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9 Attorneys for Defendant Country Life, LLC

ENDORSED
FILED
ALAMEDA COUNTY

SEP - 4 2012

CLERK OF THE SUPERIOR COURT
By YOLANDA ESTRADA Deputy

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF ALAMEDA

13 ENVIRONMENTAL RESEARCH CENTER,
a California non-profit corporation

14 Plaintiff,

15 v.

16 COUNTRY LIFE, LLC and DOES 1-100,

17 Defendants.

Case No. RG12634149

[PROPOSED] STIPULATED
CONSENT JUDGMENT;
[PROPOSED] ORDER

Health & Safety Code Section 25249.5
et seq.

19
20 1. INTRODUCTION

21 1.1 On or about June 12, 2012, Plaintiff Environmental Research Center ("ERC"), a non-
22 profit corporation, as a private enforcer, and in the public interest, initiated this action by filing a
23 Complaint for Injunctive and Declaratory Relief and Civil Penalties pursuant to the provisions of
24 Cal. Health & Safety Code Sections 25249.5 et seq. ("Proposition 65"), against Defendant Country
25 Life, LLC ("Country Life") and Does 1-100 (the "Complaint"). In this action, ERC alleges that
26 products manufactured, distributed or sold by Country Life contain lead, a chemical listed under
27 Proposition 65 as a carcinogen and reproductive toxin, and expose California consumers at a level
28 requiring a Proposition 65 warning. These products are: Super Fiber Psyllium Seed Husk Powder;

EXHIBIT A

1 Green Edge Powder; Green Edge 2 Powder; and Daily Fiber X (the "Covered Products"). "Covered
2 Products" shall include any successor product to any Covered Product. A successor product is any
3 of the following: a) the same product but with a new label or with changes to the existing label; b)
4 the same product in a different container or packaging than the container or packaging presently
5 used; c) the same product formula, but with ingredients from different suppliers than those currently
6 supplying the ingredients.. Successor products shall be regarded as Covered Products and subject to
7 all of the terms hereof. ERC and Country Life shall sometimes be referred to individually as a
8 "Party" or collectively as the "Parties."

9 1.2 ERC is a California non-profit corporation dedicated to, among other causes, helping
10 safeguard the public from health hazards by bringing about a reduction in the use and misuse of
11 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees and
12 encouraging corporate responsibility. ERC has diligently prosecuted this matter and is settling this
13 case in the public interest.

14 1.3 Country Life is a business entity that at all times relevant for purposes of this Consent
15 Judgment employed or will employ ten or more persons. Country Life manufactures, distributes or
16 sells (or some combination of the foregoing) the Covered Products for use by California consumers.

17 1.4 The Complaint is based on alleged violations contained in ERC's Notice of Violation
18 dated March 11, 2011 (the "Notice of Violation") that was served on the California Attorney
19 General, other public enforcers and Country Life. A true and correct copy of this Notice of
20 Violation is attached hereto as Exhibit A. More than 60-days have passed since this Notice of
21 Violation was mailed and no public enforcement entity has filed a complaint against Country Life
22 with regard to the Covered Products or the alleged violations.

23 1.5 ERC's Notice of Violation and the Complaint allege that use of the Covered Products
24 exposes persons in California to lead without first providing clear and reasonable warnings, in
25 violation of Cal. Health & Safety Code Section 25249.6. Country Life denies all material allegations
26 contained in the Notice of Violation and Complaint and specifically denies that the Covered
27 Products require a Proposition 65 warning or otherwise cause harm to any person.
28

1 1.6 The Parties have entered into this Consent Judgment in order to settle, compromise
2 and resolve disputed claims and thus avoid prolonged and costly litigation. Nothing in this Consent
3 Judgment shall constitute or be construed as an admission by any of the Parties, or by any of their
4 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
5 divisions, affiliates, franchises, licensees, customers, suppliers, distributors, wholesalers, or retailers,
6 of any fact, conclusion of law, issue of law, violation of law, fault, wrongdoing, or liability,
7 including without limitation, any admission concerning any alleged violation of Proposition 65;
8 provided, however, nothing in this Section 1.6 shall affect the enforceability of this Consent
9 Judgment.

10 1.7 Except as expressly set forth herein, nothing in this Consent Judgment shall prejudice,
11 waive or impair any right, remedy, argument, or defense the Parties may have in any other or future
12 legal proceeding unrelated to these proceedings.

13 1.8 The Effective Date of this Consent Judgment shall be the date on which it is entered
14 as a Judgment by this Court.

15 1.9 Since ERC's March 11, 2011 Notice of Violation, Country Life has discontinued two
16 Covered Products: Green Edge Powder (discontinued as of June 23, 2011); Green Edge II Powder
17 (discontinued as of May 6, 2011). As of June 20, 2011, Country Life placed warnings which comply
18 with Proposition 65 on Daily Fiber X. Country Life also placed warnings which comply with
19 Proposition 65 on its last stocks of the two discontinued Covered Products, which were "distributed
20 into the stream of commerce" (as that phrase is defined in Section 3.1(d) below). ERC's Notice of
21 Violation included four additional products: Superior Multiple Tablets, Maximized Action Max for
22 Men, Maxi Pre-Natal Capsules and Beyond Food. Country Life contends all of these products are
23 subject to an existing Consent Judgment entered November 13, 1998 resolving the case styled
24 *People v. Warner-Lambert Co. et al.* (San Francisco Super. Ct. Case No 984503, and including an
25 Amended Order Modifying Consent Judgments entered on July 18, 2011) and thus are not subject to
26 the Complaint or this Consent Judgment. With respect to Super Fiber Psyllium Seed Husk Powder,
27 testing conducted by Country Life shows use of this Covered Product does not result in an exposure
28

1 to lead greater than 0.5 micrograms per day. Thus, no warnings under Section 3.2 are required
2 unless otherwise mandated under Section 3.1 after the Effective Date.

3 **2. JURISDICTION AND VENUE**

4 For purposes of this Consent Judgment only, the Parties stipulate that this Court has
5 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
6 over Country Life as to the acts alleged in the Complaint, that venue is proper in Alameda County,
7 and that this Court has jurisdiction to enter this Consent Judgment as a full and final resolution of all
8 claims which were or could have been asserted in this action based on the facts alleged in the
9 Notices of Violation and the Complaint.

10 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

11 3.1 (a) On or after the Effective Date, Country Life shall be permanently enjoined from
12 manufacturing for sale in California, "distributing into California," (as that phrase is defined in
13 Section 3.1(d) below) or directly selling to a consumer in California Green Edge Powder or Green
14 Edge II Powder; provided, however, such Covered Products "distributed into the stream of
15 commerce" by Country Life prior to the Effective Date may be sold without the warning specified in
16 Section 3.2.

17 (b) On or after the Effective Date, Country Life shall be permanently enjoined from
18 manufacturing for sale in California, "distributing into California," or directly selling to a consumer
19 in California Daily Fiber X for which the maximum daily dose recommended by Country Life
20 contains more than 0.5 micrograms of lead unless such Covered Product complies with the warning
21 requirement set forth in Section 3.2 below; provided, however, such Covered Products "distributed
22 into the stream of commerce" by Country Life prior to the Effective Date may be sold without a
23 warning as specified in Section 3.2.

24 (c) No warning under Proposition 65 and Section 3.2 is required for Super Fiber
25 Psyllium Seed Husk Powder used by a California consumer unless the lead levels increase in such
26 Covered Products first manufactured after the Effective Date such that lead levels exceed 0.5
27 micrograms in the maximum recommended daily dose on the label.
28

1 (d) "Distributing into California" means to directly ship a Covered Product into
2 California for sale in California or to sell a Covered Product to a distributor that Country Life knows
3 will sell the Covered Product in California. "Distributed into the stream of commerce" means
4 Country Life sold the Covered Product to a customer and no longer determines further distribution,
5 sale or use.

6 3.2 **Clear and Reasonable Warnings.** For Covered Products subject to the warning
7 requirement of Section 3.1, Country Life shall provide the following warning as specified below:

8 **[California Prop. 65] WARNING:** This product contains lead, a chemical known to the
9 State of California to cause [cancer and] birth defects or other reproductive harm. The term "cancer"
10 shall be used in the warning only if the maximum daily dose recommended on the label contains
11 more than 15 micrograms of lead while using the testing protocol set forth in Section 3.4. The words
12 "California Prop. 65" shall be at Country Life's option.

13 3.3 The warning shall be prominently affixed to or printed upon the product's label of the
14 Covered Product so as to be clearly conspicuous, as compared with other statements or designs on
15 the label as to render it likely to be read and understood by an ordinary purchaser or user of the
16 product. If the warning is displayed on the product's label, the warning shall be at least the same
17 size as the largest of any other health or safety warnings on the product and the word "warning" shall
18 be in all capital letters and in bold print and, if used, the words "California Prop. 65" shall be in bold
19 print.

20 3.4 **Testing.** Country Life shall continue its testing of the Covered Products (or
21 ingredients therein) to monitor lead levels using a commercial laboratory or its own in-house
22 equipment. The testing shall continue for so long as any of the Covered Products are "distributed
23 into California" after the Effective Date. All testing pursuant to this Consent Judgment shall be
24 performed by using Inductively Coupled Plasma-Mass Spectrometry ("ICPMS") and closed-vessel,
25 microwave-assisted digestion employing high-purity reagents or any other testing method
26 subsequently agreed upon in writing by the Parties. Country Life shall maintain copies of any and
27 all tests completed on the Covered Products and provide a copy of the test results to ERC upon
28 request, within 30 days of such request.

1 **4. SETTLEMENT PAYMENTS**

2 4.1 In full and final satisfaction of all potential civil penalties, payment in lieu of civil
3 penalties, attorneys' fees, and costs, Country Life shall make a total payment of \$45,000, payable
4 within ten (10) business days of receiving the Notice of Entry of this Consent Judgment. The
5 payment shall be apportioned as follows:

6 4.2 \$3,160.00 as civil penalties pursuant to California Health & Safety Code section
7 25249.7(b)(1). Of this amount, \$2,370.00 shall be payable to OEHHA, and \$790.00 shall be payable
8 to ERC. Cal. Health & Safety Code §§ 25249.12(c)(1) & (d). ERC's counsel shall forward the civil
9 penalty payment to OEHHA, and send a copy of the transmittal letter to counsel for Country Life.

10 4.3 \$15,973.00 payable to ERC, as reimbursement to ERC for reasonable investigation
11 costs associated with this matter.

12 4.4 \$16,387.00 payable to Michael Freund as reimbursement of ERC's attorneys' fees
13 and attorney's costs.

14 4.5 \$9,480.00 in lieu of further civil penalties, payable to ERC, of which \$8,480.00 shall
15 be used for funding the continued enforcement of Proposition 65 matters which address ingestible
16 products containing Proposition 65 chemicals, similar to the subject matter of this action, and
17 \$1,000.00 to be donated to "The Painted Turtle," an organization founded by Paul Newman. The
18 Painted Turtle is part of Paul Newman's Hole in the Wall Camps for seriously ill children and is
19 located in Lake Hughes, California. It is the only multi-disease camp and family care center of its
20 kind on the West Coast. Through educational, therapeutic, safe, and summer camp and year-round
21 programs, The Painted turtle provides a life-changing experience to children whose daily struggles
22 often diminish both their desire to be well and their ability to lead a rich, productive life. The
23 Painted Turtle is staffed by California's top medical specialty professionals, who volunteer to live at
24 the Camp throughout each session and who work closely with their full-time staff of nurses and
25 doctor. Children with a variety of illnesses are helped by this worthy organization, including
26 children afflicted with diseases thought to be caused in part by environmental toxins, vitamins,
27 hormones, herbs, physician-prescribed medications and over the counter medications. Further
28

1 information about this organization can be found at <http://the paintedturtle.org/turtle>. The “in lieu”
2 funds are to be distributed within 60 days of receipt by Michael Freund.

3 The above payments shall be mailed to the Law Office of Michael Freund. ERC and Mr.
4 Freund shall provide taxpayer identification information to counsel for Country Life to allow the
5 payments to be processed by Country Life.

6 **5. MODIFICATION OF CONSENT JUDGMENT**

7 This Consent Judgment may be modified only by written agreement and stipulation of the
8 Parties, or upon noticed motion filed by any Party, followed by entry of a modified consent
9 judgment by the Court.

10 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT JUDGMENT**

11 6.1 This Court shall retain jurisdiction of this matter to enforce, modify or terminate this
12 Consent Judgment.

13 6.2 Only after it complies with Section 10 below, any Party may, by motion or
14 application for an order to show cause filed with this Court, enforce the terms and conditions
15 contained in this Consent Judgment. The prevailing party may request that the Court award its
16 reasonable attorneys’ fees and costs associated with such motion or application. As used in the
17 preceding sentence, the term “prevailing party” means a party who is successful in obtaining relief
18 more favorable to it than the relief that the other party was amenable to providing during the parties’
19 good faith attempt to resolve the dispute that is the subject of such enforcement action.

20 **7. APPLICATION OF CONSENT JUDGMENT**

21 This Consent Judgment shall apply to, be binding upon and benefit the Parties, and their
22 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
23 divisions, affiliates, and the predecessors, successors and assigns of any of them, and ERC on its
24 own behalf and the public interest as set forth in Paragraph 8. This Consent Judgment shall have no
25 application to Covered Products which are manufactured, distributed or sold outside the State of
26 California and which are not used by California consumers. This Consent Judgment shall terminate
27 without further action by any Party when Country Life no longer manufactures, distributes or sells
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1 all of the Covered Products and all of such Covered Products previously “distributed into the stream
2 of commerce” have reached their expiration dates and are no longer sold.

3 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASES**

4 8.1 This Consent Judgment is a full, final, and binding resolution between ERC, on
5 behalf of itself, and in the public interest, and Country Life, of any alleged violation of Proposition
6 65 or its implementing regulations, and fully and finally resolves all claims that have been or could
7 have been asserted in this action against Country Life for failure to provide Proposition 65 warnings
8 for the Covered Products regarding lead. ERC, on behalf of itself, and in the public interest, hereby
9 releases and discharges Country Life and its respective officers, directors, shareholders, employees,
10 agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees,
11 customers, distributors, wholesalers, retailers, and all other upstream and downstream entities in the
12 distribution chain of any Covered Product, and the predecessors, successors and assigns of any of
13 them (collectively, “Released Parties”), from any and all claims asserted, or that could have been
14 asserted, in this action arising from or related to the alleged failure to provide Proposition 65
15 warnings for the Covered Products regarding lead.

16 8.2 ERC, on behalf of itself only, hereby releases and discharges the Released Parties
17 from any and all known and unknown past, present, and future rights, claims, causes of action, suits,
18 damages, penalties, liabilities, injunctive relief, declaratory relief, and attorneys’ fees, costs, and
19 expenses arising from or related to the claims asserted, or that could have been asserted, under state
20 or federal law, regarding the presence of lead in the Covered Products or the facts alleged in the
21 Notice of Violation or the Complaint, including without limitation any and all claims concerning
22 exposure of any person to lead in the Covered Products.

23 8.3 Compliance with the terms of this Consent Judgment shall constitute compliance by
24 the Released Parties with Proposition 65 with respect to alleged exposures to lead contained in the
25 Covered Products.

26 8.4 **Unknown Claims.** With regard to ERC’s personal release only, it is expressly
27 understood by ERC that the releases given by ERC pursuant to this Consent Judgment include the
28 release of all claims, known or unknown which ERC may now or in the future have against County

1 Life or the Released Parties arising out of or related to the circumstances underlying ERC's Notice
2 of Violation of March 11, 2011 concerning the Covered Products. ERC expressly declares that it
3 has read, understood and knowingly waived any and all rights it may have under the provisions of
4 California Civil Code Section 1542. California Civil Code section 1542 reads as follows:

5
6 **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH**
7 **THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR**
8 **HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH**
9 **IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED**
10 **HIS OR HER SETTLEMENT WITH THE DEBTOR."**

11 ERC, on behalf of itself only, acknowledges and understands the significance and consequences of
12 this specific waiver of California Civil Code section 1542.

13 8.5 ERC, on the one hand, and Country Life, on the other hand, release and waive all
14 claims they may have against each other for any statements or actions made or undertaken by them
15 in connection with the Notice of Violation or this action.

16 **9. CONSTRUCTION OF CONSENT JUDGMENT, SEVERABILITY**

17 9.1 The terms and conditions of this Consent Judgment have been reviewed by the
18 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully
19 discuss the terms and conditions with its counsel. In any subsequent interpretation or construction of
20 this Consent Judgment, the terms and conditions shall not be construed against any Party.

21 9.2 In the event that any of the provisions of this Consent Judgment are held by a court to
22 be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

23 **10. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

24 In the event a dispute arises with respect to either party's compliance with the terms of this
25 Consent Judgment entered by the Court, the Parties shall meet either in person or by telephone and
26 endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in the
27 absence of such a good faith attempt to resolve the dispute beforehand.

28 **11. GOVERNING LAW**

The terms and conditions of this Consent Judgment shall be governed by and construed in
accordance with the laws of the State of California.

1 **12. PROVISION OF NOTICE**

2 All notices required by this Consent Judgment shall be sent by first-class, registered, or
3 certified mail, or overnight delivery, to the following persons. Courtesy copies of communications
4 via e-mail also may be sent, but the delivery date shall be the date of actual receipt by the addressee.

5 **For Environmental Research Center:**

6 Chris Heptinstall, Executive Director
7 Environmental Research Center
8 3111 Camino del Rio North, Suite 400
9 San Diego, CA 92108

10 Michael Bruce Freund
11 Law Offices of Michael Freund
12 1919 Addison Street, Suite 105
13 Berkeley, CA 94704

14 **For COUNTRY LIFE:**

15 Judith Praitis
16 Sidley Austin LLP
17 555 W 5th Street, 40th Floor
18 Los Angeles, CA 90013

19 Brian Richmond
20 Chief Operating Officer
21 Country Life LLC
22 180 Vanderbilt Motor Parkway
23 Happauge, New York 11788

24 **13. COURT APPROVAL**

25 13.1 If this Stipulated Consent Judgment is not approved by the Court, it shall be void and
26 have no force or effect.

27 13.2 ERC shall comply with California Health & Safety Code section 25249.7(f) and with
28 Title 11 of the California Code Regulations, section 3003.

29 **14. EXECUTION AND COUNTERPARTS**

30 This Stipulated Consent Judgment may be executed in counterparts, which taken together
31 shall be deemed to constitute one document. A facsimile or pdf signature shall be construed as valid
32 as the original signature.

1 **15. ENTIRE AGREEMENT, AUTHORIZATION**

2 15.1 This Consent Judgment contains the sole and entire agreement and understanding of
3 the Parties with respect to the entire subject matter hereof, and any and all prior discussions,
4 negotiations, commitments and understandings related hereto. No representations, oral or otherwise,
5 express or implied, other than those contained herein have been made by any Party. No other
6 agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind
7 any of the Parties.

8 15.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by
9 the Party he or she represents to stipulate to the terms and conditions of this Consent Judgment, to
10 enter into and execute this Consent Judgment on behalf of the Party represented, and legally to bind
11 that Party to this Consent Judgment. The undersigned have read, understand and agree to all of the
12 terms and conditions of this Consent Judgment. Except as explicitly
13 provided herein, each Party shall bear its own fees and costs.

14 **16. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY**
15 **OF CONSENT JUDGMENT**

16 This Consent Judgment has come before the Court upon the request of the Parties. The
17 Parties request the Court to fully review this Consent Judgment and, being fully informed regarding
18 the matters which are the subject of this action, to:

19 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
20 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has
21 been diligently prosecuted, and that the public interest is served by such settlement; and

22 (2) Make the findings pursuant to Health & Safety Code § 25249.7 (f) (4), approve the
23 Settlement and approve this Consent Judgment.

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1 **IT IS SO STIPULATED:**

2 **ENVIRONMENTAL RESEARCH CENTER**

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6 Chris Heptinstall, Executive Director

Dated: _____

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9 **COUNTRY LIFE, LLC**

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Dated: 6/12/12

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12 **Brian Richmond**
13 Chief Operating Officer

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18 **APPROVED AS TO FORM:**

19 **LAW OFFICE OF MICHAEL FREUND**

20

21

22 Michael Freund, Counsel for ERC

Dated: _____

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24 **SIDLEY AUSTIN, LLP**

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27 Judith Praitis, Counsel for Country Life, LLC

Dated: _____

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IT IS SO STIPULATED:

ENVIRONMENTAL RESEARCH CENTER

Chris Heptinstall, Executive Director

Dated: _____

COUNTRY LIFE, LLC



Brian Richmond
Chief Operating Officer

Dated: 6/12/12

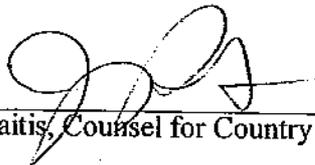
APPROVED AS TO FORM:

LAW OFFICE OF MICHAEL FREUND

Michael Freund, Counsel for ERC

Dated: _____

SIDLEY AUSTIN, LLP

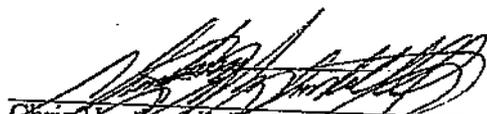


Judith Praitis, Counsel for Country Life, LLC

Dated: 6/18/12

1 **IT IS SO STIPULATED:**

2 **ENVIRONMENTAL RESEARCH CENTER**
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4 
5 Chris Leptinfall, Executive Director
6

Dated: 6/11/2012

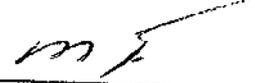
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9 **COUNTRY LIFE, LLC**

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12 Brian Richmond
13 Chief Operating Officer

Dated: _____

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18 **APPROVED AS TO FORM:**

19 **LAW OFFICE OF MICHAEL FREUND**

20
21 
22 Michael Freund, Counsel for ERC

Dated: 6/18/12

23
24 **SIDLEY AUSTIN, LLP**

25
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27 Judith Praitis, Counsel for Country Life, LLC

Dated: _____

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JUDGMENT

Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is approved and judgment is hereby entered according to its terms.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2012

Judge, Superior Court of the State
of California

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EXHIBIT A -NOTICE OF VIOLATION

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Environmental Research Center

5694 Mission Center Road #199

San Diego, CA 92108

619.309.4194

March 11, 2011

VIA CERTIFIED MAIL

Current President or CEO
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, NY 11788

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

VIA PRIORITY MAIL

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

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

Dear Addressees:

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

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

The name of the Company covered by this Notice that violated Proposition 65 is:

Country Life, LLC

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

Country Life Maximized Action Max For Men XXXtreme 60 Tablets - Lead
Country Life Beyond Food 120 Capsules - Lead
Country Life Superior Multiple 180 Tablets - Lead
Country Life Super Fiber Psyllium Seed Husk Powder (226 g) - Lead
Country Life Maxi Pre-Natal 180 Capsules - Lead
Country Life Green Edge Powder Apple Cinnamon Flavor (336g) - Lead
Country Life Green Edge 2 Powder Apple Cinnamon Flavor (188 g) - Lead
Country Life Daily FiberX 90 Capsules - 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 as chemical known to cause cancer.

This letter is a Notice to Country Life, LLC and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This Notice covers all violations of Proposition 65 involving Country Life, LLC currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, has been provided to the Noticed Company with a copy of this letter.

Country Life, LLC has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemicals. The primary route of exposure to these chemicals has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. The method of warning should be a warning that appears on the product's label. Country Life, LLC violated Proposition 65 because the Company has failed to provide an appropriate warning to persons using these products that they are being exposed to the identified chemical.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this Notice unless Country Life, LLC agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemicals; and (2) pay an appropriate civil penalty. Consistent with the public interest goals of Proposition 65 and ERC's objectives in pursuing this Notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemicals and expensive and time consuming litigation.

Please direct all questions concerning this notice to ERC's attorney, Michael Freund, address: 1915 Addison Street, Berkeley, California, 94704-1101, telephone no.: 510-540-1992, e-mail: Freund1@aol.com.

Sincerely,



Chris Heptinstall
Executive Director
Environmental Research Center

cc: Karen Evans

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Country Life, LLC 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 Country Life, LLC

I, Michael Freund, 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: March 11, 2011



Michael Freund
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 March 11, 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 President or CEO
Country Life, LLC
180 Vanderbilt Motor Parkway
Hauppauge, NY 11788

On March 11, 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 March 11, 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 March 11, 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.*

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

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

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

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

District Attorney, San Benito County
419 Fourth Street, 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

1 **JUDGMENT**

2 Based upon the Parties' Stipulation, and good cause appearing, this Consent
3 Judgment is approved and judgment is hereby entered according to its terms.
4

5 **IT IS SO ORDERED, ADJUDGED AND DECREED.**
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8 Dated: SEP - 4 2012, ~~2012~~

GEORGE C. HERNANDEZ, JR.

Judge, Superior Court of the State
of California

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