

## 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:

**Candies Tolteca**  
2272 S. East Avenue  
Fresno, California 93721

**Cardenas Markets, LLC**  
2501 E. Guasti Road  
Ontario, CA 91761

- 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 food snacks. Non-exclusive examples of this specific type of product are: Tolteca Saladitos Con Chile Y Limon, UPC No. 7-04927-60070-0 and Tolteca Saladitos Salted Dried Plums, UPC No. 7-04927-6069-4.
- 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 saladitos sold by Candies Tolteca and Cardenas Markets, LLC. 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 Candies Tolteca or Cardenas Markets, 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 43<sup>rd</sup> Street, #23, Oakland, California 94609, (707) 849-5198, [Lucas@williams-envirolaw.com](mailto:Lucas@williams-envirolaw.com)

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

<b>Names of Responsible Parties</b>	<b>Non-Exclusive Examples of the Products</b>	<b>Style, SKU, UPC or Further Description</b>
<b>Candies Tolteca</b>	Tolteca Saladitos Con Chile y Limon	42.5 Gram Bag UPC: 7-04927-60070-0
	Tolteca Saladitos Salted Dried Plum	42.5 Gram Bag UPC: 7-04927-60069-4
<b>Cardenas Markets, LLC</b>	Tolteca Saladitos Con Chile y Limon	42.5 Gram Bag UPC: 7-04927-60070-0
	Tolteca Saladitos Salted Dried Plum	42.5 Gram Bag UPC: 7-04927-60069-4

**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



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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  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

Thomas L. Hardy, District Attorney  
168 North Edwards Street  
Independence, CA 93526  
inyoda@inyocounty.us

Michelle Latimer, Program Coordinator  
Lassen County  
220 S. Lassen Street  
Susanville, CA 96130  
mlatimer@co.lassen.ca.us

Bud Porter  
Supervising Deputy District Attorney  
Santa Clara County  
70 West Hedding Street, West Wing  
San Jose, CA 95110  
epu@da.sccgov.org

Allison Haley, District Attorney  
Napa County  
1127 First Street, Suite C  
Napa, CA 94559  
CEPD@countyofnapa.org

Stephan R. Passalacqua, District Attorney  
Sonoma County  
600 Administration Drive, Rm. 212J  
Santa Rosa, CA 95403  
jbarnes@sonoma-county.org

Phillip J. Cline, District Attorney  
Tulare County  
221 S. Mooney Blvd  
Visalia, CA 95370  
Prop65@co.tulare.ca.us

Paul E. Zellerbach, District Attorney  
Riverside County  
3072 Orange Street  
Riverside, CA 92501  
Prop65@rivcoda.org

Jeff W. Reisig, District Attorney  
Yolo County  
301 Second Street  
Woodland, CA 95338  
cfepd@yolocounty.org

Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

Kimberley Lewis, District Attorney  
Merced County  
550 West Main Street  
Merced, CA 95340  
Prop65@countyofmerced.com

Jannine M Pacioni, Deputy DA  
Monterey County  
1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

Clifford H. Newell, District Attorney  
Nevada County  
201 Commercial Street  
Nevada City, CA 95959  
DA.prop65@co.nevada.ca.us

Morgan Briggs Gire, District Attorney  
Placer County  
10810 Justice Center Drive, Suite 240  
Roseville, CA 95678  
Prop65@placer.ca.gov

David Hollister, District Attorney  
Plumas County  
520 Main Street  
Quincy, CA 95971  
davidhollister@countyofplumas.com

Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

Christopher Dalbey, Deputy District  
Attorney, Santa Barbara County  
1112 Santa Barbara Street  
Santa Barbara, CA 93101  
DAProp65@co.santa-barbara.ca.us

Valery Lopez, Deputy City Attorney  
1390 Market Street, 7<sup>th</sup> Floor  
San Francisco, CA 94102  
Valerie.lopez@sfcityattorney.org

Summer Stephan, District Attorney  
San Diego County  
330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdcca.org

Mark Ankcorn, Deputy City Attorney  
San Diego County  
1200 Third Avenue  
San Diego, CA 92101  
CityAttyProp65@sandiego.gov

Gregory D. Totten, District Attorney  
Ventura County  
800 South Victoria Avenue  
Ventura, CA 93009  
daspecialops@ventura.org

Athea M. Sargeant, Assistant DA  
350 Rhode Island Street  
San Francisco, CA 94103  
Athea.sargeant@sfgov.org

Anne Marie Schubert, District Attorney  
Sacramento Country  
901 G Street  
Sacramento, CA 95814  
Prop65@sacda.org

Eric J. Dobroth, Deputy District Attorney  
San Luis Obispo County  
County Government Center Annex, 4th Floor  
San Luis Obispo, CA 93408  
edobroth@co.slo.ca.us

Jeffrey S. Rosell, District Attorney  
Santa Cruz County  
701 Ocean Street  
Santa Cruz, CA 95060  
Prop65DA@santacruzcounty.us

Nancy O'Malley, District Attorney  
Alameda County  
7776 Oakport Street, Suite 650  
Oakland, CA 94621  
CEPDProp65@acgov.org

Barbara Yook, District Attorney  
Calaveras County  
891 Mountain Ranch Road  
San Andreas, CA 95249  
Prop65Env@co.calaveras.ca.us

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

A handwritten signature in black ink, appearing to read 'Jacob Janzen', is written over a horizontal line. The signature is stylized and cursive.



## SERVICE LIST

District Attorney of Alpine County  
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  
778 Pacific Street  
Placerville, CA 95667

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

District Attorney of Glenn County  
P.O. Box 430  
Willows, CA 95988

District Attorney of Humboldt County  
825 5th Street  
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  
211 W. Temple Street, Ste. 1200  
Los Angeles, CA 90012-3210

District Attorney of Madera County  
209 West Yosemite Avenue  
Madera, CA 93637

District Attorney of Marin County  
3501 Civic Center Drive, Rm. 130  
San Rafael, CA 94903

District Attorney of Mendocino County  
P.O. Box 1000  
Ukiah, CA 95482

District Attorney of Modoc County  
204 S. Court Street, Rm. 202  
Alturas, CA 96101-4020

District Attorney of Mono County  
P.O. Box 617  
Bridgeport, CA 93546

District Attorney of Orange County  
401 Civic Center Drive  
West Santa Ana, CA 92701

District Attorney of San Benito County  
419 Fourth Street, 2nd Fl.  
Hollister, CA 95023

District Attorney of San Bernardino County  
316 N. Mountain View Avenue  
San Bernardino, CA 92415

District Attorney of San Mateo County  
400 County Center, 3rd Fl.  
Redwood City, CA 94063

District Attorney of Shasta County  
1355 West Street  
Redding, CA 96001

District Attorney of Sierra County  
Courthouse  
100 Courthouse Sq., 2nd Fl.  
Downieville, CA 95936

District Attorney of Siskiyou County  
P.O. Box 986  
Yreka, CA 96097

District Attorney of Solano County  
675 Texas Street, Ste. 4500  
Fairfield, CA 94533

District Attorney of Stanislaus County  
832 12th Street, Ste. 300  
Modesto, CA 95354

District Attorney of Sutter County  
446 Second Street  
Yuba City, CA 95991

District Attorney of Tehama County  
P.O. Box 519  
Red Bluff, CA 96080

District Attorney of Trinity County  
P.O. Box 310  
11 Court Street  
Weaverville, CA 96093

District Attorney of Tuolumne County  
423 N. Washington Street  
Sonora, CA 95370

District Attorney of Yuba County  
215 Fifth Street  
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

Candies Tolteca\*  
c/o Aaron Ordaz (CEO)  
P.O. Box 4729  
Fresno, California 93744

Cardenas Markets, LLC\*  
c/o James Douglas Sanders (CEO)  
2501 E. Gausti Road  
Ontario, California 91761