

VICTOR C. ROSE (1907-1972)  
ALFRED M. KLEIN (1913-2000)  
EUGENE MARIAS (1919-1982)

\*ROBERT B. STEINBERG  
\*HOWARD N. LEHMAN  
\*JASON A. GOTTLIEB  
\*HERBERT I. GALPERSON  
\*MARVIN N. SHAPIRO  
\*BARRY I. GOLDMAN  
\*G. RONALD FEENBERG  
DENNIS D. WELCH  
GREGORY STAMOS  
DENNIS J. SHERWIN  
\*STEVEN M. HOFFBERG  
\*ROBERT I. VINES  
\*MANUEL L. NUNES  
DAVID A. ROSEN  
RICHARD G. BARONE  
WILLIAM M. GREWE  
CHRISTOPHER P. RIDOUT  
TONI RAYKOVICH

LAW OFFICES OF  
**ROSE, KLEIN & MARIAS LLP**

801 SOUTH GRAND AVENUE  
18TH FLOOR  
LOS ANGELES, CALIFORNIA 90017-4645  
FAX (213) 623-7755  
(213) 626-0571

WENDY HAYWARD-MARSHALL  
ANDREW J. SHORENSTEIN  
STEVEN C. ROBINSON  
BABETTE F. BEMEL  
LILIA BALLESTEROS  
ESTHER OZ  
DAVID S. GALPERSON  
ARLYN M. LATIN  
RONNY MARTINSSON  
HARRY H. SAMARGHACHIAN  
SCOTT M. RUBEL  
JANET U. KROPP  
ALAN P. RIFFEL  
JULIE A. CRABTREE  
JOAN L. COLLIER  
G. LAUREN BELGER  
ROSA E. SAHAGÚN  
CHRISTEL A. SCHOENFELDER  
MONICA D. BATANERO  
TRACY K. SMITH

June 14, 2005

\* DENOTES PROFESSIONAL CORPORATION  
† ADMITTED ONLY IN SWEDEN

**VIA CERTIFIED MAIL & U.S. MAIL**

Steven S. Reinemund  
Chairman and Chief Executive Officer  
PepsiCo, Inc.  
700 Anderson Hill Rd.  
Purchase, NY 10577-1444

CC: *care of* Agent for Service of Process  
CSC – Lawyers Incorporating Service  
2730 Gateway Oaks Dr. Suite 100  
Sacramento, CA 95833

CC: Irene B. Rosenfeld  
Chairman and Chief Executive Officer  
Frito-Lay, Inc. (*a subsidiary of PepsiCo, Inc.*)  
7701 Legacy Dr.  
Plano, TX 75024

CC: *care of* Agent for Service of Process  
CT Corporation  
818 West Seventh St.  
Los Angeles CA 90017

Dear Mr. Reinemund and Ms. Rosenfeld:

The Environmental Law Foundation ("ELF") is a California non-profit organization dedicated to the preservation and enhancement of human health and the environment. ELF has a long-standing interest in reducing health hazards to the public posed by toxic chemicals and protecting the public from harmful substances.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq.* Specifically, this entity has violated and continues to violate the

401 E. OCEAN BOULEVARD, SUITE 300  
LONG BEACH, CALIFORNIA 90802-4965  
(562) 436-4696 • FAX (562) 436-6157

333 SOUTH ANITA DRIVE, SUITE 700  
ORANGE, CALIFORNIA 92668-3320  
(714) 937-9205 • FAX (714) 937-9218

3633 E. INLAND EMPIRE BLVD., SUITE 400  
ONTARIO, CALIFORNIA 91764-4922  
(909) 944-1711 • FAX (909) 944-1722

5740 RALSTON STREET, SUITE 301  
VENTURA, CALIFORNIA 93003-6043  
(805) 642-7101 • FAX (805) 642-9627



15910 VENTURA BOULEVARD, 18TH FLOOR  
ENCINO, CALIFORNIA 91436-2819  
(818) 781-1420 • FAX (213) 623-7755

555 WEST BEECH STREET, SUITE 205  
SAN DIEGO, CALIFORNIA 92101-2938  
(619) 234-3621 • FAX (619) 234-0649

1280 CENTER COURT DRIVE  
COVINA, CALIFORNIA 91724  
(626) 967-1408 • FAX (909) 944-1722

827 STATE STREET, SUITE 10  
SANTA BARBARA, CALIFORNIA 93101  
(805) 564-4226 • FAX (805) 642-9627



warning requirement at § 25249.6 of the California Health and Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

Alleged Violator: PepsiCo, Inc.

PepsiCo, Inc. produces numerous products used worldwide. Specifically, PepsiCo, Inc. makes the snack products, Lay's Potato Chips and Lay's Potato Crisps through its subsidiary, Frito-Lay, Inc. These products are available in various types and flavors and may be readily purchased by consumers. Several of these varieties contain the chemical Acrylamide, known to the state to cause cancer. These varieties include Lay's Baked! Original, Lay's Baked! KC Masterpiece BBQ, Lay's Light KC Masterpiece Barbecue, Lay's Stax KC Masterpiece BBQ, and Lay's Natural Country BBQ. At all relevant times and continuing to the present time, this entity has exposed and continues to expose all consumers of the Lay's products, within the state of California, to high levels of Acrylamide, a carcinogen. Exposure has occurred through ingestion of the product by consumers.

Because Acrylamide is a chemical listed in Proposition 65 as a cancer-causing chemical, pursuant to Health and Safety Code § 25249.6 this entity was, and is, required to provide clear and reasonable warnings to all consumers of its product. The warnings must state that products contain a chemical known by the State of California to cause cancer. Pursuant to Health and Safety Code § 25249.7(d), ELF intends to bring suit in the public interest against the above named entity sixty days hereafter to correct the violation occasioned by the failure to warn all consumers to the exposure of Acrylamide.

Pursuant to 22 California Code of Regulations § 12903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby include the attached Certificate of Merit, to wit, that the undersigned have consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believe there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

LAW OFFICES OF

**ROSE, KLEIN & MARIAS LLP**



ELF is located at: 1736 Franklin, 9<sup>th</sup> Floor, Oakland, California 94612, telephone (510) 208-4555. ELF is represented in this matter by the law firm of Rose, Klein and Marias LLP: 801 S. Grand Ave., 18<sup>th</sup> Floor, Los Angeles, CA 90017-4645. All communications concerning this matter should be directed to Christopher P. Ridout.

Very truly yours,

~~ROSE, KLEIN & MARIAS LLP~~

Christopher P. Ridout

CPR:laa

cc: See attached list

The Honorable Thomas Orloff  
District Attorney  
ALAMEDA COUNTY  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable William Richmond  
District Attorney  
ALPINE COUNTY  
P.O. Box 248  
Markleeville, CA 95120

The Honorable Todd Riebe  
District Attorney  
AMADOR COUNTY  
708 Court Street, #202  
Jackson, CA 95642

The Honorable Michael Ramsey  
District Attorney  
BUTTE COUNTY  
25 County Center Drive  
Oroville, CA 95965

The Honorable Jeffrey Tuttle  
District Attorney  
CALAVERAS COUNTY  
891 Mountain Ranch Road  
San Andreas, CA 95249

The Honorable John Poyner  
District Attorney  
COLUSA COUNTY  
547 Market Street  
Colusa, CA 95932

The Honorable Robert Kochly  
District Attorney  
CONTRA COSTA COUNTY  
PO Box 670  
Martinez, CA 94553

The Honorable Michael Riese  
District Attorney  
DEL NORTE COUNTY  
450 H Street  
Crescent City, CA 95531

The Honorable Gary Lacy  
District Attorney  
EL DORADO COUNTY  
515 Main Street  
Placerville, CA 95667

The Honorable Elizabeth Egan  
District Attorney  
FRESNO COUNTY  
2220 Tulare Street, #1000  
Fresno, CA 93721

The Honorable Robert Holzapfel  
District Attorney  
GLENN COUNTY  
P.O. Box 430  
Willows, CA 95988

The Honorable Paul Gallegos  
District Attorney  
HUMBOLDT COUNTY  
825 5th Street  
Eureka, CA 95501

The Honorable Gilbert Otero  
District Attorney  
IMPERIAL COUNTY  
939 West Main Street  
El Centro, CA 92243

The Honorable Arthur Maillet  
District Attorney  
INYO COUNTY  
P.O. Drawer D  
Independence, CA 93526

The Honorable Edward Jagels  
District Attorney  
KERN COUNTY  
1215 Truxtun Avenue  
Bakersfield, CA 93301

The Honorable Ronald Calhoun  
District Attorney  
KINGS COUNTY  
1400 West Lacey Blvd.  
Hanford, CA 93230

The Honorable Gerhard Luck  
District Attorney  
LAKE COUNTY  
255 N. Forbes Street  
Lakeport, CA 95453

The Honorable Robert Burns  
District Attorney  
LASSEN COUNTY  
220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

The Honorable Steve Cooley  
District Attorney  
LOS ANGELES COUNTY  
210 West Temple Street, Ste. 18000  
Los Angeles, CA 90012

The Honorable Ernest LiCalsi  
District Attorney  
MADERA COUNTY  
209 West Yosemite Avenue  
Madera, CA 93637

The Honorable Edward Berberian  
District Attorney  
MARIN COUNTY  
3501 Civic Center Drive, Rm. 130  
San Rafael, CA 94903

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

I, Christopher P. Ridout, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice 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.

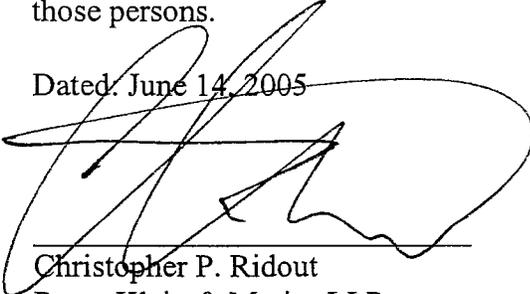
(2) I am an attorney for the Environmental Law Foundation.

(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: June 14, 2005



Christopher P. Ridout  
Rose, Klein & Marias LLP.  
801 South Grand Avenue 18<sup>th</sup> Floor  
Los Angeles, CA 90017- 4645  
Attorney on behalf of the Environmental Law Foundation