

SIXTY-DAY NOTICE OF VIOLATION

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

DATE: June 5, 2023

TO: Qin Sun, President – Whaleco Inc. dba TEMU
California Attorney General’s Office
District Attorneys and Certain City Attorneys Throughout California

FROM: Paul Wozniak

My name is Paul Wozniak. I am a citizen of the State of California acting in furtherance of the public interest. I seek to promote awareness of exposures to certain 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 public agencies listed above pursuant to California Health & Safety Code §25249.6 *et seq.* (Proposition 65). As noted above, this letter is also being provided to the alleged violator, Whaleco Inc. dba TEMU, which is a person in the course of doing business in California (Violator). The violations covered by this notice consist of the product exposure, routes of exposure and types of harm potentially resulting from exposure to the hazardous substance identified below (listed chemical), as follows:

Products:	Fishing Weights Containing Lead, Including Fishing Tackle Kits Containing Such Items ¹
Listed Chemical:	Lead
Routes of Exposure:	Ingestion and Dermal
Types of Harm:	Birth Defects and Other Reproductive Harm

I. NATURE OF ALLEGED VIOLATION (PRODUCT EXPOSURE)

Lead-based fishing weights that are causing consumer exposures and potentially occupational exposures, in violation of Proposition 65, and that are covered by this letter shall be referred to hereinafter as the “Products.” Exposures to the listed chemical from the use of the Products have been occurring without the “clear and reasonable warning” required by Proposition 65, dating as far back as June 5, 2020. Without proper warnings regarding the toxic effects of exposures to the listed chemical resulting from the use of the Products, California citizens lack the information necessary to make informed decisions on whether and how to eliminate (or reduce) the risk of exposure to the identified toxicant.

California citizens, through the act of buying, acquiring, receiving or utilizing the Products, are exposed to the listed chemical. By way of example, consumers, workers and other individuals, including women

¹ The specific products covered by this letter are limited to those items which reference the toxicant “lead,” or its element “pb,” in: (i) the product’s name; (ii) the product description or information referenced prominently near the online display of the price and photograph for the item when offered for sale on the Violator’s website; (iii) the search “filter,” if any, used to market the products online; (iv) the product packaging or container; or (v) in any other conspicuous manner likely to be read by the online purchaser before payment without considerable effort to be undertaken.

of childbearing age, ingest the listed chemical when they, among other activities, touch the Products and transfer the listed chemical from the Products to their mouths through hand-to-mouth activities that may continue to occur for a significant period after one or more contacts with the Products ceases.

Additionally, consumers, workers and other individuals, including women of childbearing age, are exposed to the listed chemical through direct dermal contact when they, among other activities, handle, touch or otherwise use the Products. Further, there are reasonably foreseeable uses of the Products that result in direct ingestion.

The California State Plan for Occupational Safety and Health incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California so long as they are based in the United States. The approval also provides that a United States employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement be subject to the supervision of the California Occupational Safety and Health Administration.

Any settlement, civil complaint or substantive court orders in this matter must be submitted to the state Attorney General. It is important to note that the sale of the Products through online means of transaction must provide the customer with a clear and reasonable warning for the risk of reproductive toxicity pursuant to Proposition 65 and its implementing regulations, even if the Violator's role is limited that of an online retail seller.

II. CONTACT INFORMATION

Please direct all questions concerning this notice to me through my counsel's office at the following address, email and/or telephone number:

Paul Wozniak
c/o Clifford A. Chanler
Chanler, LLC
72 Huckleberry Hill Road
New Canaan, CT 06840-3801
clifford@chanlerllc.com
Telephone: (203) 594-9246

III. 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 "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" which has been prepared by OEHHA.

IV. POTENTIAL RESOLUTION OF NOTICED CLAIMS

Based on the assertions set forth in this notice, I intend to file a citizen enforcement action (or amend any existing one that may be filed before the expiration of this sixty-day letter) against the Violator unless such alleged person in the course of doing business enters into a binding written agreement (and/or upstream party such as a supplier enters into an agreement which would resolve one or more of the products at issue shipped to the Violator) to: (a) recall Products already sold or undertake best efforts to ensure that the requisite health hazard warnings are provided to those who have received such Products; (b) provide "clear and reasonable warnings" for Products to be sold in the future or, preferably, reformulate such Products to eliminate potential exposures to lead (or undertake best efforts to ensure upstream selling entities in the chain of commerce such as manufacturers, exporters, importers or distributors do so); and (c) pay an appropriate civil fine, if any, based on the factors enumerated in California Health & Safety Code §25249.7(b). If the alleged Violator is particularly interested in resolving this dispute without resorting to litigation, please feel free to contact my counsel identified in Section II above. It should be noted that neither my counsel nor I can finalize any settlement with the Violator until after the statutory sixty-day notice period has expired for the covered products; nor speak for the state Attorney General, any state district attorney or the five city attorneys who received this notice.

V. ADDITIONAL NOTICE INFORMATION

Examples of Products that were recently purchased and/or available for purchase or use in California covered by this notice are identified on Exhibit A, along with at least one side of a product package photographed on Exhibit B attached hereto. Based on publicly available information, any other vendor, supplier, seller, exporter, importer or other person in the course of doing business for each exemplar that was identified, if any, is also listed on Exhibit A. I allege that the sale of the offending Products has also occurred without the requisite Proposition 65 “clear and reasonable warning” including, but not limited to, transactions made through the internet.^{2 3}

The examples on the attachments are for the recipient’s benefit to assist in its investigation of, among other things, the magnitude of potential exposures to the listed chemical from other items within the definition of Products. These examples are not meant to be an exhaustive or comprehensive identification of each specific offending Product. Further, it is this citizen’s position that the alleged Violator is obligated to continue to conduct in good faith an investigation into other lead-based fishing weights described above that may have been manufactured, imported, distributed, facilitated for sale, sold, shipped, stored, or was otherwise within the notice recipient’s custody or control during the relevant period so as to ensure that the requisite toxic warnings were and continue to be provided to California citizens prior to purchase, especially if the upstream vendor (i.e., party with whom the Violator entered into a contract to sell the products at issue) is exempt from a duty to warn or enforcement under Proposition 65.

² If an applicable manufacturer, supplier, seller, exporter and/or importer of one or more of the Products does not have a known agent for process of service in California or employs less than ten people as defined by the operative regulation, then the online retail seller is alleged to have heightened regulatory responsibilities beyond 27 CCR §25600.2(d) especially if the Violator is also an importer or fulfills additional upstream roles in the commercial marketplace.

³ In accordance with 27 CCR §25600.2(g), please “promptly” answer the questions on **Exhibit B**, and return with receipt confirmation to Paul Wozniak c/o Clifford Chanler, Chanler, LLC, 72 Huckleberry Hill Road, New Canaan, CT 06840, or via email to clifford@chanlerllc.com on or before **June 20, 2023**.

Exhibit A

<i>Products</i>	<i>Item ID</i>	<i>Seller</i>
Fishing Weight Sinker Water Drop Weights, Fishing Tackle & Accessories	GV02808	Hengjia
Funpesca 10pcs Fishing Hook Lead Head Sinkers And Weights, Fishing Tackle Tools for Outdoor Fishing Accessories	NV01895	XMN Sports Outdoor
Inverted Fishing Lead, Pendant Soft Bait, Fishing Pendant Hanging, Bottom Crank Hook, Fishing Accessories	RU05894	Z Fishing
Sougayilang 5pcs Raindrop Shape Plumb Fishing Weight 0.25 oz, Streamlined Fishing Weight for Bottom Fishing	UD01664	Sougayilang
50pcs Fishing Removable Split Shot Sinker, Fishing Sinker And Weight Clip On Weights, Outdoor Fishing Accessories	GR06809	Mroalk
Goture 50pcs 3.5g/5g/7g Bulk Fishing Spherical Drop Shot Weights Lead Skinny Sinkers With Barrel Swivels For Freshwater Saltwater	EM02326	Goture
5pcs Lead Water Droplets, Weight Sinkers for Fishing Casting Freshwater Saltwater	MQ03147	DDGOOD
50pcs Bullet Lead Sinker For Saltwater Fishing, Fishing Weights, Fishing Tackle, Fishing Accessories	KX06269	Z Fishing
Glory Day Cylindrical Fishing Weights Sinker, 5g-10g Carp Fishing Tackle for Outdoor Ice Fishing Gear Tool Accessories	QN00157	Glory Day Fishing
5pcs Lead Water Droplets, Weight Sinkers for Fishing Casting Freshwater Saltwater	JX07006	The Good Life pavillion
97pcs Weights Kit Fishing Sinkers Free Rig Weights Fishing Drop Shot Weights Fishing Accessories	RL11447	Dovesun

25PCS 7g Colorful Weighted Swimbait Hooks, Fishing Lures With Jig Head, Weighted Twistlock Crankbait Fishing Hooks Spinner Blades Fishing Lures For Freshwater	JB01868	Hengjia
10pcs Lead Sinkers Weights, Drop Shot Sinker Rig, Texas Fishing Rig Accessories	NK12101	Yunxin Home Department
5pcs Weighted Hook Bullet Lead Head Worm Hook Fishing Tackle 5g 7g 10g 14g	MB11858	New Tag One
25pcs Drop-shaped Twist Ring Lead Pendant, String Hook Lead Pendant Water Drop Lead Pendant Fishing Gear Accessories	XL09446	Caomushoping
198pcs Fishing Tackle Accessories Kit Including Soft Worm Fishing Lures Bionic Hard Baits Lead Head Hooks Lead Sinkers Weights Split Shots Snap Swivels Beads Fishing Plier	PD10824	Yi Yi Fishing Tackle Shop
191 Fishing Tackle Kit, Texas Rig Accessories Set, Fishing Lures, Worm Hooks, Fishing Snaps Swivels, Lead Sinkers Weights, Terminal Tackle	GH11730	Wei and Sports Outdoor
177pcs Fishing Small Accessories Set, Fish Hook/Turn Ring/Lead Pendant, Sea Fishing Jigging Sleeve Box	BR05750	Z Fishing

Exhibit B

As it relates to *each* of the Products, including those identified on **Exhibit A**, provide the full legal entity name and any known contact information (on or before June 20 , **2023**) for:

- (a) Any and all manufacturers
- (b) Any and all producers
- (c) Any and all packagers
- (d) Any and all direct vendors
- (e) Any and all exporters
- (f) Any and all shippers, and
- (g) Any and all sellers

Please email (or send via overnight delivery) the above-requested information to the address provided in Section II. Thank you.

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury:

I am over the age of 18 years and not a party to the within action. I am a resident or employed in the county where the mailing occurred. My business address is 72 Huckleberry Hill Road, New Canaan, CT 06840.

On **June 7, 2023**, I caused to be served the following documents:

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

CERTIFICATE OF MERIT; AND

**THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY**

XXXX **By First Class Certified Mail** through the United States Postal Service by placing true and correct copies of the above documents in a sealed envelope, addressed to each alleged violator listed below and providing such envelope to a United States Postal Service Representative.

Qin Sun, President
Whaleco Inc. dba TEMU
31 St. James Avenue, Suite 355
Boston, MA 02116

Corporation Service Company,
Reg. Agent for Whaleco Inc. (TEMU)
84 State Street
Boston, MA 02109

On **June 7, 2023**, I caused to be served the following documents:

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

CERTIFICATE OF MERIT

XXXX **By Mail** I placed a true and correct copy of the foregoing document(s) in a sealed envelope addressed to each interested party as set forth below. I placed each such envelope, with postage thereon fully prepaid, for collection and mailing in one of the United States Post Office Boxes located at 18 Locust Avenue, New Canaan, Connecticut.

The Honorable Mike Feuer
Los Angeles City Attorney
City Hall East, Suite 800
Los Angeles, CA 90012

Manuel Garcia, Jr.
Head Deputy District Attorney
County of Los Angeles
211 W. Temple St., Suite 1000
Los Angeles, CA 90012

On **June 7, 2023**, I caused to be served the following documents:

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

CERTIFICATE OF MERIT

XXXX **By Electronic Mail** by sending true and correct copies of the above documents to the electronic notification (Email) address(es) on the attached “Email Service List” and “Mail Service List.”

On **June 7, 2023**, I caused to be served the following documents:


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

CERTIFICATE OF MERIT; AND

CERTIFICATE OF MERIT ATTACHMENTS

XXXX **By Electronic Upload** by causing true and correct copies of the above documents to be uploaded to the California Attorney General’s website at the web address on the attached “Electronic Upload Service List.”

Executed on **June 7, 2023**, in New Canaan, Connecticut.



Lorent Guimaraes

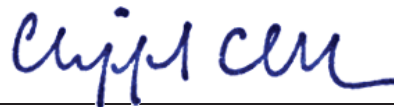
CERTIFICATE OF MERIT

California Health & Safety Code Section 25249.7(d)

I, Clifford A. Chanler, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged that 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 and/or the listed chemical in substantially similar products and exposes individuals through the same potential routes;
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 under Health and Safety Code §25249.7(h)(2) including (i) the identity of the persons consulted with and relied on by the certifier, and (ii) certain facts, studies, or other data reviewed by those persons.

Dated: June 5, 2023



Clifford A. Chanler

EMAIL SERVICE LIST

The Honorable Michael Atwell
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The Honorable Todd Riebe
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Los Angeles City Attorney
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Manuel Garcia, Jr.
Head Deputy District Attorney
County of Los Angeles
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Los Angeles, CA 90012

ELECTRONIC UPLOAD SERVICE LIST

Office of the California Attorney General
Proposition 65 Enforcement Reporting
ATTN: Prop 65 Coordinator
P.O. Box 70550
Oakland, CA 94612-0550
<https://oag.ca.gov/prop65/add-60-day-notice>