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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

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19 ENVIRONMENTAL LAW FOUNDATION, Individually and in the public interest,)	CASE NO.
20 Plaintiff,)	COMPLAINT FOR CIVIL PENALTIES, STATUTORY, EQUITABLE AND INJUNCTIVE RELIEF
21 vs.)	VIOLATIONS OF CAL. HEALTH AND SAFETY CODE §§ 25249.5, et seq.
22 SOUTHERN CALIFORNIA GAS CO.; SEMPRA ENERGY; PACIFIC 23 ENTERPRISES; and DOES 1-100, inclusive.)	
24)	
25 Defendants.)	
26)	

27 Plaintiff Environmental Law Foundation (hereinafter "Plaintiff" or "ELF") brings this
28 action on its own behalf and in the public interest, and hereby alleges as follows:

1 **INTRODUCTION**

2 1. In California, water is our most precious natural resource. Unfortunately,
3 Defendants are contaminating or are threatening to contaminate protected sources of
4 drinking water with chemicals that are known to cause cancer and birth defects. These
5 actions violate California’s Safe Drinking Water and Toxic Enforcement Act (“Proposition
6 65”). Health and Safety Code § 25249.5, *et. seq.*

7 2. Defendants operate Southern California Gas Company’s underground
8 natural gas storage facility (“facility”), which is located in the Playa del Rey region of Los
9 Angeles. See Exhibit 1. The natural gas is stored in a partially depleted oilfield that is
10 located approximately 6,000 feet below ground level. Therein, the stored natural gas
11 mixes with the remaining crude oil from the oilfield and the gas becomes enriched with
12 Benzene, Toluene and Ethylbenzene (“BTEX”), chemicals known by the State of
13 California to cause cancer and birth defects.

14 3. The underground reservoir is connected to the surface by over 200 wells¹.
15 This action concerns twelve of those Wells, located in Playa del Rey and Marina del Rey
16 areas in Los Angeles.² The Wells were drilled in the 1920's and 1930's and extend the
17 6,000 feet from the reservoir to the surface level. In their path, they intersect the Ballona,
18 Silverado and Gage Aquifers³, which are protected sources of drinking water under the
19 Los Angeles Region’s Water Quality Control Plan or “Basin Plan”. As these 70 year old
20 Wells deteriorate, they develop cracks and leaks and BTEX is released from the Wells.
21 The BTEX then migrates upward to the surface, contaminating or threatening to

22 _____
23 ¹ For the purposes of this complaint, “Wells” is defined as all types of wells that are owned by or
24 are under the responsibility of the Defendants, including those that were used to extract oil, dry wells, wells
25 that are or have been used for the facility’s natural gas operations (*i.e.*, injection, extraction and monitoring),
and all well-associated equipment.

26 ² The specific Wells that are subject to this complaint are Wells 13-1, 23-1, 29-1, 29-2, Champ 1,
Hisey 1, Joyce 1, Lor Mar 1, Merrill 1, O&M 1, Samarkand 1 and Troxel 1.

27 ³ Wells 13-1, 23-1, 29-1, 29-2, Champ 1, Hisey 1, Joyce 1, Lor Mar 1, Merrill 1, O&M 1 and
28 Samarkand 1 intersect the Silverado and Gage Aquifers. Well Troxel 1 intersects the Silverado and Ballona
Aquifers.

1 contaminate the aquifers.

2 4. Defendants have not only failed to prevent their gas from leaking from the
3 reservoir to the surface, they have been unable to prevent the gas from migrating
4 laterally underground to reach additional Wells. The conditional use permit that
5 authorizes this facility expressly requires that the company confine the gas to a section of
6 the underground reservoir that measures approximately 240 acres. See Exhibit 2.
7 However, the company stores the gas under extremely high pressure and, consequently,
8 the gas has migrated laterally far beyond the 240 acre footprint to an area that measures
9 roughly 2,000 acres. See Exhibit 3. In fact, natural gas has migrated to many Wells that
10 are located beyond the 240 acre footprint identified in its permit, including most if not all
11 of the Wells at issue in this action. See Exhibit 4.

12 5. In failing to adequately contain their underground storage of natural gas,
13 Defendants have caused the discharge or release of BTEX from their Wells and,
14 consequently, have contaminated or threaten to contaminate the Ballona, Silverado and
15 Gage Aquifers - protected sources of drinking water - with chemicals known to cause
16 cancer and birth defects. See Exhibit 5. These activities are in violation of Health and
17 Safety Code § 25249.5, *et. seq.* Each release from each Well is a violation of Health
18 and Safety Code § 25249.5. The penalty for these violations is up to \$2,500 per violation
19 per day. Health and Safety Code § 25249.7(b)(1).

20 6. This action seeks civil penalties and injunctive and declaratory relief to
21 redress Defendants' knowing discharge or release of chemicals that cause cancer or
22 birth defects into land or water where such chemicals pass or probably will pass into a
23 source of drinking water, in violation of Health and Safety Code § 25249.5, *et. seq.*

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PARTIES

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A. THE PLAINTIFF

7. Plaintiff ENVIRONMENTAL LAW FOUNDATION (“ELF”) is a California nonprofit organization founded on Earth Day in 1991. ELF has a longstanding interest in reducing health hazards to the public posed by exposure to toxic chemicals, and particularly to protect those with the least choice and greatest vulnerability to toxic risks: children and inner-city dwellers. ELF is dedicated to the preservation and enhancement of human health and the environment. ELF brings this action in the public interest, pursuant to California Health and Safety Code § 25249.7(d). Plaintiff does not allege, nor has it suffered, an “injury” cognizable under Article III of the United States Constitution.

B. THE DEFENDANTS

8. Defendant SOUTHERN CALIFORNIA GAS COMPANY (“SoCalGas”) is a California corporation with its principal place of business in San Diego, California. SoCalGas provides natural gas and electricity to California customers from the Central Valley to the Mexican border. SoCalGas is the nation’s largest natural gas distribution utility, serving 19.8 million consumers in more than 500 communities in Central and Southern California. SoCalGas owns and operates four underground storage facilities in Southern California. This action concerns the Playa Del Rey Storage Facility located at 8141 Gulana Ave., Playa Del Rey, California 90293.

9. Defendant SEMPRA ENERGY (“Sempra”) is a California corporation with its principal place of business in San Diego, California. Sempra is an energy services holding company that was created in 1998 by a merger of Los Angeles-based Pacific Enterprises, the parent company of SoCalGas and Enova Corporation, the parent company of San Diego Gas & Electric. Sempra, a member of the S&P 500, serves the largest customer base of any energy utility in the United States. It sells natural gas and provides electricity and related products and services to more than twenty-nine (29)

1 million consumers in the United States, Europe, Canada, Mexico, South America and
2 Asia.

3 10. Defendant PACIFIC ENTERPRISES (“PacEnt”) is a California corporation
4 with its principal place of business in San Diego, California. PacEnt, once a predecessor
5 of Sempra, was founded in 1886 as Pacific Lighting. It purchased several small gas
6 manufacturing and distribution companies in California, which ultimately became
7 SoCalGas. In 1941, PacEnt introduced a new system for storing natural gas in large
8 holding tanks - underground storage.

9 11. The true names and capacities of Defendants sued herein under California
10 Code of Civil Procedure § 474 as DOE Defendants 1 through 100, inclusive, are
11 presently unknown to Plaintiff, who therefore sues these Defendants by such fictitious
12 names. Each of the fictitiously named Defendants is responsible in some manner for the
13 conduct alleged herein and for the injuries suffered by the general public. Plaintiff will
14 seek to amend this Complaint and include these Doe Defendants’ true names and
15 capacities when they are ascertained, and after they have been properly given notice
16 under Proposition 65.

17 12. Each named Defendant and DOE Defendants 1 through 100 (collectively
18 “Defendants”) herein has employed ten (10) or more persons at all times relevant to this
19 action, and thus each is a “person in the course of doing business” within the meaning of
20 the Act. Health and Safety Code § 25249.11.

21 13. When, in this Complaint, reference is made to any act of the Defendants,
22 such shall be deemed to mean that the officers, directors, agents, employees, or
23 representatives of the Defendants committed or authorized such acts, or failed and
24 omitted to adequately supervise or properly control or direct their employees while
25 engaged in the management, direction, operation or control of the affairs of the
26 Defendants, and did so while acting within the scope of their employment or agency.

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1 19. None of these public prosecutors have commenced or is diligently
2 prosecuting an action against the violations alleged herein.

3 **STATUTORY AND REGULATORY BACKGROUND**

4 20. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative
5 statute that was placed before the California electorate as "Proposition 65". It was
6 approved by the voters by nearly a two-to-one margin. Health and Safety Code
7 § 25249.5, *et. seq.*

8 21. Health and Safety Code § 25249.5 absolutely prohibits any business from
9 contaminating California's drinking water supplies. Section 25249.5 provides:

10 No person in the course of doing business shall knowingly
11 discharge or release a chemical known to the state to cause
12 cancer or reproductive toxicity into water or onto or into land
where such chemical passes or probably will pass into any
source of drinking water. . .

13 22. Proposition 65 establishes a procedure by which the Governor lists
14 chemicals known to the state to cause cancer or reproductive toxicity. Health and Safety
15 Code § 25249.8. Pursuant to this authority, on February 27, 1987, Benzene was listed
16 as a known carcinogen. On December 26, 1997, Benzene was also listed as a known
17 reproductive toxicant. On January 1, 1991, Toluene was listed as a known reproductive
18 toxicant. On June 11, 2004, Ethylbenzene was listed as a known carcinogen. Each of
19 these chemicals became subject to the prohibitions under Health and Safety Code
20 § 25249.5 twenty months after they were listed. Health and Safety Code § 25249.9(a).

21 23. Under Proposition 65, a "source of drinking water" is defined as a present
22 source of drinking water or water that is identified in a water quality control plan or "Basin
23 Plan" as being suitable for domestic or municipal uses. Health and Safety Code §
24 25249.11(d). Moreover, "water" is defined to include both surface and ground water,
25 pursuant to 22 CCR § 12102(w). The State Water Resources Control Board Resolution
26 No. 88-63 states that "[a]ll surface and ground waters of the State are considered to be
27 suitable, or potentially suitable, for municipal or domestic water supply and should be so
28 designated by the Regional Boards." In accordance with this policy, the Los Angeles

1 Regional Water Quality Control Board designated the West Coast sub-basin and the
2 Santa Monica sub-basin, which contain the Ballona, Silverado, and Gage Aquifers, as
3 having existing beneficial use for domestic drinking water.

4 24. Violations of Proposition 65 may be enforced by any person in the public
5 interest, after providing a 60-day notice of the violations to the Attorney General, District
6 Attorney, City Attorney and the alleged violator. Health and Safety Code
7 § 25249.7(d)(1). Remedies include injunctive relief to prevent actual or threatened
8 violations, and penalties of up to \$2,500 per day per violation. Health and Safety Code
9 § 25249.7(a) and (b).

10 **FACTUAL BACKGROUND**

11 **A. THE PLAYA DEL REY FACILITY**

12 25. Defendants operate the Southern California Gas Company, which is
13 located in the Playa del Rey region of Los Angeles and supplies natural gas to California
14 customers. The facility is located in a highly developed and populated residential section
15 of Los Angeles. The facility operates an import, storage, transfer and delivery system of
16 natural gas. Part of the operations include the underground storage of natural gas, for
17 which it uses a partially depleted oilfield located approximately 6,000 feet below ground
18 level. The reservoir is connected to the surface by over 200 Wells, which were drilled in
19 the 1920's and 1930's in order to retrieve the oil. Approximately 30% of the original oil
20 from the oilfield was depleted. In 1942, as part of the national war effort, the Federal
21 government allowed the reservoir to be converted into an underground storage facility for
22 natural gas. The oilfield is located under a thick layer of cap rock (a low permeable layer
23 of rock). It was believed that the cap rock would prevent the gas from leaking to the
24 surface, even though it had been punctured over 200 times when the Wells were
25 originally drilled. This belief was based on the assumption that the Wells would not leak.

26 26. Currently, pipelines deliver natural gas from Texas and Oklahoma to the
27 Playa del Rey facility. The imported natural gas is compressed and placed under
28 significant pressure in order to inject it into the underground reservoir. As the reservoir is

1 only partially depleted of crude oil, it has a high concentration of aromatic and volatile
2 organic compounds, including Benzene, Toluene and Ethylbenzene, chemicals that the
3 State of California recognizes as carcinogens and reproductive toxicants. When the
4 natural gas is injected underground under high pressure, it mixes with the crude oil from
5 the reservoir, becomes enriched with BTEX.

6 27. The twelve Wells that are subject to this action were drilled in the 1930's
7 using equipment and materials of the day. These 70 year old Wells have deteriorated
8 over time and have developed cracks and leaks. When leaks in the Wells develop, the
9 leaks allow BTEX to be released from the Well casings and into the soil and rock
10 formations that surround the Wells. The BTEX then moves vertically toward the surface,
11 passing into or threatening to pass into the Ballona, Silverado and Gage Aquifers, and
12 contaminating or threatening to contaminate these protected sources of drinking water.

13 28. Moreover, under the conditional use permit issued by the City of Los
14 Angeles Planning Commission

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1 , the company is required to confine the gas in the reservoir to an area that measures
2 approximately 240 acres. However, because the company stores the gas under such
3 high pressure, the gas has migrated outside of the 240 acre footprint and spans across
4 an area that is roughly 2,000 acres. In fact, tests have detected BTEX around the heads
5 of Wells that are located outside of the 240 acre footprint, including most if not all of the
6 Wells at issue in this action, indicating that the gas has not only migrated laterally, but
7 that the Wells themselves leak.

8 **B. THE WELLS**

9 29. This action concerns releases or discharges from twelve (12) individual
10 Wells. Each of these Wells has and continues to discharge or release BTEX, which pass
11 or probably will pass into sources of drinking water in violation of Health and Safety Code
12 § 25249.5. The surface location of each of the Wells is located on a lot which the
13 Defendants are in the process of selling, presumably for more residential development.

14 30. Well "13-1" is located in Playa del Rey, which is within the City and County
15 of Los Angeles, California. Well 13-1 was drilled in 1935 to a depth of approximately
16 6,400 feet and it intersects the Silverado and Gage Aquifers. Well 13-1 was operated
17 periodically until it was abandoned in 1992.

18 31. Well "23-1" is located in Playa del Rey, which is within the City and County
19 of Los Angeles, California. Well 23-1 was drilled in 1935 to a depth of approximately
20 6,500 feet, and it intersects the Silverado and Gage Aquifers. Well 23-1 was abandoned
21 in 1940, but in 1955 it was reworked and operated periodically until it was re-abandoned
22 in 1993.

23 32. Well "29-1" is located in Playa del Rey, which is within the City and County
24 of Los Angeles, California. Well 29-1 was drilled in 1935 to a depth of approximately
25 6,200 feet, and it intersects the Silverado and Gage Aquifers. Well 29-1 was abandoned
26 in 1941, but in 1956 it was reworked and operated periodically until it was re-abandoned
27 in 1994.

28 33. Well "29-2" is located in Playa del Rey, which is within the City and County

1 of Los Angeles, California. Well 29-2 was drilled in 1936 to a depth of approximately
2 6,300 feet, and it intersects the Silverado and Gage Aquifers. Well 29-2 was operated
3 until it was abandoned in 1994.

4 34. Well "Champ 1" is located in Playa del Rey, which is within the City and
5 County of Los Angeles, California. Champ 1 was drilled in 1935 to a depth of
6 approximately 6,900 feet, and it intersects the Silverado and Gage Aquifers. Champ 1
7 was abandoned in 1937, and re-abandoned in 1958.

8 35. Well "Hisey 1" is located in Playa del Rey, which is within the City and
9 County of Los Angeles, California. Hisey 1 was drilled in 1935 to a depth of
10 approximately 6,500 feet, and it intersects the Silverado and Gage Aquifers. Hisey 1 was
11 abandoned in 1939, but in 1956 it was reworked and operated periodically until it was re-
12 abandoned in 1992.

13 36. Well "Joyce 1" is located in Playa del Rey, which is within the City and
14 County of Los Angeles, California. Joyce 1 was drilled in 1935 to a depth of
15 approximately 6,700 feet, and it intersects the Silverado and Gage Aquifers. Joyce 1
16 was abandoned in 1941, but in 1956 it was reworked and operated until it was re-
17 abandoned in 1993.

18 37. Well "Lor Mar 1" is located in Playa del Rey, which is within the City and
19 County of Los Angeles, California. Lor Mar 1 was drilled in 1935 to a depth of
20 approximately 6,800 feet and it intersects the Silverado and Gage Aquifers. Lor Mar 1
21 was abandoned in 1936, but in 1956 it was reworked and operated until it was re-
22 abandoned in 1992.

23 38. Well "Merrill 1" is located in Playa del Rey, in the City and County of
24 California. Merrill 1 was drilled in 1935 to a depth of approximately 6,200 feet, and it
25 intersects the Silverado and Gage Aquifers. Merrill 1 was abandoned in 1942, but in
26 1956 it was reworked and operated periodically until it was re-abandoned in 1992.

27 39. Well "O&M 1" is located in Playa del Rey, which is within the City and
28 County of Los Angeles, California. O&M 1 was drilled in 1935 to a depth of

1 approximately 6,600 feet, and it intersects the Silverado and Gage Aquifers. O&M 1 was
2 abandoned in 1936 and it was re-abandoned in 1956.

3 40. Well "Samarkand 1" is located in Playa del Rey, which is within the City and
4 County of Los Angeles, California. Samarkand 1 was drilled in 1939 to a depth of
5 approximately 6,400 feet, and it intersects the Silverado and Gage Aquifers. Samarkand
6 1 was abandoned in 1992.

7 41. Well "Troxel 1" is located in Marina del Rey, which is within the City and
8 County of Los Angeles, California. Troxel 1 was drilled in 1930 to a depth of
9 approximately 5,900 feet, and it intersects the Ballona and Silverado Aquifers. Troxel 1
10 was abandoned in 1993, but required re-abandonment in 1994.

11 **C. DEFENDANTS' KNOWLEDGE OF THE LEAKING STORAGE WELLS**

12 42. Defendants have known that there were and are continuing to be leaks of
13 BTEX from each of the subject Wells. This activity has resulted in the continuous
14 discharge or release of chemicals known to cause cancer and birth defects into water or
15 into or onto land where the chemicals pass or probably will pass into sources of drinking
16 water.

17 43. Defendants' own soil gas testing in areas adjacent to the Wells made them
18 aware that BTEX has and continues to migrate up and out of their Wells. Additionally,
19 the abandonment history of Defendants' Wells reveal the inadequacy of the
20 abandonment procedures for Wells connected to a high-pressure natural gas storage
21 facility, as many of Defendants' Wells continue to leak subsequent to their abandonment.
22 In fact, internal memoranda specifically describe the ways in which Well leaks occur at
23 the Playa del Rey facility.

24 44. In addition, the Playa del Rey storage facility loses at least one (1) pound or
25 gas per square inch per day, or approximately 1% of reservoir gas per year. In fact,
26 SoCalGas admits that the reservoir leaks millions of cubic feet of gas annually.

27 45. Despite Defendants' knowledge that its Wells discharge or release toxic
28 chemicals, they continue to operate their facility in such a manner that these chemicals

1 pass or threaten to pass into protected sources of drinking water.

2 **CLAIMS**

3 **Allegations Common to All Causes of Action**

4 47. Proposition 65 prohibits a person in the course of doing business from
5 knowingly discharging or releasing a chemical known to the State of California to cause
6 cancer or reproductive toxicity into water or onto or into land where such chemical
7 passes or probably will pass into any source of drinking water. Health and Safety Code
8 § 25249.5.

9 49. Pursuant to Health and Safety Code § 25249.8, Benzene was listed as a
10 known carcinogen on February 27, 1987. On December 26, 1997, Benzene was listed
11 as a known reproductive toxicant. On January 1, 1991, Toluene was listed as a known
12 reproductive toxicant. On June 11, 2004, Ethylbenzene was listed as a known
13 carcinogen. These chemicals became subject to the prohibitions under Health and
14 Safety Code § 25249.5 twenty months after they were listed. Health and Safety Code
15 § 25249.9(a).

16 50. Proposition 65 defines a “source of drinking water” as surface or ground
17 water that is a present source of drinking water or that is identified in a water quality
18 control plan as being suitable for domestic or municipal uses. Health and Safety Code
19 § 25249.11(d); 22 California Code of Regulations (“CCR”) § 12102(w). The State Water
20 Resources Control Board Resolution No. 88-63 states that “[a]ll surface and ground
21 waters of the State are considered to be suitable, or potentially suitable, for municipal or
22 domestic water supply and should be so designated by the Regional Boards.” In
23 accordance with this policy, the Los Angeles Regional Water Quality Control Board
24 designated the West Coast sub-basin and the Santa Monica sub-basin, which contain
25 the Ballona, Silverado and Gage Aquifers, as supporting existing beneficial uses for
26 domestic drinking water.

27 52. Defendants are “person[s] in the course of doing business”, as that phrase
28 is defined under Health and Safety Code § 25249.11, because they are businesses with

1 ten (10) or more employees.

2 51. Defendants know and have known that discharges or releases of BTEX
3 from each Well have and continue to occur.

4 54. Proposition 65 provides that any person “violating or threatening to violate”
5 the statute may be enjoined in any court of competent jurisdiction. Health and Safety
6 Code § 25249.7. In addition, violators are liable for civil penalties of up to \$2,500 per day
7 per violation, recoverable in a civil action. *Id.*, § 25249.7(b). By the described acts,
8 Defendants are liable for a civil penalty of up to \$2,500 per day per for each discharge or
9 release of BTEX from each Well described in each Cause of Action. *Id.*, § 25249.7(b).

10 **FIRST CAUSE OF ACTION**

11 **Violations of California Health and Safety Code § 25249.5, et seq.**
12 **(Against All Defendants, as to Well 13-1)**

13 46. Plaintiff incorporates by reference all of the above paragraphs as if fully set
14 forth herein.

15 48. Defendants own Well 13-1. Well 13-1 has and continues to discharge or
16 release BTEX, chemicals known to the State of California to cause cancer and/or birth
17 defects. These chemicals are discharged or released through leaks in Well 13-1 and
18 migrate vertically towards the surface through the Well casing or natural points of least
19 resistance in the rock and soil which surround the Well. BTEX passes or probably will
20 pass into the Silverado and Gage Aquifers, which are protected sources of drinking
21 water.

22 53. Therefore, Defendants in the course of doing business knowingly
23 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
24 into water or onto or into land where these chemicals pass or probably will pass into a
25 source of drinking water, in violation of Health and Safety Code § 25249.5.

26 **SECOND CAUSE OF ACTION**

27 **Violations of California Health and Safety Code § 25249.5, et seq.**
28 **(Against All Defendants, as to Well 23-1)**

1 source of drinking water, in violation of Health and Safety Code § 25249.5.

2 **FOURTH CAUSE OF ACTION**

3 **Violations of California Health and Safety Code § 25249.5, et seq.**
4 **(Against All Defendants, as to Well 29-2)**

5 73. Plaintiff incorporates by reference all of the above paragraphs as if fully set
6 forth herein.

7 75. Defendants own Well 29-2. Well 29-2 has and continues to discharge or
8 release BTEX, chemicals known to the State of California to cause cancer and/or birth
9 defects. These chemicals are discharged or released through leaks in Well 29-2 and
10 migrate vertically towards the surface through the Well casing or natural points of least
11 resistance in the rock and soil which surround the Well. BTEX passes or probably will
12 pass into the Silverado and Gage Aquifers, which are protected sources of drinking
13 water.

14 80. Therefore, Defendants in the course of doing business knowingly
15 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
16 into water or onto or into land where these chemicals pass or probably will pass into a
17 source of drinking water, in violation of Health and Safety Code § 25249.5.

18 **FIFTH CAUSE OF ACTION**

19 **Violations of California Health and Safety Code § 25249.5, et seq.**
20 **(Against All Defendants, as to Well Champ 1)**

21 82. Plaintiff incorporates by reference all of the above paragraphs as if fully set
22 forth herein.

23 84. Defendants own Well Champ 1. Well Champ 1 has and continues to
24 discharge or release BTEX, chemicals known to the State of California to cause cancer
25 and/or birth defects. These chemicals are discharged or released through leaks in Well
26 Champ 1 and migrate vertically towards the surface through the Well casing or natural
27 points of least resistance in the rock and soil which surround the Well. BTEX passes or
28 probably will pass into the Silverado and Gage Aquifers, which are protected sources of
drinking water.

1 89. Therefore, Defendants in the course of doing business knowingly
2 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
3 into water or onto or into land where these chemicals pass or probably will pass into a
4 source of drinking water, in violation of Health and Safety Code § 25249.5.

5 **SIXTH CAUSE OF ACTION**

6 **Violations of California Health and Safety Code § 25249.5, et seq.**
7 **(Against All Defendants, as to Well Hisey 1)**

8 91. Plaintiff incorporates by reference all of the above paragraphs as if fully set
9 forth herein.

10 93. Defendants own Well Hisey 1. Well Hisey 1 has and continues to
11 discharge or release BTEX, chemicals known to the State of California to cause cancer
12 and/or birth defects. These chemicals are discharged or released through leaks in Well
13 Hisey 1 and migrate vertically towards the surface through the Well casing or natural
14 points of least resistance in the rock and soil which surround the Well. BTEX passes or
15 probably will pass into the Silverado and Gage Aquifers, which are protected sources of
16 drinking water.

17 98. Therefore, Defendants in the course of doing business knowingly
18 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
19 into water or onto or into land where these chemicals pass or probably will pass into a
20 source of drinking water, in violation of Health and Safety Code § 25249.5.

21 **SEVENTH CAUSE OF ACTION**

22 **Violations of California Health and Safety Code § 25249.5, et seq.**
23 **(Against All Defendants, as to Well Joyce 1)**

24 100. Plaintiff incorporates by reference all of the above paragraphs as if fully set
25 forth herein.

26 102. Defendants own Well Joyce 1. Well Joyce 1 has and continues to
27 discharge or release BTEX, chemicals known to the State of California to cause cancer
28 and/or birth defects. These chemicals are discharged or released through leaks in Well
Joyce 1 and migrate vertically towards the surface through the Well casing or natural

1 points of least resistance in the rock and soil which surround the Well. BTEX passes or
2 probably will pass into the Silverado and Gage Aquifers, which are protected sources of
3 drinking water.

4 107. Therefore, Defendants in the course of doing business knowingly
5 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
6 into water or onto or into land where these chemicals pass or probably will pass into a
7 source of drinking water, in violation of Health and Safety Code § 25249.5.

8 **EIGHTH CAUSE OF ACTION**

9 **Violations of California Health and Safety Code § 25249.5, et seq.**
10 **(Against All Defendants, as to Well Lor Mar 1)**

11 109. Plaintiff incorporates by reference all of the above paragraphs as if fully set
12 forth herein.

13 111. Defendants own Well Lor Mar 1. Well Lor Mar 1 has and continues to
14 discharge or release BTEX, chemicals known to the State of California to cause cancer
15 and/or birth defects. These chemicals are discharged or released through leaks in Well
16 Lor Mar 1 and migrate vertically towards the surface through the Well casing or natural
17 points of least resistance in the rock and soil which surround the Well. BTEX passes or
18 probably will pass into the Silverado and Gage Aquifers, which are protected sources of
19 drinking water.

20 116. Therefore, Defendants in the course of doing business knowingly
21 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
22 into water or onto or into land where these chemicals pass or probably will pass into a
23 source of drinking water, in violation of Health and Safety Code § 25249.5.

24 **NINTH CAUSE OF ACTION**

25 **Violations of California Health and Safety Code § 25249.5, et seq.**
26 **(Against All Defendants, as to Well Merrill 1)**

27 118. Plaintiff incorporates by reference all of the above paragraphs as if fully set
28 forth herein.

120. Defendants own Well Merrill 1. Well Merrill 1 has and continues to

1 discharge or release BTEX, chemicals known to the State of California to cause cancer
2 and/or birth defects. These chemicals are discharged or released through leaks in Well
3 Merrill 1 and migrate vertically towards the surface through the Well casing or natural
4 points of least resistance in the rock and soil which surround the Well. BTEX passes or
5 probably will pass into the Silverado and Gage Aquifers, which are protected sources of
6 drinking water.

7 125. Therefore, Defendants in the course of doing business knowingly
8 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
9 into water or onto or into land where these chemicals pass or probably will pass into a
10 source of drinking water, in violation of Health and Safety Code § 25249.5.

11 **TENTH CAUSE OF ACTION**

12 **Violations of California Health and Safety Code § 25249.5, et seq.**
13 **(Against All Defendants, as to Well O&M 1)**

14 127. Plaintiff incorporates by reference all of the above paragraphs as if fully set
15 forth herein.

16 129. Defendants own Well O&M 1. Well O&M 1 has and continues to discharge
17 or release BTEX, chemicals known to the State of California to cause cancer and/or birth
18 defects. These chemicals are discharged or released through leaks in Well O&M 1 and
19 migrate vertically towards the surface through the Well casing or natural points of least
20 resistance in the rock and soil which surround the Well. BTEX passes or probably will
21 pass into the Silverado and Gage Aquifers, which are protected sources of drinking
22 water.

23 134. Therefore, Defendants in the course of doing business knowingly
24 discharged or released BTEX, chemicals known to cause cancer and/or birth defects,
25 into water or onto or into land where these chemicals pass or probably will pass into a
26 source of drinking water, in violation of Health and Safety Code § 25249.5.

27 **ELEVENTH CAUSE OF ACTION**

28 **Violations of California Health and Safety Code § 25249.5, et seq.**
(Against All Defendants, as to Well Samarkand 1)

1 source of drinking water, in violation of Health and Safety Code § 25249.5.

2 **DECLARATORY RELIEF**

3 154. There is a present and actual existing controversy between Plaintiff and
4 Defendant regarding the legality of Defendants' ongoing business operations as
5 described herein, such that declaratory relief is proper.

6 **INJUNCTIVE RELIEF**

7 155. By committing the acts alleged herein, Defendants have caused irreparable
8 harm for which there is no plain, speedy, or adequate remedy at law. In the absence of
9 equitable relief, Defendants' Wells will continue to discharge or release chemicals that
10 cause cancer and birth defects into the Ballona, Silverado and Gage aquifers, which
11 creates a substantial risk of irreparable contamination to these protected sources of
12 drinking water.

13 **PRAYER FOR RELIEF**

14 156. WHEREFORE, Plaintiff respectfully requests this Court to grant the
15 following relief:

16 A. A declaration by this Court that Defendants have been, are and continue to
17 violate Health and Safety Code §§ 25249.5, *et seq.*;

18 B. A temporary restraining order, and preliminary and permanent injunction
19 enjoining Defendants from threatening to violate or in fact violating Health and Safety
20 Code section 25249.5 *et seq.* by releasing and/or discharging Benzene, Toluene and
21 Ethylbenzene into water or into or onto land where it has passed or probably will pass
22 into any source of drinking water;

23 C. An order mandating that Defendants take every action necessary to assure
24 that all relief requested herein is obtained and fully funded;

25 D. An award of statutory civil penalties of \$2,500 per day for each separate
26 violation of Health and Safety Code § 25249.5, *et seq.*;

27 E. Plaintiff's fees and costs, including reasonable attorneys' and expert
28 witness fees, as authorized by California Code of Civil Procedure § 1021.5 and any other

1 applicable provisions of law; and

2 F. Such other and further relief as this Court may deem necessary and
3 proper.

4 Respectfully submitted,

ENVIRONMENTAL LAW FOUNDATION
JAMES R. WHEATON
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LAW OFFICES OF SABRINA VENSKUS
SABRINA D. VENSKUS

11
12 DATED: January 11, 2007

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14 By: _____
15 CHRISTOPHER P. RIDOUT
16 Attorneys for Plaintiff
17 Environmental Law Foundation
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