NOTICE OF VIOLATION
California Safe Drinking Water
and Toxic Enforcement Act
Re: Lead In Candy And Candy Wrappers
December 3, 2004

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice of Violation is provided by the Center for Environmental Health ("CEH"). CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices.

Description of Violation:

- The names and addresses of the violators are attached hereto as Exhibit 1.
- The violations have been occurring since at least February 27, 1988 and are continuing to this day.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- The names of the listed chemicals involved in these violations are lead and lead compounds ("Lead"). Exposures to Lead occur from use of the products identified in this notice.
- The category of products causing these violations is "Mexican Style" candy. The distinctive ingredients in many of these products are chili powder and/or tamarind. A non-exclusive list of examples of the products manufactured, distributed and/or sold by each violator is included on the attached Exhibit 1. The Lead is contained in the candy as well as in the wrappers of the candy products.
- Description of Violations: Use of the products identified in this notice results in human exposures to Lead. The candy itself, as well as the wrapper covering the candy, contain Lead. The route of exposure for the violations is direct ingestion when consumers eat the candy. Ingestion also occurs via hand to mouth contact after consumers touch or handle the product wrappers, and dermal absorption directly through the skin when consumers touch or handle the product wrappers. These exposures occur in homes, workplaces and everywhere else throughout California where these candies are eaten and/or handled. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead.

Please direct any inquiries regarding this notice to counsel for the Center for Environmental Health: Mark N. Todzo, Lexington Law Group, LLP,1627 Irving Street, San Francisco, CA 94122, (415) 759-4111.

EXHIBIT 1: List of Violators and Non-Exclusive Examples of the Products (December 3, 2004 60 Day Notice Letter By Center for Environmental Health re: Lead In Candy And Candy Wrappers)

Retailers	Non-Exclusive Examples of the Products
Safeway Inc. 5918 Stoneridge Mall Rd. Pleasanton, CA 94588-3229	Casa de Dulce - Salted plums
Cala Foods 1100 W Artesia Blvd Compton, CA 90220-5108	Dulces Vero - Vero Mango Canel's - Gum
Walgreens Co. 200 Wilmont Road Deerfield, IL 60015	Industrial Dulceria Tasachi - Chaca Chaca
Walmart Stores, Inc 702 SW 8th Street Bentonville, AR 72716	Canel's - Gum

CERTIFICATE OF MERIT

Health & Safety Code §25249.7(d)

I, Mark N. Todzo, hereby declare:

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

2. I am an attorney with the Lexington Law Group, LLP, and I represent the noticing party, the Center for Environmental Health ("CEH").

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 exposures 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 plaintiff's 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 the 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 & 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: December 3, 2004

SERVICE LIST

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

District Attorney of Colusa County
547 Market Street
Colusa, CA 95932

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Martinez, CA 94553

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

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

District Attorney of Amador County
708 Court Street, #202
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District Attorney of Butte County
25 County Center Drive
Oroville, CA 95965

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515 Main Street
Placerville, CA 95667

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Fresno, CA 93721

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District Attorney of Kings County
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District Attorney of Lake County
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Lakeport, CA 95453

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

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El Centro, CA 92243

District Attorney of Lassen County
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Los Angeles, CA 90012

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Madera, CA 93637

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District Attorney of San Francisco County
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1050 Monterey St, Room 450
San Luis Obispo, CA 93408

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419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney of San Mateo County
400 County Ctr, 3rd Fl
Redwood City, CA 94063

District Attorney of Sierra County
Courthouse, P.O. Box 457
Downieville, CA 95936

District Attorney of Santa Barbara County
1105 Santa Barbara Street
Santa Barbara, CA 93101

District Attorney of Siskiyou County
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Yreka, CA 96097

District Attorney of Solano County
600 Union Avenue
Fairfield, CA 94533

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70 West Hedding Street
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District Attorney of Santa Cruz County
701 Ocean Street, Room 200
Santa Cruz, CA 95061

District Attorney of Sonoma County
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

District Attorney of Shasta County
1525 Court Street, Third Floor
Redding, CA 96001-1632

District Attorney of Stanislaus County
800 11th Street, Room 200
Modesto, CA 95354

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Yuba City, CA 95991

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Ventura, CA 93009

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District Attorney of Trinity County
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Weaverville, CA 96093

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215 Fifth Street
Marysville, CA 95901

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Visalia, CA 93291

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Sonora, CA 95370

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San Jose, CA 95110

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San Diego, CA 92101

San Francisco City Attorney's Office
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Ed Weil, Deputy Attorney General
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Steven A. Burd,
Chairman, President and CEO
Safeway Inc.
5918 Stoneridge Mall Road
Pleasanton, CA 94588-3229

Harley Delano, President
Cala Foods
1100 W. Artesia Blvd.
Compton, CA 90220-5108

David W. Bernauer,
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Walgreens Co.
200 Wilmont Road
Deerfield, IL 60015

H. Lee Scott, Jr.
President and CEO
Walmart Stores, Inc.
702 SW 8th Street
Bentonville, AR 72716

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in San Francisco County, California. I am over the age of 18 years and not a party to the within cause; my business address is 1627 Irving Street, San Francisco, California 94122.

On December 3, 2004, I served true copies of the following documents:

> **NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**
>
> **CERTIFICATE OF MERIT;** and
>
> **THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY** (only sent to those on service list marked with an asterisks).

I placed a true copy of this paper in an envelope addressed to:

See Attached Service List.

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business. I placed the envelope containing the above-mentioned documents for collection and mailing on December 3, 2004, following the ordinary business practice.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on December 3, 2004, at San Francisco, California.

Signed: __