

## NOTICE OF VIOLATION

### California Safe Drinking Water and Toxic Enforcement Act

Lead in Jewelry

June 4, 2009

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"), 2201 Broadway, Suite 302, Oakland, California, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health and supporting environmentally sound practices. Michael Green is the Executive Director of and a responsible individual within CEH.

#### **Description of Violation:**

- Violator: The name and address of the violator is Mrs. Gooch's Natural Food Markets, Inc., 550 Bowie Street, Austin, Texas 78703.
- Time Period of Exposure: The violations have been occurring since at least June 4, 2006, and are ongoing.
- Provision of Proposition 65: This Notice of Violation covers the "warning provision" of Proposition 65, which is found at California Health and Safety Code Section 25249.6.
- Chemicals Involved: 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.
- Type of Product: The specific type of product causing this violation is jewelry. The jewelry subject to this Notice is made of and contains Lead.
- Description of Exposure: Use of the products identified in this Notice result in human exposures to Lead. The jewelry is made of materials and components that contain Lead. For example, the non-metallic cords of bracelets and necklaces contain Lead, as does the pearl coating on imitation pearls and the metallic components such as beads, pendants, clasps, posts and other parts of the jewelry. The route of exposure for the violation is ingestion via hand to mouth contact after consumers touch or handle the products, direct ingestion when consumers place the products in their mouths, and dermal absorption directly through the skin when consumers touch, handle or wear the products. These exposures occur in homes, workplaces and everywhere else throughout California where these products are worn, handled or used. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of Lead. CEH has issued 26 other Notices of Violation regarding Lead in Jewelry, and those notices, which may be found on the California Attorney General's web site at <http://proposition65.doj.ca.gov/default.asp>, are incorporated herein by reference.

**Resolution of Noticed Claims:**

- Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each of the violators named herein unless such alleged violator enters into a binding written agreement to remedy the violations alleged herein by: (1) recalling products already sold; (2) reformulating such products to eliminate the Lead exposure; and (3) paying an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If the alleged violator is interested in resolving this dispute without resort to litigation, please feel free to contact CEH through its counsel identified below. It should be noted that CEH cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received CEH's 60-day Notice. Therefore, while reaching an agreement with CEH will resolve its claims, such agreement may not satisfy the public prosecutors.

Please direct any inquiries regarding this Notice to CEH and its counsel Eric S. Somers at Lexington Law Group, 1627 Irving Street, San Francisco, CA 94122, (415) 759-4111, esomers at [lexlawgroup.com](http://lexlawgroup.com).

**CERTIFICATE OF MERIT**  
**Health & Safety Code §25249.7(d)**

I, Eric S. Somers, 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, and I represent the noticing party, the Center for Environmental Health.

3. Members of my firm and 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 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.

June 4, 2009

  
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Eric S. Somers  
Attorney for CENTER FOR  
ENVIRONMENTAL HEALTH

## PROOF OF SERVICE BY MAIL

I declare that:

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

On June 4, 2009, 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).

On this date, I deposited fully prepaid and sealed envelopes containing the above-mentioned documents with the United States Postal Service, addressed to the following individuals:

***Please see attached service list.***

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 4, 2009, at San Francisco, California.

Signed: \_\_\_\_\_  
Ellen Reed

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

District Attorney of Contra Costa  
County  
627 Ferry Street  
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  
Jackson, CA 95642

District Attorney of Butte County  
25 County Center Drive  
Oroville, CA 95965

District Attorney of El Dorado  
County  
515 Main Street  
Placerville, CA 95667

District Attorney of Calaveras  
County  
891 Mountain Ranch Road  
San Andreas, CA 95249

District Attorney of Fresno County  
2220 Tulare Street, #1000  
Fresno, CA 93721

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Kings County  
1400 West Lacey  
Hanford, CA 93230

District Attorney of Lake County  
255 N. Forbes Street  
Lakeport, CA 95453

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

District Attorney of Imperial County  
939 Main Street  
El Centro, CA 92243

District Attorney of Lassen County  
220 S. Lassen St., Ste 8  
Susanville, CA 96130

District Attorney of Inyo County  
P.O. Drawer D  
Independence, CA 93526

District Attorney of Los Angeles  
County  
210 W. Temple Street, Room 345  
Los Angeles, CA 90012

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of Kern County  
1215 Truxtun Avenue  
Bakersfield, CA 93301

District Attorney of Marin County  
3501 Civic Center Dr., Room 130  
San Rafael, CA 94903

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93517

District Attorney of Mariposa  
County  
P.O. Box 730  
Mariposa, CA 95338

District Attorney of Monterey  
County  
230 Church Street, Bldg. 2  
Salinas, CA 93901

District Attorney of Mendocino  
County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Napa County  
931 Parkway Mall  
Napa, CA 94559

District Attorney of Merced  
County  
2222 "M" Street  
Merced, CA 95340

District Attorney of Nevada  
County  
201 Church St., Suite 8  
Nevada City, CA 95959

District Attorney of Orange  
County  
401 Civic Ctr Drive West  
Santa Ana, CA 92701

District Attorney of Modoc  
County  
204 S Court Street  
Alturas, CA 96101-4020

District Attorney of Placer County  
10810 Justice Center Drive  
Suite 240  
Roseville, CA 95678

District Attorney of San  
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San Bernardino, CA 92415

District Attorney of Plumas  
County  
520 Main Street, Room 404  
Quincy, CA 95971

District Attorney of San Diego  
County  
330 West Broadway, Suite 1320  
San Diego, CA 92101

District Attorney of Riverside  
County  
4075 Main Street  
Riverside, CA 92501

District Attorney of San  
Francisco County  
850 Bryant Street, Rm 325  
San Francisco, CA 94103

District Attorney of Sacramento  
County  
901 "G" Street  
Sacramento, CA 95814

District Attorney of San Joaquin  
County  
P.O. Box 990  
Stockton, CA 95201

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

District Attorney of San Benito  
County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

District Attorney of San Mateo  
County  
400 County Ctr, 3<sup>rd</sup> 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  
P.O. Box 986  
Yreka, CA 96097

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

District Attorney of Santa Clara  
County  
70 West Hedding Street, West  
Wing  
San Jose, CA 95110

District Attorney of Santa Cruz  
County  
701 Ocean Street, Room 200  
Santa Cruz, CA 95060

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  
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800 11<sup>th</sup> Street, Room 200  
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Modesto, CA 95353

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

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800 South Victoria Ave  
Ventura, CA 93009

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney of Yolo County  
301 Second Street  
Woodland, CA 95695

District Attorney of Trinity County  
P.O. Box 310  
11 Court St.  
Weaverville, CA 96093

District Attorney of Yuba County  
215 Fifth Street  
Marysville, CA 95901

District Attorney of Tulare County  
221 S. Mooney Ave, Room 224  
Visalia, CA 93291

District Attorney of Tuolumne  
County  
423 No. Washington Street  
Sonora, CA 95370

San Jose City Attorney's Office  
200 East Santa Clara Street  
San Jose, CA 95113

Los Angeles City Attorney's Office  
800 City Hall East  
200 N. Main Street  
Los Angeles, CA 90012

San Diego City Attorney's Office  
1200 3rd Avenue #1620  
San Diego, CA 92101

San Francisco City Attorney's  
Office  
City Hall, Room 234  
San Francisco, CA 94102

California Attorney General's  
Office  
Attention: Proposition 65  
Coordinator  
1515 Clay Street, Suite 2000  
P.O. Box 70550  
Oakland, CA 94612

President\*  
Mrs. Gooch's Natural  
Food Markets, Inc.  
550 Bowie Street  
Austin, TX 78703