

NOTICE OF VIOLATION

California Safe Drinking Water and Toxic Enforcement Act

Lead in Saladitos

June 15, 2021

This Notice of Violation (the Notice) is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d).

- For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, see the attached summary provided by the California EPA (copies not provided to public enforcement agencies).
- This Notice is provided by the Environmental Democracy Project (EDP), 1267 Willis St., Suite 200, Redding, California 96001, (415) 658-5848. EDP is a nonprofit corporation dedicated to, among other things, holding corporations accountable for exposing consumers to toxic chemicals. John Banister is EDP's Chief Executive Officer. He is a responsible individual within EDP for purposes of this Notice.

Description of Violation:

- Violators: The names and addresses of the violators are:

El Super Leon Ponchin Snacks, Inc.
2545 Britannia Blvd., San Diego, CA 92154

Walmart.com USA LLC
702 SW 8th Street
Bentonville, AR 72716

- Time Period of Exposure: The violations have been occurring since at least June 15, 2020, and are ongoing.
- Provision of Proposition 65: This Notice covers California Health and Safety Code Section 25249.6's warning provision.
- Chemical(s) Involved: The name of the listed chemical involved in these violations is lead and lead compounds (collectively, Lead).

Lead is listed under Proposition 65 as a chemical known to the State of California to cause cancer, developmental, and reproductive toxicity. Exposures to Lead occur from the ingestion of saladitos.

- Type of Product: The specific type of product causing these violations is saladitos. Saladitos are plums that are dried or covered with salt, sugar, or chili. Saladitos are eaten as candy or snack foods. Non-exclusive examples of this specific type of product are: El Super Leon Saladitos (with Chili and Chamoy) salted dried plums, UPC No. 8-52605-00408-8.
- Description of Exposure: This Notice addresses consumer exposures to Lead. Consumption of saladitos results in human exposures to Lead. The route of exposure for the violations is direct ingestion pursuant to suggested and prescribed ingestion methods and serving sizes recommended by the manufacturer. Individuals in California are exposed to significant amounts of Lead when they ingest the saladitos sold by the violators identified above. No clear and reasonable warning is provided with these products regarding the carcinogenic hazards and reproductive toxicity of Lead.

Resolution of Noticed Claims:

Based on the allegations set forth in this Notice, EDP intends to file a citizen enforcement lawsuit against each violator unless it agrees in a binding written instrument to: (1) recall products already sold; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249.7(b). If El Super Leon Ponchin Snacks, Inc. and Walmart.com USA LLC are interested in resolving this dispute without resort to litigation, please feel free to contact EDP through its counsel identified below. It should be noted that EDP cannot: (1) finalize any settlement until after the 60-day notice period has expired; nor (2) speak for the Attorney General or any District or City Attorney who received EDP's 60-day Notice. Therefore, while reaching an agreement with EDP will resolve EDP's claims, such agreement may not satisfy the public prosecutors.

Preservation of Relevant Evidence:

This Notice also serves as a demand that each alleged violator preserve and maintain all relevant evidence, including all electronic documents and data, pending resolution of this matter. Such

relevant evidence includes but is not limited to all documents relating to the presence or potential presence of Lead in Saladitos; purchase and sales information for such products; efforts to comply with Proposition 65 with respect to such products; communications with any person relating to the presence or potential presence of Lead in such products; and representative exemplars of each unit of any such products sold by each alleged violator in the year preceding this Notice through the date of any trial of the claims alleged in this Notice.

Please direct any inquiries regarding this Notice to EDP's counsel Lucas Williams at Williams Environmental Law, 490 43rd Street, #23, Oakland, California 94609, (707) 849-5198, Lucas@williams-envirolaw.com

EXHIBIT 1
June 15, 2021 Notice of Violation
Lead in Saladitos

Names of Responsible Parties	Non-Exclusive Examples of the Products	Style, SKU, UPC or Further Description
El Super Leon Ponchin Snacks, Inc.	El Super Leon Saladitos, (with Chili and Chamoy)	Saladitos: 1.05 oz. Bag UPC: 8-52605-00408-8
Walmart.com USA LLC	El Super Leon Saladitos, (with Chili and Chamoy)	Saladitos: 1.05 oz. Bag UPC: 8-52605-00408-8

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Lucas Williams, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that the parties identified in the notice have violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney with Williams Environmental Law, and I represent the noticing party, the Environmental Democracy Project.

3. Members of my firm, co-counsel, and 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 chemical that is the subject of the action.

4. Based on the information obtained through those consultations, 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 plaintiff’s case can be established and the information did not prove that the alleged violators will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of the 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 & 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.

June 15, 2021



Lucas Williams
Attorney for ENVIRONMENTAL
DEMOCRACY PROJECT

PROOF OF SERVICE

I, Jacob Janzen, declare:

I am a citizen of the United States and employed in the County of Alameda, State of California. I am over the age of eighteen (18) years and not a party to this action. My business address is 490 43rd Street, #23, Oakland, CA 94609 and my email address is jake@williams-envirolaw.com.

On June 15, 2021 I served the following document(s) as indicated below:

NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

CERTIFICATE OF MERIT; and

THE SAFE DRINKING AND TOXIC ENFORCEMENT ACT OF 1986

(PROPOSITION 65): A SUMMARY (only sent to those on service list marked with an asterisk).

BY MAIL: I am readily familiar with the firm's practice for collecting and processing mail with the United States Postal Service ("USPS"). Under that practice, mail would be deposited with USPS that same day with postage thereon fully prepaid at Oakland, California in the ordinary course of business. On this date, I placed sealed envelopes containing the above mentioned documents for collection and mailing following my firm's ordinary business practices addressed to the recipients and addresses indicated on the attached Service List.

BY ELECTRONIC MAIL: I transmitted a PDF version of the document(s) listed above via email to the following email addresses before 5 p.m. on the date executed:

Stacey Grassini, Deputy District Attorney
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Martinez, CA 94553
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Thomas L. Hardy, District Attorney
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Barbara Yook, District Attorney
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 15, 2021 at Oakland, California.

Jacob Janzen 

SERVICE LIST

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P.O. Box 248
Markleeville, CA 96120

District Attorney of Amador County
708 Court Street, Ste.
202 Jackson, CA 95642

District Attorney of Butte County
Administration Building
25 County Center Drive Oroville, CA 95965

District Attorney of Colusa County
346 Fifth Street, Suite 101
Colusa, CA 95932

District Attorney of Del Norte County
450 H Street, Ste. 171
Crescent City, CA 95531

District Attorney of El Dorado County
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Placerville, CA 95667

District Attorney of Fresno County
2220 Tulare Street, Ste. 1000
Fresno, CA 93721

District Attorney of Glenn County
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Willows, CA 95988

District Attorney of Humboldt County
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Eureka, CA 95501

District Attorney of Imperial County
939 Main Street, Ste. 102
El Centro, CA 92243

District Attorney of Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney of Kings County
1400 West Lacey Blvd.
Hanford, CA 93230

District Attorney of Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney of Los Angeles County
Hall of Justice
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Los Angeles, CA 90012-3210

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San Bernardino, CA 92415

District Attorney of San Mateo County
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Redwood City, CA 94063

District Attorney of Shasta County
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Redding, CA 96001

District Attorney of Sierra County
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District Attorney of Siskiyou County
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Modesto, CA 95354

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District Attorney of Trinity County
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Weaverville, CA 96093

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Sonora, CA 95370

District Attorney of Yuba County
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Marysville, CA 95901

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

San Jose City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

California Attorney General's Office
Attention: Proposition 65 Coordinator and
Robert Thomas
1515 Clay Street, Ste. 2000
P.O. Box 70550
Oakland, CA 94612-0550

El Super Leon Ponchin Snacks, Inc.*
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