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6
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10 Attorneys for Defendants
11 LIVING ECOLOGY INC. and LIVING ECOLOGY
12 MANUFACTURING INC.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF ALAMEDA**

15 ENVIRONMENTAL RESEARCH
16 CENTER, a California non-profit
corporation,

17 Plaintiff,

18 v.
19

20 LIVING ECOLOGY INC., LIVING
ECOLOGY MANUFACTURING INC., and
21 DOES 1-25, Inclusive,

22 Defendants.
23

CASE NO. RG14748134

**STIPULATED CONSENT
JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: November 13, 2014

Trial Date: None set

24 **1. INTRODUCTION**

25 1.1 On November 13, 2014, Plaintiff Environmental Research Center ("ERC"), a
26 non-profit corporation, as a private enforcer, and in the public interest, initiated the action
27 captioned above by filing a Complaint for Injunctive Relief and Civil Penalties (the
28 "Complaint") pursuant to the provisions of California Health and Safety Code section 25249.5

1 *et seq.* ("Proposition 65"), against Living Ecology Inc., Living Ecology Manufacturing Inc.,
2 and Does 1-25.

3 1.2 Defendant Living Ecology Inc. is an active Nevada Corporation. Defendant
4 Living Ecology Manufacturing Inc. is an active California Corporation. Defendants Living
5 Ecology Inc. and Living Ecology Manufacturing Inc. are hereinafter collectively referred to as
6 "Living Ecology".

7 1.3 Thereafter, on July 22, 2015, ERC filed a separate Complaint for Injunctive
8 Relieve and Civil Penalties in a second action against Living Ecology, Inc. Living Ecology
9 Manufacturing, Inc. and Does 1-25, inclusive; i.e. Alameda County Superior Court Case
10 Number RG15778780. The action captioned first above, and the second action filed in
11 Alameda County Superior Court Case Number RG15778780 involve the same parties, similar
12 products, and related claims and are collectively referred to herein as the "Actions". In the
13 Actions, ERC alleges that a number of products manufactured, distributed or sold by Living
14 Ecology contain lead (a-p below), cadmium (q and r below), or both lead and cadmium (l
15 below), which are chemicals listed under Proposition 65 as carcinogens and reproductive
16 toxins, and expose consumers to these chemicals at levels requiring a Proposition 65 warning.
17 These products (referred to hereinafter individually as a "Covered Product" or collectively as
18 "Covered Products") are:

- 19 a. Bio International Organic Active Greens Powder
- 20 b. Bio International Organic Active Greens
- 21 c. Organic Food Bar Inc. Raw Organic Food Bar Cinnamon Raisin
- 22 d. Organic Food Bar Inc. Raw Organic Food Bar Chocolatey Chocolate
23 Chip
- 24 e. Organic Food Bar Inc. Organic Food Bar Chocolate Covered
25 Active Greens
- 26 f. Organic Food Bar Inc. Organic Food Bar Active Greens- Protein
27 Chocolate Covered
- 28 g. Organic Food Bar Inc. Organic Food Bar Active Greens

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- 1 h. Organic Food Bar Inc. Organic Food Bar Active Greens Chocolate
- 2 i. Organic Food Bar Inc. Organic Food Bar Original
- 3 j. Organic Food Bar Inc. Organic Food Bar Protein
- 4 k. Organic Food Bar Inc. Organic Food Bar Vegan
- 5 l. Organic Food Bar Inc. OFB Vegan Protein Vanilla
- 6 m. Organic Food Bar Inc. OFB Vegan Protein Strawberry
- 7 n. Organic Food Bar Inc. OFB Vegan Protein Chocolate
- 8 o. Organic Food Bar Inc. OFB Whey Protein Strawberry
- 9 p. Organic Food Bar Inc. OFB Whey Protein Vanilla
- 10 q. Organic Food Bar Inc. Organic Food Bar High Energy Protein
- 11 r. Organic Food Bar Inc. Organic Food Bar High Energy Vegan

12 1.4 ERC and Living Ecology are hereinafter referred to individually as a "Party" or
13 collectively as the "Parties."

14 1.5 ERC is a California non-profit corporation dedicated to, among other causes,
15 helping safeguard the public from health hazards by reducing the use and misuse of hazardous
16 and toxic chemicals, facilitating a safe environment for consumers and employees, and
17 encouraging corporate responsibility.

18 1.6 For purposes of this Consent Judgment, the Parties agree that Living Ecology is a
19 business entity that has employed ten or more persons at all times relevant to this action, and
20 qualifies as a "person in the course of business" within the meaning of Proposition 65. Living
21 Ecology manufactures, distributes or sells the Covered Products.

22 1.7 The Actions are based on allegations contained in ERC's Notices of Violation
23 dated January 31, 2014 and April 4, 2014, and April 10, 2015 that were served on the
24 California Attorney General, other public enforcers, and Living Ecology (the "Notices"). True
25 and correct copies of the Notices are attached as Exhibit A and are hereby incorporated by
26 reference. More than 60 days have passed since the Notices were mailed and uploaded to the
27 Attorney General's website, and no designated governmental entity has filed a complaint
28 against Living Ecology with regard to the Covered Products or the alleged violations.

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1 1.8 ERC's Notices and Complaint allege that use or consumption of the Covered
2 Products exposes persons in California to lead and/or cadmium without first providing clear
3 and reasonable warnings in violation of California Health and Safety Code section 25249.6.
4 Living Ecology denies all material allegations contained in the Notices and the Complaint.

5 1.9 The Parties have entered into this Consent Judgment in order to settle,
6 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.
7 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of
8 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,
9 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,
10 distributors, wholesalers, or retailers. Except for the representations made above, nothing in
11 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of
12 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an
13 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any
14 purpose.

15 1.10 Except as expressly set forth herein, nothing in this Consent Judgment shall
16 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any
17 other or future legal proceeding unrelated to these proceedings, the Actions, or the Covered
18 Products.

19 1.11 The Effective Date of this Consent Judgment is the date on which it is entered
20 as a Judgment by this Court.

21 **2. JURISDICTION AND VENUE**

22 For purposes of this Consent Judgment and any further court action that may become
23 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
24 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction
25 over Living Ecology as to the acts alleged in the Complaint, that venue is proper in Alameda
26 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final
27 compromise and resolution of all claims up through and including the Effective Date which were
28 or could have been asserted in this action based on the facts alleged in the Notices and Complaint.

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1 **3. INJUNCTIVE RELIEF AND WARNINGS**

2 **3.1** Beginning four (4) months following the Effective Date (the "Compliance
3 Date"), Living Ecology shall be permanently enjoined from manufacturing for sale in the State
4 of California, "Distributing into the State of California", or directly selling in the State of
5 California, any Covered Product which exposes a person to a "Daily Lead Exposure Level" of
6 more than 0.5 micrograms per day of lead or "Daily Cadmium Exposure Level" of more than
7 4.10 micrograms per day of cadmium when the maximum suggested dose is taken as directed
8 on the Covered Product's label excluding the lead deemed "naturally occurring" for purposes
9 of this Consent Judgment only pursuant to Section 3, unless it meets the warning requirements
10 under Section 3.2.

11 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State
12 of California" shall mean to directly ship a Covered Product into California for sale in
13 California or to sell a Covered Product to a distributor that Living Ecology knows will sell the
14 Covered Product in California.

15 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure
16 Level" and "Daily Cadmium Exposure Level" shall be measured in micrograms, and shall be
17 calculated using the following formula: micrograms of lead or cadmium per gram of product,
18 multiplied by grams of product per serving of the product (using the largest serving size
19 appearing on the product label), multiplied by the servings of the product per day (using the
20 largest number of servings in a recommended dosage appearing on the product label), which
21 equals micrograms of lead or cadmium exposure per day.

22 **3.1.3** For purposes of Section 3, the term "no more than 0.5 micrograms of
23 lead per day" means that there is not more than 0.5 micrograms of lead when calculated using
24 the formula in Section 3.1.2 after subtracting the amount of lead deemed to be "naturally
25 occurring" for purposes of this Consent Judgment only for the ingredient cocoa powder as
26 listed in Table 3 below. The amount of lead deemed "naturally occurring" listed in Table 3 is in
27 micrograms of "naturally occurring" lead per gram of the ingredient that is contained in the
28 Covered Product.

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TABLE 3

Ingredient		Amount of lead per gram of ingredient deemed naturally occurring
Cocoa powder		1.0 micrograms/gram

3.1.4. If Living Ecology uses Table 3 to calculate the amount of naturally occurring lead in a Covered Product, then Living Ecology must submit to ERC, prior to the Compliance Date, a complete list showing all the ingredients in that Covered Product including the ingredients from Table 3, that are being used in the Covered Product as well as the percentage and the amount in grams of each ingredient contained in the Covered Product. Living Ecology may update this list from time to time and will be entitled to submit this information to ERC confidentially.

3.2 Clear and Reasonable Warnings

If Living Ecology is required to provide a warning pursuant to Section 3.1, the following warning must be utilized:

WARNING: This product contains [a] chemical[s] known to the State of California to cause [cancer and] birth defects or other reproductive harm.

Living Ecology shall use the phrase "cancer and" in the warning only if the maximum daily dose recommended on the label contains more than 15 micrograms of lead. The term "a chemical" shall be used when Living Ecology has identified one Proposition 65 chemical in the Covered Product while the phrase "chemicals" shall be utilized when more than one Proposition 65 chemical has been identified by Living Ecology in the Covered Product.

The warning shall be securely affixed to or printed upon the container or label of each Covered Product. The warning shall be at least the same size as the largest of any other health or safety warnings also appearing on its website or on the label or container of Living Ecology's product packaging and the word "WARNING" shall be in all capital letters and in bold print. No other statements about Proposition 65 or lead or cadmium may be contained in the Warning.

Living Ecology must display the above warnings with such conspicuousness, as compared

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1 with other words, statements, or design of the label or container, as applicable, to render the
2 warning likely to be read and understood by an ordinary individual under customary conditions of
3 purchase or use of the product.

4 4. SETTLEMENT PAYMENT

5 4.1 In full satisfaction of all potential civil penalties, payment in lieu of civil
6 penalties, attorney's fees, and costs claimable in the Actions, Living Ecology shall make a total
7 of \$225,000.00 ("Total Settlement Amount") in settlement payments to ERC on the following
8 schedule: An initial payment of \$37,500.00 shall be made to ERC within five (5) days of the
9 Effective Date, followed by five (5) consecutive monthly payments in the amount of
10 \$37,500.00 due and owing no later than the 15th of each month after the month the first
11 payment is made. Living Ecology shall make these payments by wire transfer to ERC's escrow
12 account, for which ERC will give Living Ecology the necessary account information. The
13 Total Settlement Amount shall be apportioned as follows:

14 4.2 \$81,688.00 shall be considered a civil penalty pursuant to California Health and
15 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$61,266.00) of the civil penalty to the
16 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
17 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
18 Code §25249.12(c). ERC will retain the remaining 25% (\$20,422.00) of the civil penalty.

19 4.3 \$11,737.45 shall be distributed to ERC as reimbursement to ERC for reasonable
20 costs incurred in bringing this action.

21 4.4 \$61,538.80 shall be distributed to ERC in lieu of further civil penalties, for the
22 day-to-day business activities such as (1) continued enforcement of Proposition 65, which
23 includes work, analyzing, researching and testing consumer products that may contain
24 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are
25 the subject matter of the current action; (2) the continued monitoring of past consent judgments
26 and settlements to ensure companies are in compliance with Proposition 65; and (3) giving a
27 donation of \$3,075.00 to the Global Community Monitor to address reducing toxic chemical
28 exposures in California.

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1 4.5 \$44,555.00 shall be distributed to William F. Wraith as reimbursement of ERC's
2 attorney's fees, while \$25,480.75 shall be distributed to ERC for its in-house legal fees.

3 4.6 In the event that Living Ecology fails to pay the Total Settlement Amount on or
4 before the date that it is due and owing pursuant to section 4.1 above, then ERC will provide
5 Defendant with ten days' written notice of default. If the Settling Defendant fails to cure the
6 default within ten days, then at the option of ERC, all unpaid balances due pursuant to section 4
7 shall be accelerated, and shall become immediately due and payable, with interest thereon as
8 specified in section 685.010 of the Code of Civil Procedure, commencing to accrue on the
9 entire remaining unpaid balance as of the first day after the ten-day notice has expired.
10 California Code of Civil Procedure section 1013, and the extensions provided therein, shall not
11 apply to nor extend any deadline referred to in this paragraph. If ERC waives the optional
12 acceleration as to any one or more default(s) in payment, the waiver or waivers shall not
13 constitute a waiver of this option in the event of any other default.

14 **5. MODIFICATION OF CONSENT JUDGMENT**

15 5.1 This Consent Judgment may be modified only (i) by written stipulation of the
16 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent
17 judgment.

18 5.2 If Living Ecology seeks to modify this Consent Judgment under Section 5.1,
19 then Living Ecology must provide written notice to ERC of its intent ("Notice of Intent"). If
20 ERC seeks to meet and confer regarding the proposed modification in the Notice of Intent, then
21 ERC must provide written notice to Living Ecology within thirty days of receiving the Notice
22 of Intent. If ERC notifies Living Ecology in a timely manner of ERC's intent to meet and
23 confer, then the Parties shall meet and confer in good faith as required in this Section. The
24 Parties shall meet in person or via telephone within thirty (30) days of ERC's notification of its
25 intent to meet and confer. Within thirty days of such meeting, if ERC disputes the proposed
26 modification, ERC shall provide to Living Ecology a written basis for its position. The Parties
27 shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any
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1 remaining disputes. Should it become necessary, the Parties may agree in writing to different
2 deadlines for the meet-and-confer period.

3 **5.3** In the event that Living Ecology initiates or otherwise requests a modification
4 under Section 5.1, and the meet and confer process leads to a joint motion or application of the
5 Consent Judgment, Living Ecology shall reimburse ERC its costs and reasonable attorney's
6 fees for the time spent in the meet-and-confer process and filing and arguing the motion or
7 application.

8 **5.4** Where the meet-and-confer process does not lead to a joint motion or
9 application in support of a modification of the Consent Judgment, then either Party may seek
10 judicial relief on its own. In such a situation, the prevailing Party may seek to recover costs
11 and reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"
12 means a party who is successful in obtaining relief more favorable to it than the relief that the
13 other party was amenable to providing during the Parties' good faith attempt to resolve the
14 dispute that is the subject of the modification.

15 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
16 **JUDGMENT**

17 This Court shall retain jurisdiction of this matter pursuant to California Code of Civil
18 Procedure 664.6 to enforce, modify, or terminate this Consent Judgment.

19 **7. APPLICATION OF CONSENT JUDGMENT**

20 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
21 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
22 divisions, affiliates, franchisees, licensees, customers (including Private Labelers), distributors,
23 wholesalers, retailers, predecessors, successors, and assigns. For purposes of this Consent
24 Judgment, the term Private Labelers means a retailer that either (a) purchases any Living
25 Ecology bar, which is an identical formulation as one of the Covered Product bars, to sell under
26 the name of the retailer, or (b) purchases, on or before the Compliance Date, any Living Ecology
27 product that is not a bar, which is an identical formulation as a Covered Product, to sell under the
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1 name of the retailer. This Consent Judgment shall have no application to Covered Products
2 which are distributed or sold exclusively outside the State of California.

3 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

4 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on
5 behalf of itself and in the public interest, and Living Ecology, of any alleged violation of
6 Proposition 65 or its implementing regulations for failure to provide Proposition 65 warnings of
7 exposure to lead, and/or cadmium, from the handling, use, or consumption of the Covered
8 Products and fully resolves all claims that have been or could have been asserted in these Actions
9 up to and including the Effective Date for failure to provide Proposition 65 warnings for the
10 Covered Products. For purposes of this Section 8, Covered Products includes the products sold
11 by Private Labelers as defined in Section 7. ERC, on behalf of itself and in the public interest,
12 hereby discharges Living Ecology and its respective officers, directors, shareholders, employees,
13 agents, parent companies, subsidiaries, divisions, affiliates, suppliers, franchisees, licensees,
14 customers (including Private Labelers) and their respective distributors, wholesalers, retailers,
15 and all other upstream and downstream entities in the distribution chain of any Covered Product,
16 and the predecessors, successors and assigns of any of them (collectively, "Released Parties"),
17 from any and all claims, actions, causes of action, suits, demands, liabilities, damages, penalties,
18 fees, costs and expenses asserted, or that could have been asserted, as to any alleged violation of
19 Proposition 65 arising from the failure to provide Proposition 65 warnings on the Covered
20 Products regarding lead and/or cadmium, as these chemicals are alleged regarding the Covered
21 Products in the Covered Products as set forth in the Notices and the Complaint up through and
22 including the Compliance Date. Living Ecology warrants that as of the date Living Ecology
23 executes this Consent Judgment: (a) no public enforcer is diligently prosecuting an action related
24 to chemicals in the Covered Products from any of its Private Labelers; and (b) no Private Labeler
25 has either received a pending 60-Day Notice of Violation of Proposition 65 regarding lead and/or
26 cadmium in the Covered Products or is currently in litigation, or been threatened with litigation,
27 as to lead and/or cadmium in the Covered Products. The release provided herein in favor of
28 Private Labelers shall not apply to any existing or pending 60-day Notices of Violations,

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1 litigation, or actions against any of the Private Labelers by any public or private enforcer
2 regarding lead and/or cadmium in the Covered Products.

3 8.2 ERC on its own behalf only, on one hand, and Living Ecology on its own behalf
4 only, on the other, further waive and release any and all claims they may have against each
5 other for all actions or statements made or undertaken in the course of seeking or opposing
6 enforcement of Proposition 65 in connection with the Notices or Complaint up through and
7 including the Effective Date, provided, however, that nothing in Section 8 shall affect or limit
8 any Party's right to seek to enforce the terms of this Consent Judgment.

9 8.3 It is possible that other claims not known to the Parties arising out of the facts alleged in the
10 Notices, the Actions or the Complaint and relating to the Covered Products will develop or be
11 discovered. ERC on behalf of itself only, on one hand, and Living Ecology, on the other hand,
12 acknowledge that this Consent Judgment is expressly intended to cover and include all such
13 claims up through the Effective Date, including all rights of action therefore. ERC and Living
14 Ecology acknowledge that the claims released in Sections 8.1 and 8.2 above may include
15 unknown claims, and nevertheless waive California Civil Code section 1542 as to any such
16 unknown claims. California Civil Code section 1542 reads as follows:

17
18 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
19 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
20 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF
21 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS
OR HER SETTLEMENT WITH THE DEBTOR.

22 ERC on behalf of itself only, on the one hand, and Living Ecology, on the other hand,
23 acknowledge and understand the significance and consequences of this specific waiver of
24 California Civil Code section 1542.

25 8.4 Compliance with the terms of this Consent Judgment shall be deemed to constitute
26 compliance with Proposition 65 by any releasee regarding alleged exposures to lead and/or
27 cadmium, in the Covered Products as set forth in the Notices and the Complaint.

1 8.5 Nothing in this Consent Judgment is intended to apply to any occupational or
2 environmental exposures arising under Proposition 65, nor shall it apply to any of Living
3 Ecology's products other than the Covered Products.

4 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

5 In the event that any of the provisions of this Consent Judgment are held by a court to be
6 unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

7 **10. GOVERNING LAW**

8 The terms and conditions of this Consent Judgment shall be governed by and construed in
9 accordance with the laws of the State of California.

10 **11. PROVISION OF NOTICE**

11 All notices required to be given to either Party to this Consent Judgment by the other shall
12 be in writing and sent to the following agents listed below by: (a) first-class, registered, or certified
13 mail; (b) overnight courier; or (c) personal delivery. Courtesy copies via email may also be sent.

14 **FOR ENVIRONMENTAL RESEARCH CENTER:**

15 Chris Heptinstall, Executive Director, Environmental Research Center
16 3111 Camino Del Rio North, Suite 400
17 San Diego, CA 92108
18 Tel: (619) 500-3090
19 Email: chris_erc501c3@yahoo.com

20 With a copy to:

21 WILLIAM F. WRAITH
22 WRAITH LAW
23 24422 Avenida de la Carlota, Suite 400
24 Laguna Hills, CA 92653
25 Tel: (949) 452-1234
26 Fax: (949) 452-1102

27 LIVING ECOLOGY INC. and
28 LIVING ECOLOGY MANUFACTURING INC.
C/O Mr. Jack Singh
209 South Stephanie Street, B-235
Henderson, NV. 89012 and
240 Crouse Drive
Corona, CA. 92879

With a copy to:

1 TIMOTHY F. SHIELDS
2 GEORGE & SHIELDS, LLP
3 30 Corporate Park, Suite 300
4 Irvine, California 92606-5133
5 Telephone: (949) 263-1085
6 Facsimile: (949) 263-0585

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8 **12. COURT APPROVAL**

9 **12.1** Upon execution of this Consent Judgment by the Parties, ERC shall notice a
10 Motion for Court Approval. The Parties shall use their best efforts to support entry of this
11 Consent Judgment.

12 **12.2** If the California Attorney General objects to any term in this Consent Judgment,
13 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
14 prior to the hearing on the motion.

15 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
16 void, inadmissible, unenforceable, mutually rescinded and cancelled, and have no force or
17 effect.

18 **13. EXECUTION AND COUNTERPARTS**

19 This Consent Judgment may be executed in counterparts, which taken together shall be
20 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as
21 the original signature.

22 **14. DRAFTING**

23 The terms of this Consent Judgment have been reviewed by the respective counsel for each
24 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and
25 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and
26 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,
27 and no provision of this Consent Judgment shall be construed against any Party, based on the fact
28 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any
portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated
equally in the preparation and drafting of this Consent Judgment.

1 **15. GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

2 If a dispute arises with respect to either Party's interpretation or compliance with the terms
3 of this Consent Judgment entered by the Court, the Parties shall meet in person or by telephone
4 and endeavor to resolve the dispute in an amicable manner. No action or motion may be filed in
5 the absence of such a good faith attempt to resolve the dispute beforehand. In the event an action
6 or motion is filed, however, the prevailing party may seek to recover costs and reasonable
7 attorney's fees. As used in the preceding sentence, the term "prevailing party" means a party who
8 is successful in obtaining relief more favorable to it than the relief that the other party was
9 amenable to providing during the Parties' good faith attempt to resolve the dispute that is the
10 subject of such enforcement action.

11 **16. ENTIRE AGREEMENT, AUTHORIZATION**

12 **16.1** This Consent Judgment contains the sole and entire agreement and
13 understanding of the Parties with respect to the entire subject matter herein, and any and all
14 prior discussions, negotiations, commitments and understandings related hereto. No
15 representations, oral or otherwise, express or implied, other than those contained herein have
16 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to
17 herein, shall be deemed to exist or to bind any Party.

18 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully
19 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as
20 explicitly provided herein, each Party shall bear its own fees and costs.

21 **17. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
22 **CONSENT JUDGMENT**

23 This Consent Judgment has come before the Court upon the request of the Parties. The
24 Parties request the Court to fully review this Consent Judgment and, being fully informed
25 regarding the matters which are the subject of this action, to:

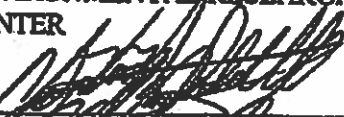
26 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
27 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has
28 been diligently prosecuted, and that the public interest is served by such settlement; and

1 (2) Make the findings pursuant to California Health and Safety Code section
2 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

3 **IT IS SO STIPULATED:**

4 Dated: 8/29, 2015

ENVIRONMENTAL RESEARCH
CENTER

By: 
Chris Hepinstall, Executive Director

7 Dated: 8/31, 2015

LIVING ECOLOGY INC.

By: 
By: JACK J. SINGH
Its: President

11 Dated: 8/31, 2015

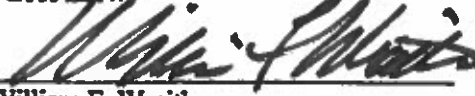
LIVING ECOLOGY MANUFACTURING
INC.

By: 
By: JACK J. SINGH
Its: President

16 **APPROVED AS TO FORM AND CONTENT:**

17 Dated: 8/31, 2015

WRAITH LAW

By: 
William F. Wraith
Attorney for Plaintiff Environmental
Research Center

T

1 APPROVED AS TO FORM AND CONTENT:

2 Dated: 8/31/15, 2015

3 GEORGE & SHIELDS, LLP

4 By: 

5 Timothy F. Shields
6 Julie E. Ritchie
7 Attorneys for Defendants Living Ecology
8 Inc. and Living Ecology Manufacturing
9 Inc.

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14 ORDER AND JUDGMENT

15 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is
16 approved and Judgment is hereby entered according to its terms.

17 IT IS SO ORDERED, ADJUDGED AND DECREED.

18 Dated: _____, 2015

19 _____
20 Judge of the Superior Court

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EXHIBIT “A”

WRAITH LAW
16485 LAGUNA CANYON ROAD
SUITE 250
IRVINE, CALIFORNIA 92618
Tel (949) 251-9977
Fax (949) 251-9978

January 31, 2014

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“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 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 Section 25249.7(d) of the statute, 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 attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violator. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Living Ecology Inc.
Living Ecology Manufacturing Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- **Bio International Organic Active Greens Powder – Lead**
- **Bio International Organic Active Greens - Lead**

- **Organic Food Bar Inc. Raw Organic Food Bar Cinnamon Raisin – Lead**
- **Organic Food Bar Inc. Raw Organic Food Bar Chocolatey Chocolate Chip – Lead**
- **Organic Food Bar Inc. Organic Food Bar Chocolate Covered Active Greens – Lead**
- **Organic Food Bar Inc. Organic Food Bar Active Greens - Protein Chocolate Covered – Lead**
- **Organic Food Bar Inc. Organic Food Bar Active Greens – Lead**
- **Organic Food Bar Inc. Organic Food Bar Active Greens Chocolate – Lead**
- **Organic Food Bar Inc. Organic Food Bar Original – Lead**
- **Organic Food Bar Inc. Organic Food Bar Protein – Lead**
- **Organic Food Bar Inc. Organic Food Bar Vegan – Lead**
- **Organic Food Bar Inc. OFB Vegan Protein Vanilla – Lead**
- **Organic Food Bar Inc. OFB Vegan Protein Strawberry – Lead**
- **Organic Food Bar Inc. OFB Vegan Protein 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.

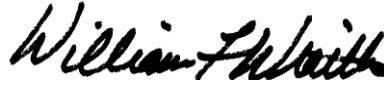
Route of Exposure. The consumer exposures that are the subject of this notice result from the purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least January 31, 2011, 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 these known toxic chemicals are 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 chemicals. 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 handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

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 Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,

A handwritten signature in black ink that reads "William F. Wraith". The signature is written in a cursive style with a large, prominent "W".

William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Living Ecology Inc., Living Ecology Manufacturing Inc., and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Living Ecology Inc. and Living Ecology Manufacturing Inc.

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged the parties identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.

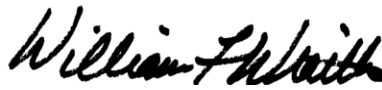
2. I am an attorney for the noticing party.

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 chemicals that are 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 Violators 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.

Dated: January 31, 2014



William F. Wraith

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, over the age of 18 years of age, and am not a party to the within entitled action. 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 January 31, 2014, I served the following documents: **NOTICE OF VIOLATIONS 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 the party listed below and depositing it at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

President or CEO
Living Ecology Inc.
209 South Stephanie Street
B-235
Henderson, NV 89012

Sagebrush Corporate Services LLC
(Registered Agent for
Living Ecology Inc.)
8670 West Cheyenne Avenue, Suite 2008
Las Vegas, NV 89129

President or CEO
Living Ecology Inc.
240 Crouse Drive
Corona, CA 92879

Robert George
(Registered Agent for Living Ecology
Manufacturing Inc.)
George & Shields LLP
30 Corporate Park, Suite 300
Irvine, CA 92606

President or CEO
Living Ecology Manufacturing Inc.
240 Crouse Drive
Corona, CA 92879

On January 31, 2014, I electronically served the following documents: **NOTICE OF VIOLATION, 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)** on the following party by uploading a true and correct copy thereof 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 January 31, 2014, 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 Priority Mail.

Executed on January 31, 2014, in Fort Oglethorpe, Georgia.



Tiffany Capehart

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

January 31, 2014

Page 6

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
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 Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
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, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County 931 Parkway Mall Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 110 Union Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
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, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

WRAITH LAW
16485 LAGUNA CANYON ROAD
SUITE 250
IRVINE, CALIFORNIA 92618
Tel (949) 251-9977
Fax (949) 251-9978

April 4, 2014

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“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 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 Section 25249.7(d) of the statute, 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 attached with the copy of this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Living Ecology Inc.
Living Ecology Manufacturing Inc.

Consumer Products and Listed Chemicals. The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

Organic Food Bar Inc. OFB Whey Protein Strawberry - Lead
Organic Food Bar Inc. OFB Whey Protein Vanilla - 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 purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to these chemicals has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least April 4, 2011, 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 these known toxic chemicals are 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 chemicals. 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 handling and/or using these products with appropriate warnings that they are being exposed to these chemicals.

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 Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemicals, or provide appropriate warnings on the labels of these products; and (2) pay an appropriate civil penalty. Such a resolution will prevent further unwarned consumer exposures to the identified chemicals, as well as an expensive and time consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Living Ecology Inc., Living Ecology Manufacturing Inc., and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center's Notice of Proposition 65 Violations by Living Ecology Inc. and Living Ecology Manufacturing Inc.

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged 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 chemicals that are 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 Violators 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.

Dated: April 4, 2014



William F. Wraith

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, over the age of 18 years of age, and am not a party to the within entitled action. 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 April 4, 2014, I served the following documents: **NOTICE OF VIOLATIONS 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 the party 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
Living Ecology Inc.
209 South Stephanie Street, B-235
Henderson, NV 89012

Sagebrush Corporate Services LLC
(Registered Agent for Living Ecology Inc.)
8670 West Cheyenne Avenue, Suite 2008
Las Vegas, NV 89129

Current President or CEO
Living Ecology Inc.
240 Crouse Drive
Corona, CA 92879

Robert George
(Registered Agent for Living Ecology
Manufacturing Inc.)
George & Shields LLP
30 Corporate Park, Suite 300
Irvine, CA 92606

Current President or CEO
Living Ecology Manufacturing Inc.
240 Crouse Drive
Corona, CA 92879

On April 4, 2014, I electronically served the following documents: **NOTICE OF VIOLATION, 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)** on the following party by uploading a true and correct copy thereof 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 April 4, 2014, 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 Priority Mail.

Executed on April 4, 2014, in Fort Oglethorpe, Georgia.



Tiffany Capehart

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 4, 2014

Page 5

Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
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 Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
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District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
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District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	

WRAITH LAW
24422 AVENIDA DE LA CARLOTA
SUITE 400
LAGUNA HILLS, CA 92653
Tel (949) 452-1234
Fax (949) 452-1102

April 10, 2015

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center (“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.

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Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the “Violators”) are:

Living Ecology Inc.
Living Ecology Manufacturing Inc.

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:

- **Organic Food Bar Inc. Raw Organic Food Bar Cinnamon Raisin – Cadmium**
- **Organic Food Bar Inc. Raw Organic Food Bar Chocolatey Chocolate Chip - Cadmium**
- **Organic Food Bar Inc. Organic Food Bar High Energy Protein – Cadmium**
- **Organic Food Bar Inc. Organic Food Bar High Energy Vegan – Cadmium**
- **Organic Food Bar Inc. Organic Food Bar Vegan Protein Vanilla- Cadmium**

Cadmium was officially listed as a chemical known to cause developmental toxicity and male reproductive toxicity on May 1, 1997 while Cadmium and Cadmium Compounds were listed as chemicals known to the State of California to cause cancer on October 1, 1987.

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 purchase, acquisition, handling and recommended use of these products. Consequently, the primary route of exposure to this chemical has been and continues to be through ingestion, but may have also occurred and may continue to occur through inhalation and/or dermal contact.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least April 10, 2012, 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 handling and/or using 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 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.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violations to my attention at the law office address and telephone number indicated on the letterhead.**

Sincerely,



William F. Wraith

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Living Ecology Inc., Living Ecology Manufacturing Inc., and their Registered Agents for Service of Process only)

Additional Supporting Information for Certificate of Merit (to AG only)

CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Living Ecology Inc. and Living Ecology Manufacturing Inc.

I, William F. Wraith, declare:

1. This Certificate of Merit accompanies the attached 60-day notice in which it is alleged 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. 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 Violators 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.

Dated: April 10, 2015



William F. Wraith

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, over the age of 18 years of age, and am not a party to the within entitled action. 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 April 10, 2015, I served the following documents: **NOTICE OF VIOLATIONS 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 the party 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 Living Ecology Inc. 209 South Stephanie Street, B-235 Henderson, NV 89012	Sagebrush Corporate Services LLC (Registered Agent for Living Ecology Inc.) 1810 East Sahara Avenue, Suite 214 Las Vegas, NV 89104
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Current President or CEO Living Ecology Inc. 240 Crouse Drive Corona, CA 92879	Robert K. George (Registered Agent for Living Ecology Manufacturing Inc.) George & Shields LLP 30 Corporate Park, Suite 300 Irvine, CA 92606
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Current President or CEO Living Ecology Manufacturing Inc. 240 Crouse Drive Corona, CA 92879	
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On April 10, 2015, 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 April 10, 2015, I served the following documents: **NOTICE OF VIOLATIONS, 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 Priority Mail.

Executed on April 10, 2015, in Fort Oglethorpe, Georgia.


Tiffany Capehart

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

April 10, 2015

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Service List

District Attorney, Alameda County 1225 Fallon Street, Suite 900 Oakland, CA 94612	District Attorney, Los Angeles County 210 West Temple Street, Suite 18000 Los Angeles, CA 90012	District Attorney, San Diego County 330 West Broadway, Suite 1300 San Diego, CA 92101	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
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 Francisco County 850 Bryant Street, Suite 322 San Francisco, CA 94103	District Attorney, Ventura County 800 South Victoria Ave, Suite 314 Ventura, CA 93009
District Attorney, Amador County 708 Court Street Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, San Joaquin County 222 E. Weber Ave. Rm. 202 Stockton, CA 95202	District Attorney, Yolo County 301 2 nd Street Woodland, CA 95695
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, San Luis Obispo County 1035 Palm St, Room 450 San Luis Obispo, CA 93408	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, San Mateo County 400 County Ctr., 3 rd Floor Redwood City, CA 94063	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	San Diego City Attorney's Office 1200 3rd Avenue, Ste 1620 San Diego, CA 92101
District Attorney, Contra Costa County 900 Ward Street Martinez, CA 94553	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Santa Clara County 70 West Hedding Street San Jose, CA 95110	San Francisco, City Attorney City Hall, Room 234 1 Dr Carlton B Goodlett PL San Francisco, CA 94102
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, El Dorado County 515 Main Street Placerville, CA 95667	District Attorney, Monterey County Post Office Box 1131 Salinas, CA 93902	District Attorney, Shasta County 1355 West Street Redding, CA 96001	
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Napa County Post Office Box 720 Napa, CA 94559	District Attorney, Sierra County PO Box 457 Downieville, CA 95936	
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097	
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533	
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, Sonoma County 600 Administration Drive, Room 212J Santa Rosa, CA 95403	
District Attorney, Inyo County 230 W. Line Street Bishop, CA 93514	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Stanislaus County 832 12 th Street, Ste 300 Modesto, CA 95354	
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Riverside County 3960 Orange Street Riverside, CA 92501	District Attorney, Sutter County 446 Second Street Yuba City, CA 95991	
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, Sacramento County 901 "G" Street Sacramento, CA 95814	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080	
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Benito County 419 Fourth Street, 2 nd Floor Hollister, CA 95023	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093	
District Attorney, Lassen County 220 South Lassen Street, Ste. 8 Susanville, CA 96130	District Attorney, San Bernardino County 316 N. Mountain View Avenue San Bernardino, CA 92415-0004	District Attorney, Tulare County 221 S. Mooney Blvd., Room 224 Visalia, CA 93291	