

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Coconut Oil Diethanolamine Condensate (Cocamide Diethanolamine)
in Shampoo and Liquid Soaps Such as Hand Soap, Body Wash and Bubble Bath

September 27, 2013

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, CA 94612, (510) 655-3900. CEH is a nonprofit corporation dedicated to protecting the environment, improving human health, and supporting environmentally sound practices. Charlie Pizarro is the Associate Director of and a responsible individual within CEH.

Description of Violation:

- Violators: The names and addresses of the violators are listed on the attached Exhibit 1.
- Time Period of Exposure: The violations have been occurring since at least June 22, 2013, are continuing to this day and will continue to occur as long as the products subject to this Notice of Violation are sold to California consumers.
- 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.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is coconut oil diethanolamine condensate (cocamide diethanolamine) (hereinafter, "cocamide DEA"). Exposures to cocamide DEA occur from use of the products identified in this Notice of Violation.
- Type of Products: The specific type of products causing this violation is shampoo and liquid soaps such as hand soap, body wash and bubble bath (the "Products"). Non-exclusive examples of this specific type of product are listed on the attached Exhibit 1.
- Description of Exposure: This Notice addresses consumer exposures to cocamide DEA. Use of the Products identified in this Notice results in human exposures to cocamide DEA. The Products contain cocamide DEA as an intentionally added ingredient. The routes of exposure for the violations include dermal absorption and ingestion by consumers (including children). These exposures occur through the reasonably foreseeable use of the Products when, for example, individuals apply the Products to their hair, scalp or skin. No clear and reasonable warning is provided with these Products regarding the exposures to cocamide DEA caused by ordinary use of the Products.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, CEH intends to file a citizen enforcement lawsuit against each alleged violator unless such violator agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the cocamide DEA exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If any alleged violator is interested in resolving this dispute without resort to expensive and time-consuming 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 through its counsel Mark N. Todzo (mtodzo@lexlawgroup.com) at Lexington Law Group, 503 Divisadero Street, San Francisco, CA 94117, (415) 913-7800.

EXHIBIT 1
September 27, 2013 Notice of Violation
Cocamide DEA in Shampoo and Liquid Soaps
Such as Hand Soap, Body Wash and Bubble Bath

Names and Addresses of Responsible Parties	Non-Exclusive Examples of the Products	SKU or Further Description
<p>Albertson's LLC 250 Parkcenter Blvd. Boise, ID 83726</p>	<p>Originals Uniquely Brilliant Bubble Bath in Pomegranate</p>	<p>SKU No. 8-79745-00162-3</p>
	<p>Equaline Medicated Dandruff Shampoo with Menthol</p>	<p>SKU No. 0-41163-44461-4</p>
<p>Batia & Aleeza, Inc. 415 N. Camden Drive Beverly Hills, CA 90210</p> <p>Batia & Aleeza LLC 959 N. Cole Avenue Hollywood, CA 90038</p>	<p>Batia & Aleeza Bio-Natural Shampoo</p>	<p>SKU No. 8-91912-00100-7</p>
<p>Big Lots, Inc. 300 Phillipi Road Columbus, OH 43228</p> <p>Big Lots Stores, Inc. 300 Phillipi Road Columbus, OH 43228</p>	<p>Morgan Childs Premium Shower Gel in Pomegranate</p>	<p>SKU No. 0-34644-33350-7 Big Lots Item No. 120118142</p>
	<p>Swissco Tranquil Spa Foaming Bubble Bath in White Tea</p>	<p>SKU No. 7-69898-37315-2 Big Lots Item No. 810048883</p>
	<p>Silkience Hair Care 2 in 1 Shampoo & Conditioner</p>	<p>SKU No. 8-70929-00334-1 Big Lots Item No. 120112629</p>
	<p>Betty Crocker Hand Wash in Sugar Cookie</p>	<p>Big Lots Item No. 120107892</p>

<p>Dermatologic Cosmetic Laboratories Ltd. 20 Commerce Street East Haven, CT 06512</p>	<p>DCL T-Shampoo</p>	<p>Product ID No. DCL450 17028</p>
<p>Enaltus, LLC 1100 Satellite Boulevard Suwanee, GA 30024</p> <p>MedAltus, LLC 3567 County Road 37 Bloomfield, NY, 14469</p>	<p>DCL T-Shampoo</p>	<p>Product ID No. DCL450 17028</p>
<p>Enchante Accessories Inc. 4 East 34th Street New York, NY 10016</p>	<p>Betty Crocker Hand Wash in Sugar Cookie</p>	<p>Big Lots Item No. 120107892</p>
<p>Evergreen Consumer Brands 100 Delta Park Blvd Brampton, Ontario L6T 5E7 Canada</p>	<p>Silkience Hair Care 2 in 1 Shampoo & Conditioner</p>	<p>SKU No. 8-70929-00334-1 Big Lots Item No. 120112629</p>
<p>Gelson's Markets 2020 S. Central Avenue Compton, CA 90220</p>	<p>Batia & Aleeza Bio-Natural Shampoo</p>	<p>SKU No. 8-91912-00100-7</p>
<p>Imperial Dax Company, Inc. 120 New Dutch Lane Fairfield, NJ 07004</p>	<p>DAX Vegetable Oil Shampoo</p>	<p>SKU No. 0-77315-00402-3</p>
<p>M. Cassab USA 201 S. Bicyane Blvd. Suite 1200 Miami, FL 33131</p> <p>M. Cassab Comercio E Industria Ltda. Av. das Nações Unidas, 20882 São Paulo 04795-000 Brazil</p> <p>M. Cassab Group Av. das Nações Unidas, 20882 São Paulo 04795-000 Brazil</p>	<p>nuNAAT Treatment Curly Hair Moisturizing Shampoo with Keratin & Cupuacu Butter</p>	<p>SKU No. 7-898450-870310</p>

<p>Michaels Stores, Inc. 8000 Bent Branch Dr. Irving, TX 75063</p>	<p>Simple Pleasures Cucumber Melon Hand Soap</p>	<p>SKU No. 7-67014-17612-0</p>
<p>Olympic Mountain and Marine Products, Inc. 8655 S. 208th Street Kent, WA 98031</p>	<p>Morgan Childs Premium Shower Gel in Pomegranate</p>	<p>SKU No. 0-34644-33350-7 Big Lots Item No. 120118142</p>
<p>Raani Corporation 5202 West 70th Place Bedford Park, IL 60638</p>	<p>AtOne With Nature Plant Extracts & Moroccan Argan Oil Dry, Itchy Scalp Shampoo</p>	<p>SKU No. 0-51295-16758-9</p>
<p>SUPERVALU Inc. 7075 Flying Cloud Drive Eden Prairie, MN 55344</p>	<p>Equaline Medicated Dandruff Shampoo with Menthol</p>	<p>SKU No. 0-41163-44461-4</p>
<p>Swissco L.L.C. 307 Sixth Avenue New York, NY 10014</p>	<p>Swissco Tranquil Spa Foaming Bubble Bath in White Tea</p>	<p>SKU No. 7-69898-37315-2 Big Lots Item No. 810048883</p>

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

I, Victoria Hartanto, 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.

September 27, 2013



Victoria Hartanto
Attorney for CENTER FOR
ENVIRONMENTAL HEALTH

PROOF OF SERVICE BY MAIL AND ELECTRONIC MAIL

I declare that:

I am employed in San Francisco County, California; my business address is 503 Divisadero Street, San Francisco, California 94117. I am over the age of 18 years and not a party to the within cause and my electronic notification address is jbanister@lexlawgroup.com.

On September 27, 2013, 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 asterisk).

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.

Also on this date, I transmitted via electronic mail the documents listed above to the electronic mail addresses set forth below at 1:29 p.m. on September 27, 2013:

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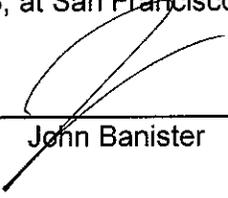
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The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 27, 2013, at San Francisco, California.

Signed: _____


John Banister

SERVICE LIST

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City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

San Jose City Attorney's Office
200 East Santa Clara Street
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California Attorney General's Office
Attention: Proposition 65
Coordinator and Robert Thomas
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