



June 9, 2020

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH AND SAFETY CODE  
SECTION 25249.5 ET SEQ.**

To Whom It May Concern:

*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 Berkeley, California, and was incorporated in 1992 under the laws of the State of California.

AYS has documented violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), Cal. Health & Safety Code §25249.5 et seq., by Whole Foods Market California, Inc. (the “Company”). This letter constitutes notice by AYS to the Company and public enforcement agencies of these violations. Specifically, the Company has violated and are violating Section 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 ...” 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 violator(s). The specific details of the violations that are the subject of this notice are provided below.

**Alleged violators.** The names of the violators covered by this notice are:

- Whole Foods Market California, Inc.

**Chemical(s).** These violations involve exposures to cadmium from the products listed below. The State of California has officially listed cadmium as a chemical known to cause cancer, developmental toxicity, and reproductive harm.

**Consumer products.** The products that are the subject of this notice are spinach products that contain cadmium and are, at any time, manufactured, distributed, or sold by the alleged violator, including but not limited to the following:

- 365 Chopped Spinach [frozen]
- 365 Organic Whole Leaf Spinach [frozen]

**Route of exposure.** Use of the products identified in this notice result in human exposures to cadmium. The route of exposure is ingestion. No clear and reasonable warning is provided with the products regarding the health and reproductive hazards of cadmium.

**Duration of violation.** These ongoing violations have occurred on every day since at least June 9, 2019, 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.

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, *As You Sow* is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. You may communicate directly with *As You Sow* to discuss an early resolution of this matter by contacting:

Danielle Fugere  
President  
*As You Sow*  
2150 Kittredge St. Suite 450  
Berkeley, CA 94704  
Tel: (510) 735-8141  
Email: [dfugere@asyousow.org](mailto:dfugere@asyousow.org)

Sincerely,

A handwritten signature in dark ink, appearing to read 'Danielle Fugere', is written over a light gray rectangular background.

Danielle Fugere

## CERTIFICATE OF MERIT

(for *As You Sow*'s Notice of Proposition 65 Violation on Whole Foods Market California, Inc. )

I, Chelsea Linsley, declare:

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.

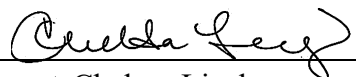
I am in-house counsel and Staff Attorney of the noticing party.

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.

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.

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: June 9, 2020

  
Chelsea Linsley

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: 2150 Kittredge Street, Ste. 450, Berkeley, CA 94704.

On June 9, 2020, 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 party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

Whole Foods Market California, Inc.  
5980 Horton St Ste 200  
Emeryville, California, 94608-2057  
United States

Whole Foods Market California, Inc.  
c/o J. T. Wells Blaxter  
Blaxter Blackman LLP  
601 California Street, Suite 1505  
San Francisco, California 94108

Whole Foods Market California, Inc.  
c/o CT Corporation System  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

On June 9, 2020, I served the following documents:

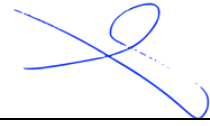
- Notice of Violation of California Health & Safety Code section 25249.5 et seq.
- Certificate of Merit

on each of the District Attorneys 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 a United States Postal Service mail box for delivery by First Class Mail.

On June 9, 2020, I served the following documents on the Attorney General using the Attorney General’s Proposition 65 electronic Notice Filing Form (<https://oag.ca.gov/prop65/add-60-day-notice>):

- 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

Executed on June 9, 2020, at Berkeley, California.

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke, positioned above a horizontal line.

---

Kwan Hong Teoh

The Honorable Nancy E. O'Malley  
Alameda County District Attorney  
1225 Fallon Street, Room 900  
Oakland, CA 94612

The Honorable Michael Atwell  
Alpine County District Attorney  
P.O. Box 248  
Markleeville, CA 96120

The Honorable Todd Riebe  
Amador County District Attorney  
708 Court St., Suite 202  
Jackson, CA 95642

The Honorable Michael Ramsey  
Butte County District Attorney  
25 County Center Drive  
Administration Building  
Oroville, CA 95965

The Honorable Barbara Yook  
Calaveras County District Attorney  
891 Mountain Ranch Rd.  
San Andreas, CA 95249

The Honorable Matthew R.  
Beauchamp  
Colusa County District Attorney  
346 Fifth St., Ste. 101  
Colusa, CA 95932

The Honorable Diana Becton  
Contra Costa County District Attorney  
900 Ward Street  
Martinez, CA 94553

The Honorable Katherine Micks  
Del Norte County District Attorney  
450 H St., Suite 171  
Crescent City, CA 95531

The Honorable Vernon Pierson  
El Dorado County District Attorney  
778 Pacific Street  
Placerville, CA 95667

The Honorable Lisa Smittcamp  
Fresno County District Attorney  
2220 Tulare St., Suite 1000  
Fresno, CA 93721

The Honorable Dwayne Stewart  
Glenn County District Attorney  
P.O. Box 430  
Willows, CA 95988

The Honorable Maggie Fleming  
Humboldt County District Attorney  
825 Fifth St., Floor 4  
Eureka, CA 95501

The Honorable Gilbert Otero  
Imperial County District Attorney  
940 West Main St., Suite 102  
El Centro, CA 92243

The Honorable Thomas L. Hardy  
Inyo County District Attorney  
168 North Edwards  
Independence, CA 93526

The Honorable Cynthia Zimmer  
Kern County District Attorney  
1215 Truxtun Ave.  
Bakersfield, CA 93301

The Honorable Keith Fagundes  
Kings County District Attorney  
1400 West Lacey Blvd.  
Hanford, CA 93230

The Honorable Susan Kronos  
Lake County District Attorney  
255 North Forbes St.  
Lakeport, CA 95453

The Honorable S. Melyssah Rios  
Lassen County District Attorney  
2950 Riverside Drive, Suite 102  
Susanville, CA 96130

The Honorable Jackie Lacey  
Los Angeles County District Attorney  
211 West Temple St., Ste. 1200  
Los Angeles, CA 90012

Mike Feuer  
Los Angeles City Attorney's Office  
City Hall East  
200 N. Main Street, Rm. 800  
Los Angeles, CA 90012

The Honorable Sally Moreno  
Madera County District Attorney  
209 West Yosemite Ave.  
Madera, CA 93637

The Honorable Lori Frugoli  
Marin County District Attorney  
3501 Civic Center Dr., Room 130  
San Rafael, CA 94903-4164

The Honorable Walter Wall  
Mariposa County District Attorney  
P.O. Box 730  
Mariposa, CA 95338

The Honorable C. David Eyster  
Mendocino County District Attorney  
P.O. Box 1000  
Ukiah, CA 95482

The Honorable Kimberly Lewis  
Merced County District Attorney  
550 West Main Street  
Merced, CA 95340

The Honorable Sam Kylo  
Modoc County District Attorney  
204 South Court St., Room 202  
Alturas, CA 96101-4020

The Honorable Tim Kendall  
Mono County District Attorney  
P.O. Box 2053  
Mammoth Lakes, CA 93546

The Honorable Jeanine Pacioni  
Monterey County District Attorney  
P.O. Box 1131  
Salinas, CA 93902

The Honorable Allison Haley  
Napa County District Attorney  
1127 First Street, Suite C  
Napa, CA 94559

The Honorable Clifford Newell  
Nevada County District Attorney  
201 Commercial St.  
Nevada City, CA 95959

The Honorable Todd Spitzer  
Orange County District Attorney  
401 Civic Center Dr. West  
Santa Ana, CA 92701

The Honorable Michael Hestrin  
Riverside County District Attorney  
3960 Orange St.  
Riverside, CA 92501

The Honorable Anne Marie Schubert  
Sacramento County District Attorney  
901 G Street  
Sacramento, CA 95814

The Honorable Candice Hooper-  
Mancino  
San Benito County District Attorney  
419 Fourth Street  
Hollister, CA 95023

The Honorable Jason Anderson  
San Bernardino County District  
Attorney  
303 West Third St.  
San Bernardino, CA 92415

Mara W. Elliot  
San Diego City Attorney's Office  
1200 Third Ave., Suite 1620  
San Diego, CA 92101

The Honorable Summer Stephan  
San Diego County District Attorney  
330 West Broadway, Suite 1300  
San Diego, CA 92101

The Honorable George Gascón  
San Francisco County District Attorney  
880 Bryant St., Floor 3  
San Francisco, CA 94103

Dennis Herrera  
San Francisco City Attorney's Office  
City Hall, Room 234,  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

The Honorable Tori Verber Salazar  
San Joaquin County District Attorney  
P.O. Box 990  
Stockton, CA 95201-0990

The Honorable R. Scott Owens  
Placer County District Attorney  
10810 Justice Center Dr., Suite 240  
Roseville, CA 95678

Richard Doyle  
San Jose City Attorney's Office  
200 East Santa Clara St.  
San Jose, CA 95113

The Honorable Dan Dow  
San Luis Obispo County District  
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Courthouse Annex, 4th Floor  
San Luis Obispo, CA 93408

The Honorable Stephen M. Wagstaffe  
San Mateo County District Attorney  
400 County Center, Floor 3  
Redwood City, CA 94063

The Honorable Joyce Dudley  
Santa Barbara County District  
Attorney  
1112 Santa Barbara St.  
Santa Barbara, CA 93101

The Honorable Jeffrey F. Rosen  
Santa Clara County District Attorney  
70 West Hedding St., West Wing  
San Jose, CA 95110

The Honorable Jeffrey S. Rosell  
Santa Cruz County District Attorney  
701 Ocean St., Room 200  
Santa Cruz, CA 95060

The Honorable Stephanie A. Bridgett  
Shasta County District Attorney  
1355 West Street  
Redding, CA 96001

The Honorable Sandra Groven  
Sierra County District Attorney  
P.O. Box 457  
Downieville, CA 95936

The Honorable J. Kirk Andrus  
Siskiyou County District Attorney  
P.O. Box 986  
Yreka, CA 96097

The Honorable David D. Hollister  
Plumas County District Attorney  
520 Main St., Room 404  
Quincy, CA 95971

The Honorable Krishna A. Abrams  
Solano County District Attorney  
675 Texas St., Suite 4500  
Fairfield, CA 94533

The Honorable Jill Ravitch  
Sonoma County District Attorney  
600 Administration Dr., Room 212-J  
Santa Rosa, CA 95403

The Honorable Birgit Fladager  
Stanislaus County District Attorney  
832 12th St., Ste. 300  
Modesto, CA 95353

The Honorable Amanda L. Hopper  
Sutter County District Attorney  
463 Second St., #102  
Yuba City, CA 95991

The Honorable Matthew Rogers  
Tehama County District Attorney P.O.  
Box 519 Red Bluff, CA 96080

The Honorable Donna Daly  
Trinity County District Attorney  
P.O. Box 310  
11 Court Street  
Weaverville, CA 96093

The Honorable Tim Ward  
Tulare County District Attorney  
221 South Mooney Blvd., Room 224  
Visalia, CA 93291

The Honorable Laura Krieg  
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423 North Washington St.  
Sonora, CA 95370

The Honorable Gregory Totten  
Ventura County District Attorney  
800 South Victoria Ave., Suite 314  
Ventura, CA 93009



The Honorable Jeff Reisig  
Yolo County District Attorney  
301 Second St.  
Woodland, CA 95695

The Honorable Clint Curry Yuba  
County District Attorney 215 Fifth St.,  
Suite 152 Marysville, CA 95901