

# AVJUSTICE LAW FIRM

A Professional Law Corporation  
714 W. Olympic Blvd Suite #450 Los Angeles, CA 90015

Telephone: (323)744-1671  
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antonio@avjustice.com  
<http://www.avjustice.com>

February 9, 2022

## NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE SECTION 25249.5 *ET SEQ.* (PROPOSITION 65)

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

We represent Keep America Safe and Beautiful ("KASB"), 13891 Yockey Street, Garden Grove, California 92844. KASB's Executive Director is Ngoc-Bich Hoang Vo. KASB is a California non-profit corporation dedicated to, among other causes, helping safeguard the public from health hazards by bringing about a reduction in the use and misuse of hazardous and toxic chemicals, facilitating a safe environment for consumers and employees, and encouraging corporate responsibility.

KASB has identified violations of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), which is codified at California Health & Safety Code §25249.5 et seq., with respect to the products identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with these products. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), KASB intends to pursue a private enforcement action in the public interest 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

### **General Information about Proposition 65.**

A copy of a summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with this letter served to the alleged Violators identified below.

### **Alleged Violators.**

The names of the person/company covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Natierra  
7535 Woodman Place  
Van Nuys, CA 91405

Whole Foods Market California, Inc.  
5980 Horton Street, Suite 200  
Emeryville, CA 94608

Amazon.com, Inc. and Amazon.com Services LLC  
410 Terry Avenue N.  
Seattle, Washington 98109

**Consumer Products and Listed Chemical.**

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are: Natierra Himalania Dark Chocolate Covered Goji Berries.

On February 27, 1987, the State of California officially listed lead as a chemical known to cause developmental toxicity, and male and female reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

It should be noted that KASB may continue to investigate other products that may reveal further violations and result in subsequent notices of violations.

**Route of Exposure.**

The consumer exposures that are the subject of this notice result from the recommended use of these products. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

**Approximate Time Period of Violations.**

Ongoing violations have occurred every day since at least July 28, 2021, as well as every day since the products were introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the products. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

Consistent with the public interest goals of Proposition 65 and a desire to have these ongoing violations of California law quickly rectified, KASB is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of these products; (2) pay an appropriate civil penalty; and (3) provide clear and reasonable warnings compliant with Proposition 65 to all persons located in California who purchased the above products in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

KASB has retained us as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at [padilla@avjustice.com](mailto:padilla@avjustice.com)**

Sincerely,

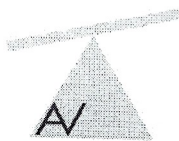


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Arturo Padilla

Attachments:

Certificate of Merit  
Certificate of Service  
OEHHA Summary (to Alleged Violators only)  
Factual Information in Support of Certificate of Merit (to AG only)



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February 9, 2022

## CERTIFICATE OF MERIT

**Re: Keep America Safe and Beautiful Notice of Proposition 65 Violation by Natierra, Whole Foods Market, Amazon.com, Inc. and Amazon.com Services LLC**

I, Arturo Padilla, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the notice.
4. I have reviewed the laboratory testing results for the chemical subject to the Notice and rely on these results. The testing was conducted by a reputable accredited testing laboratory and by experienced scientists with doctoral and other degrees in relevant sciences. The facts, studies and other data derived through this investigation overwhelmingly demonstrate that the alleged violators have exposed persons to the listed chemical that is the subject of the Notice and is known to the State of California to cause reproductive and/or developmental harm, and/or cancer.
5. 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 that the information did not prove that the alleged Violators will be able to establish any of the affirmative defenses set forth in the statute.
6. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identities or persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: February 9, 2022

Arturo Padilla



**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 of age. My business address is 714 W. Olympic Blvd., Suite 450, Los Angeles, CA 90015. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

On February 9, 2022, between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents:

**NOTICE OF VIOLATION OF CALIFORNIA HEALTH & SAFETY CODE §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 each of the parties listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified First Class Mail:

Current President or CEO of Natierra  
7535 Woodman Place  
Van Nuys, CA 91405

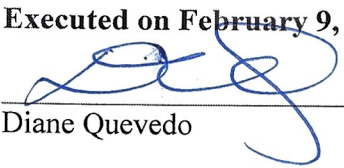
Current President or CEO of Whole Foods Market California, Inc.  
5980 Horton Street, Suite 200  
Emeryville, CA 94608

Current President or CEO of Whole Foods Market California, Inc.  
c/o CT Corporation System  
330 N. Brand Blvd., Suite 700  
Glendale, CA 91203

Current President or CEO Amazon.com, Inc. and Amazon.com Services LLC  
c/o Corporation Service Company  
2710 Gateway Oaks Drive, Suite 150N  
Sacramento, CA 95833

Jeff Bezos and Michael D. Deal or Current President or CEO of Amazon, Inc. and  
Amazon.com Services LLC  
410 Terry Avenue N.  
Seattle, Washington 98109

**Executed on February 9, 2022, in Los Angeles, California.**

  
\_\_\_\_\_  
Diane Quevedo

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

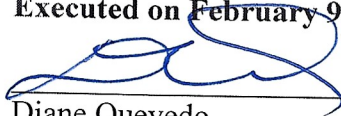
I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States and over the age of 18 years of age. My business address is 714 W. Olympic Blvd., Suite 450, Los Angeles, CA 90015. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

On February 9, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT INCLUDING A SUMMARY OF CONFIDENTIAL FACTUAL INFORMATION; ADDITIONAL SUPPORTING INFORMATION FOR CERTIFICATE OF MERIT AS REQUIRED BY CALIFORNIA HEALTH & SAFETY CODE §25249.7(d)(1)** were served on the following party when a true and correct copy thereof was uploaded on the California Attorney General's website, which can be accessed at <https://oag.ca.gov/prop65/add-60-day-notice>:

Office of the California Attorney General  
Prop 65 Enforcement Reporting  
1515 Clay Street, Suite 2000  
Oakland, CA 94612-0550

Executed on February 9, 2022, in Los Angeles, California.

  
\_\_\_\_\_  
Diane Quevedo

**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

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On February 9, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** were served on the following parties when a true and correct copy thereof was sent via electronic mail to each of the parties listed below:

Nancy O'Malley, District Attorney Alameda County 7677 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
Stacey Grassini, Deputy District Attorney Contra Costa County 900 Ward Street Martinez, CA 94553 sgrassini@contracostada.org	Thomas L. Hardy, District Attorney Inyo County 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	Dije Ndreu, Deputy District Attorney Monterey County 1200 Aguajito Road Monterey, CA 93940 Prop65DA@co.monterey.ca.us
Allison Haley, District Attorney Napa County 1127 First Street, Suite C Napa, CA 94559 CEPD@countyofnapa.org	Michael Hestrin, District Attorney Riverside County 3072 Orange Street Riverside, CA 92501 Prop65@rivcoda.org
Anne Marie Schubert, District Attorney Sacramento County 901 G Street Sacramento, CA 95814 Prop65@sacda.org	Mark Ankcorn, Deputy City Attorney San Diego City Attorney 1200 Third Avenue San Diego, CA 92101 CityAttyProp65@sandiego.gov

<p>Gregory Alker, Assistant District Attorney  San Francisco County  732 Brannan Street  San Francisco, CA 94103  gregory.alker@sfgov.org</p>	<p>Valerie Lopez, Deputy City Attorney  San Francisco City Attorney  1390 Market Street, 7th Floor  San Francisco, CA 94102  Valerie.Lopez@sfcityatty.org</p>
<p>Tori Verber Salazar, District Attorney  San Joaquin County  222 E. Weber Avenue, Room 202  Stockton, CA 95202  DAConsumer.Environmental@sjcda.org</p>	<p>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</p>
<p>Christopher Dalbey, Deputy District Attorney  Santa Barbara County  1112 Santa Barbara Street  Santa Barbara, CA 93101  DAProp65@co.santa-barbara.ca.us</p>	<p>Bud Porter, Supervising Deputy District Attorney  Santa Clara County  70 W Hedding St  San Jose, CA 95110  EPU@da.sccgov.org</p>
<p>Stephan R. Passalacqua, District Attorney  Sonoma County  600 Administration Dr  Sonoma, CA 95403  jbarnes@sonoma-county.org</p>	<p>Phillip J. Cline, District Attorney  Tulare County  221 S Mooney Blvd  Visalia, CA 95370  Prop65@co.tulare.ca.us</p>
<p>Gregory D. Totten, District Attorney  Ventura County  800 S Victoria Ave  Ventura, CA 93009  daspecialops@ventura.org</p>	<p>Jeff W. Reisig, District Attorney  Yolo County  30 I Second Street  Woodland, CA 95695  cfepd@yolocounty.org</p>

**Executed on February 9, 2022, in Los Angeles, California.**



Diane Quevedo



**CERTIFICATE OF SERVICE PURSUANT TO 27 CCR § 25903**

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 of age. My business address is 714 W. Olympic Blvd., Suite 450, Los Angeles, CA 90015. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

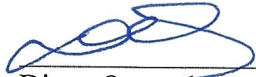
On February 9, 2022 between 8:00 a.m. and 5:00 p.m. Pacific Standard Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the Service List attached hereto, and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail

**Service List**

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Shasta County 1355 West Street Redding, CA 96001
District Attorney, Colusa County 346 Fifth Street Suite IOI Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Sierra County 100 Courthouse Square, 2 Floor Downieville, CA 95936
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097
District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Sutter County 463 2nd Street Yuba City, CA 95991
District Attorney, Humboldt County 825 5th Street 4., Floor Eureka, CA 95501	District Attorney, Orange County 300 N. Flower Street Santa Ana, CA 92703	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093

District Attorney, Kern County 1215 Tmxtun Avenue Bakersfield, CA 93301	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	Disllict Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	Distiiict Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
Distllict Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012	San Jose City Attorney's Office 200 East Santa Clara Street, 16th Floor San Jose, CA 95113
District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012		

**Executed on February 9, 2022, in Los Angeles, California.**



\_\_\_\_\_  
Diane Quevedo