

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

ELLISON FOLK
Attorney
folk@smwlaw.com

February 5, 2016

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL
INFORMATION PER EVIDENCE CODE § 1040**

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Dear Public Enforcement Agencies:

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

AYS has documented violations of California’s Safe Drinking Water & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code section 25249.5 et seq. This letter serves to provide AYS’ notification of these violations to the public enforcement agencies. Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action sixty days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the notices served upon the violators. The specific details of the violations that are the subject of this notice are provided below.

Alleged violator. The name of the violator covered by this notice is Trader Joe’s Company.

Chemicals. These violations involve exposures to lead and cadmium from the products listed below. The State of California has officially listed lead as a chemical known to cause cancer. The State of California has also officially listed both lead and

cadmium as a chemicals known to cause birth defects or reproductive harm. *See* Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, available at http://oehha.ca.gov/prop65/prop65_list/Newlist.html.

Consumer products. The products that are the subject of this notice are:

- Trader Joe's Single Origin Chocolate Passport 73% Cacao Bar (Tanzania) [lead and cadmium]
- Trader Joe's Single Origin Chocolate Passport 70% Cacao Bar (Sao Tome) [lead]
- Trader Joe's Single Origin Chocolate Passport 70% Cacao Bar (Papua New Guinea) [lead and cadmium]
- Trader Joe's Single Origin Chocolate Passport 70% Cacao Bar (Dominican Republic) [lead and cadmium]
- Trader Joe's Single Origin Chocolate Passport 70% Cacao Bar (Ghana) [lead]
- Trader Joe's Single Origin Chocolate Passport 70% Cacao Bar (Venezuela) [lead and cadmium]
- Trader Joe's Single Origin Chocolate Passport 66% Cacao Bar (Ecuador) [lead and cadmium]
- Trader Joe's Single Origin Chocolate Passport 60% Cacao Bar (Peru) [lead and cadmium]

Route of exposure. Use of the products identified in this notice result in human exposures to lead and cadmium. The route of exposure is ingestion. No clear and reasonable warning is provided with the products regarding the cancer-causing effects of lead or the reproductive hazards of lead or cadmium.

Duration of violation. These ongoing violations have occurred on every day since at least February 5, 2015, as well as every day since the products were introduced in the California marketplace, 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.

February 5, 2016

Page 3

Pursuant to Title 11, Cal. Code Regs. section 3100, a certificate of merit is attached hereto.

In keeping with its public interest mission and to expeditiously rectify this ongoing violation of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with AYS to discuss an early resolution of this matter by contacting Danielle Fugere, President, 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612, (510) 735-8158. You may also contact AYS' counsel:

Ellison Folk
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
Phone: 415.552.7272; Fax: 415.552.5816
Email: folk@smwlaw.com

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Ellison Folk

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SHUTE, MIHALY
& WEINBERGER LLP

CERTIFICATE OF MERIT

(for As You Sow's Notice of Proposition 65 Violation on Trader Joe's Company)

I, Ellison Folk, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties in the notice have violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
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 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 plaintiff's case can be established and that 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 has attached to it to it factual information sufficient to establish the basis for this certificate, including the information identified in section 25249.7(h)(2) of the Health and Safety Code, 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: _____

2/4/2016



Ellison Folk

Enclosure (For Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action. My business address is: 396 Hayes Street, San Francisco, CA 94102.

On February 5, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Daniel T. Bane
Chief Executive Officer
Trader Joe's Company
800 S. Shamrock Avenue
Monrovia, California 91016

On February 5, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, C.C.R. § 3102

on the Attorney General of the State of California by electronic service of the Attorney General's Proposition 65 60 Day Notice Filing system.

On February 5, 2016, I served the following documents:

- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on February 5, 2016, at San Francisco, California.



Patricia Larkin

THE HONORABLE NANCY O'MALLEY
ALAMEDA COUNTY DISTRICT ATTORNEY
1225 FALLON ST., ROOM 900
OAKLAND, CA 94612

THE HONORABLE DWAYNE STEWART
GLENN COUNTY DISTRICT ATTORNEY
P.O. BOX 430
WILLOWS, CA 95988

THE HONORABLE EDWARD BERBERIAN
MARIN COUNTY DISTRICT ATTORNEY
3501 CIVIC CENTER DR., ROOM 130
SAN RAFAEL, CA 94903-4164

THE HONORABLE KAREN DUSTMAN
ALPINE COUNTY DISTRICT ATTORNEY
P.O. BOX 248
MARKLEEVILLE, CA 96120

THE HONORABLE MAGGIE FLEMING
HUMBOLDT COUNTY DISTRICT ATTORNEY
825 FIFTH ST., 4TH FLOOR
EUREKA, CA 95501

THE HONORABLE TOM COOKE
MARIPOSA COUNTY DISTRICT ATTORNEY
P.O. BOX 730
MARIPOSA, CA 95338

THE HONORABLE TODD RIEBE
AMADOR COUNTY DISTRICT ATTORNEY
708 COURT ST., SUITE 202
JACKSON, CA 95642

THE HONORABLE GILBERT G. OTERO
IMPERIAL COUNTY DISTRICT ATTORNEY
940 WEST MAIN ST., SUITE 102
EL CENTRO, CA 92243

THE HONORABLE C. DAVID EYSTER
MENDOCINO COUNTY DISTRICT ATTORNEY
P.O. BOX 1000
UKIAH, CA 95482

THE HONORABLE MICHAEL RAMSEY
BUTTE COUNTY DISTRICT ATTORNEY
25 COUNTY CENTER DR.
OROVILLE, CA 95965-3370

THE HONORABLE THOMAS L. HARDY
INYO COUNTY DISTRICT ATTORNEY
168 NORTH EDWARDS
INDEPENDENCE, CA 93526

THE HONORABLE LARRY MORSE II
MERCED COUNTY DISTRICT ATTORNEY
550 WEST MAIN STREET
MERCED, CA 95340

THE HONORABLE BARBARA YOOK
CALAVERAS COUNTY DISTRICT ATTORNEY
891 MOUNTAIN RANCH RD.
SAN ANDREAS, CA 95249

THE HONORABLE LISA GREEN
KERN COUNTY DISTRICT ATTORNEY
1215 TRUXTUN AVE.
BAKERSFIELD, CA 93301

THE HONORABLE JORDAN FUNK
MODOC COUNTY INTERIM DIST. ATTORNEY
204 SOUTH COURT ST., ROOM 202
ALTURAS, CA 96101-4020

THE HONORABLE JOHN POYNER
COLUSA COUNTY DISTRICT ATTORNEY
346 5TH STREET, SUITE 101
COLUSA, CA 95932

THE HONORABLE KEITH FAGUNDES
KINGS COUNTY DISTRICT ATTORNEY
1400 WEST LACEY BLVD.
HANFORD, CA 93230

THE HONORABLE TIM KENDALL
MONO COUNTY DISTRICT ATTORNEY
P.O. BOX 2053
MAMMOTH LAKES, CA 93546

THE HONORABLE MARK A. PETERSON
CONTRA COSTA COUNTY DIST. ATTORNEY
900 WARD STREET
MARTINEZ, CA 94553

THE HONORABLE DONALD ANDERSON
LAKE COUNTY DISTRICT ATTORNEY
255 NORTH FORBES ST.
LAKEPORT, CA 95453

THE HONORABLE DEAN FLIPPO
MONTEREY COUNTY DISTRICT ATTORNEY
P.O. BOX 1131
SALINAS, CA 93902

THE HONORABLE DALE P. TRIGG
DEL NORTE COUNTY DISTRICT ATTORNEY
450 H ST., SUITE 171
CRESCENT CITY, CA 95531

THE HONORABLE STACEY L. MONTGOMERY
LASSEN COUNTY DISTRICT ATTORNEY
220 SOUTH LASSEN ST., SUITE 8
SUSANVILLE, CA 96130

THE HONORABLE GARY LIEBERSTEIN
NAPA COUNTY DISTRICT ATTORNEY
P.O. BOX 720
NAPA, CA 94559

THE HONORABLE VERNON PIERSON
EL DORADO COUNTY DISTRICT ATTORNEY
515 MAIN STREET
PLACERVILLE, CA 95667

THE HONORABLE JACKIE LACEY
L A COUNTY DISTRICT ATTORNEY
210 WEST TEMPLE ST. ROOM 18-709
LOS ANGELES, CA 90012

THE HONORABLE CLIFFORD NEWELL
NEVADA COUNTY DISTRICT ATTORNEY
201 COMMERCIAL ST.
NEVADA CITY, CA 95959

THE HONORABLE LISA SMITTCAMP
FRESNO COUNTY DISTRICT ATTORNEY
2220 TULARE ST., SUITE 1000
FRESNO, CA 93721

THE HONORABLE DAVID LINN
MADERA COUNTY DISTRICT ATTORNEY
209 WEST YOSEMITE AVE.
MADERA, CA 93637

THE HONORABLE TONY RACKAUCKAS
ORANGE COUNTY DISTRICT ATTORNEY
401 CIVIC CENTER DR. WEST
SANTA ANA, CA 92701

THE HONORABLE R. SCOTT OWENS
PLACER COUNTY DISTRICT ATTORNEY
10810 JUSTICE CENTER DR., #240
ROSEVILLE, CA 95678

THE HONORABLE STEPHEN WAGSTAFFE
SAN MATEO COUNTY DISTRICT ATTORNEY
400 COUNTY CENTER, FLOOR 3
REDWOOD CITY, CA 94063

THE HONORABLE AMANDA L. HOPPER
SUTTER COUNTY ACTING DIST. ATTORNEY
446 SECOND ST., #102
YUBA CITY, CA 95991

THE HONORABLE DAVID HOLLISTER
PLUMAS COUNTY DISTRICT ATTORNEY
520 MAIN ST., ROOM 404
QUINCY, CA 95971

THE HONORABLE JOYCE DUDLEY
SANTA BARBARA COUNTY DIST. ATTORNEY
1112 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

THE HONORABLE GREGG COHEN
TEHAMA COUNTY DISTRICT ATTORNEY
P.O. BOX 519
RED BLUFF, CA 96080

THE HONORABLE MICHAEL HESTRIN
RIVERSIDE COUNTY DISTRICT ATTORNEY
3960 ORANGE ST.
RIVERSIDE, CA 92501

THE HONORABLE JEFFREY ROSEN
SANTA CLARA COUNTY DIST. ATTORNEY
70 WEST HEDDING ST., WEST WING
SAN JOSE, CA 95110

THE HONORABLE ERIC HERYFORD
TRINITY COUNTY DISTRICT ATTORNEY
P.O. BOX 310
WEAVERVILLE, CA 96093

THE HONORABLE ANNE MARIE SCHUBERT
SACRAMENTO COUNTY DIST. ATTORNEY
901 G STREET
SACRAMENTO, CA 95814

THE HONORABLE JEFF ROSELL
SANTA CRUZ COUNTY DIST. ATTORNEY
701 OCEAN ST., ROOM 200
SANTA CRUZ, CA 95060

THE HONORABLE TIM WARD
TULARE COUNTY DISTRICT ATTORNEY
221 SOUTH MOONEY BLVD., ROOM 224
VISALIA, CA 93291

THE HONORABLE CANDICE HOOPER-MANCINO
SAN BENITO COUNTY DISTRICT ATTORNEY
419 FOURTH STREET
HOLLISTER, CA 95023

THE HONORABLE STEPHEN CARLTON
SHASTA COUNTY DISTRICT ATTORNEY
1355 WEST STREET
REDDING, CA 96001

THE HONORABLE LAURA KRIEG
TUOLUMNE COUNTY DIST. ATTORNEY
423 NORTH WASHINGTON ST.
SONORA, CA 95370

THE HONORABLE MICHAEL RAMOS
SAN BERNARDINO COUNTY
DISTRICT ATTORNEY
303 WEST THIRD ST.
SAN BERNARDINO, CA 92415

THE HONORABLE LAWRENCE ALLEN
SIERRA COUNTY DISTRICT ATTORNEY
100 COURTHOUSE SQUARE
DOWNIEVILLE, CA 95936

THE HONORABLE GREG TOTTEN
VENTURA COUNTY DISTRICT ATTORNEY
800 SOUTH VICTORIA AVE.
VENTURA, CA 93009

THE HONORABLE BONNIE DUMANIS
SAN DIEGO COUNTY DISTRICT ATTORNEY
330 WEST BROADWAY, SUITE 1300
SAN DIEGO, CA 92101

THE HONORABLE JAMES KIRK ANDRUS
SISKIYOU COUNTY DISTRICT ATTORNEY
P.O. BOX 986
YREKA, CA 96097

THE HONORABLE JEFF REISIG
YOLO COUNTY DISTRICT ATTORNEY
301 SECOND ST.
WOODLAND, CA 95695

THE HONORABLE GEORGE GASCÓN
SAN FRANCISCO COUNTY
DISTRICT ATTORNEY
880 BRYANT ST., 3RD FLOOR
SAN FRANCISCO, CA 94103

THE HONORABLE KRISHNA A. ABRAMS
SOLANO COUNTY DISTRICT ATTORNEY
675 TEXAS ST., SUITE 4500
FAIRFIELD, CA 94533

THE HONORABLE PATRICK MCGRATH
YUBA COUNTY DISTRICT ATTORNEY
215 FIFTH ST., #152
MARYSVILLE, CA 95901

THE HONORABLE TORI VERBER SALAZAR
SAN JOAQUIN COUNTY DIST. ATTORNEY
P.O. BOX 990
STOCKTON, CA 95202

THE HONORABLE JILL RAVITCH
SONOMA COUNTY DISTRICT ATTORNEY
600 ADMINISTRATION DR., ROOM 212-J
SANTA ROSA, CA 95403

LOS ANGELES CITY ATTORNEY'S OFFICE
200 NORTH MAIN ST., FLOOR 8
LOS ANGELES, CA 90012

THE HONORABLE DAN DOW
SAN LUIS OBISPO COUNTY
DISTRICT ATTORNEY
COURTHOUSE ANNEX, 4TH FLOOR
SAN LUIS OBISPO, CA 93408

THE HONORABLE BIRGIT FLADAGER
STANISLAUS COUNTY DISTRICT ATTORNEY
832 12TH ST., SUITE 300
MODESTO, CA 95353

SAN DIEGO CITY ATTORNEY'S OFFICE
CIVIC CENTER PLAZA
1200 THIRD AVE., SUITE 1620
SAN DIEGO, CA 92101

SAN FRANCISCO CITY ATTORNEY'S OFFICE
CITY HALL, ROOM 234
SAN FRANCISCO, CA 94102

SAN JOSE CITY ATTORNEY'S OFFICE
200 EAST SANTA CLARA ST.
SAN JOSE, CA 95113