center Annex, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Yen Dang, Supervising Deputy District Attorney
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Stephan R. Passalacqua, District Attorney
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jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

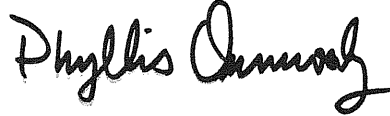
Jeff W. Reisig, District Attorney
Yolo County
301 Second Street
Woodland, CA 95695
cfepd@yolocounty.org

July 29, 2016

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On July 29, 2016, I served the following documents: **NOTICE OF VIOLATIONS, 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 with the postage fully prepaid for delivery by Priority Mail.

Executed on July 29, 2016, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink, appearing to read "Phyllis Dunwoody", written in a cursive style.

Phyllis Dunwoody

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

July 29, 2016

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Service List

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

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

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

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

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

District Attorney, Colusa
County
346 Fifth Street Suite 101
Colusa, CA 95932

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

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

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

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

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial
County
940 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, Los
Angeles County
210 West Temple Street,
Suite 18000
Los Angeles, CA 90012

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

District Attorney, Marin
County
3501 Civic Center Drive,
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
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550 W. Main 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, Nevada
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201 Commercial Street
Nevada City, CA 95959

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401 West Civic Center Drive
Santa Ana, CA 92701

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10810 Justice Center Drive,
Ste 240
Roseville, CA 95678

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

District Attorney, San Benito
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Hollister, CA 95023

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San Bernardino, CA 92415-
0004

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Redwood City, CA 94063

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Barbara County
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Santa Barbara, CA 93101

District Attorney, Santa Cruz
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Santa Cruz, CA 95060

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Redding, CA 96001

District Attorney, Sierra
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Downieville, CA 95936

District Attorney, Siskiyou
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Yreka, CA 96097

District Attorney, Solano
County
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Fairfield, CA 94533

District Attorney, Stanislaus
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Modesto, CA 95354

District Attorney, Sutter
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Yuba City, CA 95991

District Attorney, Tehama
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Red Bluff, CA 96080

District Attorney, Trinity
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Weaverville, CA 96093

District Attorney, Tuolumne
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Sonora, CA 95370

District Attorney, Yuba
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Marysville, CA 95901

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800
Los Angeles, CA 90012

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San Diego, CA 92101

San Francisco, City Attorney
City Hall, Room 234
1 Dr Carlton B Goodlett PL
San Francisco, CA 94102

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16th Floor
San Jose, CA 95113