

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION
California Safe Drinking Water and Toxic Enforcement Act

Date:	April 5, 2017
To:	President – Gourmet Innovations Inc., dba Best Whip Inc. President – Gourmet Innovations Inc., a Best Whip Company President – Gourmet Innovations Inc. President – Gourmet Innovations West Inc President – Best Whip Inc. President – Best Whip International Inc. Martin Nemec, dba Best Whip Inc. Martin Nemec, dba Gourmet Innovations President – Amazon.com, Inc. President - Amazon.com LLC California Attorney General's Office District Attorney's Office for 58 Counties City Attorneys for San Francisco, San Diego, San Jose, Sacramento and Los Angeles
From:	Michael DiPirro

This Supplemental Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, you may contact the Office of Environmental Health Hazard Assessment's ("OEHHA") Proposition 65 Implementation Office at (916) 445-6900. Attached for your reference is a summary, "Appendix A: The Safe Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," provided by the California Office of Environmental Health Hazard Assessment's ("OEHHA") (copies not provided to public enforcement agencies).

This Supplemental Notice of Violation is provided by Michael DiPirro. I am a citizen of the State of California acting in the interest of the general public. I am dedicated to protecting the environment, promoting awareness of exposures to toxic chemicals in products sold in California, improving human health and supporting environmentally sound practices.

Identified below are specific examples of products recently purchased and/or witnessed as being available for purchase or use in California that are within the categories or types of offending products covered by this Supplemental Notice. 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 location and/or via other means including, but not limited to, transactions made over-the-counter, business-to-business, through the Internet and/or via a catalog by the Violator(s) and other retailers and distributors of the manufacturer, including, but not limited to the retailer(s) and/or distributor(s) listed below.

Description of Violations:

Violator(s):	Gourmet Innovations Inc., dba Best Whip Inc. Gourmet Innovations Inc., a Best Whip Company Gourmet Innovations Inc. Gourmet Innovations West Inc Best Whip Inc. Best Whip International Inc. Martin Nemec, dba Best Whip Inc. Martin Nemec, dba Gourmet Innovations Amazon.com, Inc. Amazon.com LLC
Toxic Chemical:	Nitrous Oxide (“N2O”) Exposures to N2O occur from use of the products identified in this Supplemental Notice.
Product Category:	Nitrous Oxide Cartridges/Chargers
Non-exclusive Example of Type of Product¹:	Barista Professional Series Cream Chargers, Profi-Serie, 8g 24-Pack BestWhip N2O 8g Whip Cream Chargers (24 Packs) (#X0017MIUAN) 24 Barista Whipped Cream Chargers N2O Nitrous Oxide Whip Cream Fresh
Retailer(s):	The Mighty Quinn, Sonoma County, Northern California Amazon.com
Manufacturer(s)/ Distributor(s):	Gourmet Innovations Inc., dba Best Whip Inc. Gourmet Innovations Inc., a Best Whip Company Gourmet Innovations Inc. Gourmet Innovations West Inc Best Whip Inc. Best Whip International Inc. Martin Nemec, dba Best Whip Inc. Martin Nemec, dba Gourmet Innovations
Types of Harm:	Birth Defects and Other Reproductive Harm
Description of	These exposures occur in homes, some workplaces and everywhere

¹ The specifically identified examples of the types of products that are subject to this Supplemental Notice are for the recipients' benefit to assist in their investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the product categories/types listed herein. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending product of the types listed under “Product Category.” Further, it is this citizen's position that the alleged Violator(s) are obligated to continue to conduct in good faith an investigation into other specific products within the types or categories described above that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipients' custody or control) during the relevant period so as to ensure that the requisite toxic warnings were and are provided to California citizens prior to purchase.

Exposure:	else throughout California where these products are handled or used. 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.
Routes of Exposure:	Ingestion, Inhalation Reasonably foreseeable use of the products identified in this Supplemental Notice results in human exposures to N2O. The routes of exposure for the violations are: (1) direct ingestion and/or inhalation when consumers ingest, inhale or otherwise use the products for their intended and/or unintended but foreseeable use; (2) ingestion via hand to mouth contact after consumers touch, use, or handle the products; (3) ingestion when consumers place their hands in their mouths while using the products; (4) inhalation when N2O from the Products accumulates in ambient airborne particles (e.g., dust) in the air in or around the Products that consumers breathe.
Time Period of Exposure:	The violations have been occurring since at least October 1, 2012, and are continuing to this day.

Resolution of Noticed Claims: Based on the allegations set forth in this Supplemental Notice, I intend to file a citizen enforcement lawsuit against the alleged Violator(s) unless such Violator(s) enters into a binding written agreement to: (1) recall products already sold; (2) take effective measures to prevent unwarned N2O exposures from products sold in the future and to ensure that the requisite health hazard warnings are provided to those who have received such products; and (3) pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). If the alleged Violator(s) are interested in resolving this dispute without resorting to expensive and time-consuming litigation, please feel free to contact me through my counsel identified below. 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 Supplemental Notice of Violation. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

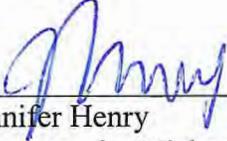
Please direct any inquiries regarding this Supplemental Notice to Michael DiPirro through his counsel David R. Bush or Jennifer Henry, at Bush & Henry, Attorneys at Law, PC, 3270 Mendocino Ave Ste 2E, Santa Rosa, CA 95403; Telephone: (707) 541-6255; E-mail: DRBush@bushandhenry.com or JHenry@bushandhenry.com

CERTIFICATE OF MERIT
Health & Safety Code § 25249.7(d)

I, Jennifer Henry, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day Supplemental Notice in which it is alleged that the party identified in the notice has violated Health & Safety Code § 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney who represents the noticing party.
3. Members of my firm and 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 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(s) will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of the 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 & 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.

April 4, 2017



Jennifer Henry
Attorneys for Michael DiPirro

PROOF OF SERVICE

I declare that I am employed in Sonoma County, California; my business address is 3270 Mendocino Ave Ste 2E, Santa Rosa, CA. I am over the age of 18 years and not a party to the within cause.

On April 5, 2017, I served true copies of the following documents:

SUPPLEMENTAL 60-DAY NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;

APPENDIX A: THE SAFE WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY; OEHHA/CAL EPA (only sent to the Violator(s));

CERTIFICATE OF MERIT; and

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

On this date, I deposited fully prepaid and sealed envelopes containing the above- mentioned documents with the United States Postal Service, addressed to the following individuals as follows:

on the alleged Violator(s) listed below via regular and First Class Certified Mail through the United States Postal Service by placing a true and correct copy in a sealed envelope, addressed to the entities listed below and providing each envelope to a United States Postal Service Representative:

President Gourmet Innovations Inc., dba Best Whip Inc. 6727 NW 16th Terrace Ft. Lauderdale, FL 33309	President Gourmet Innovations Inc., a Best Whip Company 6727 NW 16th Terrace Ft. Lauderdale, FL 33309	President Gourmet Innovations Inc. 6727 NW 16th Terrace Ft. Lauderdale, FL 33309
President Gourmet Innovations West Inc. 1010 Commercial Street San Carlos, CA 94070	President Best Whip, Inc. 6727 NW 16th Terrace Fort Lauderdale, FL 33309	President Best Whip International Inc. 6727 NW 16th Terrace Fort Lauderdale, FL 33309
Martin Nemeec, dba Best Whip Inc. 6727 NW 16th Terrace Fort Lauderdale, FL 33309	Martin Nemeec, dba Gourmet Innovations 6727 NW 16th Terrace Fort Lauderdale, FL 33309	President Amazon.com, Inc. 410 Terry Avenue North Seattle, WA 98109
		President Amazon.com LLC 410 Terry Avenue North Seattle, WA 98109

By providing copies to the addressees below electronically as follows:

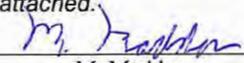
<i>Electronically via the Attorney General website:</i>			The Attorney General of the State of California;	
<i>Electronically to the following recipients at the following electronic mail addresses:</i>	Stacey Grassini Deputy District Attorney Contra Costa County sgrassini@contracostada.org	Yen Deng Supervising Deputy District Attorney Santa Clara County epu@da.sccgov.org	Gary Lieberstein District Attorney Napa County CEPD@countyofnapa.org	Jeff W. Reisig District Attorney Yolo County cfeprd@yolocounty.org
Dije Ndreu Deputy District Attorney Monterey County Prop65DA@co.monterey.ca.us	Paul E. Zellerbach District Attorney Riverside County Prop65@rivcoda.org	Phillip J. Cline District Attorney Tulare County Prop65@co.tulare.ca.us	Gregory D. Totten District Attorney Ventura County daspecialops@ventura.org	Anne Marie Schubert District Attorney Sacramento County Prop65@sacda.org
Gregory Alker Assistant District Attorney San Francisco City/County Gregory.alker@sfgov.org	Eric J. Dobroth Deputy District Attorney San Luis Obispo County edobroth@co.slo.ca.us	Stephan R. Passalacqua District Attorney Sonoma County jbarnes@sonoma-county.org	Michelle Latimer Program Coordinator Lassen County mlatimer@co.lassen.ca.us	Tori Verber Salazar District Attorney San Joaquin County DACConsumer.Environmental@sjcda.org

As well as providing copies 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 placing each envelope in a United States Postal Service mailbox, postage prepaid:

The District Attorney for Each of the 58 counties in California; and The City Attorney for Los Angeles, San Diego, San Jose, San Francisco and Sacramento. *A list of addresses for each of these recipients is attached.*

Executed on April 5th, 2017, at Santa Rosa, California.


 M. Madden

SERVICE LIST

The Honorable Nancy O'Malley
Alameda County District Attorney
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable Terese Drabec
Alpine County District Attorney
270 Laramie Street, PO BOX 248
Markleeville, CA 96120

The Honorable Todd Riebe
Amador County District Attorney
708 Court Street
Jackson, CA 95642

The Honorable Michael Ramsey
Butte County District Attorney
25 County Center Drive
Oroville, CA 95965

The Honorable Barbara Yook
Calaveras County District Attorney
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John Poyner
Colusa County District Attorney
346 Fifth Street
Colusa, CA 95932

The Honorable Mark Peterson
Contra Costa County District Attorney
900 Ward Street
Martinez, CA 94553

The Honorable Dale Trigg
Del Norte County District Attorney
450 H Street, Room 171
Crescent City, CA 95531

The Honorable Vern Pierson
El Dorado County District Attorney
515 Main Street
Placerville, CA 95667

The Honorable Lisa Smittcamp
Fresno County District Attorney
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Dwayne Stewart
Glenn County District Attorney
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Willows, CA 95988

The Honorable Maggie Fleming
Humboldt County District Attorney
825 5th Street, Fourth Floor
Eureka, CA 95501

The Honorable Gilbert Otero
Imperial County District Attorney
940 West Main Street, Suite 102
El Centro, CA 92243

The Honorable Thomas Hardy
Inyo County District Attorney
168 North Edwards Street
Independence, CA 93526

The Honorable Lisa Green
Kern County District Attorney
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Keith Fagundas
Kings County District Attorney
1400 West Lacey Boulevard
Hanford, CA 93230

The Honorable Donald Anderson
Lake County District Attorney
255 North Forbes Street
Lakeport, CA 95453

The Honorable Stacey Montgomery
Lassen County District Attorney
220 South Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Jackie Lacey
Los Angeles County District Attorney
210 West Temple Street, Suite 18000
Los Angeles, CA 90012

The Honorable David Linn
Madera County District Attorney
209 West Yosemite Avenue
Madera, CA 93637

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San Rafael, CA 94903

The Honorable Thomas Cooke
Mariposa County District Attorney
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Mariposa, CA 95338

The Honorable C. David Eyster
Merced County District Attorney
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Ukiah, CA 95482

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Merced, CA 95340

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Modoc County District Attorney
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The Honorable Dean Flippo
Monterey County District Attorney
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Salinas, CA 93902

The Honorable Gary Lieberstein
Napa County District Attorney
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Napa, CA 94559

The Honorable Clifford Newell
Nevada County District Attorney
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Nevada City, CA 95959

The Honorable Tony Rackauckas
Orange County District Attorney
401 Civic Center Drive West
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The Honorable R. Scott Owens
Placer County District Attorney
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Roseville, CA 95678

The Honorable David Hollister
Plumas County District Attorney
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Quincy, CA 95971

The Honorable Michael Hestrin
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Riverside, CA 92501

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Sacramento County District Attorney
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Sacramento, CA 95814

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419 4th Street, Second Floor
Hollister, CA 95203

The Honorable Michael Ramos
San Bernardino County District Attorney
303 West 3rd Street, 6th Floor
San Bernardino, CA 92415-0502

The Honorable Bonnie Dumanis
San Diego County District Attorney
330 W. Broadway Street
San Diego, CA 92101

The Honorable George Gascon
San Francisco County District Attorney
850 Bryant Street, Room 322
San Francisco, CA 94103

The Honorable Tori Verber Salazar
San Joaquin County District Attorney
222 East Weber Avenue, Room 202
Stockton, CA 95201

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San Luis Obispo County District Attorney
1035 Palm Street, 4th Floor
San Luis Obispo, CA 93408

The Honorable Stephen Wagstaffe
Santa Clara County District Attorney
400 County Center, Third Floor
Redwood City, CA 94063

The Honorable Joyce Dudley
Santa Barbara County District Attorney
1112 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable Jeffrey Rosen
Santa Cruz County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Jeff Rosell
Santa Cruz County District Attorney
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Stephen Carlton
Shasta County District Attorney
1355 West Street
Redding, CA 96001

The Honorable Lawrence Allen
Sierra County District Attorney
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Downieville, CA 95936

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Siskiyou County District Attorney
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Yreka, CA 96097

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Santa Rosa, CA 95403

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Stanislaus County District Attorney
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Modesto, CA 95354

The Honorable Amanda Hopper
Sutter County District Attorney
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Yuba City, CA 95991

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Rm 224
Visalia, CA 93291-4593

The Honorable Laura Krieg
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423 North Washington Street
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Ventura, CA 93009

The Honorable Jeff Reisig
Yolo County District Attorney
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The Honorable Patrick McGrath
Yuba County District Attorney
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Marysville, CA 95901

The Honorable Mike Feuer
Office of the City Attorney, Los Angeles
800 City Hall East
200 North Main Street
Los Angeles, CA 90012

The Honorable James Sanchez
Office of the City Attorney, Sacramento
915 I Street, 4th Floor
Sacramento, CA 95814

The Honorable Jan Goldsmith
Office of the City Attorney, San Diego
1200 Third Avenue, Suite 1620
San Diego, CA 92101

The Honorable Dennis Herrera
Office of the City Attorney, San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

The Honorable Richard Doyle
Office of the City Attorney, San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
1515 Clay Street, Suite 2000
Oakland, CA 94612-0550