

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

SOUTHERN CALIFORNIA GAS COMPANY,
ALISO CANYON STORAGE FACILITY

[Facility ID No. 800128]

Respondent.

Case No. 137-76

**FINDINGS AND DECISION FOR AN
ORDER FOR ABATEMENT UPON
STIPULATION**

Health and Safety Code §41700 and
District Rule 402

Hearing Date: January 9 and 16, 2016

Time: 9:00 a.m.

Place: Granada Hills Charter High
School
10535 Zelzah Avenue
Granada Hills, CA 91344

Hearing Date: January 20, 2016

Time: 9:00 a.m.

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

Hearing Date: January 23, 2016

Time: 9:00 a.m.

Place: Hilton Woodland Hills
6360 Canoga Avenue
Woodland Hills, CA 91376

This Petition for a Stipulated Order for Abatement was heard on January 9, 16, 20, and 23,
2016, pursuant to notice in accordance with the provisions of California Health and Safety Code

1 (“H&S Code”) §40823 and District Rules 812 and 815. The following members of the Hearing
2 Board were present on January 9, 20 and 23, 2016: Edward Camarena, Chair; Patricia Byrd, Vice
3 Chair; Julie Prussack; Clifton Lee, M.D.; and David Holtzman. The following members of the
4 Hearing Board were present on January 16, 2016: Edward Camarena, Chair; Patricia Byrd, Vice
5 Chair; Douglas W. Lofgren; Clifton Lee, M.D.; and David Holtzman. Petitioner, Executive
6 Officer, was represented by Nancy S. Feldman, Principal Deputy District Counsel, and Nicholas
7 A. Sanchez, Senior Deputy District Counsel. Respondent SOUTHERN CALIFORNIA GAS
8 COMPANY (hereinafter referred to as “Respondent” or “SoCalGas”), was represented by Vincent
9 M. Gonzales, Senior Environmental Counsel, Southern California Gas Company, and Robert A.
10 Wyman and Michael J. Carroll, attorneys at law, with the firm of Latham & Watkins LLP. The
11 public was given the opportunity to testify, evidence was received and the matter was submitted.
12 The Hearing Board finds and decides as follows:

13 **FINDINGS OF FACT**

14 1. Petitioner is a body corporate and politic established and existing pursuant to H&S
15 Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency with the
16 responsibility for comprehensive air pollution control in the South Coast Basin.

17 2. SoCalGas is a public utility engaged in the transmission, storage and distribution
18 of natural gas in the Southern California area and subject to the jurisdiction of the California Public
19 Utilities Commission (CPUC). SoCalGas’ Aliso Canyon Storage Facility is located at 12801
20 Tampa Avenue, Northridge, California 91326 (the “Facility”). It is used to store natural gas in an
21 underground reservoir during periods when demand for gas is low and supplies are plentiful. When
22 demand is high and supplies are scarce, gas is then withdrawn from the Facility and distributed to
23 customers. The Facility is subject to the jurisdiction and, in various aspects, authority of multiple
24 agencies, including but not limited to the District, the CPUC and the California Department of
25 Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR).

26 3. **California H&S Code §41700 and District Rule 402** prohibit the discharge from
27 any source whatsoever of such quantities of air contaminants or other material which cause injury,
28 detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which

1 endanger the comfort, repose, health or safety of any such persons or the public, or which cause,
2 or have a natural tendency to cause, injury or damage to business or property.

3 4. The Facility is located within the District's jurisdiction and subject to the District's
4 regulations. In the course of operating the Facility, Respondent stores natural gas at Well SS-25
5 (the "Well"). The Well extends 8,500 feet below the surface of the earth and is one of 115 storage
6 wells at the 3,600-acre Facility. The Facility can hold 86 billion cubic feet of natural gas.

7 5. Beginning on or about October 23, 2015, SoCalGas discovered a leak at the Well.
8 The natural gas leaking from the Well contains mercaptan and tetrahydrothiophene (THT) odorant.
9 SoCalGas' efforts to stop the leak have been unsuccessful to date.

10 6. Beginning on October 23, 2015, and continuing through the present, the District
11 has received over 1,600 odor complaints from the public alleging the Facility as the source of the
12 odor.

13 7. On November 5, 2015, the District issued Notice to Comply E-26893 to
14 Respondent, requiring SoCalGas to provide the following information:

- 15 a. On what date and how did SoCalGas first become aware of the natural gas
16 leak?
- 17 b. What steps have been taken to repair the affected well injection site; when
18 was each step taken; and did it control/eliminate the release of natural gas
19 into ambient air?
- 20 c. What specific recommendations have been made to SoCalGas to
21 control/eliminate odors from the affected well injection site?
- 22 d. What recommendations have been made to SoCalGas in regards to the air
23 monitoring plan(s) for both onsite and community sampling?
- 24 e. What recommendations have been made by the State of California, Natural
25 Resources Agency, Department of Conservation Division of Oil, Gas and
26 Geothermal Resources (DOGGR) or any other regulatory agencies in
27 regards to controlling/eliminating the release of natural gas from the
28 affected injection well site?

1 8. In addition, SoCalGas was required to safely and as quickly as possible stop the
2 release of natural gas from the affected well site and all of its associated appurtenances, so as to
3 prevent odors from natural gas, including odorants, from impacting the nearby communities. On
4 November 10, 2015, SoCalGas provided a written response to Notice to Comply E-26893
5 indicating its investigation of the events surrounding the incident and response efforts are ongoing.

6 9. On November 23, 2015, the District issued Notice of Violation (NOV) P62646 to
7 Respondent alleging an ongoing public nuisance pursuant to H&S Code §41700 and District Rule
8 402. The District alleges that Respondent is in violation and has been in violation of H&S Code
9 §41700 and District Rule 402 since October 24, 2015.

10 10. The District asserts NOV P62646 includes violations due to SoCalGas' creation of
11 an alleged public nuisance by discharging odor emissions into nearby communities starting on
12 October 24, 2015, and continuing through the present and until SoCalGas achieves compliance by
13 operating the Facility without creating a public nuisance.

14 11. On November 18, 2015, DOGGR issued an Emergency Order requiring SoCalGas,
15 among other things, to submit a time schedule by November 20, 2015, stating when a relief well
16 site preparation will be complete and when drilling will commence.

17 12. On December 3, 2015, SoCalGas notified the District of its intent to commence
18 drilling the relief well on December 4, 2015, pursuant to District Rule 1148.2.

19 13. SoCalGas anticipates it will complete drilling the relief well sometime in February
20 2016 or March 2016.

21 14. On December 9 and 10, 2015, District Inspectors visited the Facility and conducted
22 an infrared camera inspection to check for leaks that may be contributing to the alleged nuisance.
23 The District Inspectors were unable to inspect the Well due to health and safety reasons.

24 15. During the Facility inspection, District Inspectors observed approximately 16 wells
25 that were not accessible. District Inspectors observed 15 wells through an infrared camera that
26 indicated leaking valves, fittings, and/or flanges. The infrared camera observations reflected
27 relatively minor leaks that were significantly less than the leak at Well SS-25 and below levels that
28 would constitute a violation of current District rules. SoCalGas had staff present during the District

1 Inspectors' Facility visit, and they represented that they were actively repairing leaks and that
2 SoCalGas staff and consultants had been dispatched to check the location of leaks. All the minor
3 well leaks discovered by District Inspectors on December 9 and 10, 2015 have been repaired.

4 16. On December 10, 2015, DOGGR issued an Emergency Order requiring SoCalGas,
5 among other things, to reduce reservoir pressure in the vicinity of the Well by continuing to
6 produce from wells in proximity; maximize the rate of withdrawal from the reservoir to reduce
7 reservoir pressure to aid in the control and plugging of the Well; and withdraw gas from the Well
8 at as high a rate as is safe.

9 17. On December 14, 2015, the CPUC Safety and Enforcement Division (SED) and
10 DOGGR directed SoCalGas to hire an independent third party to perform a technical root cause
11 analysis on the nature of the failure of the Well and the technical cause of the leak. This joint
12 agency investigation is intended to address all technical aspects of the Well's safety management
13 system, including the role of deep subsurface valves.

14 18. On December 19, 2015, SoCalGas notified the District that it intended to
15 commence drilling a second relief well in mid-January 2016.

16 19. On January 6, 2016 Governor Brown issued a Proclamation of a State of
17 Emergency due to the natural gas leak at the Well which directed that certain actions related to the
18 leak be taken by SoCalGas and various state agencies.

19 20. On January 21, 2016 the CPUC ordered SoCalGas to take all reasonable steps to
20 reduce the level of working gas at the Facility down to 15 billion cubic feet of actual working gas
21 until further notice.

22 21. The District alleges that SoCalGas is unable to conduct operations at the Facility
23 without being in violation of H&S Code §41700 and District Rule 402. SoCalGas has been unable
24 to stop discharging air pollutants impacting nearby communities and has stated publicly that it will
25 take until February 2016 or March 2016 to stop the leak.

26 22. District Rule 806(b) and Health and Safety Code Section 42451(b) permit the
27 Hearing Board to issue an order for abatement upon the terms and conditions set forth in the
28 stipulated Proposed Findings and Decision without making findings regarding: (a) whether

1 Respondent is in violation of Health and Safety Code Section 41700, or any District rule or
2 regulation; (b) whether the order will constitute a taking of property without due process of law;
3 or (c) whether the order results in closing an otherwise lawful business without a corresponding
4 benefit in reducing air contaminants. This Order makes no findings with regard to these issues.

5 23. The SCAQMD staff has been directed by its Governing Board to initiate
6 rulemaking to govern good maintenance and safe operation of injection wells at facilities
7 throughout the South Coast Basin.

8 **CONCLUSIONS**

9 24. The Order set forth hereinafter is intended to lessen the severity of the conditions
10 contributing to the alleged nuisance while SoCalGas moves towards compliance with SCAQMD
11 rules and regulations. This Order is intended to help reduce air emissions impacts to the nearby
12 communities, implement steps to reduce any public health impacts that may exist, and alleviate
13 odors while a more permanent solution is achieved.

14 25. The District, by this Petition, seeks an Order for Abatement to impose certain
15 conditions on Respondent's operation of the Facility. The District believes that such conditions
16 will mitigate the conditions contributing to the alleged nuisance and further compliance with
17 SCAQMD rules and regulations.

18 26. It is not unreasonable to require Respondent to comply with District rules and
19 regulations.

20 27. This Order for Abatement is not intended to be nor does it act as a variance.

21 **ORDER**

22 THEREFORE, subject to the aforesaid statements and good cause appearing, the Hearing
23 Board hereby orders Respondent to immediately cease and desist from operating the Facility in a
24 manner that violates H&S Code §41700 and District Rule 402, or in the alternative comply with
25 the following conditions and increments of progress:

26
27
28

1 CONDITIONS AND INCREMENTS OF PROGRESS

2 **Leaking Well (SS-25)**

3 1. Commencing upon issuance of this Order and continuing for thirty (30) days after
4 the leak at the Well has ceased, SoCalGas shall continuously monitor the Well site with an infrared
5 camera. Monitoring shall be conducted in accordance with a protocol to be submitted prior to the
6 close of evidence. To address any circumstances not specifically identified in the protocol,
7 SoCalGas shall notify the Executive Officer or his designee, in writing of the circumstances in
8 question and propose modifications to the protocol to address them and refrain from implementing
9 such modifications until such time as the District approves the modification in writing. SoCalGas
10 shall make a second infrared camera or equivalent available at the Facility to District staff upon
11 request for monitoring the Facility. Any such monitoring by District staff shall be coordinated
12 with SoCalGas to ensure the safety of all persons at the Facility. All infrared camera data collected
13 by SoCalGas shall be maintained by SoCalGas for the duration of this Order and made available
14 to the District staff upon request.

15 2. Commencing upon issuance of this Order and continuing until such time as the leak
16 at the Well has ceased, SoCalGas shall post on its external website at www.alisoupdates.com: (i)
17 daily air monitoring data collected by SoCalGas; and (ii) a comprehensive dataset of air monitoring
18 data collected by SoCalGas in Excel format and updated on a weekly basis.

19 3. Once the leak at the Well has ceased, SoCalGas shall permanently seal the Well
20 from future natural gas injection or withdrawal.

21 4. SoCalGas shall minimize natural gas leaking from the Facility by:

22 a. Except as directed by the CPUC, stopping all gas injection into the Facility's
23 underground reservoir until the leak at the Well has ceased. SoCalGas shall
24 provide notice to the Executive Officer or his designee, within 24 hours of
25 any gas injection into the Facility; and

26 b. Withdrawing the maximum amount of gas feasible in a contained and safe
27 manner from the Facility as quickly as possible upon issuance of this Order,
28 with a preference for withdrawing gas from the Facility over withdrawing

1 gas from other SoCalGas storage facilities when operationally feasible,
2 subject only to orders of the CPUC and SoCalGas' obligation to furnish and
3 maintain reliable supplies and delivery of natural gas as mandated by
4 California Public Utilities Code Section 451.

5 5. Commencing with the issuance of this Order and continuing until the leak at the
6 Well has ceased, SoCalGas shall provide the District the estimated amount of natural gas injected
7 into the Facility's underground reservoir, and the estimated amount of natural gas injected through
8 each of the 115 gas storage wells, on a daily basis. All natural gas injection data shall be provided
9 to the attention of the Executive Officer or his designee, on a weekly basis via a secure SharePoint
10 site in a form acceptable to the District.

11 6. Commencing with the issuance of this Order and continuing until the leak at the
12 Well has ceased, SoCalGas shall provide the District the estimated total amount of natural gas
13 withdrawn from the Facility's underground reservoir, and the estimated amount of natural gas
14 withdrawn through each of the 115 gas storage wells, on a daily basis. For the purposes of this
15 paragraph, "gas withdrawn" does not include natural gas lost to the atmosphere as a result of the
16 leak, which will be determined after the leak has ceased and SoCalGas is able to provide an
17 inventory-based estimate. All natural gas withdrawal data shall be provided to the attention of the
18 Executive Officer or his designee, on a weekly basis via a secure Share Point site in a form
19 acceptable to the District.

20 7. SoCalGas shall provide the District any data collected and/or recorded by SoCalGas
21 and/or its contractors since October 23, 2015 that is necessary to calculate or estimate the quantity
22 of methane that has escaped from the Well using established methodology for shut in inventory
23 analysis. SoCalGas shall also provide any wind/meteorological data for the Facility, air emissions
24 monitoring data, and methane and non-methane natural gas components laboratory data taken from
25 the Well. All such data shall be provided within seven (7) days upon request from the District in
26 a manner and form acceptable to the District.

27 8. Within ten (10) days from the issuance of this Order, SoCalGas shall submit for
28 approval by the Executive Officer or his designee an enhanced leak detection and reporting well

1 inspection program to proactively identify and mitigate potential emissions of air contaminants.
2 The program shall cover all active and abandoned natural gas storage wells, water injection wells,
3 and shallow zone oil production wells owned by SoCalGas at Aliso Canyon. The program shall
4 identify issues relating to leak detection and reporting beyond those contained in SoCalGas'
5 existing well inspection and maintenance program. The enhanced leak detection and reporting
6 program shall include the following elements specifically related to air emissions:

- 7 a. Guidelines and procedures for inspection of all the wells and maintenance
8 of such wells at the entire Facility within two years of submission of the
9 plan, including notice and participation by the District.
- 10 b. Frequency of well inspection and maintenance.
- 11 c. Qualifications, requirements and training of individuals performing well
12 inspections.
- 13 d. Monitoring and emissions measurements during well inspections.
- 14 e. Recordkeeping of any wells taken out of service or installed.
- 15 f. Recordkeeping and notification of any well breakdowns.
- 16 g. Recordkeeping and retention of well inspection and maintenance reports.
- 17 h. Daily use of infrared cameras or equivalent to utilize infrared technology to
18 monitor SoCalGas natural gas wells located at the Facility property. All
19 daily infrared camera data shall be retained and made available for
20 inspection by the District at the Facility.
- 21 i. On-going inspections of the physical integrity of the wells at the Facility
22 property shall be recorded on a weekly basis and retained and made
23 available for inspection by the District at the Facility.
- 24 j. Enforceable commitments and timelines to accomplish a.-i. as quickly as
25 feasibly possible.

26 SoCalGas shall prioritize and conduct the enhanced well leak detection and reporting
27 program based on criteria relevant to the risk of well leakage from the Facility, including
28 maintenance, condition, age and/or emissions from wells. The enhanced well leak detection and

1 reporting program shall prioritize inspection of all the wells based on data obtained indicating
2 which wells may require repair and/or maintenance based on age and/or leaks.

3 9. SoCalGas shall promptly provide the District and the Hearing Board with a copy
4 of any written reports of the joint SED-DOGGR factual investigation referred to in paragraph 17
5 of the Findings of Fact above.

6 **Continuous Air Monitoring Plan**

7 10. SoCalGas shall provide the District with funding for District staff or contractor
8 hired by the District, or a combination of the two, to develop, staff, and implement a continuous
9 air monitoring plan, including a methane monitor network at the Facility property, for the nearby
10 school/community during the duration of this Order. This plan is independent from any other air
11 monitoring plan being performed by SoCalGas, or in conjunction with any other agency.

12 **Air Quality Notification Plan**

13 11. Within ten (10) days from the issuance of this Order, SoCalGas shall provide the
14 District with copies of publicly available emergency response plans prepared pursuant to state and
15 federal law. Within thirty (30) days from the issuance of this Order, SoCalGas shall submit for
16 approval by the Executive Officer or his designee an Air Quality Notification Plan, such plan to
17 require notice to the District, Los Angeles Unified School District, Los Angeles Police
18 Department, City of Los Angeles Fire Department, County of Los Angeles Fire Department and
19 the Porter Ranch Neighborhood Council in the event of a reportable release as defined in the plan.

20 **Health Study**

21 12. SoCalGas shall provide the District within ten (10) days from the issuance of this
22 Order, a written commitment for funding for reasonable costs to conduct a health study on the
23 potential impacts of the exposure to the constituents of the natural gas released from the Facility
24 relating to the Well leak, including but not limited to tetrahydrothiophene and tertiary-butyl
25 mercaptan, potentially affecting the nearby community. The health study shall also analyze any
26 health impacts from any odor suppressants or neutralizers, and their byproducts, if any, used to
27 mitigate odors in the nearby community. The health study shall be completed by a third party
28 approved by the District and SoCalGas, who shall not unreasonably withhold approval of the

1 contractor. An advisory committee of subject matter experts shall be established by the District to
2 evaluate the field data collection and analysis methods as well as proposed study results.

3 **Odor Suppressants or Neutralizers**

4 13. SoCalGas shall not use any odor suppressants or odor neutralizers to reduce and/or
5 mitigate against odors from the Facility unless approved by the Executive Officer or his designee.

6 **Odor Complaints¹**

7 14. Subject to any applicable privacy laws or regulations, SoCalGas shall provide the
8 District (Attn: Mohsen Nazemi) with complaint data for complaints related to the leak at the Well
9 received by SoCalGas beginning on and after October 23, 2015 and continuing for the duration of
10 this Order, including, for each complaint:

- 11 a. The date and time it was reported to SoCalGas.
- 12 b. A sufficient description of the location of the complaint, including but not
13 limited to the street name and block number.
- 14 c. A description of the complaint.
- 15 d. Complaint data received after the issuance of this Order shall be provided
16 to the District (Attn: Mohsen Nazemi) on a weekly basis. All complaint
17 data shall be provided to the District in a manner and form acceptable to the
18 District.

19 **GENERAL CONDITIONS**

20 15. Equipment and operations at the Aliso Canyon Facility are subject to the
21 jurisdiction and regulatory requirements of multiple state agencies, including but not limited to the
22 District, the California Air Resources Board, the CPUC, and DOGGR. The conditions of this Order
23 shall not in any way restrict or expand the scope of jurisdiction of any agency. If any agency that
24 shares jurisdiction over the Facility with the District requires SoCalGas to take any action that is
25 inconsistent with this Order, SoCalGas shall immediately contact the District by email at
26 nsanchez@aqmd.gov, nfeldman@aqmd.gov, and mnazemil@aqmd.gov and describe the

27 _____
28 ¹SCAQMD maintains complainant personal information, such as name, address and telephone number, as
confidential, to the extent allowed by state and federal law.

1 inconsistent provisions. SoCalGas shall endeavor to resolve the inconsistency with the Executive
2 Officer or his designee. If the inconsistency is resolved, SoCalGas shall immediately inform the
3 Hearing Board in writing. If the inconsistency cannot be resolved, SoCalGas shall notice a hearing
4 before the Board for further proceedings. At such proceeding, only the provision in dispute shall
5 be resolved by the Hearing Board while the other conditions in this Order shall remain in full force
6 and effect.

7 16. The Hearing Board shall hold a hearing on February 20, 2016, to review the status
8 of this matter and consider the modification and/or extension of this Order.

9 17. The Hearing Board shall retain jurisdiction over this matter until **January 31, 2017**,
10 or until Respondent has met all Conditions and Increments of Progress hereunder, whichever
11 occurs first, unless this Order is amended or modified.

12 18. The Hearing Board may modify this Order without the stipulation of the parties
13 upon a showing of good cause, therefore, and upon making the findings required by H&S Code
14 §42451(a) and District Rule 806(a). Any modification of this Order shall be made only at a public
15 hearing held upon ten (10) days published notice and appropriate written notice to Respondent.

16 19. This Order is not and does not act as a variance, and Respondent is subject to all
17 rules and regulations of the District, and to all applicable provisions of California law. Nothing
18 herein shall be deemed or construed to limit the authority of the District to issue Notices of
19 Violation, or to seek civil penalties, criminal penalties, or injunctive relief, or to seek further orders
20 for abatement, or other administrative or legal relief.

21 BOARD MEMBER:


Edward Camarena, Chair

22 DATED:

1/28/16

23 I VOTE NO:


Julie Prussack

DISSENT BY JULIE PRUSSACK

I disagree that we, as the Hearing Board of the South Coast Air Quality Management District (the District), have “good cause” to grant the Stipulated Order for Abatement based on the evidence presented. I, therefore, respectfully dissent.

The sole purpose of an Order for Abatement is to require a facility that is in continuing violation of a rule of the District (or other specified air quality regulations) to “abate”, meaning to stop or lessen, the violation or shut down its operations. In the alternative, we may adopt conditions that the facility is required to follow. But those conditions must bring the facility closer to compliance with all rules and regulations as quickly as possible. That is the very definition and nature of an Order for Abatement. In stipulated orders, such as this one, a facility usually agrees to conditions that the Board couldn’t otherwise require (such as funding the health study in the instant Order), and the Board must weigh the value of these provisions as well in determining whether good cause exists to grant the order overall.

Nevertheless, in my opinion, any Order, whether stipulated or otherwise, must move a facility towards abatement as quickly as possible.

In this case, the alleged violation is of California Health & Safety Code section 41700 and District Rule 402 from a devastating gas leak resulting from extremely aged pipes (and questionable safety and maintenance practices) in Southern California Gas’s Aliso Canyon facility that has been ongoing for months, since at least October 23, 2015. There is no question that the Hearing Board heard more than sufficient evidence of a violation. Section 41700 provides in relevant part “no person shall discharge from any source whatsoever such quantities of air contaminants ... which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public...” District Rule 402 is substantially similar.

Over one hundred people, including elected officials representing thousands of people, testified as to conditions of extreme odor nuisance, discomfort and considerable health impacts as a result of the continuing leak. The Governor declared a State of Emergency. And hundreds of people and two local schools were relocated to attempt to escape the nuisance. Thus, any order adopted by this Board must abate this extreme nuisance as much and as quickly as possible.

Nevertheless, the Stipulated Order adopted by the majority of the Board will do *nothing* to bring the facility any closer to compliance or otherwise abate the nuisance. In particular, condition 4 of the Stipulated Order purports to do two things to reduce the nuisance: (1) stop injections of natural gas into the Aliso Canyon reservoir (an interconnected field of over 115 active wells) (condition 4.a) and (2) withdraw natural gas from the reservoir at the “maximum rate” that can safely be achieved (condition 4.b). According to the ample evidence received in the record, the purpose of these provisions is to empty the reservoir as quickly as possible, reduce the pressure in well SS-25 and, therefore, greatly reduce the leak and resulting nuisance. But the evidence received in this case belies the effectiveness of these provisions in accomplishing these things.

First, SoCalGas *refused* to omit the qualifying words “Unless directed by the CPUC” from section 4.a regarding the cessation of gas injections into the well. There is already an Order from DOGGR, dated December 10, 2015, altogether prohibiting any injections into the reservoir until the leak is stopped. There are no qualifications placed on this prohibition, and DOGGR explicitly states that it is to remain in place until that agency lifts it. This “moratorium” was referenced in the Governor’s Proclamation, making it clear that DOGGR is regarded as the agency with the authority to order a ban on injections and, more importantly, to lift that ban. And, in fact, no injections have been made into the reservoir since the leak occurred. Nevertheless, the Stipulated Order purports to allow a *different* agency – the CPUC – the power to direct SoCalGas to inject natural gas into the well. Accordingly, the Stipulated Order appears to grant *additional* power to the CPUC, which at the very least muddies the question of who has this authority. Most importantly, without the absolute ban on injections, the natural gas levels in the reservoir can be raised whenever directed by the CPUC (under the terms of the Order, anyway), which will not only fail to abate the nuisance, but will exacerbate it. The Board should have adopted its own order with a strict ban on injections, as DOGGR has done.

Second, and perhaps more importantly, section 4.b of the Order – which purports to require SoCalGas to withdraw gas at the maximum rate feasible until the leak is stopped – *will have absolutely no effect*. This was not only evident by the evidence presented in this case, but revealed to the parties and the Board during deliberation. Again, another agency, DOGGR, adopted an Order requiring SoCalGas to “maximize the rate of withdrawal from the reservoir to reduce reservoir pressure to aid in the control and plugging of SS 25” and to “withdraw gas from SS 25 at as high a rate as is safe.” The agency Order does not qualify this direction in terms of “reliable supplies and delivery” of gas; the emphasis was, as it should be, on abating a global disaster. The Governor also referenced this part of the DOGGR Order in his Proclamation. SoCalGas testified that withdrawals from the reservoir have a direct impact on the pressure in the well and will directly result in a reduction in the leak rate and, thus, the nuisance.

Nevertheless, rather than agree to continue to withdraw gas from the reservoir at the maximum rate (as the Order purports to require), SoCalGas presented a letter from the Executive Director of the CPUC received in the 11th hour by the company (the day after the Board hearing on January 20 where SoCalGas was requested to return with specific withdrawal rates and two days before the January 23 hearing where a decision was made). Unlike the DOGGR Order, this letter did not constitute an order of the CPUC. In his letter, the Executive Director directed SoCalGas to draw down the gas levels to 15 Billion cf “until further notice”. The letter was not clear whether 15B cf was the minimum or maximum level or whether SoCalGas was being directed or allowed to go below this level. Interestingly, SoCalGas further testified that the reservoir was *already at this very level the day of the final Hearing on January 23*.

Accordingly, SoCalGas testified that it would not be drawing down below the level of 15 bcf. Thus, it effectively admitted that it had no intention whatsoever of doing anything further in compliance with section 4.b. of the Order, which was arguably the most important provision of the entire Order and the only provision intended to directly abate the nuisance.

This Board does not have broad authority in this case. But the one power it clearly has is the power to abate an air quality-related nuisance. And, in fact, it is the only government agency or board with the direct authority to do so in this case. Accordingly, it is my opinion that the Board should have adopted its own Order requiring SoCalGas to withdraw the maximum amount feasible each day until the pressure in the well stabilized, without any stipulation or qualification having to do with the price or reliability of natural gas supplies in the Los Angeles region – as DOGGR did within its power. This is the only way that the nuisance will be in any way abated. There was also ample evidence in the record that natural gas supplies can be obtained from sources other than the Aliso Canyon facility. Finally, if any question remains as to the conflicting authority from statements made in the letter from the Executive Director of the CPUC, that conflict is for a court of law, not this Board, to resolve.

The Stipulated Order does include provisions regarding enhanced monitoring and a health study, among other things. I do not dispute the importance of these conditions. Nevertheless, most of these provisions could be adopted by the Hearing Board in our own Order or are required elsewhere (a health study is required by a State agency by the Governor's Proclamation and at least one other agency has required the well to be permanently shut down once the leak is stopped).

It is purely on the basis that this Order will not abate the current nuisance that I respectfully dissent.