

January 7, 2016

VIA FIRST CLASS MAIL

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Attorneys for Southern California Gas Company

Re: Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act ("Proposition 65"), California Health & Safety Code § 25249.5, *et seq.*, and 60-Day Notice of Intent to Sue.

To Whom It May Concern:

Save Porter Ranch writes to put Southern California Gas Company ("Violator") on notice, pursuant to California Health and Safety Code § 25249.7(d), and Title 27 of the California Code of Regulations § 25903, of violations of the Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), Health and Safety Code § 25249.5, *et seq.* Further, this Notice of Violation ("Notice") serves to provide notice that Save Porter Ranch intends to bring an enforcement action in the public interest against Violator for violations of California Health and Safety Code § 25249.5. For general information regarding Proposition 65, please see the attached Appendix A, entitled "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Save Porter Ranch alleges that Violator is a "person in the course of doing business" as defined in Health & Safety Code § 25249.11, who has used, and continues to use Class-II injection wells to inject liquids and gases, resulting in the discharge of chemicals into water, or onto or into land where such chemicals pass or probably will pass into sources of drinking water, in violation of Health and Safety Code § 25249.5. These discharges are contaminated with chemicals known to cause cancer or reproductive toxicity, and are listed under Proposition 65 pursuant to Health and Safety Code § 25249.8 as prohibited from being discharged into an existing and/or present source of drinking water, including:

- Benzene (added to list as early as 2/27/1987);
- Toluene (added to list as early as 1/1/1991);

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R. Rex Parris | Robert A. Parris | Alexander R. Wheeler | Jason P. Fowler | Kitty K. Szeto | Patricia K. Oliver
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- Ethylbenzene (added to list as early as 6/11/2004);
- Radionuclides (added to list as early as 7/1/1989); and
- Sulfur Dioxide (added to the list as early as July 29, 2011).

For purposes of Proposition 65, “source of drinking water” is defined as either a present source of drinking water or water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses. Health and Safety Code § 25249.11(d). Pursuant to State Water Resources Control Board (“SWRCB”) Resolution No. 88-63:

“All surface and ground waters of the State are considered to be suitable, or potentially suitable, for municipal or domestic water supply and should so be designated by the Regional Boards, with the exception of:

1. Surface and ground waters where:

- a. The total dissolved solids (TDS) exceed 3,000 mg/L and it is not reasonably expected by Regional Boards to supply a public water system, or
- b. There is contamination, either by natural processes or by human activity (unrelated to the specific pollution incident),
- c. The water source does not provide sufficient water to supply a single well capable of producing an average, sustained yield of 200 gallons per day.

[...]

3. Ground water where: The aquifer is regulated as a geothermal energy producing source or has been exempted administratively pursuant to 40 Code of Federal Regulations, section 146.4 for the purpose of underground injection of fluids associated with the production of hydrocarbon or geothermal energy, provided that these fluids do not constitute a hazardous waste under 40 CFR, section 261.3.” See Attachment 1.

Violator’s injection well API No. 03700776 (“Standard Sesnon 25”), is allowing the above-listed chemicals to permeate drinking water outside of the shaded areas exempted by the United States Environmental Protection Agency (“USEPA”) in the 1982 Memorandum of Agreement between the USEPA and Division of Oil, Gas, and Geothermal Resources (“DOGGR”) granting DOGGR primacy to regulate Class-II underground injection control wells. See Attachment 2. As recently as May 11, 2012, the USEPA has affirmed “As requested by DOGGR, the exempt portions of the aquifer are described and depicted as the shaded portions of the maps and cross sections of the [1974 version of California Oil & Gas Fields, Volume II].” See Attachment 3. Specifically, the fresh-water aquifer between 100-800 feet in the Aliso Canyon Oil Field Main Area appears to fall outside of the vertical extent of the shaded exempt areas of the aquifers in the Aliso Canyon Oil Field, as depicted in the 1974 version of California Oil & Gas Fields, Volume II. See Attachment 4. Specifically, no aquifers or portions of aquifers

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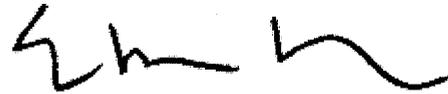
Notice of Violations of the Safe Drinking Water and Toxic Enforcement Act (Proposition 65)
January 7, 2016
Page | 3

shallower than 4,000 feet in the Aliso Canyon Oil Field have ever been exempted, as depicted in the shaded exempt areas in 1974 version of California Oil & Gas Fields, Volume II.

Further, the Los Angeles Regional Water Quality Control Board's Basin Plan and the Department of Water Resources' Bulletin 118 demonstrates that the discharge is entering the San Fernando Valley Basin, the entirety of which is designed as having an existing beneficial use for municipal and domestic supply, with uses of water "including, but not limited to, drinking water supply". See Attachment 5, Excerpts from Los Angeles Regional Water Quality Control Board's Basin Plan; Attachment 6, Excerpt from Department of Water Resources Bulletin 118. In sum, Violator has allowed its injection wells to discharge the above-listed chemicals into sources of drinking water. While it is unknown exactly when this discharge began, it is believed to have begun on or around October 23, 2015.

Save Porter Ranch can be reached through its Counsel R. Rex Parris Law Firm, located at 43364 10th Street West, Lancaster, California 93534, (661) 949-2595.

Sincerely,



Ethan T. Litney
R. Rex Parris Law Firm
Attorneys for Save Porter Ranch

cc: California Attorney General
Los Angeles County District Attorney
Southern California Gas Company

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APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly say that the

chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below

the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off- premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the notice was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
 - Agreed to pay a civil penalty of \$5B500 (subject to change as noted below) to the private party within 30 days; and
 - Notified the private party serving the notice in writing that the violation has been corrected.
- The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual California Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises. The satisfaction of these conditions does not

prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHHA's website at:

<http://oehha.ca.gov/prop65/law/p65/law72003.html>. The notice is reproduced here:

Page 1

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

**SPECIAL COMPLIANCE PROCEDURE
PROOF OF COMPLIANCE**

You are receiving this form because the Noticing Party listed above has alleged that you are violating California Health and Safety Code §25249.6 (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

1. **You have actually taken the corrective steps that you have certified in this form**
2. **The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice**
3. **The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.**
4. **This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.**

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

The alleged violation is for an exposure to: (check one)

Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

____ Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

IMPORTANT NOTES:

1. You have no potential liability under California Health and Safety Code §25249.6 if your business has nine (9) or fewer employees.
2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Page 2

Date :

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with California Health and Safety Code §25249.6 for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately its placement on my premises; OR
- Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

Certification

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Signature of alleged violator or authorized representative Date

Name and title of signatory

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2014

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

² See Section 25501(a)(4).

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 43364 10th Street West, Lancaster, California 93534. On **January 7, 2016**, I served the within document(s) described as:

**NOTICE OF VIOLATIONS OF THE SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT (PROPOSITION 65)**

on the interested parties in this action as stated below:

*****PLEASE SEE ATTACHED SERVICE LIST *****

X (BY FIRST CLASS MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U. S. postal service on that same day with postage thereon fully prepaid at Lancaster, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **January 7, 2016**, at Lancaster, California.



MAGGIE BRAVO

SERVICE LIST

<p>Kamala D. Harris California Attorney General Attention: Prop 65 Coordinator 1515 Clay Street, Suite 2000 P.O. Box 70550 Oakland, CA 94612-0550 VIA FIRST CLASS MAIL</p>	<p>Los Angeles County District Attorney 211 West Temple Street Los Angeles, CA 90012 VIA FIRST CLASS MAIL</p>
<p>Southern California Gas Company 555 West 5th Street Los Angeles, CA 90013 VIA FIRST CLASS MAIL</p>	<p>LATHAM & WATKINS LLP Kirk A. Wilkinson Michael G. Romey John C. Heintz Robin A. Kelley 355 South Grand Avenue Los Angeles, CA 90017-1560 VIA FIRST CLASS MAIL</p>