

## NOTICE OF VIOLATION OF PROPOSITION 65

60-Day Notice of Intent to Sue Under Proposition 65  
for Discharge of Chemicals Into Sources of Drinking Water, in violation of Health and  
Safety Code Section 25249.5 *et. seq.* (California Safe Drinking Water and Toxic  
Enforcement Act)

October 11, 2006

This Notice of Violation constitutes notice that Southern California Gas Company, Pacific Enterprises and Sempra Energy (collectively, "Violators") have violated and continue to violate California's Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5, *et. seq.* (commonly referred to as "Proposition 65"). Specifically, the Environmental Law Foundation ("ELF") alleges that the Violators have been and continue to discharge or release chemicals known to the State of California to cause cancer and/or reproductive toxicity from Well 29-1 and its well-associated equipment into sources of drinking water, in violation of Health and Safety Code § 25249.5.

This Notice of Violation is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Proposition 65 requires that notice of intent to sue be given to a violator 60 days before the suit is filed. This Notice of Violation has been served on the Violators and the appropriate governmental authorities.

For general information regarding the California Safe Drinking Water and Toxic Enforcement Act, please see the attached Appendix A, entitled "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary", which was prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency. (A copy is not provided to the public enforcement agencies which receive this notice.)

### **Identity of Noticing Party:**

This Notice of Violation is provided by ELF, a California non-profit organization dedicated to the preservation and enhancement of human health and the environment. ELF has a long-standing interest in reducing health hazards to the public posed by toxic chemicals and for protecting the public from harmful substances. Any inquiries regarding this Notice of Violation may be directed to James Wheaton, President of ELF, 1736 Franklin Street, 9th Floor, Oakland, CA 94612, (510) 208-4555. Inquiries may also be directed to Christopher P. Ridout, Rose, Klein & Marias LLP, 801 S. Grand Avenue, Eleventh Floor, Los Angeles, CA 90017-4645, (213) 626-0571.

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**Identity of Violators:**

Southern California Gas Co.  
101 Ash Street  
San Diego, CA 92101  
and  
555 West 5th Street  
ML 14H1  
Los Angeles, CA 90013

Pacific Enterprises  
101 Ash Street  
San Diego, CA 92101

Sempra Energy  
101 Ash Street  
San Diego, CA 92101

**Identity of Chemicals:**

The violations of Proposition 65 alleged in this Notice of Violation are past and ongoing discharges or releases of Benzene, Toluene and Ethylbenzene. Benzene was listed in February 1987 as a chemical known to the State of California to cause cancer. *See* 22 California Code of Regulations (“CCR”) § 12000. Benzene was listed in December 1997 as a chemical known to the State of California to cause reproductive toxicity. *Id.* Toluene was listed in January 1991 as a chemical known to the State of California to cause reproductive toxicity. *Id.* Ethylbenzene was listed in June 2004 as a chemical known to the State of California to cause cancer. *Id.* Benzene, Toluene and Ethylbenzene became subject to the provisions of Health and Safety Code § 25249.5 twenty (20) months after the date that each were listed. Health & Safety Code § 25249.9(a).

**Sources of Drinking Water:**

The Violators have and continue to knowingly discharge or release Benzene, Toluene and Ethylbenzene into water or onto or into land where each chemical passed, passes or probably will pass into the Silverado Aquifer and the Gage Aquifer. The Silverado and Gage Aquifers are “sources of drinking water”, as that term is defined in Health and Safety Code § 25249.11(d).

A “source of drinking water” is either a present source of drinking water or water that is identified in a water quality control plan as being suitable for domestic or municipal uses. Health and Safety Code § 25249.11(d). Moreover, “water” is defined to include both surface and ground water, pursuant to 22 CCR § 12102(w). The State Water Resources Control Board Resolution No. 88-63 states that “[a]ll surface and ground waters of the State are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should be so designated by the Regional Boards.” In accordance with this policy, the Los Angeles Regional Water Quality Control Board has designated the West Coast sub-basin and the Santa Monica sub-basin,

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which contain the Silverado and Gage Aquifers, as existing beneficial uses for domestic drinking water.

**Identity of Discharge or Release:**

This Notice of Violation alleges that the Violators have and continue to knowingly discharge or release Benzene, Toluene and Ethylbenzene from Well 29-1 and its well-associated equipment and that such releases or discharges have passed, currently are passing, or probably will pass into the Silverado and Gage Aquifers.

The Violators operate an underground natural gas storage reservoir located approximately 6,000 feet below the Southern California Gas Company's facility in Playa Del Rey, California. The reservoir is connected to the surface by wells that are owned and/or operated by the Violators. Historically, the wells were used for oil production and then were later used as part of the natural gas storage operations. Since the reservoir has been used for storage of natural gas, the wells have been primarily used to inject and remove the natural gas, to monitor the reservoir and its pressure, to remove oil and water from the storage reservoir, to monitor for leakage outside of the reservoir area and to retrieve gas that migrates beyond the delineated reservoir boundary.

This Notice of Violation is for discharges or releases from Well 29-1 and its well-associated equipment. Well 29-1 is located in Playa Del Rey, which is within the City and County of Los Angeles. Well 29-1 was drilled in 1935 to a depth of approximately 6,200 feet and it intersects the Silverado and Gage Aquifers. Well 29-1 was abandoned in 1941, but in 1956 it was reworked and operated periodically until it was re-abandoned in 1994. Well 29-1 is located on and under a lot which the Violators are in the process of selling, presumably for the purpose of residential development.

Benzene, Toluene and Ethylbenzene have been and continue to be discharged or released from Well 29-1 and its well-associated equipment. The leaks occur as a result of cracks and holes in Well 29-1 and its well-associated equipment. Once Benzene, Toluene and Ethylbenzene are discharged or released from Well 29-1 and its well-associated equipment, these chemicals migrate towards the surface via the well or through natural points of least resistance in the rock surrounding the well. As these chemicals migrate upward, they pass or probably will pass into both the Silverado and Gage Aquifers.

**Approximate Time Period of Violations:**

The Violators have and continue to discharge or release Benzene, Toluene and Ethylbenzene from Well 29-1 and its well-associated equipment into the Silverado and

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Gage Aquifers. Such discharges or releases have been occurring since at least 1988.  
Violations have occurred every day and are ongoing.

**CERTIFICATE OF SERVICE BY MAIL**

I, Shirley M. Walker, declare that:

I am employed in Los Angeles County, California. I am over the age of 18 years and not a party to the within cause; my business address is 801 S. Grand Avenue, Eleventh Floor, Los Angeles, CA 90017-4645.

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence is deposited with the United States Postal Service the same day in the ordinary course of business.

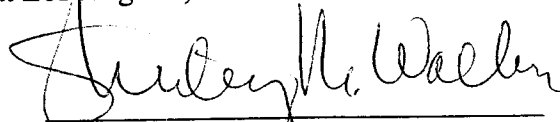
On October 11, 2006, I served true copies of the following documents on the parties and governmental authorities listed in the attached service list by placing true and correct copies of the same in sealed envelopes with first class postage fully prepaid thereon and deposited in the United States Mail at Los Angeles, California:

**NOTICE OF VIOLATION OF CALIFORNIA SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT;**

**APPENDIX A - THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY**  
[only sent to those on service list marked with an asterisk]

I certify under penalty of perjury that the foregoing is true and correct, and that this certification was executed on October 11, 2006, at Los Angeles, California.

Signed:

  
\_\_\_\_\_  
Shirley M. Walker

## SERVICE LIST

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