ECOLOGY LAW CENTER

P.O. Box 1000 SANTA CRUZ, CALIFORNIA 95061 TELEPHONE: (831) 454-8216 EMAIL: EVENSON@ECOLOGYLAW.COM

OCTOBER 10, 2017

NOTICE OF VIOLATIONS CALIFORNIA SAFE DRINKING WATER AND

TOXIC ENFORCEMENT ACT

Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator 1515 Clay Street P.O. Box 70550 Oakland, CA 94612

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from Wood Burning Fire Rings and Fire Pits

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the companies listed on Exhibit A ("Noticed Parties"), have violated and are in ongoing violation of California Health & Safety Code § 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."

The above-referenced violations occur when California residents use wood-burning fire rings and fire pits. These products are used primarily for heating, cooking, and ambiance. Combustion of wood produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of wood causes carbon monoxide to be released into the air, people using wood-burning fire rings and fire pits, and others standing near the products when wood is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route. These products cause carbon monoxide exposures to occur in people's yards, at parks and beaches, and everywhere else throughout California where the products are used. These violations are alleged for consumer and environmental exposures.

Included on Exhibit A is a non-exclusive list of examples of the types of products, marketed and sold by the Noticed Parties in the State of California. Though specific models or SKU or product numbers are given as examples, this Notice pertains to all models, and all variations, of the specific type of product (such as wood burning fire rings and fire pits) of which the named model is an example.

The noticed parties on Exhibit A, and on the attached Certificate of Service, did not and do not provide people with clear and reasonable warnings before exposing California Residents to carbon monoxide.

The above-referenced violations have occurred every day since at least October 10, 2014, and will continue every day until clear and reasonable warnings are given.

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action against each Noticed Party 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 notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director Ecological Rights Foundation 867 B Redwood Drive Garberville, California 95542 Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):

Fredric Evenson Ecology Law Center P.O. Box 1000 Santa Cruz, California 95061 Telephone: (831) 454-8216

Email: evenson@ecologylaw.com

Sincerely,

Fredric Evenson

Exhibit A October 10, 2017 Notice of Violation Carbon Monoxide Exposures from Wood Burning Fire Pits and Fire Rings

Names and Addresses of	Non-Exclusive Examples of	Item#, UPC or SKU # or		
Responsible Parties	the Products* - AmazonBasics 26-	Further Description - UPC# 841710155631		
Jeff Bezos, President		- UPC# 841/10155631		
Amazon.com, Inc.	Inch Portable Folding Fire Pit			
c/o CSC - Lawyers Incorporating Service	rife Pit			
2710 Gateway Oaks Dr. Ste.	- Micro World Fireside	- UPC # 852038005829		
150N	Escapes Outdoor Fire	- 010 # 832038003827		
Sacramento CA 95833	Pit, Model MW1317-			
	Angel Wings Fire Pit			
Target Corporation	- Micah 29" Fiber-	- UPC# 849114925713		
c/o CT Corporation System,	Reinforced Concrete			
Registered Agent	Wood Burning Fire			
111 Eighth Ave, 13th FL	Pit -Round - Natural			
New York, NY 10011	Stone			
Duosidant as CEO				
President or CEO				
Christopher Knight Home 2629 Manhattan Ave.				
Hermosa Beach, CA				
90254-2447				
90234-2447				
Brian C. Cornell, CEO				
Target Corporation				
1000 Nicollet Mall				
Mpls, MN 55403				
Wal-Mart Stores, Inc.	- Corral Wilderness	- UPC# 851322000762		
c/o C T Corporation System,	Steel Wood Burning			
Registered Agent	Fire Ring			
818 W 7th St., Ste. 930				
Los Angeles, CA 90017				
Michael Duke, CEO				
Wal-Mart Stores, Inc.				
124 West Capitol Ave. Ste.				
1900				
Little Rock, AR 72201				
Deeco Consumer Products,	- Deeco 40" Safari Pit	- Model # DM-6559		
L.L.C				
c/o Desmond Sinclair,				
Registered Agent				
655 N Main Street				

Travelers Rest, South		
Carolina 29690		
I CCD D 11		
Jeff Bezos, President		
Amazon.com, Inc.		
c/o CSC - Lawyers		
Incorporating Service		
2710 Gateway Oaks Dr. Ste.		
150N		
Sacramento CA 95833		
Francis S. Blake, CEO	- 42 in. Lightweight	- UPC# 861194000104
The Home Depot, Inc.	Concrete Fire Pit Kit	
2455 Paces Ferry Road	in Earth Brown	
Atlanta, GA 30339		

^{*} These non-exclusive examples of the category or type of product that is subject to this Notice is for the recipient's benefit in its investigation of ERF's allegations. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the category or type of products subject to this notice. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

Certificate of Merit Health & Safety Code Section 25249.7(d)

- I, Fredric Evenson, 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.
- (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 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 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.

Date: October 10, 2017 By

Fredric Evenson

CERTIFICATE OF SERVICE

I am over the age of 18. My business address is P.O. Box 1000, Santa Cruz, CA 95061.

On October 10, 2017 I served the following:

- 1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition
- 65): A Summary
- 4) Certificate of Service

by enclosing copies of the same in a sealed envelope addressed to each party on the attached Service List - Noticed Parties and depositing the envelope in the U.S. mail with postage fully prepaid for delivery by Certified Mail. Place of mailing: Santa Cruz, CA.

See Attached: Service List - Noticed Parties

On October 10, 2017 I also served the following:

- 1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish
- the basis of the Certificate of Merit (only sent to Attorney General)
- 4) Certificate of Service

by enclosing copies of the same in sealed envelopes addressed to each of the public enforcement agencies listed on the attached Service List of Public Enforcers, and depositing the envelopes in the U.S. mail with postage fully prepaid for delivery by First Class Mail. Place of mailing: Santa Cruz, CA.

by sending portable document format (.pdf) files of the same to the electronic mail addresses to each of the public prosecutors identified by the California Attorney General as having authorized electronic service of notices. These public enforcement agencies appear on the attached Service List with their electronic mail addresses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed October 10, 2017, at Santa Cruz, CA.

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Service List – Noticed Parties

Service List 1 toticed 1 drives					
Francis S. Blake, CEO	Target Corporation	President or CEO			
The Home Depot, Inc.	c/o CT Corporation System,	Christopher Knight Home			
2455 Paces Ferry Road	Registered Agent	2629 Manhattan Ave.			
Atlanta, GA 30339	111 Eighth Ave, 13th FL	Hermosa Beach, CA			
	New York, NY 10011	90254-2447			
Brian C. Cornell, CEO	Wal-Mart Stores, Inc.	Michael Duke, CEO			
Target Corporation	c/o C T Corporation System,	Wal-Mart Stores, Inc.			
1000 Nicollet Mall	Registered Agent	124 West Capitol Ave. Ste.			
Mpls, MN 55403	818 W 7th St., Ste. 930	1900			
	Los Angeles, CA 90017	Little Rock, AR 72201			
Deeco Consumer Products,	Jeff Bezos, President				
L.L.C.	Amazon.com, Inc.				
c/o Desmond Sinclair,	c/o CSC - Lawyers				
Registered Agent	Incorporating Service				
655 N Main Street	2710 Gateway Oaks Dr. Ste.				
Travelers Rest, South	150N				
Carolina 29690	Sacramento CA 95833				

Service List – Public Prosecutors

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