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August 29, 2023

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

Dear Alleged Violator and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. ERC 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.

ERC 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 Violator 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 Violator and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), ERC intends to file 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 Violator identified below.

**Alleged Violator.** The name of the company covered by this notice that violated Proposition 65 (hereinafter the "Violator") is:

**Promix Nutrition, Inc.**



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**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:

1. **Promix Pasture-raised Micellar Casein Dutch Chocolate - Lead**
2. **Promix Vegan Cereal Bars Cinnamon French Toast - Lead**
3. **Promix Vegan Protein Puff Bar Chocolate - Lead**
4. **Promix Vegan Cereal Bar Maple Waffle Crunch - Lead**
5. **Promix Pasture-raised Micellar Casein French Vanilla - Lead**
6. **Promix Recovery + Glutamine Dutch Chocolate - Lead**

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 ERC 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 August 29, 2020, 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 Violator violated Proposition 65 because it 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, ERC is interested in seeking a constructive resolution of this matter that includes an enforceable written agreement by the Violator 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.



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ERC has retained ATA Law Group as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention, or the attention of ATA partner Anthony Barnes, using the address or contact information indicated on the letterhead.**

Sincerely,

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large, stylized initial "M".

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Matthew Maclear  
**AQUA TERRA AERIS LAW GROUP**

Attachments

- Certificate of Merit
- Certificate of Service
- OEHHA Summary (to Promix Nutrition, Inc. and its Registered Agents for Service of Process only)
- Additional Supporting Information for Certificate of Merit (to AG only)



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**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Promix Nutrition, Inc.**

I, Matthew Maclear, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged that the party 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. Based on the information obtained through those consultants, 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 Violator will be able to establish any of the affirmative defenses set forth in the statute.

5. 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 identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

A handwritten signature in black ink that reads "Matthew Maclear". The signature is written in a cursive style with a large initial "M".

Dated: August 29, 2023

\_\_\_\_\_  
Matthew Maclear



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**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 306 Joy Street, Fort Oglethorpe, Georgia 30742. I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Fort Oglethorpe, Georgia.

On August 29, 2023, between 8:00 a.m. and 5:00 p.m. Eastern 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 Mail:

Current President or CEO  
Promix Nutrition, Inc.  
2613 NW 24<sup>th</sup> Terrace  
Gainesville, FL 32605

Cogency Global Inc.  
(Registered Agent for Promix Nutrition, Inc.)  
115 North Calhoun St, Ste 4  
Tallahassee, FL 32301

Cogency Global Inc.  
(Registered Agent for Promix Nutrition, Inc.)  
850 New Burton Road, Ste 201  
Dover, DE 19904

Current President or CEO  
Promix Nutrition, Inc.  
1401 N. Main St  
Gainesville, FL 32604

On August 29, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, I verified the following documents **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; 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

On August 29, 2023, between 8:00 a.m. and 5:00 p.m. Eastern 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



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Stacey Grassini, Deputy District Attorney  
Contra Costa County  
900 Ward Street  
Martinez, CA 94553  
sgrassini@contracostada.org

Lisa A. Smittcamp, District Attorney  
Fresno County  
2100 Tulare Street  
Fresno, CA 93721  
consumerprotection@fresnocountyca.gov

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

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

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

Jeannine M. Pacioni, District Attorney  
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1200 Aguajito Road  
Monterey, CA 93940  
Prop65DA@co.monterey.ca.us

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

Clifford H. Newell, District Attorney  
Nevada County  
201 Commercial St  
Nevada City, CA 95959  
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@da.ocgov.com

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

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

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

Anne Marie Schubert, District Attorney  
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Sacramento, CA 95814  
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San Diego County  
330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdca.org

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



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Alexandra Grayner, Assistant District Attorney  
San Francisco District Attorney's Office  
350 Rhode Island Street  
San Francisco, CA 94103  
Alexandra.grayner@sfgov.org

Valerie Lopez, Deputy City Attorney  
San Francisco City Attorney  
1390 Market Street, 7<sup>th</sup> Floor  
San Francisco, CA 94102  
Valerie.Lopez@sfcityatty.org  
Starla.Sousa@sfcityatty.org

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

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

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

Bud Porter, Supervising Deputy District Attorney  
Santa Clara County  
70 W Hedding St  
San Jose, CA 95110  
EPU@da.sccgov.org

Nora V. Frimann, City Attorney  
San Jose City Attorney  
200 E. Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

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

Jill Ravitch, District Attorney  
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600 Administration Dr  
Sonoma, CA 95403  
Jeannie.Barnes@sonoma-county.org

Phillip J. Cline, District Attorney  
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221 S Mooney Blvd  
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Prop65@co.tulare.ca.us

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

Jeff W. Reisig, District Attorney  
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301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org



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On August 29, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the 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.

Executed on August 29, 2023, in Fort Oglethorpe, Georgia.

A handwritten signature in black ink that reads "Phyllis Dunwoody". The signature is written in a cursive style with a large, looping initial "P".

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Phyllis Dunwoody





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### Service List

|   |  |   |
|---|--|---|
| District Attorney, Alpine County<br>P.O. Box 248<br>Markleeville, CA 96120  | District Attorney, Marin County<br>3501 Civic Center Drive, Room<br>130<br>San Rafael, CA 94903                                  | District Attorney, Tehama County<br>Post Office Box 519<br>Red Bluff, CA 96080                                    |
| District Attorney, Amador County<br>708 Court Street, Suite 202<br>Jackson, CA 95642                                  | District Attorney, Mendocino<br>County<br>Post Office Box 1000<br>Ukiah, CA 95482  | District Attorney, Trinity County<br>Post Office Box 310<br>Weaverville, CA 96093                                 |
| District Attorney, Butte County<br>25 County Center Drive, Suite<br>245<br>Oroville, CA 95965                         | District Attorney, Modoc County<br>204 S Court Street, Room 202<br>Alturas, CA 96101-4020  | District Attorney, Tuolumne<br>County<br>423 N. Washington Street<br>Sonora, CA 95370                             |
| District Attorney, Colusa County<br>310 6 <sup>th</sup> St<br>Colusa, CA 95932  | District Attorney, Mono County<br>Post Office Box 617<br>Bridgeport, CA 93517  | District Attorney, Yuba County<br>215 Fifth Street, Suite 152<br>Marysville, CA 95901                             |
| District Attorney, Del Norte<br>County<br>450 H Street, Room 171<br>Crescent City, CA 95531                           | District Attorney, San Benito<br>County<br>419 Fourth Street, 2nd Floor<br>Hollister, CA 95023                                   | Los Angeles City Attorney's<br>Office<br>City Hall East<br>200 N. Main Street, Suite 800<br>Los Angeles, CA 90012 |
| District Attorney, El Dorado<br>County<br>778 Pacific St<br>Placerville, CA 95667                                     | District Attorney, San Bernardino<br>County<br>303 West Third Street<br>San Bernardino, CA 92415                                 |   |
| District Attorney, Glenn County<br>Post Office Box 430<br>Willows, CA 95988   | District Attorney, San Mateo<br>County<br>400 County Ctr., 3rd Floor<br>Redwood City, CA 94063                                   |   |
| District Attorney, Humboldt<br>County<br>825 5th Street 4 <sup>th</sup> Floor<br>Eureka, CA 95501                     | District Attorney, Shasta County<br>1355 West Street<br>Redding, CA 96001  |   |
| District Attorney, Imperial<br>County<br>940 West Main Street, Ste 102<br>El Centro, CA 92243                         | District Attorney, Sierra County<br>Post Office Box 457<br>100 Courthouse Square, 2 <sup>nd</sup> Floor<br>Downieville, CA 95936 |   |
| District Attorney, Kern County<br>1215 Truxtun Avenue<br>Bakersfield, CA 93301  | District Attorney, Siskiyou<br>County<br>Post Office Box 986<br>Yreka, CA 96097  |   |
| District Attorney, Kings County<br>1400 West Lacey Boulevard<br>Hanford, CA 93230                                     | District Attorney, Solano County<br>675 Texas Street, Ste 4500<br>Fairfield, CA 94533  |   |
| District Attorney, Lake County<br>255 N. Forbes Street<br>Lakeport, CA 95453  | District Attorney, Stanislaus<br>County<br>832 12th Street, Ste 300<br>Modesto, CA 95354   |   |
| District Attorney, Los Angeles<br>County<br>Hall of Justice<br>211 West Temple St., Ste 1200<br>Los Angeles, CA 90012 | District Attorney, Sutter County<br>463 2 <sup>nd</sup> Street<br>Yuba City, CA 95991  |   |
| District Attorney, Madera County<br>209 West Yosemite Avenue<br>Madera, CA 93637                                      |  |   |