

LAW OFFICES
WEINREB, WEINREB & MANDELL

LAWRENCE A. WEINREB
OF COUNSEL
LAURENCE H. MANDELL*
MICHAEL D. WEINREB
ROBERT J. MANDELL*
MARA E.J. BURNETT
*A LAW CORP.

NORTHRIDGE PROFESSIONAL CENTER
19400 BUSINESS CENTER DRIVE
SUITE 102
NORTHRIDGE, CALIFORNIA 91324-3504
TELEPHONE (818) 886-6600
FAX (818) 772-9739

First Class Mail

TO THE PARTIES LISTED ON THE
ATTACHED DISTRIBUTION LIST

June 26, 2002

Re: Kellogg Company

Kellogg's Special "K"

Kellogg's All-Bran

Kellogg's Rice Krispies

NOTICE OF ENVIRONMENTAL VIOLATIONS (PROPOSITION 65 NOTICE)

Dear Sir or Madam:

NOTICE IS HEREBY GIVEN that we, the Noticing Party/Complainant, **Environmental World Watch** (hereinafter "EWW"), believe that the Noticed Party and Alleged Violators: **Kellogg Company** (hereinafter "**Kellogg's**") is in violation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (hereinafter "The Act"); and more specifically Health and Safety Code § 25249.5 et seq. and Business and Professions Code § 17200, et seq. (Unfair Business Practices). Kellogg's, we believe, is also in violation of the requirements to warn as expressed at 22 C.C.R. 12601 (b) et seq. It is our further belief that absent an action by any governmental agency as defined at Health and Safety (hereinafter "H&S") Code § 25249.7(c), at the expiration of 60 days, that EWW may proceed in a court of competent jurisdiction with an action on behalf of the People of the State of California to remedy all the violations delineated herein.

I. BACKGROUND AND ALLEGATIONS

EWW believes and so alleges Kellogg's manufactures and distributes in California various consumer food products containing carcinogens that are dangerous to the person who ingests this product. Kellogg's packages these products absent the warnings required by title 22 C.C.R. 12601 (b) (1)-(4) which would supply the end user with important health information required by the Act.

EWW possesses Kellogg's Cereal products from the Ralphs Market at 18010 Chatsworth Street in Granada Hills, California and other testing data from the Swedish National Food Administration, The World Health Organization, the USDA, the Center for Science in the Public Interest, and a Health Risk Assessment from Dr. Dale Hattis which unequivocally demonstrate that Kellogg's has in the past, and is currently, exposing persons in the state of California to carcinogens.

These exposures have gone on from 1991 until 2002 as EWW believes and so alleges that Kellogg's has tolled the statute of limitations by fraudulent concealment of the constituents of the ingredients in their products from those persons that required warning in the stores where Kellogg's products are sold for consumer consumption in California. The labels on these products are further absent any warning that would meet the definition delineated at title 22 CCR 12601 (b) (1) (A) nor do they comply with section (b) (3) and (b) (4) (B) of that regulation.

The carcinogen, contained in the ingredients of the products, and subject to the warning requirements of H&S Code § 25249.6 and more specifically 22 C.C.R. 12601(b) et seq. are listed below:

1. Acrylamide

The aforementioned carcinogen is on the Governor's list (Prop 65 List) as expressed at 22 C.C.R. 12000. These chemicals are known to the State of California to cause carcinogenic harm to humans requiring special warning labels and care in handling and use. The concentrations of these toxins in the subject consumer food product exceed the Significant Risk threshold of .2 microgram per day and require a warning of the existence of this chemical danger by the manufacture.

The principal route of exposure is through a "consumer products exposure" via ingestion and inhalation. There is a further danger of contacting these carcinogens via a dermal exposure while using the food product as intended by the manufacture. This exposure has gone on since January 1, 1991 and through June 26, 2002 at every place in California that the products listed in Appendix A are offered for sale and consumption. All references to "exposure" in this notice shall be understood to be exposures to the specific product lines in said Appendix and the ingredients of those products. The sale of these products constitutes a transfer of a known carcinogenic chemical into the populous and the normal consumption of the product by the purchaser or others will cause the exposure without a clear and reasonable warning.

The location of these alleged exposures are many and varied while occurring within the 37 counties of the state of California as evidenced by the District Attorneys address's in the enclosed distribution list as Exhibit B. EWW believes and so alleges that at least one of the jurisdictions identified had Kellogg's products sold within that county by Kellogg's's retail distributor and that sale caused the utilization of the consumer food product and subsequent exposure. Further that usage caused exposures in that jurisdiction to the constituents of the consumer food product as identified herein, and those exposures by Kellogg's were allowed to

take place without the prerequisite warnings as delineated by the applicable statutes specified in this notice.

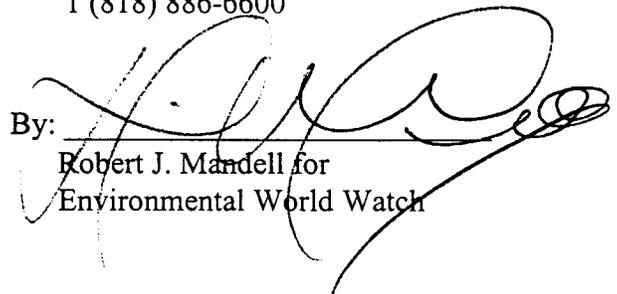
The aforementioned carcinogens remain in the blood stream, tissues and cells after usage of the consumer food product and later cause other chronic damage by further consumption of the same carcinogen

Proposition 65 was passed in 1986 and the chemical addressed in this Notice were added to the Prop. 65 list on January 1, 1990 and were subject to the waning requirements 12 months after their listing.

These exposures without proper warning have occurred off the Kellogg's property and away from any source of conspicuous warning such as a sign at the point of sale.

Enclosed please find a summary of "the Act" to help facilitate a better understanding of it's requirements. Also please find a Certificate of Merit now required in all 60 day notices.

Weinreb, Weinreb & Mandell
19400 Business Center Drive
Suite 102
Northridge, California 91324-3504
1 (818) 886-6600

By: 
Robert J. Mandell for
Environmental World Watch

DISTRIBUTION LIST EXHIBIT A

Kellogg Company
1 Kellogg Square
Battle Creek, Mi. 49016-3599

Agent for Service:
C.T Corp. Systems
818 West 7th Street
Los Angeles, Ca 90017

Proposition 65 Offices
Los Angeles City Attorney
200 North Main Street
1800 City Hall East
Los Angeles, Ca 90012-4110

Proposition 65 Enforcement Reporting
Office of The Attorney General
Attention: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, California 94612-0550

Proposition 65 Offices
Los Angeles County District Attorney
210 West Temple Street
Los Angeles, Ca 90012-3210

See Further Distribution at Exhibit "B" attached hereto:

APPENDIX A

Kellogg Product Lines:

Kellogg's Rice Krispies

Kellogg's Special "K"

Kellogg's All-Bran

Exhibit B

Alameda County Dist Atty.
1225 Fallon Street, Room 900
Oakland, CA 94612

Alphine County Dist. Atty
P.O. Box 248
Markleeville, CA 96120

Amador County Dist. Atty
708 Court, Suite 202
Jackson, CA 95642

Butte County Dist. Atty
25 County Center Drive
oroville, CA 95965-3385

Calaveras County Dist. Atty
891 Mountain Ranch Road
San Adnreas, CA 95249

Office of the Atty General
P.O. Box 70550
Oakland, CA 94612-0550

Colusa County Dist Atty
Courthouse 547 Market St.
Colusa, CA 95932

Contra Costa County Dist Atty
P.O. Box 670
Martinez, CA 94553

Del Norte County Dist. Atty
450 "H" Street
Crescent City, CA 95531

Los Angeles County Dist Atty
210 W. Temple Street, 18th Fl.
Los Angeles, CA 90012

Madera County Dist Atty
209 W. Yosemite Avenue
Madera, CA 93637

Mariposa County Dist Atty
P.O. Box 730
Mariposa, CA 95338

Marin County Dist Atty
3501 Civic Center Dr., #130
San Rafael, CA 94903

Mendocino County Dist Atty
P.O. Box 1000
Ukaih, CA 95482

Los Angeles City Atty
200 N. Main Street, #1800
Los Angeles, CA 90012

Inyo County Dist Atty
P.O. Drawer D
Independence, CA 93526

Orange County Dist Atty
P.O. Box 808
Santa Ana, CA 92702

Nevada County Dist Atty
201 Church Street, Suite 8
Nevada City, CA 95959

Mono County Dist Atty
P.O. Box 617
Bridgeport, CA 93517

San Joaquin County Dist Atty
P.O. Box 990
Stockton, CA 95201

San Francisco County Dist Atty
850 Bryant St., Rm 322
San Francisco, CA 94103

San Diego County Dist Atty
330 W. Broadway, #1300
San Diego, CA 92101

San Bernardino County Dist Atty
316 N. Mountain View Avenue
San Bernardino, CA 92415

San Francisco City Atty
#1 Dr. Carlton B. Goodlett Place
Suite 234
San Francisco, CA 94102

Placer County Dist. Atty
11562 "B" Avenue
Auburn, CA 95603

Merced County Dist Atty
2222 "M" Street
Merced, CA 93540

Napa County Dist. Atty
P.O. Box 720
Napa, CA 94559

Fresno County Dist Atty
2220 Tulare St., #1000
Fresno, CA 93721

Glenn County Dist Atty
P.O. Box 430
Willows, CA 95988

Humboldt County Dist Atty
825 5th Street, 4th Floor
Eureka, CA 95501

Imperial County Dist Atty
Courthouse 939 Main Street
El Centro, CA 92243

Kern County Dist Atty
1215 Truxtun Avenue
Bakersfield, CA 93301

Kings County Dist Atty
Gov't Ctr, 1400 W. Lacey Blvd.
Hanford, CA 93230

Lake County Dist Atty
255 N. Forbes Street
Lakeport, CA 95453

Modoc County Dist Atty
P.O. Box 1171
Alturas, CA 96101

San Diego City Atty
City Center Plaza
1200 3rd Avenue, #1200
San Diego, CA 92101

Tuolumne County Dist Atty
2 S. Green Street
Sonora, CA 95370

Sacramento County Dist Atty
P.O. Box 749
Sacramento, CA 95812

San Luis Obispo County Dist Atty
County Gov. Center Room 450
San Luis Obispo, CA 93408

San Mateo County Dist Atty
County Government Center
Redwood City, CA 94063

Santa Barbara County Dist Atty
1105 Santa Barbara Street
Santa Barbara, CA 93101

Santa Clara County Dist. Atty
70 W. Hedding Street
San Jose, CA 95110

Santa Cruz County Dist Atty
P.O. Box 1159
Santa Cruz, CA 95061

Stanislaus County Dist Atty
P.O. Box 1555
Yuba City, CA 95992

Lassen County Dist. Atty
200 S. Lassen Street, Suite 8
Susanville, CA 96130

Tulare County Dist. Atty
County Civil Center, Room 224
Visalia, CA 93291

San Benito County Dist Atty
419 4th Street
Hollister, CA 95023

Siskiyou County Dist Atty
P.O. Box 986 Yreka, CA 96097

Solano County Dist Atty
600 Union Avenue
Fairfield, CA 94544

Sonoma County Dist Atty
600 Administration Dr., Rm 212-J
Santa Rosa, CA 95403

Shasta County Dist. Atty
1525 Court St., 3rd Floor
Redding, CA 96001

Sierra County Dist Atty
P.O. Box 457
Downieville, CA 95936

Trinity County Dist Atty
P.O. Box 310
Weaverville, CA 96093

Yuba County Dist Atty
215 5th Street
Marysville, CA 95901

Monterey County Dist Atty
P.O. Box 1131
Salinas, CA 93902

Yola County Dist Atty
310 Second Street
Woodland, CA 95695

El Dorado County Dist Atty
515 Main Street
Placerville, CA 95667

Ventura County Dist Atty
800 S. Victoria Avenue
Ventura, CA 93009

Plumas County Dist Atty
520 Main Street, Rm 404
Quincy, CA 95971

Tehama County Dist Atty
P.O. Box 519
Red Bluff, CA 96080

Riverside County Dist Atty
4077 Main Street
Riverside, CA 92501

San Jose City Atty
151 W. Mission Street
San Jose, CA 95110

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

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

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

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

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

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

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

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable

amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

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

For Further Information

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900.

Last Updated May 14, 1997

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

Re: Kellogg Company

I, Robert J. Mandell, hereby declare:

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

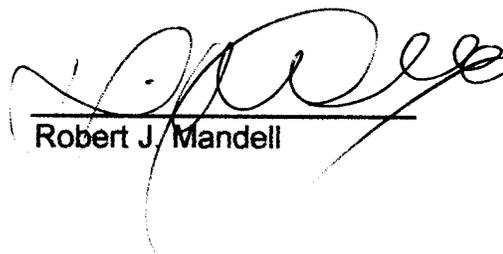
2. I am the attorney for the noticing party.

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 exposure to the listed chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and 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 private action" means that the information provides a credible basis that all the 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 24249.7(h)(2) .i.e.(1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: June 27, 2002



Robert J. Mandell