



AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

April 12, 2017

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

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

Attorney General Xavier Becerra
c/o Proposition 65 Coordinator
Office of the Attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Re: Notice of Violation of California Health & Safety Code §25249.5 *et seq.* by River Canyon Retreat d/b/a Earth Circle Organics

Dear Attorney General Becerra:

As You Sow (“AYS”) is 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 constitutes notice by AYS to the Attorney General of these violations. Pursuant to section 25249.7(d) of the statute, AYS intends to bring an enforcement action at least sixty days after effective service of this notice unless a public enforcement agency has commenced and is 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 violator. 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 River Canyon Retreat, Inc. d/b/a Earth Circle Organics.

Chemicals. These violations involve exposures to lead or cadmium from the products listed below. The State of California has officially listed both lead and cadmium as 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:

- Organic Raw 70% Dark Chocolate Raw Cacao Dehydrated Palm Nectar [cadmium]
- Organic Balinese Cacao Cashew Clusters [cadmium]
- Organic Raw White Mulberries [lead]
- Organic Ecuador Cacao Powder [cadmium]
- Raw & Organic Goji Berries [lead]
- Organic Black Maca Powder [lead]
- Organic Red Maca Powder [lead]
- Raw Organic Yellow Maca Powder [lead]
- Organic Nori Sheets Raw Vegan [cadmium]

Violations. The alleged violator knowingly and intentionally has exposed and continues to expose consumers within the State of California to lead or cadmium in each of these products without providing a clear and reasonable warning that the products contain a chemical known to the State of California to cause birth defects or reproductive harm.

Route of exposure. Use of the products identified in this notice result in human exposures to lead or cadmium. The primary route of exposure is ingestion.

Duration of violations. These ongoing violations have occurred on every day since at least April 12, 2016, as well as every day since the products were first produced, distributed, and/or sold in California, 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, 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 will seek a constructive resolution of this matter without

Notice of Proposition 65 Violations by River Canyon Retreat, Inc. d/b/a Earth Circle Organics
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engaging in costly and protracted litigation. If you would like to discuss this matter, you may communicate directly with me. My contact information is below:

Danielle Fugere
President
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
Tel: (510) 735-8141
Email: dfugere@asyousow.org

Sincerely,

A handwritten signature in black ink, appearing to read 'Danielle Fugere', with a stylized flourish at the end.

Danielle Fugere

cc: District Attorneys for California's 58 Counties (see list attached to Certificate of Service)

City Attorneys for the Cities of Los Angeles, San Diego, San Francisco, and San Jose
(see list attached to Certificate of Service)

CERTIFICATE OF MERIT

(for As You Sow's Notice of Proposition 65 Violation on River Canyon Retreat Inc.,
d/b/a Earth Circle Organics)

I, Danielle Fugere, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the party in the notice has violated section 25249.6 of the Health and Safety Code by failing to provide clear and reasonable warnings.
2. I am counsel 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 a private action in the public interest under Health & Safety Code section 25249.7(d). 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 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.



April 12, 2017

Danielle Fugere

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 and over the age of 18 years. My business address is: 1611 Telegraph Avenue, Suite 1450, Oakland, CA 94612.

On April 12, 2017, 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 parties by placing a true and correct copy thereof in a sealed envelope, addressed to the parties listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Mr. Eric Botner
River Canyon Retreat, Inc. d/b/a Earth Circle Organics
d/b/a Earth Circle Organics
355 Crown Point Circle, Suite D
Grass Valley, CA 95945

Robert Rymek
735 Sunrise Ave. #115
Roseville, CA 95661

Melissa A. Jones
Bao Vu
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814-3361

On April 12, 2017, 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 April 12, 2017, 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 April 12, 2017, at Oakland, California.



Kwan Hong Teoh

THE HONORABLE NANCY E. O'MALLEY
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Up-to-date roster of DAs: <http://www.cdaa.org/district-attorney-roster> .

Prop 65 website: <http://oag.ca.gov/prop65>

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