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 21 SYSTEMS INTERNATIONAL, LP, and  
 22 NUTRACEUTICAL LEASING  
 23 INTERNATIONAL, LP

24 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 25 COUNTY OF ALAMEDA

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

28 Plaintiff,

v.

PREMIER RESEARCH LABS, LP, a Texas  
 limited partnership, QUANTUM NUTRITION  
 LABS, LP, a Texas limited partnership,  
 NUTRACEUTICAL SYSTEMS  
 INTERNATIONAL, LP, a Texas limited  
 partnership, and NUTRACEUTICAL  
 LEASING INTERNATIONAL, LP, a Texas  
 limited partnership,  
 Defendants.

**FILED**  
 ALAMEDA COUNTY

APR 10 2018

CLERK OF THE SUPERIOR COURT

By Pam Williams Deputy

CASE NO. RG17867032

STIPULATED CONSENT  
 JUDGMENT

*+ ORDER*

Health & Safety Code § 25249.5 et seq.

Action Filed: July 10, 2017  
 Trial Date: None set

1     **1. INTRODUCTION**

2             **1.1**     On July 10, 2017, Plaintiff Environmental Research Center, Inc. ("ERC"), a  
3 non-profit corporation, as a private enforcer and in the public interest, initiated this action (the  
4 "Action") in the Superior Court (the "Court") of the State of California for the County of  
5 Alameda by filing a Complaint (the "Complaint") for Injunctive Relief and Civil Penalties  
6 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*  
7 ("Proposition 65"), against PREMIER RESEARCH LABS, LP ("Premier"), QUANTUM  
8 NUTRITION LABS, LP ("Quantum"), NUTRACEUTICAL SYSTEMS INTERNATIONAL,  
9 LP ("NSI"), and NUTRACEUTICAL LEASING INTERNATIONAL, LP ("NLI") (collectively  
10 "DEFENDANTS"). Premier and Quantum are hereafter referred to collectively as the  
11 "SETTLING DEFENDANTS." As a material component of the settlement ("Settlement") of  
12 this Action, ERC promptly shall file with the Court an Amended Complaint (the "Amended  
13 Complaint") to include both the products that were listed (or otherwise set forth) in the  
14 Complaint and additional Premier and Quantum products that were not listed (or otherwise set  
15 forth) in the Complaint. The Amended Complaint shall be deemed served on all the  
16 DEFENDANTS one Court Day (defined as a day which is not a Saturday, Sunday, or Court  
17 holiday, and on which the Court is conducting judicial business) prior to the date on which the  
18 Court makes its final, substantive determination on the merits of the Motion to Approve (the  
19 term "Motion to Approve" is defined in the immediately following sentence). Also as a material  
20 component of the Settlement, ERC promptly shall file with the Court a motion to approve  
21 ("Motion to Approve") this Consent Judgment ("Consent Judgment") with a hearing date not  
22 sooner than two Court Days following the the filing of the Amended Complaint and shall comply  
23 with all applicable requirements (including, without limitation, requirements relating to  
24 document submissions) relating to the California Attorney General in connection with the  
25 Settlement, this Consent Judgment, and the Motion to Approve. Also, as a material component  
26 of the Settlement, ERC shall request of the Court that if the Court approves the Motion to  
27 Approve that, as to NSI and NLI, the Court dismiss with prejudice the Amended Complaint  
28 contemporaneously with the Court's approval of the Motion to Approve. If the Court approves

1 the Motion to Approve but does not as to NSI and NLI contemporaneously dismiss with  
2 prejudice the Amended Complaint, ERC shall within three Business Days (as used in this  
3 Consent Judgment, a "Business Day" is a day which is not a Saturday, Sunday, or an official  
4 holiday of the State of California and/or the United States of America) after the Court grants the  
5 Motion to Approve file with the Court, and diligently pursue, a request as to NSI and NLI for a  
6 dismissal with prejudice of the Amended Complaint.

7           1.2 In this action, ERC alleges that a number of products manufactured,  
8 distributed, or sold by SETTLING DEFENDANTS contain lead, a chemical listed under  
9 Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to this chemical at  
10 a level requiring a Proposition 65 warning. These products (referred to hereinafter individually  
11 as a "Covered Product" or collectively as "Covered Products") are:

- 12           1) Quantum Nutrition Labs LP Slim-Body Whey
- 13           2) Quantum Nutrition Labs LP Quantum Gallbladder Support
- 14           3) Quantum Nutrition Labs LP Quantum Coral Calcium Plus
- 15           4) Quantum Nutrition Labs LP Quantum Bone and Joint Support
- 16           5) Quantum Nutrition Labs LP Dragon Cleanse-LX
- 17           6) Quantum Nutrition Labs LP Quantum Aloe-VG
- 18           7) Quantum Nutrition Labs LP Quantum Immune Support
- 19           8) Quantum Nutrition Labs LP Aloe-100 Organic Aloe Vera Liquid
- 20           9) Quantum Nutrition Labs LP Quantum Turmeric
- 21           10) Quantum Nutrition Labs LP Quantum Propolis
- 22           11) Quantum Nutrition Labs LP Quantum Liver Support
- 23           12) Quantum Nutrition Labs LP Quantum Greens Capsules
- 24           13) Quantum Nutrition Labs LP Quantum Noni
- 25           14) Quantum Nutrition Labs LP Quantum Thyroid Support
- 26           15) Quantum Nutrition Labs LP Toco Gold
- 27           16) Premier Research Labs LP Premier B.P. Complex
- 28           17) Quantum Nutrition Labs LP Quantum Bladder Support

- 1 18) Premier Research Labs LP Uriven
- 2 19) Premier Research Labs LP Nucleo Immune
- 3 20) Quantum Nutrition Labs LP Quantum Nucleotide Complex
- 4 21) Premier Research Labs LP PancreVen
- 5 22) Quantum Nutrition Labs LP Quantum Blood Sugar Support
- 6 23) Premier Research Labs LP Premier Glutathione Complex
- 7 24) Quantum Nutrition Labs LP Quantum Glutathione Support
- 8 25) Premier Research Labs LP Premier Psyllium Fiber
- 9 26) Quantum Nutrition Labs LP Quantum Psyllium Fiber
- 10 27) Quantum Nutrition Labs LP Quantum Kidney Support
- 11 28) Premier Research Labs LP Renaven
- 12 29) Premier Research Labs LP Reishi Immune
- 13 30) Quantum Nutrition Labs LP Quantum Reishi
- 14 31) Premier Research Labs LP Royal Jelly - 100
- 15 32) Quantum Nutrition Labs LP Quantum Tomato
- 16 33) Premier Research Labs LP Premier Tomato
- 17 34) Premier Research Labs LP Tranquinol
- 18 35) Quantum Nutrition Labs LP Quantum Sleep
- 19 36) Premier Research Labs LP Premier Whey Protein (formerly known as Whey
- 20 Peptin)
- 21 37) Quantum Nutrition Labs LP Quantum Whey Protein
- 22 38) Premier Research Labs LP Premier Zeolite Complex

23 1.3 ERC and SETTLING DEFENDANTS are hereinafter referred to individually as  
24 a "Party" or collectively as the "Parties."

25 1.4 ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other  
26 causes, helping safeguard the public from health hazards by reducing the use and misuse of  
27 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,  
28 and encouraging corporate responsibility.

1           1.5     The Amended Complaint will be based on allegations contained in ERC's 60-  
2 Day Notices of Violation ("Notices") dated August 30, 2016, November 30, 2016 and January  
3 18, 2018 that were served on the California Attorney General, other public enforcers, and  
4 DEFENDANTS. True and correct copies of the Notices dated August 30, 2016, November 30,  
5 2016 and January 18, 2018 are attached hereto as Exhibits A, B and C respectively and each is  
6 incorporated herein by reference. At the time the Motion to Approve this Consent Judgment is  
7 heard, more than 60 days will have passed since the Notices were served on the Attorney  
8 General, public enforcers, and DEFENDANTS.

9           1.6     ERC's Notices and Amended Complaint allege that use of the Covered Products  
10 exposes persons in California to lead without first providing clear and reasonable warnings in  
11 violation of California Health and Safety Code section 25249.6. Each of SETTLING  
12 DEFENDANTS denies all material allegations contained in the Notices and the Amended  
13 Complaint, asserts numerous affirmative defenses to the allegations of violations, and  
14 specifically denies the Covered Products require or required a Proposition 65 warning or cause  
15 or caused harm to any person.

16           1.7     For the purpose of avoiding prolonged and costly litigation concerning the claims  
17 and defenses in this Action, the Parties enter into this Consent Judgment as a full settlement,  
18 compromise, and resolution of all claims against the SETTLING DEFENDANTS that were  
19 raised in the Notices and the Amended Complaint based on the facts alleged therein, or which  
20 could have been raised against them in the Amended Complaint based on the facts alleged  
21 therein. Nothing in this Consent Judgment, the execution of this Consent Judgment, or  
22 compliance with this Consent Judgment shall constitute or be construed as an admission by any  
23 of the Parties or by any of their respective officers, directors, shareholders, employees, agents,  
24 parent companies, sister companies, affiliates, subsidiaries, divisions, franchisees, licensees,  
25 customers, suppliers, distributors, wholesalers, retailers, or any other person or entity of any fact,  
26 issue of law, or violation of law, at any time, for any purpose. Nothing in this Consent Judgment  
27 shall be construed as giving rise to any presumption or inference of admission, concession, or  
28

1 waiver of any defense by Premier, by Quantum, or by any other person or entity as to any fault,  
2 wrongdoing, or liability, including without limitation any alleged violation of Proposition 65.

3       **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall  
4 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
5 current or future legal proceeding unrelated to these proceedings. This paragraph shall not  
6 diminish or otherwise affect the obligations, responsibilities, and duties of any Party with  
7 respect to this Consent Judgment.

8       **1.9** As used in this Consent Judgment, the "Effective Date" is the date on which  
9 SETTLING DEFENDANTS' counsel receives from ERC's counsel the written Notice of Entry  
10 of Judgment. As used in this Consent Judgment, the "Compliance Date" is the date 180 days  
11 after the Effective Date.

## 12       **2. JURISDICTION AND VENUE**

13       For purposes of this Consent Judgment only, the Parties stipulate that this Court has  
14 subject matter jurisdiction over the allegations of violations contained in the Amended Complaint.  
15 that this Court has personal jurisdiction over SETTLING DEFENDANTS as to the acts alleged in  
16 the Amended Complaint, that venue for the Action is proper in Alameda County, and that this  
17 Court has jurisdiction to enter this Consent Judgment as a full and final settlement, compromise,  
18 and resolution of all claims covered pursuant to this Consent Judgment ("Covered Claims"),  
19 which constitute claims up through and including the Compliance Date which were or could have  
20 been asserted in this Action based on the facts alleged in the Notices and Amended Complaint

## 21       **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

22       **3.1** Beginning on the Compliance Date, SETTLING DEFENDANTS shall be  
23 permanently enjoined from manufacturing for sale in the State of California, "Distributing into  
24 the State of California," (as defined below) or directly selling in the State of California, any  
25 Covered Products which expose a person to a "Daily Lead Exposure Level" (as defined below)  
26 of more than 0.5 micrograms of lead per day after subtracting out the amount of lead deemed  
27 "naturally occurring" for each ingredient listed in Table 3.3 below, unless it satisfies the  
28 warning requirements under Section 3.2.

1           3.1.1 As used in this Consent Judgment, the term "Distributing into the State  
2 of California" shall mean to directly ship a Covered Product into California for sale in  
3 California or to sell a Covered Product to a distributor that SETTLING DEFENDANTS know  
4 intends to directly sell the Covered Product in California.

5           3.1.2 For purposes of this Consent Judgment only, the "Daily Lead Exposure  
6 Level" for a Covered Product shall be measured in micrograms, and shall be calculated using  
7 the following formula: number of grams of product per serving of the Covered Product (using  
8 the largest recommended serving size appearing on such Covered Product's label), multiplied  
9 by the recommended number of servings of the Covered Product per day (using the largest  
10 number of daily servings recommended on the product label of that Covered Product) (the  
11 product of such multiplication being the "Maximum Daily Recommended Amount" for that  
12 Covered Product), multiplied by the number of micrograms of lead per gram which equals  
13 micrograms of lead exposure per day, but excluding any allowances for the amounts of lead as  
14 set forth in Table 3.3 below. If no recommended number of daily servings is provided on the  
15 label, then the number of daily servings for purposes of the "Maximum Daily Recommended  
16 Amount" for that Covered Product shall equal one. For purposes of this Section 3.1 and for  
17 purposes of this Consent Judgment only, the amount of lead content deemed "naturally  
18 occurring" in each of the Covered Products is the sum of the amounts of "naturally occurring"  
19 lead supplied by the quantity of each ingredient listed in Table 3.3 that is present in the  
20 "Maximum Daily Recommended Amount" of that Covered Product. If SETTLING  
21 DEFENDANTS seek to exclude "naturally occurring" amounts of lead under this Consent  
22 Judgment for any of the Covered Products, SETTLING DEFENDANTS shall provide to ERC,  
23 under the terms of the confidentiality agreement entered into by the Parties, a separate  
24 document including a complete list of each such Covered Product and the quantity in grams  
25 (rounded to the nearest one tenth of a gram) of the ingredient listed in Table 3.3 in the  
26 Maximum Daily Recommended Amount of each such Covered Product. SETTLING  
27 DEFENDANTS additionally shall provide to ERC test results or other data that independently  
28

1 confirms the quantity in grams of each such ingredient in the Maximum Daily Recommended  
2 Amount of each such Covered Product.

3 TABLE 3.3

4

| Ingredient          | Amount of Lead Per Gram of Ingredient Deemed Naturally Occurring Allowed for Exclusion for Purposes of this Consent Judgment Only |
|---------------------|---|
| Calcium (elemental) | 0.8 mcg Pb per gram of elemental calcium  |
| Ferrous Fumarate    | 0.4 mcg Pb per gram of ferrous fumarate   |
| Zinc Oxide          | 8.0 mcg Pb per gram of zinc oxide   |
| Magnesium Oxide     | 0.4 mcg Pb per gram of magnesium oxide  |
| Magnesium Carbonate | 0.332 mcg Pb per gram of magnesium carbonate  |
| Magnesium Hydroxide | 0.4 mcg Pb per gram of magnesium hydroxide  |
| Zinc Gluconate      | 0.8 mcg Pb per gram of zinc gluconate   |
| Potassium Chloride  | 1.1 mcg Pb per gram of potassium chloride   |
| Cocoa powder        | 1.0 mcg Pb per gram of cocoa powder   |

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13 **3.2 Clear and Reasonable Warnings**

14 If SETTLING DEFENDANTS are required to provide a warning pursuant to Section 3.1.  
15 the following warning must be utilized ("Warning"), utilizing the bracketed language as  
16 applicable, with the bracketed language being optional at SETTLING DEFENDANTS' sole and  
17 exclusive election and discretion, as follows :

18 **WARNING:** Consuming this product can expose you to [chemicals including] lead, which  
19 [is/are] known to the State of California to cause [cancer and] birth defects or other  
reproductive harm. For more information go to [www.P65Warnings.ca.gov/food](http://www.P65Warnings.ca.gov/food).

20 SETTLING DEFENDANTS shall use the phrase "cancer and" in the Warning if SETTLING  
21 DEFENDANTS have reason to believe that the "Daily Lead Exposure Level" is greater than 15  
22 micrograms of lead as determined pursuant to the quality control methodology set forth in Section  
23 3.4.

24 The Warning, if required, shall be securely affixed to, or printed on, the container or label  
25 of each such Covered Product. If such a Warning is provided on the label, it must be set off from  
26 other surrounding information and enclosed in a box. If such a Warning is provided as an on-  
27 product Warning, it shall be in a type size no smaller than the largest type size used for other  
28 consumer information on the product and in no case shall such an on-product Warning appear in



1 a type size smaller than 6-point type. For any such Covered Product sold over the internet, such  
2 Warning shall either appear on the checkout page, or via a clearly marked hyperlink using the  
3 word "WARNING" on such Covered Product's display page, when a California delivery  
4 address is indicated for any purchase of any such Covered Product. If an on-product Warning is  
5 provided for any such Covered Product, the Warning on the website may use the same content as  
6 the on-product Warning for such Covered Product. An asterisk or other identifying method must  
7 be utilized to identify which products on the checkout page are subject to such Warning(s).

8         SETTLING DEFENDANTS must display the above Warning with such conspicuousness,  
9 as compared with other words, statements, design of the label, container, or on its website, as  
10 applicable, to render the Warning likely to be read and understood by an ordinary individual under  
11 customary conditions of purchase or use of the product.

### 12         **3.3 Reformulated Covered Products**

13         A "Reformulated Covered Product" is one for which the "Daily Lead Exposure Level" is  
14 no greater than 0.5 micrograms of lead per day as determined by the quality control methodology  
15 described in Section 3.4 excluding the amount of lead deemed "naturally occurring" pursuant to  
16 Table 3.3 above.

### 17         **3.4 Testing and Quality Control Methodology**

18         **3.4.1** Beginning within one year of the Effective Date, SETTLING  
19 DEFENDANTS shall arrange for lead testing of the Covered Products at least once a year for a  
20 minimum of three consecutive years (the "Testing Period") by arranging for testing of three  
21 randomly selected samples of each of the Covered Products, in the form intended for sale to the  
22 end-user, which SETTLING DEFENDANTS intend to sell or are manufacturing for sale in  
23 California, directly selling to a consumer in California, or "Distributing into the State of  
24 California." If tests conducted pursuant to this Section demonstrate that no Warning is required  
25 for one or more Covered Product during each of three consecutive years, then the testing  
26 requirements of this Section will no longer be required as to that Covered Product. However, if  
27 during or after the three-year testing period, SETTLING DEFENDANTS change ingredient  
28 suppliers for any of the Covered Products and/or reformulate any of the Covered Products.

1. SETTling DEFENDANTS shall test that Covered Product annually for at least two  
2 consecutive years after such change is made, but in no event shall the annual testing be for a  
3 period less than is required by the Testing Period.

4           3.4.2 For purposes of measuring the "Daily Lead Exposure Level," the second  
5 highest lead detection result of the three randomly selected samples of the Covered Products  
6 will be controlling, unless all three results are the same, in which case, the lead content test  
7 result that is the same for all three samples shall be used for calculating the Daily Lead  
8 Exposure Level for that Covered Product as set forth in Section 3.1.

9           3.4.3 All testing pursuant to this Consent Judgment shall be performed using a  
10 laboratory method that complies with the performance and quality control factors appropriate  
11 for the method used, including limit of detection, qualification, accuracy, and precision that  
12 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")  
13 achieving a limit of quantification of less than or equal to 0.010 mg/kg, or any other testing  
14 method agreed upon in writing by the Parties.

15           3.4.4 All testing pursuant to this Consent Judgment shall be performed by an  
16 independent third party laboratory certified by the California Environmental Laboratory  
17 Accreditation Program; or by an independent third-party laboratory that is registered with the  
18 United States Food & Drug Administration; or by the SETTling DEFENDANTS only if the  
19 SETTling DEFENDANTS provide ERC, in an attachment to the test results, proof that  
20 SETTling DEFENDANTS' laboratory meets the requirements of section 3.4.3, and is either  
21 certified by the California Environmental Laboratory Accreditation Program for the analysis of  
22 heavy metals or registered with the United States Food & Drug Administration. SETTling  
23 DEFENDANTS shall retain all test results and documentation for a period of three years from  
24 the date of the test. The testing and sampling methodology set forth in Section 3.4 is a result of  
25 negotiation and compromise, and is accepted by the Parties for the purposes of settling,  
26 compromising, and resolving the issues in this Action, including future compliance with  
27 Section 3 of this Consent Judgment, and shall not be used for any other purpose or in any other  
28 matter, except for the purposes of determining future compliance with this Consent Judgment.

1           3.4.5 Nothing in this Consent Judgment shall limit SETTLING  
2 DEFENDANTS' ability to conduct, or require that others conduct, additional testing of the  
3 Covered Products, including the raw materials used in their manufacture.

4           3.4.6 Within thirty (30) days of ERC's written request, SETTLING  
5 DEFENDANTS shall deliver laboratory reports obtained and retained with respect to the three  
6 consecutive years Covered Products Testing Period, or the two consecutive years Covered  
7 Products testing period, as applicable, pursuant to Sections 3.4.1 and 3.4.4 to ERC.

#### 8    4.    SETTLEMENT PAYMENT

9           4.1 In full satisfaction of all potential civil penalties, additional settlement payments,  
10 attorney's fees, and costs, SETTLING DEFENDANTS shall make a total payment of  
11 \$150,000.00 ("Total Settlement Amount") to ERC within ten (10) Business Days of the date  
12 (the "Due Date") which is the later of (a) the Effective Date or (b) the date the Court dismisses  
13 with prejudice the Amended Complaint as to both NSI and NLI. SETTLING DEFENDANTS  
14 shall make such payment by wire transfer to ERC's escrow account, for which ERC shall give  
15 SETTLING DEFENDANTS the necessary account information and a valid United States  
16 Department of the Treasury Internal Revenue Service Form W-9 ("Request for Taxpayer  
17 Identification Number and Certification") at least seven (7) Business Days before the Due Date  
18 (provided that the Due Date shall be postponed one (1) Business Day for every one (1)  
19 Business Day day delay in ERC's provision of such account information and such form to  
20 SETTLING DEFENDANTS). The Total Settlement Amount shall be apportioned as follows:

21           4.2 \$10,000.00 shall be considered a civil penalty pursuant to California Health and  
22 Safety Code section 25249.7(b)(1). ERC shall remit 75% (equal to \$7,500.00) of the civil  
23 penalty to the Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in  
24 the Safe Drinking Water and Toxic Enforcement Fund in accordance with California Health  
25 and Safety Code section 25249.12(c). ERC will retain the remaining 25% (equal to \$2,500.00)  
26 of the civil penalty.

27           4.3 \$5,950.10 shall be distributed to ERC as reimbursement to ERC for reasonable  
28 costs incurred (whenever incurred, including without limitation costs incurred in connection

1 with the motion to approve the Consent Judgment and with future monitoring of compliance  
2 with the Consent Judgment) in bringing this Action.

3       4.4     \$70,611.72 shall be distributed to Lozeau Drury LLP as reimbursement of  
4 ERC's attorney's fees (whenever incurred, including without limitation attorney's fees incurred  
5 in connection with the motion to approve the Consent Judgment and with future monitoring of  
6 compliance with the Consent Judgment), while \$63,438.18 shall be distributed to ERC for its  
7 in-house legal fees (whenever incurred, including without limitation in-house legal fees  
8 incurred in connection with the motion to approve the Consent Judgment and with future  
9 monitoring of compliance with the Consent Judgment).

10       4.5     In the event that SETTLING DEFENDANTS fail to remit the Total Settlement  
11 Amount owed under Section 4 of this Consent Judgment on or before the Due Date, SETTLING  
12 DEFENDANTS shall be deemed to be in material breach of their obligations under this Consent  
13 Judgment. ERC shall provide written notice of the delinquency to SETTLING DEFENDANTS  
14 via electronic mail. If SETTLING DEFENDANTS fail to deliver the Total Settlement Amount  
15 within ten (10) Business Days from the written notice, the Total Settlement Amount shall accrue  
16 interest at the statutory judgment interest rate provided in the California Code of Civil Procedure  
17 section 685.010. Additionally, SETTLING DEFENDANTS agree to pay ERC's reasonable  
18 attorneys' fees and costs for any efforts to collect the payment due under this Consent Judgment.

19       4.6     Except as expressly set forth in this Section 4, each Party shall bear its own  
20 attorneys' fees, costs, and expenses in this Action.

## 21     5.     **MODIFICATION OF CONSENT JUDGMENT**

22       5.1     This Consent Judgment may be modified only as to injunctive terms (i) by  
23 written stipulation of the Parties and upon entry by the Court of a modified consent judgment or  
24 (ii) by motion of either Party pursuant to Section 5.2, 5.3 or 5.4 and upon entry by the Court of  
25 a modified consent judgment.

26       5.2     If SETTLING DEFENDANTS seek to modify this Consent Judgment under  
27 Section 5.1, then SETTLING DEFENDANTS must provide written notice to ERC of its intent  
28 ("Notice of Intent"). If ERC seeks to meet and confer regarding the proposed modification in

1 the Notice of Intent, then ERC must provide written notice to SETTling DEFENDANTS  
2 within thirty (30) days of receiving the Notice of Intent. If ERC notifies SETTling  
3 DEFENDANTS in a timely manner of ERC's intent to meet and confer, then the Parties shall  
4 meet and confer in good faith as required in this Section. The Parties shall meet in person or  
5 via telephone within thirty (30) days of ERC's notification of its intent to meet and confer.  
6 Within thirty (30) days of such meeting, if ERC disputes the proposed modification, ERC shall  
7 provide to SETTling DEFENDANTS the written basis for its positions. The Parties shall  
8 continue to meet and confer for an additional thirty (30) days in an effort to resolve any  
9 remaining disputes. Should it become necessary, the Parties may agree in writing to different  
10 deadlines for the meet-and-confer period.

11       **5.3** In the event that SETTling DEFENDANTS initiate or otherwise request a  
12 modification under Section 5.1, and the meet and confer process leads to a joint motion or  
13 application for a modification of the Consent Judgment, SETTling DEFENDANTS shall  
14 reimburse ERC its costs and reasonable attorneys' fees for the time spent in the meet-and-  
15 confer process and filing and arguing the motion or application.

16       **5.4** Where the meet-and-confer process does not lead to a joint motion or  
17 application in support of a modification of the Consent Judgment, then either Party may seek  
18 judicial relief independent of the other. In any such contested court proceeding, ERC may seek  
19 any attorneys' fees and costs incurred in opposing the motion pursuant to California Code of  
20 Civil Procedure section 1021.5.

21       **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
22       **JUDGMENT**

23       **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or terminate  
24 this Consent Judgment.

25       **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated  
26 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall  
27 inform SETTling DEFENDANTS in a reasonably prompt manner of its test results, including  
28 information sufficient to permit SETTling DEFENDANTS to identify the Covered Products

1 at issue. SETTling DEFENDANTS shall, within thirty (30) days following such notice,  
2 provide ERC with testing information, from an independent third-party laboratory meeting the  
3 requirements of Sections 3.4.3 and 3.4.4, demonstrating SETTling DEFENDANTS'  
4 compliance with the Consent Judgment, if warranted. The Parties shall first attempt to resolve  
5 the matter prior to ERC taking any further legal action.

6 **7. APPLICATION OF CONSENT JUDGMENT**

7 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
8 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
9 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,  
10 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no  
11 application to any Covered Product which is distributed or sold exclusively outside the State of  
12 California and which is not used by California consumers.

13 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

14 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
15 behalf of itself and in the public interest, and SETTling DEFENDANTS and their respective  
16 officers, directors, shareholders, employees, agents, parent companies, sister companies,  
17 affiliates, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including  
18 private label customers of SETTling DEFENDANTS), distributors, wholesalers, retailers,  
19 and all other upstream and downstream entities in the manufacturing, distribution, and sales  
20 chains of any Covered Product, and the predecessors, successors, and assigns of any of them  
21 (collectively, "Released Parties"). In addition to, and not in derogation of any of, the provisions  
22 of this Section 8.1, NSI and NLI are among the Released Parties. ERC, on behalf of itself and  
23 in the public interest, hereby fully releases and discharges the Released Parties from any and all  
24 claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and  
25 expenses asserted, or that could have been asserted from the handling, use, or consumption of  
26 the Covered Products, as to any alleged violation of Proposition 65 or its implementing  
27 regulations arising from the failure to provide Proposition 65 warnings on the Covered  
28 Products regarding lead up to and including the Compliance Date.

1           8.2     ERC on its own behalf only, and SETTLING DEFENDANTS on their own  
2 behalf only, further waive and release any and all claims they may have against each other for  
3 all actions or statements made or undertaken in the course of seeking or opposing enforcement  
4 of Proposition 65 in connection with the Notices and Amended Complaint up through and  
5 including the Compliance Date, provided, however, that nothing in Section 8 shall affect or  
6 limit any Party's right to seek to enforce the terms of this Consent Judgment.

7           8.3     It is possible that other claims not known to the Parties, arising out of the facts  
8 alleged in the Notices and Amended Complaint, and relating to the Covered Products, will  
9 develop or be discovered. ERC on behalf of itself only, and SETTLING DEFENDANTS on  
10 behalf of themselves only, acknowledge that this Consent Judgment is expressly intended to  
11 cover and include all such claims up through and including the Compliance Date, including all  
12 rights of action therefore. ERC and SETTLING DEFENDANTS acknowledge that the claims  
13 released in Sections 8.1 and 8.2 above may include unknown claims, and nevertheless waive  
14 California Civil Code section 1542 as to any such unknown claims. California Civil Code  
15 section 1542 reads as follows:

16           A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
17           CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
18           FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
19           KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
20           OR HER SETTLEMENT WITH THE DEBTOR.

21           ERC on behalf of itself only, and SETTLING DEFENDANTS on behalf of themselves only,  
22 acknowledge and understand the significance and consequences of this specific waiver of  
23 California Civil Code section 1542.

24           8.4     Compliance with the terms of this Consent Judgment shall be deemed to  
25 constitute compliance with Proposition 65 by any and all Released Parties regarding alleged  
26 exposures to lead in the Covered Products as set forth in the Notices and Amended Complaint.  
27 In addition to, and not in derogation of, any other provision or section of this Consent  
28 Judgment, the injunctive relief set forth in Section 3 shall not apply to any of the Covered  
Products that SETTLING DEFENDANTS put into the stream of commerce before the  
Compliance Date.

1           8.5    Nothing in this Consent Judgment is intended to apply to any occupational or  
2 environmental exposures arising under Proposition 65, nor shall it apply to any of SETTLING  
3 DEFENDANTS' products other than the Covered Products.

4       **9.    SEVERABILITY OF UNENFORCEABLE PROVISIONS**

5           In the event that any of the provisions of this Consent Judgment are held by a court to be  
6 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.  
7 If a material provision is held by a court to be unenforceable, the Parties shall use their best efforts  
8 to resolve the concern in a timely manner. If the Parties are unable to resolve in a timely manner,  
9 and to their mutual satisfaction, the concern regarding an unenforceable material provision, the  
10 Consent Judgment shall become void and have no force or effect.

11       **10.   GOVERNING LAW**

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

14       **11.   PROVISION OF NOTICE**

15           All notices required to be given to either Party to this Consent Judgment by the other shall  
16 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via  
17 email may also be sent.

18       **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

19 Chris Heptinstall, Executive Director, Environmental Research Center  
20 3111 Camino Del Rio North, Suite 400  
21 San Diego, CA 92108  
22 Tel: (619) 500-3090  
23 Email: chris\_erc501c3@yahoo.com

24 With a copy to:  
25 MICHAEL R. LOZEAU  
26 RICHARD T. DRURY  
27 LOZEAU | DRURY LLP  
28 410 12th Street, Suite 250  
Oakland, CA 94607  
Ph: 510-836-4200  
Fax: 510-836-4205  
Email: richard@lozeaudrury.com

29       **PREMIER RESEARCH LABS, LP,**



1 QUANTUM NUTRITION LABS, LP,

2 Dr. Linda Forbes  
3 3500 Wadley Place, Building B  
4 Austin, Texas 78727

5 With a copy to:  
6 STEVEN R. TEKOSKY  
7 TATRO TEKOSKY SADWICK LLP  
8 333 South Grand Avenue, Suite 4270  
9 Los Angeles, CA 90071  
10 Ph: 213-225-7171  
11 Fax: 213-225-7151  
12 Email: steventekosky@ttsmlaw.com

13 **12. COURT APPROVAL**

14 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
15 Motion for Court Approval and comply with all regulations applicable to submission to, and  
16 notice of, settlements to the Attorney General. The Parties shall use their best efforts to support  
17 entry of this Consent Judgment.

18 **12.2** If the California Attorney General objects to any term in this Consent Judgment,  
19 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
20 prior to the hearing on the motion.

21 **12.3** If this Consent Judgment is not approved by the Court, it shall be void and have  
22 no force or effect.

23 **13. EXECUTION AND COUNTERPARTS**

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

27 **14. DRAFTING**

28 The terms of this Consent Judgment have been reviewed by the respective counsel for each  
Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and  
conditions with legal counsel. The Parties agree that, in any subsequent interpretation and  
construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,

1 and no provision of this Consent Judgment shall be construed against any Party, based on the fact  
2 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any  
3 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated  
4 equally in the preparation and drafting of this Consent Judgment.

5 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

6 If a dispute arises with respect to either Party's compliance with the terms of this Consent  
7 Judgment entered by the Court, the Parties shall meet and confer in person, by telephone, and/or in  
8 writing and endeavor to resolve the dispute in an amicable manner. No action or motion may be  
9 filed in the absence of such a good faith attempt to resolve the dispute beforehand.

10 **16. ENFORCEMENT**

11 Any of ERC, the SETTLING DEFENDANTS, or the Released Parties may, by motion  
12 or order to show cause before the Superior Court of Alameda County, enforce the terms and  
13 conditions contained in this Consent Judgment. In any action brought by ERC, the SETTLING  
14 DEFENDANTS, or the Released Parties to enforce this Consent Judgment, ERC, the  
15 SETTLING DEFENDANTS, or the Released Parties may seek whatever fines, costs, penalties,  
16 or remedies as are provided by law for failure to comply with the Consent Judgment.

17 **17. ENTIRE AGREEMENT, AUTHORIZATION**

18 **17.1** This Consent Judgment contains the sole and entire agreement and  
19 understanding of the Parties with respect to the Covered Claims and any other matter addressed  
20 herein. Except for the December 15, 2017 Stipulated Protective Order between ERC and  
21 SETTLING DEFENDANTS and the June 8, 2017 Confidentiality Agreement between ERC  
22 and Defendants regarding confidential business and trade secret information, both of which  
23 remain in full force and effect, no representations, oral or otherwise, express or implied, other  
24 than those contained herein have been made by any Party with respect to the Covered Claims  
25 and any other matter addressed herein. No other agreements, oral or otherwise, unless  
26 specifically referred to herein, shall be deemed to exist or to bind any Party with respect to the  
27 Covered Claims and any other matter addressed herein.

28

1 17.2 Each signatory to this Consent Judgment certifies that he or she is fully  
2 authorized by the Party he or she represents to stipulate to this Consent Judgment.

3 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**  
4 **CONSENT JUDGMENT**

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

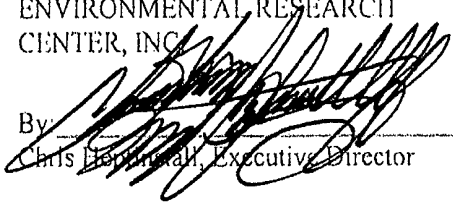
8 (1) Find that the terms and provisions of this Consent Judgment represent a fair and  
9 equitable settlement of all matters raised, or which could have been raised, by the facts alleged in  
10 the Notices and the Amended Complaint, that the matter has been diligently prosecuted, and that  
11 the public interest is served by such settlement; and

12 (2) Make the findings pursuant to California Health and Safety Code section  
13 25249.7(i)(4), approve the Settlement, and approve this Consent Judgment.

14 **IT IS SO STIPULATED:**

15 Dated: 2/21, 2018

ENVIRONMENTAL RESEARCH  
CENTER, INC.

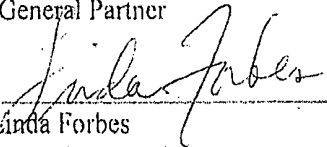
16  
17 By:   
Chris Barritt, Executive Director

18  
19 Dated: Feb. 2, 2018

PREMIER RESEARCH LABS, LP, a Texas  
limited partnership

By: Texas Supplements, LLC, a Texas  
limited liability company

Its: General Partner

20  
21  
22   
23 By: Linda Forbes  
24 Its: Managing Member  
25  
26  
27  
28

1 Dated: Feb 2, 2018

QUANTUM NUTRITION LABS, LP, a  
Texas limited partnership  
By: Texas Supplements, LLC, a Texas  
limited liability company  
Its: General Partner

Linda Forbes  
By: Linda Forbes  
Its: Managing Member

7 APPROVED AS TO FORM:

8 Dated: Feb 5, 2018

LOZEAU | DRURY LLP

By: Michael R. Lozeau  
Michael R. Lozeau  
Richard T. Drury  
Attorneys for Plaintiff Environmental  
Research Center, Inc.

13 Dated: 2-2, 2018

TATRO TEKOSKY SADWICK LLP

By: Steven R. Tekosky  
Steven R. Tekosky  
Attorney for Defendants Premier Research  
Labs, LP, Quantum Nutrition Labs, LP,  
Nutraceutical Systems International, LP,  
and Nutraceutical Leasing International,  
LP

19 **ORDER AND JUDGMENT**

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

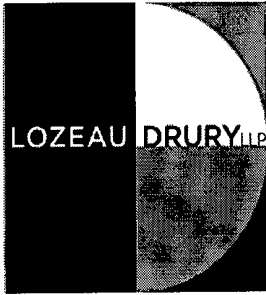
22 IT IS SO ORDERED, ADJUDGED AND DECREED.

23 Dated: 4/10, 2018

[Signature]  
Judge of the Superior Court



# **EXHIBIT A**



T 510.836.4200  
F 510.836.4205

410 12th Street, Suite 250  
Oakland, Ca 94607

www.lozeaudrury.com  
richard@lozeaudrury.com

**VIA CERTIFIED MAIL**

Current CEO or President  
Premier Research Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Premier Research Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Current CEO or President  
Premier Research Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Current CEO or President  
Quantum Nutrition Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Current CEO or President  
Quantum Nutrition Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Robert J. Marshall  
(Premier Research Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

**VIA CERTIFIED MAIL**

Robert J. Marshall  
(Quantum Nutrition Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

**VIA ELECTRONIC MAIL**

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

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

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

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

**VIA ELECTRONIC MAIL**

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Riverside County  
3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

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

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San Francisco County  
732 Brannan Street  
San Francisco, CA 94103  
gregory.alker@sfgov.org

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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

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

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

**VIA ELECTRONIC MAIL**

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Tulare County  
221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

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

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

**VIA ONLINE SUBMISSION**

Office of the California Attorney General

**VIA PRIORITY MAIL**

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



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

Dear Addressees:

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

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

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

**Premier Research Labs, LP  
Quantum Nutrition Labs, LP**

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

- 1. Quantum Nutrition Labs LP Slim-Body Whey - Lead**
- 2. Quantum Nutrition Labs LP Quantum Gallbladder Support - Lead**
- 3. Quantum Nutrition Labs LP Quantum Coral Calcium Plus - Lead**
- 4. Quantum Nutrition Labs LP Quantum Bone and Joint Support - Lead**
- 5. Quantum Nutrition Labs LP Dragon Cleanse-LX - Lead**
- 6. Quantum Nutrition Labs LP Quantum Aloe-VG - Lead**
- 7. Quantum Nutrition Labs LP Quantum Immune Support - Lead**
- 8. Quantum Nutrition Labs LP Aloe-100 Organic Aloe Vera Liquid - Lead**
- 9. Quantum Nutrition Labs LP Quantum Turmeric - Lead**
- 10. Quantum Nutrition Labs LP Quantum Propolis - Lead**
- 11. Quantum Nutrition Labs LP Quantum Liver Support - Lead**
- 12. Quantum Nutrition Labs LP Quantum Greens Capsules - Lead**
- 13. Quantum Nutrition Labs LP Quantum Noni - Lead**
- 14. Quantum Nutrition Labs LP Quantum Thyroid Support - Lead**
- 15. Quantum Nutrition Labs LP Toco Gold - Lead**
- 16. Premier Research Labs LP Premier B.P. Complex - Lead**

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

This letter is a notice to the Violators and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of

August 30, 2016

Page 4


Proposition 65 involving the Violators currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violators.

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since August 30, 2013, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

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

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

Sincerely,



---

Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Premier Research Labs, LP, Quantum Nutrition Labs, LP and their Registered Agents for Service of Process only)

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

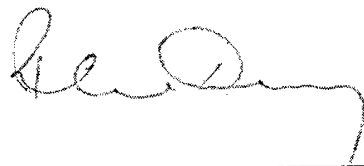
**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Premier Research Labs, LP and Quantum Nutrition Labs, LP**

I, Richard Drury, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. Based on the information obtained through those consultants, and on other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged 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: August 30, 2016



Richard Drury

**CERTIFICATE OF SERVICE**

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Premier Research Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Current CEO or President  
Premier Research Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Robert J. Marshall  
(Premier Research Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Premier Research Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Robert J. Marshall  
(Quantum Nutrition Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

On August 30, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

August 30, 2016

Page 7

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

On August 30, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to the party listed below:

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

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

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

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

Paul E. Zellerbach, District Attorney  
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3072 Orange Street  
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Prop65@rivcoda.org

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

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

Tori Verber Salazar, District Attorney  
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222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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

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

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

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

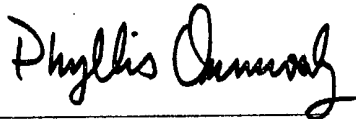
Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

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

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
August 30, 2016  
Page 8

On August 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

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



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Phyllis Dunwoody

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

August 30, 2016

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Service List

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

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

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

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

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

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

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

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

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

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

District Attorney, Humboldt County  
825 5th Street 4<sup>th</sup> Floor  
Eureka, CA 95501

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

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

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

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

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

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

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

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

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

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

District Attorney, Merced County  
550 W. Main Street  
Merced, CA 95340

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

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

District Attorney, Nevada County  
201 Commercial Street  
Nevada City, CA 95959

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Appendix A**

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

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

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

*WHAT DOES PROPOSITION 65 REQUIRE?*

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

**Clear and reasonable warnings.** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and



reasonable.” This means that the warning must: (1) clearly say that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### ***DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?***

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

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

***Governmental agencies and public water utilities.*** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

***Exposures that pose no significant risk of cancer.*** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

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

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

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

***Exposures to Naturally Occurring Chemicals in Food.*** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

***Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water.*** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

#### ***HOW IS PROPOSITION 65 ENFORCED?***

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

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

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

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

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

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

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

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

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

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

The notice is reproduced here:

Page 1

Date: August 30, 2016

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

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

Phone number: 619-500-3090

## **SPECIAL COMPLIANCE PROCEDURE**

### **PROOF OF COMPLIANCE**

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

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

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

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

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

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

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

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

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

### **IMPORTANT NOTES:**

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

Page 2

Date: August 30, 2016

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

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

Phone number: 619-500-3090

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

**Certification of Compliance**

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

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

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

**Certification**

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

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Signature of alleged violator or authorized representative Date

---

Name and title of signatory

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .*

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

Revised: May 2014

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

<sup>2</sup> See Section 25501(a)(4).

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

## **HISTORY**

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

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

27 CCR Appendix A, 27 CA ADC Appendix A



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

<sup>2</sup> See Section 25501(a)(4).

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

## **HISTORY**

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

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

27 CCR Appendix A, 27 CA ADC Appendix A



Date: November 30, 2016

Name of Noticing Party or attorney for Noticing Party: Environmental Research Center, Inc.  
Address: 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108  
Phone number: 619-500-3090

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

**Certification of Compliance**

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

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

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

**Certification**

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

\_\_\_\_\_  
Signature of alleged violator or authorized representative Date

\_\_\_\_\_  
Name and title of signatory

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .*

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

Revised: May 2014

\_\_\_\_\_

Date: November 30, 2016

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

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Phone number: 619-500-3090

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3. **The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.**
4. **This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

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

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

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

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

### **IMPORTANT NOTES:**

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

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

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

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

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

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

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

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

The notice is reproduced here:

***Exposures to Naturally Occurring Chemicals in Food.*** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

***Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water.*** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

#### ***HOW IS PROPOSITION 65 ENFORCED?***

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

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

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

reasonable.” This means that the warning must: (1) clearly say that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

***Prohibition from discharges into drinking water.*** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### *DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?*

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

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

***Governmental agencies and public water utilities.*** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

***Businesses with nine or fewer employees.*** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

***Exposures that pose no significant risk of cancer.*** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at:

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

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

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

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**Appendix A**

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

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

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

*WHAT DOES PROPOSITION 65 REQUIRE?*

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

**Clear and reasonable warnings.** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and

Service List

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

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

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

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

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

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

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

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

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

District Attorney, Glenn County  
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Willows, CA 95988

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Eureka, CA 95501

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

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

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

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

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

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Madera, CA 93637

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Ukiah, CA 95482

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Merced, CA 95340

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204 S Court Street, Room 202  
Alturas, CA 96101-4020

District Attorney, Mono County  
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Bridgeport, CA 93517

District Attorney, Nevada County  
201 Commercial Street  
Nevada City, CA 95959

District Attorney, Orange County  
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Santa Ana, CA 92701

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

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

District Attorney, San Benito County  
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Hollister, CA 95023

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Avenue  
San Bernardino, CA 92415-0004

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Redwood City, CA 94063

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Santa Barbara, CA 93101

District Attorney, Santa Cruz County  
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Santa Cruz, CA 95060

District Attorney, Shasta County  
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Redding, CA 96001

District Attorney, Sierra County  
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Downieville, CA 95936

District Attorney, Siskiyou County  
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Yreka, CA 96097

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Fairfield, CA 94533

District Attorney, Stanislaus County  
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Modesto, CA 95354

District Attorney, Sutter County  
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Yuba City, CA 95991

District Attorney, Tehama County  
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Red Bluff, CA 96080

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

District Attorney, Tuolumne County  
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Sonora, CA 95370

District Attorney, Yuba County  
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Marysville, CA 95901

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City Hall East  
200 N. Main Street, Suite 800  
Los Angeles, CA 90012

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

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

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

November 30, 2016

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On November 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

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



---

Phyllis Dunwoody



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

November 30, 2016

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On November 30, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Stacey Grassini, Deputy District Attorney  
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Martinez, CA 94553  
sgrassini@contracostada.org

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
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Dije Ndreu, Deputy District Attorney  
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Tori Verber Salazar, District Attorney  
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Ventura, CA 93009  
daspecialops@ventura.org

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

**CERTIFICATE OF SERVICE**

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

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On November 30, 2016, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Nutraceutical Systems International, LP  
3500 Wadley Place, Building B  
Austin, TX 78728

Robert J. Marshall  
(Nutraceutical Systems International, LP’s  
Registered Agent for Service of Process)  
3500 Wadley Place, Building B  
Austin, TX 78728

Current CEO or President  
Nutraceutical Leasing International, LP  
3500 Wadley Place, Building B  
Austin, TX 78728

Robert J. Marshall  
(Nutraceutical Leasing International, LP’s  
Registered Agent for Service of Process)  
3500 Wadley Place, Building B  
Austin, TX 78728

On November 30, 2016, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General’s website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

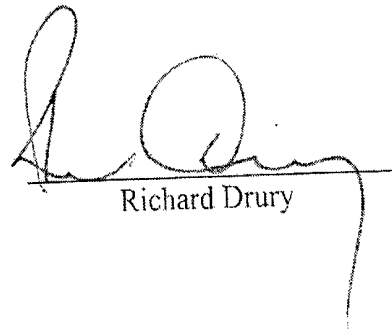
**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by  
Nutraceutical Systems International, LP and Nutraceutical Leasing International, LP**

I, Richard Drury, declare:

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

Dated: November 30, 2016

  
Richard Drury

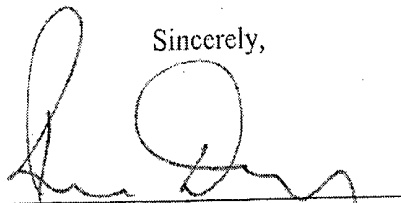
November 30, 2016

Page 4

identified chemical; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time consuming litigation.

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

Sincerely,



Richard Drury

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Nutraceutical Systems International, LP, Nutraceutical Leasing International, LP and their Registered Agents for Service of Process only)

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

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

1. **Quantum Nutrition Labs LP Slim-Body Whey - Lead**
2. **Quantum Nutrition Labs LP Quantum Gallbladder Support - Lead**
3. **Quantum Nutrition Labs LP Quantum Coral Calcium Plus - Lead**
4. **Quantum Nutrition Labs LP Quantum Bone and Joint Support - Lead**
5. **Quantum Nutrition Labs LP Dragon Cleanse-LX - Lead**
6. **Quantum Nutrition Labs LP Quantum Aloe-VG - Lead**
7. **Quantum Nutrition Labs LP Quantum Immune Support - Lead**
8. **Quantum Nutrition Labs LP Aloe-100 Organic Aloe Vera Liquid - Lead**
9. **Quantum Nutrition Labs LP Quantum Turmeric - Lead**
10. **Quantum Nutrition Labs LP Quantum Propolis - Lead**
11. **Quantum Nutrition Labs LP Quantum Liver Support - Lead**
12. **Quantum Nutrition Labs LP Quantum Greens Capsules - Lead**
13. **Quantum Nutrition Labs LP Quantum Noni - Lead**
14. **Quantum Nutrition Labs LP Quantum Thyroid Support - Lead**
15. **Quantum Nutrition Labs LP Toco Gold - Lead**
16. **Premier Research Labs LP Premier B.P. Complex - Lead**

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

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

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since November 30, 2013, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violators agree in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the

**VIA ELECTRONIC MAIL**

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**VIA ELECTRONIC MAIL**

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

**VIA ONLINE SUBMISSION**

Office of the California Attorney General

**VIA FIRST CLASS MAIL**

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

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

Dear Addressees:

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

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

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

**Nutraceutical Systems International, LP**  
**Nutraceutical Leasing International, LP**



T 510.836.4200  
F 510.836.4205

410 12th Street, Suite 250  
Oakland, Ca 94607

www.lozeaudrury.com  
richard@lozeaudrury.com

**VIA CERTIFIED MAIL**

Current CEO or President  
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Austin, TX 78728

Current CEO or President  
Nutraceutical Leasing International, LP  
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(Nutraceutical Systems International, LP's  
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3500 Wadley Place, Building B  
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Paul E. Zellerbach, District Attorney  
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Anne Marie Schubert, District Attorney  
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Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

# **EXHIBIT B**





# **EXHIBIT C**



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michael@lozeaudrury.com

**VIA CERTIFIED MAIL**

Current CEO or President  
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3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
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19227 Pleasant Valley Road  
North San Juan, CA 95960

Current CEO or President  
Premier Research Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Current CEO or President  
Quantum Nutrition Labs, LP  
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Current CEO or President  
Quantum Nutrition Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Current CEO or President  
Quantum Nutrition Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Robert J. Marshall  
(Premier Research Labs, LP's  
Registered Agent for Service of Process)  
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**VIA CERTIFIED MAIL**

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DAConsumer.Environmental@sjcda.org

VIA ELECTRONIC MAIL

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

**VIA ONLINE SUBMISSION**

**VIA FIRST CLASS MAIL**

Office of the California Attorney General

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

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

Dear Addressees:

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

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

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

**Premier Research Labs, LP  
Quantum Nutrition Labs, LP  
Nutraceutical Systems International, LP  
Nutraceutical Leasing International, LP**

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

- 1) **Quantum Nutrition Labs LP Quantum Bladder Support - Lead**
- 2) **Premier Research Labs LP Uriven - Lead**
- 3) **Premier Research Labs LP Nucleo Immune - Lead**
- 4) **Quantum Nutrition Labs LP Quantum Nucleotide Complex - Lead**
- 5) **Premier Research Labs LP PancreVen - Lead**
- 6) **Quantum Nutrition Labs LP Quantum Blood Sugar Support - Lead**
- 7) **Premier Research Labs LP Premier Glutathione Complex - Lead**
- 8) **Quantum Nutrition Labs LP Quantum Glutathione Support - Lead**
- 9) **Premier Research Labs LP Premier Psyllium Fiber - Lead**
- 10) **Quantum Nutrition Labs LP Quantum Psyllium Fiber - Lead**
- 11) **Quantum Nutrition Labs LP Quantum Kidney Support - Lead**
- 12) **Premier Research Labs LP Renaven - Lead**
- 13) **Premier Research Labs LP Reishi Immune - Lead**
- 14) **Quantum Nutrition Labs LP Quantum Reishi – Lead**
- 15) **Premier Research Labs LP Royal Jelly – 100 - Lead**

- 16) Quantum Nutrition Labs LP Quantum Tomato - Lead**
- 17) Premier Research Labs LP Premier Tomato - Lead**
- 18) Premier Research Labs LP Tranquinol - Lead**
- 19) Quantum Nutrition Labs LP Quantum Sleep - Lead**
- 20) Premier Research Labs LP Premier Whey Protein (formerly known as Whey Peptin) - Lead**
- 21) Quantum Nutrition Labs LP Quantum Whey Protein - Lead**
- 22) Premier Research Labs LP Premier Zeolite Complex – Lead**

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

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

The Violators have manufactured, marketed, distributed, and/or sold the listed products, which has exposed and continues to expose numerous individuals within California to the identified chemical, lead. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and/or recommended use of these products by consumers. The primary route of exposure to lead has been through ingestion, but may have also occurred through inhalation and/or dermal contact. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead. The method of warning should be a warning that appears on the product's label. The Violators violated Proposition 65 because they failed to provide an appropriate warning to persons using and/or handling these products that they are being exposed to lead. Each of these ongoing violations has occurred on every day since January 18, 2015, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

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

January 18, 2018

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

Sincerely,



---

Michael Lozeau

**Attachments**

Certificate of Merit

Certificate of Service

OEHHA Summary (to Premier Research Labs, LP, Quantum Nutrition Labs, LP, Nutraceutical Systems International, LP, Nutraceutical Leasing International, LP and their Registered Agents for Service of Process only)

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

January 18, 2018

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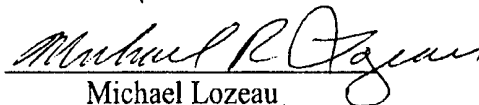
**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Premier Research Labs, LP, Quantum Nutrition Labs, LP, Nutraceutical Systems International, LP and Nutraceutical Leasing International, LP**

I, Michael Lozeau, declare:

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

Dated: January 18, 2018

  
Michael Lozeau



**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 and over the age of 18 years of age. My business address is 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On January 18, 2018 between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President  
Premier Research Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Robert J. Marshall  
(Premier Research Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Premier Research Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Robert J. Marshall  
(Quantum Nutrition Labs, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Premier Research Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Current CEO or President  
Nutraceutical Systems International, LP  
3500 Wadley Place, Building B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
3500 Wadley Place, Suite B  
Austin, TX 78728

Current CEO or President  
Nutraceutical Leasing International, LP  
3500 Wadley Place, Building B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
19227 Pleasant Valley Road  
North San Juan, CA 95960

Robert J. Marshall  
(Nutraceutical Systems International, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Building B  
Austin, TX 78728

Current CEO or President  
Quantum Nutrition Labs, LP  
22434 Montezuma Lane  
Nevada City, CA 95959

Robert J. Marshall  
(Nutraceutical Leasing International, LP's  
Registered Agent for Service of Process)  
3500 Wadley Place, Building B  
Austin, TX 78728

On January 18, 2018 between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice> :

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

On January 18, 2018 between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Stacey Grassini, Deputy District Attorney  
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[sgrassini@contracostada.org](mailto:sgrassini@contracostada.org)

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732 Brannan Street  
San Francisco, CA 94103  
[gregory.alker@sfgov.org](mailto:gregory.alker@sfgov.org)

Michelle Latimer, Program Coordinator  
Lassen County  
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Susanville, CA 96130  
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[DAConsumer.Environmental@sjcda.org](mailto:DAConsumer.Environmental@sjcda.org)

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

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931 Parkway Mall  
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Yen Dang, Supervising Deputy District Attorney  
Santa Clara County  
70 W Hedding St  
San Jose, CA 95110  
[EPU@da.sccgov.org](mailto:EPU@da.sccgov.org)

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

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Santa Cruz, CA 95060  
[Prop65DA@santacruzcounty.us](mailto:Prop65DA@santacruzcounty.us)

Anne Marie Schubert, District Attorney  
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Sacramento, CA 95814  
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Stephan R. Passalacqua, District Attorney  
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600 Administration Dr  
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[jbarnes@sonoma-county.org](mailto:jbarnes@sonoma-county.org)

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
January 18, 2018  
Page 9

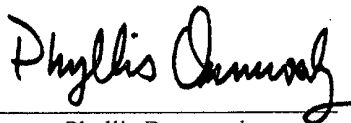
Phillip J. Cline, District Attorney  
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221 S Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney  
Ventura County  
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Ventura, CA 93009  
daspecialops@ventura.org

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

On January 18, 2018 between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on January 18, 2018, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

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

January 18, 2018

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Service List

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

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

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

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

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

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

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

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

District Attorney, Humboldt  
County  
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Eureka, CA 95501

District Attorney, Imperial  
County  
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102  
El Centro, CA 92243

District Attorney, Inyo  
County  
P.O. Drawer D  
Independence, CA 93526

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

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

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

District Attorney, Los  
Angeles County  
Hall of Justice  
211 West Temple St., Ste  
1200  
Los Angeles, CA 90012

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

District Attorney, Marin  
County  
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Room 130  
San Rafael, CA 94903

District Attorney, Mariposa  
County  
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Mariposa, CA 95338

District Attorney,  
Mendocino County  
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Ukiah, CA 95482

District Attorney, Merced  
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Merced, CA 95340

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Alturas, CA 96101-4020

District Attorney, Mono  
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Bridgeport, CA 93517

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Nevada City, CA 95959

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Santa Ana, CA 92701

District Attorney, Placer  
County  
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Ste 240  
Roseville, CA 95678

District Attorney, Plumas  
County  
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Quincy, CA 95971

District Attorney, San Benito  
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Hollister, CA 95023

District Attorney, San  
Bernardino County  
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San Bernardino, CA 92415

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

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

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

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

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

District Attorney, Siskiyou  
County  
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Yreka, CA 96097

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

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

District Attorney, Sutter  
County  
463 2<sup>nd</sup> Street  
Yuba City, CA 95991

District Attorney, Tehama  
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Red Bluff, CA 96080

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

District Attorney, Tuolumne  
County  
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Sonora, CA 95370

District Attorney, Yuba  
County  
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Marysville, CA 95901

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

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

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

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

## APPENDIX A

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

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

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.<sup>1</sup> These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

#### *WHAT DOES PROPOSITION 65 REQUIRE?*

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

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

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

**Clear and reasonable warnings.** A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly 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 to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

**Prohibition from discharges into drinking water.** A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

#### **DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?**

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

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

**Governmental agencies and public water utilities.** All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

**Businesses with nine or fewer employees.** Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

**Exposures that pose no significant risk of cancer.** For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures that will produce no observable reproductive effect at 1,000 times the level in question.** For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

**Exposures to Naturally Occurring Chemicals in Food.** Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant<sup>2</sup> it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

**Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water.** The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for

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<sup>2</sup> See Section 25501(a)(4).

chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

#### *HOW IS PROPOSITION 65 ENFORCED?*

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

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

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.



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

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

*FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...*

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

Revised: May 2017

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