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 2 WRAITH LAW  
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4 Attorney for Plaintiff  
 5 ENVIRONMENTAL RESEARCH CENTER, INC.

**FILED BY FAX**  
 ALAMEDA COUNTY

August 02, 2016

CLERK OF  
 THE SUPERIOR COURT  
 By Burt Moskaira, Deputy

CASE NUMBER:

**RG15787548**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF ALAMEDA**

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

12 Plaintiff,

13 v.

14 NUTREX RESEARCH, INC. and DOES 1-25,  
 15 Inclusive,

16 Defendants.

Case No. RG15787548

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

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

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

20 **INTRODUCTION**

21 1. This action seeks to remedy the continuing failure of Defendants NUTREX  
 22 RESEARCH, INC. and DOES 1-25 (collectively referred to as "NUTREX") to warn  
 23 consumers in California that they are being exposed to lead and or cadmium, substances  
 24 known to the State of California to cause cancer, birth defects, and other reproductive harm.  
 25 NUTREX manufactures, packages, distributes, markets, and/or sells in California the following  
 26 products containing lead and/or cadmium (collectively, the "PRODUCTS"):

- a) Nutrex Research Inc. Muscle Infusion Chocolate Banana Crunch
- b) Nutrex Research Inc. Muscle Infusion Chocolate
- c) Nutrex Research Inc. Muscle Infusion Chocolate Peanut Butter Crunch
- d) Nutrex Research Inc. Muscle Infusion Vanilla
- e) Nutrex Research Inc. Muscle Infusion Black Cookie Madness
- f) Nutrex Research Inc. Muscle Infusion Black Vanilla Villain

2. Lead and Cadmium (hereinafter, the “LISTED CHEMICALS”) are each a substance known to the State<sup>1</sup> of California to cause cancer, birth defects, and other reproductive harm.

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

4. NUTREX’s past sales and continued manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS without the required health hazard warnings, cause individuals to be involuntarily and unwittingly exposed to levels of the LISTED CHEMICALS that violate Proposition 65.

5. PLAINTIFF seeks injunctive relief enjoining NUTREX from the continued manufacturing, packaging, distributing, marketing and/or sales of the PRODUCTS in California without provision of clear and reasonable warnings regarding the risks of cancer, birth defects, and other reproductive harm posed by exposure to the LISTED CHEMICALS through the use and/or handling of the PRODUCTS. PLAINTIFF seeks an injunctive order compelling NUTREX to bring its business practices into compliance with Proposition 65 by

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

1 providing a clear and reasonable warning to each individual who has been and who in the  
2 future may be exposed to the LISTED CHEMICALS from the use of the PRODUCTS.  
3 PLAINTIFF also seeks an order compelling NUTREX to identify and locate each individual  
4 person who in the past has purchased the PRODUCTS, and to provide to each such purchaser a  
5 clear and reasonable warning that the use of the PRODUCTS will cause exposures to the  
6 LISTED CHEMICALS.

7 6. In addition to injunctive relief, PLAINTIFF seeks an assessment of civil  
8 penalties up to the maximum civil penalty of \$2,500 per day per exposure authorized by  
9 Proposition 65 to remedy NUTREX's failure to provide clear and reasonable warnings  
10 regarding exposures to the LISTED CHEMICALS.

#### 11 **JURISDICTION AND VENUE**

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

16 8. This Court has jurisdiction over NUTREX because, based on information and  
17 belief, NUTREX is a business having sufficient minimum contacts with California, or  
18 otherwise intentionally availing itself of the California market through the distribution and sale  
19 of the PRODUCTS in the State of California to render the exercise of jurisdiction over it by the  
20 California courts consistent with traditional notions of fair play and substantial justice.

21 9. Venue in this action is proper in the Alameda Superior Court because NUTREX  
22 has violated California law in the County of Alameda.

#### 23 **PARTIES**

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

1 responsibility.

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

4 12. Defendant NUTREX RESEARCH, INC. is a business of unknown form, which  
5 ERC alleges on information and belief is a person within the meaning of H&S Code  
6 §25249.11(a).

7 13. NUTREX RESEARCH, INC. has manufactured, packaged, distributed,  
8 marketed, sold, and /or has otherwise been involved in the chain of commerce, and continues to  
9 manufacture, package, distribute, market, sell and/or otherwise be involved in the chain of  
10 commerce of the PRODUCTS for sale or use in California. Plaintiff alleges on information  
11 and belief that Defendant employs ten or more persons, and is a “person in the course of doing  
12 business” within the meaning of Proposition 65.

13 14. Defendants DOES 1-25 are named herein under fictitious names, as their true  
14 names and capacities are unknown to Plaintiff. ERC is informed and believes, and thereon  
15 alleges, that each of said DOES has manufactured, packaged, distributed, marketed, sold and/or  
16 has otherwise been involved in the chain of commerce of, and continues to manufacture,  
17 package, distribute, market, sell, and/or otherwise be involved in the chain of commerce of the  
18 PRODUCTS for sale or use in California, and/or is responsible, in some actionable manner, for  
19 the events and happenings referred to herein, either through its conduct or through the conduct  
20 of its agents, servants or employees, or in some other manner, causing the harms alleged  
21 herein. Plaintiff will seek leave to amend this Complaint to set forth the true names and  
22 capacities of DOES when ascertained.

23 15. Plaintiff is informed and believes and thereon alleges that each Defendant is in  
24 some manner responsible for the events set forth in this Complaint and proximately caused the  
25 injuries and damages to Plaintiff as alleged in this Complaint.

26 ///



1 § 25805(b).)

2 21. On October 1, 1992, the State of California officially listed the chemicals lead  
3 and lead compounds as chemicals known to cause cancer. Lead and lead compounds became  
4 subject to the warning requirement one year later and were therefore subject to the “clear and  
5 reasonable” warning requirements of Proposition 65 beginning on October 1, 1993 (27 CCR §  
6 25000, *et seq.*; H&S Code §25249.6 *et seq.*). Due to the carcinogenicity of lead, the no  
7 significant risk level for lead is 15 ug/day (micrograms a day). (27 CCR § 25705(b)(1).)

8 22. On May, 1, 1997, the State of California officially listed the chemical cadmium as a  
9 chemical known to cause reproductive toxicity. Cadmium became subject to the warning  
10 requirement one year later and was therefore subject to the “clear and reasonable” warning  
11 requirements of Proposition 65 beginning on May 1, 1998. (27 CCR § 25000, *et seq.*; H&S  
12 Code §25249.5, *et seq.*). Due to the high toxicity of cadmium, the maximum allowable dose  
13 level for cadmium is 4.1 ug/day (micrograms a day) for reproductive toxicity. (27 CCR  
14 § 25805(b).)

15 23. On October 1, 1987, the State of California officially listed the chemicals cadmium  
16 and cadmium compounds as chemicals known to cause cancer. Cadmium and cadmium  
17 compounds became subject to the warning requirement one year later and were therefore  
18 subject to the “clear and reasonable” warning requirements of Proposition 65 beginning on  
19 October 1, 1988 (27 CCR § 25000, *et seq.*; H&S Code §25249.6 *et seq.*).

20 24. On June 15, 2015, November 5, 2015, and March 30, 2016, PLAINTIFF sent  
21 separate 60-Day Notices of Proposition 65 (“Notices”) violations to the requisite public  
22 enforcement agencies, and to NUTREX. The Notices were issued pursuant to, and in  
23 compliance with, the requirements of H&S Code §25249.7(d) and the statute's implementing  
24 regulations regarding the notice of the violations to be given to certain public enforcement  
25 agencies and to the violators. A true and correct copy of the June 15, 2015 60-Day Notice is  
26 attached hereto as **Exhibit A**, a true and correct copy of the November 5, 2015 60-Day Notice

1 is attached hereto as **Exhibit B**, a true and correct copy of the March 30, 2016 60-Day Notice  
2 is attached hereto as **Exhibit C**, and each is incorporated herein by reference. Each Notice was  
3 issued as follows:

- 4 a. NUTREX and the California Attorney General were provided copies of the  
5 Notices of Violations, along with a Certificate of Merit by the attorney for  
6 the noticing party stating that there is a reasonable and meritorious cause for  
7 this action. The requisite county district attorneys and city attorneys were  
8 provided copies of the Notices of Violations and Certificates of Merit.
- 9 b. NUTREX was provided, with the Notices of Violations, a copy of a  
10 document entitled “The Safe Drinking Water and Toxic Enforcement Act of  
11 1986 (Proposition 65): A Summary,” which is also known as Appendix A to  
12 Title 27 of CCR § 25903.
- 13 c. The California Attorney General was provided, with the Notices of  
14 Violations, additional factual information sufficient to establish a basis for  
15 the Certificates of Merit, including the identity of the persons consulted with  
16 and relied on by the certifier, and the facts, studies, or other data reviewed  
17 by those persons, pursuant to H&S Code §§25249.7(d)(1) and  
18 25249.7(h)(2).

19 25. At least 60-days have elapsed since PLAINTIFF sent the Notices to NUTREX.  
20 The appropriate public enforcement agencies have failed to commence and diligently prosecute  
21 a cause of action under H&S Code §25249.5, *et seq.* against NUTREX based on the allegations  
22 herein.

23 26. Plaintiff is informed and believes, and based on such information and  
24 belief, alleges the PRODUCTS have been marketed, distributed, and/or sold to  
25 individuals in California allegedly been sold by NUTREX for use in California without  
26 the requisite clear and reasonable warnings before, on, and after June 15, 2012. The

1 PRODUCTS continue to be distributed and sold in California without the requisite  
2 warning information.

3 27. As a proximate result of acts by NUTREX, as a person in the course of doing  
4 business within the meaning of H&S Code §25249.11(b), individuals throughout the State of  
5 California, including in the County of Alameda, have been exposed to lead and/or cadmium  
6 without clear and reasonable warnings. The individuals subject to exposures to lead and or  
7 cadmium include normal and foreseeable users of the PRODUCTS, as well as all other persons  
8 exposed to the PRODUCTS.

9 28. At all times relevant to this action, NUTREX has knowingly and intentionally  
10 exposed the users and/or handlers of the PRODUCTS to lead and/or cadmium without first  
11 giving clear and reasonable warnings to such individuals.

12 29. Individuals using or handling the PRODUCTS are exposed to lead and/or  
13 cadmium in excess of the “maximum allowable daily” and “no significant risk” levels  
14 determined by the State of California, as applicable.

15 30. At all times relevant to this action, each Defendant has, in the course of doing  
16 business, failed to provide individuals using and/or handling the PRODUCTS with a clear and  
17 reasonable warning that the PRODUCTS exposure individuals to lead and/or cadmium.

18 31. The PRODUCTS continue to be marketed, distributed, and/or sold in California  
19 without the requisite clear and reasonable warnings.

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21 **FIRST CAUSE OF ACTION**  
22 **(Injunctive Relief for Violations of Health and Safety Code § 25249.5, *et seq.* concerning**  
23 **the PRODUCTS described in the June 15, 2015, Prop. 65 Notice)**  
24 **Against NUTREX**

25 32. PLAINTIFF re-alleges and incorporates by reference each and every  
26 preceding allegation and paragraph as though fully set forth in this cause of action.

33. By committing the acts alleged in this Complaint, NUTREX, at all times



1 relevant to this action, and continuing through the present, has violated H&S Code §25249.6  
2 by, in the course of doing business, knowingly and intentionally exposing individuals who use  
3 or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICALS, without first  
4 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§  
5 25249.6 and 25249.11(f).

6 34. By the above-described acts, NUTREX has violated H&S Code § 25249.6 and is  
7 therefore subject to an injunction ordering NUTREX to stop violating Proposition 65, to  
8 provide warnings to all present and future customers, and to provide warnings to NUTREX's  
9 past customers who purchased or used the PRODUCTS without receiving a clear and  
10 reasonable warning.

11 35. An action for injunctive relief under Proposition 65 is specifically authorized by  
12 Health & Safety Code §25249.7(a).

13 36. Continuing commission by NUTREX of the acts alleged above will irreparably  
14 harm the citizens of the State of California, for which harm they have no plain, speedy, or  
15 adequate remedy at law.

16 37. Wherefore, PLAINTIFF prays for judgment against NUTREX, as set forth  
17 hereafter.

18  
19  
20 **SECOND CAUSE OF ACTION**  
21 **(Civil Penalties for Violations of Health and Safety Code § 25249.5, et seq. concerning the**  
22 **PRODUCTS described in PLAINTIFF's NOTICE)**  
23 **Against NUTREX**

24 36. PLAINTIFF re-alleges and incorporates by reference each and every preceding  
25 allegation and paragraph as though fully set forth in this cause of action.

26 37. By committing the acts alleged in this Complaint, NUTREX at all times  
relevant to this action, and continuing through the present, has violated H&S Code §25249.6

1 by, in the course of doing business, knowingly and intentionally exposing individuals who use  
2 or handle the PRODUCTS set forth in the Notice to the LISTED CHEMICALS, without first  
3 providing a clear and reasonable warning to such individuals pursuant to H&S Code §§  
4 25249.6 and 25249.11(f).

5 38. By the above-described acts, NUTREX is liable, pursuant to H&S Code  
6 §25249.7(b), for a civil penalty of \$2,500 per day per violation for each unlawful exposure to  
7 the LISTED CHEMICALS from the PRODUCTS.

8 39. Wherefore, PLAINTIFF prays for judgment against NUTREX, as set forth  
9 hereafter.

10 **THE NEED FOR INJUNCTIVE RELIEF**

11 40. PLAINTIFF re-alleges and incorporates by this reference each and every  
12 preceding allegation and paragraph as though fully set forth in this cause of action.

13 41. By committing the acts alleged in this Complaint, NUTREX has caused  
14 irreparable harm for which there is no plain, speedy or adequate remedy at law. In the absence  
15 of equitable relief, NUTREX will continue to create a substantial risk of irreparable injury by  
16 continuing to cause consumers to be involuntarily and unwittingly exposed to the LISTED  
17 CHEMICALS through the use and/or handling of the PRODUCTS.

18 **PRAYER FOR RELIEF**

19 Wherefore, PLAINTIFF accordingly prays for the following relief:

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

25 B. an injunctive order, pursuant to H&S Code §25249.7(b), compelling  
26 DEFENDANTS to identify and locate each individual who has purchased the PRODUCTS

1 since June 15, 2012, and to provide a warning to such person that the use of the PRODUCTS  
2 will expose the user to chemicals known to birth defects and other reproductive harm;

3 C. An assessment of civil penalties pursuant to Health & Safety Code §25249.7(b),  
4 against NUTREX in the amount of \$2,500 per day for each violation of Proposition 65;

5 D. An award to PLAINTIFF of its reasonable attorney's fees and costs pursuant to  
6 California Code of Civil Procedure §1021.5 or the substantial benefit theory;

7 E. An award of costs of suit herein; and

8 F. Such other and further relief as may be just and proper.

9  
10 Dated: June 17, 2016

WRAITH LAW

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12 By: \_\_\_\_\_

13 WILLIAM F. WRAITH  
14 Attorney for Plaintiff  
15 Environmental Research  
16 Center

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# EXHIBIT A

**WRAITH LAW**  
24422 AVENIDA DE LA CARLOTA  
SUITE 400  
LAGUNA HILLS, CA 92653  
Tel (949) 452-1234  
Fax (949) 452-1102

June 15, 2015

**NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

**Nutrex Research, Inc.**

**Consumer Products and Listed Chemical.** The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

**Nutrex Research Inc. Muscle Infusion Chocolate Banana Crunch - Lead**  
**Nutrex Research Inc. Muscle Infusion Chocolate - Lead**  
**Nutrex Research Inc. Muscle Infusion Chocolate Peanut Butter Crunch – 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.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least June 15, 2012, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



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William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutrex Research, Inc. and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by  
Nutrex Research, Inc.**

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

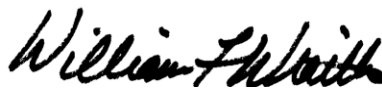
2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 15, 2015



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William F. Wraith

**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 June 15, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Nutrex Research, Inc.  
579 South Econ Circle  
Oviedo, FL 32765

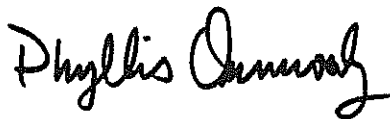
Jens Ingenohl  
(Registered Agent for Nutrex Research, Inc.)  
579 South Econ Circle  
Oviedo, FL 32765

On June 15, 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 June 15, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on June 15, 2015, in Fort Oglethorpe, Georgia.



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Phyllis Dunwoody



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

June 15, 2015

Page 5

**Service List**

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 <sup>nd</sup> Street Woodland, CA 95695
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 <sup>rd</sup> Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 <sup>th</sup> Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 <sup>th</sup> Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 <sup>th</sup> Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 <sup>nd</sup> Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

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# EXHIBIT B

**WRAITH LAW**  
24422 AVENIDA DE LA CARLOTA  
SUITE 400  
LAGUNA HILLS, CA 92653  
Tel (949) 452-1234  
Fax (949) 452-1102

November 5, 2015

**NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the product identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with this product. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

**Nutrex Research, Inc.**

**Consumer Product and Listed Chemical.** The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels are:

**Nutrex Research Inc. Muscle Infusion Vanilla - 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.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of this product. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least November 5, 2012, as well as every day since the product was introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using this product with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified product so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of this product; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



---

William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutrex Research, Inc. and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Nutrex Research, Inc.**

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: November 5, 2015



---

William F. Wraith

**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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Nutrex Research, Inc.  
579 South Econ Circle  
Oviedo, FL 32765

Jens O. Ingenohl  
(Registered Agent for Nutrex Research,  
Inc.)  
579 South Econ Circle  
Oviedo, FL 32765

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> :

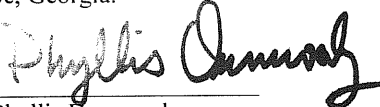
Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

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 2<sup>nd</sup> Street  
Woodland, CA 95695  
[cfepd@yolocounty.org](mailto: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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

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

  
\_\_\_\_\_  
Phyllis Dunwoody

**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, Contra Costa County  
900 Ward Street  
Martinez, CA 94553

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 4<sup>th</sup> 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, Lassen County  
220 South Lassen Street, Ste. 8  
Susanville, CA 96130

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, Monterey County  
Post Office Box 1131  
Salinas, CA 93902

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

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, Riverside County  
3960 Orange Street  
Riverside, CA 92501

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

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

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

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

District Attorney, San Francisco County  
850 Bryant Street, Suite 322  
San Francisco, CA 94103

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

District Attorney, San Luis Obispo County  
1035 Palm St, Room 450  
San Luis Obispo, CA 93408

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 Clara County  
70 West Hedding Street  
San Jose, CA 95110

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

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

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, Tulare County  
221 S. Mooney Blvd., Room 224  
Visalia, CA 93291

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

District Attorney, Ventura County  
800 South Victoria Ave, Suite 314  
Ventura, CA 93009

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

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# EXHIBIT C



**WRAITH LAW**  
24422 AVENIDA DE LA CARLOTA  
SUITE 400  
LAGUNA HILLS, CA 92653  
Tel (949) 452-1234  
Fax (949) 452-1102

March 30, 2016

**NOTICE OF VIOLATIONS OF  
CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 ET SEQ.  
(PROPOSITION 65)**

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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.

ERC has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, ERC intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

**General Information about Proposition 65.** A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is attached with the copy of this letter served to the alleged Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

**Nutrex Research, Inc.**

**Consumer Products and Listed Chemicals.** The products that are the subject of this notice and the chemicals in those products identified as exceeding allowable levels are:

**Nutrex Research Inc. Muscle Infusion Black Cookie Madness - Lead**  
**Nutrex Research Inc. Muscle Infusion Black Vanilla Villain - Lead**

**Nutrex Research Inc. Muscle Infusion Chocolate Peanut Butter Crunch - Cadmium**  
**Nutrex Research Inc. Muscle Infusion Chocolate Banana Crunch - Cadmium**  
**Nutrex Research Inc. Muscle Infusion Chocolate - Cadmium**

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.

Cadmium was officially listed as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997 while cadmium and cadmium compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1987.

It should be noted that ERC may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.** The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

**Approximate Time Period of Violations.** Ongoing violations have occurred every day since at least March 30, 2013, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; (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. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

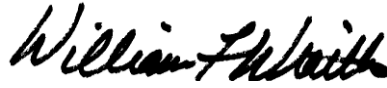
ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

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

March 30, 2016

Page 3

Sincerely,

A handwritten signature in black ink that reads "William F. Wraith". The signature is written in a cursive style with a large initial "W".

---

William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutrex Research, Inc. and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by  
Nutrex Research, Inc.**

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the notice.

4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: March 30, 2016



---

William F. Wraith

**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 March 30, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO  
Nutrex Research, Inc.  
579 South Econ Circle  
Oviedo, FL 32765

Jens O. Ingenohl  
(Registered Agent for Nutrex Research, Inc.)  
579 South Econ Circle  
Oviedo, FL 32765

On March 30, 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> :

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

On March 30, 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](mailto:sgrassini@contracostada.org)

Gary Lieberstein, District Attorney  
Napa County  
931 Parkway Mall  
Napa, CA 94559  
[CEPD@countyofnapa.org](mailto:CEPD@countyofnapa.org)

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
[mlatimer@co.lassen.ca.us](mailto:mlatimer@co.lassen.ca.us)

Paul E. Zellerbach, District Attorney  
Riverside County  
3072 Orange Street  
Riverside, CA 92501  
[Prop65@rivcoda.org](mailto:Prop65@rivcoda.org)

Dije Ndreu, Deputy District Attorney  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
[Prop65DA@co.monterey.ca.us](mailto:Prop65DA@co.monterey.ca.us)

Anne Marie Schubert, District Attorney  
Sacramento County  
901 G Street  
Sacramento, CA 95814  
[Prop65@sacda.org](mailto:Prop65@sacda.org)

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

March 30, 2016

Page 6

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

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

Yen Dang, Supervising Deputy District Attorney  
Santa Clara County  
70 W Hedding St  
San Jose, CA 95110  
EPU@da.sccgov.org

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

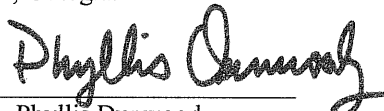
Phillip J. Cline, District Attorney  
Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

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

On March 30, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Priority Mail.

Executed on March 30, 2016, in Fort Oglethorpe, Georgia.

  
\_\_\_\_\_  
Phyllis Dunwoody

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

March 30, 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 4<sup>th</sup> 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  
County  
419 Fourth Street, 2nd Floor  
Hollister, CA 95023

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

District Attorney, San Diego  
County  
330 West Broadway, Suite  
1300  
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

ERC v. Nutrex, ACSC Case No. RG15787548  
Proof of Service

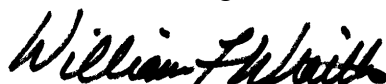
1  
2 I, William F. Wraith, am an active member of the State Bar of California and not  
3 a party to this action. I am a resident or employed in the county where the mailing took  
4 place. My business address is 24422 Avenida de la Carlota, Suite 400, Laguna Hills, CA  
92653.

5 On August 2, 2016, I served the foregoing documents described as: **SECOND**  
6 **AMENDED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES**  
7 on the following interested parties in this action in the manner identified below:

8 Robert D. Phillips, Jr., SBN 82639  
9 Thomas A. Evans, SBN 202841  
10 Reed Smith LLP  
11 101 Second Street  
12 Suite 1800  
13 San Francisco, CA 94105-3659  
14 TEvans@ReedSmith.com  
15 Telephone: (415) 543-8700  
16 Facsimile: (415) 391-8269

17 [X] **BY MAIL – COLLECTION:** I placed the envelope for collection and mailing  
18 following this business's ordinary business practices. I am readily familiar with  
19 this business's practice for collecting and processing correspondence for mailing.  
20 On the same day that correspondence is placed for collection and mailing, it is  
21 deposited in the ordinary course of business with the United States Postal Service  
22 in a sealed envelope with postage fully prepaid.

23 I declare under penalty of perjury under the laws of the State of California that the above  
24 is true and correct. Executed on August 2, 2016, at Laguna Hills, California.

25  
26  


\_\_\_\_\_  
William Wraith