

GIRARDI | K E E S E
LAWYERS

April 4, 2017

VIA CERTIFIED MAIL

Current President or CEO
VALLARTA FOOD ENTERPRISES, INC.
12881 Bradley Ave.,
Sylmar, CA 91342

Copy to its Registered Agent of Service of Process:
ENRIQUE GONZALEZ JR
12881 Bradley Ave,
Sylmar, CA 91342

VIA ELECTRONIC FILING & PRIORITY MAIL

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland CA 94612-0550
Filing link: <https://oag.ca.gov/prop65/add-60-day-notice>

VIA FIRST CLASS MAIL

District Attorneys of All California
Counties and Select City Attorneys
(See Attached – Certificate of Service)

***RE: 60-DAY NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE
SECTION 25249.5 ET. SEQ.***

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

We represent Chemical Toxin Working Group, Inc. ("CTWG") acting in the interest of the public seeking to further, among other causes, the protection of the environment, toxics reduction, the promotion and improvement of human health, the improvement of workers and consumer rights, environmental education and corporate accountability.

CTWG has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 *et. seq.*, with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violator identified below failed to provide required clear and reasonable warnings with the identified products.

This letter serves as a notice of these violations to the alleged Violator and the appropriate public enforcement agencies. Pursuant to Section 25249.7(d) of the statute, CTWG intends to file a private enforcement action in the public interest 60 days after effective service of this notice unless

the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

General Information about Proposition 65.

A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is an attachment with the copy of this letter served to the alleged Violator identified below.

Alleged Violator.

The name of the companies covered by this notice that violated Proposition 65 (hereinafter "the Violator" or "Vallarta") is:

VALLARTA FOOD ENTERPRISES, INC.

Consumer Products and Listed Chemicals.

The products that is the subject of this notice are:

California Girl Whole Oysters- Lead & Cadmium

California Girl Baby Clams- Lead & Cadmium

California Girl Smoked Oysters in Cottonseed Oil - Lead & Cadmium

The Violator has manufactured, marketed, distributed and/or sold the listed product which has exposed and continues to expose numerous individuals within California to lead and cadmium. Lead was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1992 and as a chemical known to cause developmental toxicity, and male and female reproductive toxicity on February 27, 1987. Cadmium was listed pursuant to Proposition 65 as a chemical known to the State of California to cause cancer on October 1, 1987, and as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997.

Route of Exposure.

The primary route of exposure to these chemicals has been and continues to be through ingestion but may also have occurred through inhalation and/or dermal contact.

Approximate Time Period of Violations.

Ongoing violations have occurred every day since at least December 28, 2016, as well as every day since the products were introduced into 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 either removed from or reduced to allowable levels in the products.

Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemicals. Vallarta is in violation of Proposition 65 because the company failed to provide a warning to consumers that they are being exposed to cadmium and lead. While in the course of doing business, the company is knowingly and intentionally exposing consumers to this chemical without first providing a clear and reasonable warning. (Health and Safety Code § 25249.6.) The method of warning should be a warning that appears on the product's label. (Cal. Code Regs, tit.27, §25603.1, subd. (a).) The company has not provided any Proposition 65 warnings on the company's label or any other appropriate warnings that persons handling, ingesting and/or otherwise using these products are being exposed to cadmium and lead.

Proposition 65 requires that notice and intent to sue be given to a violator 60-days before the suit is filed. With this letter, CTWG gives notice of the alleged violation to the noticed party and the appropriate governmental authorities.

CTWG intends to file a private enforcement action as provided for in the Act for the alleged violations by Vallarta, unless Vallarta agrees in an enforceable written instrument to: (1) recall the listed products so as to eliminate further exposure to the identified chemicals; or (2) affix clear and reasonable Proposition 65 warning labels for products sold in the future or reformulate such products to eliminate the exposures; and (3) pay an appropriate civil penalty.

Consistent with the public interest goals of Proposition 65 CTWG is interested in seeking a constructive resolution to this matter, and invites Violator, should they seek early resolution of this matter, to communicate directly with CTWG's attorneys. Such resolution with avoid further unwarned consumer exposures, as well as resource intensive litigation.

Please direct all questions concerning this notice to Howard Miller (213-977-0211 ext. 319; hmiller@girardikeese.com) and/or Avery Behrle (213-977-0211 ext. 107; abehrle@girardikeese.com).

With kind regards,



HOWARD MILLER, Esq.
AVERY A. BEHRLE, Esq.
Girardi Keese
Attorneys for Chemical Toxin Working Group, Inc.

Attachments

Certificate of Merit

Additional Supporting information for certificate of merit (*for Attorney General only*)

Certificate of Service

The Safe Drinking and Toxic Enforcement Act of 1986 (proposition 65): A Summary
(*for Violator only*)

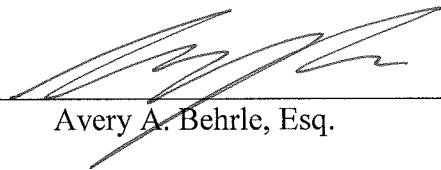
CERTIFICATE OF MERIT
Notice of Proposition 65 Violations

I, Avery A. Behrle, declare:

1. This Certificate of Merit accompanies the attached sixty-day Notice of Violation in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings;
2. I am an attorney for the noticing party The Chemical Toxin Working Group, Inc. The Notice of Violation alleges that the party identified has exposed persons in California to the listed chemical that is the subject of this Notice. Please refer to the Notice of Violation for additional details regarding the product name(s) and alleged violations;
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 exposures to the listed chemicals that are the subject of the action;
4. Based on the information obtained through those consultants, 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 plaintiffs 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. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California 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.

Dated: April 4, 2017

By: _____


Avery A. Behrle, Esq.

CERTIFICATE OF SERVICE

I, Avery A. Behrle, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct;

I am over the age of 18 years, and not a party to the within action; my business address is 1126 Wilshire Boulevard, Los Angeles, CA 90017.

On April 4, 2017, I served the following documents:

60-DAY NOTICE OF INTENT TO SUE UNDER CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET. SEQ.,

CERTIFICATE OF MERIT: HEALTH AND SAFETY CODE SECTION 25249.7(d),

"THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY"

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

Current President or CEO
VALLARTA FOOD ENTERPRISES, INC.
12881 Bradley Ave.,
Sylmar, CA 91342

Copy to its Registered Agent of Service of Process:
ENRIQUE GONZALEZ JR
12881 Bradley Ave,
Sylmar, CA 91342

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60-DAY NOTICE OF INTENT TO SUE UNDER CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET. SEQ.,

CERTIFICATE OF MERIT: HEALTH AND SAFETY CODE SECTION 25249.7(d),

CERTIFICATE OF MERIT ATTORNEY GENERAL COPY: FACTUAL INFORMATION SUFFICIENT TO ESTABLISH THE BASIS OF THE CERTIFICATE OF MERIT (Served to the Attorney General only)

on the following parties by uploading the foregoing documents at the webpage listed below and by placing a true and correct copy thereof in a sealed envelope, addressed to the address listed below, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by Priority Mail.

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>

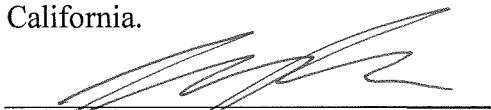
On April 4, 2017 I served the following documents:

**60-DAY NOTICE OF INTENT TO SUE UNDER CALIFORNIA HEALTH
& SAFETY CODE §25249.5 ET. SEQ.,**

**CERTIFICATE OF MERIT: HEALTH AND SAFETY CODE SECTION
25249.7(d)**

on each of the parties on the service list attached hereto (see attached "**Service List**") by placing a true and correct copy thereof in a sealed envelope, addressed to each of the District Attorney and City Attorney offices listed on the attached service list, and depositing it at a United States Postal Service mail box for delivery by First Class Mail, except for the Contra Costa County District Attorney, Lassen County District Attorney, Riverside County District Attorney, Sacramento County District Attorney, San Francisco County District Attorney, Napa County District Attorney, San Joaquin County District Attorney, San Luis Obispo County District Attorney, Santa Clara County District Attorney, Sonoma County District Attorney, Tulare County District Attorney, Ventura County District Attorney, Monterey County District Attorney, and Yolo County District Attorney, which have requested electronic service only via the following email addresses, respectively (as listed on the Service List): SQrassini@contracostada.org; mlatimer@co.lassen.ca.us; prop65@rivcoda.org; prop65@sacda.org; Gregorv.alker@sfgov.org; cepd@countvofnapa.org; daconsumer.environmental@sicda.org; edobroth@co.slo.ca.us; epu@da.sccgov.org; ibames@sonoma-county.org; prop65@co.tulare.ca.us; daspecialops@ventura.org; Prop65DA@co.monterev.ca.us; and cfepd@volocounty.org.

Executed on April 4, 2017, at Los Angeles, California.


Avery A. Behrle

SERVICE LIST

- The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612
- The Honorable Terese Drabec
Alpine County District Attorney
270 Laramie Street, P.O. BOX 248
Markleeville, CA 96120
- The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642
- The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965
- The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249
- The Honorable John Poyner
Colusa County District Attorney
346 Fifth Street
Colusa, CA 95932
- The Honorable Mark Peterson
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553
- The Honorable Dale Trigg
Del Norte County District Attorney
460 H Street, Room 171
Crescent City, CA 95531
- The Honorable Vern Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667
- The Honorable Lisa Smiltcamp
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721
- The Honorable Owayne Stewart
Glenn County District Attorney
P.O. Box 430
Willows, CA 95988
- The Honorable Maggie Fleming
Humboldt County District Attorney
825 5th Street, Fourth Floor
Eureka, CA 95501
- The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243
- The Honorable Thomas Hardy
Inyo County District Attorney
168 North Edwards Street
Independence, CA 93526
- The Honorable Lisa Green
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301
- The Honorable Keith Fagundas
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230
- The Honorable Donald Anderson
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453
- The Honorable Stacey Montgomery
Lassen County District Attorney
220 South Lassen Street, Ste. 8
Susanville, CA 96130
- The Honorable Jackie Lacey
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012
- The Honorable David Linn
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637
- The Honorable Edward Berberian
Marin County District Attorney
3501 Civic Center Drive, Room 130
San Rafael, CA 94903
- The Honorable Thomas Cooke
Mariposa County District Attorney
5101 Jones Street, P.O. Box 730
Mariposa, CA 95338
- The Honorable C. David Eyster
Mendocino County District Attorney
100 North State Street, P.O. Box 1000
 Ukiah, CA 95482
- The Honorable Larry Morse II
Merced County District Attorney
550 W. Main Street
Merced, CA 95340
- The Honorable Jordan Funk
Modoc County District Attorney
204 S. Court Street, Suite 202
Alturas, CA 96101
- The Honorable Tim Kendall
Mono County District Attorney
P.O. Box 617
Bridgeport, CA 93517
- The Honorable Dean Filippo
Monterey County District Attorney
P.O. Box 1131
Salinas, CA 93902
- The Honorable Gary Lieberstein
Napa County District Attorney
Carlhers Building
931 Parkway Mall
P.O. Box 720
Napa, CA 94559
- The Honorable Clifford Newell
Nevada County District Attorney
201 Commercial Street
Nevada City, CA 95959
- The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
Santa Ana, CA 92701
- The Honorable R. Scott Owens
Placer County District Attorney
10810 Justice Center Drive, Suite 240
Roseville, CA 95678
- The Honorable David Hollister
Plumas County District Attorney
520 Main Street, Room 404
Quincy, CA 95971
- The Honorable Michael Hestrin
Riverside County District Attorney
3960 Orange Street
Riverside, CA 92501
- The Honorable Anne Marie Schubert
Sacramento County District Attorney
901 G Street
Sacramento, CA 95814
- The Honorable Candice Hooper
San Benito County District Attorney
419 4th Street, Second Floor
Hollister, CA 95203
- The Honorable Michael Ramos
San Bernardino County District Attorney
303 West 3rd Street, 6th Floor
San Bernardino, CA 92415-0502
- The Honorable Bonnie Dumans
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101
- The Honorable George Gascon
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103
- The Honorable Tori Verber Salazar
San Joaquin County District Attorney
222 East Weber Avenue, Room 202
Stockton, CA 95201
- The Honorable Dan Dow
San Luis Obispo County District Attorney
1035 Palm Street, 4th Floor
San Luis Obispo, CA 93408
- The Honorable Stephen Wagstaffo
San Mateo County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063
- The Honorable Joyce Dudley
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101
- The Honorable Jeffrey Rosen
Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110
- The Honorable Jeff Rosell
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060
- The Honorable Stephen Carlton
Shasta County District Attorney
1355 West Street
Redding, CA 96001
- The Honorable Lawrence Allan
Sierra County District Attorney
100 Courthouse Square
Downsville, CA 95936
- The Honorable James Kirk Andrus
Siskiyou County District Attorney
P.O. Box 986
Yreka, CA 96097
- The Honorable Krishna Abrams
Solano County District Attorney
675 Texas Street, Suite 4500
Fairfield, CA 94533
- The Honorable Jill Ravlich
Sonoma County District Attorney
600 Administration Drive, Room 212J
Santa Rosa, CA 95403
- The Honorable Birgit Fladager
Stanislaus County District Attorney
832 12th Street, Suite 300
Modesto, CA 95354
- The Honorable Amanda Lopper
Sutter County District Attorney
463 Second Street, Suite 102
Yuba City, CA 95991
- The Honorable Gregg Cohen
Tehama County District Attorney
444 Oak Street, Room L
Red Bluff, CA 96080
- The Honorable Eric Heryford
Trinity County District Attorney
P.O. Box 310
Weaverville, CA 96093
- The Honorable Tim Ward
Tulare County District Attorney
2121 South Mooney Boulevard,
Rm 224
Visalia, CA 93291-4593
- The Honorable Laura Krieg
Tuolumne County District Attorney
423 North Washington Street
Sonora, CA 95370
- The Honorable Gregory Totten
Ventura County District Attorney
800 South Victoria Avenue
Ventura, CA 93009
- The Honorable Jeff Reising
Yolo County District Attorney
301 Second Street
Woodland, CA 95695
- The Honorable Patrick McGrath
Yuba County District Attorney
215 Fifth Street
Marysville, CA 95901
- The Honorable Mike Feuer
Office of the City Attorney, Los Angeles
800 City Hall East
200 North Main Street
Los Angeles, CA 90012
- The Honorable James Sanchez
Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814
- The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101
- The Honorable Dennis Herrera
Office of the City Attorney, San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
- The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113
- Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550