



July 20, 2022

**NOTICE OF VIOLATION OF
CALIFORNIA HEALTH & SAFETY CODE § 25249.5 ET SEQ.**

Attorney General Rob Bonta
c/o Proposition 65 Coordinator
Office of the Attorney General
P.O. Box 70550
Oakland, CA 94612-0550

Re: **Cadmium in Sunflower Seed Butter Products**

Dear Attorney General,

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 & Toxic Enforcement Act of 1986 (“Proposition 65”), codified at Health & Safety Code section 25249.5 et seq; specifically 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 ...” This letter serves to provide notification of these violations to Tribe 9 Foods, LLC and public enforcement agencies. 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 violator(s). The names of the violator(s) covered by this notice are:

- Tribe 9 Foods, LLC

Chemical(s). These violations involve exposures to cadmium from the products listed below. The State of California has officially listed cadmium as cadmium is known to cause cancer and birth defects or reproductive harm. *See* Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, available at http://oehha.ca.gov/prop65/prop65_list/Newlist.html.

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

- YumButter Organic Sunflower Butter Creamy

which are manufactured, distributed and/or sold in California by Tribe 9 Foods, LLC.

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 hazards of cadmium.

Duration of violation. These ongoing violations have occurred on every day since at least July 20, 2021, 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 cadmium levels 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. If you are interested in discussing this issue, please contact Jonathan Kirkland at jkirkland@asyousow.org or (510) 735-8158 x734.

Sincerely,



Danielle Fugere

CERTIFICATE OF MERIT

(for *As You Sow*'s Notice of Proposition 65 Violation on Tribe 9 Foods, LLC)

I, Jonathan Kirkland, 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 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 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: July 20, 2022



Jonathan Kirkland

Enclosure (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: Main Post Office, P.O. Box 751, Berkeley, CA 94701.

On July 20, 2022, 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:

COMPANY’S ADDRESS	Tribe 9 Foods, LLC c/o Thomas J. Nichols, Registered Agent 14555 Juneau Blvd Elm Grove, WI 53122-1667
----------------------	---

On July 20, 2022, 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 July 20, 2022, 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 July 20, 2022, at Berkeley, California.



Jesus Diaz, MPH

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

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

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

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

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

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

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

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

The Honorable Lori Frugoli
Marin County District Attorney
3501 Civic Center Dr., Room 145
San Rafael, CA 94903-4164

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

The Honorable Thomas L. Hardy
Inyo County District Attorney
P.O. Drawer D
Independence, CA 93526

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Honorable Lisa Smittcamp
Fresno County District Attorney
2220 [Tulare St.](#), Suite 1000
Fresno, CA 93721

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

The Honorable Jesse Wilson
Nevada County District Attorney
201 Commercial St.
Nevada City, CA 95959

The Honorable Todd Spitzer
Orange County District Attorney
300 N. Flower St.
Santa Ana, CA 92703

The Honorable Morgan Briggs Gire
Placer County District Attorney
10810 Justice Center Dr., Suite 240
Roseville, CA 95678

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

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

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

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

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

The Honorable Dan Dow
San Luis Obispo County District
Attorney
1035 Palm St., 4th Floor
San Luis Obispo, CA 93408

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

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

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

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

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

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

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

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

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

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

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

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

The Honorable James E. Gandy
Trinity County District Attorney
P.O. Box 310
Weaverville, CA 96093

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

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

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

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

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

The Honorable Laura Krieg
Tuolumne County District Attorney
423 North Washington St.
Sonora, CA 95370

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

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

The Honorable Erik Nasarenko
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

The Honorable Wayne Philips
Trinity County District Attorney
P.O. Box 310
Weaverville, CA 96093

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