

1 GIDEON KRACOV (SBN 179815)
801 S. Grand Avenue, Ste. 1100
2 Los Angeles, CA 90017
213.629.2071
3 FAX 213.623.7755
gk@gideonlaw.net
4

REC'D
OCT 01 2012
FILING WINDOW

5 Richard T. Drury (SBN 163559)
Christina M. Caro (SBN 250797)
6 LOZEAU DRURY LLP
410 12th Street, Suite 250
7 Oakland, CA 94607
Tel: (510) 836-4200
8 Fax: (510) 836-4205 (fax)
richard@lozeaudrury.com
9 christina@lozeaudrury.com

Original
FILED
LOS ANGELES SUPERIOR COURT

OCT 05 2012

JOHN A. CLARKE, CLERK
BY APPOINTMENT OF THE JUDGE

10 Attorneys for Plaintiff
Environmental Research Center, Inc.
11
12

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

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

17 Plaintiff,)

18 v.)

19 THE SUNRIDER CORPORATION, a Utah)
20 corporation; DOES 1 through 10,)

21 Defendant(s).)
22)
23)
24)

Case No. BC467138

Assigned to Hon. Richard E. Rico

**[PROPOSED] ORDER GRANTING
MOTION TO APPROVE SECOND
REVISED CONSENT JUDGMENT**

Date: 10/5/12

Time: 8:30 a.m.

Dept.: 17

1 Plaintiff Environmental Research Center Inc.'s Motion for Court Approval of the
2 Second Revised Consent Judgment came on regularly for hearing before this Court on October
3 5, 2012, the Honorable Richard E. Rico, presiding, with attorneys for all parties in that case
4 having had the opportunity to be heard by this Court. After considering the proposed Revised
5 Consent Judgment between Plaintiff and Defendant THE SUNRIDER CORPORATION, the
6 moving papers, declarations, pleadings, oral arguments and all other relevant documents in the
7 court file, and any other matters presented to this Court, and GOOD CAUSE APPEARING
8 THEREFORE, this Court GRANTS the Motion for Court Approval of the Second Revised
9 Consent Judgment, and makes the following findings pursuant to California Health & Safety
10 Code section 25249.7(f) and 11 Cal. Code Regs. section 3201, *et seq.*:

11 1. The warning required by the Second Revised Consent Judgment complies
12 with Proposition 65;

13 2. The award of attorneys' fees and costs provided in the Second Revised
14 Consent Judgment is reasonable under California law;

15 3. The penalties provided by the Second Revised Consent Judgment are
16 reasonable; and

17 4. The Second Revised Consent Judgment is in the public interest.
18

19 Therefore, for the foregoing reasons, the Second Revised Consent Judgment shall be
20 entered as the Judgment of this Court.

21 IT IS SO ORDERED.

22
23 DATE: 10/5/2012



24 Honorable Richard E. Rico
25 Judge of the Superior Court
26

1 GIDEON KRACOV (SBN 179815)
2 801 S. Grand Avenue, Ste. 1100
3 Los Angeles, CA 90017
4 213.629.2071
5 FAX 213.623.7755
6 gk@gideonlaw.net

5 Richard T. Drury (SBN 163559)
6 Christina M. Caro (SBN 250797)
7 LOZEAU DRURY LLP
8 410 12th Street, Suite 250
9 Oakland, CA 94607
10 Tel: (510) 836-4200
11 Fax: (510) 836-4205 (fax)
12 richard@lozeaudrury.com
13 christina@lozeaudrury.com

10 Attorneys for Plaintiff
11 Environmental Research Center, Inc.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES

17 ENVIRONMENTAL RESEARCH CENTER,)
18 INC., a non-profit California corporation,)
19 Plaintiff,)
20 v.)
21 THE SUNRIDER CORPORATION, a Utah)
22 corporation; DOES 1 through 10,)
23 Defendant(s).)

Case No. BC467138

Assigned to Hon. Richard E. Rico

**SECOND REVISED [PROPOSED]
STIPULATED CONSENT JUDGMENT**

Health & Safety Code § 25249.6, *et seq.*

Dept: 17

24 IT IS HEREBY STIPULATED AND AGREED by the Parties hereto, as follows:

25 WHEREAS:

26 SECOND REVISED [PROPOSED] STIPULATED CONSENT JUDGMENT

REC'D
OCT 01 2012
FILING WINDOW

Original
FILED
LOS ANGELES SUPERIOR COURT

OCT 05 2012

JOHN A. CLAY, CLERK
BY AMY L. GIBSON, DEPUTY CLERK

FILED
OCT 04 2012
LOS ANGELES SUPERIOR COURT

1 A. ENVIRONMENTAL RESEARCH CENTER, INC. ("ERC" or "Plaintiff") is a
2 citizen enforcer of California Health and Safety Code § 25249.6 *et seq.* ("Proposition 65");

3 B. Defendant THE SUNRIDER CORPORATION ("SUNRIDER" or "Defendant")
4 is a corporation organized under the laws of the State of Utah and a person doing business within
5 the meaning of Health & Safety Code §25249.11 with an office at 1625 Abalone, Torrance, CA.

6 The name of the Products ("Covered Products") covered under this Consent Judgment are:
7

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

1 Sunrider MetaBalance 44 Herbal Concentrate
2 Sunrider Dr. Chen Meta Booster
3 Sunrider ElectroSport
4 Fortune Delight Peach Concentrated Herbal Beverage
5 Sun Bar Chocolate Herbal Food Bar
6 Chinese Goldenseal Root Herb Concentrate
7 Energy Plus Herbal Concentrate
8 Don Quai
9 Sunrider International Quinary

10 Any other products are not subject to the injunctive provisions herein, and are not covered by the
11 release of liability herein;

12 C. On February 27, 1987, the State of California officially listed the chemical lead as
13 a chemical known to cause reproductive toxicity, pursuant to California Health and Safety Code
14 § 25249.8;

15 D. On October 1, 1992, the State of California officially listed the chemicals lead and
16 lead compounds as chemicals known to cause cancer, pursuant to California Health and Safety
17 Code § 25249.8;

18 E. The Covered Products have allegedly been manufactured and/or sold by
19 SUNRIDER for use in California since at least August 3, 2008;

20 F. On July 7, 2010, November 5, 2010 and January 14, 2011, ERC served
21 SUNRIDER and each of the appropriate public enforcement agencies with a document entitled
22 "60-Day Notice" that provided notice that Defendant was in violation of Proposition 65 for
23 failing to warn purchasers and individuals using the Covered Products that the use of the
24 Covered Products exposes them to lead, a chemical known to the State of California to cause
25 cancer and/or reproductive toxicity ("Prop. 65 Notices") (a copy of the 60-Day Notices are
26 attached hereto as Exhibit A);

G. The Action was brought by ERC in the public interest at least sixty (60) days after
ERC provided notice of the Proposition 65 violations to Defendant and the appropriate public

1 enforcement agencies and none of the public enforcement agencies had commenced and begun
2 diligently prosecuting an action against Defendant for such violations;

3
4 H. For purposes of this Consent Judgment only, the Parties stipulate that this Court
5 has jurisdiction over the subject matter of this action and personal jurisdiction over the Parties,
6 that venue is proper in this Court, and that this Court has jurisdiction to enter a Consent
7 Judgment pursuant to the terms set forth herein;

8 I. Except as expressly provided herein, nothing in this Consent Judgment shall
9 prejudice, waive or impair any right, remedy or defense the Parties may have in any other or
10 further legal proceeding. This paragraph shall not diminish or otherwise affect the obligations,
11 responsibilities, and duties of any Party to this Consent Judgment;

12 J. The "Effective Date" of this Consent Judgment shall be the date upon which this
13 Consent Judgment is entered by the Court.

14
15 NOW, THEREFORE, in consideration of the promises, covenants and agreements
16 herein contained, the sufficiency and adequacy of which is hereby acknowledged by Plaintiff and
17 Defendant (collectively, the "Parties"), the Parties agree to the terms and conditions set forth
18 below:

19 1. **Injunctive Relief.** Within 10 days of the Effective Date of this Consent Judgment,
20 Defendant shall not distribute into the State of California, or ship for sale or use in California,
21 any of the Covered Products for which the maximum daily dose recommended on the label
22 contains lead in an amount in excess of the level set forth in California Code of Regulations, title
23 27, section 25805, subdivision (b), unless each such unit of the Covered Products bears the
24 following warning statement securely affixed on its individual unit packaging:
25

1 **WARNING: This product contains a chemical known to the State of California to**
2 **cause cancer, birth defects, or other reproductive harm.**

3 The warning statement shall be displayed on the unit packaging of the Covered Products with
4 such conspicuousness, as compared with other words, statements, or designs so as to render it
5 likely to be read and understood by an ordinary individual purchasing or using the Covered
6 Products. Nothing in these injunctive provisions shall be construed to require Sunrider to
7 continue to display the warning statement on the Covered Products in the following scenarios:

8 (1) if Sunrider modifies or reformulates the Covered Products so the amount of lead contained in
9 each product is below the threshold requiring a warning under Proposition 65; (2) if new
10 statutory or regulatory standards established applicable to lead no longer require Sunrider to
11 display the warning statement for the Covered Products under Proposition 65; or (3) if new
12 toxicological information or exposure assessments applicable to lead no longer require Sunrider
13 to display the warning statement on the Covered Products under Proposition 65.

15 2. **Civil Penalty, Payments in Lieu of Further Civil Penalties, Attorney's Fees,**
16 **and Costs Assessment.** Defendant agrees to pay the total amount of \$400,000.00 inclusive of
17 all civil penalties, payments in lieu of penalties, attorneys' fees and costs assessments, and
18 subject to approval by California's Attorney General and the Superior Court, as follows:

19 (a) Defendant agrees to pay ERC a civil penalty in the amount of \$118,678.54
20 pursuant to Health & Safety Code §25249.7(b). Plaintiff ERC shall remit 75% of this amount to
21 the State of California pursuant to Health & Safety Code §25192.

22 (b) Defendant agrees to pay ERC a payment in lieu of further civil penalties in the
23 amount of \$116,178.53 for projects to reduce exposures to toxic chemicals, and to increase
24 consumer, worker, and community awareness of the health hazards posed by toxic chemicals.

1 (c) Defendant agrees to reimburse Plaintiff \$165,142.93, which is the total amount of
2 costs and fees Plaintiff incurred on this matter, which amount includes Plaintiff's investigative,
3 expert and attorneys' fees and costs incurred as a result of investigating and bringing this matter
4 to the attention of Defendant, and negotiating a settlement in the public interest.
5

6 3. **Payment Schedule.** Pursuant to Section 2 herein, Defendant agrees to remit the
7 total amount of \$400,000.00 to Plaintiff, payable to the "Law Offices of Gideon Kracov Client
8 Trust Account" and remitted to the Law Office of Gideon Kracov at the law firm's address noted
9 in the Notice provision below. The schedule for the payment of these funds shall be a payment
10 in full within 10 days of the Effective Date of this Consent Judgment. In the event that any of
11 the payments owed under this Consent Judgment is not remitted on or before its due date,
12 Defendant shall be deemed to be in default of its obligations under this Consent Judgment.
13 Plaintiff shall provide written notice to Defendant of any default; if Defendant fails to remedy
14 the default within two business days of such notice, then all future payments due hereunder shall
15 become immediately due and payable, with the prevailing federal funds rate applying to all
16 interest accruing on unpaid balances due hereunder, beginning on the due date of the funds in
17 default.
18

19 4. **Plaintiff's Release of Defendant.** Plaintiff, and its officers, directors, employees,
20 agents, attorneys, representatives, shareholders, parents, subsidiaries, affiliates (including those
21 companies that are under common ownership and/or common control), divisions, predecessors,
22 successors, and subdivisions, acting on behalf of itself and acting on behalf of the general public,
23 permanently and fully releases SUNRIDER, Sunrider Manufacturing, L.P. (including its limited
24 and general partners), and its officers, directors, employees, agents, attorneys, representatives,
25

1 shareholders, parents, subsidiaries, affiliates (including those companies that are under common
2 ownership and/or common control), divisions, predecessors, successors, subdivisions,
3 downstream distributors, downstream retailers, downstream customers, and upstream suppliers,,
4 all DOES, and each entity to whom each of them directly or indirectly distributed or sold the
5 Covered Products, including but not limited to distributors, wholesalers, customers, retailers,
6 franchisees, and any other person or entity in the course of doing business who distributed,
7 marketed or sold the Covered Products, from all claims of any nature asserted in the Proposition
8 65 Notices.

9
10 **5. Limits of Release.** Nothing in this release is intended to apply to (a) any
11 occupational or environmental exposures arising under Proposition 65; (b) any of Defendant's
12 products not set forth in this Consent Judgment; or (c) any company which purchases the
13 Covered Products from Defendant pursuant to a private label manufacturing agreement and
14 resells them to California consumers under a different brand name or trademark.

15
16 **6. Release of Environmental Research Center.** SUNRIDER, by this Consent
17 Judgment, waives all rights to institute any form of legal action against ERC for all actions or
18 statements made or undertaken by ERC in the course of seeking enforcement of Proposition 65
19 against the Defendant by means of the Proposition 65 Notices.

20 **7. Motion for Approval of Consent Judgment/Notice to the California Attorney**
21 **General's Office.** Upon execution of this Consent Judgment by the Parties, Plaintiff shall notice
22 a Motion for Approval & Entry of Consent Judgment in the Los Angeles Superior Court
23 pursuant to 11 California Code of Regulations §3000, *et seq.* This motion shall be served upon
24 all of the Parties to the Action and upon the California Attorney General's Office. In the event
25

1 that the Court fails to approve and order entry of the judgment, this Consent Judgment shall
2 become null and void upon the election of any party as to them and upon written notice to all of
3 the Parties to the Action pursuant to the notice provisions herein. ERC shall use its best efforts
4 to support entry of this Consent Judgment in the form submitted to the Office of the Attorney
5 General. If the Attorney General objects in writing to any term in this Consent Judgment, ERC
6 shall use its best efforts to resolve the concern in a timely manner and prior to the hearing on the
7 motion to approve this Consent Judgment. If the Attorney General elects to file papers with the
8 Court stating that the People shall appear at the hearing for entry of this Consent Judgment so as
9 to oppose entry of the Consent Judgment, then a party may withdraw from this Consent
10 Judgment prior to the date of the hearing, with notice to all Parties and the Attorney General, and
11 upon such notice this Consent Judgment shall be null and void and any payments made pursuant
12 to Section 7 of this Consent Judgment shall be promptly returned to Sunrider.

14 8. **Severability.** In the event that any of the provisions of this Consent Judgment are
15 held by a court to be unenforceable, the validity of the enforceable provisions shall not be
16 adversely affected.

17 9. **Enforcement.** In the event that a dispute arises with respect to any of the
18 provisions of this Consent Judgment, the Parties shall meet and confer within 20 days of
19 receiving written notice of any alleged violation. In the event the Parties cannot resolve the
20 dispute, this Consent Judgment may be enforced pursuant to Code of Civil Procedure § 664.6 or
21 any other valid provision of law. The prevailing party in any such dispute regarding compliance
22 with the terms of this Consent Judgment may be awarded all reasonable fees and costs incurred,
23 in addition to any other relief otherwise ordered by the Court.

1 10. **Governing Law.** The terms of this Consent Judgment shall be governed by the
2 laws of the State of California.

3 11. **Notices.** All correspondence and notices required to be provided under this
4 Consent Judgment shall be in writing and shall be sent by first class registered or certified mail
5 addressed as follows. All correspondence to ERC shall be mailed to:

6 Environmental Research Center
7 3111 Camino Del Rio North, Suite 400
8 San Diego, CA 92108

9 And to:

10 Gideon Kracov
11 801 S. Grand Ave., 11th Floor
12 Los Angeles, CA 90017

13 All correspondence to Defendant shall be mailed to:

14 The Sunrider Corporation
15 ATTN: Paul McCabe, Esq.,
16 Brandon Lam, Esq.
17 1625 Abalone Avenue
18 Torrance, CA 90501

19 And to:

20 David Laufer, Esq.
21 Albert Tong, Esq.
22 Burke, Williams & Sorensen LLP
23 444 S. Flower Street, Suite 2400
24 Los Angeles, CA 90071

25 12. **Documents & Materials.** ERC shall return all documents and materials that have
26 been provided by SUNRIDER either voluntarily or through discovery. Sunrider shall return all
documents and materials that have been provided by ERC either voluntarily or through
discovery.

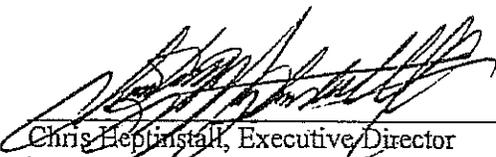
1 **13. Integration & Modification.** This Consent Judgment, together with the Exhibits
2 attached hereto which are specifically incorporated herein by this reference, constitutes the entire
3 agreement between the Parties relating to the rights and obligations herein granted and assumed,
4 and supersedes all prior agreements and understandings between the Parties. This Consent
5 Judgment may be modified only upon the written agreement of the Parties.

6 **14. Counterparts.** This Consent Judgment may be executed in counterparts, each of
7 which shall be deemed an original, and all of which, when taken together, shall constitute one
8 and the same document.

9 **15. Authorization.** The undersigned are authorized to execute this Consent Judgment
10 on behalf of their respective Parties and have read, understood, and agree to all of the terms and
11 conditions of this Consent Judgment.

12 **16. No Admissions.** The Parties enter into this Consent Judgment to settle disputed
13 claims between them and to avoid prolonged litigation. By execution of this Consent Judgment,
14 Defendant does not admit any violations of Proposition 65 or any other law or standard
15 applicable to warning or disclosure concerning the manufacture, distribution, and/or sale of the
16 Products. Nothing in this Consent Judgment shall be construed as an admission by Defendant of
17 any fact, issue of law, or violation of law; nor shall compliance with this Consent Judgment
18 constitute or be construed as an admission by Defendant of any fact, issue of law, or violation of
19 law. Nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, or
20 defense the Parties may have in any other or future legal proceeding. This paragraph shall not
21 diminish or otherwise affect the obligations, responsibilities, and duties of Defendant under this
22 Consent Judgment.

1 DATED: 9/26/12

By: 
Chris Heppinstall, Executive Director
ENVIRONMENTAL RESEARCH CENTER

2
3
4 DATED: _____

By: _____
Reuben Chen, Vice President
THE SUNRIDER CORPORATION

5
6 IT IS SO ORDERED.

7 Dated: _____

8 _____
Honorable Richard E. Rico
Judge of the Superior Court

9
10
11 EXHIBIT A - July 7, 2010, November 5, 2010 and January 14, 2011 Prop. 65 Notices

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26 SECOND REVISED [~~PROPOSED~~] STIPULATED CONSENT JUDGMENT

1 DATED: _____

By: _____
Chris Heptinstall, Executive Director
ENVIRONMENTAL RESEARCH CENTER

2
3 DATED: 9/27/12

By: 
Reuben Chen, Vice President
THE SUNRIDER CORPORATION

5
6 IT IS SO ORDERED.

7 Dated: 10/5/12


Honorable Richard E. Rico
Judge of the Superior Court

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT A - July 7, 2010, November 5, 2010 and January 14, 2011 Prop. 65 Notices

EXHIBIT A

Prop 65. Notices

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT A



Environmental Research Center

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

July 07, 2010

VIA CERTIFIED MAIL

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

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

Dear Prosecutors:

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

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

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

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

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

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

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

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

Sincerely,

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*
July 7, 2010
Page 3



Chris Heptinstall
Executive Director, Environmental Research Center

cc: Karen A. Evans

Attachments
OEHHA Summary
Certificate of Merit (w/o AG attachments)
Certificate of Service
List of Service

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

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

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

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

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

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt. Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens. Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect. Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice. A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

I, Karen A. Evans hereby declare:

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

human exposures exist from exposure to the products from the noticed party. Furthermore, as a result of the above, I have concluded that there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

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

Dated: July 07, 2010



Karen A. Evans
Attorney for Environmental Research Center

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

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

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

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

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

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

On July 07, 2010, I served the following documents: NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

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



Chris Heptinstall

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

July 7, 2010

Page 9

Service List

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

District Attorney, Alpine County
P.O. Box 242
Markleeville, CA 96120

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

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

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

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

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

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

District Attorney, El Dorado County
515 Main Street
Placerville, CA 95367

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

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

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

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

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

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

District Attorney, Kings County
1400 West Lacey Boulevard
Hanford, CA 93250

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

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

District Attorney, Los Angeles County
210 West Temple Street, Rm 545
Los Angeles, CA 90012

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

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

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

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

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

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

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

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

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

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

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

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

July 7, 2010

Page 10

District Attorney, Placer County
10310 Justice Center Drive, Ste 240
Roseville, CA 95603

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

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

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

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

District Attorney, San Bernardino County
316 N. Mountain View Avenue
San Bernardino, CA 92415-0804

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

District Attorney, San Francisco County
850 Bryant Street, Room 525
San Francisco, CA 94103

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

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

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

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

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

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

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

District Attorney, Sierra County
100 Courthouse Square, 2nd Floor
Downieville, CA 95936

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

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

District Attorney, Sonoma County
600 Administration Drive, Room 2121
Santa Rosa, CA 95403

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95333

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

District Attorney, Tehama County
Post Office Box 319
Red Bluff, CA 96060

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

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

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

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

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

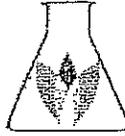
District Attorney, Yuba County
215 Fifth Street
Marysville, CA 95901

Los Angeles City Attorney's Office
City Hall East
200 N. Main Street, Rm 806
Los Angeles, CA 90012

San Diego City Attorney's Office
1200 5th Avenue, Ste 1620
San Diego, CA 92101

San Francisco City Attorney's Office
City Hall, Room 224
San Francisco, CA 94102

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



Environmental Research Center

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

November 5, 2010

VIA CERTIFIED MAIL

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

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

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

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

Dear Prosecutors:

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

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

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

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

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

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

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

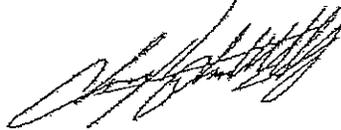
Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, ERC gives notice of the alleged violation to the noticed party and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently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

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

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

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

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

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

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

CERTIFICATE OF MERIT

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

I, Gideon Kracov, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: November 5, 2010

Gideon Kracov, Attorney At Law

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On November 5, 2010, I served the following documents: NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

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

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

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

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

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

On November 5, 2010, I served the following documents: NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

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



Chris Heptinstall

Service List

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

November 5, 2010

Page 7

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

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

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

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95811

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, Room 1300
San Diego, CA 92101

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

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

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

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

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

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

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

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

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

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

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

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

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95353

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

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

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

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

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

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

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

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

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

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

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

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



Environmental Research Center

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

January 14, 2011

VIA CERTIFIED MAIL

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

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

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

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

Dear Prosecutors:

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

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

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

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

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

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

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

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

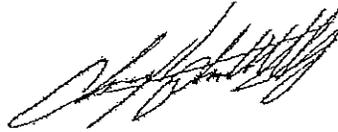
Based on the allegations set forth in this Notice, ERC intends to file a citizen enforcement action against The Sunrider Corporation unless it agrees in an enforceable written instrument to: instrument to: (1) recall or reformulate the listed products so as to eliminate further unwarned exposures to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

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

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

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

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

cc: Karen A. Evans

Attachments

Certificate of Merit

Certificate of Service

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

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

CERTIFICATE OF MERIT

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

I, Gideon Kracov, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: January 14, 2011

Gideon Kracov, Attorney At Law

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742

On January 14, 2011, I served the following documents: NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

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

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

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

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

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

On January 14, 2011, I served the following documents: NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 *ET SEQ.*; CERTIFICATE OF MERIT on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it with the U.S. Postal Service for delivery by Priority Mail.

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



Chris Heptinstall

Service List

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

January 14, 2011

Page 7

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

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

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

District Attorney, Sacramento County
901 "G" Street
Sacramento, CA 95811

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, Room 1300
San Diego, CA 92101

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

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

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

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

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

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

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

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

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

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

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

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

District Attorney, Stanislaus County
832 12th Street, Ste 300
Modesto, CA 95353

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

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

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

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

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

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

District Attorney, Yolo County
301 2nd Street
Woodland, CA 95695

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

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

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

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

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

PROOF OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I, Gideon Kracov, being duly sworn, deposes and says:

I am a citizen of the United States and work in Los Angeles County, California. I am over the age of eighteen years and am not a party to the within entitled action. My business address is: 801 S. Grand Ave., 11th Fl., LA, CA 90017. On 10/5, 2012, the person identified below was served with the following documents:

SIGNED 2d REVISED CONSENT JUDGMENT AND ORDER SIGNED BY COURT

The documents were served on:

Albert Tong
BURKE, WILLIAMS & SORENSEN, LLP
444 South Flower Street
Suite 2400
Los Angeles, CA 90071

atong@bwslaw.com

Harrison Pollak
Deputy Attorney General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612

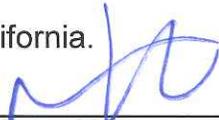
Harrison.Pollak@doj.ca.gov

by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States Post Office mail box at 801 S. Grand Ave., Los Angeles, California, addressed as set forth above. I am readily familiar with my firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date of postage meter date is more than 1 day after date of deposit for mailing in affidavit.

via email

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

Executed this 10/5, 2012 at Los Angeles, California.



Gideon Kracov