

FILED

Superior Court of California
County of Alameda

02/24/2026

Clerk of the Court / Deputy Clerk of the Court

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

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

Plaintiff,

vs.

JUST INGREDIENTS, INC.; TKS CO-
PACK MANUFACTURING LLC;
KEYSTONE CO-PACK
MANUFACTURING, LLC f/k/a TKS
PRODUCTS, LLC; TKS PRODUCTS,
LLC; and DOES 1-100

Defendants.

CASE NO. 25CV105733

[PROPOSED] STIPULATED
CONSENT JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: January 6, 2025

Trial Date: None set

1. INTRODUCTION

1.1 On January 6, 2025, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-profit corporation, as a private enforcer and in the public interest, initiated this action by

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1 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties pursuant to the
2 provisions of California Health and Safety Code section 25249.5 *et seq.* (“Proposition 65”),
3 against Just Ingredients, Inc. (“Just Ingredients”) and Does 1-100. Subsequently, on or around
4 May 29, 2025, a First Amended Complaint was filed (the operative Complaint, hereinafter
5 referred to as “Complaint”) to add TKS Co-Pack Manufacturing LLC (“TKS Co-Pack”) and
6 Keystone Co-Pack Manufacturing, LLC f/k/a TKS Products, LLC and TKS Products, LLC
7 (“Keystone”). In this [Proposed] Stipulated Consent Judgment (“Consent Judgment”), Just
8 Ingredients, TKS Co-Pack, and Keystone may also hereinafter be referred to individually as
9 “Defendant” or collectively as “Defendants.” In this action, ERC alleges that a number of
10 products manufactured, distributed, or sold by Defendants contain lead, a chemical listed under
11 Proposition 65 as a carcinogen and reproductive toxin, and expose consumers to this chemical
12 at a level requiring a Proposition 65 warning. These products (referred to hereinafter
13 individually as a “Covered Product” or collectively as “Covered Products”) are: (1) Just
14 Ingredients Mountain Berry Protein Powder, (2) Just Ingredients Roasted Peanut Butter
15 Chocolate Protein Powder, (3) Just Ingredients Strawberry Limeade Pre-Workout, (4) Just
16 Ingredients Lucky Mint Protein Powder, (5) Just Ingredients Chai Protein Powder, (6) Just
17 Ingredients Salted Caramel Protein Powder, (7) Just Ingredients Strawberries & Cream Protein
18 Powder, (8) Just Ingredients Chocolate Protein Powder, (9) Just Ingredients Coconut Chocolate
19 Protein Powder, and (10) Just Ingredients Mint Chocolate Protein Powder.

20 **1.2** ERC, Just Ingredients, and Keystone may hereinafter be referred to individually
21 as a “Party” or collectively as the “Parties.” Just Ingredients and Keystone also may
22 hereinafter be referred to individually as a “Settling Defendant” or collectively as the “Settling
23 Defendants.”

24 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
25 causes, helping safeguard the public from health hazards by reducing the use and misuse of
26 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
27 and encouraging corporate responsibility.

28 **1.4** For purposes of this Consent Judgment, the Parties agree that each Defendant is a

1 business entity that has employed ten or more persons at all times relevant to this action and each
2 business entity qualifies as a “person in the course of doing business” within the meaning of
3 Proposition 65. Defendants manufacture, distribute, and/or sell the Covered Products.

4 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation
5 dated September 25, 2024, October 4, 2024, January 8, 2025, and March 19, 2025 that were
6 served on the California Attorney General, other public enforcers, and Defendants (“Notices”).
7 True and correct copies of the 60-Day Notices dated September 25, 2024, October 4, 2024,
8 January 8, 2025, and March 19, 2025, are attached hereto as **Exhibits A, B, C, and D** and each
9 is incorporated herein by reference. More than 60 days have passed since the Notices were
10 served on the Attorney General, public enforcers, and Defendants and no designated
11 governmental entity has filed a Complaint against Defendants with regard to the Covered
12 Products or the alleged violations.

13 **1.6** ERC’s Notices and Complaint allege that use of the Covered Products by
14 California consumers exposes them to lead without first receiving clear and reasonable
15 warnings from Defendants, which is in violation of California Health and Safety Code section
16 25249.6. Just Ingredients and Keystone deny all material, factual, and legal allegations
17 contained in the Notices and Complaint.

18 **1.7** The Parties have entered into this Consent Judgment in order to settle,
19 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
20 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
21 or be construed as an admission by any of the Parties or by any of their respective officers,
22 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
23 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact,
24 issue of law, or violation of law.

25 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
26 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
27 any current or future legal proceeding unrelated to these proceedings.

28 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered

1 as a Judgment by this Court.

2 **2. JURISDICTION AND VENUE**

3 For purposes of this Consent Judgment and any further court action that may become
4 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
5 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
6 over all Defendants as to the acts alleged in the Complaint, that venue is proper in Alameda
7 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final
8 resolution of all claims against Just Ingredients and/or Keystone up through and including the
9 Effective Date that were or could have been asserted against Just Ingredients and/or Keystone in
10 this action based on the facts alleged in the Notices and Complaint.

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

12 **3.1** Beginning on the Effective Date, the Settling Defendants shall be permanently
13 enjoined from manufacturing for sale in the State of California, “Distributing into the State of
14 California,” or directly selling in the State of California, any Covered Product that exposes a
15 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day unless it
16 meets the warning requirements under Section 3.2.

17 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
18 of California” shall mean to directly ship a Covered Product into California for sale in
19 California or to sell a Covered Product to a distributor that the Settling Defendants know or
20 have reason to know will sell the Covered Product in California.

21 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure
22 Level” shall be measured in micrograms, and shall be calculated using the following formula:
23 micrograms of lead per gram of product, multiplied by grams of product per serving of the
24 product (using the largest serving size appearing on the product label), multiplied by servings
25 of the product per day (using the largest number of recommended daily servings appearing on
26 the label), which equals micrograms of lead exposure per day. If the label contains no
27 recommended daily servings, then the number of recommended daily servings shall be one.

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1 **3.2 Clear and Reasonable Warnings**

2 If the Settling Defendants are required to provide a warning pursuant to Section 3.1, one
3 of the following warnings must be utilized (“Warning”):

4 **OPTION 1:**

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

8 OR

9 **OPTION 2:**

10  **WARNING:** [Cancer and] Reproductive Harm - www.P65Warnings.ca.gov/food.

11 OR

12 **OPTION 3:**

13 **WARNING:** Risk of [cancer from exposure to lead and] reproductive harm from
14 exposure to lead. See www.P65Warnings.ca.gov/food.

15 OR

16 **OPTION 4:**

17 **WARNING:** Can expose you to lead a [carcinogen and] reproductive toxicant. See
18 www.P65Warnings.ca.gov/food.

19 For all Warning options, the Warning shall begin either with the word “**WARNING,**” as
20 indicated above, or the words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all capital
21 letters and bold print. The Settling Defendants shall use the phrase “cancer and” in Option 1 and
22 Option 2 Warnings or “cancer from exposure to lead and” in the Option 3 Warning or
23 “carcinogen and” in the Option 4 Warning (each phrase referred to individually as a “Cancer
24 Phrase”) if they have reason to believe that the “Daily Lead Exposure Level” is greater than 15
25 micrograms of lead per day as determined pursuant to the quality control methodology set forth in
26 Section 3.5 or if they have reason to believe that another Proposition 65 chemical is present at a
27 level requiring a cancer warning. If there is a chemical present at a level that requires a cancer
28 warning, the chemical requiring use of the Cancer Phrase in the Warning shall always be

1 identified.

2 The Option 2 Warning may only be used until January 1, 2028. Any Covered Product that
3 is manufactured and labeled prior to January 1, 2028, may use the Option 2 Warning regardless of
4 when the product is sold to a consumer. For the Option 2 Warning, a symbol consisting of a black
5 exclamation point in a yellow equilateral triangle with a bold black outline shall be placed to the
6 left of the text of the Warning, in a size no smaller than the height of the word “**WARNING.**”
7 Where the sign, label, or shelf tag for the product is not printed using the color yellow, the symbol
8 may be printed in black and white

9 The Warning shall be securely affixed to or printed upon the label of each Covered
10 Product and it must be set off from other surrounding information and enclosed in a box. In
11 addition, for any Covered Product sold on websites where the Settling Defendants offer the
12 Covered Products for sale over the internet to consumers in California, the Warning shall appear
13 using one or more of the following methods: (1) a warning on the Covered Product’s primary
14 display page; (2) a clearly marked hyperlink using the word “**WARNING**” or the words “**CA**
15 **WARNING**” or “**CALIFORNIA WARNING**” in all capital and bold letters on the Covered
16 Product’s primary display page that links to a page prominently displaying the Warning without
17 content that detracts from the Warning, or (3) by otherwise prominently displaying the warning to
18 the purchaser prior to completing the purchase. If the Warning is provided on the checkout page
19 when a California delivery address is indicated for any purchase of any Covered Product, an
20 asterisk or other identifying method must be utilized to identify which products on the checkout
21 page are subject to the Warning. A Warning is not prominently displayed if the purchaser has to
22 search for it in the general content of the website.

23 The Warning shall be at least the same size as the largest of any other health or safety
24 warnings also appearing on the website or on the label and in no event less than six (6) point type.
25 No statements intended to or likely to have the effect of diminishing the impact of the Warning on
26 the average lay person shall accompany the Warning. Further, no statements may accompany the
27 Warning that state or imply that the source of the listed chemical has an impact on or results in a
28 less harmful effect of the listed chemical.

1 The Settling Defendants must display the above Warning with such conspicuousness, as
2 compared with other words, statements or designs on the label, or on its website, if applicable, to
3 render the Warning likely to be read and understood by an ordinary individual under customary
4 conditions of purchase or use of the product. Where a sign or label used to provide the Warning
5 for a Covered Product includes consumer information about the Covered Product in a language
6 other than English, the Warning must also be provided in that language in addition to English.

7 If a Covered Product is being sold by an online third-party seller or downstream reseller
8 (collectively referred to as “Third-Party Seller(s)”), who is subject to Proposition 65 and known to
9 and authorized by either of the Settling Defendants to sell such Covered Product to California
10 consumers, and the Settling Defendants cannot themselves add a warning to the authorized Third-
11 Party Seller’s website because the Settling Defendants lack control over such authorized Third-
12 Party Seller’s website, then the Settling Defendants must (a) notify the authorized Third-Party
13 Seller and/or its authorized agent, in writing, of the authorized Third-Party Seller’s duty to provide
14 an internet warning as part of the condition of sale of the Covered Product to California
15 consumers, and (b) comply with 27 C.C.R. § 25600.2 (2025 or as subsequently renumbered)
16 including, but not limited to, by providing the information required by 27 C.C.R. § 25600.2 (2025
17 or as subsequently renumbered), including the warning language required by this Consent
18 Judgment for Covered Products sold on the internet to California consumers, to any such
19 authorized Third-Party Seller (or its authorized agent). The written notice required by this Section
20 shall instruct the Third-Party Seller that it is responsible for providing the Warning on its website
21 for Covered Products sold over the internet to California consumers and that the Warning shall be
22 provided with such conspicuousness, as compared with other words, statements or designs, as to
23 render the Warning likely to be seen, read, and understood by an ordinary individual prior to sale.
24 Confirmation of receipt of the written notice and any renewed written notices must be received
25 electronically or in writing from the authorized Third-Party Seller, or its authorized agent, to
26 which the Settling Defendants sent the written notice. If the Settling Defendants are unable to
27 obtain such confirmation of receipt, the Settling Defendants shall confirm delivery of the notice
28 and retain such confirmation of delivery in written or electronic form for at least one year.

1 For purposes of this Consent Judgment, the term “label” means a display of written,
2 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
3 container or wrapper.

4 There shall be no obligation for the Settling Defendants to provide a Warning for Covered
5 Products that are (1) manufactured before the Effective Date and (2) no longer in the possession
6 of or under the control of the Settling Defendants on the Effective Date, and the Section 8 release
7 applies to all such Covered Products.

8 The Parties agree that the Settling Defendants shall be deemed to be in compliance with
9 this Consent Judgment by either adhering to this Section of the Consent Judgment or by
10 complying with warning regulations adopted by the State of California’s Office of Environmental
11 Health Hazard Assessment (“OEHHA”) and made applicable to the Covered Products pursuant to
12 entry of a Modified Consent Judgment in accordance with Section 5. In the event that the
13 OEHHA promulgates one or more regulations requiring or permitting Proposition 65 warning text
14 and/or methods of transmission applicable to the Covered Products and the chemical at issue,
15 which are different from those set forth above, the Settling Defendants shall be entitled seek a
16 modification of this Consent Judgment pursuant to Section 5, and such modification shall not be
17 unreasonably withheld by ERC.

18 If regulations or legislation are enacted providing that Proposition 65 warnings are no
19 longer required with respect to lead in the Covered Products, or should safe harbor warning
20 exposure thresholds be promulgated, such that a lack of warning by the Settling Defendants will
21 arguably not thereafter be a breach of this Consent Judgment, the Settling Defendants shall be
22 entitled to seek modification of this Consent Judgment pursuant to Section 5 of this Consent
23 Judgment. ERC’s agreement to permit modification of the Consent Judgment shall not be
24 unreasonably withheld.

25 **3.3 Conforming Covered Products**

26 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure
27 Level” is no greater than 0.5 micrograms of lead per day as determined by the exposure
28 methodology set forth in Section 3.1.2 and the quality control methodology described in Section

1 3.5, and that is not known by the Settling Defendants to contain other chemicals that violate
2 Proposition 65's safe harbor thresholds.

3 **3.4 Limitation as to Keystone**

4 The injunctive relief terms set forth in Sections 3.1 through 3.3 are only applicable to
5 Keystone for any Covered Product so long as Keystone is the manufacturer, producer, packager,
6 importer, supplier, or distributor of that Covered Product. In the event that Keystone is no longer
7 the manufacturer, producer, packager, importer, supplier, or distributor of a Covered Product for
8 Just Ingredients, the injunctive relief terms herein have no further application to Keystone with
9 respect to that Covered Product after the date that Keystone ceases manufacturing, producing,
10 packaging, importing, supplying or distributing such Covered Product. In the event that
11 Keystone is no longer the manufacturer, producer, packager, importer, supplier, or distributor of
12 Covered Products, the provisions of Section 3.5 no longer apply to Keystone, and Keystone shall
13 have no further obligations thereunder.

14 **3.5 Testing and Quality Control Methodology**

15 **3.5.1** Beginning within one year of the Effective Date, Just Ingredients, acting on
16 behalf of both Settling Defendants, shall arrange for lead testing of the Covered Products at least
17 once a year for a minimum of five consecutive years by arranging for testing of three (3) randomly
18 selected samples of each of the Covered Products, in the form intended for sale to the end-user,
19 which Just Ingredients intends to sell or is manufacturing for sale in California, directly selling to
20 a consumer in California, or "Distributing into the State of California." If tests conducted pursuant
21 to this Section demonstrate that no Warning is required for a Covered Product during each of five
22 consecutive years, then the testing requirements of this Section will no longer be required as to
23 that Covered Product. However, if during or after the five-year testing period, there is a change in
24 ingredient suppliers for any of the Covered Products and/or reformulation of any of the Covered
25 Products, Just Ingredients shall test that Covered Product annually for at least four (4) consecutive
26 years after such change is made. All test results obtained by Just Ingredients pursuant to this
27 Section 3.5.1 shall be shared with Keystone. In the event that Just Ingredients fails to arrange for
28 lead testing as required by this Section 3.5.1, Keystone shall be obligated to comply with the testing

1 requirements of this Section 3.5.1.

2 **3.5.2** For purposes of measuring the “Daily Lead Exposure Level,” the highest
3 lead detection result of the three (3) randomly selected samples of the Covered Products will
4 be controlling.

5 **3.5.3** All testing pursuant to this Consent Judgment shall be performed using a
6 laboratory method that complies with the performance and quality control factors appropriate
7 for the method used, including limit of detection and limit of quantification, sensitivity,
8 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
9 Spectrometry (“ICP-MS”) achieving a limit of quantification of less than or equal to 0.005
10 mg/kg.

11 **3.5.4** All testing pursuant to this Consent Judgment shall be performed by an
12 independent third party laboratory certified by the California Environmental Laboratory
13 Accreditation Program or an independent third-party laboratory that is registered with the
14 United States Food & Drug Administration, or an independent third-party laboratory otherwise
15 accredited to perform such testing. The Settling Defendants may rely on testing obtained from
16 such laboratories as their evidence of compliance with this Section.

17 **3.5.5** Nothing in this Consent Judgment shall limit the Just Ingredients’ ability
18 to conduct, or require that others conduct, additional testing of the Covered Products, including
19 the raw materials used in their manufacture.

20 **3.5.6** Within thirty (30) days of ERC’s written request, Just Ingredients shall
21 deliver lab reports obtained pursuant to Section 3.5 to ERC. Just Ingredients shall retain all test
22 results and documentation for a period of five years from the date of each test.

23 **3.5.7** The testing and reporting requirements of Section 3.5 do not apply to
24 any Covered Product for which at least one of the Settling Defendants has provided the
25 Warning specified in Section 3.2 continuously and uninterrupted after the Effective Date;
26 however, in the event both of the Settling Defendants cease to provide the Warning specified in
27 Section 3.2, they may only do so after they have tested such Covered Product, and the Settling
28 Defendants shall be required to comply with the testing requirements of Section 3.5 prior to

1 ceasing to provide the Warning, unless the Settling Defendants can show to the satisfaction of
2 ERC that the cessation in providing the Warning was a temporary error that was resolved when
3 discovered.

4 **3.6** Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC
5 from obtaining and relying upon its own testing for purposes of enforcement, so long as such
6 testing meets the requirements of Sections 3.5.3 and 3.5.4. Just Ingredients and Keystone
7 likewise assert the right to rely on the testing obtained pursuant to Section 3.5.1 to respond to an
8 enforcement notice, so long as such testing meets the requirements of Sections 3.5.3 and 3.5.4.
9 Nothing in Section 3.5 of this Consent Judgment is intended by either party to set a precedent for
10 the level of lead or other chemicals that is permissible in consumer products under Proposition
11 65.

12 **4. SETTLEMENT PAYMENT**

13 **4.1** In full satisfaction of all potential civil penalties applicable to Covered Products
14 manufactured by Keystone, additional settlement payments, and attorney's fees and costs
15 applicable to the Settling Defendants, Just Ingredients and Keystone shall each make a total
16 payment of \$35,000.00 ("Total Settlement Amount" for each of the Settling Defendants) to
17 ERC within 10 days of the Effective Date ("Due Date"). Each of the Settling Defendants shall
18 make its payment by wire transfer to ERC's account, for which ERC will give the Settling
19 Defendants the necessary account information. The combined Total Settlement Amounts for
20 the Settling Defendants, which is \$70,000.00, shall be apportioned as follows:

21 **4.2** \$5,000.00 shall be considered a civil penalty pursuant to California Health and
22 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$3,750.00) of the civil penalty to the
23 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
24 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
25 Code section 25249.12(c). ERC will retain the remaining 25% (\$1,250.00) of the civil penalty.

26 **4.3** \$7,345.42 shall be distributed to ERC as reimbursement to ERC for reasonable
27 costs incurred in bringing this action.

28 **4.4** \$21,638.14 shall be distributed to Michael Freund & Associates as

1 reimbursement of ERC's attorney fees applicable to the Settling Defendants, while \$36,016.44
2 shall be distributed to ERC for its in-house legal fees applicable to the Settling Defendants.
3 Except as explicitly provided herein, each Party shall bear its own fees and costs.

4 **4.5** In the event that either of the Settling Defendants fails to remit the Total
5 Settlement Amount owed under Section 4 of this Consent Judgment on or before the Due Date,
6 that Settling Defendant (referred to as the "Defaulting Settling Defendant") shall be deemed to
7 be in material breach of their obligations under this Consent Judgment. ERC shall provide
8 written notice of the delinquency to the Defaulting Settling Defendant via electronic mail. If
9 the Defaulting Settling Defendant fails to deliver the Total Settlement Amount applicable to
10 that Defaulting Settling Defendant within five (5) days from the written notice, the Total
11 Settlement Amount applicable to that Defaulting Settling Defendant shall accrue interest at the
12 statutory judgment interest rate provided in the California Code of Civil Procedure section
13 685.010. Additionally, the Defaulting Settling Defendant agrees to pay ERC's reasonable
14 attorney's fees and costs for any efforts to collect the payment due from it under this Consent
15 Judgment.

16 **5. MODIFICATION OF CONSENT JUDGMENT**

17 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
18 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
19 or (ii) by motion of either Party pursuant to Section 5.3, and based upon an agreement to
20 modify the Consent Judgment, and upon entry by the Court of a modified consent judgment.

21 **5.2** If either or both of the Settling Defendants seek to modify this Consent
22 Judgment under Section 5.1, then the Settling Defendant(s) must provide written notice to ERC
23 of its/their intent ("Notice of Intent"). If ERC seeks to meet and confer regarding the proposed
24 modification in the Notice of Intent, then ERC must provide written notice to the Settling
25 Defendant(s) within thirty (30) days of receiving the Notice of Intent. If ERC notifies Settling
26 Defendant(s) in a timely manner of ERC's intent to meet and confer, then the applicable Parties
27 shall meet and confer in good faith as required in this Section. The applicable Parties shall
28 meet in person, via remote meeting, or by telephone within thirty (30) days of ERC's

1 notification of its intent to meet and confer. Within thirty (30) days of such meeting, if ERC
2 disputes the proposed modification, ERC shall provide to the Settling Defendant(s) a written
3 basis for its position. The applicable Parties shall continue to meet and confer for an additional
4 thirty (30) days in an effort to resolve any remaining disputes. Should it become necessary, the
5 applicable Parties may agree in writing to different deadlines for the meet-and-confer period.

6 **5.3** In the event either or both of the Settling Defendants initiates or otherwise
7 requests a modification under Section 5.1, and the meet and confer process leads to an agreed
8 upon motion or stipulation for a modification of the Consent Judgment, the Settling
9 Defendant(s) who requested the modification shall reimburse ERC its costs and reasonable
10 attorney's fees for the time spent in the meet-and-confer process and filing and arguing the
11 motion or application.

12 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT** 13 **JUDGMENT**

14 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
15 terminate this Consent Judgment.

16 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
17 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
18 inform the Settling Defendants in a reasonably prompt manner of its test results, including
19 information sufficient to permit the Settling Defendants to identify the Covered Products at
20 issue. The Settling Defendants shall, within thirty (30) days following such notice, provide
21 ERC with testing information, from an independent third-party laboratory meeting the
22 requirements of Sections 3.5.3 and 3.5.4, demonstrating the Settling Defendants' compliance
23 with the Consent Judgment. The Parties shall first attempt to resolve the matter prior to ERC
24 taking any further legal action.

25 **7. APPLICATION OF CONSENT JUDGMENT**

26 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
27 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
28 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,

1 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
2 application to any Covered Product that is distributed or sold exclusively outside the State of
3 California and that is not used by California consumers. This Consent Judgment shall not be
4 construed to benefit TKS Co-Pack Manufacturing LLC in any way or to relieve TKS Co-Pack
5 Manufacturing LLC from any past, present, or future obligation under Proposition 65 with respect
6 to any Covered Product it developed, formulated, manufactured, produced, packaged, sold, or
7 distributed for, to, or on behalf of Just Ingredients.

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

9 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
10 behalf of itself and in the public interest, and the Settling Defendants and their respective
11 officers, directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
12 suppliers, franchisees, licensees, customers (not including private label customers of
13 Defendants), distributors, wholesalers, retailers, and all other upstream and downstream
14 entities in the distribution chain of any Covered Product, and the predecessors, successors, and
15 assigns of any of them (collectively, "Released Parties"). TKS Co-Pack Manufacturing LLC is
16 specifically excluded; TKS Co-Pack Manufacturing LLC is not a Released Party.

17 **8.2** ERC, acting in the public interest, releases the Released Parties from any and all
18 claims for violations of Proposition 65 up to and including the Effective Date based on
19 exposure to lead from the Covered Products as set forth in the Notices of Violation. ERC, on
20 behalf of itself only, hereby fully releases and discharges the Released Parties from any and all
21 claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
22 expenses asserted, or that could have been asserted from the manufacturing, handling, use, or
23 consumption of the Covered Products, as to any alleged violation of Proposition 65 or its
24 implementing regulations arising from the failure to provide Proposition 65 warnings on the
25 Covered Products regarding lead up to and including the Effective Date. However, after the
26 Effective Date, Third-Party Sellers that do not provide a Warning within a reasonable time, but
27 in no event more than 60 days, after being instructed or notified by either of the Settling
28 Defendants to do so as outlined in Section 3.2, are not released from liability for violations of

1 Proposition 65.

2 **8.3** The Parties agree that, while the Settling Defendants are released from all
3 claims regarding the Covered Products, nothing in this Consent Judgment or any release
4 provision in this Section 8, shall apply to claims by ERC against TKS Co-Pack Manufacturing
5 LLC for civil penalties, additional settlement payments (“ASP”), attorneys’ fees or costs for
6 violations of Proposition 65 with respect to Covered Products developed, formulated,
7 manufactured, produced, packaged, sold, or distributed by TKS Co-Pack Manufacturing for,
8 to, or on behalf of Just Ingredients. No release provision in this Consent Judgment shall be
9 construed to benefit TKS Co-Pack Manufacturing LLC in any way or to relieve TKS Co-Pack
10 Manufacturing LLC from any past, present, or future obligation under Proposition 65 with
11 respect to any Covered Product it developed, formulated, manufactured, produced, packaged,
12 sold, or distributed for, to, or on behalf of Just Ingredients.

13 **8.4** ERC on its own behalf only, and the Settling Defendants on their own behalf
14 only, further waive and release any and all claims they may have against each other for all
15 actions or statements made or undertaken in the course of seeking or opposing enforcement of
16 Proposition 65 in connection with the Notices and Complaint up to and including the Effective
17 Date, provided, however, that nothing in Section 8 shall affect or limit any Party’s right to seek
18 to enforce the terms of this Consent Judgment.

19 **8.5** It is possible that other claims not known to the Parties, arising out of the facts
20 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
21 discovered. ERC on behalf of itself only, and the Settling Defendants on behalf of themselves
22 only, acknowledge that this Consent Judgment is expressly intended to cover and include all
23 such claims up to and including the Effective Date, including all rights of action therefor. ERC
24 and the Settling Defendants acknowledge that the claims released in Sections 8.2 and 8.3 above
25 may include unknown claims and nevertheless waive California Civil Code section 1542 as to
26 any such unknown claims. California Civil Code section 1542 reads as follows:

27 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
28 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY

1 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
2 PARTY.

3 ERC on behalf of itself only, and the Settling Defendants on behalf of themselves only,
4 acknowledge and understand the significance and consequences of this specific waiver of
5 California Civil Code section 1542.

6 **8.6** Compliance with the terms of this Consent Judgment shall be deemed to
7 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
8 exposures to lead in the Covered Products as set forth in the Notices and Complaint. However,
9 after the Effective Date, Third-Party Sellers that do not provide a Warning within a reasonable
10 time, but in no event more than 60 days, after being instructed or notified by either of the
11 Settling Defendants to do so as outlined in Section 3.2, are not released from liability for
12 violations of Proposition 65.

13 **8.7** Nothing in this Consent Judgment is intended to apply to any occupational or
14 environmental exposures arising under Proposition 65, nor shall it apply to any of the Settling
15 Defendants’ products other than the Covered Products. Nothing in this Consent Judgment or
16 any release provision in this Section 8, shall apply to any claims by ERC against TKS Co-Pack
17 Manufacturing LLC for civil penalties, ASP, attorneys’ fees or costs for violations of
18 Proposition 65 with respect to Covered Products developed, formulated, manufactured,
19 produced, packaged, sold, or distributed by TKS Co-Pack Manufacturing for, to, or on behalf
20 of Just Ingredients.

21 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

25 **10. GOVERNING LAW**

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

28 ///

1 **11. PROVISION OF NOTICE**

2 All notices required to be given to any of the Parties to this Consent Judgment by another
3 Party shall be in writing and sent to the following agents listed below via first-class mail or via
4 electronic mail where required. Courtesy copies via email may also be sent.

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

6 Chris Heptinstall, Executive Director, Environmental Research Center
7 3111 Camino Del Rio North, Suite 400
8 San Diego, CA 92108
9 Ph: (619) 500-3090
10 Email: chris.heptinstall@erc501c3.org

11 With a copy to:

12 Michael Freund
13 Michael Freund & Associates
14 1919 Addison Street, Suite 104
15 Berkeley, CA 94704
16 Telephone: (510) 499-1992
17 Email: freund1@aol.com

18 **FOR JUST INGREDIENTS, INC.:**

19 Taylor Shaw
20 Just Ingredient, Inc.
21 1439 North 1380 West Ste #200,
22 Orem UT, 84057
23 Email: Just Ingredients, Inc. requests that email notices go to Garth.Ward@lewisbrisbois.com

24 With a copy to:

25 Garth N. Ward
26 Lewis Brisbois Bisgaard & Smith LLP
27 550 West C Street, Ste 1700
28 San Diego, CA 92101
Telephone: (619) 699-4952
Email: Garth.Ward@lewisbrisbois.com

FOR KEYSTONE CO-PACK MANUFACTURING, LLC f/k/a TKS PRODUCTS, LLC:

Shannan Busby
KeyStone CoPack Manufacturing
1057 W. 700 S. Ste 400
Pleasant Grove, UT 84062
Telephone: (801) 318-1645
Email: shannan@keystonecopack.com

///

1 With a copy to:
2 Willis M. Wagner
3 Greenberg Traurig, LLP
4 400 Capitol Mall, Suite 2400
5 Sacramento, CA 95814
6 Ph: (916) 868-0629
7 Email: will.wagner@gtlaw.com

8 **12. COURT APPROVAL**

9 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
10 Motion for Court Approval. The Parties will not oppose and will support entry of this Consent
11 Judgment.

12 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
13 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
14 prior to the hearing on the motion.

15 **12.3** If this Consent Judgment is not approved by the Court, it shall be void and have
16 no force or effect.

17 **13. EXECUTION AND COUNTERPARTS**

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

21 **14. DRAFTING**

22 The terms of this Consent Judgment have been reviewed by the respective counsel for
23 each Party prior to its signing, and each Party has had an opportunity to fully discuss the terms
24 and conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
25 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
26 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
27 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
28 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
equally in the preparation and drafting of this Consent Judgment.

///

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

2 If a dispute arises with respect to any Party’s compliance with the terms of this Consent
3 Judgment entered by the Court, the applicable Parties shall meet and confer in person, via remote
4 meeting, by telephone, and/or in writing and endeavor to resolve the dispute in an amicable
5 manner. No action or motion may be filed in the absence of such a good faith attempt to resolve
6 the dispute beforehand.

7 **16. ENFORCEMENT**

8 ERC may, by motion or order to show cause before the Superior Court of Alameda
9 County, enforce the terms and conditions contained in this Consent Judgment. In any action
10 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
11 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
12 To the extent the failure to comply with the Consent Judgment constitutes a violation of
13 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent
14 Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are
15 provided by law for failure to comply with Proposition 65 or other laws.

16 **17. ENTIRE AGREEMENT, AUTHORIZATION**

17 **17.1** This Consent Judgment contains the sole and entire agreement and
18 understanding of the Parties with respect to the entire subject matter herein, including any and
19 all prior discussions, negotiations, commitments, and understandings related thereto. No
20 representations, oral or otherwise, express or implied, other than those contained herein have
21 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
22 herein, shall be deemed to exist or to bind any Party.

23 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
24 authorized by the Party he or she represents to stipulate to this Consent Judgment.

25 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT, AND ENTRY OF**
26 **CONSENT JUDGMENT**

27 This Consent Judgment has come before the Court upon the request of the Parties. The
28 Parties request the Court to fully review this Consent Judgment and, being fully informed

1 regarding the matters which are the subject of this action, to:

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

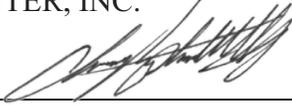
5 (2) Make the findings pursuant to California Health and Safety Code section
6 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

7 (3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after
8 the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

9 **IT IS SO STIPULATED:**

10
11 Dated: November 3, 2025

ENVIRONMENTAL RESEARCH
CENTER, INC.

12
13 By: 
14 Chris Heptinstall, Executive Director

15
16 Dated: October 27, 2025

JUST INGREDIENTS, INC.

17 Signed by:
18 
19 B37004F9278741E...
20 By: Gary Bowen
21 Its: CFO

22
23 Dated: 10/31/2025, 2025

KEYSTONE CO-PACK
MANUFACTURING, LLC f/k/a TKS
PRODUCTS, LLC

24 Signed by:
25 
26 769B23FF8D834AC...
27 By: Shannan Busby
28 Its: Owner

///

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APPROVED AS TO FORM:

Dated: November 3, 2025

MICHAEL FREUND & ASSOCIATES

By: 
Michael Freund
Attorney for Environmental Research
Center, Inc.

Dated: October 29, 2025

LEWIS BRISBOIS BISGAARD & SMITH
LLP

By: 
Garth N. Ward
Attorney for Just Ingredients, Inc.

Dated: October 31, 2025

GREENBURG TRAURIG, LLP

By: 
Willis M. Wagner
Attorney for Keystone Co-Pack
Manufacturing, LLC f/k/a TKS Products,
LLC

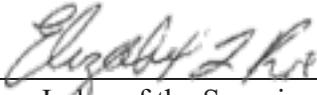
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ORDER AND JUDGMENT

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: 08/26/25, 2025



Judge of the Superior Court

Elizabeth Riles / Judge

EXHIBIT A

Michael Freund & Associates

1919 Addison Street, Suite 104
Berkeley, CA 94704
Voice: 510.499.1992 • Fax: 510.371.0885

Michael Freund, Esq.

September 25, 2024

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. (“ERC”), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

Just Ingredients, Inc.

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

- 1. Just Ingredients Mountain Berry Protein Powder - Lead**
- 2. Just Ingredients Roasted Peanut Butter Chocolate Protein Powder - Lead**
- 3. Just Ingredients Strawberry Limeade Pre-Workout - Lead**
- 4. Just Ingredients Lucky Mint Protein Powder - Lead**

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

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least September 25, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Just Ingredients, Inc. and its Registered Agent for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Just Ingredients, Inc.

I, Michael Freund, declare:

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

2. I am an attorney for the noticing party.

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

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

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

Dated: September 25, 2024



Michael Freund

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 September 25, 2024, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Just Ingredients, Inc.
1439 N 1380 W, Ste 200
Orem, UT 84057

Jeffrey Call
(Registered Agent for Just Ingredients, Inc.)
3285 N 870 E
Lehi, UT 84043

Current President or CEO
Just Ingredients, Inc.
3285 N 870 E
Lehi, UT 84043

On September 25, 2024, 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 September 25, 2024, 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:

Pamela Y. Price, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

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

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

James Clinchard, Assistant District Attorney
El Dorado County
778 Pacific Street
Placerville, CA 95667
EDCDAPROP65@edcda.us

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

September 25, 2024

Page 5

Lisa A. Smittcamp, District Attorney
Fresno County
2100 Tulare Street
Fresno, CA 93721
consumerprotection@fresnocountyca.gov

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Devin Chandler, Program Coordinator
Lassen County
2950 Riverside Dr
Susanville, CA 96130
dchandler@co.lassen.ca.us

Lori E. Frugoli, District Attorney
Marin County
3501 Civic Center Drive, Suite 145
San Rafael, CA 94903
consumer@marincounty.org

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

Kimberly Lewis, District Attorney
Merced County
550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
Napa County
1127 First Street, Ste C
Napa, CA 94559
CEPD@countyofnapa.org

Clifford H. Newell, District Attorney
Nevada County
201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney
Orange County
300 N Flower St
Santa Ana, CA 92703
Prop65notice@ocdapa.org

Morgan Briggs Gire, District Attorney
Placer County
10810 Justice Center Drive
Roseville, CA 95678
Prop65@placer.ca.gov

David Hollister, District Attorney
Plumas County
520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com

Paul E. Zellerbach, District Attorney
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

Summer Stephan, District Attorney
San Diego County
330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdcda.org

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alexandra Grayner, Assistant District Attorney
San Francisco District Attorney's Office
350 Rhode Island Street
San Francisco, CA 94103
Alexandra.grayner@sfgov.org

Henry Lifton, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Prop65@sfcityatty.org

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

September 25, 2024

Page 6

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, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

Christopher Dalbey, Deputy District Attorney
Santa Barbara County
1112 Santa Barbara Street
Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

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

Nora V. Frimann, City Attorney
Santa Clara City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose, CA 96113
Proposition65notices@sanjoseca.gov

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Jill Ravitch, District Attorney
Sonoma County
600 Administration Dr
Sonoma, CA 95403
Jeannie.Barnes@sonoma-county.org

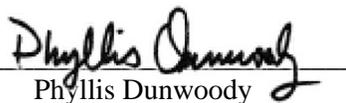
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

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

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

On September 25, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on September 25, 2024, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
17300 Hwy 89
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, Colusa
County
310 6th St
Colusa, CA 95932

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

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

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

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

District Attorney, 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
300 South G Street, Ste 300
Madera, CA 93637

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

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

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA 92415

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

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

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

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

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

District Attorney, Sutter
County
463 2nd 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

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 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

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

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly 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 contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

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

² See Section 25501(a)(4).

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.

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.

EXHIBIT B

Michael Freund & Associates

1919 Addison Street, Suite 104
Berkeley, CA 94704
Voice: 510.499.1992 • Fax: 510.371.0885

Michael Freund, Esq.

October 4, 2024

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. (“ERC”), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

Just Ingredients, Inc.

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

- 1. Just Ingredients Chai Protein Powder - Lead**
- 2. Just Ingredients Salted Caramel Protein Powder - Lead**
- 3. Just Ingredients Strawberries & Cream Protein Powder - Lead**
- 4. Just Ingredients Chocolate Protein Powder - Lead**
- 5. Just Ingredients Coconut Chocolate Protein Powder - Lead**
- 6. Just Ingredients Mint Chocolate Protein Powder - Lead**

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

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least October 4, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

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

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

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Just Ingredients, Inc.

I, Michael Freund, declare:

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

2. I am an attorney for the noticing party.

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

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

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

Dated: October 4, 2024



Michael Freund

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 October 4, 2024, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Just Ingredients, Inc.
1439 N 1380 W, Ste 200
Orem, UT 84057

Jeffrey Call
(Registered Agent for Just Ingredients, Inc.)
3285 N 870 E
Lehi, UT 84043

Current President or CEO
Just Ingredients, Inc.
3285 N 870 E
Lehi, UT 84043

On October 4, 2024, 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 October 4, 2024, 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:

Pamela Y. Price, District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

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

Barbara Yook, District Attorney
Calaveras County
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James Clinchard, Assistant District Attorney
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Notice of Violation of California Health & Safety Code §25249.5 *et seq.*

October 4, 2024

Page 5

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Prop65@countyofmerced.com

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Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

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

October 4, 2024

Page 6

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Jill Ravitch, District Attorney
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Sonoma, CA 95403
Jeannie.Barnes@sonoma-county.org

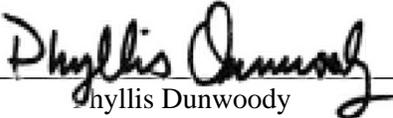
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Prop65@co.tulare.ca.us

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

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

On October 4, 2024, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on October 4, 2024, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

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

October 4, 2024

Page 7

Service List

District Attorney, Alpine
County
P.O. Box 248
17300 Hwy 89
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, Colusa
County
310 6th St
Colusa, CA 95932

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

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

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

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

District Attorney, 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
300 South G Street, Ste 300
Madera, CA 93637

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

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

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA 92415

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

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

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

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

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

District Attorney, Sutter
County
463 2nd 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
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Sonora, CA 95370

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

Los Angeles City Attorney's
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Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

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

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

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

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

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

² See Section 25501(a)(4).

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.

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.

EXHIBIT C

Michael Freund & Associates

1919 Addison Street, Suite 104
Berkeley, CA 94704
Voice: 510.499.1992 • Fax: 510.371.0885

Michael Freund, Esq.

January 8, 2025

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. (“ERC”), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

TKS Co-Pack Manufacturing LLC

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

- 1. Just Ingredients Mountain Berry Protein Powder - Lead**
- 2. Just Ingredients Roasted Peanut Butter Chocolate Protein Powder - Lead**
- 3. Just Ingredients Strawberry Limeade Pre-Workout - Lead**
- 4. Just Ingredients Lucky Mint Protein Powder - Lead**
- 5. Just Ingredients Chai Protein Powder - Lead**
- 6. Just Ingredients Salted Caramel Protein Powder - Lead**
- 7. Just Ingredients Strawberries & Cream Protein Powder - Lead**
- 8. Just Ingredients Chocolate Protein Powder - Lead**
- 9. Just Ingredients Coconut Chocolate Protein Powder - Lead**
- 10. Just Ingredients Mint Chocolate Protein Powder - Lead**

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

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 8, 2022, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violator violated Proposition 65 because it failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC'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 as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to TKS Co-Pack Manufacturing LLC and its Registered Agent for Service of Process only)

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

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by TKS Co-Pack Manufacturing LLC

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

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

4. Based on the information obtained through those consultations, and on all 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 plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

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

Dated: January 8, 2025



Michael Freund

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 8, 2025, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Troy Wilson, President
or Current President or CEO
TKS Co-Pack Manufacturing LLC
2642 West 400 N, Ste 700
Lindon, UT 84042

Troy Wilson
(Registered Agent for TKS Co-Pack
Manufacturing LLC)
2642 West 400 N, Ste 700
Lindon, UT 84042

On January 8, 2025, 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 8, 2025, 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:

Royl Roberts, Interim District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

James Clinchard, Assistant District Attorney
El Dorado County
778 Pacific Street
Placerville, CA 95667
EDCDAPROP65@edcda.us

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

Lisa A. Smittcamp, District Attorney
Fresno County
2100 Tulare Street
Fresno, CA 93721
consumerprotection@fresnocountyca.gov

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

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

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

January 8, 2025

Page 5

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Lori E. Frugoli, District Attorney
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San Rafael, CA 94903
consumer@marincounty.org

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Merced, CA 95340
Prop65@countyofmerced.com

Jeannine M. Pacioni, District Attorney
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1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
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1127 First Street, Ste C
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Santa Ana, CA 92703
Prop65notice@ocdapa.org

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Roseville, CA 95678
Prop65@placer.ca.gov

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CityAttyProp65@sandiego.gov

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Alexandra.grayner@sfgov.org

Henry Lifton, Deputy City Attorney
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1390 Market Street, 7th Floor
San Francisco, CA 94102
Prop65@sfcityatty.org

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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, 4th Floor
San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

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

January 8, 2025

Page 6

Christopher Dalbey, Deputy District Attorney
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DAProp65@co.santa-barbara.ca.us

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Santa Rosa CA 95403
ECLD@sonoma-county.org

Bud Porter, Supervising Deputy District Attorney
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EPU@da.sccgov.org

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

Nora V. Frimann, City Attorney
Santa Clara City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose, CA 96113
Proposition65notices@sanjoseca.gov

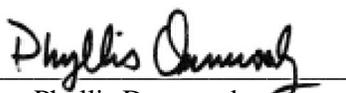
Gregory D. Totten, District Attorney
Ventura County
800 S Victoria Ave
Ventura, CA 93009
daspecialops@ventura.org

Jeffrey S. Rosell, District Attorney
Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

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

On January 8, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on January 8, 2025, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
17300 Hwy 89
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, Colusa
County
310 6th St
Colusa, CA 95932

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

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

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

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

District Attorney, 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
300 South G Street, Ste 300
Madera, CA 93637

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

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

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA 92415

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

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

District Attorney, Sierra
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Floor
Downieville, CA 95936

District Attorney, Siskiyou
County
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Yreka, CA 96097

District Attorney, Solano
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Fairfield, CA 94533

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

District Attorney, Sutter
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463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama
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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
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

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 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

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

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly 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 contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

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

² See Section 25501(a)(4).

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.

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.

EXHIBIT D

Michael Freund & Associates

1919 Addison Street, Suite 104
Berkeley, CA 94704
Voice: 510.499.1992 • Fax: 510.371.0885

Michael Freund, Esq.

March 19, 2025

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

*******This Supplemental Notice amends the original Notices of Violation for AG Number 2024-04004 dated September 25, 2024 and AG Number 2024-04196 dated October 4, 2024. Information was recently obtained regarding the manufacturer of the products in this case from Defendant’s counsel. The Notice adds Keystone Co-Pack Manufacturing, LLC f/k/a TKS Products, LLC and TKS Products, LLC as the manufacturers in this case.**

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. (“ERC”), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC’s Executive Director is Chris Heptinstall. ERC is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

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

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

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

**Keystone Co-Pack Manufacturing, LLC f/k/a TKS Products, LLC
TKS Products, LLC**

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

1. **Just Ingredients Mountain Berry Protein Powder - Lead**
2. **Just Ingredients Roasted Peanut Butter Chocolate Protein Powder - Lead**
3. **Just Ingredients Strawberry Limeade Pre-Workout - Lead**
4. **Just Ingredients Lucky Mint Protein Powder - Lead**
5. **Just Ingredients Chai Protein Powder - Lead**
6. **Just Ingredients Salted Caramel Protein Powder - Lead**
7. **Just Ingredients Strawberries & Cream Protein Powder - Lead**
8. **Just Ingredients Chocolate Protein Powder - Lead**
9. **Just Ingredients Coconut Chocolate Protein Powder - Lead**
10. **Just Ingredients Mint Chocolate Protein Powder – Lead**

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

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

Route of Exposure. The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least September 25, 2021 and/or October 4, 2021*, as well as every day since the products were introduced into the California marketplace and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

***These dates reference the original violation dates in the Notices of Violation dated September 25, 2024 and October 4, 2024 respectively.**

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 as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,

A handwritten signature in black ink that reads "Michael Freund". The signature is written in a cursive style and is positioned above a horizontal line.

Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Keystone Co-Pack Manufacturing, LLC f/k/a TKS Products, LLC, TKS Products, LLC, and their Registered Agents for Service of Process only)

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

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7 (d)

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Keystone Co-Pack Manufacturing, LLC f/k/a TKS Products, LLC and TKS Products, LLC

I, Michael Freund, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party, Environmental Research Center.

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

4. Based on the information obtained through those consultations, and on all 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 plaintiffs' case can be established and 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. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.



Dated: March 19, 2025

Michael Freund

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 March 19, 2025, 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 each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current President or CEO
Keystone Co-Pack Manufacturing, LLC f/k/a
TKS Products, LLC and TKS Products, LLC
1057 W 700 S, Ste 400
Pleasant Grove, UT 84062

Shannan Busby
(Registered Agent for Keystone Co-Pack
Manufacturing, LLC f/k/a TKS Products LLC)
1057 W 700 S, Ste 400
Pleasant Grove, UT 84062

Current President or CEO
Keystone Co-Pack Manufacturing, LLC f/k/a
TKS Products, LLC and TKS Products, LLC
5914 W Century Heights Dr
Highland, UT 84003

TKS Products, LLC
(Service of Process for Keystone Co-Pack
Manufacturing, LLC f/k/a TKS Products LLC)
5914 W Century Heights Dr
Highland, UT 84003

On March 19, 2025, 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 March 19, 2025, 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:

Royl Roberts, Interim District Attorney
Alameda County
7677 Oakport Street, Suite 650
Oakland, CA 94621
CEPDProp65@acgov.org

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

Barbara Yook, District Attorney
Calaveras County
891 Mountain Ranch Road
San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

James Clinchard, Assistant District Attorney
El Dorado County
778 Pacific Street
Placerville, CA 95667
EDCDAPROP65@edcda.us

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

March 19, 2025

Page 6

Lisa A. Smittcamp, District Attorney
Fresno County
2100 Tulare Street
Fresno, CA 93721
consumerprotection@fresnocountyca.gov

Thomas L. Hardy, District Attorney
Inyo County
168 North Edwards Street
Independence, CA 93526
inyoda@inyocounty.us

Devin Chandler, Program Coordinator
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Susanville, CA 96130
dchandler@co.lassen.ca.us

Lori E. Frugoli, District Attorney
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3501 Civic Center Drive, Suite 145
San Rafael, CA 94903
consumer@marincounty.org

Walter W. Wall, District Attorney
Mariposa County
P.O. Box 730
Mariposa, CA 95338
mcda@mariposacounty.org

Kimberly Lewis, District Attorney
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550 West Main St
Merced, CA 95340
Prop65@countyofmerced.com

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Allison Haley, District Attorney
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Napa, CA 94559
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Clifford H. Newell, District Attorney
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201 Commercial St
Nevada City, CA 95959
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney
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Santa Ana, CA 92703
Prop65notice@ocdapa.org

Morgan Briggs Gire, District Attorney
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10810 Justice Center Drive
Roseville, CA 95678
Prop65@placer.ca.gov

David Hollister, District Attorney
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520 Main St
Quincy, CA 95971
davidhollister@countyofplumas.com

Paul E. Zellerbach, District Attorney
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3072 Orange Street
Riverside, CA 92501
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Anne Marie Schubert, District Attorney
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Prop65@sacda.org

Summer Stephan, District Attorney
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330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdcca.org

Mark Ankcorn, Deputy City Attorney
San Diego City Attorney
1200 Third Avenue
San Diego, CA 92101
CityAttyProp65@sandiego.gov

Alexandra Grayner, Assistant District Attorney
San Francisco District Attorney's Office
350 Rhode Island Street
San Francisco, CA 94103
Alexandra.grayner@sfgov.org

Henry Lifton, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Prop65@sfcityatty.org

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

March 19, 2025

Page 7

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
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edobroth@co.slo.ca.us

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Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

Bud Porter, Supervising Deputy District Attorney
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San Jose, CA 95110
EPU@da.sccgov.org

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Santa Clara City Attorney
200 E. Santa Clara Street, 16th Floor
San Jose, CA 96113
Proposition65notices@sanjoseca.gov

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Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

Carla Rodriguez, District Attorney
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Santa Rosa CA 95403
ECLD@sonoma-county.org

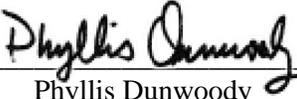
Phillip J. Cline, District Attorney
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221 S Mooney Blvd
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Prop65@co.tulare.ca.us

Gregory D. Totten, 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

On March 19, 2025, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on March 19, 2025, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
17300 Hwy 89
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, Colusa
County
310 6th St
Colusa, CA 95932

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

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

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

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

District Attorney, 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
300 South G Street, Ste 300
Madera, CA 93637

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

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

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA 92415

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

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

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

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

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

District Attorney, Sutter
County
463 2nd 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

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 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

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

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

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

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly 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 contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

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

² See Section 25501(a)(4).

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.

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.

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544	FILED Superior Court of California County of Alameda 02/24/2026
PLAINTIFF/PETITIONER: Environmental Research Center, Inc.	Chad Finke, Executive Officer / Clerk of the Court By: <u>M. Arvizu</u> Deputy M. Arvizu
DEFENDANT/RESPONDENT: Just Ingredients, Inc. et al	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 25CV105733

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order [PROPOSED] STIPULATED CONSENT JUDGMENT entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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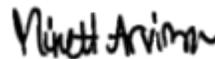
Willis Wagner
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Chad Finke, Executive Officer / Clerk of the Court

Dated: 02/24/2026

By:



M. Arvizu, Deputy Clerk