

LAW OFFICES  
WEINREB, WEINREB & MANDELL

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NORTHRIDGE, CALIFORNIA 91324-3504  
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First Class Mail-Return Receipt Requested  
TO THE PARTIES LISTED ON THE  
ATTACHED DISTRIBUTION LIST

March 21, 2003  
Second Notice

To: Frito-Lay, Inc. c/o CT Corp Systems, Agent for service.

Re: Frito Brand Chips

Tostitos Brand Tortilla Chips

Fritos Brand Chips

Cheetos Brand Snacks

**NOTICE OF ENVIRONMENTAL VIOLATIONS (PROPOSITION 65 NOTICE)**

Dear Mr. President  
Mr Brock H. Leach:

**NOTICE IS HEREBY GIVEN** that we, the Noticing Party/Complainant, **Environmental World Watch** (hereinafter "**EWW**"), believe that the Noticed Party and Alleged Violators: **Frito-Lay, Inc.** (hereinafter "**Frito-Lay**") 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). Frito-Lay, 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 Frito-Lay manufactures and distributes in California various consumer food products containing carcinogens that are dangerous to the person who ingests this product. Frito-Lay 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 possess Frito-Lay products from the Target Store in Burbank, California plus Frito Lay Chips from Ralphs Market at 18010 Chatsworth Street in Granada Hills, California. EWW contracted out confirmation testing here in Burbank, Ca. at American Environmental Testing

Laboratory (AETL) to support the Food and Drug Administration findings, these test results showed even higher levels of acrylamide to be present in the local food chain. All of these test results and other research data demonstrate that Frito-Lay has in the past, and is currently, exposing persons in the state of California to carcinogens.

These exposures have gone on from 1991 until March 2003 as EWW believes and so alleges that Frito-Lay 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 Frito-Lay 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. is 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 March 19, 2003 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 58 counties of the state of California as evidenced by the District and City 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 Frito-Lay products sold within that county by Frito-Lay'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

consumer food product as identified herein, and those exposures by Frito- Lay 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.

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

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.

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.

Robert J. Mandell of the law firm of Weinreb, Weinreb and Mandell has been designated as the contact person for the noticing entity. However, for informational purposes and as a requirement of the statute, the responsible individual within the noticing entity is:

William Dunlap  
Environmental World Watch, Inc.  
19400 Business Center Drive  
Suite 102  
Northridge, California 91324-3504  
1(818) 886 6600

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

**DISTRIBUTION LIST**

Frito-Lay, Inc.  
AKA Frito-Lay North America  
President Mr. Brock H. Leach  
PO Box 660634  
Dallas, TX 75266

Agent for Service in California:  
C.T Corp. System  
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**

Frito-Lay, Inc.  
Product Brands:

Frito Brand Chips

Tostitos Brand Tortilla Chips

Cheetos Snack Chips

Lays Classic Potato Chips

Lay's Kettle Cooked Mesquite BBQ Flavored Potato Chips

Baked! Lay's Original Naturally Baked Potato Chips

## 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, 18<sup>th</sup> 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 5<sup>th</sup> Street, 4<sup>th</sup> 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 3<sup>rd</sup> 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

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

San Benito County Dist Atty  
419 4<sup>th</sup> 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., 3<sup>rd</sup> 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 5<sup>th</sup> 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

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

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: MARCH 20, 2003