60 DAY NOTICE OF VIOLATION

SENT IN COMPLIANCE WITH CALIFORNIA HEALTH & SAFTEY CODE §25249.7(d)

DATE: February 14, 2013

To: All Parties Listed On Attachment "A"

and

California Attorney General's Office:
District Attorney's Office for 58 counties;
City Attorney's for San Francisco, San Diego, San Jose, Sacramento and Los Angeles;

From: Ms. Evelyn Wimberley

I. My name is Evelyn Wimberley. I am a citizen of the State of California acting in the interest of the general public. I seek to promote awareness of exposures to toxic chemicals in products sold in California and, if possible, to improve human health by reducing hazardous substances contained in such items. This Notice is provided to the parties listed above pursuant to California Health & Safety Code §25249.6 et seq. ("Proposition 65"). The violations covered by this Notice consist of the product exposures, routes of exposures, and type s of harm potentially resulting from exposure to the toxic chemical ("listed chemical") identified below, as follows:

Product Exposure:	**See Section VII. Exhibit A**
Listed Chemical:	**Lead and Lead Compounds**
Routes of Exposure:	**Dermal absorption, Ingestion, Inhalation.**
Types of Harm:	**Carcinogen, Causes Birth Defects and Other Reproductive Harm**

II. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

The specific type of product that is causing consumer and occupational exposures in violation of Proposition 65, and that is covered by this Notice, is listed under "Product Category/Type" in Exhibit A in Section VII below. All products within the type covered by this Notice shall be referred to hereinafter as the "products." The sales of these products in California dating at least as far back as December 26, 2012 are subject to this notice. As a result of the sales of these products, exposures to the listed chemical have been occurring without clear and reasonable warnings as required by Proposition 65. Without proper warnings regarding the toxic effects of exposures to the listed chemical, resulting from contact with the products, California citizen lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the toxic chemical from the reasonably foreseeable use of the products.

California citizens, through the act of buying, acquiring or utilizing the products, are exposed to the listed chemical in homes, workplaces and everywhere else throughout California where these products are used. By way of example but not limitation, exposures occur when consumers handle these products, lead comes off on the hands and is then absorbed through the skin or ingested via inhalation, hand to mouth behavior, hand to food to mouth behavior, or through hand to cigarette to lung behavior. Exposure may continue to occur for a significant period after the initial contact. These activities cause women, pregnant women, and women of child bearing age to be exposed directly through migration of the listed chemical from the products. People likely to be exposed are

women, men, infants and children. These violations and threatened violations pertain to Proposition 65 chemicals that are listed as carcinogens and as reproductive toxins.

III. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address:

Ms. Evelyn Wimberley
c/o Mr. Stephen Ure
Law Offices of Stephen Ure, PC.
1518 Sixth Avenue
San Diego, CA 92101
Tel: 619-235-5400

IV. PROPOSITION 65 INFORMATION

For general information concerning the provisions of Proposition 65, please feel free to contact the Office of Environmental Health hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. For the Violator's reference, I have attached a copy of "Proposition 65: A Summary" which has been prepared by OEHHA.

V. RESOLUTION OF NOTICED CLAIMS

Based on the allegations set forth in this Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator unless such Violator enters into a binding written agreement to: (1) recall products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those whom have received such products; (2) provide clear and reasonable warnings for products sold in the future or reformulate such products to eliminate the Lead exposures; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is interested in resolving this dispute without resort to time-consuming and expensive litigation, please feel free to contact my counsel identified in Section III above. It should be noted that neither my counsel nor I can: (1) finalize any settlement until after the 60-day notice period has expired; nor.(2) speak for the Attorney General or any District or City Attorney who received this Notice. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

VI. ADDITIONAL INFORMATION

THIS INFORMATION IS NOT REQUIRED TO BE PROVIDED UNDER TITLE 22CAL.CODE REGS,. §12903 (b)(4).

Identified below is a specific example of a product recently purchased and witnessed as being available for purchase or use in California that is within the category or type of offending product covered by this Notice. Based on publicly available information, the retailers, distributors and/or manufacturuers of the example within the category or type of product are also provided below. I believe and allege that the sale of the offending products also has occurred without the requisite Proposition 65 "clear and reasonable warnings" at one or more locations and/or via other means including, but not limited to, transactions made over-the-counter, business to business, through the internet, and/or via catalog by the Violator and other distributors and retailers of the manufacturer.

Product**	Retailer(s)	Manufacturer(s)/Distributor(s)
Soda Stream Carbonator	Bed, Bath & Beyond	SodaStream USA

VII. EXHIBIT A

Product Category/Type	Such As*	Toxins
Kitchen Appliance/Accessory	Soda Stream Carbonator UPC 811369001214	Lead

*The specifically identified example of the type of product which is subject to this Notice is for the recipient's benefit to assist in its investigation of, among other things, the magnitude of potential exposure to the listed chemical from other items within the product category/type listed in Exhibit A. It is important to note that this example is not meant to be an exhaustive or comprehensive identification of each specific offending product of the type listed under "Product Category/Type" in Exhibit A. Further, it is this citizen's position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other specific products within the type or category described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the relevant period so as to ensure that the requisite toxic warnings are provided to California citizens prior to purchase.

CERTIFICATE OF MERIT

Health and Safety Code Section 25249.7(d)

I, Stephen Ure, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice has violated Health and Safety Code §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 *alleged* exposure to the listed chemical that is the subject of this action.

4. Based on the information obtained through those consultations, and on 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 the private action" means that the information provides a credible basis that all elements of the plaintiff's 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 information identified in Health and 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 14, 2013

Stephen Ure

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 1518 Sixth Avenue, San Diego, CA 92101.

On February 14, 2013, I served the following documents:

60-DAY NOTICE OF VIOLATION SENT IN COMPLIANCE WITH HEALTH & SAFETY CODE §25249.7(d);

PROPOSITION 65: A SUMMARY;

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS (SERVED ONLY ON THE ATTORNEY GENERAL)

on the Violator listed below via First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the Violator and providing such envelope to a United States Postal Service Representative:

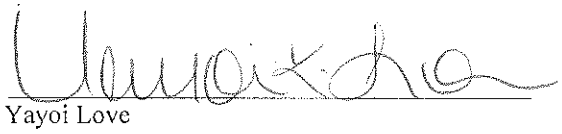
Violators: Those Parties Listed on Attachment "A".

as well as providing copies of the notice to the public enforcers by placing a true and correct copy in a sealed envelope, addressed to each party listed below and served as follows:

By Electronic Mail	The Attorney General of the State of California
By placing each envelope in a United States Postal Service Box, first class postage pre-paid	The District Attorneys for each of the 58 California Counties and; The City Attorneys for Los Angeles, San Diego, San Jose, San Francisco, Sacramento, Anaheim, Burbank, Torrance, and Oakland

A list of addresses for each of the recipient's is attached.

Executed on February 14, 2013, San Diego, California



Yayoi Love

	District Attorney COLUSA COUNTY 547 Market Street, Ste. 102 Colusa, CA 95932	District Attorney DEL NORTE COUNTY 450 H Street, Room 171 Crescent City, CA 95531
District Attorney ALPINE COUNTY PO Box 248 Markleeville, CA 96120	District Attorney CONTRA COSTA COUNTY 725 Court Street, Fourth Floor Martinez, CA 94553	District Attorney EL DORADO COUNTY 515 Main Street Placerville, CA 95667
District Attorney AMADOR COUNTY 708 Court Street #202 Jackson, CA 95642	District Attorney FRESNO COUNTY 2220 Tulare Street, Ste. 1000 Fresno, CA 93721	District Attorney GLENN COUNTY PO Box 430 Willows, CA 95988
District Attorney BUTTE COUNTY 25 County Center Drive -- Administration Building Oroville, CA 95965	District Attorney HUMBOLDT COUNTY 825 5th Street Eureka, CA 95501	District Attorney IMPERIAL COUNTY 940 West Main Street, Ste. 102 El Centro, CA 92243
District Attorney CALAVERAS COUNTY 891 Mountain Ranch Road San Andreas, CA 95249	District Attorney INYO COUNTY PO Drawer D Independence, CA 93526	District Attorney KERN COUNTY 1215 Truxtun Avenue Bakersfield, CA 93301
District Attorney KINGS COUNTY 1400 West Lacey Blvd. Hanford, CA 93230	District Attorney LAKE COUNTY 255 N. Forbes Street Lakeport, CA 95453	District Attorney LASSEN COUNTY 220 S. Lassen Street, Ste. 8 Susanville, CA 96130
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 MARIPOSA COUNTY PO BOX 730 Mariposa, CA 95338
District Attorney MENDOCINO COUNTY PO BOX 1000 Ukiah, CA 95482	District Attorney MERCED COUNTY 2222 M Street Merced, CA 95340	District Attorney MODOC COUNTY 204 S. Court Street, Room 202 Alturas, CA 96101
District Attorney MONO COUNTY PO BOX 617 Bridgeport, CA 93546	District Attorney MONTEREY COUNTY PO BOX 1131 Salinas, CA 93902	District Attorney NAPA COUNTY PO BOX 720 Napa, CA 94559
District Attorney SAN DIEGO COUNTY 330 W. Broadway, Suite 1300 San Diego, CA 92101	District Attorney County of Los Angeles 210 West Temple Street, Suite 18000 Los Angeles, CA 90012-3210	District Attorney NEVADA COUNTY 110 Union Street Nevada City, CA 95959

District Attorney ORANGE COUNTY 401 Civic Center Drive West Santa Ana, CA 92701	District Attorney PLACER COUNTY 10810 Justice Center Drive Roseville, CA 95678	District Attorney PLUMAS COUNTY 520 Main Street, Room 404 Quincy, CA 95971
District Attorney RIVERSIDE COUNTY 4075 Main Street Riverside, CA 92501	District Attorney SACRAMENTO COUNTY PO BOX 749 Sacramento, CA 95812	District Attorney SAN BENITO COUNTY 419 4th Street Hollister, CA 95023-3801
District Attorney SAN FRANCISCO COUNTY 880 Bryant Street, Third Floor San Francisco, CA 94103	District Attorney SAN JOAQUIN COUNTY PO BOX 990 Stockton, CA 95202	District Attorney SAN LUIS OBISPO COUNTY 1035 Palm Street San Luis Obispo, CA 93408
District Attorney SAN MATEO COUNTY 400 County Center, Third Floor Redwood City, CA 94063	District Attorney SANTA BARBARA COUNTY 1112 Santa Barbara Street Santa Barbara, CA 93101	District Attorney SANTA CLARA COUNTY 70 West Hedding Street, West Wing San Jose, CA 95110
District Attorney SANTA CRUZ COUNTY 701 Ocean Street, Room 200 Santa Cruz, CA 95060	District Attorney SHASTA COUNTY 1525 Court Street, Third Floor Redding, CA 96001-1632	District Attorney SIERRA COUNTY 100 Courthouse Square Downieville, CA 95936
District Attorney SISKIYOU COUNTY PO BOX 986 Yreka, CA 96097	District Attorney SOLANO COUNTY 675 Texas Street, Ste. 4500 Fairfield, CA 94533	District Attorney SONOMA COUNTY 600 Administration Drive, Room 212J Santa Rosa, CA 95403
District Attorney STANISLAUS COUNTY 832 12th Street, Ste. 300 Modesto, CA 95353	District Attorney SUTTER COUNTY PO BOX 1555 Yuba City, CA 95992	District Attorney TEHAMA COUNTY PO BOX 519 Red Bluff, CA 96080
District Attorney TRINITY COUNTY PO BOX 310 Weaverville, CA 96093	District Attorney TULARE COUNTY 221 South Mooney Blvd., Suite 224 Visalia, CA 93291	District Attorney TUOLUMNE COUNTY 423 No. Washington Street Sonora, CA 95370
District Attorney VENTURA COUNTY 800 South Victoria Avenue Ventura, CA 93009	District Attorney YOLO COUNTY 301 Second Street Woodland, CA 95695	District Attorney YUBA COUNTY 215 Fifth Street, Ste. 152 Marysville, CA 95901
District Attorney ALAMEDA COUNTY 1225 Fallon Street, Room 900 Oakland, CA 94612	District Attorney County of San Bernardino 316 N. Mountain View Ave San Bernardino, CA 92415-0004	Office of the City Attorney CITY OF BURBANK 275 E. Olive Avenue Burbank, CA 91502
Office of the City Attorney CITY OF SACRAMENTO P.O. Box 1948 Sacramento, CA 95812	Office of the City Attorney CITY OF LOS ANGELES 200 N. Main Street Los Angeles, CA 90012	Office of the City Attorney CITY OF TORRANCE 3031 Torrance Blvd. Torrance, CA 90503

Office of the City Attorney CITY OF SAN DIEGO Consumer and Environmental Protection 1200 Third Avenue, Suite 700 San Diego, CA 92101	Office of the City Attorney City of Oakland 505 14th Street 12th Floor Oakland, CA 94612	Office of the City Attorney City of San Jose 200 East Santa Clara Street San Jose, CA 95113
Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682	Office of the City Attorney CITY OF ANAHEIM 200 S. Anaheim Blvd. Anaheim, CA 92805	

Attachment "A"

SodaStream USA One Mall Drive Cherry Hill, NJ 08002	Bed, Bath & Beyond, Inc. Mr. Arthur Stark, President 650 Liberty Avenue Union, NJ 07083

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 ~~its~~ OEHHA's 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.

Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. The statute 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 ~~22~~ 27 of the California Code of Regulations, sections ~~12000~~ 25102 through ~~14000~~ 27001.[1] These implementing regulations are available online at: http://oehha.ca.gov/prop65/law/P65Regs.html.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, and/or ~~birth defects or other~~ reproductive toxicity ~~harm~~. This means that chemicals are placed on the

[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.

Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. ~~Over 735 chemical listings have been included as of November 16, 2001.~~ 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 this law. 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; for example, when exposures are sufficiently low (see below). 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. Some ~~E~~exposures are exempt from the warning requirement ~~if they occur less than twenty months after the date of listing of the chemical~~ 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 d~~D~~ischarges are exempt from this requirement ~~if they occur less than twenty months after the date of listing of the chemical~~ under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. ~~The law exempts~~ 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 until12 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, ~~S~~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 as known to the State to cause cancer ("carcinogens"), a warning is not required if the business 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 "N~~n~~o S~~s~~ignificant R~~r~~isk~~"~~ L~~l~~evels" (NSRLs) for ~~more than 250 listed carcinogens~~ 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 ~~birth defects or other~~ reproductive ~~harm~~ toxicity ~~("reproductive toxicants")~~, a warning is not required if the business 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 ~~(NOEL)~~" divided by ~~the~~ 1,000. ~~-fold safety or uncertainty~~. ~~The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.~~ 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 a Food. Certain exposures to chemicals that occur in foods naturally (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 contaminant[2] 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 into 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 ~~enter any~~ pass into or

[2] See Section 25501(a)(4)

probably pass into a source of drinking water ~~source~~, 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" ~~or "no observable effect" test~~ 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.

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 ~~(those in cities with a population exceeding 750,000)~~. 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 the regulations and in Title 11, sections 3100-3103. ~~(Title 22, California Code of Regulations, Section 12903)~~. A private party may not pursue an independent enforcement action ~~directly~~ under Proposition 65 if one of the governmental officials noted above initiates an 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.

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: July, 2012