

ANNEN, ARKUSH
STEPHEN P. BERZON
ERIC P. BROWN
HAMILTON CANDEE
EVE H. CERVANTEZ
CONNIE K. CHAN
BARBARA J. CHISHOLM
CAROLINE P. CINCOTTA
JEFFREY B. DEMAIN
JAMES M. FINBERG
EILEEN B. GOLDSMITH
SCOTT A. KRONLAND
DANIELLE E. LEONARD
STACEY M. LEYTON
MATTHEW J. MURRAY
PETER D. NUSSBAUM
P. CASEY PITTS
DANIEL T. PURTELL
DIANA S. REDDY
MICHAEL RUBIN
JENNIFER SUNG
PEDER J. THOREEN
LAURA S. TRICE
JONATHAN WEISSGLASS

FRED H. ALTSHULER
FOUNDING PARTNER EMERITUS

RACHEL J. ZWILLINGER
FELLOW

ALTSHULER BERZON LLP
ATTORNEYS AT LAW
177 POST STREET, SUITE 300
SAN FRANCISCO, CALIFORNIA 94108
(415) 421-7151
FAX (415) 362-8064
www.altshulerberzon.com

*Via First Class Certified Mail
Return Receipt Requested*

December 21, 2012

William G. Frenzel, III
E-Z Mix Inc.
11450 Tuxford Street
Sun Valley, CA 91352

E-Z Mix Inc.
3355 S. Industrial Dr.
Bloomington, CA 92316

Re: Notice of Violation of California Health & Safety Code §25249.5, *et seq.*

To Whom It May Concern:

Altshuler Berzon LLP ("Firm") represents As You Sow, a 501(c)(3) non-profit corporation dedicated to, among other causes, the protection of the environment, toxics reduction, the promotion of and improvement of human health, the improvement of worker and consumer rights, environmental education, and corporate accountability. As You Sow is based in Oakland, California and was incorporated in 1992 under the laws of the State of California.

As You Sow has documented violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Cal. Health & Safety Code §25249.5 *et seq.*, by E-Z Mix Inc. (the "Company"). This letter constitutes notice by As You Sow and the Firm to the Company of these violations. Specifically, the Company has violated and is violating Section 25249.6, which provides that "[n]o 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 providing a clear and reasonable warning to such individual . . .

Pursuant to Section 25249.7(d) of the statute, this Firm intends to bring an enforcement action on behalf of As You Sow sixty (60) days after effective service of this notice unless the

public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

Alleged Violator: The name of the alleged violator covered by this notice is E-Z Mix Inc.

Listed Chemicals: These violations involve exposures to arsenic (inorganic compounds, including inorganic oxides) and/or chromium (hexavalent compounds) from the products listed below. On February 27, 1987, the State of California officially listed arsenic (inorganic arsenic compounds) as a chemical known to the State cause cancer; and on May 1, 1997, listed arsenic (inorganic oxides) as a chemical known to the State to cause reproductive toxicity. The State of California listed chromium (hexavalent compounds) as a chemical known to the State to cause cancer on February 27, 1987, and listed it as a chemical known to the State to cause reproductive toxicity on December 19, 2008.

Consumer Products: The products that are the subject of this notice are Sakrete One-Coat Fibered Stucco Mix, Sakrete Type S Masonry Mortar, Sakrete Fence Post Concrete, and Sakrete Top 'n Bond Concrete Patcher, which are produced, sold, and/or distributed by E-Z Mix Inc.

Violations: The alleged violator knowingly and intentionally has exposed and continues knowingly and intentionally to expose consumers within the State of California to arsenic (inorganic compounds, including inorganic oxides) and/or chromium (hexavalent compounds). In particular, Sakrete One-Coat Fibered Stucco Mix and Sakrete Type S Masonry Mortar do not provide any warning of the carcinogenic and reproductive hazards associated with the chromium (hexavalent compounds) contained in the products; and Sakrete Fence Post Concrete and Sakrete Top 'n Bond Concrete Patcher do not provide any warning of the carcinogenic and reproductive hazards associated with the arsenic (inorganic oxides) and/or chromium (hexavalent compounds) contained in the products.

Route of Exposure: Use of the products identified in this notice results in human exposures to arsenic (inorganic compounds, including inorganic oxides) and/or chromium (hexavalent compounds). The routes of exposure include: inhalation when consumers breathe near the products, including when the products are transferred from their packaging into containers and then mixed with water, and when the products are used by persons indoors and/or outdoors; and ingestion, including but not limited to as a result of swallowing dust particles.

Duration of Violations: Each of these ongoing violations has occurred on every day since at least December 21, 2011; as well as every day since the products were introduced in the California marketplace and following the one-year anniversary date of the listings at issue; and

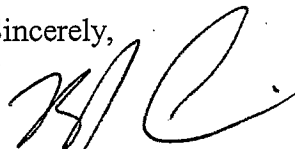
will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, C.C.R. §3100, a certificate of merit is attached hereto. Pursuant to Title 27, C.C.R. §25903(b), a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" is also enclosed.

In keeping with its public interest mission and to rectify expeditiously these ongoing violations of California law, As You Sow is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with As You Sow by contacting Danielle Fugere, President and Chief Counsel, at: 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, telephone: 510-735-8158. If you wish to contact me, my contact information is below:

Barbara J. Chisholm
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: 415-421-7151
Facsimile: 415-362-8064
E-mail: bchisholm@altber.com

Sincerely,



Barbara J. Chisholm

Enclosures

cc: Attorney General (without "Proposition 65: A Summary" attachment) (with additional confidential factual information supporting Certificate of Merit)

District Attorneys for California's 58 Counties (see list attached to Certificate of Service) (without "Proposition 65: A Summary" attachment)

City Attorneys for the Cities of Los Angeles, San Diego, San Francisco, and San Jose (see list attached to Certificate of Service) (without "Proposition 65: A Summary" attachment)

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

I, Barbara J. Chisholm, hereby declare:

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

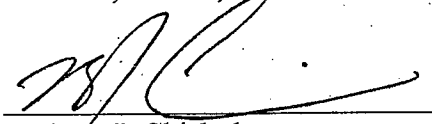
(2) I am the attorney for the noticing party, As You Sow.

(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 chemicals that are 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: December 21, 2012



Barbara J. Chisholm
Attorney for As You Sow

CERTIFICATE OF SERVICE

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, San Francisco, California 94108.

On December 21, 2012, I served the following document(s):

Notice of Violation of California Health & Safety Code §25249.5, et seq. including attachment "Proposition 65: A Summary"; and Certificate of Merit.

on the entity listed below and the individuals identified in the list attached hereto as Appendix A, by placing true copies thereof in sealed envelopes addressed as indicated below and in Appendix A for service by enclosing them in an envelope and placing the envelope for collection and mailing by United States Mail following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is planned for collection and mailing it is deposited in the ordinary course of business with the U.S. Postal Service in a sealed envelope with postage fully paid.

ADDRESSEES

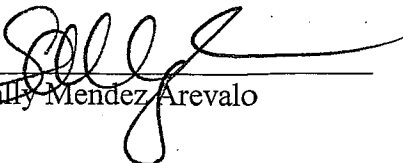
William G. Frenzel, III
E-Z Mix Inc.
11450 Tuxford Street
Sun Valley, CA 91352

E-Z Mix Inc.
3355 S. Industrial Dr.
Bloomington, CA 92316

and

Individuals identified in list attached as Appendix A (without attachment "Proposition 65: A Summary").

I declare under penalty of perjury under laws of the State of California that the foregoing is true and correct. Executed December 21, 2012, at San Francisco, California.



Sally Mendez Arevalo

APPENDIX A SERVICE LIST

Kamala D. Harris
Attorney General for the State of California
PO Box 944255
Sacramento, CA 94244

The Honorable Bob Lee, District Attorney
SANTA CRUZ COUNTY
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Candice Hooper-Mancino,
District Attorney
SAN BENITO COUNTY
419 4th Street
Hollister, CA 95023-3801

The Honorable Clifford Newell, District
Attorney
NEVADA COUNTY
110 Union Street
Nevada City, CA 95959

The Honorable Dennis J. Herrera, Office of
the City Attorney
SAN FRANCISCO COUNTY
City Hall, Room 234, 1 Dr. Carlton B.
Goodlett Place
San Francisco, CA 94102

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

The Honorable Michael R. Keitz, District
Attorney
MADERA COUNTY
209 West Yosemite Avenue
Madera, CA 93637

The Honorable George Booth, District
Attorney
MONO COUNTY
PO BOX 2053
Mammoth Lakes, CA 93546

The Honorable Gilbert G. Otero, District
Attorney
IMPERIAL COUNTY
940 West Main Street, Ste. 102
El Centro, CA 92243

The Honorable Stephen M. Wagstaffe,
District Attorney
SAN MATEO COUNTY
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Arthur Maillet, District
Attorney
INYO COUNTY
PO Box D
Independence, CA 93526

The Honorable Bonnie Dumanis, District
Attorney
SAN DIEGO COUNTY
Hall of Justice, 330 W. Broadway
San Diego, CA 92101

The Honorable Carl Adams, District
Attorney
SUTTER COUNTY
446 2nd Street, Suite 102
Yuba City, CA 95991

The Honorable Donald A. du Bain, District
Attorney
SOLANO COUNTY
675 Texas Street, Ste. 4500
Fairfield, CA 94533

The Honorable Jeffrey F. Rosen, District
Attorney
SANTA CLARA COUNTY
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Lisa Green, District
Attorney
KERN COUNTY
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Gary Lieberstein, District
Attorney
NAPA COUNTY
PO BOX 720
Napa, CA 94559

The Honorable Stephen Carlton, District
Attorney
SHASTA COUNTY
1355 West Street
Redding, CA 96001

The Honorable Gregg Cohen, District
Attorney
TEHAMA COUNTY
444 Oak Street, Room L
Red Bluff, CA 96080

The Honorable James Kirk Andrus, District
Attorney
SISKIYOU COUNTY
PO BOX 986
Yreka, CA 96097

The Honorable Birgit Fladager, District
Attorney
STANISLAUS COUNTY
832 12th Street, Suite 300
Modesto, CA 95354

The Honorable Ronald Scott Owens,
District Attorney
PLACER COUNTY
10810 Justice Center Drive Suite #240
Roseville, CA 95678

The Honorable Joyce E. Dudley, District
Attorney
SANTA BARBARA COUNTY
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Dean Flippo, District
Attorney
MONTEREY COUNTY
PO BOX 1131
Salinas, CA 93902

The Honorable Michael Knowles, Acting
District Attorney
TUOLUMNE COUNTY
423 No. Washington Street
Sonora, CA 95370

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

The Honorable Christopher Brooke, District
Attorney
MODOC COUNTY
204 S. Court Street, Suite 202
Alturas, CA 96101

The Honorable Gerald T. Shea, District
Attorney
SAN LUIS OBISPO COUNTY
1055 Monterrey Srt, County Government
Center, 4th Floor
San Luis Obispo, CA 93408

The Honorable Gregory D. Totten, District
Attorney
VENTURA COUNTY
800 South Victoria Avenue
Ventura, CA 93009

The Honorable James Willett, District
Attorney
SAN JOAQUIN COUNTY
PO BOX 990
Stockton, CA 95201

APPENDIX A
SERVICE LIST

The Honorable Jan Goldsmith, Office of the
City Attorney
1200 Third Ave., Suite 1620
San Diego, CA 92101

The Honorable Jeff W. Reisig, District
Attorney
YOLO COUNTY
301 Second Street
Woodland, CA 95695

The Honorable Donald A. Anderson,
District Attorney
LAKE COUNTY
255 N. Forbes Street
Lakeport, CA 95453

The Honorable Lawrence Allen, District
Attorney
SIERRA COUNTY
100 Courthouse Square, Second Floor, Post
Office Box 457
Downieville, CA 95936

The Honorable Michael D. Ramos, District
Attorney
SAN BERNARDINO COUNTY
303 W. Third Street, 6th Floor
San Bernardino, CA 92415

The Honorable Patrick McGrath, District
Attorney
YUBA COUNTY
215 Fifth Street, Ste. 152
Marysville, CA 95901

The Honorable Richard Doyle, Office of
the City Attorney
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

The Honorable Robert J. Maloney, District
Attorney
GLENN COUNTY
PO Box 430
Willows, CA 95988

The Honorable Paul Zellerbach, District
Attorney
RIVERSIDE COUNTY
3960 Orange Street
Riverside, CA 92501

The Honorable Steve Cooley, District
Attorney's Office
LOS ANGELES COUNTY
210 West Temple Street, Suite 18000
Los Angeles, CA 90012-3210

The Honorable Jan Scully, District
Attorney
SACRAMENTO COUNTY
901 G Street
Sacramento, CA 95814

The Honorable Barbara Yook, District
Attorney
CALAVERAS COUNTY
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable George Gascón, District
Attorney
SAN FRANCISCO COUNTY
850 Bryant Street, Room 325
San Francisco, CA 94103

The Honorable C. David Eyster, District
Attorney
MENDOCINO COUNTY
PO BOX 1000
Ukiah, CA 95482

The Honorable Michael L. Ramsey, District
Attorney
BUTTE COUNTY
25 County Center Drive, Suite 245
Oroville, CA 95965

The Honorable Paul Gallegos, District
Attorney
HUMBOLDT COUNTY
825 5th Street, 4th Floor
Eureka, CA 95501

The Honorable Robert Brown, District
Attorney
MARIPOSA COUNTY
5101 Jones St., P.O. Box 730
Mariposa, CA 95338

The Honorable Mark A. Peterson, District
Attorney
CONTRA COSTA COUNTY
900 Ward Street
Martinez, CA 94553

The Honorable Gregory E. Strickland,
District Attorney
KINGS COUNTY
1400 West Lacey Blvd.
Hanford, CA 93230

The Honorable Nancy E. O'Malley, District
Attorney
ALAMEDA COUNTY
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable David Hollister, District
Attorney
PLUMAS COUNTY
520 Main Street, Room 404
Quincy, CA 95971

The Honorable John R. Poyner, District
Attorney
COLUSA COUNTY
346 Fifth Street, Suite 101
Colusa, CA 95932

The Honorable Larry D. Morse II, District
Attorney
MERCED COUNTY
550 W. Main Street
Merced, CA 95340

The Honorable Michael B. Harper, District
Attorney
TRINITY COUNTY
PO Box 310, 11 Court St.
Weaverville, CA 96093

The Honorable Jon Alexander, District
Attorney
DEL NORTE COUNTY
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Phillip Cline, District
Attorney
TULARE COUNTY
221 South Mooney Blvd., Room 224
Visalia, CA 93291

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

The Honorable Carmen A. Trutanich, City
Attorney
200 North Main Street, 8th Floor
Los Angeles, CA 90012

The Honorable Jill Ravitch, District
Attorney
SONOMA COUNTY
600 Administration Drive, Room 212J
Santa Rosa, CA 95403

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

**APPENDIX A
SERVICE LIST**

The Honorable Tony Rackauckas, District
Attorney
ORANGE COUNTY
401 Civic Center Drive
Santa Ana, CA 92701

The Honorable Vernon Pierson, District
Attorney
EL DORADO COUNTY
515 Main Street
Placerville, CA 95667

The Honorable Terese Drabec, District
Attorney
ALPINE COUNTY
270 Laramie Street, P.O. Box 248
Markleeville, CA 96120