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20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21 **COUNTY OF ALAMEDA**

22 **ENVIRONMENTAL RESEARCH**
23 **CENTER, INC., a non-profit California**
24 **corporation,**

25 **Plaintiff,**

26 **v.**

27 **HUMBLE TEA INC., individually and dba**
28 **TEA DROPS; and DOES 1-100**

Defendants.

CASE NO. 23CV032811

**[PROPOSED] STIPULATED
CONSENT JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: May 8, 2023

Trial Date: None set

1. INTRODUCTION

1.1 On May 8, 2023, Plaintiff Environmental Research Center, Inc. (“ERC”), a non-

1 profit corporation, as a private enforcer and in the public interest, initiated this action by filing
2 a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”)
3 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*
4 (“Proposition 65”), against Humble Tea Inc., individually and dba Tea Drops (“Humble Tea”)
5 and Does 1-100. In this action, ERC alleges that a number of products manufactured,
6 distributed, or sold by Humble Tea contain lead, a chemical listed under Proposition 65 as a
7 carcinogen and reproductive toxin, and expose consumers to this chemical at a level requiring
8 a Proposition 65 warning. These products (referred to hereinafter individually as a “Covered
9 Product” or collectively as “Covered Products”) are: (1) Tea Drops Rose Earl Grey Earl Grey
10 Tea Rose Petals, (2) Tea Drops Chai Spice Black Assam Tea Cardamom Ginger Cinnamon, (3)
11 Tea Drops Chocolate Gingerbread Black Assam Tea Nutmeg Cocoa Cinnamon, (4) Tea Drops
12 Unsweetened Rose Earl Grey Earl Grey Tea Rose Petals, (5) Tea Drops Unsweetened Citrus
13 Ginger Orange Lemon Ginger, (6) Tea Drops Hibiscus Glow Hibiscus Rose Hips Cinnamon
14 Cherry Caffeine Free, (7) Tea Drops Dessert Tea Collection Strawberry Shortcake Caffeine
15 Free, (8) Tea Drops Chocolate Earl Grey Earl Grey Tea Cocoa, and (9) Tea Drops Thai Tea
16 Authentic Thai Tea.

17 **1.2** ERC and Humble Tea may also hereinafter be referred to individually as a
18 “Party” or collectively as the “Parties.”

19 **1.3** ERC is a 501 (c)(3) California non-profit corporation dedicated to, among other
20 causes, helping safeguard the public from health hazards by reducing the use and misuse of
21 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
22 and encouraging corporate responsibility.

23 **1.4** For purposes of this Stipulated Consent Judgment (“Consent Judgment”), ERC
24 alleges that Humble Tea is a business entity that has employed ten or more persons at all times
25 relevant to this action and qualifies as a “person in the course of doing business” within the
26 meaning of Proposition 65. Humble Tea disputes this allegation but nevertheless enters into this
27 Consent Judgment to avoid claims, liabilities and actions against Humble Tea and any upstream
28 or downstream manufacturers, distributors, and sellers of the Covered Products. Humble Tea

1 manufactures, distributes, and/or sells the Covered Products.

2 **1.5** The requirements imposed by Section 3 of this Consent Judgment shall be in
3 effect only during time periods in which Humble Tea employs ten or more people. If Humble Tea
4 contends that the requirements of Section 3 of this Consent Judgment are not in effect because
5 Humble Tea does not employ ten or more people, Humble Tea must take the following actions:
6 (a) send ERC written notification within thirty (30) days of invoking relief under this Section 1.5;
7 (b) provide ERC with a copy of its payroll PEO report or copies of the United States Internal
8 Revenue Service (IRS) Form 941s (“Form 941”) for the quarter during which Humble Tea
9 provides the Section 1.5(a) notification and the immediately preceding quarter; and (c) provide
10 ERC with copies of its payroll PEO reports or Form 941s either: (i) for the four calendar quarters
11 following the quarter during which notification was provided pursuant to Section 1.5(a), or (ii) for
12 each quarter until Humble Tea employs ten or more people, whichever comes first. If the number
13 of people employed by Humble Tea increases to ten or more at any time after the date that
14 Humble Tea notifies ERC that the number of its employees was less than ten, Humble Tea shall
15 send ERC a written notification that the number of Humble Tea’s employees has increased to ten
16 or more within thirty (30) days after the date that the number of Humble Tea’s employees
17 increases to ten or more. Humble Tea shall provide each payroll PEO report or Form 941
18 referenced in Section 1.5 to ERC within thirty (30) days from the date it is provided to the IRS (or
19 the date it is finalized if it is not provided to the IRS).

20 **1.6** The Complaint is based on allegations contained in ERC’s Notices of Violation
21 dated February 10, 2023 and February 23, 2023 that were served on the California Attorney
22 General, other public enforcers, and Humble Tea (“Notices”). True and correct copies of the
23 60-Day Notices dated February 10, 2023 and February 23, 2023 are attached hereto as
24 **Exhibits A and B** and each is incorporated herein by reference. More than 60 days have passed
25 since the Notices were served on the Attorney General, public enforcers, and Humble Tea and
26 no designated governmental entity has filed a Complaint against Humble Tea with regard to the
27 Covered Products or the alleged violations.

28 **1.7** ERC’s Notices and Complaint allege that use of the Covered Products by

1 California consumers exposes them to lead without first receiving clear and reasonable
2 warnings from Humble Tea, which is in violation of California Health and Safety Code section
3 25249.6. Humble Tea denies all material allegations contained in the Notices and Complaint.

4 **1.8** The Parties have entered into this Consent Judgment in order to settle,
5 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
6 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
7 or be construed as an admission by any of the Parties or by any of their respective officers,
8 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
9 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact,
10 issue of law, or violation of law.

11 **1.9** Except as expressly set forth herein, nothing in this Consent Judgment shall
12 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
13 any current or future legal proceeding unrelated to these proceedings.

14 **1.10** The Effective Date of this Consent Judgment is the date on which it is entered
15 as a Judgment by this Court.

16 **2. JURISDICTION AND VENUE**

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

24 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND WARNINGS**

25 **3.1** Beginning on the Effective Date, Humble Tea shall be permanently enjoined
26 from manufacturing for sale in the State of California, “Distributing into the State of
27 California,” or directly selling in the State of California, any Covered Product that exposes a
28 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day unless it

meets the warning requirements under Section 3.2.

3.1.1 As used in this Consent Judgment, the term “Distributing into the State of California” shall mean to directly ship a Covered Product into California for sale in California or to sell a Covered Product to a distributor that Humble Tea knows or has reason to know will sell the Covered Product in California.

3.1.2 For purposes of this Consent Judgment, the “Daily Lead Exposure Level” shall be measured in micrograms, and shall be calculated using the following formula: micrograms of lead per gram of product, multiplied by grams of product per serving of the product (using the largest serving size appearing on the product label), multiplied by servings of the product per day (using the largest number of recommended daily servings appearing on the label), which equals micrograms of lead exposure per day. If the label contains no recommended daily servings, then the number of recommended daily servings shall be one.

3.2 Clear and Reasonable Warnings


If Humble Tea is required to provide a warning pursuant to Section 3.1, one of the following warnings must be utilized (“Warning”):

OPTION 1:

WARNING: Consuming this product can expose you to chemicals including lead which is known to the State of California to cause [cancer and] birth defects or other reproductive harm. For more information go to www.P65Warnings.ca.gov/food.

OR

OPTION 2:

 **WARNING:** [Cancer and] Reproductive Harm – www.P65Warnings.ca.gov/food

OR

OPTION 3:

WARNING: Risk of [cancer from exposure to lead and] reproductive harm from exposure to lead. See www.P65Warnings.ca.gov/food.

OR

1 **OPTION 4:**

2 **WARNING:** Can expose you to lead [a carcinogen and] a reproductive toxicant. See
3 www.P65Warnings.ca.gov/food.

4 For all Warning options, the Warning shall begin either with the word “**WARNING,**” as
5 indicated above, or the words “**CA WARNING**” or “**CALIFORNIA WARNING,**” in all
6 capital letters and bold print. Humble Tea shall use the phrase “cancer and” in the Option 1 and
7 Option 2 Warnings or “cancer from exposure to lead and” in the Option 3 Warning or “a carcinogen
8 and” in the Option 4 Warning if Humble Tea has reason to believe that the “Daily Lead Exposure
9 Level” is greater than 15 micrograms of lead as determined pursuant to the quality control
10 methodology set forth in Section 3.4 or if Humble Tea has reason to believe that another Proposition
11 65 chemical is present which may require a cancer warning.

12 The Option 2 Warning may only be used until January 1, 2028. Any product that is
13 manufactured and labeled prior to January 1, 2028, may use the Option 2 Warning regardless of
14 when the product is sold to a consumer. For the Option 2 Warning, a symbol consisting of a black
15 exclamation point in a yellow equilateral triangle with a bold black outline shall be placed to the left
16 of the text of the Warning, in a size no smaller than the height of the word “**WARNING.**” Where
17 the sign, label or shelf tag for the product is not printed using the color yellow, the symbol may be
18 printed in black and white.

19 The Warning shall be securely affixed to or printed upon the label of each Covered
20 Product, and it must be set off from other surrounding information. The Option 1 Warning
21 must be enclosed in a box. For the Option 2, Option 3, and Option 4 Warnings, the entire
22 Warning must be in a type size no smaller than 6-point type. In addition, for any Covered
23 Product sold over the internet, the Warning shall appear on the checkout page when a
24 California delivery address is indicated for any purchase of any Covered Product. An asterisk
25 or other identifying method must be utilized to identify which products on the checkout page
26 are subject to the Warning. In no event shall any internet or website Warning be contained in
27 or made through a link. The warning shall appropriately reflect whether there is lead present in
28 each of the Covered Products, but if there is also a chemical present at a level that requires a

1 cancer warning, the chemical requiring use of the phrase “cancer and” in the Warning shall
2 always be identified.

3 No statements intended to or likely to have the effect of diminishing the impact of the
4 Warning on the average lay person shall accompany the Warning. Further, no statements may
5 accompany the Warning that state or imply that the source of the listed chemical has an impact on
6 or results in a less harmful effect of the listed chemical.

7 Humble Tea must display the above Warning with such conspicuousness, as compared
8 with other words, statements or designs on the label, or on its website, if applicable, to render the
9 Warning likely to be read and understood by an ordinary individual under customary conditions
10 of purchase or use of the product. Where a sign or label used to provide the Warning for a
11 Covered Product includes consumer information about the Covered Product in a language other
12 than English, the Warning must also be provided in that language in addition to English.

13 For purposes of this Consent Judgment, the term “label” means a display of written,
14 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
15 container or wrapper.

16 **3.3 Conforming Covered Products**

17 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure
18 Level” is no greater than 0.5 micrograms of lead per day as determined by the exposure
19 methodology set forth in Section 3.1.2 and the quality control methodology described in Section
20 3.4, and that is not known by Humble Tea to contain other chemicals that violate Proposition 65’s
21 safe harbor thresholds.

22 **3.4 Testing and Quality Control Methodology**

23 **3.4.1** Beginning within one year of the Effective Date, Humble Tea shall
24 arrange for lead testing of the Covered Products at least once a year for a minimum of five
25 consecutive years by arranging for testing of three (3) randomly selected samples of each of
26 the Covered Products, in the form intended for sale to the end-user, which Humble Tea intends
27 to sell or is manufacturing for sale in California, directly selling to a consumer in California or
28 “Distributing into the State of California.” If tests conducted pursuant to this Section

1 demonstrate that no Warning is required for a Covered Product during each of five consecutive
2 years, then the testing requirements of this Section will no longer be required as to that
3 Covered Product. However, if during or after the five-year testing period, Humble Tea changes
4 ingredient suppliers for any of the Covered Products and/or reformulates any of the Covered
5 Products, Humble Tea shall test that Covered Product annually for at least four (4) consecutive
6 years after such change is made.

7 **3.4.2** For purposes of measuring the “Daily Lead Exposure Level,” the highest
8 lead detection result of the three (3) randomly selected samples of the Covered Products will
9 be controlling.

10 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
11 laboratory method that complies with the performance and quality control factors appropriate
12 for the method used, including limit of detection and limit of quantification, sensitivity,
13 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
14 Spectrometry (“ICP-MS”) achieving a limit of quantification of less than or equal to 0.005
15 mg/kg.

16 **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an
17 independent third party laboratory certified by the California Environmental Laboratory
18 Accreditation Program or an independent third-party laboratory that is registered with the
19 United States Food & Drug Administration.

20 **3.4.5** Nothing in this Consent Judgment shall limit Humble Tea’s ability to
21 conduct, or require that others conduct, additional testing of the Covered Products, including
22 the raw materials used in their manufacture.

23 **3.4.6** Within thirty (30) days of ERC’s written request, Humble Tea shall
24 deliver lab reports obtained pursuant to Section 3.4 to ERC. Humble Tea shall retain all test
25 results and documentation for a period of five years from the date of each test.

26 **3.4.7** The testing and reporting requirements of Section 3.4 do not apply to
27 any Covered Product for which Humble Tea is providing a Warning, continuously and without
28 interruption from the Effective Date, pursuant to Section 3.2 of this Consent Judgment. In the

1 event a Warning is provided after the Effective Date but Humble Tea thereafter ceases to
2 provide the Warning, the testing and reporting requirements of Section 3.4 of this Consent
3 Judgment shall apply immediately after the date the Warning ceases to be provided, unless
4 Humble Tea can show to the satisfaction of ERC that the cessation in providing the Warning
5 was a temporary error that was resolved when discovered.

6 **3.5** Nothing in Section 3 of this Consent Judgment shall prevent or preclude ERC
7 from obtaining and relying upon its own testing for purposes of enforcement, so long as such
8 testing meets the requirements of Sections 3.4.3 and 3.4.4. Nothing in Section 3.4 of this Consent
9 Judgment is intended by either party to set a precedent for the level of lead or other chemicals
10 that is permissible in consumer products under Proposition 65.

11 **4. SETTLEMENT PAYMENT**

12 **4.1** In full satisfaction of all potential civil penalties, additional settlement
13 payments, attorney's fees, and costs, Humble Tea shall make a total payment of \$30,000.00
14 ("Total Settlement Amount") to ERC in three periodic payments (the "Periodic Payments")
15 according to the following payment schedule ("Due Dates"):

- 16 • Payment 1 -- \$10,000.00 within 5 days of the Effective Date;
- 17 • Payment 2 -- \$10,000.00 within 35 days of the Effective Date;
- 18 • Payment 3 -- \$10,000.00 within 65 days of the Effective Date.

19 Humble Tea shall make these Periodic Payments by wire transfer to ERC's account, for
20 which ERC will give Humble Tea the necessary account information. The Total Settlement
21 Amount shall be apportioned as follows:

22 **4.2** \$2,000.00 shall be considered a civil penalty pursuant to California Health and
23 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$1,500.00) of the civil penalty to the
24 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe
25 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
26 Code section 25249.12(c). ERC will retain the remaining 25% (\$500.00) of the civil penalty.

27 **4.3** \$8,132.33 shall be distributed to ERC as reimbursement to ERC for reasonable
28 costs incurred in bringing this action.

1 **4.4** \$8,205.13 shall be distributed to Wraith Law as reimbursement of ERC's
2 attorney's fees, while \$11,662.54 shall be distributed to ERC for its in-house legal fees. Except
3 as explicitly provided herein, each Party shall bear its own fees and costs.

4 **4.5** In the event that Humble Tea fails to remit, in full, any of the Periodic Payments
5 owed pursuant to Section 4.1 of this Consent Judgment on or before the applicable Due Date,
6 Humble Tea shall be deemed to be in material breach of its obligations under this Consent
7 Judgment. ERC shall provide written notice of the delinquency to Humble Tea via electronic
8 mail. If Humble Tea fails to deliver the delinquent payment, in full, within five (5) days from
9 the written notice, the Total Settlement Amount, less any amounts previously paid to ERC,
10 shall be immediately due and owing and shall accrue interest at the statutory judgment interest
11 rate provided in the California Code of Civil Procedure section 685.010. Additionally, Humble
12 Tea agrees to pay ERC's reasonable attorneys' fees and costs for any efforts to collect the
13 payment due under this Consent Judgment.

14 **5. MODIFICATION OF CONSENT JUDGMENT**

15 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
16 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
17 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a
18 modified consent judgment.

19 **5.2** If Humble Tea seeks to modify this Consent Judgment under Section 5.1, then
20 Humble Tea must provide written notice to ERC of its intent ("Notice of Intent"). If ERC
21 seeks to meet and confer regarding the proposed modification in the Notice of Intent, then ERC
22 must provide written notice to Humble Tea within thirty (30) days of receiving the Notice of
23 Intent. If ERC notifies Humble Tea in a timely manner of ERC's intent to meet and confer,
24 then the Parties shall meet and confer in good faith as required in this Section. The Parties
25 shall meet in person, via remote meeting, or by telephone within thirty (30) days of ERC's
26 notification of its intent to meet and confer. Within thirty (30) days of such meeting, if ERC
27 disputes the proposed modification, ERC shall provide to Humble Tea a written basis for its
28 position. The Parties shall continue to meet and confer for an additional thirty (30) days in an

1 effort to resolve any remaining disputes. Should it become necessary, the Parties may agree in
2 writing to different deadlines for the meet-and-confer period.

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

8 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**
9 **JUDGMENT**

10 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or
11 terminate this Consent Judgment.

12 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
13 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
14 inform Humble Tea in a reasonably prompt manner of its test results, including information
15 sufficient to permit Humble Tea to identify the Covered Products at issue. Humble Tea shall,
16 within thirty (30) days following such notice, provide ERC with testing information, from an
17 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4,
18 demonstrating Humble Tea's compliance with the Consent Judgment. The Parties shall first
19 attempt to resolve the matter prior to ERC taking any further legal action.

20 **7. APPLICATION OF CONSENT JUDGMENT**

21 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their
22 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,
23 divisions, franchisees, licensees, customers (excluding private labelers), distributors, wholesalers,
24 retailers, predecessors, successors, and assigns. This Consent Judgment shall have no
25 application to any Covered Product that is distributed or sold exclusively outside the State of
26 California and that is not used by California consumers.

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

28 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on

1 behalf of itself and in the public interest, and Humble Tea and its respective officers, directors,
2 shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,
3 franchisees, licensees, customers (not including private label customers of Humble Tea),
4 distributors, wholesalers, retailers, and all other upstream and downstream entities in the
5 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any
6 of them (collectively, “Released Parties”).

7 **8.2** ERC, acting in the public interest, releases the Released Parties from any and all
8 claims for violations of Proposition 65 up through the Effective Date based on exposure to lead
9 from the Covered Products as set forth in the Notices of Violation. ERC, on behalf of itself
10 only, hereby fully releases and discharges the Released Parties from any and all claims,
11 actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
12 expenses asserted, or that could have been asserted from the handling, use, or consumption of
13 the Covered Products, as to any alleged violation of Proposition 65 or its implementing
14 regulations arising from the failure to provide Proposition 65 warnings on the Covered
15 Products regarding lead to and including the Effective Date.

16 **8.3** ERC on its own behalf only, and Humble Tea on its own behalf only, further
17 waive and release any and all claims they may have against each other for all actions or
18 statements made or undertaken in the course of seeking or opposing enforcement of
19 Proposition 65 in connection with the Notices and Complaint up through and including the
20 Effective Date, provided, however, that nothing in Section 8 shall affect or limit any Party’s
21 right to seek to enforce the terms of this Consent Judgment.

22 **8.4** It is possible that other claims not known to the Parties, arising out of the facts
23 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
24 discovered. ERC on behalf of itself only, and Humble Tea on behalf of itself only,
25 acknowledge that this Consent Judgment is expressly intended to cover and include all such
26 claims up through and including the Effective Date, including all rights of action therefore.
27 ERC and Humble Tea acknowledge that the claims released in Sections 8.2 and 8.3 above may
28 include unknown claims, and nevertheless waive California Civil Code section 1542 as to any

1 such unknown claims. California Civil Code section 1542 reads as follows:

2 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
3 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
4 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE
5 AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
6 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED
7 PARTY.

8 ERC on behalf of itself only, and Humble Tea on behalf of itself only, acknowledge and
9 understand the significance and consequences of this specific waiver of California Civil Code
10 section 1542.

11 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
12 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged
13 exposures to lead in the Covered Products as set forth in the Notices and Complaint.

14 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
15 environmental exposures arising under Proposition 65, nor shall it apply to any of Humble
16 Tea's products other than the Covered Products.

17 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

21 **10. GOVERNING LAW**

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

24 **11. PROVISION OF NOTICE**

25 All notices required to be given to either Party to this Consent Judgment by the other shall
26 be in writing and sent to the following agents listed below via first-class mail or via electronic
27 mail where required. Courtesy copies via email may also be sent.

28 ///

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FOR ENVIRONMENTAL RESEARCH CENTER, INC.:

Chris Heptinstall, Executive Director, Environmental Research Center
3111 Camino Del Rio North, Suite 400
San Diego, CA 92108
Ph: (619) 500-3090
Email: chris.heptinstall@erc501c3.org

With a copy to:

WILLIAM F. WRAITH
WRAITH LAW
25361 Commercentre Drive, Ste 150
Lake Forest, CA 92630
Tel: (949) 452-1234
Email: bill@wraithlaw.com

FOR HUMBLE TEA INC., individually and dba TEA DROPS:

Sashee Chandran
CEO
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Encinitas, CA. 92024
Email: sashee@myteadrop.com

With a copy to:

GEORGE SALMAS,
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michael.hambly@thefoodlawyers.com

12. COURT APPROVAL

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

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

1 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
2 void and have no force or effect.

3 **13. EXECUTION AND COUNTERPARTS**

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

7 **14. DRAFTING**

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

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

17 If a dispute arises with respect to either Party's compliance with the terms of this Consent
18 Judgment entered by the Court, the Parties shall meet and confer in person, via remote meeting,
19 by telephone, and/or in writing and endeavor to resolve the dispute in an amicable manner. No
20 action or motion may be filed in the absence of such a good faith attempt to resolve the dispute
21 beforehand.

22 **16. ENFORCEMENT**

23 ERC may, by motion or order to show cause before the Superior Court of Alameda
24 County, enforce the terms and conditions contained in this Consent Judgment. In any action
25 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
26 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
27 To the extent the failure to comply with the Consent Judgment constitutes a violation of
28 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent

Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are provided by law for failure to comply with Proposition 65 or other laws.

17. ENTIRE AGREEMENT, AUTHORIZATION

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

17.2 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the Party he or she represents to stipulate to this Consent Judgment.

18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF CONSENT JUDGMENT

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

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

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

(3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

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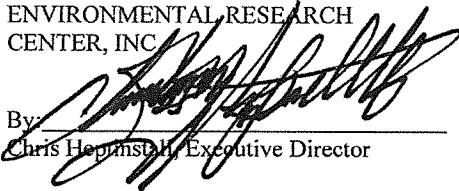
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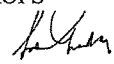
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IT IS SO STIPULATED:

Dated: 5/21, 2025


ENVIRONMENTAL RESEARCH
CENTER, INC.
By: 
Chris Heppinstall, Executive Director

Dated: 05 / 02 / 2025, 2025


HUMBLE TEA INC., individually and dba
TEA DROPS

By: Sashee Chandran
Its: CEO

APPROVED AS TO FORM:

Dated: May 3,, 2025

WRAITH LAW
By: 
William F. Wraith
Attorney for Plaintiff Environmental
Research Center, Inc.

Dated: 5/2/25, 2025

THE FOOD LAWYERS®
By: 
George Salmas
Julia S. Thrower
Michael Hambly
Attorneys for Defendant Humble Tea,
Inc., individually and dba Tea Drops

ORDER AND JUDGMENT

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2025

Judge of the Superior Court

EXHIBIT A

WRAITH LAW
25361 Commercentre Drive
Suite 150
Lake Forest, CA 92630
Tel (949) 452-1234
Fax (949) 452-1102

February 10, 2023

**NOTICE OF VIOLATIONS 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 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 Violator identified below.

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

Humble Tea Inc., individually and dba Tea Drops

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. **Tea Drops Rose Earl Grey Earl Grey Tea Rose Petals - Lead**
2. **Tea Drops Chai Spice Black Assam Tea Cardamom Ginger Cinnamon - Lead**
3. **Tea Drops Chocolate Gingerbread Black Assam Tea Nutmeg Cocoa Cinnamon - Lead**
4. **Tea Drops Unsweetened Rose Earl Grey Earl Grey Tea Rose Petals - 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 February 10, 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.

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 Humble Tea Inc., individually and dba Tea Drops and its 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 Humble Tea Inc., individually and dba Tea Drops

I, William F. Wraith, declare:

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

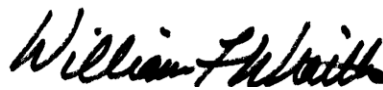
2. I am an attorney for the noticing party.

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.

Dated: February 10, 2023



William F. Wraith

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 February 10, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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
Humble Tea Inc., individually and
dba Tea Drops
1106 Second St, #440
Encinitas, CA 92024

Sashee Chandran
(Registered Agent for Humble Tea Inc.,
individually and dba Tea Drops)
1106 Second St, #440
Encinitas, CA 92024

The Corporation Trust Company
(Registered Agent for Humble Tea Inc.,
individually and dba Tea Drops)
1209 N. Orange St
Wilmington, DE 19801

Current President or CEO
Humble Tea Inc., individually and
dba Tea Drops
28904 Avenue Paine
Valencia, CA 91355

Current President or CEO
Humble Tea Inc., individually and
dba Tea Drops
600 Wilshire Blvd, #500
Los Angeles, CA 90017

On February 10, 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 February 10, 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

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

February 10, 2023

Page 5

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
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1127 First Street, Ste C
Napa, CA 94559
CEPD@countyofnapa.org

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

Todd Spitzer, District Attorney
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Santa Ana, CA 92703
Prop65notice@da.ocgov.com

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

David Hollister, District Attorney
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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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901 G Street
Sacramento, CA 95814
Prop65@sacda.org

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San Diego, CA 92101
SanDiegoDAProp65@sdcca.org

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

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, 7th 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

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

February 10, 2023

Page 6

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

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, 16th 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
Sonoma County
600 Administration Dr
Sonoma, CA 95403
Jeannie.Barnes@sonoma-county.org

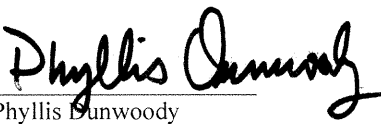
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

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

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

On February 10, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on February 10, 2023, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

February 10, 2023

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Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney,
Amador County
708 Court Street, Suite
202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney, Colusa
County
310 6th St
Colusa, CA 95932

District Attorney, Del
Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El
Dorado County
778 Pacific St
Placerville, CA 95667

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney,
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney,
Imperial County
940 West Main Street,
Ste 102
El Centro, CA 92243

District Attorney, Kern
County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey
Boulevard
Hanford, CA 93230

District Attorney, Lake
County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los
Angeles County
Hall of Justice
211 West Tempe St.,
Ste 1200
Los Angeles, CA 90012

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

District Attorney, Marin
County
3501 Civic Center Drive,
Room 130
San Rafael, CA 94903

District Attorney,
Mendocino County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Modoc
County
204 S Court Street,
Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, San
Benito County
419 Fourth Street, 2nd
Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
303 West Third Street
San Bernadino, CA
92415

District Attorney, San
Mateo County
400 County Ctr., 3rd
Floor
Redwood City, CA
94063

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

District Attorney, Sierra
County
Post Office Box 457
100 Courthouse Square,
2nd Floor
Downieville, CA 95936

District Attorney,
Siskiyou County
Post Office Box 986
Yreka, CA 96097

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

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

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney,
Tehama County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

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

District Attorney, Yuba
County
215 Fifth Street, Suite
152
Marysville, CA 95901

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at
P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

EXHIBIT B

WRAITH LAW

25361 Commercentre Drive
Suite 150
Lake Forest, CA 92630
Tel (949) 452-1234
Fax (949) 452-1102

February 23, 2023

NOTICE OF VIOLATIONS 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 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 Violator identified below.

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

Humble Tea Inc., individually and dba Tea Drops

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. Tea Drops Unsweetened Citrus Ginger Orange Lemon Ginger - Lead**
- 2. Tea Drops Hibiscus Glow Hibiscus Rose Hips Cinnamon Cherry Caffeine Free - Lead**
- 3. Tea Drops Dessert Tea Collection Strawberry Shortcake Caffeine Free - Lead**
- 4. Tea Drops Chocolate Earl Grey Earl Grey Tea Cocoa – Lead**
- 5. Tea Drops Thai Tea Authentic Thai Tea - 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 February 23, 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.

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 Humble Tea Inc., individually and dba Tea Drops and its 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 Humble Tea Inc., individually and dba Tea Drops

I, William F. Wraith, declare:

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

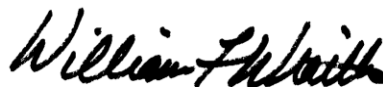
2. I am an attorney for the noticing party.

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.

Dated: February 23, 2023



William F. Wraith

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 February 23, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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
Humble Tea Inc., individually and
dba Tea Drops
1106 Second St, #440
Encinitas, CA 92024

Sashee Chandran
(Registered Agent for Humble Tea Inc.,
individually and dba Tea Drops)
1106 Second St, #440
Encinitas, CA 92024

The Corporation Trust Company
(Registered Agent for Humble Tea Inc.,
individually and dba Tea Drops)
1209 N. Orange St
Wilmington, DE 19801

Current President or CEO
Humble Tea Inc., individually and
dba Tea Drops
28904 Avenue Paine
Valencia, CA 91355

Current President or CEO
Humble Tea Inc., individually and
dba Tea Drops
600 Wilshire Blvd, #500
Los Angeles, CA 90017

On February 23, 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 February 23, 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
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San Andreas, CA 95249
Prop65Env@co.calaveras.ca.us

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

February 23, 2023

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SanDiegoDAProp65@sdcca.org

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San Francisco, CA 94102
Valerie.Lopez@sfcityatty.org
Starla.Sousa@sfcityatty.org

Tori Verber Salazar, District Attorney
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Stockton, CA 95202
DAConsumer.Environmental@sjcda.org

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

February 23, 2023

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Santa Cruz, CA 95060
Prop65DA@santacruzcounty.us

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

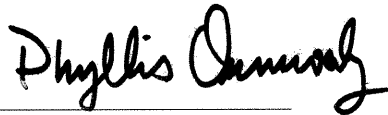
Phillip J. Cline, District Attorney
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Prop65@co.tulare.ca.us

Gregory D. Totten, District Attorney
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Ventura, CA 93009
daspecialops@ventura.org

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

On February 23, 2023, between 8:00 a.m. and 5:00 p.m. Eastern Time, 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 First Class Mail.

Executed on February 23, 2023, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney,
Amador County
708 Court Street, Suite
202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive,
Suite 245
Oroville, CA 95965

District Attorney, Colusa
County
310 6th St
Colusa, CA 95932

District Attorney, Del
Norte County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El
Dorado County
778 Pacific St
Placerville, CA 95667

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney,
Humboldt County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney,
Imperial County
940 West Main Street,
Ste 102
El Centro, CA 92343

District Attorney, Kern
County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey
Boulevard
Hanford, CA 93230

District Attorney, Lake
County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los
Angeles County
Hall of Justice
211 West Tempe St.,
Ste 1200
Los Angeles, CA 90012

District Attorney,
Madera County
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Avenue
Madera, CA 93637

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Room 130
San Rafael, CA 94903

District Attorney,
Mendocino County
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Ukiah, CA 95482

District Attorney, Modoc
County
204 S Court Street,
Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
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Bridgeport, CA 93517

District Attorney, San
Benito County
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Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
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San Bernadino, CA
92415

District Attorney, San
Mateo County
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Floor
Redwood City, CA
94063

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Redding, CA 96001

District Attorney, Sierra
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2nd Floor
Downieville, CA 95936

District Attorney,
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Yreka, CA 96097

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4500
Fairfield, CA 94533

District Attorney,
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Modesto, CA 95354

District Attorney, Sutter
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Yuba City, CA 95991

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Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

District Attorney,
Tuolumne County
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Street
Sonora, CA 95370

District Attorney, Yuba
County
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152
Marysville, CA 95901

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

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The “Proposition 65 List.” Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at
P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.