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DRAFT – SEPT. 22, 2015

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

COMMITTEE TO PROTECT OUR AGRICULTURAL WATER; MIKE HOPKINS, an individual; JOHN WEDEL, an individual;

Plaintiffs,

v.

OCCIDENTAL OIL AND GAS CORPORATION, a Texas corporation; WESTERN STATES PETROLEUM ASSOCIATION (WSPA), a non-profit trade association; CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION (CIPA) a non-profit trade association; CHEVRON U.S.A. INC., a Pennsylvania corporation; CALIFORNIA DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES (DOGGR); EDMUND G. BROWN, an individual; TIMOTHY R. KUSTIC, an individual; MARK NECHODOM, an individual; LORELEI H. OVIATT, an individual; CALIFORNIA RESOURCES CORPORATION (DOE 1), a Delaware corporation; OCCIDENTAL PETROLEUM CORPORATION (DOE 2), a Delaware corporation; STEVEN BOHLEN (DOE 3), and DOES 4 through 100,

Defendants.

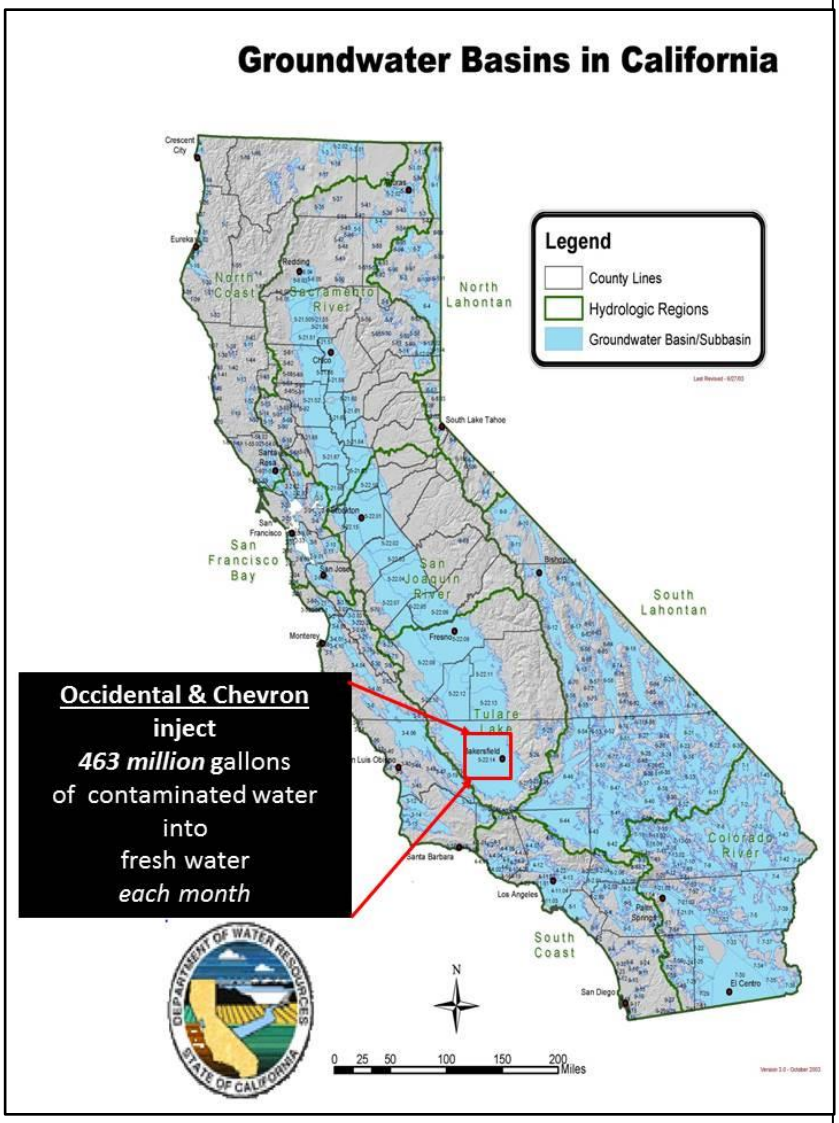
Case No.: 1:15-cv-01323-GEB-JLT

SECOND AMENDED COMPLAINT FOR CONSPIRACY UNDER RICO AND DEPRIVATION OF CIVIL RIGHTS

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. Every month, Occidental and Chevron directly pump 2.63 times more toxic waste water into the San Joaquin aquifer (the Tulare Basin) than oil released into the Gulf during the entire BP spill.[1] And each month in the last four years, oil companies in LA and Orange County produced 1.2 billion gallons of toxic waste water with no record of proper disposal. The State's own documents identify a significant risk to public health from the improper handling of the toxic waste water.



2. The unprecedented contamination of California water happened in the wake of Occidental and Chevron (supported by their trade associations) demanding that California regulators not enforce laws protecting the water.

3. And when this lawsuit was filed, the State planned to allow oil companies to continue injecting waste water into fresh water for another 21 months. The State may be backing away from this original proposal because there is now no dispute that the water is fresh.

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[1] This estimate is based upon the monthly average of waste directly injected into the aquifer by Chevron or Occidental from November 1, 2011 to December 31, 2014. The total according to DOGGR's records is at least 17.6 billion gallons in that three year and two month time period. This averages out to 463 million gallons each month. The Government estimated in the BP oil litigation that BP released 176 million gallons. See, http://www.usatoday.com/story/money/business/2014/09/04/judge-bps-reckless-conduct-caused-gulf-oil-spill/15068955/. The information in this complaint comes from public sources including materials on DOGGR's website, from public statements by the Brown administration, and from emails produced in response to Public Records Act requests. As for the latter, DOGGR redacted much of the information and withheld other emails. Thus, the extent of the conspiracy and damage will be determined after discovery commences.

4. This lawsuit is brought to stop the poisoning of California's underground aquifers and to remediate the damage already done.

II. BRIEF SUMMARY OF THE CASE

5. Occidental and Chevron have long understood the hazards of waste water from oil production. This risk arises in part because oil companies pull up massive amounts of salt water during conventional oil production. Occidental and Chevron also know the waste water from hydraulic fracturing includes chemicals that exacerbate water contamination if they do not properly dispose of that waste water.

6. Occidental and Chevron also knew aquifers in California – and across the nation – are protected from contamination by many laws including the Safe Drinking Water Act. Both copies operate near the Kern River where the river recharges aquifers used by Californians.

7. The protection of water is particularly important in California's Mediterranean climate, a fertile land with two precious resources underground – oil and fresh water.

8. The availability of both led to great success for farmers and oil companies who existed harmoniously for many years.

9. This relationship changed when California's oil fields were depleted, and led oil companies to increasingly inject water, steam and chemicals underground to stimulate oil production. The increased injections to stimulate oil production also increase the amount of contaminated waste water.

10. The Safe Drinking Water Act of 1974 requires that contaminated water from oil production be injected deep underground, away from fresh water.

11. The California Division of Oil, Gas, and Geothermal Resources ("DOGGR") entered an agreement with the United States Environmental Protection Agency ("EPA") in 1982 that allows the State to enforce this federal law. (Exh. 1.)

12. Oil companies are prohibited from injecting anything underground without a valid permit from DOGGR. Under the Safe Drinking Water Act, the permit requires proof fresh water is protected. Oil companies must provide engineering and geological studies showing fresh water is protected before getting any permit.

13. If the EPA previously determined a particular aquifer is contaminated (and not useable), DOGGR can approve permits for oil companies to inject directly into the contaminated aquifer. This is the exception.

14. Improper permitting of oil wells caused contamination, health problems and litigation surrounding the Inglewood Oilfield – these cases settled on July 5, 2011.

15. On July 18, 2011, the United States Environmental Protection Agency ("EPA") notified DOGGR that it was improperly approving permits in other areas and not protecting useable water. (Exh. 7.) The EPA approved the guidelines provided by the State Oil & Gas Supervisor (Elena Miller) prior to the audit and asked for greater enforcement. The EPA ordered DOGGR to adopt regulations to "*clearly require the District Offices to protect USDWs to the federally-defined standard . . . in the permitting, construction, operation, and abandonment of Class II Injection wells.*"

16. Occidental and Chevron also privately admitted to the State Oil & Gas Supervisor (Miller) problems with their injections wells in 2011. On July 26, 2011, Occidental admitted it had twenty-two injection wells leaking in the Wilmington Oilfield. On June 21, 2011, a Chevron worker was tragically killed in a sink hole created by the improper approval of injection wells.

17. The State Oil & Gas Supervisor (Miller) thereafter sought to enforce the Safe Drinking Water Act by enforcing the rules that required oil companies to provide geological and engineering studies for the permits. Federal and state law required these documents.

18. The oil companies, however, refused to provide the geological and engineering studies and refused to follow the Safe Drinking Water Act regulations.

19. The oil companies wanted to conceal three problems these documents would show:

- Oil companies directly injected contaminated water into fresh water aquifers.
- Oil companies injected contaminated water into areas where the waste travels into old, idle wells. The idle wells leak and contaminate fresh water aquifers.
- Oil companies faced the risk of litigation if they remediated old wells because remediation would bring attention to damaged fresh water aquifers.

20. Occidental and Chevron knew if public knew of the extent of the lack of enforcement, profits would decline and industry would face the prospect of civil liability and increased governmental regulation.

21. The State Oil & Gas Supervisor (Miller) refused to approve the permits without the required geological and engineering studies. Indeed, violating the Safe Drinking Water Act is a criminal offense and should lead to a criminal indictment.

22. Occidental and Chevron escalated their actions to block enforcement. Working with their trade associations (Defendants Western States Petroleum Association (WSPA), and California Independent Petroleum Association (CIPA)), and their attorneys, and lobbyists, Occidental and Chevron responded to the audit with fraud and deception. They also called the Supervisor's superiors, who rejected the attempted fraud. Defendants then launched a letter-writing campaign falsely claiming job losses. Occidental even reported that *"it cannot get the permits it needs for new drilling projects."*

23. Occidental and other oil companies then took their complaints to Governor Edmund G. Brown. Occidental's attorney (former Governor Gray Davis) called Governor Brown and asked him to fire Miller and her boss for the alleged permitting delays.

24. Brown's senior advisor (Cliff Rechtschaffen) then met with and ordered the State Oil & Gas Supervisor (Elena Miller) and her direct supervisor, the Acting Director of the California Department of Conservation (Derek Chernow) to approve the permits without the required studies. Miller and Chernow refused to violate the law.

25. The next day, the Brown administration terminated both regulators and named Brown's senior advisor (Rechtschaffen) as the acting Director of the Department of Conservation. Brown also named Defendant Tim Kustic as the new State Oil & Gas Supervisor.

26. Immediately thereafter, DOGGR agreed Occidental could "*bypass*" the requirement for geological and engineering studies.

27. Brown then publicly disclosed his proposition to increase taxes, and within six weeks, he received his first $250,000 check from Occidental. Brown's 2012 fundraising (including for his proposition to increase taxes) resulted in the Fair Political Practices

Commission ("FPPC") warning him that he violated the reporting law. (Exh. 21.) The FPPC also imposed the largest state fine in California history on the lobbyist who hosted the parties for Brown.

28. Kustic also promised oil companies a "*flexible*" approach and told DOGGR District Deputies who are authorized to issue permits that they should stop reviewing permit applications. Kustic then directed other DOGGR employees to forge the signature of the deputies and issue injection permits. DOGGR issued countless injection permits without any review at all.

29. DOGGR also issued permits without environmental review under the California Environmental Quality Act ("CEQA"). Chevron and Occidental both sought permits that involved underground injections including hydraulic fracturing by Occidental in an almond orchard. DOGGR approved them and issued categorical exemptions.

30. DOGGR's records of oil produced by Chevron and Occidental demonstrate that both companies made millions from these permits. Many more followed.

31. On January 13, 2012, four days after DOGGR issued to Occidental one of its permits to engage in hydraulic fracturing in an almond orchard, Occidental contributed its first $250,000 to Brown's campaign to increase taxes. Brown boasted on that same day: *"There will be indictments and there will be deaths. But we're going to keep going."* (Emphasis added.)

32. 2012 was also a pivotal year for farmers – waste water from oil production was identified as the cause of increasing water contamination. It was killing their trees.

33. The farmers met with Kustic (after previously meeting with one of his deputies) and discussed the problems. Kustic is required by law to investigate. He did not.

34. Instead, DOGGR continued using categorical exemptions to approve hydraulic fracturing wells drilled in almond orchards.

35. At this time, Defendant Mark Nechodom became the Director of the Department of Conservation and supervised Kustic's work.

36. Nechodom supported the non-enforcement policy and even sought support from Defendant Lorelei Oviatt, the Director of the Kern County Planning and Development Department. He called to discuss the California Environmental Quality Act (CEQA) issues with

Oviatt. On information and belief, those issues related to DOGGR's initial study for Occidental to obtain a permit for horizontal drilling and hydraulic fracturing in an almond orchard.

37. Oviatt's job should have led her to comment on DOGGR's study and the impact to the farmers. There would be many bases, including the fact that horizontal drilling was rarely used in California. Thus no one knew the impact. Oviatt did not comment.

38. The next day, Nechodom emailed to thank her and wrote that he was "*delighted to have you and Kern Co. as a partner (**unindicted co-conspirator**?).*" (Emphasis added.) Oviatt agreed in email – "*We all have the **same goal**.*" (Id.)

39. Within a few months, Defendant Oviatt knew farmers reported contamination of the aquifers. She nonetheless ignored those complaints and instead participated in a telephone interview on March 17, 2013, where she claimed there was no evidence of contamination.

40. DOGGR, meanwhile, had the looming problem since at least May 11, 2012 – DOGGR improperly permitted hundreds of wells to inject contaminated water into protected waters. (Exh. 22.)

41. On information and belief, Plaintiffs assert that DOGGR and California Independent Petroleum Association (CIPA) engaged in multiple meetings from May 11, 2012 to June of 2014 to resolve the permitting into protected aquifers.

42. Unity amongst members of the Enterprise became particularly important after Brown declared a state of emergency on January 17, 2014 due to the historic drought. (Exh. 25.)

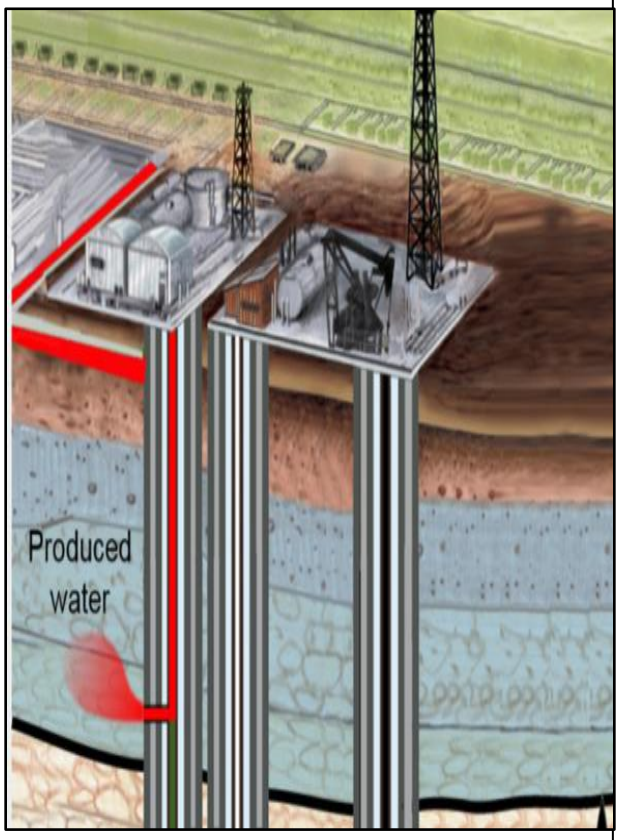
43. Brown, however, diverted DOGGR employees and resources during this time period to create materials for assessment of his own oil holdings.

44. In addition, on information and belief, California Independent Petroleum Association (CIPA) and Kustic engaged in multiple communications about how to solve the aquifer issue and the improper permitting.

45. Occidental and Chevron then contributed $2.183 million to CIPA on May 6 and June 25, 2014. This dwarfed any prior contribution.

46. On information and belief, CIPA utilized those funds to prepare for the publicity when DOGGR finally admitted improper permitting.

47. DOGGR then started releasing information, in stages, about permitting issues. In July of 2014, DOGGR reported there were one dozen wells improperly injecting into the aquifer. Defendant Steve Bohlen for DOGGR denied any contamination from those wells. (Exh.'s 29-30.)

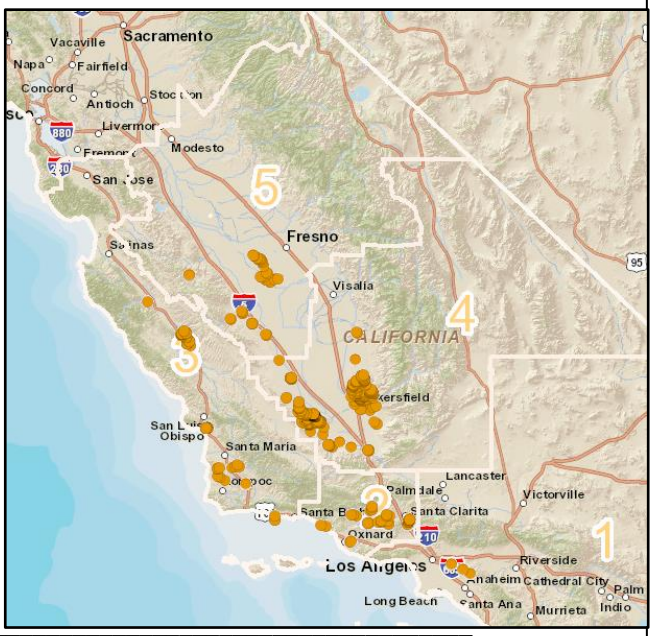


48. In January of 2015, DOGGR admitted there were hundreds of improperly permitted wells. Western States Petroleum Association (WSPA) denied any contamination.

49. On February 6, 2015, DOGGR issued a letter and admitted it improperly approved 532 permits in violation of the Safe Drinking Water Act. (See image of a direct injection). DOGGR also reported 490 wells injected in fresh water aquifers of sufficient purity for drinking or farming. DOGGR again denied any contamination. (Exh. 32.)

50. On May 15, 2015, with the Water Board now monitoring, DOGGR finally had to admit that 53 *"injection wells are potentially impacting water supply wells."* (Exh. 34)

51. DOGGR further admits that 207 *"injection wells have injection zones that are less than 1500 feet below ground surface."* (Id.) This is in an underground zone regularly used by farmers for irrigation. The map shown is from DOGGR's website – the orange dots show the areas below ground surface where oil companies directly inject contaminated water underground into fresh water basins in farming regions.



52. DOGGR continues to withhold information about what happened to the 1.2 billion gallons of toxic waste water created each month in

Los Angeles and Orange County.

53. The California Senate then convened a hearing on March 10, 2015 to determine what happened. Defendants Mark Nechodom and Steve Bohlen made misrepresentations at the hearing to confuse the public and Senators:

- Nechodom told the California Senate that the injections happened as a result of paper work confusion. DOGGR, however, knew by May 11, 2012 that it improperly permitted these wells. DOGGR met with California Independent Petroleum Association (CIPA) and let the oil companies continue injecting the contaminated waste into fresh water.
- Similarly, Bohlen presented a PowerPoint to the California Senate that improperly suggests waste water is generally disposed of below oil formations. This is not correct. Waste disposal water is usually above the oil producing zone as documents from the United States EPA have long demonstrated.

54. Occidental and Chevron continue to inject waste water with high concentrations of radionuclides and other chemicals that contaminate the underground aquifers used for drinking and for farming. These injections also violate California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Prop 65").

55. Nechodom resigned immediately after the filing of this Complaint.

56. The state and local government officials (including DOGGR, Brown, Nechodom, Kustic, Bohlen, and Oviatt) and the Oil Companies named as Defendants did "*all have same goal*" – the permitting of injection wells in violation of the Safe Drinking Water Act to avoid detection of the massive need to remediate damaged wells and to cease injections into protected fresh water aquifers. DOGGR did not enforce the law and instead issued these permits outside of the public scrutiny. There were no indictments because the conspiracy reached to the highest of California's government officials.

57. Defendants Brown, Nechodom, Kustic, Oviatt, Bohlen, WSPA, CIPA, OCCIDENTAL OIL AND GAS CORPORATION, CHEVRON U.S.A. INC., and others known and unknown, formed an "enterprise" ("the Enterprise") to achieve through illegal means the

following goals: (1) increasing oil production; (2) maximizing profits and tax revenue; (3) avoiding liability for well failure and remediation; (4) minimizing expenses that would have arisen if they followed the law. They implemented these goals by agreeing not to research, investigate or study the cause of water contamination; agreeing to support passage of a law to increase taxes, which would be much cheaper than actual remediation; refusing to provide engineering or casing studies; and denying in every public forum, press release, advertisement, SEC filing and regulatory proceeding, the possibility that activities by the oil companies contaminated fresh water. The members of the Enterprise knew that they could inject contaminated waste water safely underground, but chose not to follow the law because of the risk of litigation.

58. At no time did members of the Enterprise disclose to the public that they were not following the laws or that the State agreed not to enforce the law.

59. Members of the Enterprise took actions to avoid public disclosure of the acts described herein. They held secret meetings – without public notice – to discuss legislative and litigation matters. Defendants also engaged in a widespread scheme to frustrate public scrutiny by making false and deceptive statements and by concealing documents and research that they knew would have exposed their public campaign of deceit. This scheme included making false and deceptive statements to the public. Defendants restrained, suppressed and concealed any information that would tend to establish the harmfulness of their actions. Finally, the administration of Governor Brown took over responsibility for providing documents in response to Public Records Act requests and withheld or redacted information to avoid public disclosure.

60. Each defendant has participated in the operation and management of the Enterprise and has committed numerous acts to maintain and expand the Enterprise. Even those Defendants who were not involved in the issuance of the original statements and positions joined and committed acts in furtherance of the Enterprise and Conspiracy. The new State Oil & Gas Supervisor (Steve Bohlen) made misrepresentations to the California Senate and issued repeated denials of water contamination. Oviatt also issued denials of water contamination.

61. The members of the Enterprise repeatedly promised that their drilling activities complied with the law and were conducted to protect the environment. Thus, members of the Enterprise undertook the obligation of protecting public health by disclosing unbiased and authenticated research on the risks. They also made statements to reassure the public as to the safety of their oil production activities and commitment to ensure the safety of their drilling. In fact, however, Occidental and Chevron did not even follow the basic requirements of the Safe Drinking Water Act.

62. Farmers, like many members of the public, did not fully appreciate the risks to groundwater caused by the oil operations. Members of the Enterprise made false and misleading statements with the express purpose of deceiving farmers and inducing them to allow drilling.

63. The Oil Companies' unlawful course of conduct caused the degradation of California's water and is destroying farmland and farms. As a consequence, farmers must replace crops or cease farming. The effect of this unlawful scheme and wrongful conduct continues to this day, and the Oil Companies are continuing to prosper and profit from the unlawful conduct.

64. The members of the Enterprise had full knowledge that as their fraud succeeded, more farmers would suffer. Because the failed to warn the public and affirmatively lied about their compliance with the law, many Americans and farmers allowed drilling activities in their neighborhoods and on their farms.

65. Because of these actions, the Enterprise deprived members of the Committee to Protect Our Agricultural Water fresh water, fair opportunities to earn an income, and honest government services. The Committee brings this suit against Oil Companies who knowingly inject toxic waste water into or near the aquifers. The Committee further seeks to recover lost income and costs for remediation of contaminated water currently destroying water quality.

III. JURISDICTION

66. This court has subject matter jurisdiction under 28 U.S.C. § 1331 over Plaintiffs' claims for violations of the RICO Act, 18 U.S.C. § 1961 *et seq.* and under 28 U.S.C. §§ 1331 and 1343(a)(3) for violations of 42 U.S.C. § 1983.

67. This Court has personal jurisdiction as to Defendant Occidental Oil and Gas

Corporation, its parent corporation Occidental Petroleum Corporation (Doe Defendant 2) and its successor-in-interest, California Resources Corporation (Doe Defendant 1), (collectively referred to herein as "Occidental"). All three entities had corporate headquarters in Los Angeles, California, and all three conduct substantial activities in California. They also engage or engaged in conduct originating in California that caused Plaintiffs' injuries. On December 1, 2014, Occidental announced that its California locations had been successfully "spun-off" into California Resources Corporation (previously a subsidiary of Occidental). Occidental (and its subsidiaries) appear to have injected more contaminated water into the San Joaquin valley aquifer than any other oil company.

68. This Court has personal jurisdiction as to Defendant Western States Petroleum Association, a non-profit trade association ("WSPA") insofar as (a) WSPA is a California non-profit trade association; (b) has its principal place of business in California; (c) conducts substantial activities in California; (d) engaged in conduct originating in California that caused Plaintiffs' injuries; (e) has availed itself of the protections of the laws of this state.

69. This Court has personal jurisdiction as to Defendant California Independent Petroleum Association, a non-profit trade association ("CIPA") insofar as (a) CIPA is a California non-profit trade association; (b) has its principal place of business in California; (c) conducts substantial activities in California; (d) engaged in conduct originating in California that caused Plaintiffs' injuries; (e) has availed itself of the protections of the laws of this state.

70. This Court has personal jurisdiction as to Defendant Chevron U.S.A. Corporation ("Chevron"), insofar as (a) has a corporate headquarters in California; (b) conducts substantial activities in California; (c) engaged in conduct originating in California that caused Plaintiffs' injuries.

71. This Court has personal jurisdiction as to Defendant California Division of Oil, Gas, and Geothermal Resources ("DOGGR"), insofar as; (b) DOGGR is a California State Agency; (c) engaged in conduct originating in California that caused Plaintiffs' injuries.

72. This Court has personal jurisdiction as to Defendant Edmund G. Brown, who lives in California.

73. This Court has personal jurisdiction as to Defendant Timothy R. Kustic, who served as the State Oil & Gas Supervisor from November 2011 to February 2014 and lives in California.

74. This Court has personal jurisdiction as to Defendant Lorelai Oviatt. She lives in California.

IV. VENUE

75. Venue is proper in this judicial district under 28 U.S.C. § 1391(d) because California is a state which has more than one judicial district and Defendant Occidental, is a corporation subject to personal jurisdiction at the time this action commenced. The Court has personal jurisdiction as to Defendant Occidental Oil and Gas Corporation and its successor-in-interest Doe Defendant 1, California Resources Corporation, (collectively referred to herein as "Occidental"), insofar as (a) California Resources Corporation has a corporate headquarters in Los Angeles, California; (b) Occidental previously had its corporate headquarters in Los Angeles, California; (c) both conduct substantial activities in California; (d) both have registered agents with the California secretary of state in Los Angeles; and (e) both engage or engaged in conduct originating in California that caused Plaintiffs' injuries. On December 1, 2014, Occidental announced that its California locations had been successfully "spun-off" into California Resources Corporation (previously a subsidiary of Occidental). Occidental confirmed that California Resources Corporation was a result of 15 years of developing this company in California under the Occidental banner and would begin trading separately. Occidental (and its subsidiaries) appear to have injected more contaminated water into the San Joaquin valley aquifer than any other oil company.

76. Venue is proper in this judicial district under 28 U.S.C. § 1391 and 18 U.S.C. § 1965(a). Defendant WSPA has offices in the Central and Eastern Districts.

77. Venue is also proper in this judicial district under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

A. Plaintiffs

78. COMMITTEE TO PROTECT OUR AGRICULTURAL WATER ("Committee"

or "Plaintiffs") is a citizen organization comprised of farmers, business owners, and individuals concerned about the environment and quality of life in California. The Committee has undertaken public outreach, sought public records, and taken other advocacy efforts targeting the permitting of underground injection wells. Members of the Committee regularly use the underground water and rely upon the clean quality of the air, land, and water in operating their business and farms that grow food products, including almonds, cherries, and pistachios. These interests are protected when the agricultural areas are maintained, and they are adversely affected or destroyed by excess oil production and the resulting pollution of the air, land, and water.

79. The ability of the Committee and its members, including the individual Plaintiffs, to engage in farming and in the advocacy on behalf of farmers is injured by the Oil Companies failure to comply with the Safe Drinking Water Act, California Environmental Quality Act, and the California Code of Regulations. In addition, by using the mails and wires to violate these laws, Defendants violated the Federal RICO statutes, all to the detriment of the Committee members. By violating these laws, rules, and regulations, the Oil Companies are causing unnecessary destruction of agriculture and farmland, and unnecessarily polluting the air, land, and water in Kern County.

80. Plaintiff Mike Hopkins is a farmer in Kern County, overseeing the management of several orchards including his family's farming operations. The income from his farming operations has declined as a result of lower yields – he ultimately had no choice but to remove an entire orchard of cherry trees due to chloride contamination. This contamination caused a substantial decline in yield and sustainability. Hopkins is the managing director of Palla Farms, LLC, which brought suit against four other oil companies who actions near the aquifer may have contaminated the water. There is no proof in that action that the oil companies directly injected contaminated waste water into the aquifer. Similarly there is no proof that the oil companies in that action engaged in a conspiracy as alleged herein.

81. Plaintiff John Wedel is a farmer in Kern County, overseeing the management of several orchards including his family's farming operations. The income from his farming operations has declined as a result of lower yields from his almond trees.

B. Defendants

82. Occidental Oil and Gas is a corporation organized and existing under the laws of the State of Texas and having a principal place of business at 5 Greenway Plaza, Houston, Texas, 77046, whose registered agent for service of process is located in Los Angeles. Occidental's Occidental Petroleum (DOE 2) is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business at 5 Greenway Plaza, Houston, Texas, 77046, whose registered agent for service of process is located in Los Angeles. Occidental's headquarters for most of the relevant time period were in Los Angeles where it oversaw its state operations. Occidental's successor-in-interest (California Resources Corporation (DOE 1) now maintains its corporate offices in Los Angeles.

83. WSPA is, according to their website, "*a non-profit trade association that represents companies that account for the bulk of petroleum exploration, production, refining, transportation and marketing in the five western states of Arizona, California, Nevada, Oregon, and Washington.*" (https://www.wspa.org/what-is-wspa). Members of WSPA include, but are not limited to, Chevron Corporation, and Occidental Oil and Gas Corporation. (https://www.wspa.org/member-list). WSPA is a non-profit organized and existing under the laws of the State of California and has a principle place of business at 1415 L Street, Suite 600, Sacramento, California 95814.

84. California Independent Petroleum Association ("CIPA") is, according to their website, "*a non-profit, non-partisan trade association representing approximately 500 independent crude oil and natural gas producers, royalty owners, and service and supply companies operating in California. [CIPA] members represent approximately 70% of California's total oil production and 90% of California's natural gas production.*" (http://www.cipa.org/i4a/pages/index.cfm?pageid=91). CIPA is a non-profit organized and existing under the laws of the State of California and has a principle place of business at 1001 K Street, 6th Floor, Sacramento, California, 95814.

85. Chevron is a corporation organized and existing under the laws of the State of Pennsylvania and having a principal place of business at 6001 Bollinger Canyon Road, San

Ramon, CA 95483.

86. The California Division of Oil, Gas, and Geothermal Resources ("DOGGR") is a California state governmental entity, domiciled in California, which has been delegated certain permitting responsibilities under state and federal environmental laws. Among other items, DOGGR must "*address the needs of the state, local governments, and industry by regulating statewide oil and gas activities with uniform laws and regulations."* DOGGR also "*supervises the drilling, operation, maintenance, and plugging and abandonment of onshore and offshore oil, gas, and geothermal wells, preventing damage to: (1) life, health, property, and natural resources; (2) underground and surface waters suitable for irrigation or domestic use; and (3) oil, gas, and geothermal reservoirs.*" DOGGR's activities described in this action involve employees in several districts including District 1 (Los Angeles County and Orange County), District 2 (Ventura County), District 3 (San Louis Obispo and Monterrey Counties), District 4 (Kern and Tulare Counties), and District 5 (Fresno, Kings, and San Benito Counties). District 1 offices are located at 5816 Corporate Avenue, Suite 100, Cypress, California, 90630. District 2 offices are located at 1000 S. Hill Road, Suite 116, Ventura, California 93003. District 3 offices are located at 195 South Broadway, Suite 101, Orcutt, California 93455. District 4 offices are located at 4800 Stockdale Highway, Suite 100, Bakersfield, California 93309. And District 5 offices are located at 466 North Fifth Street, Coalinga, California 93210.

87. Brown is the governor of California during the relevant time period. Governor Brown is a citizen of the United States and domiciled in the State of California. Governor Brown resides at State Capitol, Suite 1173 Sacramento, California 95814.

88. Nechodom was the Director of the California Department of Conservation during the relevant time period. Nechodom is a citizen of the United States and domiciled in the State of California. During his tenure as the Director of the California Department of Conservation, Nechodom's official residence was located at 801 K Street, MS 24-01 Sacramento, California 95814.

89. Kustic was the State Oil & Gas Supervisor during the relevant time period. Kustic is a citizen of the United States and domiciled in the State of California. During his tenure as the

State Oil & Gas Supervisor, Kustic's official residence was 801 K Street, MS 18-05 Sacramento, California 95814-3530.

90. Oviatt was the Director of the Kern County Planning and Development Department. Director Oviatt is a citizen of the United States and domiciled in the State of California. In her official capacity as the Director of the Kern County Planning and Development Department, Oviatt resides at 2700 "M" Street, Suite 100 Bakersfield, California 93301-2370.

91. Dr. Steve Bohlen is the current State Oil & Gas Supervisor at DOGGR. Dr. Bohlen is a citizen of the United States and domiciled in the State of California.

92. Defendants, Does 4 through 100, inclusive, are sued under fictitious names. Their true names and capacities are unknown to Plaintiffs. When their true names and capacities are ascertained, Plaintiffs will amend this Complaint by inserting their true names and capacities. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Defendants are responsible in some manner for the occurrences alleged, and that Plaintiffs' damages as alleged were proximately caused by such Defendants.

93. Defendants Brown, Nechodom, Oviatt, Kustic, Bohlen, DOGGR, WSPA, CIPA, Occidental, Chevron, CRC, and DOES 3 through 100 (collectively referred to as "Defendants") were in some manner responsible for the acts alleged and the harm, losses and damages suffered by Plaintiffs as alleged. Plaintiffs also informed and believes that, while participating in such acts, each Defendant was the agent, alter ego, conspirator, and aider and abettor of the other Defendants and was acting in the course and scope of such agency and/or acted with the permission, consent, authorization or ratification of other Defendants.

V. CLAIMS FOR RELIEF

A. Environmental Setting

94. The San Joaquin Valley is blessed with two precious underground resources – fresh water and oil. Both resources led to the development of some of the best farms and oil fields in the world.

95. California produces nearly half of all of the fruits, nuts, and vegetables in the United States. Twenty-five percent is grown in just one California region, the San Joaquin

Valley. The Mediterranean climate and the availability of abundant fresh water in the San Joaquin Valley Aquifer make this prime and unique farmland.

96. The oil fields in and around the San Joaquin Valley produce up to 75% of all oil in California, and the oil fields in Los Angeles and Orange County produce another 14% of the oil.

97. Farmers and oil companies existed harmoniously for over one hundred years.

98. This relationship changed in the wake of changes in California's oil production. Oil fields had been depleted, and traditional oil production started declining.

99. By 2008, oil companies increasingly used injection wells to stimulate oil production. Oil companies inject steam to heat, loosen and then free oil, and they inject water to push oil from one area into a production well. About 75% of all oil produced in California now requires underground injections.

100. As a result, California's oil fields require substantial underground injections to enhance or stimulate the oil production. This trend was observed as early as 2008. The injection activity exponentially increased every year thereafter.

101. These underground injections happen near the fragile underground water basins.

B. Intersection of Fresh Water and Waste Water from Oil Production

102. All oil production creates toxic waste that may contaminate water if the waste is not cleaned before disposal.

103. Conventional oil production, for example, produces an average of one (1) barrel of oil for every ten (10) barrels of toxic waste (also called "salt water" or "brine" or "produced water").

104. Oil produced as a result of underground injections (like hydraulic fracturing) greatly increase the amount of contaminated waste.

105. Oil companies historically either re-injected salt waste water underground or discarded it in above ground pits.

106. The waste water placed on the ground in pits or injected underground can enter fresh water supplies.

107. For example, if too much waste is injected, or if the waste leaks into the aquifers, the underground water basins will reach a tipping point that will make it impossible to restore the aquifers for use by the farms or Californians.

108. Similarly, if injections to stimulate oil production leak into the aquifers, the underground water basins will reach a similar tipping point that will make it impossible to restore the aquifers for use by the farms or Californians.

109. One type of injection well requires injection of steam into the oil well for a period of days or weeks. The well is closed in with steam until the heat loosens and frees the oil. Hot steam from this process can migrate up nearby idle wells (just like salt water migrates up nearby idle wells when injected for disposal). This is called cyclic steaming to stimulate oil production.

110. By January of 2011, oil companies in California also hoped to recover oil from the Monterey Shale. News broke out later that year suggesting that the Monterey Shale contained more oil than half of the United States recoverable shale oil. This prediction has since been invalidated; only 5% of the original estimate is recoverable.

111. Reaching the shale oil would require hydraulic fracturing. Hydraulic fracturing (or "fracking") is the pressurized injection of water and toxic chemicals deep underground to fracture geologic formations. A propping chemical or sand is then pumped downward to keep the cracks open and release oil. Fracking produces large volumes of waste including produced water, drilling fluids, foam treatment waste, oily sludge, and waste gas.

C. Safe Drinking Water Act

112. The concern about contamination of underground water supplies from industrial activity and oil production caught the nation's attention in 1974. Congress then passed the Safe Drinking Water Act, a law proposed, passed, and strengthened by four Presidents. Congress, with the support of President Ronald Reagan, adopted amendments to strengthen the Act in 1986. President Clinton similarly strengthened this law in 1996 when he signed amendments that prohibit any back-sliding. City of Waukesha v. E.P.A., 320 F.3d 228, 232 (2003 D.C. Cir.) (*"…Congress amended the SDWA to, inter alia, add an anti-backsliding provision requiring that any water regulation revision 'maintain, or provide for greater, protection of the health of*

persons").

113. Many states, like California, entered agreements with the United States agreeing to adopt and enforce laws as part of an Underground Injection Control program ("UIC"). California signed a Memorandum of Agreement ("Agreement") with the EPA on September 28, 1982. Exhibit 1 is a copy of the Agreement on DOGGR's website beginning as early as 2012 and described as the operative document by the EPA on May 11,2012.

114. The Agreement was signed by the State Oil & Gas Supervisor in 1982 – not Governor Brown – because it is an Agreement setting forth the duties of the State to enforce the minimal standards in the Safe Drinking Water Act. 40 CFR § 145.11 (setting forth minimal requirements for permitting by states and also giving states authority to "*impose more stringent requirements*").

115. The Agreement also set forth the following duties and obligations:

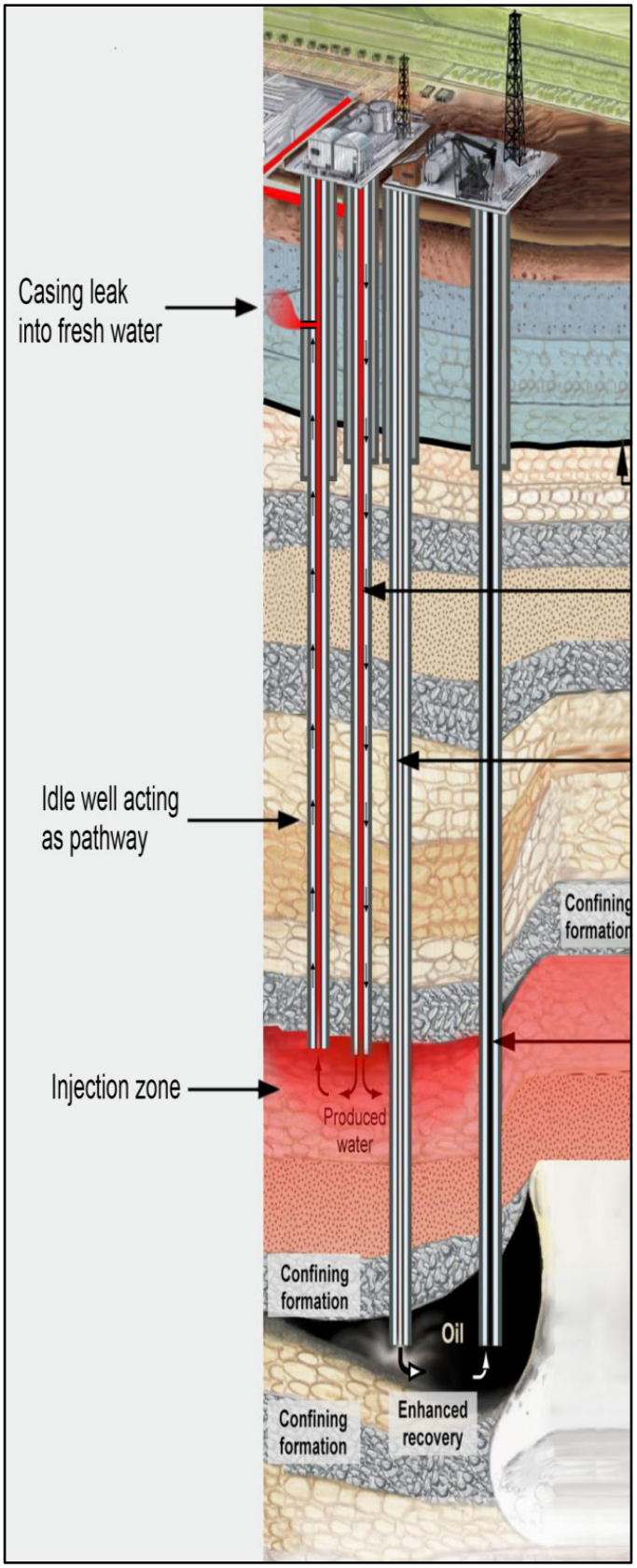
- "*This Agreement may be modified upon the initiative of either party in order to ensure consistency with State or Federal statutory or regulatory modifications or supplements . . . Any such modifications or supplements must be in writing and must be signed by the Supervisor and Regional Administrator."* (Exh. 1 at p. 1.)
- *"Nothing in this Agreement shall be construed to alter any requirements of SDWA [Safe Drinking Water Act] or to restrict EPA's authority to fulfill its oversight and enforcement responsibilities . . . or to restrict [DOGGR's] authority to fulfill its responsibilities under State statutes."* (Id.)
- *"The purpose of the UIC program is to prevent any underground injection that endangers an underground source of drinking water ("USDW")."* (Id. at p. 2.)
- *"[DOGGR] shall promptly inform EPA of any proposed or pending modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions that might affect the program and the Division's authority to administer the program."* (Id.)

- *"[DOGGR] shall adhere to the compliance monitoring, tracking and evaluation program. . . [DOGGR] shall maintain a timely and effective compliance monitoring system including timely and appropriate actions on non-compliance. Each year, 100% of the disposal wells will be inspected for mechanical integrity."* (Id. at p. 3-4.)
- *"An Underground Source of Drinking Water (USDW) may be exempted for the purposes of a Class II injection well if it meets the criteria in 40 CFR 146.04."* (Id. at p. 6.)
- *"Aquifers exempted by the Division and EPA . . . shall only be applicable for the injection of fluids related to Class II activities defined in 40 CFR 146.05 (b)."* (Id.)
- *"Aquifer exemptions made subsequent to the effective date of this Agreement shall not be effective until approved by the Administrator or Regional Administrator (if delegated) in writing."* (Id.)
- *"Aquifers which were proposed for exemption . . . and exempted are identified in Attachment #2. Aquifers proposed for exemption . . . and not exempted will be phased out within 18 months of the effective date of this Agreement (Attachment # 3). Any aquifer or proportion of an aquifer denied an exemption may be resubmitted for consideration."* (Id. at p. 7)
- *"All exempted aquifers are subject to review by the Division and by EPA. For good reason and by mutual agreement between the Division and EPA, the exemption status of an aquifer can be withdrawn."* (Id. (emphasis added).)

D. Federal Government Analysis of Protections in Safe Drinking Water Act

116. In 1989, the U.S. Government Accounting Office ("GAO") concluded that existing programs were not protecting underground water from injections by oil companies. The GAO (a nonpartisan Congressional agency now called the Government Accountability Office that investigates how federal funds are spent) noted that "*Contamination is difficult to detect.*" It also noted that monitoring wells were of "*limited value*" for large aquifers.

117. Most often, the GAO concluded that contamination was discovered only after the "***water supplies became too salty to drink or crops were ruined.***" See, July 1989, "DRINKING WATER: Safeguards Are Not Preventing Contamination From Injected Oil and Gas Wastes" (Emphasis added.)



118. The GAO identified two causes of water contamination from oil injection wells.

119. *First*, oil companies might directly inject contaminated salt water into fresh water. Geological studies would demonstrate the location of fresh water. California requires these studies. See, 14 CCR 1724.7(b). The State can then confirm that oil companies do not inject toxic waste water into fresh water.

120. *Second*, contaminated water is injected deep underground – this water can travel "*into improperly plugged abandoned wells*" near the waste disposal injection wells. This happens as gravity pushes downward on the injected water and forces the waste water back up idle wells (much like any fluid that flows up a straw when the pressure is unequal).

- Engineering studies (or casing diagrams) of nearby idle wells identify problems that could lead to contamination from upward migration of contaminated waste. California requires oil companies to

provide engineering studies and casing diagrams of nearby wells before oil companies may obtain waste disposal injection well permits. 14 CCR 1724.7(a).

- The engineering and geological studies are part of what is called an Area of Review or "AOR."
- These studies also highlight when oil companies must remediate nearby idle wells that have damaged casings and thus may contaminate the fresh water aquifers.

E. History of DOGGR

121. California is home to the second largest oil disaster in history. In 1910, a geyser of crude oil erupted in this oil field and spewed 378 million gallons of oil for 18 months.

122. After that disaster, California formed the Division of Oil & Gas (later the Division of Oil, Gas & Geothermal Resources ("DOGGR")) to supervise drilling and "*preventing damage to: (1) life, health, property, and natural resources; (2) underground and surface waters suitable for irrigation or domestic use; and (3) oil, gas, and geothermal reservoirs.*"

123. Even before passage of the Safe Drinking Water Act, DOGGR had required protection of underground water basins.

124. DOGGR is also the state agency responsible for making sure oil companies in California comply with the underground injection control (UIC) program and live up to their obligations under the Safe Drinking Water Act. UIC programs regulate the construction, operation, permitting, and closure of all injection wells that place fluids underground.

125. This recent photo of the Midway Sunset oilfield demonstrates the density of oilfield operations in some parts of Kern County.

F. DOGGR Comes Under Scrutiny

126. DOGGR came under increased scrutiny beginning in 2007. Some DOGGR employees were caught trading in stocks owned by oil companies and providing preferential treatment to oil companies. One DOGGR employee promised that he *"will TRY to keep (my boss) from hitting you guys with any more retarded fines. . . Remember, I'm on YOUR side."*

127. This type of lax oversight by DOGGR led to environmental litigation in Los Angeles.

128. In 2008, Governor Schwarzenegger named Derek Chernow as chief Deputy Director of the Department of Conservation.

129. DOGGR is a division that reporting directly to the Director of the Department of Conservation.

130. Chernow thus would be responsible for bringing DOGGR back into compliance with its obligations under the law.

131. After his appointment, Chernow was part of the team that hired Elena Miller to work as the State Oil & Gas Supervisor overseeing DOGGR operations in 2009.

132. The California Public Resources Code section 3106(a) provides the following description of the basic duties of the State Oil & Gas Supervisor:

> "*The supervisor shall so supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, including pipelines not subject to regulation . . . within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.*"

133. The State Oil & Gas Supervisor is the Senior staff member in charge of DOGGR's operations. Because the Supervisor wears both an enforcement hat and a permitting hat, she was obligated to pay careful attention to permitting to "*prevent, as far as possible, damage to life, health, property, and natural resources*." The Supervisor would investigate accidents on oilfields and determine the appropriate fines to issue for safety violations.

134. The State Oil & Gas Supervisor works with the Director of the California

Department of Conservation to ensure and improve California's compliance with the Safe Drinking Water Act.

135. The Schwarzenegger administration also counted on Miller and Chernow to improve the quality of California's compliance with the Safe Drinking Water Act. This was needed at the time because of the increased need for injection well permits and increased waste.

136. The United States Environmental Protection Agency ("EPA") is the federal agency responsible for ensuring California's underground injection control (UIC) program complies with the Safe Drinking Water Act.

137. The EPA began to audit DOGGR's program in 2010.

138. Miller learned in the process that DOGGR was not properly approving permits. Among other problems, oil companies failed to provide the following for injection well permits:

- ***Engineering study & casing diagrams.*** Oil companies must submit casing diagrams for all wells affected by the stimulation treatments, and an engineering study to show that the project would "*not have an adverse effect . . . or cause damage to life, health, property, or natural resources.*" CCR 1724.7(a)(4).
- ***Geologic mapping.*** Oil companies must provide geologic studies of the wells and an injection plan regulating the underground injections. CCR 1724.7(b).
- ***Testing of casing for leaks.*** Oil companies must conduct and invite DOGGR to observe mechanical integrity tests. CCR 1724.10(j).
- ***Pressure limits.*** Oil companies must submit injection plans and determine the "*maximum allowable pressure*" for all injections. CCR 1724.10(i). Pressure limits ensures that casings are strong enough to avoid well failure.

139. On May 20, 2010, Miller prepared a memo to describe the responsibilities to all DOGGR employees and ensure full compliance to protect the water as required.

140. To ensure compliance, DOGGR also created a "*Monitoring and Compliance Unit.*" Marilu Habel, an experienced DOGGR employee, would oversee this Unit beginning no later than February 21, 2011.

141. Miller faced internal resistance from DOGGR employees in trying to regulate underground injections.

- One former deputy, Randy Adams, had a practice of approving injection wells. This included approvals of wells to inject poison gas (hydrogen sulfide) without following the safety rules or regulations, as described in detail in the next section. (Exh. 6.)

142. Miller also faced external resistance from oil companies.

- For example, Occidental sought new permits that required compliance with the California Environmental Quality Act ("CEQA"). Occidental took thirteen months to complete its CEQA filing for DOGGR. Occidental then complained that it had not received the permits immediately and emailed on February 20, 2011, claiming it wanted to know *"what constitutes a complete UIC application."* (Exh. 8, Chernow Decl., Exh. 7.)
- Miller's comments about Occidental's complaint were redacted by the Brown Administration. (Id.)
- Chevron also objected to compliance and remediation in the Spring of 2011. It refused to stop injections, noting in a March 14, 2011 email Chevron's intent to continue injecting near a "well with mechanical integrity issues."
- One oil company ("PXP") admitted that it faced industry pressure to not comply with the law or remediate wells before obtaining a permit. PXP had to remediate eleven (11) wells in Inglewood, California, which it sought to avoid. PXP wanted "*an injection permit **before** remediation, since it could take a year to remediate all the wells*." (Exh. 8, Chernow Decl., Exh. 1.)
- PXP also told the Director of the Conservation Department (Chernow) on a telephone call on March 29, 2011 it was being "***pressured by other operators who don't want to see a precedent for having to remediate wells as a condition for permitting!***" (Exh. 8, Chernow Decl., Exh. 1.)

143. Oil companies resisted any obligation to provide engineering and geological studies because such documentation would evidence damaged wells. In addition, these studies would describe fresh water that should be protected.

144. Evidence of damaged wells or the presence of fresh water would require the Oil Companies to increase their employment and costs to protect California's water. Damaged wells would have to be remediated by experienced employees. Similarly, fresh water would require the oil companies to drill new underground injection wells deeper than the old wells before disposing of contaminated waste water. Both requirements would increase costs.

145. The refusal to follow the law resulted in the death of one Chevron employee on June 21, 2011. Steam, hot water, and hydrogen sulfide percolated to the surface of an abandoned well in the Midway Sunset field and created a sink hole that sucked Chevron construction supervisor, David Taylor, underground.

146. The dangers were exacerbated by the failure of Chevron to remediate damaged well casings. DOGGR admitted in May 2012 that "*damaged well casings may be . . . partially responsible*." DOGGR's report from the incident similarly stated that Chevron agreed – "*Well 20 is a complex damaged well, that it is unclear whether it is potentially a conduit for the surface expression. . .*" The danger in this Chevron oil field was so great, DOGGR had to investigate "*from a distance of approximately 50 to 60 yards.*" Chevron's violation of the Safe Drinking Water Act resulted in a small $350 fine on or about February 17, 2012.

G. Poison Gas Disposal Wells

147. All oil production results in the creation of poison waste gases like hydrogen sulfide. Hydrogen sulfide is highly toxic and deadly. Exposure is noticed immediately, but hydrogen sulfide deadens the sense of smell. People exposed will not realize hydrogen sulfide is reaching deadly levels until it is too late.

148. In 2011, DOGGR faced another permitting issue – the question of whether it had authority to issue permits for poison gas disposal wells.

149. Poison waste gas injections differ from disposal of waste water and thus did not appear to be Class II injection wells under the Safe Drinking Water Act. Poison waste gas

disposal wells are more likely Class I injection wells, which are permitted only by the EPA and subject to stricter regulations. Class I injection wells, for example, require a much greater review of the geological studies. The EPA includes a video description on its website about Class I Injection wells.[2]

150. Prior to Miller's being named as the State Oil & Gas Supervisor and with her disapproval afterwards, DOGGR employees had issued numerous permits to inject poison gases including permits to Chevron. (Exh. 6.)

151. Such permitting activities came into question shortly after Miller took over because there is no authority to treat poison gas like waste water and then allow it to be injected near or into fresh water.

152. California Independent Petroleum Association ("CIPA") asked Senator Michael Rubio (who later left the senate to work for Chevron while Rubio was under investigation by the Fair Political Practices Commission for improper campaign activities) to introduce a bill to allow DOGGR to issue permits for disposal of hydrogen sulfide and other poison waste gases. CIPA (along with Chevron and Occidental) financially supported Rubio's 2010 campaign.

153. CIPA also notified Marni Weber of the California Department of Conservation to confirm that it had sponsored this bill (SB682).

154. DOGGR sought guidance from the EPA about whether DOGGR had authority under the Safe Drinking Water Act to issue permits to dispose of poison waste gases underground. DOGGR is required to seek such guidance because the Memorandum of Agreement requires that it notify the EPA of *"any proposed or pending modifications to laws, regulations or guidelines . . . that might affect the program and [DOGGR's] authority to administer the program."* (Exh. 1 at p. 2.)

155. Before June 30, 2011, George Robin at the EPA emailed and notified DOGGR that there was no authority for DOGGR to issue any such permits. Some states obtained primacy agreements to enforce the law as to other types of injection wells (e.g., Class I injection wells for

[2] http://water.epa.gov/type/groundwater/uic/wells_class1.cfm.

hazardous waste), but California did not apply for or receive any such authority. Class II injection wells – the only injection wells California regulates – are for "*fluids associated with oil and natural gas production.*"[3]

156. This topic came up at subsequent hearings on SB 682 in July of 2011 when Rob Habel explained that the EPA indicated that DOGGR had no authority to issue such permits.

157. Given the questions about DOGGR's authority, SB 682 did not pass into law.

158. Attorneys for CIPA, however, subsequently sought all communications between the EPA and DOGGR about poison gas wells. The FOIA request was shared by the EPA will Miller including in the email attachments the EPA planned to provide CIPA.

159. In response to the Public Records Request, the Brown Administration withheld the attachments of documents provided to CIPA about poison gas disposal wells.

H. EPA Issues Audit Report Shortly After Chevron Employee Dies

160. The reluctance of oil operators to comply with the Safe Drinking Water Act was confirmed on July 18, 2011, when the United States Environmental Protection Agency sent Miller the results of an audit of California's underground injection control program. (See, Exh. 7.)

161. The EPA highlighted the following "*program deficiencies*":

- DOGGR did not *"clearly require the District Offices to protect USDWs (Underground Source of Drinking Water) to the federally-defined standard of 10,000 mg/L total dissolved solids (TDS) in the permitting, construction, operation, and abandonment of Class II injection wells."*
- DOGGR failed to conduct the proper area of review *"for injection wells throughout the state."*
- DOGGR failed to do the proper test for determining *"maximum surface injection pressure"* and needed to test pressure levels to ensure casings remained intact.

162. The EPA also noted that permitting, well construction and plugging should protect

[3] http://water.epa.gov/type/groundwater/uic/class2/index.cfm.

fresh water zones, but the regulations did not full protect the water. Among other problems, the audit report noted that protected waters are *"exposed to fluid movement due to improperly plugged wells and/or lack of cement in the casing/wellbore annulus."* (EPA Audit at p. 17.)

163. The EPA supported Miller's leadership to bring the state into compliance with the Safe Drinking Water Act. In particular, the EPA mentioned Miller's May 20, 2010 memo that set forth DOGGR's expectations for the Underground Injection Control ("UIC") program. The EPA agreed the *"memo addresses some of the program deficiencies."*

164. The EPA asked that DOGGR provide an action plan for corrections by September 1, 2011. The EPA also asked that DOGGR provide a discussion of the status of the implementation as described in the May 20, 2010 memorandum from Miller.

165. The same summer, in or about June of 2011, DOGGR uploaded guidelines to further clarify the process and provide guidelines for all operators to ensure compliance with the Safe Drinking Water Act with all permit applications.

166. The EPA noted that DOGGR needed to *"ensure that the State's Class II UIC program meets all federal requirements. These recommendations request clarification, improved procedures, and consistent standardized implementation pertaining to several areas including UIC Staff Qualifications; Annual Projected Reviews; Mechanical Integrity Surveys and Testing; Inspections and Compliance/Enforcement Practice and Tools; Idle Well Planning and Testing Program; Financial Responsibility Requirements; and Plugging and Abandonment Requirements."* In sum, compliance with the Safe Drinking Water Act would require that the oil companies conduct an area of review (AOR) and thus provide geological and engineering studies. Such studies would identify damaged wells that needed to be remediated and repaired. Remediation would be the only way DOGGR could protect fresh water.

I. Oil Companies Refuse to Comply

167. However, after the audit, the oil companies demanded that Miller approve injection permits without the required engineering studies or casing diagrams.

168. In a series of emails, Occidental admitted to having wells that needed remediation. But Occidental also objected to providing all engineering and geological studies needed.

169. Some Occidental emails were redacted by the Brown Administration. This includes an Occidental email exchange with DOGGR on July 22, 2011, just four days after release of the EPA audit.

170. Occidental thereafter admitted in an email on July 26, 2011 that "*[a] total of 22 wells did not pass the [zonal isolation] criteria."* (Exh. 9.)

- Miller emailed Occidental on July 26, 2011 to follow-up because Occidental had only submitted complete AOR submissions for 2 out of 18 projects.
- Miller emailed again on July 27, 2011, and noted that "Oxy needs to provide DOGGR with the data so that we can work with you on getting to the end goal – permits."

171. Western States Petroleum Association (WSPA) also stepped into the fray on behalf of its members. WSPA represents all major Oil Companies including Defendants Chevron, and Occidental.

172. WSPA lobbyist, Paul Deiro of KP Public Affairs, emailed on August 5, 2011 to complain about DOGGR's "*new policy – DOGGR now requires companies to do an Area of Review for all injector well permits*." WSPA's lobbyist commented in one of his emails that the *"AOR issue will impact all companies."* He further emailed to park any discussion about the California Environmental Quality Act (CEQA) issues until a later date.

173. On August 8, 2011, Janelle Beland at the California Natural Resources Agency (the agency overseeing the California Department of Conservation, which oversees DOGGR) emailed WSPA's lobbyist. She pointed out the falsity of this statement by WSPA:

> *"I would like to understand why this is being seen as something new. It's been on the books for over 25 years.*
>
> *14 CCR 1724.7 was approved . . . in 1978 . . .amended in 1984 and then there were some typos corrected in 1996.*
>
> *Pursuant to title 14, section 1724.7, subdivision (a),* ***every injection project must be supported by an engineering study that includes casing diagrams for all idle, plugged and abandoned, and deeper-zone producing wells within the area affected by the project.*** *The regulation requires casing diagrams in the engineering study evidencing that plugged and abandoned wells in the area will not have an adverse effect on the project or cause damage to life, health, property, or natural resources. If there are wells within the area of influence of proposed*

> *injection that could allow injection fluids to migrate outside of the intended zone, then approval to conduct injection operations would be conditioned on addressing those problem wells.*
>
> *. . . . We've already changed the process on our end by virtue of the fact that companies are being notified when an application is submitted whether there is information that is missing.* ***The problem, at this point, appears to be that the industry is not responding to that notification and providing the missing information. Instead, they want to fight about whether the required/requested information is necessary.*****"** ((Exh. 8, Chernow Decl., Exh. 2, (first emphasis in the original; second added).)

174. Western States Petroleum Association (WSPA) emailed Beland on September 9, 2011 and noted that they were *"prepared . . . to discuss our ideas on an interim solution and our thoughts on the EPA audit."*

175. WSPA's lobbyist emailed the same day to confirm, as discussed in the meeting with Rubio, that they were working on an *"interim solution"* and this *"document is still being finalized as we continue our review of the audit."*

176. WSPA then set up a meeting to be held on September 12, 2011, with Miller to discuss a document entitled the "Proposed Interim Solution." This solution was prepared by an attorney, Meg Rosegay, representing WSPA.

177. The Proposed Interim Solution would allow oil companies to inject contaminated waste water underground *before* completing all engineering and geological studies and before remediation of damaged wells. (Exh. 8, Chernow Decl., ¶¶16, Exh. 3.) Indeed, one of the proposals expressed stated that *"DOGGR agrees to issue PTCs [Permits to Conduct Well Operators] for wells that are part of UIC [Underground Injection Control] projects which were previously approved without an AOR . . . in each of the following circumstances:*

- Infill or replacement injector wells . . . ;
- Cyclic injection wells . . . ;
- Applications to upgrade, redrill, repair or rework existing wells . . ."

178. The Proposed Interim Solution, moreover, would have required that DOGGR allow operators to both drill injection wells and "*commence injection operations*" if "*the evidence is inconclusive as to the existence of a potential threat to life, health, property or natural resources."* The only protection for *"life, health, property or natural resources"* – operators

would *"evaluate or monitor the injections to determine if there is actual damage or threat, and if so, [c]onduct such corrective action as may be determined to be necessary, concurrent with ongoing injection operations."*

179. The Proposed Interim Solution further stated that DOGGR and the oil operator would "*work together to identify a reasonable time frame for completion of the AOR* (***after commencement of drilling and injection***)." (Emphasis added.)

180. WSPA's Interim Solution proposed that if an operator sought an injection well permit for conversion of a prior oil well, DOGGR must approve the permit *without* an area of review (AOR). No geological studies or engineering studies to confirm the safety of drinking water. Because most waste disposal wells are reworks of old wells, this was a large loophole.

181. In sum, the Proposed Interim Solution would violate the Safe Drinking Water Act by, among other items, (1) allowing injection activities to take place without conducting all studies to confirm the safety of those activities, and (2) allowing any remediation of wells that could contaminate water to take place while injections continued.

182. Miller would not approve WSPA's Interim Solution and sought guidance from the United States Environmental Protection Agency on September 13, 2011.

183. The EPA confirmed that the "*Proposed Interim Proposal*" would violate the Safe Drinking Water Act.

184. Miller and Chernow stood firm in the wake of the EPA's confirmation and refused to approve injection wells without the proper engineering and geological studies.

185. On or about September 27, 2011, California Independent Petroleum Association ("CIPA") joined WSPA in challenging the attempts by Miller and Chernow to follow the law. CIPA reported that it intended to sue DOGGR for alleged permitting delays. Most of the issue for delays related to one item – oil companies refused to provide engineering or geological studies. Such documents would have shown that underground water sources were protected before an oil company started injecting underground.

J. Mounting Pressure to Not Enforce Safe Drinking Water Act

186. The industry pressure against enforcement of the Safe Drinking Water Act grew in

the month of October 2011.

187. On or before October 14, 2011, Acting Director of the California Department of Conservation (Derek Chernow) was in John Laird's office for one their weekly meetings. Laird is the Secretary of the Natural Resources Agency and supervised Chernow's work.

188. At this meeting, Laird took a phone call from Governor Brown. Laird finished the call and, when he hung up, he told Chernow the Governor just received a call from Gray Davis who served as counsel for Occidental. Occidental wanted Governor Brown to fire Chernow and Miller (the State Oil & Gas Supervisor) because of the alleged delays in permitting.

189. After the meeting, on October 14, 2011, Chernow sent an email to Laird regarding: (1) poison gas disposal wells for waste injections; (2) a letter denying CEQA *"exemption requests"* by Occidental's subsidiary Vintage; and (3) a document entitled *"Permitting update."* Chernow also wrote that he was *"willing to follow any direction as required. If direction is different than what the Department is currently pursuing, I would appreciate as explicit direction as possible."* (Exh. 8, Chernow Decl., ¶¶ 20-21, Exh. 4.) The full extent of the communication was hidden from the public -- the Brown Administration redacted this email before providing it in response to a Public Records Request.

190. Other oil companies also asserted in October of 2011 that the State Supervisor of Oil & Gas has the discretion to approve the permits. For instance, PXP emailed Miller on October 10, 2011 regarding the discretion to operate a "*Phased Corrective Action*" for underground permits. The Brown administration redacted and thus hid from public disclosure the full extent of this communication.

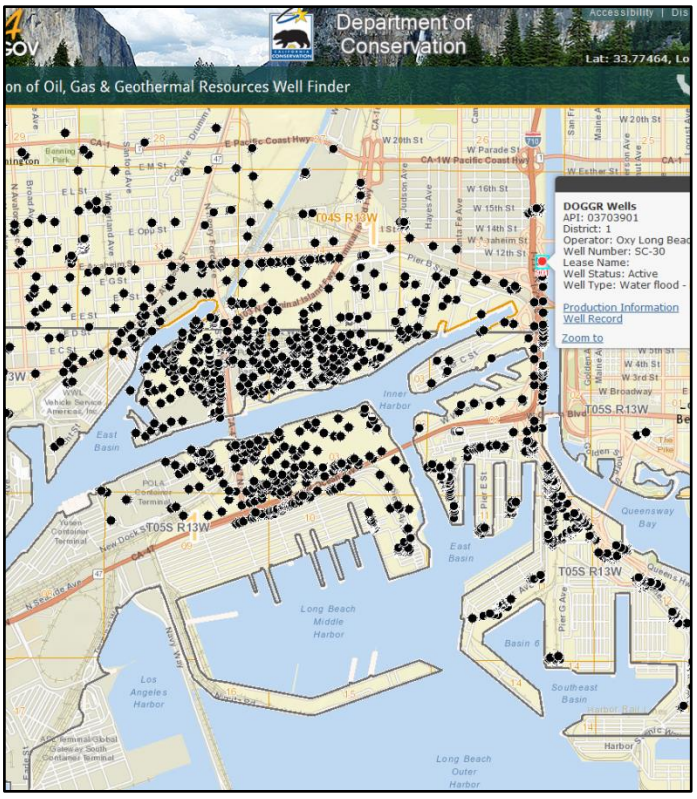
191. If the UIC permitting process is discretionary, DOGGR must comply with the California Environmental Quality Act ("CEQA"). Pub. Res. Code § 21080(a). CEQA requires each state agency to prepare and Environmental Impact Report if a discretionary project **may** have a significant impact on the environment. Pub. Res. Code § 21002.1, 21061, 21080(a). If a project **would not** have a significant effect on the environment, the agency must adopt a "negative declaration." Pub. Res. Code § 21064, 21080(c). In limited circumstances, an agency may approve a project as exempt from CEQA if the project falls within one of the "categorical

exemptions." Cal. Code Regs. 14 § 15061(b)(2), 15300-33. These exemptions apply to projects within predefined activities. Pub. Res. Code § 21084(a); Cal. Code Reg. 14 §15300.

192. Miller did not have the discretionary authority to permit wells without complying with CEQA, and full environmental review would subject the oil companies to even more scrutiny and long delays for the public notice process.

193. Less than a week later, on October 19, 2011, Occidental started reporting that *"it cannot get the permits it needs for new drilling projects in California."* This was a misrepresentation of the problems arising from Occidental's own decision not to follow the law.

194. Documents received thus far suggest that on October 25, 2011, Occidental representatives met with DOGGR representatives in Cypress, California. They discussed Occidental's plans for injections in the Wilmington Oilfield, along the 710 freeway. A copy of the map from DOGGR's website is shown.



195. At this meeting, Occidental acknowledged its map (a document to be obtained in discovery) was overcrowded and illegible. Occidental also failed to include any injection wells west of the Powerline fault in the Wilmington area. Occidental claimed that this fault protected areas west of the fault (which is west of the bend for the 103 N in the map showing the injection wells in this region of Wilmington near the L.A. harbor in Long Beach). Occidental agreed its data may be weak and thus agreed to research the issue.[4]

[4] Further research by Occidental would have shown that on February 26, 1959, DOGGR issued an order governing injection well activity in this region. The 1959 Order provided detailed information about the injection wells west of the Powerline fault. Thus, in 1959, this fault did not appear to protect the individuals in this community. Insofar as wells in this region are "critical" wells given the proximity to residences, public streets and highways, and navigable waters (Public Resources Code section 3600), it is particularly critical that the wells be carefully reviewed before permitting to allow underground injections.

196. On October 27, 2011, Occidental's environmental engineer admitted to Miller it had *"the necessary information for us to consider categorical exemptions [under the California Environmental Quality Act]. However, he's been told to stand down (by a lawyer is all I know) and not give us anything. There is apparently a meeting in Bakersfield at Oxy's offices this afternoon to discuss whether they give us what we need or continue to give us nothing."* (Exh. 8, Chernow Decl., ¶ 23, Exh. 5.)

197. On or about October 28, 2011, Governor Brown's office again entered the battle about enforcement of the Safe Drinking Water Act. His senior advisor, Cliff Rechtschaffen, scheduled a meeting with Chernow and Miller for that day.

[redacted]

201. According to the LA Times, Chernow sent a memo to the Brown Administration about the Temporary Alternative Process program. He purportedly explained that the proposal violated state and federal rules requiring a complete review before injections begin. Environmentalists, he said *"will argue, correctly, that the laws . . . are intended to prevent*

damage before it occurs." The Brown Administration has yet to provide this memo in response to Public Records Act requests.

202. Miller sought guidance from the United States Environmental Protection Agency about the list of demands. The EPA representative reviewed and commented on it, and Miller responding by writing in an email on November 2, 2011 that *"I agree with your point that this has similarities to what was prepared by [Western States Petroleum Association] WSPA."* (Exh. 8, Chernow Decl., Exh. 6.) Miller's email ostensibly forwarded the Temporary Alternative Process memo, but the Brown Administration did not provide this attachment in response to the Public Records Act requests.

[redacted]

209. The following day, on November 3, 2011, Chernow's assistant received a phone call from the Appointments' Office and asked him to attend a meeting in the afternoon. He met at the meeting Mona Pasquil and John Laird. He then learned that Governor Brown's office

terminated him as the acting Director of the Department of Conservation.

210. Miller was then called in and "fired" (though technically Brown did not have authority to fire her without due process because she was a protected civil servant).

211. On November 4, 2011, Governor Jerry Brown's spokesman (Richard Stapler) said in a telephone interview: *"The governor chose to go in a different direction"* and terminated Chernow and Miller. The Governor's spokesman also indicated that they were appointees who *"served at the pleasure of the governor."* (Exh. 10.)

K. The Conspiracy Begins

212. Beginning in 2011, the Oil Companies kept close attention to the EPA audit and the litigation in Los Angeles over the Inglewood Oilfield. The Oil Companies knew they obtained permits in violation of the law, and if the public knew of the risks, the Oil Companies would face massive liability for potential contamination of groundwater (historical and future).

213. The Oil Companies also knew that they needed government approvals to engage in hydraulic fracturing and to obtain permits for injection wells (both for stimulation of oil production and for disposal of contaminated waste water).

214. If the public knew of the Oil Companies' failure to comply with underground injection control (UIC) requirements, the Oil Companies would be subject to greater scrutiny for hydraulic fracturing – waste water from fracking includes added chemicals.

215. The Oil Companies also knew that they needed landowners to approve the hydraulic fracturing, and if these landowners knew of these problems, the landowners would not allow the Oil Companies to proceed with actions that would damage the farms and water supplies.

216. By at least October 27, 2011, the Oil Companies agreed that no company would provide DOGGR with the documents to show protection of fresh water including (1) *geological studies*; (2) *engineering studies*; or (3) *casing diagrams*. The Oil Companies also agreed that none of them should repair (or remediate) damaged well casings as a condition to obtaining injection permits. The Oil Companies further agreed not to participate in full review of oil production activities under the California Environmental Quality Act ("CEQA"). This Conspiracy continues to the present day.

L. DOGGR Does Not Enforce the Laws Protecting Fresh Water

217. Brown utilized electronic wires to report he fired Miller and Chernow on November 3, 2011. Brown's spokesman falsely represented that they served at Brown's *"pleasure"* – Miller was *not* a political appointee. She was and remains a civil servant. Brown improperly attempted to fire her after she refused to violate the Safe Drinking Water Act.

218. Brown thereafter transitioned the position of State Oil & Gas Supervisor to a political appointment, guaranteeing Brown's control over the new supervisor. Contrary to custom, his administration did not announce the appointment on the website to allow for other candidates to apply.

219. Brown ultimately appointed Tim Kustic to replace Miller. Kustic demanded and received the highest salary ever paid to the state supervisor.

220. Brown initially named Rechtschaffen as the acting Director of the California Department of Conservation and then appointed Mark Nechodom as the Director of the California Department of Conservation on December 28, 2012.

221. Less than two weeks after the terminations, Rechtschaffen and Kustic set DOGGR on a course that back away from full enforcement of the law. They ultimately allowed Chevron and Occidental to avoid full compliance with the California Environmental Quality Act (CEQA) and the Safe Drinking Water Act.

222. The Oil Companies received hundreds of permits thereafter including the examples described in this Complaint.

223. The permitting in violation of the Safe Drinking Water Act and/or the California Environmental Quality Act began as early as November 15, 2011. On that day, Chevron received approval for one of its projects – the oil well received a "Notice of Exemption under CEQA." The basis was a "Categorical Exemption" from CEQA – "Minor Alteration to Land." (Exh. 11.)

- Total value to date for Chevron's oil produced from this well alone equals or exceeds $359,031.19 (based upon DOGGR's records compared to price for oil at the time).

- This Chevron well has an ambiguous record of performance, suggesting that it may have received injections. The permitting hold-up appears to have arisen because of the controversial nature of Chevron's planned operations for this well and likely Chevron's failure to provide engineering and casing diagrams.

224. On December 2, 2011, DOGGR continued backing away from enforcement of the Safe Drinking Water Act as applied to Occidental. The Deputy over District 1, Daniel Dudak, emailed the team at DOGGR to provide an update on the underground injection control program. He wrote to notify the team that DOGGR could bypass the AOR process for the Wilmington Field, which was owned by Occidental:

> *As was emphasized in the beginning of Friday morning's UIC Program Update meeting, the UIC program is in a state of flux and will likely be changed or modified again. We must all realize that there is not a perfect box in which to package our program. Not all fields, Districts, wells, etc. are the same, and interpretations of laws and regs, let alone geology and engineering, vary among individuals inside and out of the Division, industry, the general public, environmental groups, Legislature, Gov's office, etc. We deal with very complex issues, many of which are unique. It is challenging, to say the least, to be open to uncertainty. You are all very talented and knowledgeable individuals…* ***Please remember to be flexible and professional throughout this process.***
>
> *That being said, Ken and I had a follow-up discussion with HQ regarding Friday morning's videoconference with HQ. Based on our follow-up discussion, the path forward in Inglewood and Wilmington – THUMS/Tidelands is this, generally, with more information to come:*
>
> ***
>
> • *Wilmington AOR process will continue as it has with some modifications – where an injection well is being replaced, and there is no expansion to injection, providing there are no obvious overriding considerations such as numerous sheared-off well bores in the area (one example),* ***we can bypass the AOR process and issue a permit****. This should be done on a case-by-case basis using good engineering judgement. For AORs, HQ will review for comments only; D1 will determine final remediation list and permit.* (Exh. 12 (emphasis added).)

225. The Wilmington project related to the same Occidental project that led to Gary Davis calling Brown and demanding the termination of Miller and Chernow. The decision to "*bypass the AOR process and issue a permit*" meant that after their termination, DOGGR did not enforce the Safe Drinking Water Act and let Occidental obtain permits without compliance with the Safe Drinking Water Act.

226. The UIC Program Manager at DOGGR, Jerry Salera, commended Dudak, the deputy who wrote this email. Salera wrote in an email on December 2, 2011 – "*Very well said*."

227. DOGGR's special protections for Occidental were observed by other operators, including the oil company sued in the litigation that led to settlements involving the Inglewood Oilfield. PXP believed it was *"being treated unfairly as compared to Oxy. . . Oxy gets to defer some AORs but that none of the AORs for Inglewood have been deferred."*

228. On December 5, 2011, Brown announced his tax increase proposition – three days after the DOGGR agreement not to enforce the Safe Drinking Water Act.

229. On or about January 4, 2012, Kustic emailed and promised a *"more flexible approach"* to streamline approval of injection projects, including approval of *"replacement wells."* The article indicates that Kustic described "*replacement wells*" as the wells "drilled in an oil field *after* the failure of an older well." (Exh. 13 (emphasis added).)

230. DOGGR presumably would want to know about the well failure to require remedial action.

231. Kustic also was praised by industry consultant Dave Kilpatrick particularly as to Kustic's purported decision *"to rely more heavily on technical records than new well integrity tests. . . [that] can be costly, time-consuming, and, he said, unnecessary."* This change in policy directly conflicts with the Memorandum of Agreement with the EPA, which requires DOGGR to inspect *"100% of the disposal wells"* and yearly test for mechanical integrity. (Exh. 1, pp. 3-4.)

232. On January 9, 2012, Kustic issued a Notice of Exemption from the California Environmental Quality Act (CEQA) to Occidental's subsidiary (Vintage). (Exh. 14.) The permit was for a well that would be used for *hydraulic fracturing* in a region historically used for agriculture and currently used for almond orchards.

233. Kustic described this hydraulically fractured well – located in farmland – as exempt from CEQA because it purportedly constitutes a "Minor Alteration to Land." (Id.)

234. This permit granted to Occidental was of great importance because it would allow horizontal drilling and fracturing in a manner more consistent with the shale fracturing that takes place on the East Coast. It was not common in California at that time.

235. Four days after receiving this permit, Occidental contributed its first $250,000 to Governor Brown's campaign to raise money for what became known as Proposition 30 – an initiative to increase income taxes. (Exh. 15.)

236. The same day that Occidental contributed to Governor Brown's campaign, he boasted that *"There will be indictments and there will be deaths. But we're going to keep going."* (Emphasis added.)

237. With the permit in hand, Occidental proceeded to engage in hydraulic fracturing and underground injections in farming areas:

- In the first year alone, Occidental's subsidiary pumped oil worth $1.5 million.
- Total value to date for Occidental's oil produced from this well exceeds $7 million (based upon DOGGR's records compared to price for oil at the time).

238. Governor Brown's campaigning activities that month came under investigation by the Fair Political Practices Commission ("FPPC") because a lobbyist whose clients include oil companies held fundraisers for him that were not properly reported. This included a fundraiser held on January 24, 2012 for both Proposition 30 and Governor Brown's own campaign. The FPPC issued a warning letter to Governor Brown and the lobbyist, Kevin Sloat, for failing to properly report all contributions by Sloat from this campaign fundraiser. (Exh. 21.)

239. Examples of the flexible approach to permitting showed up again in the following email sent by John Geroch of DOGGR on February 14, 2012:

> *Case 1 – Location of Excess Cement: I informed Jim that we would give VRU_152 and administrative pass on this well due to the potential for cement to seal off the out annulus just below the TIZ and it appeared that there could be a void within the annulus where the TIZ intersects, that* ***technically this well is bad****, but due to the low risk, for this well we could* ***give it a pass in this instance****.* {Emphasis added.]

240. This is believed to be one example of many decisions that were discretionary nature and that should have resulted in environmental review under the California Environmental Quality Act (CEQA). It did not result in such review.

241. On March 29, 2012, California Independent Petroleum Association (CIPA) contributed $5,469.00 to the Brown campaign to increase taxes. In total, oil companies contributed over $1 million.

242. Of greater importance, the oil companies agreed not to oppose the tax increase. This agreement was likely of much greater monetary and symbolic value to Governor Brown than the monetary contributions.

243. DOGGR's non-enforcement of the Safe Drinking Water Act and the California Environmental Quality Act continued into the summer of 2012 and to the present day.

244. Brown personally signaled his support for Categorical Exemptions from CEQA when he reported on or about August 1, 2012 that "*I've never seen a CEQA exemption that I don't like*." (Reported by SF Gate on August 22, 2012.)

245. On August 13, 2012, DOGGR issued another Notice of Exemption to Occidental. (Exh. 16.) This exemption applied to horizontal wells that would be used for hydraulic fracturing near almond orchards. The exemption allowed drilling by Occidental in wells that produced oil worth approximately $912,803.

246. Three days later, on August 16, 2012, Occidental contributed another $250,000 to Brown's campaign for Proposition 30 to increase taxes. (Exh. 15.)

247. Occidental's subsidiary needed further assistance that month with CEQA issues for hydraulic fracturing in almond orchards. DOGGR prepared an initial study dated August 30, 2012 and sent to Oviatt.

248. On the same date, Defendant Mark Nechodom (who replaced Chernow as the Director of Conservation) called Defendant Lorelei Oviatt to discuss CEQA. Oviatt, as the Director of the Kern County Planning and Development Department, is the individual who oversees the County's environmental review process. She would also be responsible for commenting on most environmental documents received by the County.

249. At the time of this call, Occidental had a "confidential" oil production project under submission to DOGGR. This file remains "confidential." Thus, none of the members of the public have access to the oil files. It is believed, and Plaintiffs thereon assert, that this project involved hydraulic fracturing in an unincorporated area of Kern County.

250. The "confidential" oil production by Occidental could and may have created environmental problems for Kern County and its residents. Thus, an initial study was issued on

August 30, 2012 when Nechodom called Oviatt.

251. Plaintiffs believe and thereon assert that Nechodom called Oviatt on August 30, 2012 to confirm that Kern County would not object or comment on the project before public disclosure.

252. On August 31, 2012, Nechodom emailed to thank Oviatt for her support in talking about CEQA and noted that he was *"delighted to have you and Kern Co. as a partner (**unindicted co-conspirator**?)."* (Exh. 17 (emphasis added).)

253. On August 31, 2012, Oviatt emailed in response and agreed with Nechodom – *"We all have the same goal."* (Id.)

254. And on September 4, 2012, DOGGR issues a Mitigated Negative Declaration for the Shafter projects and noted that any impact to hydrology was *"less than significant."* The risk of water contamination from hydraulic fracturing increase when oil companies violate the Safe Drinking Water Act by directly injecting contaminated water into the aquifer, or by injecting the contaminated water in areas near damaged wells where the well casings leak into the aquifer. (Exh. 18.)

255. Within the next six months, DOGGR disbanded its environmental team. The program manager (Dr. Tian-Ting Shih) left after DOGGR issued this negative declaration for the Shafter project. Two other environmental scientists left within six months thereafter. DOGGR went from having 25 projects evaluated under CEQA in 2012 to only 5 projects in 2013. This is an 80% reduction in one year.

256. DOGGR sent a letter dated October 2, 2012 to Occidental's subsidiary and noted that they received a notice of intent to drill a waste disposal well. DOGGR wrote to indicate that it had to hold the permit application until receipt of the *"pertinent CEQA documentation."* This well would ostensibly be used for waste from the nearby hydraulic fracturing activities by Occidental including those wells subject to "confidential" status and exempt from CEQA.

257. There is no apparent response by Occidental in DOGGR's files. But during the next two months, additional fundraisers are held for Proposition 30 and contributions made to increase taxes. The California Democratic Party held a fundraiser for Proposition 30, and

California Independent Petroleum Association (CIPA) contributed $4,449.00 to Brown's fundraising campaign for Proposition 30 shortly thereafter.

258. On December 14, 2012, DOGGR reversed course and concludes the Occidental application for the waste disposal well does not need to go through the California Environmental Quality Act (CEQA). DOGGR's online records for this well also suggest that this well did not go through a legally compliant area of review (AOR) – there are no complete engineering studies, no casing diagrams, and no geological studies as required by CCR 1724.7.[5]

259. DOGGR approved this well for disposing of waste near almond orchards one month *after* Kern County farmers attended a meeting with the Kern County Board of Supervisors. At that meeting, the farmers reported problems arising in their orchards from nearby oil production processes. Some of the farmers grew almonds near the very wells where Occidental engaged in hydraulic fracturing and the area with the new waste disposal well that did not go through any CEQA review.

260. One farmer at the meeting for the Board of Supervisor removed an entire orchard of approximately 2,232 cherry trees in December 2012, destroyed by contamination from salt water. The picture to on the next page is an example of some of the trees removed from his orchard in an unincorporated section of Kern County. (See, picture in Exh. 19 and on next page.)

261. Oviatt heard the complaints from farmers – she could have driven by to

[5] Also of note, this Occidental well injected contaminated water at levels well above the area where oil was retrieved. This contradicts the reassurances that Occidental provided and provides to the public when stated that "*produced water is returned to its original source*."

investigate. She would have seen the dead cherry trees shown. She could have notified DOGGR of the problems. She did not.

262. Oviatt instead took to reporting a lack of any water contamination. For example, in a March 2013 interview with Bloomberg news, Oviatt told the reporter over the phone that "*We don't have any evidence that there's impact on ground water from hydraulic fracturing in Kern County.*" (Exh. 20.)

263. Similarly, Oviatt assisted the oil industries in preparing a letter and lobbying the city of Arvin, California. Arvin had experienced a gas leak and pipeline rupture that led to the evacuation of many homes. On information and belief, Oviatt assisted in preparing a letter telling Arvin that there was no hydraulic fracturing anywhere near the city and thus the leak could not be related to hydraulic fracturing. This statement was not true because DOGGR records showed hydraulic fracturing near the ruptured pipeline. In addition, the hydraulic fracturing near those homes resulted in three days of blowouts. Oviatt's statements and actions were done to deter investigation into the possibility of hydraulic fracturing being the cause.

M. Deprivation of Honest Services by Government

264. These activities demonstrate that the Oil Companies, DOGGR, Brown, Nechodom, Kustic, Oviatt, their various agents and employees, and their co-conspirators, formed the Enterprise to achieve, through illegal means, the goal of maximizing profits (including county and state tax revenue) by allowing the injection of salt water into fresh water in violation of the Safe Drinking Water Act. The fundamental goal of the Enterprise and conspiracy was to preserve and expand the ability to inject underground chemicals and toxic waste, thereby expanding their oil production and maximizing profits, including tax revenues and funding from federal sources, regardless of the impact on fresh water. The Enterprise further sought to avoid any remediation of damaged wells avoid compliance with CEQA. In 2012 alone, DOGGR issued 19 notices of exemptions for the 25 CEQA filings. This deprived the Committee members of fresh water, fair opportunities to earn an income, and honest government services.

265. DOGGR's approval of improper permits resulted in the misuse of funds provided by the U.S. to California to follow the mandates of the Safe Drinking Water Act and protect fresh

water. DOGGR ignored the regulations that require geological or engineering studies. DOGGR approved permits to inject directly into fresh water. DOGGR also approved permits to inject in areas where the salt water could easily travel to nearby idle wells and up into fresh water.

266. Defendants acted in concert with each other to further their fraudulent scheme. Each Defendant has participated in the operation and management of the Enterprise and has committed numerous acts to maintain and expand the Enterprise. This Enterprise and conspiracy still continues to this day.

267. Defendants also engaged in a widespread scheme to frustrate public scrutiny by making false and deceptive statements and concealing documents (including documents under the California Public Records Act).

- DOGGR and Defendants Brown, Kustic, and Oviatt suppressed research, destroyed documents, and refused to provide all information requested under the California Public Records Act. And Kustic quit using emails to avoid creating any footprints about his actions.
- DOGGR and Defendant Brown also received a letter notifying them of their obligation to retain electronic information beginning as early as January 8, 2013. A copy of the letter is attached as Exhibit 36. Nonetheless, in May of 2013, DOGGR and the Department of Conservation installed a software program designed to delete emails that were subject to a litigation hold.
- The State Oil & Gas Supervisor last issued a full annual report for 2009, a 267 page document.[6] DOGGR now only has 19 page draft reports for 2012, 2013, and 2014.
- Employees at DOGGR continue and repeatedly use the telephone and email systems to block disclosure of the information requested about contamination of water.

268. Between 2008 and 2014, oil production in California declined by 7.2% as onshore

[6] See, http://www.conservation.ca.gov/dog/pubs_stats/annual_reports/Pages/annual_reports.aspx.

oil production dropped from 205.9 billion barrels to 191 billion barrels.

269. Despite this decline in production, oil companies in California nearly doubled the amount of contaminated water injected underground. The estimates based upon the preliminary reports provided by DOGGR show the following:

- 2008 – 554,436,328 barrels
- 2009 – 641,781,787 barrels
- 2010 – 706,060,000 barrels
- 2011 – 761,780,000 barrels
- 2012 – 816,100,000 barrels
- 2013 – 832,477,090 barrels
- 2014 – 902,905,275 barrels[7]

270. With the substantial increase in permitting of injection wells, DOGGR adopted a non-enforcement policy:

- The oil companies did not provide engineering studies, geological studies, or casing diagrams to show protection of fresh water as required by the Safe Drinking Water Act.
- DOGGR disbanded its Monitoring and Compliance Program.
- DOGGR cut back, and at times nearly eliminated, any environmental review under the California Environmental Quality Act.

271. Indeed, between 2000 and 2014, oil companies in California steadily increased injections of salt water and ultimately increased salt water injections by 252%. The amount of salt water injections in 2000 was 15 billion gallons. By 2014, the amount injected was 38 billion gallons.

272. Defendants also intimidated witnesses who complained about contamination of fresh water.

273. For example, Defendant Lorelei H. Oviatt, Director of the Kern County Planning

[7] DOGGR has not finalized an annual report since 2009, and thus, DOGGR does not have the final reports. The totals are, therefore, drawn from DOGGR's preliminary reports and monthly/weekly reports.

and Development Department, knew of complaints by farmers. She would arrange meetings between the farmers and DOGGR representatives. When contamination concerns went beyond DOGGR, Oviatt threatened the witnesses and delayed vital assistance needed to protect farmers. She tried to silence any public concerns about contamination, expressing concern about *"lengthy delays in oil activities."*

274. Oviatt's threats increased in the wake of the filing of a lawsuit against four oil companies in the Rosedale area of California. That lawsuit, brought under the caption Palla Farms, LLC v. Crimson, Kern County Superior Court Case No. S-1500-CV-283013 DRL was filed against oil companies who inject into the sand underneath the aquifer. None of the Defendants in the Palla Farms case appear to have directly injected into the aquifer at the same level as the water wells used by farmers in this action. Indeed, it was not until seeking documents under Public Records Act requests about the aquifer exemption at issue in this action did DOGGR admit that Occidental and Chevron were injecting directly into protected water.

275. Oviatt used that initial lawsuit as a basis for threatening farmers who were not involved in the litigation, and she told farmers it was doubtful that the oil companies would continue any dialogue with the farmers about an environmental impact report being developed in Kern County.

276. Oviatt cemented her comments in emails stating that the oil industry will find it inappropriate to continue discussions because of farmers seeking damages for contamination.

N. Mail and Wire Fraud By Trade Associations

277. Western States Petroleum Association (WSPA) representatives worked with representatives from California Independent Petroleum Association (CIPA) to force Miller and Chernow to adopt a flexible policy and back away from enforcement of the Safe Drinking Water Act.

278. CIPA followed with a meeting and threat to file suit on behalf of the industry against DOGGR because of *"unnecessary delays in Sacramento's review of oil field injection projects."*

279. CIPA used electronic wires to misrepresent the problem – the delay arose from the

oil companies' refusal to comply with the Safe Drinking Water Act, including industry wide refusal to provide casing diagrams.

280. CIPA and WSPA also organized a letter writing campaign to the governor claiming *"that a minimum of 3,000 jobs will be lost from the contractor workforce . . .* ***if a solution to issuing permits is not found****."* The letters were form letters distributed to all members to send and included the same typographical errors in the text of the letters.

281. The claim of lost jobs was false.

282. Compliance with the underground injection control UIC regulations should have increased jobs. More companies would have had to repair damaged wells or drill new injection wells. Indeed, there were 9,849 permits issued in 2011, more than any year except 2013.

283. Oil companies also experienced record jumps in profits and revenues in 2011, a trend noticed as early as October 28, 2011 when the *LA Times* reported that: *"Occidental Petroleum's earnings rose 50% and its revenue was up 26%, Exxon Mobil saw increases of 41% in profit and 32% in revenue, and Royal Dutch Shell says its earnings doubled and revenue rose 36%."*

284. The oil companies knew the falsity of the representations about permitting and job losses. They nonetheless, utilized electronic wires and the United States Mail to send fraudulent letters suggesting that failing to issue permits cost the people in California jobs.

O. Aquifer Exemptions

285. The Oil Companies in this action defend their injections of contaminated waste directly into the fresh water aquifers on the basis that they received permits, and there was allegedly confusion about whether the fresh underground water basins receiving injections by Chevron and Occidental was exempt from the Safe Drinking Water Act. They cite to a March 2, 2015 memo by the CalEPA in support of this alleged confusion about protected waters.

286. The CalEPA memo purports to describe a history wherein there are two Memorandums of Agreement – the first agreement prohibits injections into the underground basins at issue. The alleged second agreement purportedly exempts those aquifers from protection under the Safe Drinking Water Act. The author of the memo admits, "*there is little*

evidence in the files of state and federal agencies justifying the decision to exempt the 11 aquifers" in the second Agreement.

287. The CalEPA memo further purports to state that the first iteration of the agreement led DOGGR in February and April of 1983 to notify all operators to cease operations within 18 months. DOGGR purportedly sent another letter in June of 1983 saying it appealed the denial of the exemptions and now the water was exempt. There is, however, "*no evidence [DOGGR] put together an appeals packet with information justifying an exemption*."

288. Finally, the CalEPA memo states that the oil companies were on notice that they would need to apply for exemptions.

289. The CalEPA memo, however, does not include an analysis of the records provided by DOGGR including emails nor DOGGR's website.

290. These emails and website record show a slightly different story, with the EPA repeatedly notifying DOGGR to both correct their permitting activities and their website to show the public that the eleven identified above are protected under the Safe Drinking Water Act.

291. For example, on May 11, 2012, the EPA emailed Kustic about aquifer exemptions in California. (Exh. 22.) His email included an attachment that summarized the findings, a document summary never provided by DOGGR in response to Public Records Act requests. Plaintiffs ultimately located the attachment on the EPA's website.

292. The attachment sent in this May 2012 highlighted a very important problem in California – the 1982 Memorandum of Agreement listed 11 areas as *"not exempt"* including areas where Chevron injects directly into fresh water.

> *"Section H of the MOA formally incorporated Attachments 2 and 3 into the MOA. Section H also clarifies that the 11 aquifers in Attachment 3 'proposed for exemption in the 1425 demonstration and not exempted will be phased out within 18 months of the effective date of this Agreement (the MOA).' Since the MOA was signed in late September 1982, those 11 formations were not exempt as of April 1984."* (Exh. 22.)

293. The EPA notified Kustic that *"If warranted, DOGGR to identify any additional aquifers, or portions of aquifers that they request EPA consider for exemption*." (Exh. 22.)

294. The EPA further observed that DOGGR's website included a statement suggesting

the aquifer exemptions in the April 1981 primacy application were approved. EPA recommended that the website be corrected. (Exh. 22.)

295. Kustic did not respond.

296. The EPA emailed Kustic again on June 4, 2012 to ask about the status.

297. On June 7, 2012, Kustic responded to the EPA via an email:

- Salera (DOGGR's UIC Manager at the time) was *"delving into the aquifer exemption (AE) issues and will be briefing [Kustic] next week on our path forward and timeline. [Kustic] anticipate[s] meeting with [EPA] in SF late June to early July to discuss AE and audit topics."* (Exh. 23.)
- Salera, in the meanwhile, was comparing DOGGR's primacy documents to the EPA documents.
- DOGGR would improve the website *"to properly explain the Aquifer Exempted lists and link this to our MOA."* (Id.) [8]
- DOGGR would *"complete a review of any additional aquifers for possible exemption within the next 3 months."* (Id.)

298. Kustic also emailed to assure the EPA that hydraulic fracturing had the media's attention, but "*the bulk of our resources are going towards the UIC program improvements*." (Id.)

299. The EPA emailed Kustic on June 19, 2012, and complaining about injections into protected water. The Tulare Aquifer is "***not currently exempt***. *However, this formation is receiving injection from multiple Class II [salt water disposal] wells*." (Emphasis added.) The EPA was *"very interested in discussing the status of this aquifer/formation at your earliest convenience."*

300. The EPA followed up with another email to Kustic on July 11, 2012 indicating that they would be meeting on July 18, 2012 to discuss the *"EPA's Aquifer Exemption memo/findings and discussion of next steps (includes some specific, time-sensitive permit-related issues)."*

301. Questions about the aquifer exemptions arose at the same time that DOGGR

[8] By 2012, DOGGR's website included on their website the Memorandum of Agreement with the EPA that listed these eleven aquifers as nonexempt and thus protected under the Safe Drinking Water Act.

received what appears to have been its first notice of contamination problems.

- In the summer of 2012, farmers struggled with increasing levels of sodium chloride (or salt) in their soil and water. The farmers learned from the local water board that oil production activities near their farms increased the chloride levels to a degree that exceeds the maximum contaminant levels set by Federal law.
- The farmers then contacted the local deputy working for DOGGR. He reported to the farmers the salinity problems did not come from oil production.
- The farmers afterwards reported the contamination problems to the State Oil & Gas Supervisor (Kustic) and his boss, the Director of the California Department of Conservation (Nechodom) – they did nothing.
- California receives annual funding of $500,000 from United States Environmental Protection Agency to protect fresh water. Yet there appear to be no documents from DOGGR about any investigation into the complaints about water contamination. At a minimum, there should have been documents in the injection well files about the investigation.

302. DOGGR, however, waited to address any problems until after the November 4, 2012 election and passage of Proposition 30.

303. After the election, California Independent Petroleum Association (CIPA) immediately raised the aquifer exemption issue in an email to Kustic dated November 7, 2012.

304. Attorneys for CIPA then began communicating with Salera directly (who was handling the aquifer exemption issues for Kustic) and sent Salera a letter on December 20, 2012 about projects that would not require *"aquifer exemptions."*

305. Several back-and-forth communications followed with the EPA and with CIPA:

- On December 21, 2012, the EPA wrote to Kustic to find out about the timing "*to discuss the handling of aquifer exemptions (state-wide issue) with EPA.*"
- On January 9, 2013, the EPA again wrote to Kustic to find out the status of the "*aquifer exemption review/analysis*."

- On January 11, 2013, a CIPA attorney sent an email to Kustic, copying Salera and other employees of DOGGR. The email noted that the letter sent had been changed after the original version sent to Salera on December 20, 2012.
- On January 30, 2013, the EPA emailed DOGGR to prepare for the meeting on February 2, 2013 to discuss aquifer exemptions.

306. The aquifer exemption update process became the subject of the industry's attention no later than the next work group meeting – on August 22, 2013, Kustic asked that CIPA add this topic to the agenda for the meeting. (Exh. 24.)

307. As recently as January 3, 2014, DOGGR recognized in its emails that the Agreement with the EPA had attachment 3 (a list of aquifers not approved for exemptions).

308. Governor Brown declared the drought created a state of emergency in California on January 17, 2014. (Exh. 25.)

309. On information and belief, Plaintiffs assert this announcement led to DOGGR immediately addressing the aquifer exemption issue. CIPA emailed on January 27, 2014 to ask about the aquifer exemption meeting to "*mak[e] sure we aren't missing something*." (Exh. 26.)

310. On information and belief, Plaintiffs also assert that CIPA held meetings to determine the press strategy when the State admitted it improperly allowed Occidental and Chevron to inject toxic waste water into the aquifer. Occidental and Chevron massively increased giving to CIPA. For example, Occidental contributed $6,800 to CIPA in 2013 and similar amounts in prior years. Chevron never appears to have given to CIPA. The Oil Companies made the following contributions, with more than $2.183 million donated before the public knew about any aquifer issues:

- Occidental gave CIPA $902,785 on May 6, 2014, $500,000 on August 22, 2014, and another $100,000 on October 21, 2014. (Exh. 27.)
- Chevron gave CIPA $1,282,970.00 on June 25, 2014. (Exh. 28.)

311. Before DOGGR confessed that it improperly permitted injection wells, Brown diverted state resources to create a map of his oil holdings and then threatened with termination Defendant Steve Bohlen (the newly appointed State Oil & Gas Supervisor) after he emailed that

document to Brown.

312. The next month, DOGGR disclosed only a few of the issues, claiming in July of 2014 of 11 improperly permitted wells that injected into the aquifer. (Exh. 30.) DOGGR denied any impact on water supplies. DOGGR further stated that it realized the improper permitting "*while reviewing documents related to implementation of SB 4, the state's new law regarding the use of well stimulation*." (Id.) State Oil & Gas Supervisor (Bohlen) wrote: "*We do not have any direct evidence any drinking water has been affected*." (Exh. 29.)

313. The full scope of problem caused by the improper permitting is yet to be revealed.

314. In January of 2015, DOGGR admitted it had improperly permitted hundreds of wells that allowed oil companies including Chevron and Occidental to directly inject contaminated waste into fresh underground water supplies.

315. On January 10, 2015, Western States Petroleum Association (WSPA) issues statement about permits and denying any water contamination: "*While WSPA and it members take concerns about groundwater quality very seriously, it is important to note that there has been no evidence presented that underground injection activities in Kern County have in any way been detrimental to drinking water or the environment.*" (Exh. 31.) Plaintiffs believe and thereon assert that WSPA made this statement despite knowing of water contamination problems described in Palla Farms complaint filed in Kern County Superior Court in September of 2014.

316. On February 6, 2015, DOGGR issued a letter and admitted it improperly approved 532 permits for waste disposal wells in violation of the Safe Drinking Water Act. DOGGR reported that 490 permitted wells injected in fresh water aquifers of sufficient purity that the water is protected under this Act. DOGGR again denied any contamination. (Exh. 32.) DOGGR approved another 2,021 wells that violated the Safe Drinking Water Act requirements but were permits to inject steam or water to stimulate oil production (not disposal of waste water). (Id.)

317. The Brown administration approved almost 50% of these wells – 1,172 of the 2,553 total injection wells at issue.

318. DOGGR denied any water contamination risk: "*to date, the analytical data from the water supply wells that the State ordered to be tested have not shown any contamination of the*

water supply wells by oil and gas injection activities." (Id.) Bohlen made this statement without notifying the EPA of water contamination problems asserted in Palla Farms complaint, which he received over a month before this letter.

319. DOGGR likewise repeatedly defends its improper permitting of injections into fresh underground water basins by claiming in wire and mail communications that the aquifers *"have historically been treated as exempt."* (Id.)

320. Indeed, the water problems forced DOGGR to retract all of its prior statements denying damage when it finally admitted that *"155 injection wells are potentially impacting water supply wells."* (Exh. 34.)

321. DOGGR also had to retract earlier statements that the 11 aquifers receiving direct injections would qualify to receive exemptions from protection under the Safe Drinking Water Act. By July 15 of 2015, DOGGR reported to the EPA "*most or all [of the aquifers received injections] may not meet the criteria for an aquifer exemption*." (Exh. 35.)

322. For over three years, DOGGR delayed addressing the aquifer exemption issues raised by the EPA on May 11, 2012. DOGGR engaged in substantial communications with the EPA and the trade associations about this topic during this time period. And never once, did DOGGR or any oil company apply for an exemption to allow the injections at issue in this lawsuit.

323. The failure by DOGGR and the Oil Companies to apply for an exemption is now understandable – the water was and remains usable by farmers and Californians. The three year delay simply allowed the Oil Companies to continue injecting contaminated waste into underground water basins without regard to when the aquifers would no longer be usable.

324. In July, DOGGR also admitted that the quality of water in Los Angeles and Orange Counties are of greatest concern to DOGGR. Specifically, the Cypress District (which covers these two counties) is the area in California at greatest risk for water contamination and litigation. The basis for this risk is not yet clear because DOGGR refuses to disclose its findings. However, over the last four years alone, it appears that there are over 1.4 billion barrels (over 58.8 billion gallons) of contaminated waste water that is not accounted for by DOGGR's records.

Plaintiffs believe and thereon assert that DOGGR's report about the Cypress district should address what has happened to this voluminous waste.

P. DOGGR's Response to EPA Audit Also Provided After the Election

325. Delays in enforcing the Safe Drinking Water Act also showed up in other areas.

326. Kustic did not respond to the EPA audit until after the November 4, 2012 election and passage of Governor Brown's tax initiative (Proposition 30). In his report, Kustic did not mention any of the concerns expressed by the farmers that were disclosed to DOGGR that summer.

327. Instead, on November 16, 2012 (eighteen months after the EPA Audit concluded the state was not complying with the Safe Drinking Water Act), Kustic sent a letter to the EPA regarding the audit findings about the lack of areas of review or AOR's. Kustic wrote that the division "***protects underground sources of drinking water*** *(USDW) and requires that all injection is confined to the approved zone of injection.*" (Emphasis added.)

328. When Kustic made this statement, he knew it was not true – the Oil Companies injected directly into protected fresh ground water. The falsity was demonstrated this year when DOGGR admitted that it approved permits for 532 wells that inject into protected water.

Q. The Field Rules Also Demonstrate the Presence of Fresh Water

329. The recent discussion by DOGGR about the exemptions to the Safe Drinking Water Act, moreover, disregards the evidence that some oilfields had specific rules stating that the water underground is fresh. (See Exh's 3-4.)

330. The presence of fresh water in many of those regions cannot be disputed because the Kern River recharges the aquifer.

331. Indeed, Occidental once insisted DOGGR issue permits in accordance with the field rules, instead of providing engineering or CEQA documents. *"'Field rules' means unique requirements or procedures which may be established by the Supervisor for a producing field."* C.C.R. 1741(e). These are established "[w]hen sufficient geologic and engineering information is available from previous drilling or producing operations." C.C.R. 1722(k).

332. The field rules – especially as to the Kern River and Kern Front Oil Fields are

noteworthy. Both oilfields are located near the Kern River – the primary source of recharge for aquifer underlying Kern County. The latter field rules state as follows:

- May 30, 2007 -- *"Entire Kern River Zone is fresh water."* (See Exh. 3).
- November 18, 2011 – Kern Front (Etchegoin-Chanac Zone): *"Base of Fresh Waters . . . Depth: 2,500' +/-."* (See Exh. 4).
- March 9, 2012 – Kern River (Veder Zone): *"Base of Fresh Waters . . . Depth: 2,500' +/-."* (See Exh. 5).

333. Chevron and Occidental nonetheless inject contaminated water into these zones where the Kern River recharges the entire aquifer under Kern County.[9]

334. Chevron also injects poison gas directly into underground fresh water (in the Kern River Oil field) at depths of 305 feet to 610 feet below ground.[10] Such poison gas (specifically hydrogen sulfide) when exposed to water would further contaminate water and likely turn into hydro sulfuric acid. Excerpts from one of Chevron's permits to inject hazardous gas is attached as Exhibit 6.

R. Withholding of Public Records and Secret Meetings

335. The California Public Records Act states that the Legislature recognizes "*that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state*." See, Cal. Gov. Code § 6250.

336. After the terminations of Miller and Chernow, Brown's office takes over Public Records Act responses for questions to DOGGR about the terminations and redacts materials including emails to, from or regarding Occidental: 2/20/2011 email with Occidental's draft UIC manual; 7/22/2011 email regarding Occidental; 8/26/2011 email re permits to Vintage [Occidental's subsidiary]; and 10/13/2011 email from Chernow regarding waste gas disposal and Occidental.

337. These redacted emails are then sent on 3/29/2013 through the United States Mail. Subsequent productions followed.

338. The Brown administration thus withheld substantial amounts of information from the public and redacted voluminous emails, even up to the filing of this complaint.

339. The Bagley-Keene Act of 1967 requires that all meetings of state agencies be open to public scrutiny:

> *"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.*
>
> *In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.*
>
> ***The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.*** *The people insist on remaining informed so that they may retain control over the instruments they have created.*
>
> *This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."* See, Ca. Gov. Code § 11120 (emphasis added).

340. In 2011, the Oil Companies pressured Miller to participate in *"Oil and Gas Work Group"* meetings to discuss these activities without public notice. Miller did not participate. The Brown Administration redacted one of the emails written by Miller on October 25, 2011 about the pressure to participate in these secret meetings. Thus, the extent of her concerns remains undisclosed.

341. The *"Oil and Gas Work Group"* used to further the Enterprise held meetings that began again on January 26, 2012. Some members of the Enterprise would meet in advance of the meetings in local hotels including at the Bakersfield Marriott. The January 2012 meeting was set up by Blair Knox of California Independent Petroleum Association (CIPA). He emailed a list of individuals to participate from Western States Petroleum Association (WSPA), CIPA, DOGGR, Occidental, and Chevron, for a January 26, 2012 meeting. The agenda emailed by Knox suggests there would be comments by Nechodom and updates about the injection program.

342. The Oil and Gas Work Group proceeded thereafter to meet in closed door meetings with DOGGR and the Oil companies. There was no public notice of this meeting on the Department of Conservation or DOGGR's website.

343. CIPA organized via email the remaining 2012 meetings with the Oil & Gas Workgroup, including those meetings held on or about May 17 and September 20, 2012. The agenda for the May 2012 meeting emailed by CIPA suggests there would be a *"Road Map"* or Strategic Plan from DOGGR.[11]

344. On October 8, 2012, Nechodom acknowledged via email the plans for Oil & Gas Workgroup meetings and the need for a formal Memorandum of Understanding about the workgroup. To date, DOGGR has not provided a copy of this agreement.

345. CIPA organized via email the 2013 meetings with the Oil & Gas Workgroup, including January 9, 2013, the May 16, 2013 at Chevron's offices and the August 29, 2013, meeting.

346. The August 2013 meeting included a discussion of the aquifer exemption issues at the request of Kustic – a discussion kept from the public until 2015.

347. CIPA organized via email the 2014 meetings with the Oil & Gas Workgroup, including the January 9, 2014 held at the Kern County Administration Building.

S. Oil Companies Conceal the Impact and Discipline Members

348. The Enterprise disciplines both their members and anyone who dares to enforce the law including regulators (including political appointees). If any regulator refuses to issue invalid permits, they are threatened with termination. This termination threat continues to exist and allows the enforcement of the goals of the Enterprise.

349. In addition, if any oil company agrees to provide the required studies demonstrating confinement of toxic waste as required by the Safe Drinking Water Act, members of the Enterprise pressure them to stand down and not provide the required information.

350. The discipline is demonstrated by the pattern and practice of threats to Miller and Chernow. It is further demonstrated by the following communications showing unity or threats:

- PXP told the Department of Conservation on March 29, 2011 that the industry

[11] On May 23, 2012, CIPA also emailed for a report from DOGGR that would list all production by all other oil and gas companies in California. DOGGR has not provided the underlying records or emails showing what they provided to CIPA in response or what was then sent to other members of the Oil & Gas Workgroup.

was pressuring them not to follow the law or remediate problems associated with wells that could contaminate the fresh water. (Exh. 8, Chernow Decl., Exh. 1.)

- Joe Ashely from Occidental Petroleum told DOGGR on October 27, 2011 they had the information needed but were told to not provide it to DOGGR. (Exh. 8, Chernow Decl., Exh. 5.)
- Western States Petroleum Association (WSPA) lobbyist commented in one of his emails that the *"AOR issue will impact all companies."*

351. This discipline is enforced across state lines. On March 15, 2013, Exxon Mobil CEO, Rex Tillerson joined in a lawsuit with Dick Armey to prevent hydraulic fracturing activity approved in his neighborhood. Tillerson admitted that constructing the wells and required water towers is *"detrimental to or endanger[ing] the public health, safety, morals, comfort, or general welfare,"* from *"uses which substantially impair and diminish the uses, values and enjoyment of other property in the neighborhood for purposes already permitted.*"[12] Indeed, Tillerson asserted that approval of such activities in his neighborhood would "***mock the purpose of the [town] zoning ordinance, the primary purpose of which is to protect the citizens***." The media spotlight focused on this lawsuit in February of 2014. Shortly thereafter, Tillerson dropped ***out*** of the lawsuit.

T. Deceptive Marketing and Publicity by the Enterprise

352. The Oil Companies and their trade associations (CIPA and WSPA) publish materials intended to deceive the public including Plaintiffs.

353. The Oil Companies and their trade associations created a marketing campaign to ensure the public repeatedly heard false and misleading positions on issues related to injection wells, water contamination, and fracking.

354. The associates of the Enterprise also denied that hydraulic fracturing causes any damage. The Enterprise members claim hydraulic fracturing: (1) happens deep underground; (2)

[12] Armey v. Bartonville Water Supply Corp., Dist. Court of Denton Co., Tex., Case No. 2012-30982-211.

is far from fresh water; (3) has been happening for decades; and (4) include casings to protect water.

355. To discredit any criticism of the practice, Western States Petroleum Association (WSPA) and California Independent Petroleum Association (CIPA) prepared and distributed through electronic wires and the internet Hydraulic Fracturing *"Fact Sheets."* For example, the WSPA Fact Sheets states that ***DOGGR "requires all wells to meet strict construction and design requirements to ensure the maximum protection of ground water supplies."***

356. The Oil Companies and their co-conspirators repeatedly deny that hydraulic fracturing causes damage to the water supply. They reassure the public in commercials, in public announcements, and on the internet by pointing out the casings installed to protect groundwater.

357. Chevron utilizes electronic wires to tell the public about the safety of one type of underground injection, hydraulic fracturing:

> *"Chevron takes steps to protect groundwater during hydraulic fracturing and over the life of the well.* ***Designing proper wells and control systems is the best form of prevention, and Chevron's wells are designed to protect groundwater for the life of the well.*** *We have robust well designs with multiple layers of steel and cement specifically designed to protect groundwater. We run pressure tests to ensure the well's integrity and conduct a combination of tests over the life of the well to verify long-term integrity."* (Emphasis added.)

358. Chevron further stated on the internet that "*Safety is not just a priority, it's part of our culture. First and foremost is the safety of the people on location and process safety – in every task we perform. Environmental protection and operating in a sustainable manner are paramount. It all starts with a robust well design.*"

359. Chevron, however, is one of the operators directly injecting contaminated water into protected drinking water. These statements by Chevron are false.

360. Occidental represents on the internet that hydraulic fracturing is safe, further claiming that it is committed to public disclosure of all hydraulic fracturing operations and stating that it is "*conducting hydraulic fracturing in a manner that does not impact the environment.*" Occidental also represents on the internet that "*produced water is returned to its original source in deep geologic reservoirs*." These statements are not true – Occidental's subsidiary in California was fined because it was caught dumping produced water into an unlined sump next to

an almond orchard in Kern County.

361. To further and protect the Enterprise and conspiracy, and their profits, the Oil Companies made false and misleading statements to the public through press releases, advertising, and public statements intended to be heard by the public.

362. The Oil Companies also seek to create doubt about the risks of hydraulic fracturing by claiming it has been done for sixty years, disregarding new technological innovations that allow oil companies, in recent years and at increased frequency, to use hydraulic fracturing to stimulate oil from previously inaccessible shale rock. Hydraulic fracturing is being utilized at deeper levels and at a higher pressure than any time in history.

363. The new technologies are now proving insufficient to reaching the Monterey Shale Oil. The U.S. Energy Information Administration admitted these difficulties in 2014 when it reported that fracking was not resulting in success for reaching oil in California.

364. Even in the face of this information from the EIA, the Oil Companies continue to misrepresent to the public that fracking has been done for decades without problems to water. And the Oil Companies are avoiding regulation by redrafting legislation intended to protect water. The associates of this Enterprise repeatedly made various public statements, utilized print and video advertisements, promotions and other media as part of a concerted and coordinated campaign to put a good face on hydraulic fracturing and oil production.

U. Impact – Contaminated Water, Sink Holes, and Gas Leaks

365. California business owners who depend on fresh water from the California aqueduct face the risk of a loss of water supplies, forcing either drilling for new water wells, installation of expensive remediation equipment, or finding clean water from other sources.

366. Water and soil tests thus far show elevated levels of many chemicals including chloride and total dissolved solids. In addition, the water and soil tests demonstrate the presence of chemicals that exceed the maximum contaminant level set by the EPA including:

- Arsenic
- Boron
- Chloride

- Gross Alpha radionuclides
- Uranium.

367. Some regions are particularly impacted by the oil production activities and injections directly into the underground water basins.

368. The Committee bringing this suit includes farmers and employees directly affected by this conduct, collectively referred to as *"Plaintiffs."* The Committee members bring this action to recover lost income and revenue and costs paid for, and to be paid for, the remediation of environmental damage caused by the Oil Companies. Plaintiffs also seek a declaration revoking the illicitly obtained permits and requiring compliance with the laws designed to protect the air, land, and water. Plaintiffs also seek to restrain the Oil Companies and their co-conspirators from further violations of the law and to disgorge their profits from this unlawful conduct.

V. Senate Investigation

369. In January of 2015, DOGGR was forced to admit it was allowing the oil companies to directly inject contaminated salt water into drinking water. There were over 458 wells injecting directly into protected water.

370. News reporters broke the story that DOGGR allowed the oil companies to inject upwards of 6 billion gallons of contaminated water into fresh water in 2014 alone. It is believed the amount injected into wells without proper AOR's greatly exceeds that amount. 46% of those injection wells received permits in the prior four years from DOGGR.

371. Faced with these reports about the underground injection control UIC issues, Western States Petroleum Association (WSPA) responded that "*the system works pretty well*."

372. California Senator Fran Pavley then convened a hearing before the California Senate on March 10, 2015. The stated purpose of the hearing was to assess the underground injection control (UIC) program in California.

373. On March 10, 2015, Nechodom took the stand at the Senate hearing and stated that the focus in Spring 2012 turned to hydraulic fracturing.

"*By spring of 2012, it was quite clear that the administration and the legislature*

expected our department to be fully engaged in hydraulic fracturing."

374. This was ***not*** how Kustic described the status of the underground injection control (UIC) program to the United States Environmental Protection Agency on June 7, 2012. Kustic reassured the opposite:

> "*Although, hydraulic fracking stimulation is gathering much attention in the media, . . .* ***the bulk of our resources are going towards the UIC program improvements***." (Emphasis added.)

375. Nowhere in Nechodom's prepared statement to the Senate did he mention that the Oil Companies refused to provide the geological studies that would have shown the location of protected water. Nowhere in his statement did he acknowledge the refusal to provide engineering studies. He instead focused on what the media considered important in 2012, not what DOGGR considered important when it reassured the EPA of improving the UIC program. Nechodom's testimony was false and misleading, done to cover-up the violations of the Safe Drinking Water Act.

376. Similarly, the current State Oil & Gas Supervisor (Dr. Steve Bohlen) did a presentation at the March 10, 2015 Senate Hearing. The presentation included a PowerPoint presentation that misrepresents that nature of water disposal wells – it shows the water being injected below the oil formation. (Compare Exh. 2 to Exh. 33, the latter by Bohlen.)

377. This representation was false. In the best case scenario, waste disposal water is injected directly into the oil producing zone or in a layer above the oil producing zone.

W. Present and Continuing Threat

378. The conspiracy by the Enterprise to deceive, mislead, and withhold information from the public, and from public legislative, regulatory, and judicial bodies about the adverse consequences of underground injection activities has continued up through the present day.

379. Each day, the Oil Companies continue to submit applications for permits that do not comply with basic regulations to protect our water. The Oil Companies, continue to engage in a misinformation campaign where they suggest that they comply with the regulations governing the proper design and installation of casings.

380. There is, moreover, a revolving door of former DOGGR employees going to work

for oil companies or as consultants with oil companies.

381. Politicians from Kern County also fall prey to the revolving door with the oil industry – former Senator Michael Rubio negotiating for a job with Chevron while still serving in office. This negotiation process either violated or was extremely close to violating Government Code section 87407 ("*No public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.*")

382. DOGGR, adopted emergency regulations that allow continued injection into the aquifer by the Oil Companies as part of the *"Aquifer Exemption Emergency Rulemaking."* DOGGR claims an emergency existed because it: *"could not have implemented a rulemaking process for the presently-proposed regulation prior to that date because until then there had not yet been a determination of what deadlines would satisfy US EPA's demands for corrective action."* DOGGR further states it "*and US EPA have historically (up until about 2012) treated these eleven aquifers as exempt (hereinafter the "Eleven Aquifers Historically Treated as Exempt"), and the Division has approved injection wells into these aquifers."* Yet DOGGR had known since 2011 of the violations of California regulations.

383. DOGGR is still being controlled behind the scenes by Brown. After Kustic retired, the Oil Companies resorted again to use of wires and mail to again complain about job losses, threatening the new State Oil & Gas Supervisor (Dr. Steve Bohlen).

384. Governor Brown used similar threats, and now he and the current State Oil & Gas Supervisor want to convert other positions into political appointments. They are currently seeking a method to make DOGGR's deputy overseeing operations in Kern County (District 4) a political appointment. This would allow Governor Brown to better control the actions even at the deputy level.

385. The decision to turn the District 4 Deputy position into a political appointment falls on the heels of the prior deputy (Dan Wermiel) going out on extended medical leave at the same time that WSPA and California Independent Petroleum Association (CIPA) started complaining that the new State Oil & Gas Supervisor allegedly delayed issuance of permits.

Indeed, at the time Wermiel's appointment to the position as Deputy, Kustic praised his work and reported that Wermiel was the "*most flexible member of the management team*."

386. If the political appointment process is used to control regulators and encourage non-enforcement of the law, there is a risk of continuing harm and further terminations of employees whose job requires that they protect California water from contaminated waste water.

387. DOGGR records also suggest that few employees conduct the area of review required by the Safe Drinking Water Act, including emails from April 2015.

388. In addition, upper levels of management at DOGGR allowed permits to be forged, creating confusion even amongst operators as to the proper permits and ownership rights.

389. The effects of the conspiracy will be felt for many years into the future, and the contamination of water will be time consuming and difficult to remediate. Unless restrained, the potential contamination will undermine water quality in our most important agriculture community for years to come.

390. The farmers bringing this suit have already experienced the impact of the injection wells – chloride levels in the soil and water are elevated because of these operations. The increase is damaging the crops because chloride ions, which are a component of salt, are readily absorbed by plant roots and then accumulate in plant leaves at toxic levels. The chloride cannot be leached from the fruit and nut trees growing in the Valley. Toxic levels of chloride magnify the drought conditions, putting the farmers and the nation at risk.

391. California Independent Petroleum Association (CIPA) and Western States Petroleum Association (WSPA) implement the decisions of the Enterprise, occupy positions in the chain of command in the Enterprise, are provided with millions of dollars by the Enterprise associates to accomplish its goals, and are vital to disseminating the *"party line"* on issues like regulations of injection well activities and fracking. Through CIPA and WSPA, the Oil Companies regularly met and set policy, including the misleading and fraudulent statements described in this Complaint.

392. CIPA and WSPA also worked through attorneys to cloak all communications with the attorney client privilege and thus withhold information demonstrating the fraudulent nature of

their communications.

FIRST CAUSE OF ACTION
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)
18 U.S.C. §§ 1961(A), 1962(c), 1962(d), 1964
(As to Defendants Occidental, WSPA, CIPA, Chevron, Brown, Kustic, Nechodom, Oviatt, CRC, and Bohlen)

393. Plaintiffs incorporate by reference all of the preceding paragraphs as though fully set forth herein.

394. As early as September 27, 2011, and continuing up to and including the date of filing this complaint, the Enterprise did unlawfully, knowingly and intentionally conduct, participate, directly and indirectly, in the conduct, management and operation of the affairs of the Enterprise, and the activities of which affected interstate commerce, through a pattern of racketeering activity consisting of numerous acts in California and elsewhere, including, but not limited to, violations of 18 U.S.C. sections 1341, 1343, 1346.43, 1512 (b), 1961(c), 1962(d), and 1961(A).

A. The Enterprise

395. Defendants Brown, Nechodom, Kustic, Oviatt, DOGGR, WSPA, CIPA, OCCIDENTAL OIL AND GAS CORPORATION, CHEVRON U.S.A. INC., and others known and unknown, being persons employed by and associated with the Enterprise did unlawfully, knowingly, and intentionally conduct and participate, directly and directly in the conduct, management, and operation of the affairs of the Enterprise, which was engaged in and affected interstate and foreign commerce through racketeering activity that included violations of 18 U.S.C. section 1962(c) with predicate acts violating sections 1341 (mail fraud) , 1343 (wire fraud), 1346.43 (honest services), and 1512 (b) (intimidating and threatening witnesses), and violations of 18 U.S.C. section 1961(A) with predicate acts constituting bribery or attempted bribery in violation of California Penal Code sections 67, 67.5 and 68, and extortion or attempted extortion in violation of California Penal Code sections 518 and 524.

396. Occidental and Chevron, along with other Oil Companies, jointly fund the Defendant trade associations (WSPA and CIPA). At all times, WSPA and CIPA were controlled

by Oil Companies and by their agents and employees including outside counsel. Such control took place to secure alleged privileges under the attorney client doctrine and Noerr Pennington. The trade associations in turn engaged lobbyists to further their goals. In addition, the Oil Companies increased their giving to CIPA with news of the aquifer issues.

397. WSPA and CIPA also served as the principal channel for enforcement of the conspiracy and communication among defendants. WSPA and CIPA provided a uniform voice to public when making false and misleading statements and an independent front for all activities.

398. Defendants Brown, Nechodom, Kustic, Oviatt, Bohlen, WSPA, CIPA, OCCIDENTAL OIL AND GAS CORPORATION, CHEVRON U.S.A. INC., and others known and unknown, formed an "enterprise" ("the Enterprise") to achieve through illegal means the following goals: (1) increasing oil production; (2) maximizing profits and tax revenue; (3) avoiding liability for well failure and remediation; (4) minimizing labor expenses that would have arisen if they followed the law.

399. The Enterprise implemented these goals by, among other items: (1) agreeing not to research, investigate or study the cause of water contamination; (2) agreeing to support passage of a law to increase taxes, which would be much cheaper than actual remediation; (3) issuing false and misleading reports about delays in permitting activities that arose from their failure to conduct all needed studies; and (4) denying in every public forum, press release, advertisement, SEC filing and regulatory proceeding, the possibility that activities by the oil companies contaminated fresh water.

400. The members of the Enterprise knew that they could inject contaminated waste water safely underground, but chose not to follow the law because of the risk of litigation. The members of the Enterprise chose instead to not engage in any meaningful preparation of the geological and engineering studies that protect the public. The members of the Enterprise also pressured other oil companies to do the same.

401. At no time did members of the Enterprise disclose to the public that they were not following the laws or that the State agreed not to enforce the law.

402. Members of the Enterprise took actions to avoid public disclosure of the acts

described herein. They held secret meetings – without public notice – to discuss legislative and litigation matters. Defendants also engaged in a widespread scheme to frustrate public scrutiny by making false and deceptive statements and by concealing documents and research that they knew would have exposed their public campaign of deceit. This scheme included making false and deceptive statements to the public. Defendants restrained, suppressed and concealed any information that would tend to establish the harmfulness of their actions. Finally, the administration of Governor Brown took over responsibility for providing documents in response to Public Records Act requests and withheld or redacted information to avoid public disclosure.

B. The Predicate Acts

403. At all times, the Enterprise existed separate and apart from Defendants' racketeering acts and their conspiracy to commit such acts. The Enterprise has an ascertainable structure and purpose. It has a consensual decision making structure that is used to coordinate strategy, manipulate data, suppress the truth about the consequences of their drilling activities and otherwise further Defendants' fraudulent scheme.

404. The Oil Companies repeatedly promised that their drilling activities complied with the law and were conducted to protect the environment. Thus, they undertook the obligation of protecting public health by disclosing unbiased and authenticated research on the risks. They also made statements to reassure the public as to the safety of their oil production activities and commitment to ensure the safety of their drilling. In fact, however, Occidental and Chevron did not even follow the basic requirements of the Safe Drinking Water Act.

405. The Oil Companies and their trade associations (WSPA and CIPA) also recognized, contributed and exploited -- for their own profit -- the public's misconceptions. They launched a campaign to suggest the actions taken in California to stimulate oil production are the same as have happened for decades. This is not true -- California oil companies rarely (if ever) used horizontal drilling to fracturing of shale to seek oil production. Indeed, it is so new, the U.S. Energy Information Administration modified its prior statements about the availability of oil in California's Monterey shale because the shale is too difficult to reach for most oil producers.

406. The Oil Companies and their trade associations (WSPA and CIPA) further

engaged in a campaign to frighten the public about the potential lost jobs – the Oil Company defendants never disclosed that they are less jobs because they cut corners when they violated the Safe Drinking Water Act.

407. Brown, Nechodom, Kustic, Oviatt and Bohlen had a duty to provide honest services, utilizing federal funds designated for use in protecting fresh water to actually protect fresh water by enforcing California regulations under the Safe Drinking Water Act and the California Environmental Quality Act.

408. They breached those duties in violation of 18 U.S.C. § 1341, 1343, and 1346, by utilizing mail and wire fraud to deprive Californians of compliance with the Safe Drinking Water Act and the California Environmental Quality Act (CEQA).

409. These predicate acts resulted in: depriving the Committee of honest government services with the termination of regulators seeking to follow the law (Miller & Chernow) and hiring of regulators to break the law (Kustic); deprived members of the Committee of the right to petition and recover damages for contamination of their property; deprived the public of truthful information about fracking and injection wells; violated California Public Resources Code regulations under the Safe Drinking Water Act. These unlawful schemes all constitute "predicate acts" under 18 U.S.C. § 1961.

410. Each member of the Enterprise either committed or agreed that at least two of the predicate acts would be committed by a member of the conspiracy in furtherance of the Enterprise. It was part of the conspiracy that Defendants and their co-conspirators would commit numerous acts of racketeering activity in the conduct of the affairs of the Enterprise, including, but not limited to the acts of racketeering set forth herein.

Examples of Mail and Wire Fraud Used to Further Conspiracy

411. The Enterprise, and in particular the Oil Companies, knowingly and intentionally devised an advertising and marketing schedule to obtain money and property with false representations about the safety of their injection activities. The Enterprise further made knowingly false statements in the mail and wires, at hearings and in other public appearances as part of a concerted and coordinated campaign to induce public acceptance of their representations

about fracking, to avoid civil liability, and to conceal their efforts to misrepresent, suppress, distort, and confuse the facts.

412. WSPA and CIPA also made repeated public statements on behalf of Defendants including their members Occidental and Chevron. The mail and wire communications by CIPA and WSPA in furtherance of these goals include:

- repeatedly complaining of delays caused by DOGGR when in reality, delays were caused by Defendants who refused to provide casing diagrams and CEQA documents;
- repeatedly suggesting that Miller was imposing new regulations when reality she was simply enforcing long-standing regulations;
- pressuring other oil companies to not comply with Safe Drinking Water Act;
- emailing refusal to provide engineering studies required by the Safe Drinking Water Act;
- proposing via electronic wires and demanding *"solution"* where DOGGR agreed not to enforce Safe Drinking Water Act;
- organizing mail campaign falsely claiming job losses from permitting delays were caused by DOGGR when any delays caused by operators who refused to provide engineering studies for permits;
- mispresenting their compliance with regulations designed to protect fresh water;
- touting the safety of fracking;
- describing the casings purportedly used to protect fresh water and yet refusing to even provide evidence of adequate casings to get permits for the injection wells from DOGGR; and
- denying evidence of water contamination.

413. The mail and wire communications by Occidental in furtherance of these goals include:

- repeatedly emailing and suggesting requirements under the Safe Drinking

Water Act were new policies;

- admitting wells did not isolate contaminated water and yet objecting to compliance with Safe Drinking Water Act;
- calling Brown and demanding termination of Miller and Chernow for alleged permitting delays;
- using wires to misrepresent financial hardships from slow permitting at a time of record breaking profits;
- telephoning and stating that they were told to stand down and not provide CEQA documents;
- requesting and obtaining permits in violation of the Safe Drinking Water Act and CEQA; and
- making representations on its website that hydraulic fracturing is safe and that "*produced water is returned to its original source*" even after Occidental's subsidiaries were fined in California for dumping fracking waste in an almond orchard.

414. The mail and wire communications by Chevron in furtherance of these goals include:

- refusing via emailing to follow provisions under the Safe Drinking Water Act, including violations that led to the death of an employee;
- requesting and obtaining permits in violation of the Safe Drinking Water Act and CEQA; and
- using internet to present a history of safety that misrepresents Chevron's repeated violations of Safe Drinking Water Act;
- issuing statements that it is *"wonderful"* to have communication after the termination of Miller and Chernow.

415. The mail and wire communications by Brown, directly and through his spokespeople, in furtherance of these goals include:

- Making telephone calls to convey demand by Occidental that he terminate

Chernow and Miller;

- Ordering Chernow and Miller, through telephone communications of his senior advisor, to agree to issue permits in violation of the law;
- Claiming he had the power to terminate protected employees who refused to violate the law;
- Communicating his approval to not enforce Safe Drinking Water Act and CEQA through press statements;
- Mailing improperly redacted documents requested under the California Public Records Act;
- Using mail or wires to report campaign fundraisers in 2012 (the same year as Proposition 30) but failing to include contributions and parties by lobbyist Kevin Sloat.

416. The wire communications by Kustic in furtherance of these goals include:

- Email that promises to be *"flexible"* in permitting wells that he knew violated the Safe Drinking Water Act;
- Issuing press reports or making statements naming a new Deputy to oversee Kern County's permitting who was the most flexible member of the team;
- utilizing the telephone in coordinating with other members of the Enterprise to fast-track permit decisions;
- issuing via electronic wire or mail forged injection permits;
- issuing via electronic wire or mail notices of exemption under CEQA;
- promising via email to EPA that DOGGR would address aquifer issue but delaying any resolution while emailing and discussing with CIPA and in private Oil & Gas Workgroup Meetings.
- utilizing wires to issue and post letter to EPA claiming that DOGGR protected water as required when Kustic knew of unresolved aquifer issues and DOGGR policy to not require engineering or geological studies for injection wells;

- utilizing wires to CIPA (after Occidental was fined for illegal dumping) to assure CIPA permitting would go forward without regard to requirements of Regional Water Quality Control Board approval.

417. The wire communications by Nechodom in furtherance of these goals include:

- telephoning to discuss CEQA projects in Kern County the same year DOGGR used categorical exemptions to avoid CEQA;
- admitting via email the conspiracy;
- presenting misleading information in televised hearings before the California Senate.

418. The wire communications by Oviatt in furtherance of these goals include:

- telephoning to discuss CEQA projects in Kern County the same year DOGGR used categorical exemptions to avoid CEQA;
- admitting via email the conspiracy;
- telephoning to assert no water contamination despite having heard of water contamination;
- using emails to threaten witnesses concerned about protecting water and attempting to prevent witnesses from joining in litigation.

419. The wire communications by Bohlen in furtherance of these goals include:

- presenting misleading information in televised hearings before the California Senate; (compare Exh. 2 to Exh. 33, the latter by Bohlen)
- repeatedly denying in electronic wires and mails any water contamination despite having received notice of potential contamination as early as December of 2014.

Examples of Bribery or Attempted Bribery Used to Further Conspiracy

420. Occidental also took the following actions that constitute bribery or create the appearance of bribery and attempted bribery:

- On January 9, 2012, Occidental subsidiary (Vintage) obtains a permit and exemption under CEQA to engage in hydraulic fracturing in the middle of an

almond orchard. The value of one permit cannot be understated. This one oil well alone produced over $7 million in oil for Occidental.

- On January 13, 2012, Occidental contributes $250,000 to Brown's campaign to increase taxes (before it was named Proposition 30).
- On or about August 1, 2012, Brown issues a statement, "*I've never seen a CEQA exemption that I don't like.*"
- On August 16, 2012, Occidental contributes $250,000 to Brown's campaign to increase taxes.
- On August 30, 2012, DOGGR issues initial study describing new oil project by Occidental subsidiary to drill for confidential wells in an almond orchard. This project is approved by September 4, 2012. The value of the production from these oil wells cannot be determined because DOGGR kept and is keeping this information confidential.

421. CIPA took actions that constitute bribery or create the appearance of bribery and attempted bribery by making contributions to Brown's proposition to increase taxes after demanding and receiving agreement by the Brown administration to not enforce the requirements of the Safe Drinking Water Act and the California Environmental Quality Act.

422. CIPA, Occidental and Chevron also took actions that constitute bribery or create the appearance of bribery and attempted bribery by contributing money to former Senator Rubio who sponsored a bill to allow injections in violation of the Safe Drinking Water Act and who also demanded that DOGGR issue permits in violation of this Act and CEQA. Rubio ultimately resigned to work for Chevron while being investigated by the Fair Political Practices Commission for holding undisclosed fundraisers and obtaining a loan for his home from an oil company (a loan note later held by Chevron as a the mortgagor just a few months after Rubio's resignation).

423. Some of the permits were issued within days of contributions by Defendants to Brown's Proposition 30 campaign to increase taxes. The permits were issued without the required engineering and geological studies or pursuant to Categorical Exemptions under CEQA.

424. The fundraising issues involving Brown's actions in 2012 led the Fair Political

Practices Commission to impose the largest state fine in California history on a lobbyist. The lobbyist was holding parties in his home to connect clients who give campaign contributions with the officials whose decisions they seek to influence. The lobbyist involved in the Brown and Rubio fundraisers issued a statement admitting that he and his firm "*failed in our obligations to be as vigilant as possible in complying with state political reform laws*."

425. Brown also took the following actions that constitute bribery or create the appearance of bribery and attempted bribery: he appointed Kustic, Nechodom, and Bohlen to positions that guaranteed their employment in exchange for agreeing to not enforce the Safe Drinking Water Act and the California Environmental Quality Act. Kustic demanded and received a higher salary than any prior State Oil & Gas Supervisor, and his position became a political appointment for the first time in California history.

426. Brown, Kustic, Nechodom, and Bohlen are all recipients of funds that are tainted by the appearance of being provided in exchange for agreement not to enforce the laws.

427. Oviatt is likewise the recipient of employment for Kern County, and this employment is tainted by the appearance of being a voice for the oil companies only.

Examples of Extortion or Attempted Extortion Used to Further Conspiracy

428. Occidental further took actions that constitute extortion, or attempted extortion, by demanding the firing of employees who refused to violate the law.

429. Occidental, Chevron, and CIPA also made representations that constitute extortion, or attempted extortion, by claiming they would be laying down rigs and firing oil company employees if permits were not approved as demanded. The reality - more employees would have jobs if remediation happened before permits were issued.

430. Oviatt similarly made representations that constitute extortion, or attempted extortion, by punishing farmers who engaged in their right to petition the government and demanding that they refrain from speaking about water contamination issues. If the farmers did not keep quiet, Oviatt refused to consider their concerns about water safety.

C. Joinder in Conspiracy

431. These predicate acts are related because they had common purposes and goals to

further the goal of the Enterprise to maximize profits, increase tax revenues, and avoid the consequences of the contamination of fresh water. Each Defendant has participated in the operation and management of the Enterprise including by engaging in acts of discipline and retaliation against any government employee who tried to protect the water and any farmer who complained about the contamination.

432. Defendants likewise agreed and conspired to pursue the same criminal objectives and while some conspirators committed the offenses described above, other conspirators provided support. All Defendants intended to further the Enterprise and endeavors which, if completed, would satisfy all elements of a civil RICO claim. 18 U.S.C. § 1962(d).

433. Even those Defendants who were not involved in the issuance of the original statements and positions joined and committed acts in furtherance of the Enterprise and Conspiracy. The new State Oil & Gas Supervisor (Steve Bohlen) made misrepresentations to the California Senate and issued repeated denials of water contamination. Oviatt also issued denials of water contamination.

D. Pattern of Reckless Disregard of Public Safety

434. The Enterprise members sought to immunize their actions from liability by, among other items, not conducting any of the engineering and geologic studies needed under the law. These studies would lead to public disclosure of the water issues and most likely litigation because they demonstrate the number of wells that need to be remediated in California. Even now, DOGGR has not turned over its report about the permitting and contamination risks in the Los Angeles and Cypress district.

435. Defendants' actions were done with reckless and wanton disregard of the safety of all Californians and with actual knowledge of the fact that the conduct of Defendants would cause serious water contamination and destroy the ability to grow food, especially in drought years. The effects of the conspiracy will be felt for many years in the future.

436. In callous disregard to the health and safety of Californians, and circumventing the audit findings by the EPA, Occidental, Chevron, and their trade associations (WSPA and CIPA), engaged in these acts in an attempt to obtain illicitly what they could not legally obtain – permits

to dispose of contaminated water in violation of the Safe Drinking Water Act and the California Environmental Quality Act.

437. In callous disregard to the public and to employees of oil companies including the family of Mr. Taylor who died in an oilfield accident arising from improper permitting, Governor Brown said, "*There will be indictments and there will be deaths. But we're going to keep going*." He also mocked the California Environmental Quality Act ("CEQA") by stating that, "*I've never seen a CEQA exemption that I don't like*."

438. In callous disregard to the farmers impacted by the oil production activities in California, Kustic, Nechodom, Oviatt, and Bohlen failed to investigate any concerns raised by farmers and instead issued statements that there was no water contamination. Kustic, moreover, delayed the investigation of the problems arising from improper injections into California's aquifers at a time of extreme drought.

439. Defendants, individually or collectively, have engaged and are engaging in a continuing and related pattern of racketeering activity within the meaning of 18 U.S.C.§ 1961(5), which poses a threat of continued unlawful activity. Defendants' unlawful acts constitute a "pattern of racketeering activity," in that there is a threat of continued unlawful activity. With respect to each of the Defendants, the pattern of unlawful activity at least has close-ended continuity in there was a closed period of repeated acts covering at least a period from September 2011 to the present.

440. The Oil Companies' unlawful course of conduct caused the degradation of California's water and is destroying farmland and farms. As a consequence, farmers must replace crops or cease farming. The effect of this unlawful scheme and wrongful conduct continues to this day, and the Oil Companies are continuing to prosper and profit from the unlawful conduct.

441. Farmers like many members of the public, did not fully appreciate the risks to groundwater caused by the oil operations. Members of the Enterprise made false and misleading statements with the express purpose of deceiving farmers and inducing them to allow drilling.

442. The members of the Enterprise had full knowledge that as their fraud succeeded, more farmers would suffer. Because the failed to warn the public and affirmatively lied about

their compliance with the law, many Americans and farmers allowed drilling activities in their neighborhoods and on their farms.

443. As a direct and proximate result of the participation in and conduct of the affairs of the Enterprise alleged herein by Defendants through a pattern of racketeering activity in violation of 18 U.S.C.§ 1962 (c), Plaintiffs have been injured in their business and property, and are entitled to all remedies available under the law and at equity.

444. Defendants, acted with a callous disregard to quality of water needed by all Californians including Plaintiffs for growing food used to feed the nation. Indeed, 25% of all table food in the United States is grown in the San Joaquin Valley. Failing to follow basic regulations and to instead cloaking all communications with the cover of privacy demonstrates a callous disregard to the health, safety, and life all of all Californians.

SECOND CAUSE OF ACTION
VIOLATION OF THE CIVIL RIGHTS ACT OF 1871
42 U.S.C. § 1983

445. Plaintiffs incorporate by reference all of the preceding paragraphs as though fully set forth herein.

446. Members of the Committee are owners and have a beneficial interest in property in Kern County used for farming. These farms are near injection wells operated by the Oil Companies in such a way as to knowingly inject salt water into fresh water used for irrigating crops. These members have a constitutional right to own property under the Fifth Amendment and to engage in protected activities to petition for grievances under the First Amendment.

447. Hopkins and Wedel are also owners and have a beneficial interest in property in Kern County used for farming. These farms are near injection wells operated by the Oil Companies in such a way as to knowingly inject salt water into fresh water used for irrigating crops. These members have a constitutional right to own property under the Fifth Amendment and to engage in protected activities to petition for grievances under the First Amendment.

448. Brown is the Governor of the State of California, and all actions done by him are under color of law including demands that the State Oil & Gas Supervisor approve injection wells directly into or near fresh water. Occidental told analysts and investors in May of 2014 that

"towns don't want us there, we won't be there." But the Occidental CEO did not disclose that Brown is the one who intervenes to make it happen. Brown calls local politicians, like the Mayor of Carson, to remove moratoriums on drilling by Occidental because of local concerns about hydraulic fracturing.

449. Nechodom was the Director of the California Department of Conservation, and all actions done by him are under color of law including setting policies to permit injection wells directly into or near fresh water.

450. Kustic was the State Oil & Gas Supervisor, and all actions done by him are under color of law including permitting of injection wells directly into or near fresh water.

451. Oviatt is the Director of the Kern County Planning Commission, and all actions done by her are under color of law to block farmers from complaining about contamination. Oviatt also intervened to protect oil companies from a temporary moratorium on hydraulic fracturing in Arvin.

452. DOGGR is a government agency whose main office is in Sacramento, California. All actions by DOGGR are done under color of state law.

453. The Oil Companies conspired with Oviatt, Brown, Nechodom, and Kustic, to deprive farmers of their property and their right to petition the government when noticing contamination problems. The Oil Companies participated in confidential meetings to protect from disclosure their roles in blocking the farmers from expressing concerns about water quality.

454. Brown, Nechodom, Kustic, Oviatt, Bohlen, and DOGGR working with other members of the Enterprise participated in the conspiracy to deny Plaintiffs of their rights under the First and Fifth Amendments of the United States Constitution and to free access to information under California Public Records Act, the Bagley-Keene Act, and the Brown Act. Such overt acts are described above and include, among other items, threatening witnesses and farmers affected by the contamination of fresh water who sought government protection and honest services.

455. DOGGR's policy to permit salt water injection wells without proper AOR's constitutes a regulatory taking because such contamination diminishes the value of the farms in

violation of the right to due process under the Fifth Amendment. This deprivation of clean water is also in violation of Safe Drinking Water Act.

456. There is no further remedy at law and irreparable injury to the farmers if equitable relief is not sought.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests relief against Defendants:

A. A judgment in favor of Plaintiffs on all claims and disgorgement of all ill-gotten profits;

B. An award for threefold the actual damages Plaintiffs sustained because of Defendants' violations of 18 U.S.C. §§ 1962(c) and (d) and the costs, including attorneys' fees, incurred by Plaintiffs in prosecuting RICO claims against RICO Defendants;

C. An award to Plaintiffs for the damages proven at trial;

D. An award to Plaintiffs for punitive damages;

E. Creation of a fund to correct all misinformation, including a fund administered and controlled by an independent third party relating to the public health and environmental issues associated with oil production and nonconventional well stimulation;

F. For reasonable attorneys' fees according to proof;

G. For interest at the legal rate on all amounts awarded;

H. For costs of suit incurred; and

I. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Under Rule 38 of the F.R.C.P., Plaintiffs respectfully demand a jury trial.

DATE: _____, 2015

Respectfully submitted,

R. REX PARRIS LAW FIRM

_____

R. Rex Parris
Patricia K. Oliver

EXHIBIT “1”

Underground Injection Control Program
Memorandum of Agreement
Between
California Division of Oil and Gas
and
the United States Environmental Protection Agency
Region 9

I. General

This Memorandum of Agreement ("Agreement") establishes the responsibilities of and the procedures to be used by the Division of Oil and Gas ("Division") and the United States Environmental Protection Agency ("EPA") in administration of wells in the Class II portion ("Class II program") of the Underground Injection Control ("UIC") program in California. In general, this Agreement supplements the program described in the demonstration submitted in accordance with Section 1425(a) of the Safe Drinking Water Act ("1425 demonstration").

After it is signed by the Supervisor and the Regional Administrator, this Agreement shall become effective on the date notice of the Class II program approval is published in the Federal Register. The parties will review this Agreement at least once each year during preparation of the annual program update, during the State-EPA agreement ("SEA") process or at other times as appropriate (e.g. at mid-year review). The annual SEA shall be consistent with this Agreement and may not override this Agreement.

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State or Federal statutory or regulatory modifications or supplements, or for any other purpose mutually agreed upon. Any such modifications or supplements must be in writing and must be signed by the Supervisor and Regional Administrator.

This Agreement shall remain in effect unless EPA determines that the Division's 1425 demonstration is no longer valid. Such a determination by EPA will be in accordance with Section 1425(c) of the Safe Drinking Water Act ("SDWA").

Nothing in this Agreement shall be construed to alter any requirements of SDWA or to restrict EPA's authority to fulfill its oversight and enforcement responsibilities under SDWA or other Federal laws, or to restrict the Division's authority to fulfill its responsibilities under State statutes. Nothing in this Agreement shall require or be construed to require EPA to violate Federal law or the Division to violate State law.

II.

A. Policy Statement

The purpose of the UIC program is to prevent any underground injection that endangers an underground source of drinking water ("USDW").

The Division has primary responsibility and authority over all Class II injection wells in the State of California. This includes Class II wells drilled and operated on Federally owned lands, but does not include such wells on Indian lands. The Division is responsible for administering the Class II program including but not limited to reports, permits, monitoring and enforcement actions. Implementation of the Class II program will be as described in the 1425 demonstration and will be supported by an appropriate level of staff and resources.

The Supervisor and the Regional Administrator agree to maintain a high level of cooperation and coordination between Division and EPA staff to assure successful and effective administration of the Class II program.

The Division shall promptly inform EPA of any proposed or pending modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions that might affect the program and the Division's authority to administer the program. The Division shall promptly inform EPA of any resource allocation changes (e.g. personnel, budget, equipment) that might affect its ability to administer the program.

EPA shall promptly notify the Division of the issuance, content, and meaning of Federal statutes, regulations, guidelines, standards, judicial decisions, policy decisions, directives, and other factors (including budgetary changes) that might affect the Class II program.

B. Information Sharing

1. Division

The Division agrees that all information and records obtained or used in the administration of the Class II program including all UIC permit files shall be available for inspection by EPA or its authorized representative upon request. Division records may be copied by the EPA only when they are required by EPA to bring an enforcement action or for other such specific purpose. Any information obtained from the Division by EPA that is subject to a claim of confidentiality shall be treated by EPA in accordance with EPA regulations governing confidentiality (40 CFR Part 2 and 40 CFR 122.19).

The Division shall retain records used in the administration of the program for at least three years (40 CFR 30 and 40 CFR 35). If an enforcement action is pending, then all records pertaining to such action shall be retained until such action is resolved or the previously mentioned time period is met.

2. EPA

Copies of any written comments about the Division's program administration received by EPA from regulated persons, the public, and Federal, State, and local agencies will be provided to the Supervisor within thirty (30) days of receipt.

3. Emergency Situations

Upon receipt of any information that any Class II injection operation is endangering human health or the environment and requires emergency response, the party in receipt of such information shall immediately notify by telephone the other party of the existence of such a situation.

C. Permits

1. Division

Within 10 working days of receipt, the Division shall provide a written response to any written notice of intent to commence drilling.

2. EPA

Upon receipt by EPA, any Class II permit application and supporting information shall be immediately forwarded to the Division.

Some facilities and activities may require permits from the Division and EPA (and/or other State agencies) under different programs. When appropriate, the Division and EPA will participate in a joint permit processing procedure. The procedure will be developed on a case by case basis.

D. Compliance, Monitoring and Enforcement

1. Division

The Division shall adhere to the compliance monitoring, tracking, and evaluation program described in the 1425 Demonstration. The Division shall maintain a timely and effective compliance monitoring system including timely and appropriate actions on non-compliance.

Each year, 100% of the disposal wells will be inspected for mechanical integrity.

2. EPA

EPA shall conduct periodic site and activity inspections on injection operations, giving priority to operations having the greatest potential to endanger public health.

EPA may participate with the Division in the inspection of wells or operator records. EPA shall notify the Division usually at least ten (10) days prior to any proposed inspection and shall describe the well(s) or record (s) to be inspected and the purpose of such inspection. If the Division fails to take adequate enforcement action against a person violating the requirements for a Class II well, EPA may take Federal enforcement action. Federal enforcement actions will be in accordance with the State, facility and public notification procedures in Section 1423 of SDWA.

3. Emergency Situations

Situations endangering human health will receive immediate and paramount attention by the Division and EPA. The party with initial knowledge of such situation shall immediately notify the other party by telephone.

E. Program Review and Evaluation

1. Division

The Division shall provide EPA with an annual report on the recent operation of the Class II program. Specific contents of the report are described in Attachment #1 and may be renegotiated from time to time. The period to be covered by the annual report shall be the calendar year ending December 31, with reports completed and available to EPA no more than 60 days later (March 1).

In addition, the Division shall provide a separate report of preventive actions taken by operators of new Class II wells. At minimum, this report shall include:

a. the number and general type (e.g. injection pressure limit) of preventive actions proposed in the applications;

b. the number and general type of preventive actions actually taken; and

c. if necessary, a brief summary explaining the reason(s) for any differences between proposed and actual preventive actions (e.g., pending actions).

The report is due within 3 months after the second anniversary of the effective date of this Agreement. The final format will be negotiated at least 3 months prior to the due date.

If the Division proposes to allow any mechanical integrity tests other than those specified or justified in the 1425 Demonstration, the Division shall provide in advance to EPA sufficient information about the proposed test that a judgment about its usefulness and reliability can be made.

2. EPA

EPA shall conduct mid-year evaluations at least during the first 2 years of the Division's operation of the program. In part, the mid-year evaluations will be based on the reports provided above. At least 10 days prior to the evaluation, EPA shall notify the Division regarding the information, material, and program areas that will be covered. This may include selected permit files, budget records and public notification and complaint files. The evaluation may be conducted at either the Division's headquarters or one of its district offices.

F. Public Participation

1. Division

The Division shall provide adequate public notice for its proposed actions as described in the Division's 1425 Demonstration. At minimum, the Division shall provide a 15 day public comment period, and make the non-confidential portions of the project plan and the representative Report on Proposed Operations available for review. If the Supervisor determines that a public hearing is necessary, public notice shall be provided at least 30-days prior to the public hearing.

If there are any substantial changes to the approved project plan or representative Report on Proposed Operations, additional public notice will be provided. Examples of substantial changes include significant increases in injection pressures, changes in injection zone, or significant changes in injection fluid.

Copies of such notices shall also be sent to:

a. Director, Water Management Division, EPA-Region 9;

b. Chairperson, State Water Resources Control Board; and

c. Chairperson of the affected Regional Water Quality Control Board.

The Division's final decision on proposed actions shall contain a response to comments that summarizes the substantive comments received and the disposition of the comments. This shall become a part of that particular project file.

At a minimum, the Division shall apply these public participation procedures to applications for new underground injection projects, significant modifications to existing permits, and to aquifer exemptions.

2. EPA

EPA shall participate at any scheduled public hearing at the request of the Division. Such requests shall be made at least 10 days prior to the hearing.

Any appropriate comments on the proposed action shall be made by EPA within the normal fifteen day comment period. The exception is the designation of exempted aquifers (see the section on Aquifer Exemptions).

G. Program Revision

A program revision may be necessary when the Division's or EPA's statutory authority is modified or when there is a substantial modification to the program. The procedure for revising the program shall be that described in 40 CFR 123.13(b).

H. Aquifer Exemption

An Underground Source of Drinking Water (USDW) may be exempted for the purposes of a Class II injection well if it meets the criteria in 40 CFR 146.04.

Aquifers exempted by the Division and EPA under this Agreement shall only be applicable for the injection of fluids related to Class II activities defined in 40 CFR 146.05(b).

Aquifer exemptions made subsequent to the effective date of this Agreement shall not be effective until approved by the Administrator or Regional Administrator (if delegated) in writing.

After the effective date of this Agreement, an aquifer exemption must be in effect prior to or concurrent with

the issuance of a Class II permit for injection wells into that aquifer.

Aquifers which were proposed for exemption in the 1425 Demonstration and exempted are identified in Attachment #2. Aquifers proposed for exemption in the 1425 Demonstration and not exempted will be phased out within 18 months of the effective date of this Agreement (Attachment #3). Any aquifer or portion of an aquifer denied an exemption may be resubmitted for consideration. At minimum, the resubmission should include either new data, new boundaries or other modification to the original proposal.

All exempted aquifers are subject to review by the Division and by EPA. For good reason and by mutual agreement between the Division and EPA, the exemption status of an aquifer can be withdrawn. The public participation procedures in the 1425 Demonstration shall be applied prior to the withdrawal of any exemption status.

1. EPA

Within 10 days after receipt of the information on the aquifer(s) proposed by the Division for exemption, EPA shall notify the Division if any additional information is deemed appropriate. EPA shall either approve or disapprove the aquifer exemption within 60 days after receipt of all appropriate information. Any disapproval by EPA shall state the reasons for the decision. Requests for additional information and final determinations on aquifer exemptions shall be in written form.

If the new aquifer proposed for exemption is a non-hydrocarbon bearing USDW, EPA will coordinate its public participation activities on aquifer exemptions with the Division's public participation activities during project review.

I. Other Agency Involvement

The Division shall administer the Class II program and maintain close cooperation with California's State Water Resources Control Board (SWRCB) and the Minerals Management Service.

J. Definitions

1. Class II well is defined in 40 CFR 146.05(b).

2. Aquifer is defined in 40 CFR 146.03 and 122.3.

3. Day in this Agreement is defined as a working day.

4. Underground Source of Drinking Water (USDW) is defined in 40 CFR 146.03 and 122.3.

5. 1425 Demonstration includes:

a. the Division's primacy application dated April, 1981;

b. the additional information provided by letter dated March, 1982; and

c. the clarifying information provided by letter dated September, 1982.

Sonia F. Crow
Regional Administrator
Environmental Protection Agency
Region 9

Sept. 29, 1982
Date

for Simon Cordova
M.G. Mefferd
State Oil and Gas Supervisor
California Division of Oil and Gas

Sept. 28, 1982
Date

Attachment 1

Annual Report Contents

At a minimum, the Annual Report shall include:

a. an updated inventory;

b. a summary of surveillance programs including results of monitoring and mechanical integrity testing, the number of inspections conducted, the number of new wells, corrective actions ordered and witnessed, instances of wells out of compliance and their current status;

c. an account of all complaints reviewed by the Division and the actions taken;

d. results of the review of existing wells made during the year;

e. a summary and status of the enforcement actions taken;

f. number of emergency permits issued and current status; and

g. instances of variances and discretionary exemptions during the year.

Attachment 2

Exempted 1425 Demonstration Aquifers

All oil and gas producing aquifers identified in Volumes I, II, and III of the California Oil and Gas Fields submitted in the 1425 Demonstration dated April 20, 1981 are exempted.

In addition, the following aquifers are also exempted.

DISTRICT	FIELD	FORMATION/ZONE
2	Ramona	Pico
2	Oat Mountain	Undiff.
2	Simi	Sespe
3	San Ardo	Santa Margarita
3	San Ardo	Monterey "D" Sand
3	San Ardo	Monterey "E" Sand
3	Monroe Swell	Santa Margarita
4	Buena Vista	Tulare
4	Kern Bluff	Vedder
4	Kern River	Vedder*
4	Mountain View	Kern River
4	Pleito	Chanac
4	Pleito	Kern River
4	Poso Creek	Santa Margarita
5	Coalinga	Santa Margarita
5	Coalinga	Etchegoin-Jacalitos
5	Guijarral Hills	Etchegoin-Jacalitos*
5	Helm	Tulare-Kern River
5	Riverdale	Pliocene
5	Turk Anticline	San Joaquin
6	Sutter Buttes Gas	Kione*

* oil and/or gas producing

Attachment 3

1425 Demonstration Aquifers Not Exempted

DISTRICT	FIELD	FORMATION/ZONE
2	South Tapo Canyon	Pico
4	Blackwell's Corner	Tumey
4	Kern Bluff	Kern River
4	Kern Front	Santa Margarita
4	Kern River	Chanac
4	Kern River	Santa Margarita
4	Mount Poso	Walker
4	Round Mountain	Olcese
4	Round Mountain	Walker
6	Bunker Gas	Undiff.
6	Wild Goose	Undiff.

EXHIBIT “2”

Source: EPA. | GAO-14-555

EXHIBIT "3"

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

NO.: 407-0039

KERN RIVER FIELD RULES

Date: 5/30/2007	
Area(s) N/A	Zone(s)/Pool(s) Kern River

CASING PROGRAM

Casing String	Cementing Depth		Annular Cement Fill (Marker or Zone +___')
	Marker or Zone	Remarks	
Conductor	Competent bed		Surface
Surface	Competent bed at least 10% of proposed total depth	Casing shoe at top of productive zone if liner run	Surface
Production	Competent bed at or below top of zone		Surface
Liner	N/A	Run only in conjunction with surface casing.	Not cemented

GEOLOGIC DATA

Reference: DOGGR publication TR-11, Volume I, California Oil & Gas Fields

BLOWOUT PREVENTION EQUIPMENT PROGRAM (Referenced from MO7)

Operation	Surface Pressure Category	DOGGR Class	Additional Requirements
Drilling	Low	Diverter or IIA2M	Hydraulic BOPE
Completion	Low	Lubricator or IIA2M	Hydraulic BOPE
Additional Comments:			

BASE OF FRESH WATERS

Marker: Below base of formation	Depth: N/A	Comments: Entire Kern River zone is fresh water.

GENERAL COMMENTS

This rule applies only to drilling and completion operations for new production wells.

No demonstration of water shut-off is required unless requested by the Division.

Field rules apply to development wells only. All operations are subject to California Code of Regulations., Title 14, Division 2, Chapter 4.

Hal Bopp, State Oil and Gas Supervisor

By Original Signed by R. A. Adams, District Deputy
(Signature) *(Title)*

Modified OGD125 (12/14/06)

EXHIBIT “4”

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

NO.: 411-0003

KERN FRONT FIELD RULES

Date: 11/18/11

Area(s) N/A	Zone(s)/Pool(s) Etchegoin-Chanac

CASING PROGRAM

Casing String	Cementing Depth		Annular Cement Fill (Marker or Zone +___')
	Marker or Zone	Remarks	
Conductor	Competent bed		Surface
Surface (optional)	Competent bed below air sands or to control lost circulation		Surface
Production	Competent bed at or below top of zone		Surface
Liner	N/A		Not cemented

GEOLOGIC DATA

Reference: DOGGR publication TR-11, Volume I, California Oil & Gas Fields

BLOWOUT PREVENTION EQUIPMENT PROGRAM (Referenced from MO7)

Operation	Surface Pressure Category	DOGGR Class	Additional Requirements
Conductor	Low		Diverter
Drilling below Surface Casing	Low	IIA 2M	Hydraulic BOPE, Diverter in active steam injection areas
Drilling below Production Casing	Low	IIA 2M	Hydraulic BOPE
Completion	Low	II2M or lubricator	Hydraulic BOPE
Additional Comments:			

BASE OF FRESH WATERS

Marker: N/A	Depth: 2,500' +/-	Comments:

GENERAL COMMENTS

This rule applies only to drilling and completion operations for new production wells.

A WSO test is no longer required due to a successful water shut-off history. The Division will routinely monitor production data, and if anomalous water production is indicated, remedial action may be required.

Field rules apply to development wells only. All operations are subject to California Code of Regulations., Title 14, Division 2, Chapter 4.

Tim Kustic, Acting State Oil and Gas Supervisor

By _____
(Signature)

EXHIBIT “5”

STATE OF CALIFORNIA
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

NO.: 412-0049

KERN RIVER FIELD RULES

Date: 3/9/2012

Area(s) N/A	Zone(s)/Pool(s) Vedder

CASING PROGRAM

Casing String	Cementing Depth		Annular Cement Fill (Marker or Zone +___')
	Marker or Zone	Remarks	
Conductor	Competent bed		Surface
Surface	Competent bed at least 10% of next casing depth and no deeper than 1,500'		Surface
Production	Competent bed within zone		Surface
Liner (optional)	N/A		Cemented or uncemented

GEOLOGIC DATA

Reference: DOGGR publication TR-11, Volume I, California Oil & Gas Fields

BLOWOUT PREVENTION EQUIPMENT PROGRAM (Referenced from MO7)

Operation	Surface Pressure Category	DOGGR Class	Additional Requirements
Drilling below Conductor	Low	Diverter	
Drilling below Surface Casing	Medium	IIIB 3M	Hydraulic BOPE
Completion	Medium	II 3M or lubricator	Hydraulic BOPE
Additional Comments:			

BASE OF FRESH WATERS

Marker: approx. base of Santa Margarita	Depth: 2500 +/-	Comments: .

GENERAL COMMENTS

This rule applies only to drilling and completion operations for new production wells.

A WSO test is no longer required due to a successful water shut-off history. The Division will routinely monitor production data, and if anomalous water production is indicated, remedial action may be required.

A liner lap test will not be required if the production casing is set at or below the top of the production zone.

Field rules apply to development wells only. All operations are subject to California Code of Regulations., Title 14, Division 2, Chapter 4.

By _____, State Oil and Gas Supervisor
Tim Kustic (Title)

EXHIBIT “6”

API NO. 029-79966

Intention / Type	Drill / WD	Rwrk / WD	Rwk/WD→GD	
P-Report No.	487-3108	487-5470	P409-1983	
Proposed Pool	07	07	05	
Completed Pool	07	07	05	
Status / Date	WD / 7-20-87	WD / 10-17-89	GD / 10-7-09	

	Rec'd	Hold	Rec'd	Hold	Rec'd	Hold	Rec'd	Hold
History	✓		✓		✓			
Summary	✓							
Signature	✓		✓					
Core								
SWS	✓							
Logs: E-Log	✓							
FDC/CNL/GR	✓							
CBL								
PF-O	✓							
Survey	✓		✓					
Direct. Survey								
T-Report								
Environ. Inspect.								
Location	✓							
Elevation	✓							
Map No. Date Entered Initials	457 11-15-09 JJ		N/C					
Drill Card	✓		—					
Init. Prod. (Date)	7-20-87		10-17-89					
6 mos. Prod. (Date)	2-23-88		—					
Hold For Records (Date & Initials)								
Records Approved (Date & Initials)	2-23-88 RR		10-17-89 RR		JJ 10/23/09			
Bond Eligible For Release (Date)								
E.D.P. Clerk					JJ 10/27/09			
Confid. Clerk								
Form 121	CW				11-12-09 LC			
Bond No. Date	BD				BL			
Form 150 (Release)								
Form 159 (Final Letter)								

Remarks: PI CW

Storage: 2-23-88 LDT/CNL/MGT

Logs On File

Final Letter Approval:

DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES
4800 Stockdale Hwy., Suite 100 Bakersfield, CA 93309-0279
Phone:(661) 322-4031 Fax:(661) 861-0279

No. T414-0905

REPORT ON OPERATIONS

MECHANICAL INTEGRITY TEST (MIT)

GAS DISPOSAL PROJECT
KERN RIVER

Mr. David Lopez
Chevron U.S.A. Inc. (C5640)
P.O. Box 1392
Bakersfield, CA 93302

Bakersfield, California
May 01, 2014

Your operations at well **"Rasmussen" WD 2**, A.P.I. No. **029-79966**, Sec. **4**, T. **29S**, R. **28E**, **MD** B. & M., **Kern River** field, In **Kern** County, were witnessed on **4/29/2014** by **Kenton Bowen**, a representative of the supervisor.

The operations were performed for the purpose of **demonstrating that all of the injection fluid is confined to the approved zone.**

DECISION:

APPROVED

Pat Perez
Acting State Oil and Gas Supervisor

By _____

KCB/kcb
OG109

DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES

No. P409-1983

PERMIT TO CONDUCT WELL OPERATIONS

	Old	New
FIELD CODE	340	340
AREA CODE	00	00
POOL	07	05

GAS DISPOSAL PROJECT
KERN RIVER ZONE

Mr. Richard Seaman
Chevron U.S.A. Inc. (C5640)
P.O. Box 1392
Bakersfield, CA 93302

Bakersfield, California
May 26, 2009

Your proposal to **Rework & Convert to Gas Disposal** well **"Rasmussen" WD 2**, A.P.I. No. **029-79966**, Section **4**, T. **29S**, R. **28E**, **MD** B. & M., **Kern River** field, -- area, **Kern River** pool, **Kern** County, dated **5/18/2009**, received **5/20/2009** has been examined in conjunction with records filed in this office.

THE PROPOSAL IS APPROVED PROVIDED THAT:

1. THIS WELL INJECTS POTENTIALLY DANGEROUS GASES, INCLUDING H_2S. Prior to commencing operations, an operator's representative shall instruct all operator's rig personnel, of drilling contractor's representative, on the potential hazards and control of wells which operate in active gas disposal zones.
2. Hole fluid of a quality and in sufficient quantity to control all subsurface conditions in order to prevent blowouts shall be used.
3. The specified blowout prevention equipment, as defined by DOG Manual M07, is considered minimal and shall be maintained in operating condition at all times on the **7"** casing, DOG Class **II 2M**.
4. A standard annular pressure test shall be conducted prior to commencing injection, as outlined in the Notice to Operators dated January 9, 1990.
5. Sufficient surveys shall be run within 90 days after the injection begins to confirm that the injection fluid is confined to the intended zone of injection.
6. **THIS DIVISION SHALL BE NOTIFIED TO:**
   a. **WITNESS** a standard annular pressure test, prior to commencing injection. A 24 hour notification is required.
   b. **WITNESS** within 90 days after injection is started, sufficient surveys to confirm that the injection fluid is confined to the intended zone of injection. A 24 hour notification is required.
7. The operations and surveillance of this well shall conform to the requirements outlined in our project approval letter dated **3-11-09**.
8. No change in the proposed program shall be made without prior approval of this Division.

NOTE: The proposed work shall not be considered as fulfilling the requirements of this Division for abandonment of the lower portion of the well. Final abandonment will necessitate cleaning out to **1549'**.

Blanket Bond

Hal Bopp
State Oil and Gas Supervisor

Engineer Burton R. Ellison
Direct (661) 334-3674
Office (661) 322-4031

By
Randy Adams
Deputy Supervisor

BE/cj

A copy of this permit and the proposal must be posted at the well site prior to commencing operations.
Records for work done under this permit are due within 60 days after the work has been completed or the operations have been suspended.
Project # 34000156
OG111

RESOURCES AGENCY OF CALIFORNIA
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, AND GEOTHERMAL RESOUR

FOR DIVISION USE ONLY			
	FORMS		
BOND	OGD114	OGD121	

NOTICE OF INTENTION TO REWORK / REDRILL WELL

Detailed instructions can be found at: www.conservation.ca.gov/dog/

In compliance with Section 3203, Division 3, Public Resources Code, notice is hereby given that it is our intention to

rework☑ / redri☐ well 'Rasmussen' WD 2, API No. 029-79966

Sec. 4, T. 29S, R. 28E, M.D. B&M., Kern River Field Kern County.

The complete casing record of the well (present hole), including plugs and perforations, is as follows: (Attach wel schematics diagram also.

SEE ATTACHED

2. The total depth is: _____ feet. The effective depth is: _____ feet.

3. Present completion zone(s): _____ (Name) Anticipated completion zone(s): _____ (Name)

4. Present zone pressure: _____ psi. Anticipated/existing new zone pressure: _____ psi.

Is this a critical well as defined in the California Code of Regulations, Title 14, Section 1720(a) (see Yes ☐ No☑

For redrilling or deepening only, is a California Environmental Quality Act (CEQA) document required by a local agency? Yes☐ No ☐ If yes, see next page.

The proposed work is as follows: (A complete program is preferred and may be attached.)

Convert to Disposal well

5-20-09 KK
5-21-09 BE
5-22-09

SEE ATTACHED

If well is to be redrilled or deepened, show proposed coordinates (from surface location) and true vertical depth at total depth: _____ feet _____ (Direction) and _____ feet _____ (Direction) Estimated true vertical depth : _____

Will the Field and /or Area change? Y☐ N☑ If yes, specify new Field:_____ New Area: _____

The Division must be notified immediately of changes to the proposed operations. Failure to provide a true and representation of the well and proposed operations may cause rescission of the permit.

Name of Operator			
Chevron U.S.A INC.			
Address		City/State	Zip Code
P.O.Box 1392		Bakersfield, Ca.	93308
Name of Person Filing Notice	Telephone Number	Signature	Date
Richard Seaman	(661) 654-7065	K. Pollock	5/18/2009
Individual to contact for technical que	Telephone Number	E-Mail Address:	
K. Pollock	(661) 392-2518	kathypollock@chevron.com	

This notice and an indemnity or cash bond must be filed, and approval given, before the workover begins. (See the rever side for bonding information.) If operations have not commenced within one year of the Division's receipt of the notice, notice will be considered cancelled.

OG107 (12/08)

RECEIVED
MAY 20 2009
DIVISION OF OIL, GAS
BAKERSFIELD

May 18, 2009

Work Plan Report for Well:RAS 2WD

Job Info RASMUSSEN WD 2 Sec. 4 29S 28E

Job ID	BDO0CJXS	**Job Reason**	Convert to Disposal	**Job Type**	Remedial
Begin Date	05/14/2009	**Service Provider**	KR Service Provider	**Job Status**	Planned
AFE	N/A	**DPI**		**Incr. Oil**	
Well Name	RAS 2WD	**API10**	0402979966	**Last Dead Man Test**	
Depth Correction Factor	0	**AWT Site**		**Gaugerbeat**	13111
PBTD	1579.00	**TD**	1580.00		
		Remark	Engineer Thomas Abate 392-2450 cell 340-6559		

Job Plan

Planned Events	Description	Remarks
Job Summary	All depths are based on GL measurements.	
Job Summary	Notify Tom Abate (PE) at 340-6559 that you are moving on this well.	
Safety Meeting	Review JSA daily and as needed.	
Rig Up Pulling Unit		
BOPE - Nipple Up		
Pressure Test Casing (Mechanical Intengrity Test)	Pressure test backside of pkr already in well to 200 psi. Notify engineer on pass or fail.	
Packer - Pull	Release and pull Baker AD-1 packer and tbg. If pkr will not release contact engineer.	
Job Summary	If pressure test pre-pkr fails continue with next step, otherwise go to step 60.	
Pressure Test Casing (Mechanical Intengrity Test)	RIH w/AD1 pkr and test casing 1050' to surface. Notify engr if it does not pass to discuss options.	
Pressure Test Casing (Mechanical Intengrity Test)	Cement squeeze hole(s).	
Pressure Test Casing (Mechanical Intengrity Test)	Test squeeze. If squeeze failed contact engr to discuss options.	
Bridge Plug - Set	RIH and set RBP at 50'	
Replace Wellhead Top Flange	Replace wellhead. Retrieve RBP.	
Perforate	Run dummy gun to 750'.	
Perforate	Shoot 4 hpf 1/2" perfs 672' - 573' (R/K2, 99'). (KB depths are 682'-583')	
Clean Perforations - Cup Wash	Wash perfs 672' - 573'.	
Plug Back	RIH with 7" 23# drillable bridge plug and set at 1050'.	
Pull and Lay Down Tubing	POOH and LD tbg workstring.	
Packer - Set	RIH with Weatherford 7" 23# 1XS geo-thermal pkr w/re-entry guide on 3.5" tbg w/surface expansion jt.	
Packer - Set	Set packer at +/- 560'.	
Pressure Test-Casing	Test backside of packer to 200 psi for 15 minutes. Record results using chart recorder.	
Pressure Test-Casing	If test fails attempt to reset packer.	
Pressure Test-Casing	After packer holds notify DOGGR to witness	

RECEIVED
MAY 20 2009
DIVISION OF OIL & GAS
BAKERSFIELD

EXHIBIT “7”

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

July 18, 2011

Elena Miller
State Oil and Gas Supervisor
Department of Conservation
Division of Oil, Gas and Geothermal Resources
801 K Street, MS 20-20
Sacramento, CA 95814-3530

Dear Ms. Miller:

I am pleased to transmit to you a copy of the California Class II Underground Injection Control (UIC) Program Review final report (Final Report) dated June 2011 and EPA's findings and recommendations. As you know, EPA utilized a contract with the Horsley Witten Group to conduct an evaluation of California's implementation of the Class II UIC primacy program. The goals of this program evaluation were to review how the California Division of Oil, Gas, and Geothermal Resources (DOGGR) oversees and manages the permitting, drilling, operation, maintenance and plugging/abandonment of Class II UIC wells in the State, and identify program implementation recommendations. The Final Report incorporates additional material that was provided to EPA in early June 2011 from your staff.

EPA supports the recommendations that are listed in Section 5.0 Recommendations in the Final Report. I anticipate that some of the recommendations may require state regulatory revisions and others can be addressed through procedural clarifications and modifications. In particular, I want to highlight the following program deficiencies that require more immediate attention and resolution:

- **Federal Definition and Protection of Underground Source of Drinking Water (USDW):** DOGGR UIC regulations and primacy documents do not clearly require the District Offices to protect USDWs to the federally-defined standard of 10,000 mg/L total dissolved solids (TDS) in the permitting, construction, operation, and abandonment of Class II injection wells. Protection of potential drinking water sources which fall between TDS levels of 3,500 mg/L – the level recognized by the State's regulations as "fresh water" – and 10,000 mg/L is essential for DOGGR to demonstrate as a federal UIC primacy agency.

- **Zone of Endangering Influence (ZEI) and Area of Review (AOR):** EPA's review found that ZEI determinations are not being performed for injection wells throughout the state and AOR analyses are based almost exclusively on a fixed quarter-mile radius approach. Whereas the fixed radius approach may be appropriate for some injection wells, there are others where this approach will not adequately capture the

full extent of pressure influences from the injection activity (i.e., the ZEI, if calculated, would exceed a quarter-mile radius around the well) and will require an expanded AOR.

Step Rate Tests/Maximum Allowable Surface Pressure: Both California and federal UIC regulations mandate that maximum surface injection pressure must be lower than the fracture pressure of the injection zone. However, EPA's review found that for most Class II injection wells and well fields overseen by DOGGR, the fracture pressure of the injection zone is determined by an estimate of the formation fracture gradient, rather than from a well or field/formation-specific step-rate test (SRT) that would yield a more accurate measurement of fracture pressure. Moreover, even in instances where a SRT was performed, DOGGR allowed operators to use only surface pressure measurements, rather than the more accurate combination of surface and bottom-hole measurement.

Additionally, the final report includes recommendations for DOGGR to ensure that the State's Class II UIC program meets all federal requirements. These recommendations request clarification, improved procedures, and consistent standardized implementation pertaining to several areas including UIC Staff Qualifications; Annual Project Reviews; Mechanical Integrity Surveys and Testing; Inspections and Compliance/Enforcement Practices and Tools; Idle Well Planning and Testing Program; Financial Responsibility Requirements; and, Plugging and Abandonment Requirements.

We request that you provide EPA with an action plan (Plan) that addresses the above noted deficiencies and other areas for improvement identified in the Final Report - Section 5.0 - Recommendations by September 1, 2011.

As part of the Horsley Witten Group's research and collection of materials to conduct the program evaluation, your staff provided an agency memorandum entitled Underground Injection Control (UIC) Program Expectations (Expectations Memo), signed by you and dated May 20, 2010. This memo addresses some of the program deficiencies discussed in EPA's Final Report and noted in Section 5.0 - Recommendations. Please include in the Plan a discussion of the Expectations Memo and the status of this document in relation to the EPA-approved DOGGR Class II UIC Program.

Additionally, after review of the Final Report my staff realized that a discussion of DOGGR's permitting and oversight procedures for Class II slurry-fracture injection was not included in the questionnaire which the Horsley Witten Group used to collect information for this program review, due to EPA's error. As we are still interested in this topic, my staff plans to reach out to each of the District Offices to learn more about Class II applications of slurry-fracture injection in California. Also, we are interested in following up with the appropriate District Offices on any outstanding material which the Final Report identifies, including the limited use of compressed bentonite for plugging and abandonment procedures in District 4.

We look forward to any feedback you have on the Final Report and the submittal of your Plan to address the recommendations for program improvement. Once again, I wish to extend my sincere thanks to you and your staff for supporting this effort, and for the cooperation and resources all six District Offices provided to the Horsley Witten Group in responding to the Questionnaires, hosting site visits, and conducting follow-up as requested.

Sincerely,

David Albright, Manager
Ground Water Office

Enclosure

cc: Rob Habel, Deputy Oil and Gas Supervisor
District Deputies, Districts 1-6

EXHIBIT “8”

R. Rex Parris Esq. (SBN 96567)
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poliver@rrexparris.com
Alexander R. Wheeler, Esq. (SBN 239541)
awheeler@rrexparris.com
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Lancaster, California 93534
Telephone: (661) 949-2595
Facsimile: (661) 949-7524

George Martin, Esq. (SBN 51111)
LAW OFFICES OF GEORGE MARTIN, INC.
5060 California Avenue, Suite700
Bakersfield, California 93303-2026
Telephone: (661) 322-3051

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

COMMITTEE TO PROTECT OUR AGRICULTURAL WATER; MIKE HOPKINS, an individual; JOHN WEDEL, an individual,

Plaintiffs,

v.

OCCIDENTAL OIL AND GAS CORPORATION, a Texas corporation; WESTERN STATES PETROLEUM ASSOCIATION (WSPA), a non-profit trade association; CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION (CIPA) a non-profit trade association; CHEVRON U.S.A. INC., a Pennsylvania corporation; CALIFORNIA DIVISION OF OIL, GAS & GEOTHERMAL RESOURCES (DOGGR); EDMUND G. BROWN, an individual; TIMOTHY R. KUSTIC, an individual; MARK NECHODOM, an individual; LORELEI H. OVIATT, an individual; CALIFORNIA RESOURCES CORPORATION (DOE 1), a Delaware corporation; and DOES 2 through 100,

Defendants.

Case No.: 2:15-cv-04149-FMO-JPRx

DECLARATION OF DEREK CHERNOW

DECLARATION OF DEREK CHERNOW

1. I am over eighteen years of age and a resident of the City of Sacramento, California. Unless otherwise specified, I have personal knowledge of the facts and statements set forth in this declaration, and if called upon to testify, I could and would competently testify thereto.

2. In 2008, Governor Arnold Schwarzenegger appointed me as the Chief Deputy Director of the California Department of Conservation. I held this position for three years until I was terminated in November of 2011.

3. After my appointment, I was part of the leadership team that hired Elena Miller to serve as the State Oil & Gas Supervisor in 2009. The California Public Resources Code section 3106(a) provides the following description of the basic duties of the State Oil & Gas Supervisor:

> *"The supervisor shall so supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production, including pipelines not subject to regulation . . . within an oil and gas field, so as to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances."*

4. The State Oil & Gas Supervisor is also the senior staff member in charge of the Division of Oil, Gas & Geothermal Resources' ("DOGGR") operations. Because the Supervisor wears both an enforcement hat and a permitting hat, she was obligated to pay careful attention to permitting to "*prevent, as far as possible, damage to life, health, property, and natural resources*." The Supervisor would investigate accidents on oilfields and determine the appropriate fines to issue for safety violations.

5. As Chief Deputy Director and later as Acting Director of the California Department of Conservation, I understood that one of my job duties was to ensure and improve California's compliance with the Safe Drinking Water Act. This is a Federal law that requires protection of groundwater from underground injections of waste water from oil

production processes. This water, often called brine or produced water, is so dirty, it cannot be used for hydraulic fracturing and must be disposed of in a manner that prevents it from migrating into fresh water.

6. Miller's first responsibility upon becoming the State Oil & Gas Supervisor was to ensure compliance with the Safe Drinking Water Act. She thus prepared a memorandum to describe the responsibilities to all DOGGR employees and ensure full compliance to protect the water as required.

7. Also in 2010, the United States Environmental Protection Agency began an audit to ensure all fresh water was protected under existing policies.

8. The protection of water became particularly significant in 2011 because oil companies had greatly increased their requests for injection wells. These oil companies sought permits to inject for stimulation of oil production as well as to inject waste water and waste gas.

9. One of the injection wells that created the most controversy was the gas disposal well, which would allow oil companies to inject waste gas underground. George Robin from the United States Environmental Agency advised us that DOGGR had no authority to issue any such permits under the Safe Drinking Water Act.

10. On or about February 28, 2011, I learned that Senator Michael Rubio introduced a bill to give DOGGR such authority. California Independent Petroleum Association ("CIPA") reported to DOGGR employees that it had sponsored the bill.

11. In early 2011, an oil company (PXP) sought new permits for injection wells in Inglewood, California. PXP's documentation showed that it needed to remediate eleven (11) of its wells. On March 29, 2011, I spoke with PXP over the phone. PXP demanded to receive "an injection permit **before** remediation, since it could take a year to remediate all the wells." During the call, PXP told me it was "*being pressured by other operators who don't want to see a precedent for having to remediate wells as a condition for permitting.*" Attached hereto and incorporated herein by this reference as **Exhibit 1** is a true and correct copy of the email I sent describing my conversation with PXP.

12. The problems from underground injection well activity caught national media attention on June 21, 2011 when a Chevron employee was killed when an idle well created a sink hole.

13. And three weeks later, on July 18, 2011, the EPA concluded its audit of California's compliance with the Safe Drinking Water Act and issued findings to support the program that Miller, as the State Oil & Gas Supervisor, had implemented the prior year. The EPA further set forth goals to improve compliance with the Safe Drinking Water Ac to make sure the state protected California's fresh underground water basins.

14. On August 5, 2011, a lobbyist for the Western States Petroleum Association ("WSPA") sent an email to my supervisor, Janelle Beland, asking why "*DOGGR now requires companies to do an Area of Review.*" He further wrote on August 8, 2011 and noted that "*This AOR issue will impact all companies.*" Ms. Beland wrote to him to explain how this law had been on the books "for over 25 years." She noted that "*The problem, at this point, appears to be that the industry is not responding to that notification and providing the missing information.... I'd like to understand why...*" Attached hereto and incorporated herein by this reference as **Exhibit 2** is a true and correct copy of that correspondence received by email from Ms. Beland.

15. On September 12, 2011, WSPA held a meeting with the State Oil & Gas Supervisor to discuss a document entitled the "Proposed Interim Solution." Elena Miller, the Supervisor, later requested that I review the document.

16. I reviewed the "Proposed Interim Solution." I understood this "solution" proposed that if an operator sought an injection well permit for conversion of a prior oil well, DOGGR must approve the permit *without* an area of review (AOR). No geological studies or engineering studies to confirm the safety of drinking water would be required under this plan. Attached hereto and incorporated herein by this reference as **Exhibit 3** is a true and correct copy of that document, though I do not recognize the handwritten comments.

17. I concluded that the "Proposed Interim Solution" would violate the Safe Drinking Water Act, and it could not be approved. The U.S. Environmental Protect Agency

agreed.

18. On or about September 27, 2011, I learned that CIPA reported that it intended to sue DOGGR for alleged permitting delays. It was unclear why CIPA complained of delays because most of the issues related to engineering or geological studies that oil companies like Occidental refused to provide. Such documents would have shown that underground water sources were protected before an oil company started injecting underground.

19. The oil industry then pressured the State Oil & Gas Supervisor to use "discretion" to approve injection wells without compliance with the Safe Drinking Water Act. Even assuming she had such discretion, we recognized the use of that discretion would require review of the permit under the California Environmental Quality Act. This would be more cumbersome than complying with the Safe Drinking Water Act.

20. In early October of 2011, I was in Secretary's Laird's office during one of our weekly meetings. During the meeting, Laird took a phone call from Governor Brown. Laird finished the call and, when he hung up, he told me the Governor just received a call from Gray Davis who served as counsel for Occidental. Occidental wanted Governor Brown to fire me and the State Oil & Gas Supervisor because of the alleged delays in permitting.

21. That same month, Brown's office requested documents about the permitting process as it related to Occidental. In accordance with this request, on October 14, 2011, I sent documents regarding waste gas disposal wells and Occidental's California Operations to the senior officials handling an inquiry from Governor Brown. In my email, I stated that I was "*willing to follow any direction as required. If direction is different than what the Department is currently pursuing, I would appreciate as explicit direction as possible.*" Attached hereto and incorporated herein by this reference as **Exhibit 4** is a redacted copy of that email. The redactions were not there when I wrote the email, and I don't know why it was redacted.

22. On or about October 19, 2011, I heard of press reports that Occidental was being hurt by an alleged slowdown in approvals for permits.

23. On October 27, 2011, I received an email from the State Oil & Gas Supervisor who reported that Occidental's environmental engineer confirmed he had "*the necessary*

information for us to consider categorical exemptions [under the California Environmental Quality Act]. However, he's been told to stand down (by a lawyer is all I know) and not give us anything. There is apparently a meeting in Bakersfield at Oxy's offices this afternoon to discuss whether they give us what we need or continue to give us nothing." Attached hereto and incorporated herein by this reference as **Exhibit 5** is a true and correct copy of the email with this summary of the Occidental telephone call.

24. On or about October 28, 2011, Governor Brown's office and his senior advisor, Cliff Rechtschaffen, scheduled a meeting with me. During the meeting, Rechtschaffen stated that DOGGR must immediately fast track permit approval. Rechtschaffen presented a document which internally we called the "Temporary Assistance Program" or TAP. The State Oil & Gas Supervisor sent the document to the United States Environmental Protection Agency on November 2, 2011. Attached hereto and incorporated herein by this reference as **Exhibit 6** is a true and correct copy of the email communication without the actual attachment.

25. On November 2, 2011, I attended another meeting with Miller which Rechtschaffen joined over the phone. Miller told Rechtschaffen the proposal violated the Safe Drinking Water Act, and that the EPA had agreed that the proposal modeled the WSPA proposal we had already rejected. Rechtschaffen told us this was an order from Governor Brown and must be followed.

26. The following day, on November 3, 2011, my assistant received a phone call from the Appointments' Office and asked me to attend a meeting in the afternoon. I met at the meeting Mona Pasquil and John Laird. I then learned that the Governor Brown's office terminated me as the acting Director of the Department of Conservation.

27. Attached hereto as **Exhibits 7 and 8** are a true and correct copy of emails sent to or received by me that were redacted. I do not have knowledge as to why these documents required redaction or were not produced in their full form. For example, Exhibit 8 is an August 26, 2011 email from Elena Miller to me that enclosed a spreadsheet listing all of the permits being sought by Vintage (Occidental's subsidiary in California). Ms. Miller advised

me that Occidental had not submitted the proper engineering and geological studies for these permits.

I declare under a penalty of perjury and under the laws of the United States and the State of California that the foregoing is true and correct. This declaration executed at Sacramento California on August 21, 2015.

Derek Chernow

EXHIBIT “1”

From: Chernow, Derek
To: Miller, Elena
Subject: PXP
Date: Tuesday, March 29, 2011 1:30:17 PM

Martini did call me and we spoke for 10 minutes about Inglewood. In a nutshell:

- PXP thought that after we all met in Bako, they would provide the list of wells to remediate and schedule.
- He thought we coincided our permit with the same day the issued their schedule.
- Upset that we didn't have conversations with PXP between Bako visit and issuing permit.
- Argued only 1 of the 11 wells pose a significant threat.
- DOGGR's request is based in "theoretical, not realistic" scenarios for exposure.
- Argued DOGGR already signed off on P&A for the wells we want remediated.
- Wants injection permit **before** remediation, since it could take a year to remediate all the wells.
- PXP is reviewing all options. Will be submitting a letter for permit modification on condition #9.
- PXP argues we don't have a legal basis for our conditions.

I said:

- I haven't read PXP's letter to DOGGR thoroughly, since it came in on Friday and I was in interviews yesterday.
- Rowdy (PXP VP) said to me in Bako that PXP was willing to do "whatever it took" to meet our terms and get the injection permit.
- I asked him when the wells were P&A'd. He admitted it was in the 1950's and 60's. I said "you have to admit that doesn't meet current standards".

Bottom line: PXP is getting pressured by other operators who don't want to see a precedent for having to remediate wells as a condition for permitting! (he admitted at end of call).

EXHIBIT “2”

From: Janelle Beland
To: Chernow, Derek
Subject: FW: DOGGR permitting discussions
Date: Monday, August 08, 2011 6:05:30 PM

From: Janelle Beland
Sent: Monday, August 08, 2011 5:41 PM
To: 'Paul Deiro'
Cc: Ed Manning
Subject: RE: DOGGR permitting discussions

Understood.

However, I have a concern about the characterization of AORs as being some new requirement. Below you say "since AOR's are now required..."

I'd like to understand why this is being seen as something new. It's been on the books for over 25 years.

14 CCR 1724.7 was approved by OAL in 1978. It was amended in 1984 and then there were some typos corrected in 1996.

Pursuant to title 14, section 1724.7, subdivision (a), **every injection project must be supported by an engineering study that includes casing diagrams for all idle, plugged and abandoned, and deeper-zone producing wells within the area affected by the project.** The regulation requires casing diagrams in the engineering study evidencing that plugged and abandoned wells in the area will not have an adverse effect on the project or cause damage to life, health, property, or natural resources. If there are wells within the area of influence of proposed injection that could allow injection fluids to migrate outside of the intended zone, then approval to conduct injection operations would be conditioned on addressing those problem wells.

Also, on the flow charts you sent over ALL of them recognize that an AOR is conducted. And, none of the flow charts have a box for what happens when a permit application fails to include all information required by regulation and statute. We've already changed the process on our end by virtue of the fact that companies are being notified when an application is submitted whether there is information that is missing. The problem, at this point, appears to be that the industry is not responding to that notification and providing the missing information. Instead, they want to fight about whether the requested/required information is necessary.

I'd like to understand why Aera is refusing to submit casing diagrams since this is a major impediment to processing the permit applications. This seems to be an emerging pattern since we have also found out that Oxy has a similar problem submitting casing diagrams.

From: Paul Deiro [mailto:pdeiro@ka-pow.com]

Sent: Monday, August 08, 2011 1:51 PM
To: Paul Deiro; Janelle Beland
Cc: Ed Manning
Subject: RE: DOGGR permitting discussions

Janelle,

Tomorrow's meeting:

We would like to introduce the flow charts (you should have already, but I will bring) during our meeting with the Secretary, but the issue outlined below has trumped the importance of the flow charts. This issue needs some discussion because, if not resolved, the permitting flow charts are moot. Since AOR's are now required for all injection wells, perhaps we can discuss a more specific AOR and an AOR requirement that allows for wells/project to move forward concurrently as the AOR is in the process.

Also, Aera does not want this issue discussed specific to any Aera projects in front of other companies. This AOR issue will impact all companies.

Thanks Janelle.

Paul

From: Paul Deiro
Sent: Friday, August 05, 2011 12:25 PM
To: 'janelle.beland@resources.ca.gov'
Cc: Ed Manning
Subject: RE: DOGGR permitting discussions

Janelle -

Here is a summary of the AOR issue I was talking about yesterday – this summary is not specific to Aera, but the general issue came up during their meeting with Elena last week.

New policy – DOGGR now requires companies to do an Area of Review for all injector well applications.

AOR – A company is required to analyze and provide information to DOGGR on all wells, working and abandon, with a ¼ mile radius of the wells that you are applying for a permit.

Scenario –

A company has a 110 year old oil field that has in excess of 500 wells and submits an application to do 4 new injector wells within this existing oil field. To even get in a position of the approval of the 4 wells, they would have to do an AOR on 500 wells. This can take 4 months or longer by a company. DOGGR's review of the submitted AOR can take up to 12-18 months.

Company complaints –

If companies had an idea what DOGGR is targeting – reabandonment of old wells – they can target those wells and identify if there is a need. The problems seems to be that DOGGR isn't sure what they are looking for, which has made this process schizophrenic without consistency and predictability.

From: Paul Deiro [mailto:pdeiro@ka-pow.com]
Sent: Thursday, July 21, 2011 10:17 AM
To: Kealii Bright; Janelle Beland
Cc: Ed Manning; Eloy Garcia
Subject: DOGGR permitting discussions

Kealii and Janelle,

In an effort to continue our discussions with Secretary Laird on this topic, I was hoping we can schedule our next meeting. I have attached three sets of flow charts that are intended to outline a permitting structure for three types of wells that will bring predictability, a structured process, and adds consistency.

As we did at the last meeting, a group of WSPA companies would like to discuss the flow charts with the Secretary. It is our expectation that we would have a final meeting with the Secretary specifically on CEQA at a future date. We are preparing the CEQA document now and I will forward once it is completed.

Please let me know when we can schedule the next meeting. Thank you both for your patience.

Paul

Paul Deiro
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EXHIBIT “3”

WSPA 9/12/11 from WSPA 2.

Proposed Interim Solution

(Pending Development of a Long-Term Solution to UIC Issues)

Area of Review

I. Timely Issuance of Individual Well Permits to Conduct Well Operations (PTC) Permits (NOIs) under Approved UIC Projects with prior AORs[1]

- DOGGR agrees to issue individual well PTCs in connection with existing approved UIC projects for which an AOR was previously conducted where:
  - The new well(s) are inside the approved project boundary; and
  - The new well(s) meet all relevant conditions imposed at the time of project approval
- Potential corrective action would be addressed as described below.

II. Timely Issuance of Individual Well PTCs under Approved UIC Projects without AORs

- DOGGR agrees to issue PTCs for wells that are part of UIC projects which were previously approved without an AOR, either before or after the US EPA's Primacy Delegation, in each of the following circumstances:
  - Infill or replacement injector wells within the boundaries of the project and all applicable project approval conditions are met (e.g., well count is not exceeded)
  - Cyclic injection wells within an approved steamflood project (non-diatomite)
  - Applications to upgrade, redrill, repair or rework existing wells
  - Wells that would not increase reservoir pressure above the fracture gradient
  - Wells that would inject into a zone that is hydraulically connected to a hydrocarbon producing interval
  - Wells that are located in a field where no USDWs are present or where aquifers are EPA exempt

underground source of drinking water

- Where available information confirms the existence of a problem requiring corrective action, (i.e., actual damage to life, health, property or natural resources is occurring), the operator may

[1] WSPA maintains that AORs may only be required at the UIC project level (e.g., opening a new field, expanding an existing field, injecting into a new zone for the first time, converting from steam flood to water flood , drilling a new wastewater disposal well, etc.).

drill the new well, but must complete necessary corrective action (remediation, exclusion zone, etc.) prior to commencement of injection operations. Examples include:

- Surface expressions are evident in the vicinity of the well, or a path has been identified that will allow fluids to migrate to the surface
- There is evidence that fluid is migrating from the injection zone to a USDW
- A well is determined to have inadequate annular cement above the top of the proposed injection zone and DOGGR demonstrates that adverse environmental or safety concerns are present

■ Where the evidence is inconclusive as to the existence of a potential threat to life, health, property or natural resources, the operator may drill the well and commence injection operations, but must:

- Further evaluate or monitor the situation to determine whether there is actual damage or threat; and if so
- Conduct such corrective action as may be determined to be necessary, concurrent with ongoing injection operations

■ Corrective action is presumed to be unnecessary in the following circumstances unless there is reasonable evidence to support a finding of damage, or threatened damage, to life, health, property or natural resources:

- Wells were plugged and abandoned in accordance with regulations in effect at the time
- Wells are located in an area where there are no USDWs or where aquifers are EPA exempt
- Current status of wells have adequate zonal isolation to protect USDWs
- Annular cement is present above the top of the injection zone or at a higher level
- Wells contain an internal cement plug or mud in the hole
- The proposed injection zone is overlain by producing zones or permitted waste water injection intervals
- The proposed injection zone is between layered hydrocarbon zones where the reservoir pressure in the layered zones is the same or about the same (whether or not cement is present)
- Other situations where the preponderance of evidence supports the conclusion that operation of the new well will not result in damage to life, health, property or natural resources

III. Concurrent Operations where an operator commences drilling and injection for a UIC project while preparing an AOR:

■ Where the evidence is inconclusive as to the existence of a potential threat to life, health, property or natural resources, the operator must:

- Further evaluate or monitor the situation to determine whether there is actual damage or threat; and if so
- Conduct such corrective action as may be determined to be necessary, concurrent with ongoing injection operations

■ AOR review timing for concurrent operations:

- DOGGR and the operator will work together to identify a reasonable time frame for completion of the AOR (after commencement of drilling and injection) taking into account the number of wells involved and other relevant factors
- If an operator submits technical data to request that an AOR boundary be reduced, DOGGR will have 30 days to oppose the technical justifications or the proposal will be deemed to have been approved

IV. Limitations on AORs for New and Expanded UIC Projects

■ DOGGR will approve applications for new UIC projects without requiring an AOR in areas where no USDWs are present or where only EPA-exempt aquifers are present

■ DOGGR will approve applications to expand existing UIC projects for which there is no prior AOR on the basis of an "interim" AOR that includes only those wells within the footprint of the new injection well pattern

EXHIBIT “4”

From: Chernow, Derek
To: "John Laird"; "Janelle Beland"
Cc: [redacted].
Subject: Gov. Request
Date: Friday, October 14, 2011 5:14:12 PM
Attachments: Permitting update 10-14-11.docx
Waste Gas background 10-14-11.docx
Vintage Categorical Exemption Requests for Three Wells - 10-14-2011.pdf

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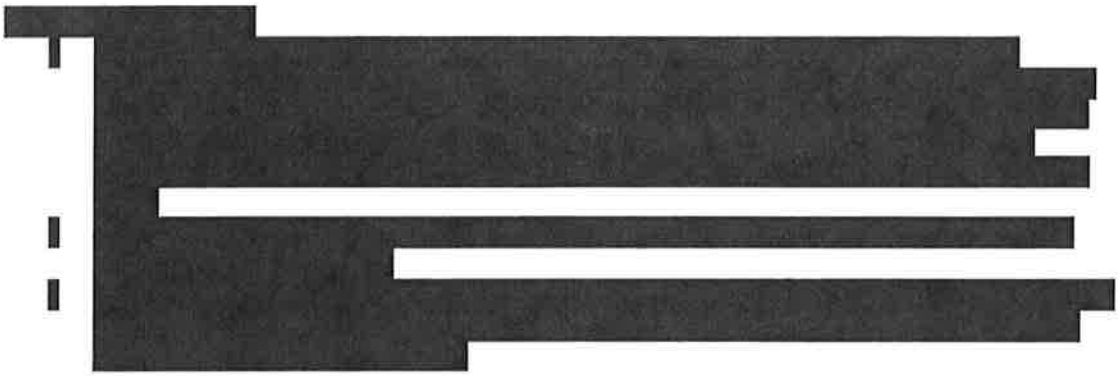
Secretary,

Attached are a few documents for your review and consideration:

- Injection Permit – proposal
- Waste Gas Disposal – background
- Waste Gas Disposal – proposal

I have also attached a recent letter to Vintage denying exemption requests to CEQA, so you have a better understanding of what is sent and how it is stated.



I am willing to follow any direction as required. If direction is different than what the Department is currently pursuing, I would appreciate as explicit direction as possible.

I am around all weekend, should you need anything. Cell is 916-204-8581.

Thank you.

Derek Chernow
Department of Conservation
801 K Street, 24th Floor
Sacramento, CA 95814
(916) 322-1080 p; (916) 445-0732 f
derek.chernow@conservation.ca.gov

EXHIBIT “5”

From: DCHERNOW on behalf of Chernow, Derek
To: Miller, Elena
Subject: RE: Following Up
Date: Thursday, October 27, 2011 3:20:32 PM

As my grandmother would say... "oy vey"

From: Miller, Elena
Sent: Thursday, October 27, 2011 3:17 PM
To: Chernow, Derek
Subject: FW: Following Up

D,

Insider information just in . . . Joe Ashely is ready to come back to DOGGR with the necessary information for us to consider categorical exemptions. However, he's been told to stand down (by a lawyer is all I know) and not give us anything. There is apparently a meeting in Bakersfield at Oxy's offices this afternoon to discuss whether they give us what we need or continue to give us nothing.

The plot thickens . . . cue 'monster mash' music.

E

From: Miller, Elena
Sent: Thursday, October 27, 2011 3:14 PM
To: 'Joe_Ashley@oxy.com'
Cc: Lagomarsino, Adele
Subject: Following Up

Joe,

A quick note to follow-up from my voicemail to you last Thursday. We are here when Oxy is ready to work through these CEQA-permitting matters. Though Tian is out for another week, Adele Lagomarsino is acting as lead for the Division's environmental unit. Any questions you may have can be directed to her attention.

I appreciate that you have a large organizational structure to proceed through before coming back to DOGGR.

I look forward to moving forward with these matters.

Sincerely,

Elena M. Miller
State Oil & Gas Supervisor
Department of Conservation
Division of Oil, Gas & Geothermal Resources

(916) 323-1782
(916) 323-0424 facsimile

EXHIBIT “6”

From: Miller, Elena
To: "Albright.David@epamail.epa.gov"
Cc: Habel, Rob; Chernow, Derek
Subject: FW: DOGGR_CM6040 Scan to Email
Date: Wednesday, November 02, 2011 8:48:47 AM
Attachments: DOGGR_CM6040_11012011161826.pdf

David,

Thank you for the time to talk yesterday concerning a number of topics. As promised, please find attached the document discussed. This was provided to us during a meeting at the Governor's Office on 10/28/11 - prepared by Lianne Randolph of the CA Natural Resources Agency. I agree with your point that this has similarities to what was prepared by WSPA late September/early October.

I look forward to hearing any additional comments you may have to the direction given by the Administration in the enclosed document.

I have been called to attend a meeting this morning with Derek at the CA Natural Resources Agency - a meeting that is to include Cliff Reichshaffen from the Governor's Office by phone.

Thank you.

Elena

EXHIBIT “7”

From: Miller, Elena
To: Chernow, Derek
Subject: FW: Oxy UIC Draft Manual
Date: Sunday, February 20, 2011 12:47:39 PM

Derek,

[redacted]

Keep up the good work.

Elena

From: Carrie_Fox@oxy.com [mailto:Carrie_Fox@oxy.com]
Sent: Sunday, February 20, 2011 12:05 PM
To: Miller, Elena
Subject: RE: Oxy UIC Draft Manual

Elena-

My expectation was to talk to Jerry and figure out what constitutes a complete UIC application. I figured the handbook would be a good starting point for our conversation because it is where I would integrate his feedback. My goal was to capture his thoughts to minimize the ping-pong of questions from Sacramento to local districts to our business units; ultimately making the process more efficient. We are in a cycle, for the majority of UIC applications in the state, of receiving continuous comments and requests by the Division for information that was not required previously. I want to take the time to understand the changing rational, capture it in our handbook and apply it to our business unit submissions. I don't know how to accomplish this goal without speaking to Jerry. To your question, I've shown the handbook to people at the Division and we've discussed it, but I haven't left hardcopies with them.

I appreciate your advice, but our environmental people have had numerous conversations with yours and the uncertainty continues. I do not mean to pester, but this project is a priority for our management and I was told to try and make the situation, at the very least,

more predictable. We secured significant resources to execute this work and our senior operations people need to make strategic decisions concerning the investment.

What are you referring to regarding the engineering and the environmental tracks starting at different times? I checked twice this week and we have no record of submitting a notice of intention to drill any planned wells in 11Z that are contingent on the CEQA review. Are you referring to something outside of an NOI? Regarding the comments we received from SJVAPCD and CDFG. I am not an attorney, but at what point does the Division make a decision regarding the CEQA document and the comments they've received? Can an entity that makes comments during the initial review period hold up a project indefinitely by supplying additional comments?

Mike is the man. Just so you know, I will tell him what you said and he will prance around the office for a week.

Thanks again for the advise,

Carrie

From: Miller, Elena [mailto:Elena.Miller@conservation.ca.gov]
Sent: Monday, February 14, 2011 5:40 PM
To: Fox, Carrie M
Subject: RE: Oxy UIC Draft Manual

Carrie,

I don't understand what your expectations were for DOGGR's most senior UIC engineers if you can't share the UIC draft handbook you've generated for their comments? Jerry Salera and Tim Kustic haven't seen it – have you given it in hard copy to anyone at the Division?

With respect to Gunslinger – I'll request that your environmental staff be point of contact from Oxy to work with our environmental staff on this one. I'm hearing from around the Division/DOC that various Oxy folks are inquiring on the status of the CEQA document. I was told by Tian-Ting Shih and/or Adele Lagomarsino that they responded to an inquiry last week also. The status remains as follows: the public comment period ended on 12/4/10 and Oxy provided responses to the comments from CDFG and SJVAPCD. Your responses were sent to them on 1/11/11. We will continue to make contact with them, but I am told that CDFG in Fresno is down to one person reviewing all CEQA documents. In short, we need to know from both whether they accept Oxy's responses or whether they have additional comments. This is the normal course of business for CEQA review. For additional consideration, my records indicate that Oxy's project application came in 13 months before a complete CEQA filing. I do understand the drill rig scheduling constraints, but what we have here are two processes (engineering & environmental) running on separate tracks. The one did not leave the station the same day as the other – 13 months is an enormous amount of time for a CEQA submission to follow a project submission.

It was my hope that your conversation with Marni would be fruitful. We have all enjoyed working with Mike, he is always welcome at any DOC/DOGGR meeting. He has a grace that I wish more

people in government affairs understood the value of in working with stakeholders.

Take care.

Elena M. Miller
State Oil & Gas Supervisor
Department of Conservation
Division of Oil, Gas & Geothermal Resources
(916) 323-1782
(916) 323-0424 facsimile

From: Carrie_Fox@oxy.com [mailto:Carrie_Fox@oxy.com]
Sent: Sunday, February 13, 2011 11:23 AM
To: Miller, Elena
Subject: RE: Oxy UIC Draft Manual

Elena-

I am checking with the internal folks to see if I can submit the UIC handbook in electronic form to the division.

On a side note, who should I speak to about the status of the Gunslinger project's MND? As I understand it, we've talked to Adele and Tian-Ting quite a few times since we submitted responses in December to comments we received from fish and game and the SJV air district. We are running into a major operations wall with our commitments to the rig and I was hoping you might have some advise.

Thank you for suggesting I speak with Marni. McGraw piggybacked on my time, but think it was a good conversation anyway.

Hope you are having a nice weekend,

Carrie

From: Miller, Elena [mailto:Elena.Miller@conservation.ca.gov]
Sent: Thursday, February 10, 2011 2:44 PM
To: Fox, Carrie M
Subject: Oxy UIC Draft Manual

Carrie,

Please send me a copy of the manual that you've put together and are seeking feedback on. I'd like to review it.

Thanks.

Elena M. Miller
State Oil & Gas Supervisor
Department of Conservation
Division of Oil, Gas & Geothermal Resources
(916) 323-1782
(916) 323-0424 facsimile

EXHIBIT “8”

From: Miller, Elena
To: Chernow, Derek
Subject: FW: Vintage Permits To Date
Date: Friday, August 26, 2011 12:49:22 PM
Attachments: VintagePermitsToDate.pdf

Derek,

[redacted]

[redacted]

[redacted]

Elena

From: Jorgenson, Heidi
Sent: Friday, August 26, 2011 12:44 PM
To: Miller, Elena
Subject: Vintage Permits To Date

EXHIBIT “9”

From: Miller, Elena
To: Chernow, Derek
Subject: FW: OSD-001 Zonal Isolation Review
Date: Wednesday, July 27, 2011 12:38:07 PM

I'm sending only in the event you want to take some of this for your own talking points. I was firm below, but remained positive that we can get this done if they'll give us what we need.

Elena

-----Original Message-----
From: Miller, Elena
Sent: Wednesday, July 27, 2011 12:01 PM
To: 'Mike_McGraw@oxy.com'
Subject: RE: OSD-001 Zonal Isolation Review

Mike,

The suggestions for categories or groups of wells that I provided last night were examples for Oxy to consider - the issue of existing cement on the front side or back side of a well can be one of the categories that Oxy can list wells by. The examples of categories I provided to you last night dovetail with what Cypress engineers have told Oxy engineers - but overall the message is that wells need to be grouped so that the DOGGR engineers can expedite their review of the casing diagrams. As an example, I would expect that your engineers will assert that where a well is cemented on the front and backside that no remediation needs to occur. This would fall under my hypothetical "Category III", but while being such it also falls under the direction given by D1 engineers - categorize the wells by the amount of cement in the well.

The process of DOGGR's review is an interactive one where flexibility must exist since the work of the operator and the regulator is about engineering work particular to individual wells and their attendant circumstances. Each well presents its own set of circumstances, Oxy needs to provide DOGGR with the data so that we can work with you on getting to the end goal - permits. We are in this together and there is no alternative to getting those permits out the door - how soon we get them out though is dependent upon Oxy providing the necessary data. A year ago it had a lot to do with DOGGR having inadequate staffing for UIC engineering review.

I have seen what came out yesterday regarding Oxy's earnings. Considering how often I speak to you, Carrie Fox, your executives from around the state, lobbyists, and engineers, I'm disappointed that your executives believe that there is a lack of transparency within DOGGR. In the alternative, I believe that the level of opaqueness within Oxy is causing these projects to languish unnecessarily. If you are going to be the key to bring some transparency to the process, I'm pleased. I've done everything I need to do to get my team in District 1 and Sacramento ready to get these projects reviewed. There are currently a total of 12 UIC projects in the AOR review process in District 1 (various operators)- to have twelve at once demonstrates tremendous progress and brings truth to my promise of building a robust UIC team.

Departing District 1 and switching gears to District 4, I was made aware weeks ago while meeting with Carrie Fox and Oxy attorneys that there were field rules drafted from over three years ago that have never been implemented in District 4. I looked into it, found no reason for them to have languished so long, and have assigned managers to get them finalized. I'm told that they should be done by the end of next week.

I appreciate candor. But most of all, I have the utmost of respect for those who ask me questions with the common goal of solving problems.

Enjoy the day.

Elena M. Miller
State Oil & Gas Supervisor
Department of Conservation
Division of Oil, Gas & Geothermal Resources
(916) 323-1782
(916) 323-0424 facsimile

-----Original Message-----
From: Mike_McGraw@oxy.com [mailto:Mike_McGraw@oxy.com]
Sent: Wednesday, July 27, 2011 10:39 AM
To: Miller, Elena
Subject: RE: OSD-001 Zonal Isolation Review

Elena,

Thank you for the additional information. I really appreciate you taking time to explain the situation to me. As the non-technical person I have to rely on what my folks in Long Beach tell me. There seems to be some conflicting guidance about the categories of wells the operations people are submitting. The district office told our operations people that the categories of wells are defined by the amount of cement they have, yet your clarification has more flexibility. Should we resubmit the well categories in light of your insight?

The operations people also tell me the other AORs were submitted before the district offices communicated the well categories. Should we remake the AORs and resubmit them based on the well categories? Generally, should the operations people resubmit outstanding AORs when the district asks for additional information?

If you heard or read any reports from Oxy's earnings call yesterday you get an appreciation of the growing pressure I am under to get a handle on permitting in California which is why I really do appreciate you helping me understand the process.

Thanks again.

Mike McGraw
Occidental Petroleum Corporation
Office (916) 503-1409
Cell (916) 708-3000

-----Original Message-----
From: Miller, Elena [mailto:Elena.Miller@conservation.ca.gov]
Sent: Tuesday, July 26, 2011 5:37 PM
To: McGraw, Mike
Subject: RE: OSD-001 Zonal Isolation Review

Mike,

Wilmington AOR:

I'd not seen this list but trust Dan Dudak has a copy if your engineers provided it to him last week. Did this list accompany a package of casing diagrams for each of these wells in the AOR? I don't believe they have but would like to know for certain.

I count roughly 161 wells total, with 1/8 (21) wells being identified by Oxy as having no zonal isolation. Has Oxy grouped those 21-22 wells

into categories as I've recommended? In other words, are there ones that Oxy agrees need to be abandoned (i.e. Category I); wells Oxy believes would need some remediation (Category II); wells that Oxy believes are adequate and need no work done for injection to occur safely (Category III). It is wholly ineffective to ask for over twenty wells to be grandfathered without an explanation or basis upon which to ask for such. As stated in our regulations, CCR Section 1724.10 (k), "additional requirements or modifications of the above requirements may be necessary to fit specific circumstances and types of projects." Simplifying, of Oxy wants the Division to exercise discretion then tell us what those "specific circumstances" are.

Share this with the masses, please. I'm trying to get everyone to a place of awareness that the minimum amount of information provided to the Division can accomplish a great deal in expediting our review of your UIC projects.

At last count I believe Oxy has 18 UIC projects under review in D1 for Wilmington Field, I believe that the list you sent me today constitutes the 18th. Of those projects, only two have completed AOR submissions by Oxy - and they are the two that are close to receiving project approvals. I received word from the District today that the public comment period for the Sansinena project approval ends on August 4th, so you should have the PAL in a week. And for everyone to be straight on this, that project was submitted on 8/26/2008. However, the date the AOR was completed and provided to DOGGR was 4/6/11. This means your project will be approved four months from the date the AOR was submitted. So, can we get those AORs submitted and get more projects out the door in the same or less time? I certainly hope that becomes the rule and not the exception.

Bridge Project:

Please identify what permit was submitted to D1 as the first of four for the bridge project we discussed yesterday. Please also provide any project plans prepared by Oxy to conduct the necessary work for the Port Authority to move forward with this critical transportation project. I've been to the project website and see what it will entail - I'd like to know what Oxy's work plan consists of and how the Division works into that plan.

As always, thank you for your assistance.

Elena M. Miller
State Oil & Gas Supervisor
Department of Conservation
Division of Oil, Gas & Geothermal Resources
(916) 323-1782
(916) 323-0424 facsimile

-----Original Message-----
From: Mike_McGraw@oxy.com [mailto:Mike_McGraw@oxy.com]
Sent: Tuesday, July 26, 2011 9:20 AM
To: Miller, Elena
Subject: OSD-001 Zonal Isolation Review

Elena,

I wanted to follow up on our conversation yesterday with information on our abandoned wells in the Long Beach area. It is my understanding that this information was submitted to your staff in District 1 on July 20th, 2011, but I wanted to make sure you also had this information. The farthest right hand column indicates whether the well passed the zonal isolation criteria. A total of 22 wells did not pass the criteria, as indicated by the "No" notation. Please let me know if there is any additional information I can provide.

Thanks

Mike McGraw
Occidental Petroleum Corporation
Office (916) 503-1409
Cell (916) 708-3000

EXHIBIT “10”

California Regulators Miller, Chernow Replaced by Governor

Mark Chediak
November 4, 2011 — 5:15 PM PDT

Nov. 4 (Bloomberg) -- California Governor Jerry Brown fired Derek Chernow, acting director of the California Department of Conservation, and Elena Miller, oil and gas supervisor at the department's Division of Oil, Gas and Geothermal Resources, said Richard Stapler, spokesman for the California Natural Resources Agency.

"The governor chose to go in a different direction," Stapler said in a telephone interview. Chernow and Miller, who were dismissed yesterday, were appointees and "served at the pleasure of the governor," he said.

Chernow will be replaced by Cliff Rechtschaffen, a senior energy adviser in the governor's office, Stapler said. A replacement for Miller has yet to be named, he said.

The Western States Petroleum Association had expressed frustration at the slow pace of state approval for new oil drilling permits from Miller's division.

Miller and Chernow could not be immediately reached for comment.

California's Division of Oil, Gas and Geothermal Resources has granted 14 permits essential to new drilling projects as of September of this year out of 199 applications received, compared with 27 out of 100 in 2010 and 37 out of 52 the year before that, state figures show.

To contact the reporter on this story: Mark Chediak in San Francisco at mchediak@bloomberg.net.

To contact the editor responsible for this story: Tina Davis tinadavis@bloomberg.net

EXHIBIT “11”

Notice of Exemption

Form D

To: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

County Clerk
County of _____

From: (Public Agency) Division of Oil, Gas, and Geothermal Resources
801 K Street, MS 20-20
Sacramento, CA 95814
(Address)

Project Title: Central Point 94X

Project Location - Specific:
Lat. 35.436177000 Long. -118.970273000
Section 4, Township 29 South, Ranger 28 East MDB&M.

Project Location – City: _____ Project Location – County: Kern

Description of Nature, Purpose and Beneficiaries of Project:
An oil and gas well to be drilled by Chevron U.S.A. Inc. within the existing boundaries of the Kern River oil field in Kern County.

Name of Public Agency Approving Project: Division of Oil, Gas, and Geothermal Resources

Name of Person or Agency Carrying Out Project: Chevron U.S.A., Inc.

Exempt Status: **(check one)**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Class 4, Minor Alteration to Land (Section 15304)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:
The project will occur within the existing administrative boundaries of established Kern River oil field. The location with Kern River oil field has a high well density and heavily compacted barren soil. The project results in a minor alteration to the land.

Lead Agency Contact Person: Tian-Ting Shih Area Code/Telephone/Extension: (916) 324-6641

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: _____ Date: 11/10/2011 Title: Chief Deputy

☒ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR: _____

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EXHIBIT “12”

From: Dudak, Daniel
To: Loverne, Rich; Brandt, Grace; Geroch, John; Wells, Martin; Andrews, Kathleen; Abdulraman, Abdulmageed; Tyler, Todd
Cc: Carlson, Ken; Khan, Ali; Salera, Jerry
Subject: Follow-Up to Friday"s UIC Program Update
Date: Friday, December 02, 2011 4:16:38 PM

UIC Staff,

As was emphasized in the beginning of Friday morning's UIC Program Update meeting, the UIC program is in a state of flux and will likely be changed or modified again. We must all realize that there is not a perfect box in which to package our program. Not all fields, Districts, wells, etc. are the same, and interpretations of laws and regs, let alone geology and engineering, vary among individuals inside and out of the Division, industry, the general public, environmental groups, Legislature, Gov's office, etc. We deal with very complex issues, many of which are unique. It is challenging, to say the least, to be open to uncertainty. You are all very talented and knowledgeable individuals... Please remember to be flexible and professional throughout this process.

That being said, Ken and I had a follow-up discussion with HQ regarding Friday morning's videoconference with HQ. Based on our follow-up discussion, the path forward in Inglewood and Wilmington – THUMS/Tidelands is this, generally, with more information to come:

- Inglewood AOR process will proceed as it has; individual NOIs in the existing project(s) will be reviewed via AOR and permits will be issued listing wells to be remediated. HQ will conduct a final review for comments only; D1 will determine the final remediation list and permit.

- Wilmington AOR process will continue as it has with some modifications – where an injection well is being replaced, and there is no expansion to injection, providing there are no obvious overriding considerations such as numerous sheared-off well bores in the area (one example), we can bypass the AOR process and issue a permit. This should be done on a case-by-case basis using good engineering judgement. For AORs, HQ will review for comments only; D1 will determine final remediation list and permit.

AB will stay in the unit to assist in AORs and will develop an Access spreadsheet to help with project management after he completes his first AOR. Todd should begin assisting with AOR reviews the week of Dec 5, at first learning the process and then jumping into casing and well records review.

Thanks for all your hard work. Believe it or not, there is light at the end of the tunnel.

Dan

EXHIBIT “13”

NewsRoom

1/4/12 Bakersfield Californian (CA) (Pg. Unavail. Online)
2012 WLNR 187524

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January 4, 2012

Oil chief rolls out 'flexible approach' to injection reviews

John Cox

The Bakersfield Californian

Jan. 04--California's new top oil regulator says he has brought a "more flexible approach" to permitting that gives greater precedence to work on replacement wells, shifts resources to reduce a project application backlog and distinguishes more clearly among different kinds of underground injection activities.

The comments this week by state Oil and Gas Supervisor Tim Kustic signal an end to the stringent approach instituted by his predecessor, whose landmark memo from May 2010 introduced rigorous requirements for steam and disposal injection projects -- and sparked industry outcry that her efforts to protect potential drinking water were killing jobs in Kern County.

Making his most detailed public statements since his appointment last week, Kustic wrote in an email late Tuesday that oil producers and regulators alike need "reasonable and justified solutions" to address challenges facing the state's underground injection program.

Those challenges include occasional surface seepage and even eruptions of oil field fluids, a federal audit that questions the adequacy of California's injection rules, and a ban on high-pressure steam injections near a sinkhole that killed a Chevron worker in June.

Kustic, 53, took over temporarily in November before being appointed on a permanent basis last week. He previously managed technical services for the agency he now heads, the Division of Oil, Gas and Geothermal Resources. Educated in geology, he has a background in reviewing oil and gas production operations.

Already Kustic claims to have "streamlined" DOGGR's review of underground injection projects, and he noted that reviewing replacement wells is now a higher priority than it had been. A replacement well is typically drilled in an existing oil field after the failure of an older well.

He also indicated that he has moved around resources to address a backlog of project applications that Kern lawmakers and industry have complained about since last spring. The division did not provide recent numbers on the permitting backlog.

Kustic listed examples of what he called his "more flexible" approach to injection project approvals. He wrote that regulators now may use historical information -- well completion records and production histories -- to determine which underground zones need to be isolated from possible migration of injected fluids.

He noted that DOGGR is now "accounting for the operational differences" between steam flooding, cyclic steaming and disposal projects, all of which are common in parts of Kern County. The first two technologies involve oil production directly but use steam in different ways depending on an oil field's characteristics.

Kustic added that his division has also been identifying "outdated regulations" and "regulatory gaps."

His predecessor, lawyer Elena Miller, laid down new rules for injection projects in May 2010, requiring among other things new testing to prove that injections would remain in their intended zone. It was unclear Wednesday exactly which parts of her protocol Kustic has eliminated and which may survive.

Gov. Jerry Brown dismissed Miller Nov. 3 under pressure from industry and Kern lawmakers. Brown also removed her boss, former Department of Conservation Director Derek Chernow, who was replaced last week by Mark Nechodom, formerly a senior adviser to the undersecretary for the U.S. Department of Agriculture and a senior climate policy adviser for the U.S. Forest Service.

Oil industry groups have welcomed what they called Kustic's more practical approach, saying he seems willing to work with producers to define a clear path to project approval. Rock Zierman, head of the California Independent Petroleum Association, has complimented the "risk-based approach" that he said Kustic uses to match preventative measures to the risks a given project presents.

Industry consultant Dave Kilpatrick, who works with oil producers in Kern County and elsewhere, praised Kustic's emphasis on replacement wells, which he called "low-hanging fruit" that used to take only a week to review and approve.

"As you know, everything turned into months and months" under Miller, Kilpatrick said Wednesday.

Kilpatrick also agreed with Kustic's decision to rely more heavily on technical records than new well integrity tests. Such tests can be costly, time-consuming and, he said, unnecessary in cases where engineers already understand an oil field's geology.

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---- Index References ----

Company: CHEVRON CORP; GEOTHERMAL RESOURCES INTERNATIONAL INC

Industry: (Upstream Gas (1UP12); Upstream Oil (1UP67); Americas Crude Oil (1AM35); Gas (1GA99); U.S. Crude Oil (1US90); Oil & Gas (1OI76); Offshore Oil & Gas (1OF48); Oil & Gas Exploration (1OI11); Energy & Fuel (1EN13); Crude Oil (1CR88))

Region: (California (1CA98); U.S. West Region (1WE46); Americas (1AM92); North America (1NO39); USA (1US73))

Language: EN

Other Indexing: (Tim Kustic; Rock Zierman; Derek Chernow; Elena Miller; Jerry Brown; Mark Nechodom; Dave Kilpatrick)

Word Count: 698

End of Document

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NewsRoom

EXHIBIT “14”

Notice of Exemption

Form D

To: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

County Clerk
County of _____

From: (Public Agency) Department of Conservation
Division of Oil, Gas, and Geothermal Resources
801 K Street, MS 20-20, Sacramento, CA 95814
(Address)

Project Title: Jackson and Perkins 27-3H

Project Location - Specific:
35.536813, -119.274212
In the SW/4 of the NW/4 of Section 34, Township 27 South, Range 25 East MDB&M

Project Location – City: _____ Project Location – County: Kern

Description of Nature, Purpose and Beneficiaries of Project:
An oil and gas well to be drilled from an existing drill pad site within the North Shafter Oil Field in Kern County.

Name of Public Agency Approving Project: Division of Oil, Gas, and Geothermal Resources

Name of Person or Agency Carrying Out Project: _____

Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268).
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a)).
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c)).
- ☒ Categorical Exemption. State type and section number: Minor Alteration to Land (Section 15304, Class 4)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:
Project will occur on an existing oil pad site within an existing oil field on heavily compacted soil. Project results in minor alterations to the land.

Lead Agency Contact Person: Tim Kustic Area Code/Telephone/Extension: (916) 323-1779

If filed by applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: [signature] Date: 1/9/12 Title: State Oil and Gas Supervisor

☐ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR: RECEIVED JAN 10 2012 STATE CLEARING HOUSE

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EXHIBIT “15”

Contributor Report

Last Update: 22-SEP-2015 11:47:47

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Top ## Contributions ALL

Contributor	Recipient	Contest Name	Amount Contributed	Contribution Date	Contribution Type
OCCIDENTAL PETROLEUM CORP., LOS ANGELES, CA 90024-4201	BROWN; CALIFORNIANS TO PROTECT SCHOOLS, UNIVERSITIES AND PUBLIC SAFETY, A BALLOT MEASURE COMMITTEE SUPPORTED BY GOVERNOR JERRY, ID#1343257	THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT	$250,000.00	1/13/2012	MONETARY
	BROWN; YES ON PROP. 30 - TO PROTECT OUR SCHOOLS AND PUBLIC SAFETY, A BROAD COALITION OF BUSINESS, LABOR, LAW ENFORCEMENT, TEACHERS AND GOVERNOR, ID#1343257	PROPOSITION 30	$250,000.00	8/16/2012	MONETARY
	Total Monetary		$500,000.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$500,000.00		

Search criteria used to create this report
Contributor Name: Occidental Petroleum Corp
Contributor Name Search Type: Keyword (ignores punctuation)
Amount Range Minimum: 250000
Amount Range Maximum: 250000
Contributor Code: Individual
Contributor Code: Recipient Committee
Contributor Code: Other
Contributor Code: Political Party
Contributor Code: Small Contributor Committee
Contribution Type: Monetary
Contribution Type: Loan
Contribution Type: Non-Monetary
Data for this report was last updated on 22-SEP-2015 11:47:47

Version 2.1.0.0

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EXHIBIT “16”

Notice of Exemption

Form D

To: Office of Planning and Research
P.O. Box 3044, Room 212
Sacramento, CA 95812-3044

County Clerk
County of _____

From: (Public Agency) Department of Conservation
Division of Oil, Gas, and Geothermal Resources
801 K Street, MS 18-05, Sacramento, CA 95814
(Address)

Project Title: 7-14H and 814H

Project Location - Specific:

SE 1/4 of Section 14, Township 28 South, Range 25 East - 17-4H Latitude 35.48815865, Longitude -119.24816147
8-14H Latitude 35.48814918, Longitude -119.24774143

Project Location - City: Shafter Project Location – County: Kern

Description of Nature, Purpose and Beneficiaries of Project:

Vintage Production California LLC proposes to drill two (2) oil and gas wells outside of the North Shafter Field from an existing well pad site in Shafter, California

Name of Public Agency Approving Project: Division of Oil, Gas, and Geothermal Resources

Name of Person or Agency Carrying Out Project: Vintage Production California LLC

Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: Existing Facilities (Section 15301, Class 1)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

Proposed project will be locatedin an industrial area on an existing well pad site involving negligible expansion of use of the land.

Lead Agency Contact Person: Tim Kustic Area Code/Telephone/Extension: (916) 323-1779

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

Signature: Tim Kustic Date: 8/13/12 Title: State Oil and Gas Supervisor

☐ Signed by Lead Agency
☐ Signed by Applicant

Date received for filing at OPR:

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EXHIBIT “17”

From: Lorelei H. Oviatt <LORELEIO@co.kern.ca.us>
Sent: Friday, August 31, 2012 12:14 PM
To: Nechodom, Mark@DOC
Cc: Marshall, Jason@DOC; Kustic, Tim@DOC
Bcc: Kustic, Tim@DOC <MMT_DOCtkustic225173822662012@mgd.ces.ca.gov>
Subject: Re: Oil and Gas Work Group - Sept 20

Hi Mark,
I have put the workgroup on my calender and I am open that entire day so I think getting together would be great. I appreciate you listening to my ideas and while none of this is easy, having a brain trust helps to work out solutions. We all have the same goal.
Best
Lorelei

Lorelei H.Oviatt, AICP
Director,
Kern County Planning and Community Development 2700 "M" Street Bakersfield, Ca 93301
(661)862-8866 Fax (661) 862-8601

>>> "Nechodom, Mark@DOC" <Mark.Nechodom@conservation.ca.gov> 8/31/2012 12:05 PM >>>
Hi Lorelei,

Thanks for the phone conference yesterday afternoon. I'm feeling pretty secure about moving forward, and delighted to have you and Kern Co. as a partner (unindicted co-conspirator?).

The Oil and Gas Work Group is meeting in Bakersfield on September 20th. Tim and I will be there. Can you join us? I think it would be a great opportunity to share some general sense about how we're moving forward on CEQA. Even if you can't make it, I would like to get together while I'm down there. I'll see what the schedule looks like for the day.

Meanwhile, Tim: Can you pls forward the final agenda to Lorelei?

Thanks

MN

==========

Mark Nechodom, Director
California Department of Conservation
801 K St., 24th Fl.
Sacramento, CA 94814
916-322-1080
mark.nechodom@conservation.ca.gov

EXHIBIT “18”

Appendix C

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

Project Title: North Shafter Project

Lead Agency: Division of Oil, Gas, and Geothermal Resources — Contact Person: Yuko Sakano
Mailing Address: 801 K Street, MS 18-05 — Phone: (916) 323-0425
City: Sacramento — Zip: 95814 — County: Sacramento

Project Location: County: Kern — City/Nearest Community: Wasco
Cross Streets: State Highway 46 and Root Avenue, State Highway 46 and Leonard Avenue — Zip Code:
Longitude/Latitude (degrees, minutes and seconds): ____° ____' ____" N / ____° ____' ____" W — Total Acres: 7.34
Assessor's Parcel No.: — Section: 8 — Twp.: 27S — Range: 25E — Base: MDB&M
Within 2 Miles: State Hwy #: 46 — Waterways: None
Airports: None — Railways: None — Schools: Thomas Jefferson Middle

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Document Type:

CEQA: ☐ NOP ☐ Early Cons ☐ Neg Dec ☑ Mit Neg Dec
☐ Draft EIR ☐ Supplement/Subsequent EIR (Prior SCH No.) Other:
NEPA: ☐ NOI ☐ EA ☐ Draft EIS ☐ FONSI
Other: ☐ Joint Document ☐ Final Document ☐ Other:

Local Action Type:

☐ General Plan Update ☐ General Plan Amendment ☐ General Plan Element ☐ Community Plan
☐ Specific Plan ☐ Master Plan ☐ Planned Unit Development ☐ Site Plan
☐ Rezone ☐ Prezone ☐ Use Permit ☐ Land Division (Subdivision, etc.)
☐ Annexation ☐ Redevelopment ☐ Coastal Permit ☐ Other:

Development Type:

☐ Residential: Units ____ Acres ____
☐ Office: Sq.ft. ____ Acres ____ Employees ____
☐ Commercial: Sq.ft. ____ Acres ____ Employees ____
☐ Industrial: Sq.ft. ____ Acres ____ Employees ____
☐ Educational: ____
☐ Recreational: ____
☐ Water Facilities: Type ____ MGD ____
☐ Transportation: Type ____
☐ Mining: Mineral ____
☐ Power: Type ____ MW ____
☐ Waste Treatment: Type ____ MGD ____
☐ Hazardous Waste: Type ____
☐ Other: ____

Project Issues Discussed in Document:

☐ Aesthetic/Visual ☐ Agricultural Land ☐ Air Quality ☐ Archeological/Historical ☐ Biological Resources ☐ Coastal Zone ☐ Drainage/Absorption ☐ Economic/Jobs
☐ Fiscal ☐ Flood Plain/Flooding ☐ Forest Land/Fire Hazard ☐ Geologic/Seismic ☐ Minerals ☐ Noise ☐ Population/Housing Balance ☐ Public Services/Facilities
☐ Recreation/Parks ☐ Schools/Universities ☐ Septic Systems ☐ Sewer Capacity ☐ Soil Erosion/Compaction/Grading ☐ Solid Waste ☐ Toxic/Hazardous ☐ Traffic/Circulation
☐ Vegetation ☐ Water Quality ☐ Water Supply/Groundwater ☐ Wetland/Riparian ☐ Growth Inducement ☐ Land Use ☐ Cumulative Effects ☐ Other:

Present Land Use/Zoning/General Plan Designation:

Limited Agriculture, Extensive Agriculture

Project Description: *(please use a separate page if necessary)*

Project proposes activities to drill and test 4 exploratory oil/gas wells near the community of Wasco in the northwestern Kern County outside the Rose Oil Field.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Revised 2008

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".
If you have already sent your document to the agency please denote that with an "S".

_____ Air Resources Board
_____ Boating & Waterways, Department of
_____ California Highway Patrol
_____ Caltrans District # _____
_____ Caltrans Division of Aeronautics
_____ Caltrans Planning
_____ Central Valley Flood Protection Board
_____ Coachella Valley Mtns. Conservancy
_____ Coastal Commission
_____ Colorado River Board
_____ Conservation, Department of
_____ Corrections, Department of
_____ Delta Protection Commission
_____ Education, Department of
_____ Energy Commission
_____ Fish & Game Region # _____
_____ Food & Agriculture, Department of
_____ Forestry and Fire Protection, Department of
_____ General Services, Department of
_____ Health Services, Department of
_____ Housing & Community Development
_____ Integrated Waste Management Board
_____ Native American Heritage Commission
_____ Office of Emergency Services
_____ Office of Historic Preservation
_____ Office of Public School Construction
_____ Parks & Recreation, Department of
_____ Pesticide Regulation, Department of
_____ Public Utilities Commission
_____ Regional WQCB # _____
_____ Resources Agency
_____ S.F. Bay Conservation & Development Comm.
_____ San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
_____ San Joaquin River Conservancy
_____ Santa Monica Mtns. Conservancy
_____ State Lands Commission
_____ SWRCB: Clean Water Grants
_____ SWRCB: Water Quality
_____ SWRCB: Water Rights
_____ Tahoe Regional Planning Agency
_____ Toxic Substances Control, Department of
_____ Water Resources, Department of
_____ Other: _____
_____ Other: _____

Local Public Review Period (to be filled in by lead agency)

Starting Date September 4, 2012 Ending Date October 8, 2012

Lead Agency (Complete if applicable):

Consulting Firm: _____
Address: _____
City/State/Zip: _____
Contact: _____
Phone: _____

Applicant: _____
Address: _____
City/State/Zip: _____
Phone: _____

Signature of Lead Agency Representative: _____ **Date:** 9/4/12

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

Revised 2008

EXHIBIT “19”

EXHIBIT “20”

BloombergBusiness

California Fracking Fight Has $25 Billion Taxes at Stake

March 17, 2013 — 4:52 PM PDT

Homes stand while a pumpjack operates at the Inglewood Oil field in Los Angeles. Photographer: Patrick T. Fallon/Bloomberg

March 18 (Bloomberg) -- California's reputation for environmental protection may be jeopardized by the lure of a $25 billion tax windfall that depends on how the state permits oil companies to take advantage of vast deposits lying two miles beneath its golden hills.

The Monterey Shale formation running through the center of the state may hold 15.4 billion barrels of oil -- equivalent to five years of U.S. petroleum imports, according to a state report. Releasing it requires drillers to smash the rock by forcing millions of gallons of water and chemicals underground, a technique known as fracking.

While New York and others have moratoriums on fracking as potential pollution risks are assessed, California -- the fourth-largest oil-producing state -- is working on industry-backed standards that allow it. With fracking, the Monterey Shale may yield 2.8 million jobs and $24.6 billion in state and local taxes by 2020, the University of Southern California said last week.

"The industry has been able to use hydraulic fracturing safely and in an environmentally responsible fashion in order to generate significant oil and gas resources," said Kurt Glaubitz, a spokesman for San Ramon, California-based Chevron Corp., among the state's biggest employers.

The Monterey Shale, running southeast of San Francisco at an average depth of 11,000 feet, extends over about 1,750 square miles and may hold 64 percent of the nation's estimated shale oil reserves, according to the federal Energy Information Administration. That's double the combined reserves of the Bakken Shale in North Dakota and the Eagle Ford Shale in Texas, where energy companies are spending billions.

New Guidelines

California's environmental laws put limits on development, require a unique blend of gasoline to reduce smog and will impose a statewide cap on greenhouse-gas emissions. Yet the state is only now developing specific guidelines for hydraulic fracturing, as the method is known.

The state Conservation Department in December released an initial proposal of fracking regulations, including rules for storing and handling fracking fluids, well monitoring after fracking and preventing water contamination.

A form of fracking has been used in California for 60 years, said Tupper Hull, a spokesman for the Sacramento-based Western States Petroleum Association, an industry trade group. About 750 of the roughly 50,000 producing oil and gas wells in the state use fracking, according to data from FracFocus.org, a registry set up by the industry, and the National Resources Defense Council.

Tapping Reserves

For decades, the U.S. Environmental Protection Agency "and every state considered hydraulic fracturing as a routine well-stimulation technique," said Jason Marshall, the chief deputy director of the state Conservation Department. With the rise of advances in fracking and horizontal drilling, tapping oil shale reserves became feasible.

"Public concerns began coming to us about the use of the practice," Marshall said. "The concerns seem to arise from the absence of good information about the when, where and how of fracking operations."

Residents and environmentalists such as the Sierra Club and the Center for Biological Diversity -- which sued the state in January for allegedly failing to regulate fracking -- dominated the first five hours of a six-hour state hearing in Bakersfield last week on the proposed rules.

Marianne Ratcliff, who lives near oil wells in the Upper Ojai Valley, called for tougher regulations, saying companies would absorb a proposed $25,000-per-violation penalty as a cost of doing business. She said state regulators, rather than the oil companies themselves, should monitor the chemicals used in the fracturing process.

Locked Gates

"It's very unlikely they would be noticed, since they are behind locked gates in the hills," Ratcliff said.

Representatives of oil companies including Chevron and Los Angeles-based Occidental Petroleum Corp., the largest oil producer in the continental U.S., said they backed the Conservation Department's draft proposal.

"We think it's an appropriate framework to provide people the confidence that oil is produced prudently and safely and under stringent oversight by the state of California," said Hull, a spokesman for the Western States trade group.

Oil company representatives at the Bakersfield hearing made a case for fracking as part of California's economic future. Producers believe in "environmental integrity," said Nick Ortiz, manager of production regions and property-tax issues for Western States.

Not Tracked

Under current laws, oil and gas operators aren't required to report the details of their fracking operations. Identifying fracking's consequences in California is difficult because the state hasn't tracked where it's used and ground-water testing before or afterward isn't required, said Andrew Grinberg, an oil and gas program coordinator in the Oakland office of Clean Water Action, an environmental group.

"So if you're not looking for a problem, it's pretty hard to find it," Grinberg said.

The proposed restrictions are " totally inadequate for protecting public health and the environment," he said. "It does not require any groundwater monitoring, it does not have any safeguards in place for air

quality, it does not even require positive approval or a permit from the state to move forward with fracking. So we want to see it beefed up big time."

The drilling process has been linked to groundwater contamination in Pennsylvania, high ozone levels in Wyoming and to headaches, sore throats and difficulty breathing for people living close to wells in Colorado.

Earthquake-Prone

Another concern in California is whether deep underground wells used by the industry to dispose of fracking wastewater can trigger earthquakes. The famous 1906 earthquake in San Francisco that killed as many as 5,000 people and set off fires that razed most of the city was one of the worst natural disasters in U.S. history.

Twelve earthquakes centered within a mile (1.6 kilometers) of an injection well in Youngstown, Ohio, have been linked to wastewater fracking activities, according to a state report that led to new regulations.

Besides New York, North Carolina and New Jersey have established fracking moratoriums, and Vermont has banned the practice, according to a report in February to California lawmakers.

California Governor Jerry Brown, a 74-year-old Democrat, and legislators have "made it very clear to the department that there is a need for regulations specific to hydraulic fracturing," said Marshall of the Conservation Department.

Brown Defers

Brown told reporters in San Francisco on March 13 that he is deferring to state regulators to develop a fracking policy.

"Between now and development lies a lot of questions that need to be answered, and I feel confident that the people are in place in my administration to handle the issues as they come up," Brown said at a news briefing on renewable energy.

The issue is also being considered at the federal level. At the request of Congress, the EPA is studying fracking's impact on drinking water and will release its findings next year.

Water is an issue in California because some areas of the state have outgrown their supply. Brown is pressing for a $14 billion tunnel system to serve arid Southern California. Parts of Monterey County

already face restrictions with a water credit system. Remodeling a bathroom and replacing a large bathtub with a smaller one, for instance, can free enough water credits to offset an additional washbasin.

Five bills are pending in the state Legislature that touch on fracking, including one that would require drillers to provide details about the chemicals and amount of water to be used and to notify neighboring property owners in advance.

'Immense Scale'

"While the industry correctly notes that fracking has been going on in California for 60 years, many of the techniques and chemicals are new, as is the immense scale of many of these operations," said state Senator Fran Pavley, a Democrat from Agoura Hills, the chairman of the Senate Natural Resources and Water Committee and the bill's author.

Her bill also directs the state to complete a study by Jan. 1, 2015, assessing the public and environmental health and safety of fracking, and would deny new fracking permits if the study is not finished in time.

Other bills would also require companies to disclose the chemicals used in fracking, to file a written notice at least 30 days before any fracking operations and to monitor ground water near their operations.

In Kern County, which produces more than 80 percent of California's oil and gas, about 600 of its 50,000 active oil wells are hydraulically fractured each year, said Lorelei Oviatt, director of the county planning department.

"We don't have any evidence that there's impact on ground water from hydraulic fracturing in Kern County," Oviatt said in a telephone interview. "I don't want to leap to conclusions that will put 15,000 to 20,000 people out of work."

To contact the reporter on this story: Alison Vekshin in San Francisco at avekshin@bloomberg.net

To contact the editor responsible for this story: Stephen Merelman at smerelman@bloomberg.net

EXHIBIT “21”

FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

February 10, 2014

The Honorable Edmund G. Brown
Brown for Governor 2014

REDACTED

Warning Letter: Case No. 14/065; Edmund Gerald "Jerry" Brown and Brown for Governor 2014

Dear Governor Brown:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (Act)[1]. The FPPC has determined that your campaign committee, Brown for Governor 2014, received non-monetary campaign contributions from Kevin Sloat, a registered lobbyist with the lobbying firm Sloat Higgins Jensen & Associates.

Mr. Sloat regularly hosted political fundraisers at his house. At these fundraisers, Mr. Sloat provided beverages such as wine, beer, soft drinks, water, etc. to guests. In some instances, he also provided cigars and floral arrangements for the fundraiser events. On January 24, 2012 and October 10, 2012, Mr. Sloat hosted a fundraiser at his house. The January 24, 2012 event was organized by the California Democratic Party for the benefit of Californians to Protect Schools, Universities and Public Safety, as well as your Brown for Governor 2014 committee. The October 10, 2012 event was organized by the California Democratic Party for the benefit of Yes on 30 as well as your Brown for Governor 2014 committee. At those fundraisers, he provided beverages to guests and may have provided floral arrangements and/or cigars for the event. Because the total cost of the event exceeded $500, the beverages, and any other items purchased for the event by Mr. Sloat, constituted non-monetary contributions to your campaign under the Act. (Section 82015, Regulation 18215.)

State elected officers and candidates for state elected office are prohibited from receiving any campaign contributions from lobbyists registered to lobby the governmental agency for which the candidate is seeking election or the government agency of the elected state officer. (Section 85702.) However, Mr. Sloat did not inform you that he was providing this non-monetary contribution and, therefore, it appears that you were unaware that he provided it. Additionally, it appears your campaign committee properly disclosed all other known contributions and expenditures associated with the event, and the amount of Mr. Sloat's contribution was relatively small. As a result, we are closing your case with this warning letter. This information will be retained and may be considered should a future enforcement action become necessary.

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[1] The Act is contained in Government Code sections 81000 through 91014. The regulations of the FPPC are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

A warning letter is an FPPC case resolution without administrative prosecution; however, this resolution does not provide you with the opportunity for a probable cause or administrative hearing. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of your case. If we do not receive such notification, this warning letter will be posted on the FPPC's website.

Should you have any questions regarding this letter, contact me at (916) 322-5660.

Sincerely,

REDACTED

Gary S. Winuk
Chief, Enforcement Division

EXHIBIT “22”

From: David Albright <Albright.David@epamail.epa.gov>
Sent: Friday, May 11, 2012 8:17 AM
To: Habel, Rob@DOC
Cc: Kustic, Tim@DOC
Bcc: Habel, Rob@DOC <MMT_DOCrhabel225148432662012@mgd.ces.ca.gov>; Kustic, Tim@DOC <MMT_DOCtkustic225173822662012@mgd.ces.ca.gov>
Subject: Draft findings regarding Aquifer Exemptions
Attach: Draft CA Aquifer Exemption FindingsRev(final).pdf

Hi Rob,

I'm sorry I've not been able to catch you to talk in person, but I thought it was important to get this document into your and Tim's hands without waiting longer. Attached is a paper that describes our preliminary findings regarding the aquifer exemptions that EPA approved at the time of primacy. This analysis and set of preliminary conclusions is based on the information in our records and other information that was otherwise available to us, including material from DOGGR's website.

After you have had a chance to read/consider this, I'd like to have a call to get your thoughts and reactions, as well as to hear if there are other documents we may be missing from our records that would be important for us to consider prior to reaching final conclusions.

From our meeting in March, we still owe you a letter regarding SDW-7 implementation and reporting, which I endeavour to get out within the next couple weeks. There are a few other issues we should probably discuss as follow up from March, so I look forward to connecting soon.

I'm out of the office on Fri May 11, but will be in M-F week of May 14th.

Regards,
David

****
David Albright
Manager, Ground Water Office

USEPA, Region IX
75 Hawthorne Street
Mail Code: WTR-9
San Francisco, CA 94105

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****

Enclosure

Review of Aquifer Exemptions in California

DRAFT Preliminary Findings

[Transmitted via email on May 11, 2012 from David Albright, Manager, Ground Water Office, USEPA Region 9 to Rob Habel, DOGGR with cc to Tim Kustic, DOGGR]

Review of Aquifer Exemptions in California

DRAFT Preliminary Findings

Introduction

The California Division of Oil and Gas, in 1991 to also include Geothermal Resources (DOGGR) requested aquifer exemptions as part of the "Application for Primacy in the Regulation of Class II Injection Wells Under Section 1425 of the Safe Drinking Water Act" (the primacy application) dated April 1981. The specific exemptions requested are described in Appendix B of the primacy application.

Descriptions of the Exempt Aquifers

The Primacy Application

The aquifer exemptions requested by DOGGR in the April 1981 primacy application fall into three categories. These categories were not specifically proposed by DOGGR; they are used in this paper for organizational clarity only. The three categories are as follows:

Category 1.

The hydrocarbon producing aquifers shown in Volumes I and II of "California Oil and Gas Fields" (the report), published by the California Division of Oil and Gas (dated 1973 and 1974, respectively) were included with the primacy application. The formations or portions thereof that were requested to be exempt are described and depicted as the shaded portions on the maps and cross sections of the report. The report's "Introduction" further describes these shaded areas as the producing zones.

Category 2.

For the oil and gas fields discovered after December 1973, a separate list of the thirty-seven (37) formations requested to be exempt were included in Appendix B, Table 2 of the primacy application. It should be noted that several of these formations/zones are named as "confidential". The primacy application did not include any maps of these 37 formations, only the location of the discovery well, and the range of depths of the producing intervals. However, some of these fields/formations (25 of the 37) are depicted in Volume III of the report, dated 1981. Volume III is an updated version of the Northern California portion of Volume I, and appears to have been published after DOGGR submitted their April 1981 primacy application, but prior to EPA's granting of primacy in 1982.

Category 3.

Non-hydrocarbon producing aquifers requested for exemption were listed in Appendix B. Table 1 of the primacy application. The list includes 87 formations/zones in various fields in Districts 1-6, and each of the field boundaries are depicted on the maps included in Appendix B, following Table 1.

Additional Comment

The current DOGGR website provides a hyperlink to the April 1981 primacy application. The website also contains a statement suggesting that the approved aquifer exemptions are those contained in the 1981 primacy application.

The Memorandum of Agreement (MOA)

Aquifer exemptions were formally approved by EPA as discussed in Section H and described in Attachment 2 of the "Underground Injection Control Program Memorandum of Agreement Between California Division of Oil and Gas and the United States Environmental Protection Agency Region 9" (the MOA) signed by DOGGR and EPA in September 1982, as part of the Class II UIC primacy approval process. This MOA is referenced in 40 CFR Part 147 as one of the official program documents associated with EPA's approval of the California Class II UIC program. The MOA documents which aquifers EPA exempted (refer to the copy of Attachment 2 of the MOA, attached).

Analysis

EPA has completed a review, based on the records we have, of the aquifer exemption determination process that was conducted, in order to clarify and confirm which aquifers were exempted.

Category 1.

The 1981 primacy application requested the exemption of all the oil and gas producing formations included in Volume I and II of the report. Volume I includes the oil and gas fields of North and East Central California, dated 1973. Volume I has been updated since 1973, the most current version is dated 1998. Volume II includes South, Central Coastal and Offshore California, dated 1974. Volume II has also been updated, the most current version is dated 1991.

Attachment 2 of the MOA states that "all oil and gas producing aquifers identified in Volumes I, II and III" of the report are exempt (see attached). Section H. of the MOA formally incorporated Attachment 2 into the MOA. As noted, Volume III is an updated version of the Northern California portion of Volume I, and is dated 1981. Although the month in 1981 is not specified, it is presumed to have been issued post April 1981, the

date of the primacy application. Volume III has also been updated, the most current version is dated 1998.

For the Category 1 formations in the MOA, EPA exempted all oil and gas producing zones that were included in the report, as follows: 1) 1973 version of Volume I; 2) 1974 version of Volume II; and 3) 1981 version of Volume III. As requested by DOGGR, the exempt portions of the aquifer are described and depicted as the shaded portions on the maps and cross sections of the report.

Category 2.

The MOA does not specifically name the 37 formations/zones from the post 1973 oil/gas producing fields proposed for exemption by DOGGR in their 1981 application (on Table 2). However, our current review noted that 25 of the 37 formations are included in the 1981 version of Volume III, thus the designated portions of those 25 producing formations are exempt. The 12 remaining formations were not included in any of the three volumes of the report (as of 1982, when EPA granted primacy and approved aquifer exemptions), thus they are presumed non exempt. However, ten (10) of the fields and their associated formations are depicted in updated versions of the report; either the 1998 version of Volume I, or the updated version of Volume II, dated 1991. The two (2) remaining formations are listed in the 1981 primacy application as "confidential" in the Harlan Ranch Gas and Howell's Pt. Gas fields, respectively, but are not included in any volumes of the report. The 12 formations are:

Field	Formation
Yowlumne	Stevens
Rio Viejo	Stevens
Turk Anticline	Temblor
Carneros Creek	Wygal
Moorpark West	Sespe
Temblor Hills	Agua
Temblor Hills	Pt. of Rocks
Careaga Canyon	Monterey
Cal Canal	Stevens
Westhaven	Temblor
Harlan Ranch Gas	Confidential
Howell's Point Gas	Confidential

Category 3.

Attachment 2 of the MOA (attached) lists 20 (of the 87 originally proposed non-hydrocarbon producing formations from Table 1 of the primacy application) formations/zones in various fields in Districts 2-6 as exempt. One additional non-hydrocarbon producing formation, not proposed for exemption in Table 1 of the primacy application (and presumed to have been proposed separately) is confirmed as exempt on Attachment 2 of the MOA. Thus, EPA approved a total of 21 aquifer exemptions for non-hydrocarbon producing formations - 20 of the 87 originally requested, plus one additional formation not identified in the primacy application. The additional exempt formation is the "Santa Margarita Formation, Poso Field, District 4. Attachment 3 of the MOA lists 11 of the 87 originally proposed non-hydrocarbon producing formations/zones as not exempt.

The remaining 56 formations (of the 87 proposed in Table 1 of the primacy application) were not exempted by EPA. Based on the information contained in EPA's administrative records, it appears that most, if not all of these formations were determined to be non-USDWs and thus did not require exemption. DOGGR submitted a letter, dated March 1982, which provided TDS values for all 87 of the non-hydrocarbon producing formations proposed for exemption in the primacy application. Fifty-three (53) of those formations are listed in the March 1982 letter as having TDS levels greater than 10,000 ppm.

It is unclear why the remaining three formations from Table 2 of the primacy application (that had TDS values below 10,000 ppm) were not exempted by EPA. However, those three formations (Etchegoin Fm, Strand Field, District 4; Mokulemne Fm, Union Island Gas Field, District 6; and Capay Fm, River Break Gas Field, District 6) are not included in Attachment 2 of the MOA, and are therefore not exempt.

Additional Findings

- Section H. of the MOA formally incorporated Attachments 2 and 3 into the MOA. Section H. also clarifies that the 11 aquifers in Attachment 3 "proposed for exemption in the 1425 demonstration and not exempted will be phased out within 18 months of the effective date of this Agreement (the MOA)". Since the MOA was signed in late September 1982, those 11 formations were not exempt as of April 1984.

- Section H. of the MOA also states the following: "Aquifers exempted by the Division and EPA under this Agreement shall only be applicable for the injection of fluids related to Class II activities defined in 40 CFR 146.05 (b).

Summary

Category 1.

All of the shaded portions of the oil and gas producing aquifers included in Volumes I, II and III of the report, dated 1973, 1974 and 1981 respectively, are exempt.

Category 2.

25 of the 37 formations within the post 1973 fields included on Table 2 of the primacy application and depicted in Volume III of the report dated 1981 are exempt.

12 of the formations within the post 1973 fields included on Table 2 of the primacy application and not depicted in versions of the report incorporated in the MOA, are not exempt. Ten (10) of these 12 fields are depicted in subsequent versions of the report. The two remaining fields with "confidential" formation designations are found on the DOGGR website as producing fields, even though they are not depicted in any subsequent versions of the report.

Category 3

21 non-hydrocarbon producing formations are exempt:

[20 of the 87 originally proposed non-hydrocarbon producing zones, and

1 additional non-hydrocarbon producing zone, the Santa Margarita Fm Poso Field]

All of the remaining non-hydrocarbon producing formations included in Table 1 of the primacy application were not exempted by EPA. Most (53) of these formations appear to have not been exempted because it was demonstrated that they are not USDWs (TDS levels > 10,000 ppm).

Suggested Next Steps:

- DOGGR to review and comment on this document and provide any other relevant documents/materials for EPA consideration.

- Recommend DOGGR consider modifying current website regarding aquifer exemptions.

- If warranted, DOGGR to identify any additional aquifers, or portions of aquifers that they request EPA consider for exemption.

EXHIBIT “23”

From: David Albright <Albright.David@epamail.epa.gov>
Sent: Tuesday, June 19, 2012 3:16 PM
To: Kustic, Tim@DOC
Cc: Habel, Rob@DOC
Bcc: Habel, Rob@DOC <MMT_DOCrhabel225148432662012@mgd.ces.ca.gov>; Kustic, Tim@DOC <MMT_DOCtkustic225173822662012@mgd.ces.ca.gov>
Subject: RE: Aquifer exemptions, etc.

Hi Tim,

Thanks for the initial feedback. I'm afraid we do not have any additional records that illuminate why those identified hydrocarbon-producing zones included in the application were not approved with the primacy agreement. Our best guess at this stage is that this was an oversight, or a false assumption that Vol. 1, 2, and 3 at the time contained all the known hydrocarbon producing fields/zones.

As for the non-hydrocarbon producing zones/formations, there is one formation of particular interest that supports not only Class II disposal, but also Class I disposal, permitted by EPA. The Upper Tulare formation, located in a sq. mi. section just outside of the Buena Vista oil field boundary, is apparently not currently exempt. However, this formation is receiving injection from multiple Class II wells and 3 Class I wells. As such, we are very interested in discussing the status of this aquifer/formation at your earliest convenience.

Regards,
David

****
David Albright
Manager, Ground Water Office

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Fax: 415.947.3549
Email: albright.david@epa.gov

****

From: "Kustic, Tim@DOC" <Tim.Kustic@conservation.ca.gov>
To: David Albright/R9/USEPA/US@EPA
Cc: "Habel, Rob@DOC" <Rob.Habel@conservation.ca.gov>, "Salera, Jerry@DOC" <Jerry.Salera@conservation.ca.gov>
Date: 06/07/2012 11:46 AM
Subject: RE: Aquifer exemptions, etc.

David,

Jerry Salera is delving into the aquifer exemption (AE) issues and will be briefing me next week on our path forward and timeline. I anticipate meeting with you in SF late June to early July to discuss AE and audit topics.

Jerry has the following comments:

We are currently still reviewing and researching our Primacy Application documents in relation to your draft comments on the

subject.
It is not clear why the 12 formations in "Category 2" you listed were not also included in the exempted list when they were declared by the Division in our application (Appendix B, Table 2) as hydrocarbon producing and merited exemption at that point in time.

When the MOA was signed, the addition of a Volume 3 was included in the references for exempted hydrocarbon producing zones. Volume 3 only covers fields north of the Monterey-San Benito-Merced-Mariposa-Mono counties (north of Township 12S, M.D. B.M.) and these are mostly non-associated gas fields. Table 2 in our Primacy Application listed 37 oil and gas fields discovered after 1973. Twenty-five (all gas fields) were later included in Volume 3. Of the 12 remaining, 10 fields should have been part of Volumes 1 and 2; however, these were not updated at the time of the MOA approval. The intent of including them for exemption, however, was clearly captured in Table 2 of the Primacy Application. It is not clear why the language of the MOA did not consider this. Would the EPA have any documents in file that can perhaps shed light on this?

We are also still reviewing and researching the "Category 3" (non-hydrocarbon producing formations) list.

As regards the Aquifer Exemptions page of our website, we will be improving this to properly explain the Aquifer Exempted lists and link this to our MOA.

We plan to complete a review of any additional aquifers for possible exemption within the next 3 months.

On the timing of our response to the program review, I regret the excessive delay. We are redrafting and earlier long-letter version to a short-letter and attached stand alone "plan". Based on the past I don't have great confidence in my "sense of timing" on this topic, but I hope within a month.

After we develop our plans, I will arrange a Division/DOC/EPA meeting.

Some good news on our UIC resources front:

- We were successful in asking the legislature to fund 18 additional positions, the bulk of which go towards UIC.
- Recent Engineering Geologist (a new classification for the Division) interviews discovered abundant well qualified candidates.

We are quickly moving forward to fill technical positions with these candidates.

Although, hydraulic fracking stimulation is gathering much attention in the media, and we are addressing concerns on that topic, the bulk of our resources are going towards UIC program improvements.

Thanks,
Tim

From: David Albright [mailto:Albright.David@epamail.epa.gov]
Sent: Monday, June 04, 2012 12:06 PM
To: Kustic, Tim@DOC; Habel, Rob@DOC
Subject: Aquifer exemptions, etc.

Hi Tim and Rob,

Just wanted to check in with you two about the aquifer exemption findings I sent a few weeks back. Any questions about that or thoughts as to how you would like to proceed? We actually have a Class I permit renewal that is potentially impacted by this issue.

Also, I'm curious if you have a sense of timing for the response to our program review that we discussed in March. One of the Bakersfield reporters calls our office here periodically and asks whether EPA has received the state's response/plan for addressing the issues from our review. He called today.

Thanks,
David

****

David Albright
Manager, Ground Water Office

EXHIBIT “24”

From:	Kustic, Tim@DOC </O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=KUSTIC, TIM@DOCB793B21F-2855-47DA-BB8F-BD95A4F99FD3652>
Sent:	Thursday, August 22, 2013 1:22 PM
To:	Blair Knox <blair@cipa.org>
Cc:	Wermiel, Dan@DOC <Dan.Wermiel@conservation.ca.gov>; Ellison, Burt@DOC <Burt.Ellison@conservation.ca.gov>
Subject:	OGWG Agenda Items

Hi Blair,

DOGGR Agenda Items:

DOGGR Lead-off/Introductions (Tim Kustic)

Presentation of Outstanding Field and Lease Facility Maintenance Award (Tim Kustic, State Oil and Gas Supervisor and Burt Ellison, Bakersfield District Deputy)

Legal Actions Status (Tim Kustic)
Hydraulic Fracturing Regulations Update (Tim Kustic)
Bakersfield - District 4 - Updates (Burt Ellison)

- Staffing
- Permit Activity
- Facility Program
- Idle and Orphan Wells
- UIC Program

Technical Programs Unit Updates (Dan Wermiel, Technical Programs Manager)

- Agent Designations
- Aquifer Exemptions Updates Process
- Base of USDW study with Cal State Bakersfield
- Electronic Permitting Development

DOGGR Wrap-up (Tim Kustic)

EXHIBIT “25”

GOVERNOR BROWN DECLARES DROUGHT STATE OF EMERGENCY

1-17-2014

[redacted]

SAN FRANCISCO – With California facing water shortfalls in the driest year in recorded state history, Governor Edmund G. Brown Jr. today proclaimed a State of Emergency and directed state officials to take all necessary actions to prepare for these drought conditions.

"We can't make it rain, but we can be much better prepared for the terrible consequences that California's drought now threatens, including dramatically less water for our farms and communities and increased fires in both urban and rural areas," said Governor Brown. "I've declared this emergency and I'm calling all Californians to conserve water in every way possible."

In the State of Emergency declaration, Governor Brown directed state officials to assist farmers and communities that are economically impacted by dry conditions and to ensure the state can respond if Californians face drinking water shortages. The Governor also directed state agencies to use less water and hire more firefighters and initiated a greatly expanded water conservation public awareness campaign (details at saveourh2o.org).

In addition, the proclamation gives state water officials more flexibility to manage supply throughout California under drought conditions.

State water officials say that California's river and reservoirs are below their record lows. Manual and electronic readings record the snowpack's statewide water content at about 20 percent of normal average for this time of year.

The Governor's drought State of Emergency follows a series of actions the administration has taken to ensure that California is prepared for record dry conditions. In May 2013, Governor Brown issued an Executive Order to direct state water officials to expedite the review and processing of voluntary transfers of water and water rights. In December, the Governor formed a Drought Task Force to review expected water allocations, California's preparedness for water scarcity and whether conditions merit a drought declaration. Earlier this week, the Governor toured the Central Valley and spoke with growers and others impacted by California's record dry conditions.

Photo captions and the full text of the emergency proclamation are below:

1.) Governor Brown announces Drought State of Emergency with Natural Resources Agency Secretary John Laird, Department of Water Resources Director Mark Cowin, Water Resources Control Board Chair Felicia Marcus and Governor's Office of Emergency Services Director Mark Ghilarducci (left to right). Photo Credit: Justin Short, Office of the Governor.

2.) Governor Brown signs proclamation declaring Drought State of Emergency. From left to right: CAL FIRE Director Chief Ken Pimlott, Department of Food and Agriculture Secretary Karen Ross, Secretary Laird, Director Cowin, Chair Marcus and Director Ghilarducci. Photo Credit: Justin Short, Office of the Governor.

For high resolution copies of these photos, please contact Danella Debel, Office of the Governor at Danella.Debel@gov.ca.gov.

A PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS the State of California is experiencing record dry conditions, with 2014 projected to become the driest year on record; and

WHEREAS the state's water supplies have dipped to alarming levels, indicated by: snowpack in California's mountains is approximately 20 percent of the normal average for this date; California's largest water reservoirs have very low water levels for this time of year; California's major river systems, including the Sacramento and San Joaquin rivers, have significantly reduced surface water flows; and groundwater levels throughout the state have dropped significantly; and

WHEREAS dry conditions and lack of precipitation present urgent problems: drinking water supplies are at risk in many California communities; fewer crops can be cultivated and farmers' long-term investments are put at risk; low-income communities heavily dependent on agricultural employment will suffer heightened unemployment and economic hardship; animals and plants that rely on California's rivers, including many species in danger of extinction, will be threatened; and the risk of wildfires across the state is greatly increased; and

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Governor Brown Issues Legislative Update 09-21-2015

Governor Brown Announces Appointments 09-18-2015

Governor Brown to Co-Chair U.S.-China Governors Forum, Meet with President Xi of the People's Republic of China on Tuesday in Seattle 09-18-2015

Governor Brown Issues Proclamation Declaring POW/MIA Recognition Day 09-18-2015

Governor Brown Announces Appointments 09-17-2015

Governor Brown to Speak at The Broad Museum Dedication Ceremony in Los Angeles Tomorrow 09-17-2015

Governor Brown Announces Appointments 09-16-2015

WHEREAS extremely dry conditions have persisted since 2012 and may continue beyond this year and more regularly into the future, based on scientific projections regarding the impact of climate change on California's snowpack; and

WHEREAS the magnitude of the severe drought conditions presents threats beyond the control of the services, personnel, equipment and facilities of any single local government and require the combined forces of a mutual aid region or regions to combat; and

WHEREAS under the provisions of section 8558(b) of the California Government Code, I find that conditions of extreme peril to the safety of persons and property exist in California due to water shortage and drought conditions with which local authority is unable to cope.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the state Constitution and statutes, including the California Emergency Services Act, and in particular, section 8625 of the California Government Code **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in the State of California due to current drought conditions.

IT IS HEREBY ORDERED THAT:

1. State agencies, led by the Department of Water Resources, will execute a statewide water conservation campaign to make all Californians aware of the drought and encourage personal actions to reduce water usage. This campaign will be built on the existing Save Our Water campaign (www.saveourh2o.org) and will coordinate with local water agencies. This campaign will call on Californians to reduce their water usage by 20 percent.

2. Local urban water suppliers and municipalities are called upon to implement their local water shortage contingency plans immediately in order to avoid or forestall outright restrictions that could become necessary later in the drought season. Local water agencies should also update their legally required urban and agricultural water management plans, which help plan for extended drought conditions. The Department of Water Resources will make the status of these updates publicly available.

3. State agencies, led by the Department of General Services, will immediately implement water use reduction plans for all state facilities. These plans will include immediate water conservation actions, and a moratorium will be placed on new, non-essential landscaping projects at state facilities and on state highways and roads.

4. The Department of Water Resources and the State Water Resources Control Board (Water Board) will expedite the processing of water transfers, as called for in Executive Order B-21-13. Voluntary water transfers from one water right holder to another enables water to flow where it is needed most.

5. The Water Board will immediately consider petitions requesting consolidation of the places of use of the State Water Project and Federal Central Valley Project, which would streamline water transfers and exchanges between water users within the areas of these two major water projects.

6. The Department of Water Resources and the Water Board will accelerate funding for water supply enhancement projects that can break ground this year and will explore if any existing unspent funds can be repurposed to enable near-term water conservation projects.

7. The Water Board will put water right holders throughout the state on notice that they may be directed to cease or reduce water diversions based on water shortages.

8. The Water Board will consider modifying requirements for reservoir releases or diversion limitations, where existing requirements were established to implement a water quality control plan. These changes would enable water to be conserved upstream later in the year to protect cold water pools for salmon and steelhead, maintain water supply, and improve water quality.

9. The Department of Water Resources and the Water Board will take actions necessary to make water immediately available, and, for purposes of carrying out directives 5 and 8, Water Code section 13247 and Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are suspended on the basis that strict compliance with them will prevent, hinder, or delay the mitigation of the effects of the emergency. Department of Water Resources and the Water Board shall maintain on their websites a list of the activities or approvals for which these provisions are suspended.

10. The state's Drinking Water Program will work with local agencies to identify communities that may run out of drinking water, and will provide technical and financial assistance to help these communities address drinking water shortages. It will also identify emergency interconnections that exist among the state's public water systems that can help these threatened communities.

11. The Department of Water Resources will evaluate changing groundwater levels, land subsidence, and agricultural land fallowing as the drought persists and will provide a public update by April 30 that identifies groundwater basins with water shortages and details gaps in groundwater monitoring.

12. The Department of Water Resources will work with counties to help ensure that well drillers submit required groundwater well logs for newly constructed and deepened wells in a timely manner and the Office of Emergency Services will work with local authorities to enable early notice of areas experiencing problems with residential groundwater sources.

13. The California Department of Food and Agriculture will launch a one-stop website (www.cdfa.ca.gov/drought) that provides timely updates on the drought and connects farmers to state and federal programs that they can access during the drought.

14. The Department of Fish and Wildlife will evaluate and manage the changing impacts of drought on threatened and endangered species and species of special concern, and develop contingency plans for state Wildlife Areas and Ecological Reserves to manage reduced water resources in the public interest.

15. The Department of Fish and Wildlife will work with the Fish and Game Commission, using the best available science, to determine whether restricting fishing in certain areas will become necessary and prudent as drought conditions persist.

16. The Department of Water Resources will take necessary actions to protect water quality and water

supply in the Delta, including installation of temporary barriers or temporary water supply connections as needed, and will coordinate with the Department of Fish and Wildlife to minimize impacts to affected aquatic species.

17.The Department of Water Resources will refine its seasonal climate forecasting and drought prediction by advancing new methodologies piloted in 2013.

18.The California Department of Forestry and Fire Protection will hire additional seasonal firefighters to suppress wildfires and take other needed actions to protect public safety during this time of elevated fire risk.

19.The state's Drought Task Force will immediately develop a plan that can be executed as needed to provide emergency food supplies, financial assistance, and unemployment services in communities that suffer high levels of unemployment from the drought.

20.The Drought Task Force will monitor drought impacts on a daily basis and will advise me of subsequent actions that should be taken if drought conditions worsen.

I FURTHER DIRECT that as soon as hereafter possible, this Proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of January, 2014.

EDMUND G. BROWN JR.,
Governor of California

ATTEST:

DEBRA BOWEN,
Secretary of State

###

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EXHIBIT “26”

From: Blair Knox <blair@cipa.org>
Sent: Monday, January 27, 2014 7:43 PM
To: Kustic, Tim@DOC <Tim.Kustic@conservation.ca.gov>
Subject: Fwd: Aquifer Exemption Meeting?

Tim - Quick question: Nick was asking me if I knew anything about an aquifer exemption meeting tomorrow? News to me. Making sure we aren't missing something. Thanks - Blair

Sent from my Verizon Wireless 4G LTE DROID

-------- Original Message --------
Subject: RE: Aquifer Exemption Meeting?
From: Nick Ortiz <nortiz@wspa.org>
To: Blair Knox <blair@cipa.org>
CC:

I don't know, Duane called me and asked.

From: Blair Knox [mailto:blair@cipa.org]
Sent: Monday, January 27, 2014 3:42 PM
To: Nick Ortiz
Subject: Re: Aquifer Exemption Meeting?

Nope. Where and when?

Sent from my Verizon Wireless 4G LTE DROID

Nick Ortiz <nortiz@wspa.org> wrote:

Blair –
I heard there was a meeting on aquifer exemptions on Wednesday, do you know anything about it?

Nicholas Ortiz
Manager, Production Regions and Property Tax Issues
Western States Petroleum Association
661.321.0884
nortiz@wspa.org

EXHIBIT “27”

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OXY - OCCIDENTAL OIL AND GAS CORPORATION	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$902,785.00	5/6/2014	MONETARY
	Total Monetary		$902,785.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$902,785.00		

Search criteria used to create this report
ID of Entity Receiving Contribution: 822237
Contribution from: 05/01/2014
Contribution to: 10/21/2014
Contributor Code: Other
Contribution Type: Monetary
Data for this report was last updated on 22-SEP-2015 11:47:47

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Contributor	Recipient	Contest Name	Amount Contributed	Contribution Date	Contribution Type
OCCIDENTAL PETROLEUM CORPORATION	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$500,000.00	8/22/2014	MONETARY
	Total Monetary		$500,000.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$500,000.00		

Search criteria used to create this report
ID of Entity Receiving Contribution: 822237
Amount Range Minimum: 500000
Amount Range Maximum: 500000
Contributor Code: Individual
Contributor Code: Recipient Committee
Contributor Code: Other
Contributor Code: Political Party
Contributor Code: Small Contributor Committee
Contribution Type: Monetary
Contribution Type: Loan
Contribution Type: Non-Monetary
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OXY OCCIDENTAL PETROLEUM CORPORATION	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$100,000.00	10/21/2014	MONETARY
	Total Monetary		$100,000.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$100,000.00		

Search criteria used to create this report
ID of Entity Receiving Contribution: 822237
Contribution from: 05/01/2014
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Contribution Type: Monetary
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CHEVRON CORPORATION	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$1,282,970.00	6/25/2014	MONETARY
	Total Monetary		$1,282,970.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$1,282,970.00		

Search criteria used to create this report
ID of Entity Receiving Contribution: 822237
Contribution from: 05/01/2014
Contribution to: 10/21/2014
Amount Range Minimum: 100000
Contributor Code: Other
Contribution Type: Monetary
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Contributor	Recipient	Contest Name	Amount Contributed	Contribution Date	Contribution Type
CHEVRON CORPORATION	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$43,000.00	6/2/2015	MONETARY
	CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION PAC, ID#822237	-	$7,000.00	6/2/2015	MONETARY
	Total Monetary		$50,000.00		
	Total Loan		$0.00		
	Total Non-monetary		$0.00		
	Grand Total		$50,000.00		

Search criteria used to create this report
ID of Entity Receiving Contribution: 822237
Contribution from: 06/02/2015
Contribution to: 06/02/2015
Contributor Code: Individual
Contributor Code: Recipient Committee
Contributor Code: Other
Contributor Code: Political Party
Contributor Code: Small Contributor Committee
Contribution Type: Monetary
Contribution Type: Loan
Contribution Type: Non-Monetary
Data for this report was last updated on 22-SEP-2015 11:47:47

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EXHIBIT “29”

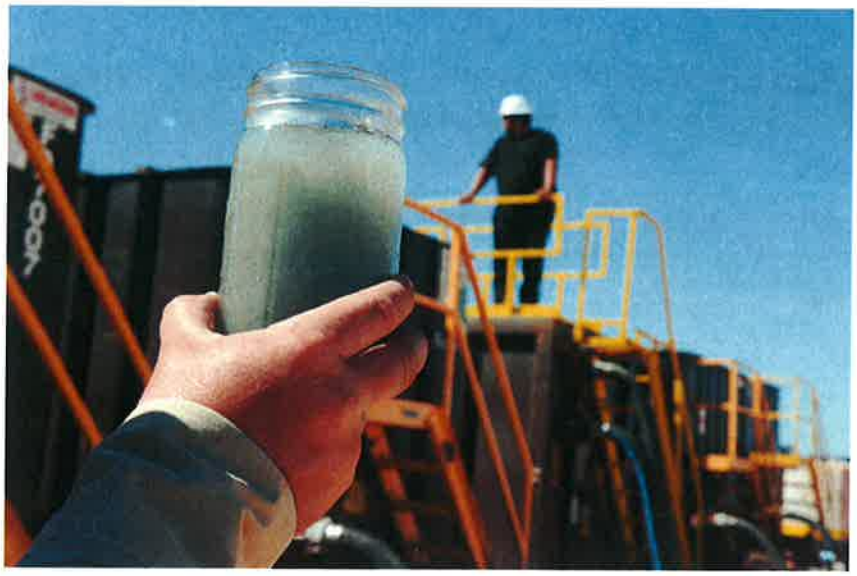
PROPUBLICA

Fracking
Gas Drilling's Environmental Threat

California Halts Injection of Fracking Waste, Warning it May Be Contaminating Aquifers

State's drought has forced farmers to rely on groundwater, even as California aquifers have been intentionally polluted due to exemptions for oil industry.

by Abrahm Lustgarten
ProPublica, July 18, 2014, 11:50 a.m.



The potential impact of waste from oil and gas drilling — including hydraulic fracturing — on drinking water has been an issue in Texas, Wyoming and, with great urgency, in California this month. Here, a jar of fracking water waste is displayed at a recycling site in Midland, Texas. (Pat Sullivan/AP Photo)

California officials have ordered an emergency shut-down of 11 oil and gas waste injection sites and a review more than 100 others in the state's drought-wracked Central Valley out of fear that companies may have been pumping fracking fluids and other toxic waste into drinking water aquifers there.

The state's Division of Oil and Gas and Geothermal Resources on July 7 issued cease and desist orders to seven energy companies warning that they may be injecting their waste into aquifers that could be a source of drinking water, and stating that their waste disposal "poses danger to life, health, property, and natural resources." The orders were first reported by the Bakersfield Californian, and the state has confirmed with ProPublica that its investigation is expanding to look at additional wells.

The action comes as California's agriculture industry copes with a drought crisis that has emptied reservoirs and cost the state $2.2 billion this year alone. The lack of water has forced farmers across the state to supplement their water supply from underground aquifers, according to a study released this week by the University of California Davis.

The problem is that at least 100 of the state's aquifers were presumed to be useless for drinking and farming because the water was either of poor quality, or too deep underground to easily access. Years ago, the state exempted them from environmental protection and allowed the oil and gas industry to intentionally pollute them. But not all aquifers are exempted, and the system amounts to a patchwork of protected and unprotected water resources deep underground. Now, according to the cease and desist orders issued by the state, it appears that at least seven injection wells are likely pumping waste into fresh water aquifers protected by the law, and not other aquifers sacrificed by the state long ago.

"The aquifers in question with respect to the orders that have been issued are not exempt," said Ed Wilson, a spokesperson for the California Department of Conservation in an email.

A 2012 ProPublica investigation of more than 700,000 injection wells across the country found that wells were often poorly regulated and experienced high rates of failure, outcomes that were likely polluting underground water supplies that are supposed to be protected by federal law. That investigation also disclosed a little-known program overseen by the U.S. Environmental Protection Agency that exempted more than 1,000 other drinking water aquifers from any sort of pollution protection at all, many of them in California.

Those are the aquifers at issue today. The exempted aquifers, according to documents the state filed with the U.S. EPA in 1981 and obtained by ProPublica, were poorly defined and ambiguously outlined. They were often identified by hand-drawn lines on a map, making it difficult to know today exactly which bodies of water were supposed to be protected, and by which aspects of the governing laws. Those exemptions and documents were signed by California Gov. Jerry Brown, who also was governor in 1981.

State officials emphasized to ProPublica that they will now order water testing and monitoring at the injection well sites in question. To date, they said, they have not yet found any of the more regulated aquifers to have been contaminated.

"We do not have any direct evidence any drinking water has been affected," wrote Steve Bohlen, the state oil and gas supervisor, in a statement to ProPublica.

Bohlen said his office was acting "out of an abundance of caution," and a spokesperson said that the state became aware of the problems through a review of facilities it was conducting according to California's fracking law passed late last year, which required the state to study fracking impacts and adopt regulations to address its risks, presumably including underground disposal.

California officials have long been under fire for their injection well practices, a waste disposal program that the state runs according to federal law and under a sort of license — called "primacy" — given to it by the EPA.

For one, experts say that aquifers the states and the EPA once thought would never be needed may soon become important sources of water as the climate changes and technology reduces the cost of pumping it from deep underground and treating it for consumption. Indeed, towns in Wyoming and Texas — two states also suffering long-term droughts — are pumping, treating, then delivering drinking water to taps from aquifers which would be considered unusable under California state regulations governing the oil and gas industry.

In June 2011, the EPA conducted a review of other aspects of California's injection well program and found enforcement, testing and oversight problems so significant that the agency demanded California improve its regulations and warned that the state's authority could be revoked.

Among the issues, California and the federal government disagree about what type of water is worth protecting in the first place, with California law only protecting a fraction of the waters that the federal Safe Drinking Water Act requires.

The EPA's report, commissioned from outside consultants, also said that California regulators routinely failed to adequately examine the geology around an injection well to ensure that fluids pumped into it would not leak underground and contaminate drinking water aquifers. The report found that state inspectors often allowed injection at pressures that exceeded the capabilities of the wells and thus risked cracking the surrounding rock and spreading contaminants. Several accidents in recent years in California involved injected waste or injected steam leaking back out of abandoned wells, or blowing out of the ground and creating sinkholes, including one 2011 incident that killed an oil worker.

The exemptions and other failings, said Damon Nagami, a senior attorney with the Natural Resources Defense Council in an email, are "especially disturbing" in a state that has been keenly aware of severe water constraints for more than a century and is now suffering from a crippling drought. "Our drinking water sources must be protected and preserved for the precious resources they are, not sacrificed as a garbage dump for the oil and gas industry."

Still, three years after the EPA's report, California has not yet completed its review of its underground injection program, according to state officials. The scrutiny of the wells surrounding Bakersfield may be the start.

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EXHIBIT “30”

NATURAL RESOURCES AGENCY EDMUND G. BROWN, JR. GOVERNOR

DEPARTMENT OF CONSERVATION

Managing California's Working Lands

PUBLIC AFFAIRS OFFICE

801 K STREET • MS 24-07 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-1886 • FAX 916 / 323-1887 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

FOR IMMEDIATE RELEASE
NR#2014-08
July 18, 2014

Contact: Ed Wilson (916) 323-1886
Don Drysdale
Krista Watson

California's Oil Regulator to Review Underground Injection Control Program

Review of Permits, Approval Practices, and Program Rules

SACRAMENTO – The Division of Oil, Gas, and Geothermal Resources (DOGGR) today announced steps to review the state's Underground Injection Control (UIC) Program in order to ensure that the program fully complies with the requirements of the Safe Drinking Water Act, designed to prevent waste water associated with oil production from being injected into aquifers containing water suitable for human or agricultural use.

DOGGR is conducting the review in conjunction with the U.S. Environmental Protection Agency (U.S. EPA.) The review will examine both specific, previously approved UIC wells, as well as current approval practices to ensure that they are consistent throughout the state and that injections are done in accordance with state and federal laws and regulations.

The Division is also reviewing the underlying UIC program rules. Revisions will be considered during this phase of the review process, which is expected to take 12-18 months to complete.

The announcement comes after DOGGR issued orders two weeks ago to seven oil production companies to immediately shut down 11 (of over 1,500 in California) waste water disposal wells to avoid potential harm to a limited number of groundwater aquifers in Kern County.

The Division became aware that some wells might be injecting into non-exempt zones while reviewing documents related to implementation of SB 4, the state's new law regarding the use of well stimulation. The orders were issued after DOGGR discovered that the waste water disposal wells appeared to be injecting into

protected sources of groundwater. The disposal permits suspended may have allowed injection into aquifers that do not appear to have received the necessary "exempt" designation from the U.S. EPA.

"We shut these wells down and ordered the operators to provide information and conduct testing to ensure human and environmental health and safety are not at risk," said Steve Bohlen, State Oil and Gas Supervisor and head of DOGGR.

Since the initial orders were issued, two of the 11 wells have been authorized to resume operations following Division review. DOGGR, the State Water Resources Control Board, and the California Environmental Protection Agency, and the Central Valley Regional Water Quality Control Board are working closely with the Department of Public Health to ensure waste water injection will not contaminate water wells.

DOGGR has primary authority under the federal Safe Drinking Water Act to regulate underground injection wells related to oil and gas operations in California, granted by the U.S. EPA. In conjunction with DOGGR, U.S. EPA simultaneously is reviewing the California UIC program. The results of the DOGGR and U.S. EPA review will guide future changes in the state's UIC program.

"In response to ongoing conversations with U.S. EPA, we have committed to a review and revision of the UIC program, as necessary," said Jason Marshall, Chief Deputy Director of the California Department of Conservation, of which DOGGR is a part. "The UIC Primacy Agreement is now over 30 years old and there are many changes in industry practices and technology that merit inclusion in any revision of UIC regulations," Marshall added.

# # #

EXHIBIT “31”

Political uproar over oil permitting resurfaces

BY JOHN COX The Bakersfield Californian jcox@bakersfield.com

SATURDAY, JAN 10, 2015 5:30 PM

Kern County politicians are preparing for "war" with federal and state oil regulators over a permitting slowdown whose roots reach to a 2011 backlog that led Gov. Jerry Brown to oust two top Sacramento officials.

At issue then and now is increased scrutiny of oil producers' applications to dispose of wastewater by injecting it deep underground, an activity considered integral to Kern's petroleum industry.

State officials acknowledge their reviews of injection project proposals have taken longer lately as the U.S. Environmental Protection Agency increases pressure on California to do more to protect potential sources of future drinking water from contamination.

Locally elected officials in Sacramento and Washington, D.C., contend the permitting delays are unjustifiably holding up projects that employ Kern oil workers.

"We want to be safe but, doggone it, we have to keep people working down there in Kern County," said state Sen. Andy Vidak, R-Hanford.

RELATED INFO

INJECTION WELL TIMELINE

1974: Congress passes Safe Drinking Water Act, establishing groundwater protections.

1980: Environmental Protection Agency puts injection well regulations into place.

1981: American Petroleum Institute files lawsuit claiming EPA's regulations were overly broad and beyond SDWA's intent.

1982: EPA amends its regulations to include a special provision for oil and gas production.

1982-1990: EPA grants 20 states, including California, authority to oversee SDWA groundwater protections.

Summer 2011: EPA-commissioned audit calls out numerous problems with California's oversight of oil field injection work.

November 2011 : Gov. Jerry Brown, under pressure from California's oil industry and lawmakers from Kern County, removes the state's top two petroleum regulators over injection well permitting delays.

June 2014: EPA calls on regional water officials to establish a "consistent and predictable process" for reviewing aquifer exemption requests required for most oil field waste disposal.

July, August 2014: State regulators shut down about a dozen disposal injection wells in Kern oil fields, saying the aquifers they target into were never exempted from the SDWA.

December 2014: The EPA sets a Feb. 6 deadline for state oil and water regulators to deliver a comprehensive plan for coming into compliance with federal groundwater protections by Feb. 15, 2017

LINKED ARTICLES

A key difference between the current standoff and the one three years ago is that the push for more in-depth injection project reviews is now seen as originating in Washington, not Sacramento. This distinction has put focus on the role of Rep. Kevin McCarthy, R-Bakersfield, who worked for a solution with state officials in 2011 but now is being asked to exert influence within the EPA.

A McCarthy spokesman said the congressman is aware of the problem and working to resolve it.

Kern lawmakers, meanwhile, are calling for a legislative hearing and meetings with Gov. Brown and other senior state officials. They say all parties must work together to establish a clear path for industry to secure approval of safe injection projects.

"This is a war that is going to continue to escalate," said state Sen. Jean Fuller, R-Bakersfield.

Recent escalation

The long-brewing conflict, precipitated by a 2011 federal audit highly critical of California's oversight of oil field injections, escalated last summer when the state shut down about a dozen injection wells in Kern County. Officials cited concerns that "produced water," the salty solution that comes up from the ground along with crude oil, was being injected into aquifers never exempted from protections established by the federal Safe Drinking Water Act.

Oil injections workshop yields limited comments, strong skepticism (/News/Business/2015/09/15/Oil-injections-workshop-yields-limited-comments-strong-skepticism.html)

Workshop will solicit input for new rules on oil field injections (/News/Business/2015/09/14/Workshop-will-solicit-input-for-new-rules-on-oil-field-injections.html)

In September, Bakersfield oil producer Chad Hathaway sued the state Department of Conservation, alleging it has refused to process his injection well application. The lawsuit is pending.

The department's Division of Oil, Gas and Geothermal Resources acknowledged a slowdown in permitting as it requests more data than it used to from oil producers seeking injection approvals.

Evidence of a slowdown

Between Jan. 1, 2014, and the third week in December, DOGGR said, it issued approvals for 74 percent of the 561 applications it received for what are known as Class II Underground Injection Control projects, which can be for disposal activity or the oil well stimulation activity known as cyclic steaming.

By comparison, the division said, it approved 817, or 89 percent, of the UIC Class II applications it received during the same period a year before.

DOGGR chief Steve Bohlen said in a written statement the agency is "proceeding responsibly and cautiously" after findings that injections were being made into improper zones. He said state and regional water officials, which work with the division on UIC reviews, also are giving more scrutiny to injection work.

A spokesman for the State Water Resources Control Board asserted its staff is "consulting promptly" with DOGGR on UIC reviews because it understands the oil industry's need for acceptable disposal sites. But, he added in an email, "we are also cognizant of the need to protect California's limited water resources."

Both agencies have been under increasing pressure not only to dedicate more attention to UIC reviews, but also draw up procedures required by California's landmark 2013 law regulating hydraulic fracturing and other controversial well stimulation techniques. Complications associated with the latter effort have only added to complaints that oil field permitting in the state has become untenable.

EPA pressure

On Dec. 22, the EPA sent the two state agencies a letter ordering them to submit a comprehensive plan by Feb. 6 for complying with federal UIC regulations, then reach full compliance by Feb. 15, 2017. It pledged $550,000 in federal money to help the state accomplish the goal.

The letter was the first to explicitly raise the prospect that, depending on the state's actions, the EPA could move to rescind a 1982 agreement that gave California authority to enforce federal groundwater protections.

In a further indication of the high stakes involved, the EPA's letter also urged the state to decide whether to halt injections into 11 aquifers historically considered to be exempt from the drinking water act. It said the aquifers, which were not identified in the letter, did not contain oil or gas for production and, at least in the 1980s, had water of a high enough quality to qualify for federal protection.

DOGGR, the state's lead agency on UIC reviews, said eight of the 11 aquifers are in Kern County's district. But it was unable to provide information Friday about injections into the aquifers.

Political pressure

Besides McCarthy and Vidak, locally elected lawmakers pushing to resolve the UIC permitting slowdown include Fuller, and two assembly members: Shannon Grove, R-Bakersfield, and Rudy Salas, D-Bakersfield.

Of these, Fuller, Grove and McCarthy were in their current offices in 2011 and participated in the campaign that led Brown to remove former DOGGR Chief Elena Miller, a lawyer appointed to the position by former Gov. Arnold Schwarzenegger, and her boss, Derek Chernow, then-acting director of the state Department of Conservation.

That effort three years ago shared several themes with the latest campaign.

Central to both have been demands for clear and consistent guidance on UIC application requirements, calls to give local DOGGR officials greater discretion on project approvals and worries about potential job losses in Kern. Recently, low oil prices now weigh more heavily on local employment than permitting holdups.

Fuller said the fact that the EPA is more closely involved in the latest conflict means a "bigger approach" is needed to address the issue.

Instead of simply clarifying vague rules at the heart of the last crisis, she said, there will now be an "all-out fight on what the policy should be and whether we use political solutions or scientific-based solutions" to UIC project reviews.

Grove said the situation highlights the need for clear regulations, calling the conflict a result of "bureaucracy at its absolute, positive worst."

Salas said he is trying to organize a legislative hearing, in Sacramento or Bakersfield, where the different agencies involved would be invited to clarify how they see UIC reviews. He said such a meeting would provide better information than the strictly anecdotal evidence he has heard about the permitting slowdown.

Although Salas emphasized no one is calling on the governor to fire anyone at this point, he did say the time has come to identify "who" is causing the delays.

"If it's the head (Bohlen, of DOGGR), I think that the governor would want to make sure that he has somebody who's going to be more efficient and more proactive."

The governor's office declined comment for this story.

Vidak said he is trying to bring together local elected officials, representatives of the governor's office and other top state officials to "just kind of get to the bottom of this."

Meanwhile, he continues to receive input from Kern oil producers about their permitting frustrations.

"We're hearing it, that's for sure," he said.

A leading oil industry trade group in California, the Western States Petroleum Association, said in a written statement it encourages DOGGR and the EPA to resolve UIC concerns "as quickly as possible."

"While WSPA and it members take concerns about groundwater quality very seriously, it is important to note that there has been no evidence presented that underground injection activities in Kern County have in any way been detrimental to drinking water or the environment," it wrote.

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EXHIBIT “32”

DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

February 6, 2015

Ms. Jane Diamond
Director, Water Division
Region IX
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: Class II Oil and Gas Underground Injection Control

Dear Ms. Diamond:

Thank you for your letter of December 22, 2014, regarding the several meetings and dialogue we have been engaging in for the past several months, and your request for a more detailed plan of action to address issues with California's Class II Oil and Gas Underground Injection Control program.

Our agencies share a common goal with the United States Environmental Protection Agency (US EPA): to ensure public health and safety and the protection of groundwater resources for California residents who live and work near oil producing areas of California. The Division of Oil, Gas, and Geothermal Resources (Division) is responsible for ensuring that operators of oil and gas injection wells adhere to environmental rules and permit requirements that protect groundwater and other resources. The State Water Resources Control Board (State Water Board) assists the Division with the protection of water resources. Consistent with our mutual roles related to ongoing injection activities, the Division and the State Water Board are working closely together for more integrated oversight of the underground injection control program.

Following a discussion of the relevant background, we lay out the intended approach jointly developed by the Division and the State Water Board to address what has been the primary focus of our discussions since last summer: details about the review and, where necessary, redirection of underground injection operations in this State. We then address your request for detail on our intended plan to meet the critique expressed in the 2011 report of the Horsley Witten Group (Horsley Witten). Finally, we conclude with a discussion of plans to communicate these developments to the public.

BACKGROUND

Oil and gas production in California is a $34 billion annual industry, employing more than 25,000 people with an annual payroll of over $1.5 billion. California is the third largest oil-producing state in the nation, producing about 575,000 barrels per day. Property and other tax payments to the State and local governments from the industry amount to about $800 million annually. There are approximately 90,000 active or idle production and injection wells in the State.

Injection wells have been an integral part of California's oil and gas operations for more than 50 years. Currently, over 50,000 oilfield injection wells are operating in the State. Injection wells are used to increase oil recovery and to safely dispose of fluid produced with oil and natural gas. About 75 percent of California's oil production is the result of Enhanced Oil Recovery (EOR) methods such as steam flood, cyclic steam, water flood, and natural gas injection. Of these injection wells subject to UIC regulations, approximately 1,500 are fluid disposal wells, which are necessary to re-inject water produced with oil and gas and other fluids that cannot be disposed of through any other method, such as treatment, beneficial use, or recycling for other industrial applications. Most of the oil and gas fields in the State are quite mature. Many are in the waning stages of their productive cycle and require EOR techniques for continued development. The use of injection wells has been increasing in recent years. The increased use of injection potentially creates additional health and safety risks.

The protection of California's aquifers from contamination is a matter of the highest priority for the Division and the State Water Board, and of special importance given the state of emergency resulting from our unprecedented drought. Therefore, this effort to modernize the regulation of the State's injection wells must be both urgent and thorough. As explained more fully below, the Division has begun systematically reviewing these wells and applicable regulations as part of its mandate to protect public health and safety.

2011 Audit and Horsley Witten Report

In 2010, the Division worked with US EPA to conduct an audit to review the Division's practices and regulations, and ensure the Division's compliance with its obligations to properly administer its Class II injection program as a primacy state under the US Safe Drinking Water Act (SDWA) and applicable California law. The audit, conducted by the Horsley Witten Group, was completed in the summer of 2011. Horsley Witten highlighted several areas of concern, and the US EPA requested a plan to address the gaps identified. The Division responded in November 2012 (Enclosure A) by committing to adopt regulations and provide additional resources to close the gaps identified in the audit and create a stronger, more robust regulatory program.

In 2013, the Department took important steps toward meeting this commitment, including:

- Added 36 staff positions and enhanced staff training on UIC Program mandates and requirements
- Added resources to address orphan well plugging and abandonment
- Worked with the Legislature to help it enact revisions for the financial requirements for bonding
- Established a Division monitoring and compliance unit to conduct internal assessment of the UIC Program

Injection Project Review and Aquifer Exemptions

The Division acknowledges that in the past it has approved UIC projects in zones with aquifers lacking exemptions. The Division has not kept up with the task of applying for the necessary aquifer exemptions in hydrocarbon-bearing zones required by statute, even though many of these zones possess attributes that would qualify them for exemption. The Division has thus been slow to reconcile the reality that industry has expanded the productive limits of oil fields established in the 1982 primacy agreement with SDWA requirements to obtain aquifer exemptions.

Complicating matters, 11 aquifers with historical injection activities before 1982 were described in State documents in the early 1980s as proposed for exemption, and were endorsed as exempt in subsequent federal documents.[1] This led to the issuance of a number of injection permits in those 11 aquifers. However, the geologic basis for such exemptions is now in question. Therefore, in addition to the zones of aquifers that are lacking exemptions, these 11 aquifers that have historically been treated as exempt will also be evaluated to determine their appropriate exemption status.

Injection Project Review Process

The Division acknowledges injection project review continues, and a process has been developed to determine the wells with the highest risks associated with injection, and the steps to be taken to bring injection well permits into compliance with the primacy agreement with US EPA. This review examines the following groups of wells, in this order:

[1] Among these documents are (1) a December 13, 1982, Region IX memo forwarding to US EPA headquarters a version of the Memorandum of Agreement containing no significant exemption denials, described by Region IX as resolving "all known issues" with California's primacy application, and (2) a May 17, 1985, letter from Frank Covington, US EPA's then-Director of the Water Management Division for Region IX that appears to confirm that US EPA did not deny any of the exemptions proposed by the Division in its primacy application.

Category 1 Wells: Class II water disposal wells injecting into non-exempt, non-hydrocarbon-bearing aquifers or the 11 aquifers historically treated as exempt

Category 2 Wells: Class II enhanced oil recovery (EOR) wells injecting into non-exempt, hydrocarbon-bearing aquifers

Category 3 Wells: Class II water disposal and EOR wells that are inside the surface boundaries of exempted aquifers, but that may nevertheless be injecting into a zone not exempted in the primacy agreement

This review covers over 30,000 wells, more than 29,000 of which are cyclic steam wells in hydrocarbon zones. Review of wells in Category 1 is nearing completion. Review of wells in Categories 2 and 3 is expected to be complete in early 2016 as annual project reviews are completed in compliance with regulation. When completed, this review will serve to clarify records and improve data quality so that the full review of the UIC program can be completed.

An initial list of wells injecting into non-exempt USDW aquifers was previously provided to US EPA. That list includes Category I and II wells. While updating, reviewing, and validating that list is ongoing, attached (Enclosure B) is a summary of the information. Of the 2,553 wells on the list, approximately 140 of the active wells have been tabbed for immediate review by the State Water Board because the aquifers are reported to be lacking hydrocarbons and contain water with less than 3,000 mg/l total dissolved solids (TDS). The State Water Board is currently reviewing those wells to screen for proximity to water supply wells or any other indication of risk of impact to drinking water and other beneficial uses.

The Division review and updating of all injection well records in this list will be completed by May 15, 2015. The State Water Board expects to be able to review each injection well at a rate of approximately 150 wells per month.

Aquifer Exemptions Process

Together, the Division and the State Water Board have identified a process for aquifer status evaluation and potential aquifer exemptions. Although injection is occurring into aquifers that have not been exempted and the 11 aquifers historically treated as exempt, the potential risks associated with such injection differ from zone to zone. Last summer, as you know, some injection wells that potentially presented health or environmental risks were ordered to cease injection, and the operators ordered to provide specific data so that the regulatory agencies could fully evaluate whether these

wells could potentially have had any measurable impact on nearby water supply wells. To date, the analytical data from the water supply wells that the State ordered to be tested have not shown any contamination of the water supply wells by oil and gas injection activities.

As injection activities in non-exempt aquifers and the 11 aquifers historically treated as exempt are delineated and described, the Division will require relevant oil and gas operators to obtain and prepare the necessary supporting documentation to justify aquifer exemptions. If these data support an aquifer exemption proposal, the Division will prepare and submit draft proposals for aquifer exemptions to the State Water Board for their concurrence. Once both agencies are satisfied with the proposed exemption and justification, the Division will submit the aquifer exemption applications to the US EPA for approval. A more detailed statement of the Division's and State Water Board's process for development of aquifer exemption applications is described in Enclosure C.

Going forward, the Division will take the following steps in this general order:

1. Work with US EPA to clearly articulate to the public the requirements for aquifer exemptions. This will be undertaken via two US EPA-sponsored workshops, one in Bakersfield the last week of February 2015 and the second in Los Angeles the last week of March 2015. The purpose of these workshops is to inform interested stakeholders, of the kind of data and data analysis essential to the development of a robust application by the State for an exemption of a portion of an aquifer from the SDWA by the US EPA.

2. Delineate a clear process for operators to supply the required supporting data to support and justify an aquifer exemption application. The Division will prepare its own guidance document to facilitate receiving appropriate information and data from operators to prepare justifiable aquifer exemption applications. A guidance document should be available by April 1, 2015.

Although this timeline suggests that the Division may not be able to move forward with aquifer exemptions until after April 1, 2015, this is not necessarily the case. The Division has already been evaluating the data supplied by operators for the preparation of a number of aquifer exemption requests by the State. Moreover, to enhance efficiency and reduce duplication of efforts, the Division is instructing oil and gas operators to develop a process by which several adjacent operators can combine data so that portions of aquifers relevant to the operations of different operators can be considered as a whole.

The Division will provide the data and an analysis of the data to the State Water Board for consultation prior to submitting them to US EPA. The Division will submit the exemption request to US EPA if the portion of the aquifer meets the criteria for exemption and the State Water Board determines that injection into the aquifer will not adversely affect existing or potential beneficial uses of groundwater.

Wind-Down of Existing Injection and Permitting of New Injection

The Division proposes to use a combination of administrative mechanisms to ensure that existing and new injection into non-exempt aquifers and the 11 aquifers historically treated as exempt is either phased out or covered by an aquifer exemption, and that any threats to drinking water or other beneficial uses of water are urgently addressed.

To summarize, the Division will use rulemaking to codify a wind-down schedule that provides transparency to the regulated community and the public at large. The schedule will provide for the phased elimination of new and existing injection into aquifers that have not been approved as exempt by the US EPA by February 15, 2017. New injection will be allowed only if strict criteria are met, and, like existing injection, will have to cease if no new exemption has been timely obtained. At the same time, the Division, in consultation with the State Water Board, will issue administrative orders to address specific circumstances where injection poses a threat to drinking water or other beneficial uses of water. Major highlights of the approach to address existing injection and new injection into these aquifers are presented below. A more detailed and complete description of the approach is contained in Enclosure D.

Rulemaking

By April 1, 2015, the Division will initiate rulemaking to establish a regulatory-compliance schedule to eliminate Class II injection into undisputedly non-exempt aquifers statewide. The proposed regulations will require the following:

1. The first principle of the regulations will be that all Class II injection into non-exempt aquifers with less than 10,000 TDS must, in all cases, cease by February 15, 2017, unless and until an aquifer exemption has been duly approved by US EPA. Injection may be ordered to cease earlier if a well is determined to potentially impact water supply wells,[2] as discussed further, below. ("Administrative Orders.")

[2] Injection wells potentially impacting water supply wells include injection wells into aquifers with 3,000 TDS or less that meet either of the following criteria: (1) the uppermost depth of the injection zone is less than 1,500 feet below ground surface (regardless of whether any existing supply wells are in the vicinity of the injection well), or (2) the injection depth is within 500 feet vertically and 1 mile horizontally of the screened portion of any existing water supply well.

2. Where a non-exempt aquifer contains 3,000 TDS or less and is non-hydrocarbon producing, injection must cease by October 15, 2015, unless and until an aquifer exemption has been approved by US EPA.

3. Where a non-exempt aquifer is hydrocarbon producing, new wells that are part of a previously approved project may be permitted if groundwater in the vicinity of the hydrocarbon-bearing zone does not currently have any beneficial use.[3] Such approvals will include the express condition that the permit expires on February 15, 2017, unless US EPA approves an aquifer exemption before then.

4. With respect to the 11 aquifers historically treated as exempt, the State Water Board and the Division will work with US EPA to evaluate these 11 aquifers. If any portion of these aquifers meets the criteria for exemption and the State Water Board determines that injection into the aquifer will not adversely affect existing or potential beneficial uses of groundwater, the Division will prepare and submit an exemption evaluation to US EPA. The evaluation and subsequent decision for these 11 aquifers will be completed by February 15, 2017. Either by the planned regulation or by other appropriate means, the Division may allow for limited new injection into these 11 aquifers in the unusual case where the proposed injection well is part of an approved project and an initial screening of the target zone shows that the zone contains hydrocarbons, has very high levels of naturally-occurring constituents (e.g., arsenic or boron), or there are other factors that make any affected groundwater unsuitable for beneficial use. Finally, the regulation would provide that any approval is subject to evaluation of the appropriate exemption status of the aquifer.

Administrative Orders

During the process of codifying the compliance schedule to phase out injection into non-exempt aquifers, the Division will issue administrative orders to halt any injection that potentially impacts water supply wells. The Division and the State Water Board are presently evaluating all injection into non-exempt USDWs and the 11 aquifers historically treated as exempt to identify potential for such impacts. The evaluation includes screening for water wells in the area of the injection well and collection and review of data regarding the water quality and depth of the aquifer where injection is occurring. Where the evaluation indicates that an injection well potentially impacts

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[3] Note that this does NOT include any use of produced water.

water supply wells, the Division will issue an emergency order to the operator to cease injecting immediately.

Issues Identified in the Horsley Witten Report

The Class II UIC Program is complex, consisting of several components that have distinct attributes and therefore require focused sets of regulations, compliance approaches, and review requirements. Given the rapid evolution of technologies and industry practices to extract more oil and gas from the State's mature fields, regulations developed even a decade ago may not fully address all of the issues created by what is now routine industry practice.

Horsley Witten included several recommendations pertaining to the practices, processes and policies of the Division used to implement the State's oil and gas regulations (Enclosure C). Report recommendations address a wide range of the Division's practices, activities and regulations, either directly or indirectly, in these areas:

- The definition and protection of underground sources of drinking water (USDW) area of review (AOR) and zone of endangering influence (ZEI)
- Well construction and cementing requirements
- Plugging and abandoning requirements
- Requirements for fluid disposal
- Requirements for monitoring of zone pressure
- Annual project reviews
- Well monitoring requirements
- Idle-well planning and testing program
- Financial responsibility requirements
- Cyclic steam injection wells
- Production from diatomite

<u>Regulation Development</u>

Many aspects of the recommendations of the Horsley Witten report can be implemented through existing Division regulations. However, others will require new regulation. Moreover, though cyclic steam injection wells and techniques employed for oil production in diatomite formations were not specifically addressed in the Horsley Witten report, they are extensively used in California, and existing regulations in these areas can be improved.

The Division has not had significant changes to its UIC regulations since the original primacy application. Regulatory amendments will be pursued through a rulemaking process to address these needs. The Division's goal is to ensure its regulations:

- Protect public health, the environment, and resources
- Address the UIC program mandates
- Address industry practices now and into the foreseeable future
- Are developed with the public participation contemplated by statute
- Set predictable standards for the regulated community
- Are implemented and enforced properly

These regulations will be quite extensive and will take some time to develop. The Division anticipates scheduling workshops, public meetings and other outreach to discuss regulations to cover a range of topics. The workshops should include at least the following: US EPA, State Water Board, Regional Water Quality Control Boards, Department of Toxic Substances Control, Air Resources Board, oil and gas operators, county and city agencies, non-government organizations, and the general public.

Potential Areas for New and Modified Regulations

We envision that a thorough review of the UIC program, the necessary attendant revision of existing regulations, and the development of needed new regulatory measures will require a period of approximately three years. The areas in which the Division is contemplating new or modified regulations include:

- Well construction and cementing requirements
- Plugging and abandoning requirements
- Evaluation of the zone of endangering influence (ZEI)
- Requirements for fluid disposal
- Requirements for monitoring of zone pressure
- Annual project reviews
- Well monitoring requirements
- Inspections and compliance/enforcement practices and tools
- Idle-well planning and testing program
- Cyclic steam injection wells
- Production from diatomite

Exclusive of proposed program revisions and aquifer exemption, the following milestones need to be met:

- Review of each and all current UIC projects for completeness of records and development of a list of deficiencies.
- Meetings with operators to review records and project deficiencies, and develop a compliance schedule (exclusive of aquifer exemptions).
- Initiate and complete rulemaking as a comprehensive package.

The Division will prepare a more detailed work plan for UIC rulemaking by April 15, 2015.

Searchable Database for Class II Wells

Activities to review UIC projects, check and revise data on all injection wells, and the development of aquifer exemption applications will all drive improvement in the Division's data that in turn will drive the need for vastly improved data management systems.

The Division's data management systems need significant upgrades. In response to the demands created by the requirements of the well stimulation program as a result of Senate Bill 4, the Division has hired additional GIS staff whose combined capabilities will be sufficient to manage all of the Division's needs. However, other aspects of the data management problem will be more difficult to resolve and will be conducted continuously in the background as project reviews, well reviews, and aquifer exemption information are compiled in a GIS environment.

You asked for a forecast of when the Division might be able to have a fully searchable database of injection wells available. Unfortunately, we cannot respond with specificity to this request due to inadequacies in the data management environment itself, and current lack of financial resources needed to create an adequate environment. The Division is, however, strongly committed to this effort and will follow up with US EPA when we can provide a more definitive answer.

The Division has created a team to develop a Feasibility Study Report (FSR) that will consider the Division's current and future requirements for data management and the kind of data environment that is needed for the Division to serve all stakeholders far more efficiently and effectively in the future. The FSR is a fundamental first step in the State's IT-procurement process and will be completed in December 2015. An approved

FSR will lead to a budget change proposal to seek the funds needed for system development.

Communication Plans

The closure of injection wells in Kern County during the summer of 2014, has required focused attention to communication with key stakeholder groups. These include industry, environmental organizations, elected officials – especially the state and federal elected representatives – the press, and via the press, the public.

The Division and the State Water Board have responded to a large number of stakeholder and public inquiries, and, to enhance public awareness, have developed frequently asked questions, statements, and presentations delivered at numerous public fora.

In short, much preparatory work has been accomplished. However we will continue to build on this communications foundation with additional attention to meet growing inquiries. We take seriously our responsibility to address growing public concern and press inquiries in a timely and informative manner.

Communication and outreach can be amplified by providing regularly updated information on the UIC program, background documents and reports, frequently asked questions, and work status on priority items noted above, specifically aquifer exemption applications, all clearly linked on the Division's web page. This page will serve as a clearinghouse for information on program activities, items of interest to stakeholders, and meeting and other notifications.

The Division and the State Water Board will continue to meet regularly with industry, environmental and other non-governmental organizations, elected officials, as well as US EPA.

CONCLUSION

The severe drought emergency, new regulations for well stimulation with ground water monitoring and other requirements, as well as long overdue revisions to the UIC program, have fundamentally changed how the Division and the State Water Board work together to protect public health and ensure the security of the State's

groundwater resources. We are committed to making this relationship effective so that the State can achieve full compliance with the SWDA, and we are committed to revising the UIC program efficiently, and with public safety as a first priority. We look forward to continuing our active dialog with you and to advancing our Federal-State partnership.

Sincerely,

Steve Bohlen
State Oil and Gas Supervisor

Sincerely,

Jonathan Bishop
Chief Deputy Director

Attachments

cc: Cliff Rechtschaffen, Governor's Office
John Laird, Natural Resources Agency
Matthew Rodriquez, CalEPA

Enclosure B: Breakdown of Wells Potential Injecting into Non-exempt USDW Zones.

Enclosure B: Breakdown of Wells Potentially Injecting into Non-exempt USDW Zones and the Eleven Aquifers that have Historically Been Treated As Exempt

Breakdown review completed as of February 5, 2015

A. List of Water Disposal Wells – 532 Wells

Wells with…	Number of Wells	Number of wells issued orders	Number of wells (idle) in the 11 aquifers historically treated as exempt	Total Number of idle wells
Total Dissolved Solids (TDS) less than 3,000 mg/l	176	10	87 (20)	48
TDS between 3,000 and 10,000 mg/l	282	0	7 (4)	47
TDS under review or Data Requested	32	0	0	14
Subtotal	**490**	**10**	**94 (24)**	**109**
TDS greater than 10,000 mg/l (Wells being removed from list)	**42**			
Total	**532**			

B. List of Enhanced Oil Recovery Wells – 2021 Wells

Wells with…	Number of Wells	Number of wells issued orders	Number of wells (idle) in the 11 aquifers historically treated as exempt	Total Number of idle wells
Total Dissolved Solids (TDS) less than 3,000 mg/l	503	0	0	57
TDS between 3,000 and 10,000 mg/l	1327	0	0	225
TDS under review or Data Requested	157	0	0	62
Subtotal	**1987**	**0**	**0**	**344**
TDS greater than 10,000 mg/l (Wells being removed from list)	**34**			
Total	**2021**			

EXHIBIT “33”

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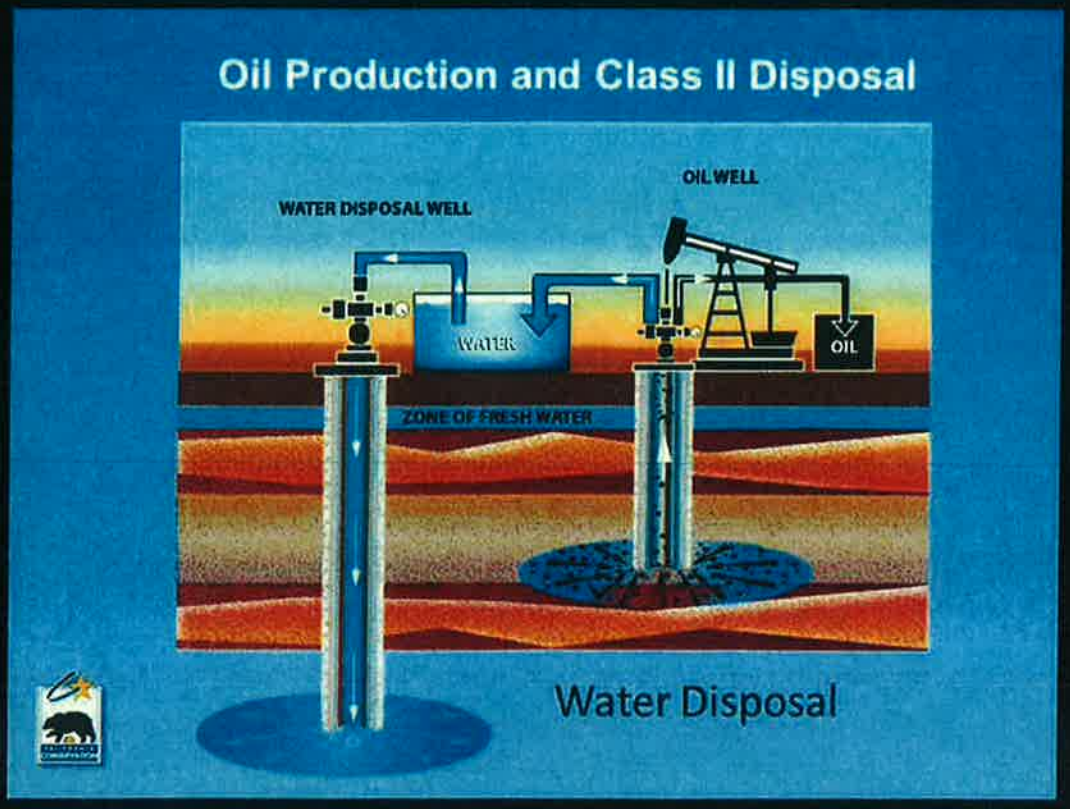

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EXHIBIT “34”

EDMUND G. BROWN JR., GOVERNOR

DEPARTMENT OF CONSERVATION
Managing California's Working Lands
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

California Water Boards

May 15, 2015

Mr. Michael Montgomery
United States Environmental Protection Agency – Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Dear Mr. Montgomery:

As part of the approved plan to resolve compliance issues with California's program to regulate the injection of Class II fluids, the Division of Oil, Gas, and Geothermal Resources (Division) and the State Water Resources Control Board (State Water Board), on behalf of the State of California, have taken the following steps:

1. **Initiated emergency rulemaking to address injection into sub-10,000 milligrams per liter (mg/L) total dissolved solids (TDS), non-hydrocarbon producing zones.**

   On April 2, 2015, the Department of Conservation issued public notice of its intent to adopt emergency regulations to codify the compliance deadlines discussed in previous correspondence between the US EPA and the State, and to establish minimum civil penalties for failure to comply with the compliance deadlines. These regulations were approved by California's Office of Administrative Law on April 20, 2015, and are now in effect.

   Under the new regulation, injection into non-exempt, non-hydrocarbon aquifers containing less than 3,000 mg/L TDS must cease by October 15, 2015; injection into non-exempt, non-hydrocarbon-bearing aquifers containing 3,000 to 10,000 mg/L TDS must cease by February 15, 2017; and injection into the 11 specified aquifers must cease by December 31, 2016, absent determination by the US EPA that an aquifer meets the criteria for exemption. The Department is on schedule to initiate permanent rulemaking by June 1, 2015 as outlined in the approved plan. A copy of the regulations is enclosed herewith as Attachment A.

2. **Conducted further well evaluations.**

   We are pleased to report that the Division and the State Water Board have completed their review of the Category 1 injection wells in accordance with EPA's letter dated March 9, 2015. Category 1 injection wells are those wells that were

permitted to inject Class II fluid for disposal purposes into non-exempt, non-hydrocarbon-bearing aquifers. The Division and the State Water Board also included in Category 1 those injection wells that were permitted to inject Class II fluid for disposal purposes into the 11 aquifers that have been historically treated as exempt.

The Division initially identified for EPA a total of 532 Category 1 injection wells, and are treating them in two groups, depending on the water in the zone of injection. The first group consists of 176 injection wells injecting into aquifers that are below a concentration of 3,000 mg/L TDS. (See table in Attachment B.) The second group consists of 356 injection wells injecting into aquifers that are above a concentration of 3,000 mg/L TDS. (These 356 wells, broken into three groups, are described in the tables at Attachments C, D and E.) All 532 of these injection wells have been further reviewed by the Division, and the Division has determined that 80 of the 532 injection wells do not meet the criteria for Category 1, as explained below.

Disposition of the Group of 176 Category 1 Wells. Of the 176 Category 1 injection wells that were initially identified to EPA as permitted to inject into aquifers that are at or below 3,000 mg/L TDS, the Division has determined that 21 did not meet the Category 1 criteria because they (a) were completed in an aquifer that has a TDS concentration above 10,000 mg/L so an exemption was not needed (1 injection well), (b) were never permitted (1 injection well), or (c) were completed in an aquifer that is exempt (19 injection wells).

The State Water Board has evaluated each of the remaining 155 injection wells in this group to determine whether the injection well has the potential to impact water supply wells. (The State Water Board staff considers an injection well that is injecting into an aquifer with a concentration at or below 3,000 mg/L TDS as having the potential to impact water supply wells if the injection zone is less than 1500 feet below ground surface, or the injection zone is within 500 feet vertically and one mile horizontally of the screened portion of any known existing water supply well.) State Water Board staff has determined that 53 of the 155 injection wells are potentially impacting water supply wells. Pursuant to our joint plan of action, the Division has obtained, through order or operator relinquishment, the shut-in of 23 wells. It is awaiting receipt of additional test data before making a determination as to whether to seek shut-in before the October 15, 2015 compliance schedule date. In addition, the applicable regional water quality control boards have ordered the operators of all 155 injection wells to submit information regarding the quality of the injected fluids, the quality of the aquifer, and the location of any nearby water supply wells.

Disposition of the Group of 356 Category 1 Wells. Of the 356 Category 1 injection wells that were initially identified to EPA as permitted to inject into aquifers that are above a concentration of 3,000 mg/L TDS, the Division determined that 59 did not

meet the Category 1 criteria because the injection well (a) was completed in an aquifer that has a TDS concentration above 10,000 mg/L, so an exemption was not needed (47 injection wells), (b) was never drilled or permitted for waste disposal (11 injection wells), or (c) was completed in an aquifer that is exempt (1 injection well).

The State Water Board has evaluated each of the remaining 297 injection wells to determine whether the injection zone is less than 1500 feet below ground surface, such that the portion of the aquifer into which the injection well is injecting might reasonably be expected to supply a public water system. State Water Board staff has determined that 207of the 297 injection wells have injection zones that are less than 1500 feet below ground surface. Pursuant to our joint plan of action, the Division and the State Water Board will undertake a more in depth review to assess if further action is needed to protect potential drinking water sources ahead of the deadline of February 15, 2017. In addition, the applicable regional water quality control boards plan to order the operators of all 297 injection wells to submit information regarding the quality of the injected fluids, the quality of the aquifer, and the location of any nearby water supply wells.

3. **Revised Enclosure B of the State's February 6th letter to incorporate cyclic steam wells not associated to an approved project.**

In addition to the review of the Category 1 wells, the state has identified approximately 3,600 cyclic steam wells that had some injection reported in 2014, and that are shown in Division's databases as not being associated to a permitted injection project. These wells are described in the table in Attachment F.

These wells are producing oil wells for which there is steam injection of limited duration and volume, into zones laden with hydrocarbons. Additionally, some of the formations into which steam is injected have little or essentially no permeability and therefore would not qualify as aquifers. Therefore, most of these wells are very unlikely to pose a threat to potential water supply wells. As reflected in your March 9 letter, these wells will be reviewed and analyzed by July 31, 2015. The enclosed map gives an example of a typical layout of these non-associated wells. (See Attachment G.)They tend to be intermingled with wells in an existing project and likely reflect a deficiency in the proper recording of these wells as associated to a properly permitted project.

4. **Shut in wells and issued orders for further information.**

The Division has ordered shut in, or received operator permit relinquishments, on a total of 23 wells. (Attachment H.) The State Water Board has issued orders for additional water quality information ("13267 Orders") for 157 injection wells. (Attachment I.) As the well review process continues and test results are

evaluated, the State will issue additional orders if a threat to water supply wells is determined.

We are committed to continue meeting the agreed upon schedule to bring the UIC program into compliance with the Safe Drinking Water Act, and we are also committed to revising the UIC program efficiently, with public safety as our first priority. Please let us know if you have any questions regarding the data attached with this letter.

Sincerely,

Steve Bohlen
State Oil and Gas Supervisor
Division of Oil, Gas and Geothermal Resources

Sincerely,

Jonathan Bishop
Chief Deputy Director
State Water Resources Control Board

Attachments

cc: Cliff Rechtschaffen, Senior Advisor, Governor's Office
John Laird, Secretary, California Natural Resources Agency
Matthew Rodriquez, Secretary, California Environmental Protection Agency

EXHIBIT “35”

DEPARTMENT OF CONSERVATION
Managing California's Working Lands
DIVISION OF OIL, GAS, & GEOTHERMAL RESOURCES

CALIFORNIA Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

July 15, 2015

Mr. Michael Montgomery
United States Environmental Protection Agency – Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Dear Mr. Montgomery:

We are continuing to forge through our review of the status of active injection wells, receive operator information concerning aquifer exemption proposals, and work on several other agreed tasks necessary to update California's Class II underground injection program.

As part of this ongoing effort, we agreed to submit the following to you by today: (1) a preliminary assessment of whether data currently supplied to us demonstrates that each of the aquifers historically treated as exempt presently meets the criteria for an aquifer exemption; (2) a plan and timeframe for addressing the closure of those injection wells for which there is insufficient evidence that the zone of injection meets the criteria for an aquifer exemption; (3) a detailed plan for Class II program improvements; and (4) an outline of our intended course of action for obtaining public comment on our aquifer exemption communications.

Each of these items is addressed, in turn, below. We conclude with updates on a variety of related items.

1. Preliminary Assessment of 11 Aquifers Historically Treated As Exempt

Attachment 1 to this letter is the Division's *Preliminary Assessment of Eleven Aquifers Historically Treated As Exempt*. It discusses, by field and formation, the following information for each aquifer: (1) the number and location of injection wells; (2) the concentration, in milligrams per liter, of total dissolved solids (TDS) that is representative for each aquifer; (3) the TDS of the injected fluids for each aquifer; (4) the depth of injection historically; and (5) volumes injected since 1983, in barrels.

One of the eleven aquifers, the undifferentiated aquifer in Wild Goose Field, may have TDS in excess of 10,000 mg/L. If so, it would not be considered a USDW and thus would require no evaluation at this juncture. As for the remaining aquifers, the Division's preliminary assessment is that most or all may not meet the criteria for an

aquifer exemption. Currently available information indicates that, aside from the undifferentiated aquifer in Wild Goose Field, the aquifers contain between 400 and 3,325 mg/L total dissolved solids, and are found at depths as shallow as 200 feet and not deeper than 3,000 feet. However, there are residual water quality questions to be resolved concerning these aquifers that may support exemptions, and we are continuing to work with operators to resolve data gaps.

Five of the eleven aquifers appear to have no wells actively injecting. The Division believes it is unlikely that any operator will endeavor to collect and present new information regarding those aquifers. The Division will likely conclude its evaluation of those aquifers sooner than it will for the aquifers in which injection is occurring. We will continue to be in regular communication and provide you with updates on our progress as we go.

The Division has been in communication with the operators that have injection wells in these aquifers to see if they have any additional information that would support a determination that an aquifer, or part of an aquifer, meets the aquifer exemption criteria. Although the Division has yet to receive complete information supporting such a determination, the Division believes it is likely that it will be receiving such information for at least one of the 11 aquifers. If information is in fact presented that the Division and State Water Board agree would support a determination that an aquifer, or part of an aquifer, meets the criteria for exemption, the Division will conduct a public process, including a joint hearing with the State Water Board. It will then submit its final determination to U.S. EPA.

Likewise, if it becomes clear that operators cannot provide information that supports a determination that an aquifer meets the criteria for exemption, the Division will deem its evaluation complete for that aquifer. At that point, the Division will issue public notice proposing a determination that the aquifer fails to meet the criteria for exemption, and allow for public comment on that proposed determination. After completing the public participation process, the Division will submit its final determination to the U.S. EPA and request that it take appropriate action as to the exempt status of that aquifer.

2. Plan and Timeframes for Addressing the Closure of Injection Wells for Which There Is Insufficient Evidence That the Receiving Aquifer Meets the Criteria for an Aquifer Exemption

Under the plain language of our emergency regulations and proposed permanent regulations, improper injection activity must end by the relevant deadline agreed to by our respective agencies unless the activity is within a duly-approved aquifer exemption. We fully intend to adhere to the timeframes created by these regulations. Where no exemption is obtained going forward, either because exemption criteria are not met, or because the submittal of relevant data did not occur in time for any of the

three involved agencies to reasonably act, such injection must end until an appropriate exemption is obtained. (Cal. Code Regs., Tit. 14, §§ 1760.1, 1779.1.)

If an affected operator fails to obtain an aquifer exemption by the relevant time, the operator would be in violation of the regulations, and be subject to a notice of violation and order to comply, as warranted.

Of course, injection wells can be, and have been, shut in prior to the applicable deadline under our regulations. As you know, we have been focusing our energies on identifying wells in proximity to waters of beneficial use before widening our review to other wells, and have obtained the shut in of 23 wells to date, either by order or by agreement with the operator. We are continuing to review wells in potential proximity to beneficial uses and will obtain permit relinquishments or issue shut-in orders as warranted.

3. Detailed Plan for Class II Program Improvements

The Division's current plan to address UIC Program improvements, including actions taken to date, a project by project review, rulemaking, training, monitoring and compliance and other activities is set forth in Attachment 2 to this letter, *Plan for Class II Improvements*.

4. Public Participation in Aquifer Exemption Process

Though not explicitly required at this juncture, in Attachment 3 to this letter, *Public Participation Process For Aquifer Exemption Proposals*, we generally describe for you our intended course of action for providing interested members of the public with notice of, and an opportunity to comment upon, our intention to recommend an exemption or state that exemption criteria have been met in a given case.

5. Other Matters

In our discussions, we agreed to a "soft" or "target" deadline of July 15 for the State to submit to you all applications for aquifer exemptions for wells scheduled to be shut in by October 15, 2015. As we recently discussed with you, to date we have not received adequate data to prepare an aquifer exemption application for the aquifers associated with this deadline.

Once we finish our work with those operators who submit packages, the packages will be circulated to the State Water Board and other interested administration officials. If there is agreement that an aquifer exemption application should go forward, the application will be scheduled for a 30 day notice and public comment period before it is finally sent to your agency for a final determination.

As we recently confirmed to you, we have made it clear to the operators in workshops and in our regulations that (1) the earlier their data packages get to us, the more likely they will be to obtain a final determination from US EPA prior to any deadline to shut in certain classes of wells, and (2) that where no exemption is obtained by the deadline, operations must be shut in.

We trust you will contact us with any questions or concerns, and we look forward to our further discussions of the process as we work together to improve California's Class II program.

Sincerely,

Steve Bohlen
State Oil and Gas Supervisor
Division of Oil, Gas and Geothermal Resources

Sincerely,

Jonathan Bishop
Chief Deputy Director
State Water Resources Control Board

Attachments

cc: Cliff Rechtschaffen, Senior Advisor, Governor's Office
John Laird, Secretary, California Natural Resources Agency
Matthew Rodriquez, Secretary, California Environmental Protection Agency
David Bunn, Director, California Department of Conservation

Attachment 1 Omitted

Attachment 2:

Plan for Class II Program Improvements

Introduction

Since at least the time of the US EPA's 1983 delegation of primacy to the Division of Oil, Gas and Geothermal Resources (Division), the Division's largest regulatory endeavor has been its Class II underground injection control (UIC) program. Significant improvements to this plan will, by necessity, require significant changes in all aspects of the Division – leadership, staffing, training, data management, establishment of metrics, internal review and monitoring against standards. Organizational change of this magnitude is profound, affecting every employee action every day. The Brown Administration, the Department of Conservation and the Division have committed to this organizational restructuring, of which this Plan for Class II UIC Program Improvements is an important – but not sole -- piece.

Given the years of work and level of resources required, it is critical to know what the target is. This plan should be understood in the context of this vision for the Division:

> The Division will become a modern, efficient, collaborative, science-driven agency that intelligently and consistently regulates State oil and gas activities using modern field tools integrated with advanced data management systems that allow for oversight of a greater number of activities. Safety and training will become integrated cultural norms. The Division will be much better connected with oil and gas-related research activities in industry, academia, and national laboratories so that it can see regulatory challenges coming in advance and apply regulations from an elevated platform of understanding. The Division will perform its duties with integrated collaboration of other State agencies to reduce the environmental impact of oil and gas development. Internal monitoring and compliance will be routine and fully integrated with all that we do so that Division performance can be measured objectively. The Division will be paperless and have instant access to data and information, and hence be able to support all stakeholder groups. Likewise, stakeholder groups will be able to routinely observe Division activities and retrieve information of interest. The Division will have more effective communications capabilities and be more comfortable engaging stakeholder groups.

BACKGROUND AND OVERVIEW

Injection wells have been an integral part of California's oil and gas operations for over 50 years. Currently, over 50,000 oilfield injection wells are operating in the state. Injection wells are used to increase oil recovery and to safely dispose of waste fluid produced with oil and natural gas. About 70-75 percent of California's oil production is the result of enhanced oil recovery (EOR) methods such as steam flood, cyclic steam, water flood, and natural gas injection, all of which involve some sort of injection activity.

Attachment 2

Pages 2-4 Omitted

be measured objectively. The Division will be able to support all stakeholder groups because it will be paperless and have instant access to data and information. Hence stakeholder groups will be able to routinely observe Division activities and retrieve information of interest. The Division will have more effective communications capabilities and be more comfortable engaging the constellation of stakeholder groups.

Such profound organizational renewal will consume several years and require constant, focused attention. This work plan is an important initial piece of that renewal. The UIC plan is designed to strengthen the current UIC Program through new regulations, consistent, ongoing training, enhanced compliance oversight, and an evaluation of existing projects and UIC operations.

Assessment by Monitoring and Compliance Unit

The Division has conducted a partial assessment of the Division UIC Program by sampling and reviewing program activities and compliance oversight in one of its District offices. In the development of the assessment, the Division considered the following concerns to help develop a priority list:

- Risk to the public
- Risk to health and safety
- Risk to property
- Risk to natural resources
- Risk of litigation

Based upon known conditions at the time of the assessment, the injection projects located in the Cypress District (Division – District 1) appeared to have the highest priority. The District has around 800 injection projects, which includes over 2,000 injection wells.

The assessment was designed to give greater insight into the range of shortcomings in the Division's UIC program. The UIC program standards that should be used are listed in both California's Primacy application and the federal regulations associated with the Safe Drinking Water Act and Class II injection wells. The assessment has:

- Evaluated a representative sampling of old projects that are in fields that were discovered in the 1930's and 1940's to determine if appropriate Area of Reviews (AOR) were completed and to determine if possible conduits for the injection fluid are present
- Evaluated a representative sampling of recent projects to determine if appropriate AORs were completed and to determine if possible conduits for injection fluid are present
- Evaluated a representative sampling of the records for annual project reviews to determine if they were performed and documented adequately to determine if the project is in compliance with the project approval

Attachment 3 Omitted

EXHIBIT “36”

R. Rex Parris | LAW FIRM

43364 10th Street West
Lancaster, California 93534
T: 661.949.2595 | F: 661.949.7524

12100 Wilshire Boulevard, 8th Floor
Los Angeles, California 90025
T: 310.824.5600 | F: 661.949.7524

January 8, 2013

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Governor Jerry Brown c/o State Capitol, Suite 1173 Sacramento, CA 95814 Phone: (916) 445-2841 Fax: (916) 558-3160	Office of Governor Edmund G. Brown, Jr. c/o State Capitol, Suite 1173 Sacramento, CA 95814 Phone: (916) 445-2841 Fax: (916) 558-3160
State of California Department of Conservation 801 K Street, MS 24-01 Sacramento, CA 95814 Phone: (916) 322-1080 Fax: (916) 445-0732	State of California Attorney General Kamala D. Harris Attorney General's Office California Department of Justice Attn: Public Inquiry Unit P.O. Box 944255 Sacramento, CA 94244-2550 Phone: (800) 952-5225 Fax: (916) 323-5341
State of California Department of Conservation Division of Oil, Gas & Geothermal Resources (DOGGR) Headquarters/State Oil and Gas Supervisor 801 K Street, MS 20-20 Sacramento, CA 95814 Phone: (916) 323-1777 Fax: (916) 323-0424	State of California Attorney General Kamala D. Harris Office of the Attorney General 1300 "I" Street Sacramento, CA 95814-2919 Phone: (916) 445-9555
State of California Department of Conservation DOGGR Oil and Gas District 1 5816 Corporate Avenue, Suite 200 Cypress, CA 90630-4731 Phone: (714) 816-6847 Fax: (714) 816-6853	State of California California Victim Compensation and Government Claims Board P.O. Box 3035 Sacramento, CA 95812-3035 Phone: (800) 955-0045

State of California Department of Conservation DOGGR Oil and Gas District 2 1000 S. Hill Road, Suite 116 Ventura, CA93003-4458 Phone: (805) 654-4761 Fax: (805) 654-4765	State of California Department of Conservation DOGGR Oil and Gas District 3 5075 S. Bradley Road, Suite 221 Santa Maria, CA 93455-5077 Phone: (805) 937-7246 Fax: (805) 937-0673
State of California Department of Conservation DOGGR Oil and Gas District 4 4800 Stockdale Highway, St. 417 Bakersfield, CA 93309-2694 Phone: (661) 322-4031 Fax: (661) 861-0279	State of California Department of Conservation DOGGR Oil and Gas District 5 466 N. Fifth Street Coalinga, CA 93210-1793 Phone: (559) 935-2941 FAX: (559) 935-5154
State of California Department of Conservation DOGGR Oil and Gas District 6 801 K Street, MS 20-22 Sacramento, CA 95814 Phone: (916) 322-1110 Fax: (916) 323-0424	State of California Department of Conservation DOGGR Geothermal District G1 801 K Street, MS 20-21 Sacramento, CA 95814 Phone: (916) 323-1786 Fax: (916) 323-0424
State of California Department of Conservation DOGGR Geothermal District G2 605 Wake Avenue, Suite 7 El Centro, CA, 92243-2235 Phone: (760) 353-9900 Fax: (760) 353-9594	State of California Department of Conservation DOGGR Geothermal District G3 50 D Street, Room 300 Santa Rosa, CA 95404-4772 Phone: (707) 576-2385 Fax: (707) 576-2611

Re: Pre-litigation Discovery Hold Letter/Notice Re Spoliation of Evidence

To Whom it Concerns:

This office has been engaged in investigation regarding and will shortly file a number of claims and lawsuits arising from extreme damages sustained by landowners throughout the State of California, caused not only by negligence on the part of the State of California but, intentional violations of Federal and State law, including violations of the Constitution of the United States and the California State Constitution. In anticipation of these actions, we hereby demand that you and each of you comply with and adhere to your legal duty and responsibility to retain and not destroy evidence in contemplation or anticipation of litigation.

You are hereby on notice that this office will be filing claims in both State and Federal court and hereby demand that your agencies put an immediate hold on all electronic and paper documents comprised of, relating to or concerning any and all communications between your affected agencies and the oil industry, including any oil and gas companies, as well as the Western States Petroleum Association (WSPA), the California Independent Petroleum Association (CIPA), the Independent Oil Producers' Agency (IOPA) and the Conservation Committee of California Oil & Gas Producers (CCCGP) in the period January 1, 2000 to present. The scope of this litigation hold or freeze should be construed broadly by you and includes documents and writings as defined by California Evidence Code section 250 ["'Writing' means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored."] as well as Electronically Stored Information ("ESI") as defined by California Code of Civil Procedure section 2016.020 ["'Electronically stored information' means information that is stored in an electronic medium.]. This hold letter includes a demand that you maintain all ESI in "native" format and cease implementation of any and all document retention or destruction policy that may call for destruction writings or deletion of ESI.

Your duty to adhere to and implement this discovery hold or freeze arises from both California and Federal Law. (Kronisch v. United States (2nd Cir. 1998) 150 F3d 112, 130; Sensonics, Inc. v. Aerosonic Corp. (Fed. Cir. 1996) 81 F3d 1566, 1575; Silvestri v. General Motors Corp. (4th Cir. 2001) 271 F3d 583, 590 ["Litigants owe an 'uncompromising duty to preserve' what they know or reasonably should know will be relevant evidence in a pending lawsuit, or one in the offing, even though no discovery request or order to preserve the evidence has yet been made. Violation of this duty is known as 'spoliation.'"].)

A copy of this hold letter should be directed by you, with a memorandum instructing adherence, to all current and past employees of your agencies who retain writings or have used any electronic devices, including but not limited to computers and cell phones -- including cell phones that were privately owned but used in the conduct of official business – that contain or main contain ESI. As you are no doubt aware, the fact of this litigation freeze letter gives rise to your obligation to communicate with key employees, former employees, contractors, former contractors, and subordinates, to make certain all sources of potentially relevant information are identified and placed "on hold," and that all backup media are identified and stored in a safe place. (Zubulake v. UBS Warburg LLC (SD NY 2004) 229 FRD 422, 432.)

Please be advised that your failure to adhere to this discovery hold letter or your failure to instruct that its terms be complied with will result in vigorous efforts to secure sanctions against you for doing so. Sanctions contemplated include, but are not limited to:

- Civil and criminal sanctions for "spoliation" of evidence;
- Exclusion of evidence improperly destroyed or withheld; and,

- Use of adverse jury instructions such as Judicial Council of California Civil Jury Instruction number 204 entitled "Suppression of Evidence" ["You may consider whether one party intentionally concealed or destroyed evidence. If you decide that a party did so, you may decide that the evidence would have been unfavorable to that party."].

Writings and ESI that are expressly referenced by this discovery freeze demand include, but are not limited to, the following:

- Any and all writings and ESI concerning permitting, whether decisions to permit or not permit, oil and gas infrastructure including exploration wells, production wells, pipelines, disposal wells, injection wells, hydraulic fracturing (a.k.a. "fraccing" or fracking") facilities and operations, tank farms, etc., in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of all environmental review documents proposed, started and or completed in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of any type of oil or gas permit requested, evaluated, drafted or issued by your agencies in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of or concerning communications concerning studies conducted/performed within your department(s) or conducted/performed by outside consultants or agencies regarding the adequacy of your permitting processes and environmental review processes in connection with any and all aspects of the oil and gas industry and/or oil and gas industry projects in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of or concerning drilling permits and backup documents showing or evidencing any intent to drill exploratory wells and any environmental or other drilling documents evidencing or showing permits to obtain an actual production well and their cumulative impacts within or without the field under or subject to production in the period January 1, 2000 and to present;

- Any all writings and ESI comprised of or concerning environmental issues or safety issues regarding the operation or exploration of disposal and/or waste product disposal facilities and activities in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of or concerning agreements or understandings regarding the proper permitting under and implementation of the California Environmental Quality Act ("CEQA") by you, any and all employees or independent contractors or other agencies in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of or concerning any form of communication of/for the reason reasons supporting termination of employment of any and all management and employees of the State of California, Department of Conservation and/or DOGGR in the period January 1, 2000 and to present;

- Any and all writings and ESI comprised of or concerning communications with the oil and gas industry and companies including their industry associations from January 1, 2000 to present discussing contributions or payments to employees of the State of California, Department of Conservation and/or DOGGR for non-official activity/duty and consideration of any such individual for employment after termination from said agencies;

- Any and all writings and ESI comprised of or concerning employees, in the period January 1, 2000 and to present, who either formally worked for the oil, gas and mineral interests/companies and/or their associations representing them either prior to employment by DOGGR and the State of California, Department of Conservation or thereafter;

- Any and all writings and ESI comprised of or concerning contributions by the oil, gas and mineral interests/companies and/or their associations made to any State sponsored or affiliated programs or projects in the period January 1, 2000 and to present; and,

- Any and all writings and ESI comprised of or concerning your document retention/destruction policies and records pertaining to the destruction of documents within your department(s) or by your subordinates, including contractors, in the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning conflict of interest standards or guidelines for your agency for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of investigations of conflicts of interest by employees and/or consultants of your agency for the period January 1, 2000 and to present.

- Any and all writings and ESI regarding filing of conflicts of interests under the applicable state rules and regulations for individuals required to file same for the period of January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning communications with the County of Kern concerning environmental issues or safety issues regarding the operation or exploration of disposal and waste product disposal facilities and activities for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning agreements or understandings regarding the proper permitting and/or implementation of the California Environmental Quality Act (CEQA) between you any and all of your employees or independent contractors and the County of Kern for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning agreements or understandings regarding the proper permitting and implementation of the National Environmental Policy Act (NEPA) by you, any and all employees or independent contractors or other agencies including but not limited to the United States Environmental Protection Agency and California Environmental Protection Agency for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning any form of communication regarding the conversion or loss of agricultural land to oil operations in the State of California including communication between the State of California Department of Conservation and/or DOGGR for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning issues with water quality and quantity as a result of oil and gas operations including any communication with outside agents and/or the oil and gas industry for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning any form of communication of or about the proper application, monitoring and study of waste water and toxic disposal of petroleum products through the contractual relationship with the United States Environmental Agency and the State of California and the Department of Conversation and/or DOGGR under the delegation of privacy by the United States Environmental Protection Agency including but not limited to studies, audits and recommended changes for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning hydraulic fracturing (aka fracking) listed in literature and/or on websites by DOGGR for the period January 1, 2000 and to present.

- Any and all writings and ESI comprised of communications with the Conservation Committee of California Oil & Gas Producers (CCCGP) and/or its Engineering Board from January 1, 2000 to present.

- Any and all writings and ESI comprised of communications regarding studies conducted, performed and/or commented on between your department and the California State Water Quality Districts and Agencies and various California Air Pollution Control Boards regarding oil field permits and activities including but not limited to exploration wells, production wells, pipelines, disposable wells, injection wells, hydraulic fracturing (aka fracking) facilities and operations from tank farms etc., for the period January 1, 2000 and to present.

- All writings and communications including, but not limited to, ESI with oil industry entities and their employees, agents, attorneys and lobbyists and agencies of the State of California engaged in the regulation of the oil industry including, but not limited to, the Department of Conservation and the Department of Conservation Division of Oil, Gas and Geothermal Resources concerning or related to the California Environmental Quality Act (CEQA) including, but not limited to, the use of categorical exemptions under CEQA for permitting of oil and gas well drilling and production permits.

- Any and all writings and ESI comprised of and/or showing drilling permits or for exploratory wells, production wells, pipelines, disposable wells, injection wells, hydraulic fracking or other facilities, tank farms and operations where no environmental studies were performed prior to issuing said permits for the period January 1, 2000 and to present.

- Any and all writings and ESI concerning monitoring of oil and gas infrastructure including exploration wells, production wells, pipelines, disposable wells, injection wells, hydraulic fracking facilities and operations of tank farms etc., for the period January 1, 2000 and to present including all reports concerning same.

- Any and all writings and ESI comprised of or concerning mitigation measures for the protection of agricultural resources from January 1, 2000 and to present.

- Any and all writings and ESI comprised of citations and/or investigation of violations of the oil and gas industry and their respected companies from January 1, 2000 and to present.

- Any and all writings and ESI comprised of or concerning any document destruction within your departments or by your subordinates including contractors and any logs of said destruction in the period January 1, 2000 and to present.

Very truly yours,

R. REX PARRIS LAW FIRM

R. Rex Parris
Attorney at Law