

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

<b>Date:</b>	April 20, 2017
<b>To:</b>	Douglas Meester, President – Waterline Marketing Company Douglas Meester, President – Waterline Marketing Company dba CreamRight.com President – CreamRight, a Waterline Marketing Company President – ISI North America, Inc. 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
<b>From:</b>	Michael DiPirro

**This 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 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 Notice of Violation. 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:**

<b>Violator(s):</b>	Waterline Marketing Company Waterline Marketing Company dba CreamRight.com CreamRight, a Waterline Marketing Company ISI North America, Inc.
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	Amazon.com, Inc. Amazon.com LLC
<b>Toxic Chemical:</b>	Nitrous Oxide (“N2O”) Exposures to N2O occur from use of the products identified in this Notice of Violation.
<b>Product Category:</b>	Nitrous Oxide Cartridges/Chargers
<b>Non-exclusive Example of Type of Product<sup>1</sup>:</b>	CreamRight Sexxy Whip Cream Chargers, Box of 24 (UPC# 8-37654-59941-9) ISI Whip Nitrous Oxide Whip Cream Chargers – Box of 24 (UPC# 9-002377-000844) (SKU# WCC-MN-IS24) Ultra-Purewhip Cream Chargers – Box of 24 (UPC# 8-37654-59940-2) (SKU# WCC-MN-PW-UL-24) CreamRight Ultra-Purewhip Box of 24 Cream Chargers (UPC# 8-37654-59940-2) SFG Box of 24 Cream Chargers (UPC # 8-04879-06477-0) (SKU* WC-WCC-SFG24)
<b>Retailer(s):</b>	Waterline Marketing Company Waterline Marketing Company dba CreamRight.com CreamRight, a Waterline Marketing Company CreamRight.com Amazon.com
<b>Manufacturer(s)/ Distributor(s):</b>	Waterline Marketing Company Waterline Marketing Company dba CreamRight.com CreamRight, a Waterline Marketing Company ISI North America, Inc.
<b>Types of Harm:</b>	Birth Defects and Other Reproductive Harm
<b>Description of Exposure:</b>	These exposures occur in homes, some workplaces and everywhere 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.
<b>Routes of Exposure:</b>	Ingestion, Inhalation

<sup>1</sup> The specifically identified examples of the types of products that are subject to this Notice of Violation 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.

	Reasonably foreseeable use of the products identified in this Notice of Violation 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.
<b>Time Period of Exposure:</b>	The violations have been occurring since at least April 20, 2014, and are continuing to this day.

**Resolution of Noticed Claims:** Based on the allegations set forth in this Notice of Violation, 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 Notice of Violation. Therefore, while reaching an agreement with me will resolve my claims, such agreement may not satisfy the public prosecutors.

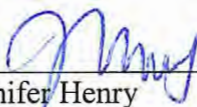
**Please direct any inquiries regarding this Notice of Violation to Michael DiPirro through his counsel David R. Bush or Jennifer Henry, at Bush & Henry, Attorneys at Law, PC, 3270 Mendocino Ave Ste 2E, Santa Rosa, CA 95403; Telephone: (707) 541-6255; E-mail: DRBush@bushandhenry.com or JHenry@bushandhenry.com**

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

I, Jennifer Henry, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day Notice of Violation in which it is alleged that the parties 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 19 2017

  
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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 20, 2017, I served true copies of the following documents:

**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:

Douglas Meester, President Waterline Marketing Company 939 Chalmer Drive, # 3 Marco Island, FL 34145	Douglas Meester, President Waterline Marketing Company dba CreamRight.com PO Box 56 Marco Island, FL 34146-0056	President CreamRight, a Waterline Marketing Company 939 Chalmer Drive, # 3 Marco Island, FL 34145	
President Waterline Marketing Company 2050 Cessna Drive Vacaville, CA 95688	President ISI North America, Inc. 175 Route 46 West Fairfield, NJ 07004	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:

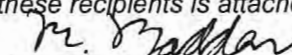
Electronically via the Attorney General website:			The Attorney General of the State of California;	
<u>Electronically to the following recipients at the following electronic mail addresses:</u>	Stacey Grassini Deputy District Attorney Contra Costa County <a href="mailto:sgrassini@contracostada.org">sgrassini@contracostada.org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

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 20th, 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  
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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  
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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  
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Placerville, CA 95667

The Honorable Lisa Smittcamp  
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Fresno, CA 93721

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

The Honorable Maggie Fleming  
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Eureka, CA 95501

The Honorable Gilbert Otero  
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El Centro, CA 92243

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

The Honorable Stacey Montgomery  
Lassen County District Attorney  
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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

The Honorable Edward Berberian  
Marin County District Attorney  
3501 Civic Center Drive, Room 130  
San Rafael, CA 94903

The Honorable Thomas Cooke  
Mariposa County District Attorney  
5101 Jones Street, P.O. Box 730  
Mariposa, CA 95338

The Honorable C. David Eyster  
Mendocino County District Attorney  
100 North State Street, P.O. Box 1000  
Ukiah, CA 95482

The Honorable Larry Morse II  
Merced County District Attorney  
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Merced, CA 95340

The Honorable Jordan Funk  
Modoc County District Attorney  
204 S. Court Street, Suite 202  
Alturas, CA 96101

The Honorable Tim Kendall  
Mono County District Attorney  
P.O. Box 617  
Bridgeport, CA 93517

The Honorable Dean Filppo  
Monterey County District Attorney  
P.O. Box 1131  
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

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Orange County District Attorney  
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Santa Ana, CA 92701

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Placer County District Attorney  
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Roseville, CA 95678

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Plumas County District Attorney  
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Quincy, CA 95971

The Honorable Michael Hestrin  
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Riverside, CA 92501

The Honorable Anne Marie Schubert  
Sacramento County District Attorney  
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Sacramento, CA 95814

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San Benito County District Attorney  
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  
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Stockton, CA 95201

The Honorable Dan Dow  
San Luis Obispo County District Attorney  
1035 Palm Street, 4th Floor  
San Luis Obispo, CA 93408

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

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Santa Barbara County District Attorney  
1112 Santa Barbara Street  
Santa Barbara, CA 93101

The Honorable Jeffrey Rosen  
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San Jose, CA 95110

The Honorable Jeff Rosell  
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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

The Honorable James Kirk Andrus  
Siskiyou County District Attorney  
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Yreka, CA 96097

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Solano County District Attorney  
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Fairfield, CA 94533

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Santa Rosa, CA 95403

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The Honorable Amanda Hopper  
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Tehama County District Attorney  
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Red Bluff, CA 95080

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Rm 224  
Visalia, CA 93291-4593

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Ventura, CA 93009

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Woodland, CA 95695

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