

January 20, 2016

VIA EMAIL & OVERNIGHT DELIVERY

Hearing Board - clerkofboard@aqmd.gov

South Coast AQMD

21865 Copley Drive

Diamond Bar, CA 91765

**Re: AQMD v. Southern California Gas Co., Aliso Canyon Storage Facility
Case No. 137-76**

Dear Sir/Madam:

We write on behalf of thousands of Porter Ranch residents and Save Porter Ranch to issue a formal written objection to adoption of the order agreed upon by the attorneys representing Southern California Gas Co. (SoCal Gas). The stipulated order constitutes a deprivation of rights and results in a denial of due process to all families in and around Porter Ranch. Equally important, SoCal Gas is withholding fundamental information regarding the extent of environmental damage. This letters describes some of the more significant problems.

- **Inaccessible Wells Operated by SoCal Gas**

SoCal Gas and AQMD admit that AQMD's "Inspectors observed approximately 16 wells that were not accessible." (Findings ¶ 15, p.4:22-23.) SoCal Gas and AQMD have not provided any photos or evidence of what is happening with those 16, or more, wells. Public disclosure as to why these wells are not accessible is key. It appears that SoCal Gas has lost control of the entire oilfield, a possibility that must be fully disclosed to the public through evidence. It is possible that there are surface expressions and release of petroleum products from multiple wells.

- **Infrared Detection of "Leaking" Wells Operated by SoCal Gas**

SoCal Gas and AQMD admit that AQMD's "Inspectors observed 15 wells through the infrared camera that indicted leaking valves, fittings, and/or flanges." (Findings ¶ 15, p.4:23-24.) The proposed findings suggest the camera observations show "minor leaks . . . below levels that would constitute a violation of current District rules." (*Id.* at 4:25-26.) The findings further state that the leaks were repaired. There is no factual basis to support those statements. Indeed, infrared cameras do not generally detect the actual amount of chemicals and gases. Those amounts are generally obtained through air testing equipment – not cameras. This evidence must be subject to public scrutiny and disclosed before adoption of any order.

- **SoCal Gas is Paying for "Experts" to Determine Cause of Well Failure**

The CPUC and DOGGR purportedly required SoCal Gas to pay for a third party

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investigation of the leak. (Findings ¶ 16, p. 5:4-5.) SoCal's hired gun will not suffice to protect the public. The findings by these agencies and any investigation paid for by SoCal Gas should not be binding on AQMD without public input from residents of Porter Ranch. This finding should be removed.

- **Compliance with the Proposed Order Must Not Immunize SoCal Gas from Liability**

SoCal Gas plans to use the order as a defense to civil litigation. Specifically, the Order states that it is being adopted to "further compliance [by SoCal Gas] with SCAQMD rules and regulations." (Findings ¶ 21, p.5:22.). The proposed Order also states that AQMD "believes that such conditions will mitigate the conditions contributing to the alleged nuisance and further compliance with SCAQMD rules and regulations." (Findings ¶ 21, p.5:22.).

The statements suggesting compliance with the law are too broad. It is imperative that AQMD not adopt any findings that suggest that SoCal Gas is immune from liability. Paragraphs 21 and 22 in the Findings and paragraph 20 in the Order should clearly state that nothing in this proceeding is meant to be binding on the residents of Porter Ranch who suffered as a result of the massive well failure at the SoCal Gas facility. These paragraphs should further remove all references that suggest SoCal Gas will be determined to have complied with the rules and regulations if it abides by this order.

- **The Proposed Order Constitutes an Unconstitutional Taking**

The Proposed Findings further states: "The issuance of an Order for Abatement upon a fully noticed hearing would not constitute a taking of property without due process of law." (Findings ¶ 24, p. 6:5-6.). Numerous residents have filed claims for a taking of their property, and this language should be stricken from the Proposed Findings and Order. To the extent this paragraph applies only to SoCal Gas, it should be revised to state that this applies only to SoCal Gas.

Indeed, the procedural problems with that statement are readily apparent when viewed in light of AQMD's proposals in this very Order that purport to address the medical and health issues without input from Porter Ranch residents or the provisions that purportedly allow SoCal Gas to continue injecting in this oilfield.

- **Continued Injections by SoCal Gas**

In a prior version of the Order, SoCal Gas purportedly would be ordered to "stop all gas injection into the Facility's underground reservoir until the leak at the Well has ceased subject only to SoCal Gas' obligation to furnish and maintain reliable supplies and delivery of natural gas as mandated by California Public Utilities Code Section 451." (Order at 3, p. 6:26-28.)

The Order appears to have been revised, but some of the language remains in paragraph 4, subparagraphs a-b. The new version simply reorders the language and still suggests that SoCal Gas can resume injections if authorized by the CPUC (without notice to any members of

the public).

The problem with this is not just a lack of notice, it's a shell game. On December 10, 2015, DOGGR ordered SoCal Gas to cease all gas injections. DOGGR is the only entity in California with authority to permit underground injections as SoCal Gas told the City of Los Angeles at a hearing in December. Injections must simply cease. There is no room for AQMD to issue orders regarding actions governed by other agencies and thus further the shell game by SoCal Gas.

- **SoCal Gas claims it cannot determine the “natural gas lost to the atmosphere as a result of the leak”**

Paragraph 6 of the Proposed Order suggests that SoCal Gas cannot determine volume of gas released from the well blowout. (Findings ¶ 6, p. 8:7-8.). It is our understanding that sonic technology is available to determine the velocity of the gas, and utilizing the velocity data, to determine the volume of gas released. Please require SoCal Gas to properly disclose the volume of gas released using available sonic technology that can be used at the well site or explain why that is not possible. Again, all photos showing inaccessible wells should be disclosed if that is the justification.

- **SoCal Gas Should not be Self-Policing**

Paragraph 8 states that SoCal Gas will submit a leak detection and inspection program to AQMD – this is an improper attempt by SoCal Gas to control the policing of this oilfield. (Findings ¶ 8, p. 8:26-28.). This goes beyond the scope of what is fair to the people of Porter Ranch. Indeed, at today's hearing, SoCal Gas would not even agree to a third party designee evaluating the leak inspection and detection program. SoCal Gas has an agenda to block public scrutiny, which is precisely why paragraph 8 should be stricken in its entirety. New laws and regulations must go through the proper channels, which is really what this “leak detection” program would become. Even more, the adoption of this paragraph would be used by SoCal Gas to block and undermine the residents of Porter Ranch who seek to challenge the failure to properly maintain the gas storage facility.

Similar problems exist in paragraph 12 where SoCal Gas will pay for a health study. (Findings ¶ 12, p. 10:21-22.). Many of the residents of Porter Ranch brought medical monitoring claims in their lawsuits. SoCal Gas funding this study is an intentional attempt to undermine the litigation process and take the medical issues outside the hands of the residents of Porter Ranch. Cross-examination of experts, and careful review by unbiased experts, is a constitutional right. SoCal's attempt to be self-policing is not proper.

- **SoCal Gas Seeks to Avoid Disclosure of Customer Complaints**

SoCal Gas has refused to disclose all information about customer complaints. (Findings ¶ 14, p. 11:7-14.). Clocking the concern behind privacy, SoCal Gas only plans to disclose the date and time of a complaint, a description of the location of the complaint, and the location of

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the complaint. SoCal Gas would not even be disclosing the house number for the complaining family.

This means that SoCal Gas will avoid entirely the public disclosure of the extent of the families impacted. If there are privacy concerns, the proper response is to give notice to all families impacted by the blowout and let them decide whether AQMD should know about the complaint. The notice to homeowners should be added to this order.

- **Due Process Rights – Notice of Hearings, Orders and the Like**

All residents of Porter Ranch should be given notice of any hearing and any change in the proposed order both now and in the future.

As written, there is no notice requirement in the AQMD's order. Anything else violates due process, especially in light of the rights that SoCal Gas seeks to take from the families of Porter Ranch in this order. This includes the right to cross-examine witnesses on the health impact of the gas leak and witnesses who can help create a proper inspection system for any continued operation of the facility.

In sum, this agency should not let SoCal Gas evade public scrutiny by clocking their actions with protection from this order. It is unfair to the thousands of families in Porter Ranch.

Sincerely,

R. REX PARRIS LAW FIRM



Patricia K. Oliver
Attorney At Law

cc: Eric Garcetti (mayor.garcetti@lacity.org)
Mike Feuer (mike.n.feuer@lacity.org)
Mitchell Englander (councilmember.english@lacity.org)

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R. Rex Parris | Robert A. Parris | Alexander R. Wheeler | Jason P. Fowler | Kitty K. Szeto | Patricia K. Oliver
Bruce L. Schechter | Ryan K. Kahl | Breanna L. Kenyon | John M. Bickford | Naomi C. Pontious | Jonathan W. Douglass
Sean J. Lowe | Eric N. Wilson | Ethan T. Litney | Bernadette N. Manigault | Khail A. Parris | Brittney M. Schneider