

Environmental World Watch, Inc.  
4821 LANKERSHIM BLVD, SUITE 239  
NORTH HOLLYWOOD, CALIFORNIA 91601  
(877) 221-0388 - Facsimile

MARCH 27, 2009

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND  
TOXIC ENFORCEMENT ACT OF 1986  
(California Health and Safety Code §25249.5 et seq.)

AMENDED NOTICE

TO  
KETTLE FOODS, INC, INC.  
KETTLE FOODS, INC SALES, INC.

First Class Mail-Proof of Service Attached

TO THE PARTIES LISTED ON THE  
ATTACHED DISTRIBUTION LIST

Paul Davis, President  
Kettle Foods, Inc.  
3125 Kettle CT SE Salem, OR 97301

CC: *care of Agent for service of Process*  
Hanna Gordon 242 Church St.  
SE Salem, OR 97301

Dear Sir or Madam:

Environmental World Watch, Inc. (the "Noticing Party") serves this Notice of Violation ("Notice") upon Kettle Foods, Inc (hereinafter "Kettle Foods") pursuant to and in compliance with California Health and Safety Code ("H&S Code") §25249.7(d) and 22 California Code of Regulations ("CCR") §12903. This Notice satisfies a prerequisite for Noticing Party to commence an action against Kettle Foods to enforce the Safe Drinking Water and Toxic Enforcement Act of 1986. The violations addressed by this Notice occur in every county and city in California. This Notice is being served upon each violator, the California Attorney General, the district attorney of every California County and the city attorney of every California City with a population (according to the most recent decennial census) of over 750,000. If Kettle Foods has a current registration with the California Secretary of State that identifies a Chief Executive Officer, President, or General Counsel, this Notice is being addressed to, and served upon, one of those persons.

Attached previously in the original Notice was a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary". Copies of the Summary are not required to be, and are not being provided here in the AMENDED NOTICE, RE-NOTICE and NEW NOTICE.

Description of the Noticing Party, the Alleged Violator, and the Alleged Violations Addressed by this Notice:

- This Notice is provided by Environmental World Watch, Inc. Environmental World Watch, Inc. (hereinafter "EWW"), is based in Los Angeles and is registered as a Delaware corporation with the office of the California Secretary of State. EWW is acting in the public interest pursuant to H&S Code §25249.7(d), and is dedicated to protecting the environment, improving human health and supporting environmentally sound practices.
- The violators' names and addresses are:  
Kettle Foods, Inc,  
Paul Davis, President  
Kettle Foods, Inc.  
3125 Kettle CT  
SE Salem, OR 97301  
CC: *care of* Agent for service of Process:  
Hanna Gordon 242 Church St.  
SE Salem, OR 97301
- The violations addressed by this Notice began on or after January 1, 1991, have occurred on numerous occasions each and every day since January 1, 1991, and are ongoing and continuing.
- This Notice of Violation covers the "warning provision" of Proposition 65, which is found at H&S Code §25249.6.
- The name of each chemical that is listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 involved in the violations addressed by this Notice is Acrylamide; (the "Listed Chemical"). The Listed Chemical is listed (and has been so listed for more than twelve months) by the Governor of the State of California as being a chemical known to the State of California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity. See Exhibit B attached hereto.
- The route of exposure for the violations addressed by this Notice is ingestion. There is also a danger of a dermal exposure while preparing the product for consumption.
- The type of consumer causing the exposures addressed by this Notice are breakfast s, including but not limited to, the following illustrative :

**TABLE A**

**KETTLE BRAND CHIPS**

KETTLE SWEET ONION  
DEATH VALLEY  
BACKYARD BARBEQUE  
SOUR CREAM, ONION & CHIVE  
BUFFALO BLEU  
CHEDDAR BEER  
CLASSIC BARBEQUE  
DILL AND SOUR CREAM  
HONEY DIJON  
ISLAND JERK  
LIGHTLY SALTED  
NEW YORK CHEDDAR  
SALT & FRESH GROUND PEPPER  
SEA SALT AND VINEGAR  
SPICY THAI  
TUSCAN THREE CHEESE  
UNSALTED  
YOGURT AND GREEN ONION  
SEA SALT AND VINEGAR, BAKED  
AGED WHITE CHEDDAR  
HICKORY HONEY  
LIGHTLY SALTED, BAKED  
CHIPOTLE CHILI, ORGANIC  
LIGHTLY SALTED, ORGANIC  
SEA SALT & BLACK PEPPER, ORGANIC  
BLACK BEAN, TORTILLA  
BLUE CORN, TORTILLA  
CHILI LIME, TORTILLA  
MULTI GRAIN  
YELLOW CORN

- There are numerous sources of the exposures addressed in this Notice. These exposures occur in homes, the workplace and everywhere else in California where these are consumed. These exposures occur principally off the property of the Noticed Company.
- In the course of doing business, Kettle Foods has knowingly and intentionally exposed, and continues to expose, individuals (especially pregnant and post-partum women) to the Listed Chemical. No clear and reasonable warning is or has been provided by Kettle Foods to individuals regarding exposure to the Listed Chemical or regarding the fact that the Listed Chemical is known to the State of California to be a carcinogen, reproductive toxicant, or both a carcinogen and reproductive toxicant.

- These exposures have gone on from 1991 and are ongoing and continuing as EWW believes and so alleges that Kettle Foods has tolled the statute of limitations by fraudulent concealment of the constituents of the ingredients in their from those persons that required warning in the stores where Kettle Foods, Inc are sold for consumer consumption in California. The labels on these are further absent any warning that would meet the definition delineated at Title 22 CCR §12601(b)(1)(A), nor do they comply with section (b)(3) and (b)(4)(B) of that regulation.
- The carcinogen, contained in the ingredients of the , and subject to the warning requirements of H&S Code §25249.6 and more specifically 22 CCR §12601(b) *et seq.* are listed below:

1. Acrylamide:

- The aforementioned carcinogen is on the Governor's list (Prop 65 List) as expressed at 22 CCR §12000. These chemicals are known to the State of California to cause carcinogenic harm to humans requiring special warning labels and care in handling and use. The concentrations of these toxins in the subject consumer food product exceed the No Significant Risk Level ("NSRL") threshold of 0.2 microgram per day and require a warning of the existence of this chemical danger by the manufacture.
- The principal route of exposure is through a "consumer exposure" via ingestion and inhalation. There is a further danger of contacting these carcinogens via a dermal exposure while using the food product as intended by the manufacture. These exposures have gone on since January 1 1991, and are ongoing and continuing at every place in California that the listed in TABLE A are offered for sale and consumption. All references to "exposure" in this notice shall be understood to be exposures to the specific product lines in said TABLE and the ingredients of those. The sale of these products constitutes a transfer of a known carcinogenic chemical into the populous and the normal consumption of the product by the purchaser or others will cause the exposure without a clear and reasonable warning.
- The location of these alleged exposures are many and varied while occurring within the 58 counties of the state of California as evidenced by the District Attorneys addressed in the enclosed distribution list. EWW believes and so alleges that at least one of the jurisdictions identified had Kettle Foods sold within that county by a Kettle Foods retail distributor and that sale caused the utilization of the consumer food product and subsequent exposure. Further that usage caused exposures in that jurisdiction to the constituents of the consumer food product as identified herein, and those exposures by Kettle were allowed to take place without the prerequisite warnings as delineated by the applicable statutes specified in this notice.
- Please direct any inquiries regarding this notice or any communication with the responsible party Dennis Becvar for the noticing entity, Environmental World Watch, Inc. to:

Matthew E. Jackson  
Environmental World Watch Corp Headquarters.  
Los Angeles Offices  
4821 Lankershim Blvd Ste 239 Code F  
North Hollywood, California 91601

**EXHIBIT B**  
**NOTICED PARTIES:**

KETTLE FOODS, INC,  
KETTLE FOODS, INC.

List Of Chemicals Contained In The Attached 60-Day Notice of Violation That Are Listed By The Governor Of The State Of California As Being Known To The State Of California To Cause Cancer Or Reproductive Toxicity

**CARCINOGENS**

<b><u>Chemical</u></b>	<b><u>CAS No.</u></b>	<b><u>Date Added to List</u></b>
Acrylamide	79061	January 1, 1990

**CERTIFICATE OF MERIT**  
**HEALTH AND SAFETY CODE SECTION 25249.7(d)**

• **ACRYLAMIDE**

**NOTICED PARTY:**  
**KETTLE FOODS, INC,**

I, MATTHEW E. JACKSON, on behalf of Environmental World Watch, Inc., hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged that the parties identified in the notices have violated California Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am the attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical(s) that is the subject of this action.

4. Based upon the information obtained through those consultations, and all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for private action" means that the information provides a credible basis that all the elements of the plaintiffs' case can be established and 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. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and safety Code section 24249.7(h)(2), *i.e.*, (1) the identity of the person consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: March 27, 2009

Signed by:

  
Matthew E. Jackson

**CERTIFICATE OF SERVICE**

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I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 4821 Lankershim Blvd Ste 239, NH 91601.

On March 26, 2009 I served copies of the documents listed immediately hereafter by first class mail by placing same in sealed envelopes, fully preparing postage thereon, and depositing said envelopes in the U.S. Mail at Los Angeles, California. Said envelopes were addressed as follows:

**SEE ATTACHED DISTRIBUTION LIST**

*(sent via certified mail with applicable postage to those parties listed with an asterisk)*

Documents mailed:

1. **NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (California Health and Safety Code §25249.5 et seq.)**

**TO: Kettle Foods, Inc.**  
Paul Davis, President  
3125 Kettle CT SE  
Salem, OR 97301

CC: *care of* Agent for service of Process:  
Hanna Gordon 242 Church St.  
SE Salem, OR 97301

2. **CERTIFICATE OF MERIT - (attachments only sent to California Attorney General's Office)**

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct, and that this declaration was executed on March 26, 2009 at Los Angeles, California.

March 27, 2009

Signed by



DJ Nichols

DISTRIBUTION LIST

◆ Current CEO/Pres./Gen. Counsel  
Kettle Foods, Inc.  
Paul Davis, President  
Kettle Foods, Inc.  
3125 Kettle CT SE  
Salem, OR 97301

◆ Current CEO/Pres./Gen. Counsel  
Kettle Foods, Inc Sales, Inc.

CC: *care of* Agent for service of Process  
Hanna Gordon 242 Church St.  
SE Salem, OR 97301

◆ Proposition 65 Enforcement  
Reporting Attention: Prop 65  
Coordinator  
1515 Clay Street, Suite 2000  
Post Office Box 70550 Oakland,  
California 94612-0550  
Phone: (510) 873-6921  
Fax: (510) 622-2270

By Certified Mail -Return  
Receipt Requested

By Certified Mail -Return  
Receipt Requested

By Certified Mail-Return  
Receipt Requested

San Francisco City Attorney's Office  
City Hall, Room 234 San Francisco,  
CA 94102

Los Angeles City Attorney's Office  
1800 City Hall East 200 N. Main  
Street Los Angeles, CA 90012

San Diego City Attorney's Office  
Civic Center Plaza 1200 3rd  
Avenue, Suite 1200 San Diego,  
CA 92101

Office of the District Attorney of  
Alameda County 1225 Fallon  
Street, Room 900 Oakland, CA  
94612

San Jose City Attorney's Office  
151 West Mission Street San  
Jose, CA 95110

Office of the District Attorney of  
Amador County 708 Court  
Street, Room 202 Jackson, CA  
95642

Office of the District Attorney of  
Butte County Administration  
Building 25 County Center  
Drive Oroville, CA 95965

Office of the District Attorney of  
Alpine County P.O. Box 248  
Markleville, CA 96120

Office of the District Attorney of  
Colusa County 547 Market Street  
Colusa, CA 95932

Office of the District Attorney of  
Contra Costa County PO Box  
670 Martinez, CA 94553

Office of the District Attorney of  
Calaveras County County  
Government Center 891  
Mountain Ranch Road San  
Andreas, CA 95249

Office of the District Attorney of  
El Dorado County 515 Main  
Street Placerville, CA 95667

Office of the District Attorney of  
Fresno County  
2220 Tulare Street, Suite 1000  
Fresno, CA 93721

Office of the District Attorney of  
Del Norte County Courthouse  
450 H Street, Suite 171 Crescent  
City, CA 95531

Office of the District Attorney of  
Humboldt County 825 Fifth  
Street Eureka, CA 95501

60-day Notice of Violation

KETTLE FOODS, INC

March 27, 2009

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Office of the District Attorney of  
Imperial County  
County Courthouse, Rm. 202  
939 W. Main Street  
El Centro, CA 92243

Office of the District Attorney of  
Glenn County  
540 W. Sycamore Street  
P.O. Box 430  
Willow, CA 95988

Office of the District Attorney of  
Kern County  
1215 Truxtun Avenue, 4<sup>th</sup> Floor  
Bakersfield, CA 93301

Office of the District Attorney of  
Kings County  
Government Center  
1400 West Lacey Boulevard  
Hanford, CA 93230

Office of the District Attorney of  
Inyo County  
168 N. Edwards Street  
P.O. Drawer D  
Independence, CA 93526

Office of the District Attorney of  
Lassen County  
County Courthouse  
220 S. Lassen Street, Ste. 8  
Susanville, CA 96130

Office of the District Attorney of  
Los Angeles County  
18000 Criminal Courts Building  
210 W. Temple Street  
Los Angeles, CA 90012

Office of the District Attorney of  
Lake County  
255 N. Forbes Street, Ste. 424  
Lakeport, CA 95453

Office of the District Attorney of  
Marin County Hall of Justice,  
Room 183 3501 Civic Center  
Drive San Rafael, CA 94903

Office of the District Attorney of  
Mariposa County P.O. Box 748  
Mariposa, CA 95338

Office of the District Attorney of  
Madera County 209 W.  
Yosemite Avenue Madera, CA  
93637

Office of the District Attorney of  
Merced County 2222 "M" Street  
Merced, CA 95340

Office of the District Attorney of  
Modoc County County  
Courthouse P.O. Box 1171  
Alturas, CA 96101

Office of the District Attorney of  
Mendocino County County  
Courthouse P.O. Box 1000  
Ukiah, CA 95482

Office of the District Attorney of  
Monterey County 240 Church  
Street Salinas, CA 93901

Office of the District Attorney of  
Napa County 931 Parkway Mall  
Napa, CA 94559

Office of the District Attorney of  
Mono County County  
Courthouse P.O. Box 617  
Bridgeport, CA 93517

Office of the District Attorney of  
Orange County  
700 Civic Center Drive West, 2<sup>nd</sup> Floor  
P.O. Box 808  
Santa Ana, CA 92702

Office of the District Attorney of  
Placer County  
11562 "B" Avenue, DeWitt Center  
Auburn, CA 95603

Office of the District Attorney of  
Nevada County  
Courthouse Annex  
201 Church Street, Suite 8  
Nevada City, CA 95959-2504

Office of the District Attorney of  
Riverside County 4075 Main  
Street, 1st Floor Riverside, CA  
92501

Office of the District Attorney of  
Sacramento County 901 "G"  
Street P.O. Box 749  
Sacramento, CA 95814

Office of the District Attorney of  
Plumas County  
520 Main Street, Room 404  
P.O. Box 10716  
Quincy, CA 95971

Office of the District Attorney of  
San Bernardino County 316 N.  
Mountain View Avenue San  
Bernardino, CA 92415-0004

Office of the District Attorney of  
San Diego County 330 West  
Broadway, Ste. 1320 San Diego,  
CA 92112

Office of the District Attorney of  
San Berito County  
419 4th Street  
Hollister, CA 95023-3801

Office of the District Attorney of  
San Joaquin County 222 E.  
Webb, Room 202 P.O. Box 990  
Stockton, CA 95201

60-day Notice of Violation

KETTLE FOODS, INC

March 27, 2009

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Office of the District Attorney of  
San Luis Obispo County 1050  
Monterey Street, Room 450 San  
Luis Obispo, CA 93408

Office of the District Attorney of  
San Francisco County  
Hall of Justice  
880 Bryant Street  
San Francisco, CA 94103

Office of the District Attorney of  
Santa Barbara County 1105  
Santa Barbara Street Santa  
Barbara, CA 93101

Office of the District Attorney of  
Santa Clara County 70 West  
Hedding Street, West Wing San  
Jose, CA 95110

Office of the District Attorney of  
San Mateo County 400 County  
Center, 3rd Floor Redwood  
City, CA 94063

Office of the District Attorney of  
Shasta County  
1525 Court Street, Third Floor  
P.O. Box 1320  
Redding, CA 96001-1632

Office of the District Attorney of  
Sierra County County  
Courthouse P.O. Box 457  
Downieville, CA 95936

Office of the District Attorney of  
Santa Cruz County 701 Ocean  
Street, Ste. 200 Santa Cruz, CA  
95061

Office of the District Attorney of  
Solano County 600 Union  
Avenue Fairfield, CA 94533

Office of the District Attorney of  
Sonoma County  
Hall of Justice  
600 Administration Drive, Room 212-J  
Santa Rosa, CA 95403

Office of the District Attorney of  
Siskiyou County P.O. Box 986  
Yreka, CA 96097

Office of the District Attorney of  
Sutler County  
Courthouse Annex Box 1555  
446 Second Street  
Yuba City, CA 95991

Office of the District Attorney of  
Tehama County  
County Courthouse  
P.O. Box 519  
Red Bluff, CA 96080-0519

Office of the District Attorney of  
Stanislaus County 11001 Street,  
Room 200 P.O. Box 442  
Modesto, CA 95353

Office of the District Attorney of  
Tulare County  
County Civic Center  
2350 Burrel Avenue, Room 224  
Visalia, CA 93291-4593

Office of the District Attorney of  
Tuolumne County 2 South Green  
Street Sonora, CA 95370

Office of the District Attorney of  
Trinity County P.O. Box 310  
Weaverville, CA 96093

Office of the District Attorney of  
Ventura County  
800 South Victoria Avenue, Rm. 314  
Ventura, CA 93009

Office of the District Attorney of  
Yolo County 204 4th Street  
Woodland, CA 95695

Office of the District Attorney of  
Yuba County County  
Court house 215 - 5th Street  
Marysville, CA 95901