DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Food and Drug Administration
5100 Paint Branch Parkway
College Park, Maryland 20740

DEC 9 2005

Julianne Lindemann, Ph.D.
3260 Blume Dr., Suite 310
Richmond, California 94806

Dear Dr. Lindemann:

This is to inform you that the notification you submitted, on behalf of you client Efficas, Inc., dated September 26, 2005, pursuant to 21 U.S.C. 350b(a)(2)(section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act (the Act)) was filed by the Food and Drug Administration (FDA) on September 27, 2005. Your notification concerns the substance called "KiwiBerry Extract" that you intend to market as a new dietary ingredient.

According to the notification you state the following suggested conditions of use for "KiwiBerry Extract:" "Suggested use is 2–4 capsules per day. ..."KiwiBerry Extract" may be used daily by adults and by children weighing at least 44 pounds." The level of the new dietary ingredient in the dietary supplement is 300 mg of the "KiwiBerry Extract" concentrate plus 300 mg of microcrystalline cellulose per 600 mg capsule.

Under 21 U.S.C. 350b(a), the manufacturer or distributor of a dietary supplement containing a new dietary ingredient that has not been present in the food supply as an article used for food in a form in which the food has not been chemically altered must submit to FDA, at least 75 days before the dietary ingredient is introduced or delivered for introduction into interstate commerce, information that is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such new dietary ingredient will reasonably be expected to be safe. FDA reviews this information to determine whether it provides an adequate basis for such a conclusion. Under section 350b(a)(2), there must be a history of use or other evidence of safety establishing that the new dietary ingredient, when used under the conditions recommended or suggested in the labeling of the dietary supplement, will reasonably be expected to be safe. If this requirement is not met, the dietary supplement is considered to be adulterated under 21U.S.C. 342(f)(1)(B) because there is inadequate information to provide reasonable assurance that the new dietary ingredient does not present a significant or unreasonable risk of illness or injury.

In accordance with 21 CFR 190.6(c), FDA must acknowledge its receipt of a notification for a new dietary ingredient. For 75 days after the filing date, your client must not introduce or

deliver for introduction into interstate commerce any dietary supplement that contains the new dietary ingredient that is the subject of this notification.

Please note that acceptance of this notification for filing is a procedural matter, and thus, does not constitute a finding by FDA that the new dietary ingredient or supplement that contains the new dietary ingredient is safe or is not adulterated under 21 U.S.C. 342. FDA is not precluded from taking action in the future against any dietary supplement containing your new dietary ingredient if it is found to be unsafe, adulterated, or misbranded.

Your notification will be kept confidential for 90 days after the filing date of September 27, 2005. After the 90-day date, the notification will be placed on public display at FDA's Division of Docket Management in docket number 95S-0316. Prior to that date, you may wish to identify in writing specifically what information you believe is proprietary, trade secret or otherwise confidential for FDA's consideration.

If you have any further questions concerning this matter, please contact Linda S. Pellicore, Ph.D., at (301) 436-2375.

Sincerely yours,

FOR

Susan J. Walker, M.D.
Director
Division of Dietary Supplement Programs
Office of Nutritional Products, Labeling
and Dietary Supplements
Center for Food Safety
and Applied Nutrition