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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 SOUTHERN CALIFORNIA GAS
15 COMPANY,

Plaintiff,

16 v.

17 COUNTY OF LOS ANGELES,
18 CALIFORNIA; MARY C. WICKHAM,
in her official capacity as Los Angeles
19 County Counsel; STATE OF
20 CALIFORNIA DEPARTMENT OF
INDUSTRIAL RELATIONS; STATE
21 OF CALIFORNIA DIVISION OF
OCCUPATIONAL SAFETY AND
22 HEALTH; JULIANN SUM, in her
official capacity as Chief of the State of
23 California Division of Occupational
24 Safety and Health; and STATE OF
25 CALIFORNIA OCCUPATIONAL
SAFETY AND HEALTH APPEALS
BOARD,

26 *Defendants.*
27
28

Case No. 2:17-cv-5140

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Plaintiff, Southern California Gas Company (“SoCalGas”), brings this action to enjoin Defendants’ ongoing violations of the federal Pipeline Safety Act, 49 U.S.C. § 60101 et seq. (“PSA”). Defendants include a state agency and a county that are attempting to impose and enforce safety standards for SoCalGas’ natural gas pipeline facilities, including SoCalGas’ underground gas storage facilities. Defendants’ actions violate the PSA, which expressly preempts all state and local safety standards for natural gas pipeline facilities and precludes state and local authorities from imposing or enforcing safety standards on natural gas pipeline facilities except as permitted under federal law. The PSA expressly authorizes federal suits to enjoin such violations of the Act. 49 U.S.C. § 60121(a).

2. The PSA vests the U.S. Department of Transportation (“DOT”) with exclusive jurisdiction to regulate safety standards for natural gas pipelines and underground storage facilities. To ensure that DOT can effectively develop and implement uniform safety standards for such facilities nationwide and without interference, the PSA expressly preempts state and local authorities from imposing or enforcing safety standards in this space, unless certified by the Secretary of Transportation to regulate natural gas pipelines and underground storage facilities.

3. Under the PSA, a state authority may impose or enforce safety standards for intrastate natural gas pipeline and storage facilities only where, *inter alia*: (a) the state authority has submitted a current annual certification to the Secretary of Transportation; (b) the state authority has the requisite legal authority under state law to adequately enforce the federal minimum safety standards; and (c) any supplemental safety standards the state authority would impose in addition to the federal minimum standards are consistent with the federal minimum standards.

4. The only California authority certified to impose or enforce safety standards for SoCalGas’ natural gas pipelines and underground storage facilities is

1 the California Public Utilities Commission (“CPUC”). The CPUC is exercising its
2 authority as the federally certified state authority to regulate safety standards for
3 SoCalGas’ pipelines and underground gas storage facilities, with the cooperation
4 and input of the California Department of Conservation, Division of Oil, Gas and
5 Geothermal Resources (“DOGGR”). SoCalGas complies with all lawfully
6 imposed requirements and safety standards for its intrastate pipelines and storage
7 facilities.

8 5. Defendants—the County of Los Angeles (“County”) and the
9 California Department of Industrial Relations, Division of Occupational Safety and
10 Health (“Cal/OSHA”)—are not certified by DOT and have no authority to impose
11 or enforce safety standards on SoCalGas’ pipelines and underground storage
12 facilities.

13 6. Despite their lack of authority, following the gas leak at SoCalGas’
14 Aliso Canyon facility that began on October 23, 2015 (“the Aliso Canyon Gas
15 Leak”), both the County and Cal/OSHA have attempted and are continuing to
16 attempt to impose and enforce safety standards on SoCalGas’ pipelines and
17 underground storage facilities.

18 7. The County has initiated litigation against SoCalGas in state court for
19 the express purpose of obtaining injunctive relief to impose purported safety
20 standards devised by the County for the design, operation, maintenance, and
21 inspection of SoCalGas’ pipelines and underground storage facilities located in the
22 County of Los Angeles.

23 8. In addition, the County has created a “Strike Team” tasked with
24 investigating health and safety risks associated with natural gas facilities in the
25 County and amending the County zoning code to regulate such facilities. The
26 County has further attempted to interfere with the CPUC’s evaluation of
27 SoCalGas’ request to resume normal injection operations at the Aliso Canyon
28 facility. Unless enjoined by this Court, the County will not cease its attempts to

1 unlawfully insert itself into the regulation of safety standards for SoCalGas'
2 pipelines and underground storage facilities.

3 9. Cal/OSHA has issued administrative citations against SoCalGas to
4 impose and enforce safety standards for the Aliso Canyon facility. SoCalGas
5 timely appealed those citations on several grounds, including preemption by the
6 PSA. That administrative proceeding is ongoing as of the date of this filing and is
7 pending before Defendant California Occupational Safety and Health Appeals
8 Board ("COSHAB"). The citations, and their associated penalties and demands for
9 abatement, exceed Cal/OSHA's jurisdiction and are preempted by the PSA.
10 Unless enjoined by this Court, Cal/OSHA will continue its attempts to unlawfully
11 impose and enforce safety standards for SoCalGas' pipelines and underground
12 storage facilities.

13 10. Because the County and Cal/OSHA are not certified under the PSA to
14 impose or enforce safety standards for natural gas pipeline and storage facilities,
15 both the County and Cal/OSHA's efforts are expressly preempted by the PSA, and
16 should be permanently enjoined.

17 **II. JURISDICTION AND VENUE**

18 11. This case arises under the United States Constitution and the laws of
19 the United States, giving this Court jurisdiction under 28 U.S.C. § 1331. This
20 Court has authority to grant declaratory and injunctive relief under 28 U.S.C.
21 § 2201 et seq. and 49 U.S.C. § 60121.

22 12. Pursuant to 49 U.S.C. § 60121(a)(1)(A), notice of this action was
23 provided on September 19, 2016. A copy of the letter providing such notice is
24 attached hereto as Exhibit A.

25 13. Under 28 U.S.C. § 1391, venue is appropriate here because a
26 substantial part of the events giving rise to the claims occurred in the Central
27 District of California.
28

III. PARTIES

14. Plaintiff, SoCalGas, is a public utility company that has been serving customers in Southern California for more than 140 years and has extensive experience with natural gas transmission, storage, and distribution. SoCalGas serves approximately 22 million Californians and services approximately 5.8 million meters through an integrated interstate network of natural gas pipeline facilities, including pipelines and underground storage facilities. Every day, SoCalGas serves over 200,000 commercial, institutional, and industrial customers, including government and emergency services facilities, hospitals, schools, small businesses, and large manufacturing facilities.

15. Defendant County of Los Angeles is a public body, corporate and politic, created under the laws of the State of California.

16. Defendant Mary C. Wickham is the Los Angeles County Counsel. Defendant Wickham is responsible for providing legal counsel to the County's Board of Supervisors and constituent agencies. Defendant Wickham is the County official authorized to sue (a) to abate public nuisances in the County of Los Angeles (*see* Cal. Civ. Proc. Code § 731); and (b) in actions involving County ordinances, to enjoin violations of California Business & Professions Code section 17200 (*see* Cal. Bus. & Prof. Code § 17204). Defendant Wickham is being sued in her official capacity for injunctive and declaratory relief.

17. Defendant California Department of Industrial Relations ("DIR") is the State agency charged with protecting the welfare and working conditions of California workers.

18. Defendant Cal/OSHA is the division of the DIR responsible for implementing and enforcing occupational safety and health standards promulgated under the California Occupational Safety & Health Act, California Labor Code section 6300 et seq.

1 19. Defendant Juliann Sum is the Chief of Cal/OSHA. Defendant Sum is
2 responsible for ensuring that Cal/OSHA performs its statutory obligation to
3 enforce occupational health and safety standards. Defendant Sum is being sued in
4 her official capacity for injunctive and declaratory relief.

5 20. Defendant COSHAB is the judicial body within the DIR that receives
6 and adjudicates appeals of Cal/OSHA citations.

7 21. Plaintiff and Defendants are persons under 49 U.S.C. § 60121(a).

8 **IV. ALLEGATIONS OF FACT**

9 22. This action arises from a dispute over Defendants' lack of lawful
10 authority to impose and enforce safety standards on SoCalGas' natural gas pipeline
11 facilities, including its underground gas storage facilities. Specifically, Defendants
12 have and continue to attempt to (1) require the installation of new or additional
13 safety-related equipment; (2) impose safety requirements related to the design,
14 inspection, operation, and maintenance of SoCalGas' pipelines and underground
15 storage facilities; and (3) impose, or purport to have the jurisdiction to impose,
16 penalties or other sanctions for alleged failures by SoCalGas to satisfy these safety
17 requirements.

18 23. Regulation of safety standards for interstate and intrastate pipelines
19 and underground storage facilities is subject to exclusive federal regulatory
20 jurisdiction under the PSA.

21 24. A state or local authority may only regulate safety standards for
22 intrastate pipelines and underground storage facilities if the state or local agency
23 first obtains a certification from the Secretary of Transportation and only to the
24 extent expressly authorized by the PSA; all other non-federal regulation is
25 expressly preempted. Under the PSA, state and local authorities may not impose
26 or enforce any safety standards on pipelines and underground storage facilities
27 unless certified by the Secretary of Transportation.
28

1 25. The Secretary of Transportation has not certified Defendants to
2 impose or enforce safety standards for intrastate pipelines and underground storage
3 facilities. Accordingly, Defendants' efforts to impose or enforce safety standards
4 on SoCalGas' pipelines and underground storage facilities violate the PSA's
5 prohibition against unauthorized state and local regulation and are preempted by
6 federal law.

7 **A. SoCalGas' Natural Gas Pipeline Facilities Including Storage Facilities**

8 26. SoCalGas owns and operates an integrated natural gas transportation
9 and distribution system consisting of pipelines and underground storage facilities.
10 The SoCalGas system has a maximum pipeline capacity to accept up to 3.875
11 billion cubic feet ("Bcf") per day of natural gas supply, primarily from the
12 southwestern United States, the Rocky Mountain region, Canada, and historical in-
13 state California production.

14 27. Underground storage facilities are an integral component of
15 SoCalGas' transmission and distribution system. These storage facilities are
16 depleted natural gas or oil reservoirs, and are strategically located near customers.
17 Wells and associated pipelines, compressors, and processing equipment are used to
18 inject natural gas into storage reservoirs and withdraw gas from the storage
19 reservoirs as needed to meet the varying customer demands.

20 28. SoCalGas' underground storage facilities allow it to reliably supply
21 natural gas to Southern California consumers, and to mitigate hourly, daily, and
22 seasonal demand swings affording SoCalGas and its customers the ability to
23 manage deliveries of natural gas into the SoCalGas pipeline system from the
24 interstate pipeline network and to moderate daily and seasonal spikes in natural gas
25 prices by drawing on stored supplies to meet their demand when prices are high.

26 29. SoCalGas operates four underground gas storage facilities—Aliso
27 Canyon, Honor Rancho, La Goleta, and Playa del Rey—that interconnect with its
28

1 pipeline system, and one former storage facility, Montebello, which is in the final
2 stages of the decommissioning process.

3 30. The Aliso Canyon storage facility is located in the Santa Susana
4 Mountains in the County of Los Angeles, north of the Porter Ranch neighborhood
5 of the City of Los Angeles. Aliso Canyon is the largest of SoCalGas' four storage
6 facilities, with a working capacity of approximately 86 Bcf.

7 31. The Playa del Rey storage facility is located in the Playa del Rey Oil
8 Field, on the Santa Monica Bay, near Venice Beach and Marina del Rey. This
9 facility has an original design working capacity of approximately 2.4 Bcf.

10 32. The Honor Rancho-Santa Clarita storage facility is located in the
11 Honor Rancho Oil Field, in the foothills north of Valencia. In 1975, SoCalGas
12 entered into a lease with the County and converted Wayside 13, a depleted oil
13 producing zone, into a storage facility. It is the second-largest gas storage facility
14 operated by SoCalGas, with a maximum capacity of approximately 27 Bcf of
15 working natural gas.

16 33. The La Goleta storage facility is located in unincorporated Santa
17 Barbara County, adjacent to the City of Goleta. The La Goleta facility primarily
18 serves the northern coastal portion of SoCalGas' service territory. La Goleta has a
19 maximum capacity of approximately 21 Bcf of working natural gas.

20 **B. The Aliso Canyon Gas Leak**

21 34. On October 23, 2015, SoCalGas discovered a gas leak emanating
22 from well Standard Sesnon 25 ("SS-25") at Aliso Canyon. Initial efforts to bring
23 the leaking well under control were unsuccessful. SoCalGas thereafter drilled a
24 relief well to intercept SS-25 and end the gas leak.

25 35. Multiple state and local authorities were involved in the emergency
26 response efforts. SoCalGas worked closely and cooperatively with these state and
27 local authorities on the response to the gas leak and its effects by, *e.g.*, opening a
28 community resource center, providing air filtration systems to Porter Ranch

1 residents, and implementing a program to temporarily relocate certain residents
2 away from Porter Ranch when relocation was requested by the residents.

3 36. On February 11, 2016, SoCalGas temporarily controlled the flow of
4 natural gas at SS-25.

5 37. On February 18, 2016, DOGGR confirmed that SS-25 was
6 permanently sealed. That same day, DOGGR announced that the “air quality has
7 returned to normal.” DOGGR based that announcement on objective criteria and
8 testing established by the California Air Resources Board and the South Coast Air
9 Quality Management District.

10 38. Following the gas leak, multiple state authorities filed civil complaints
11 in Los Angeles County Superior Court (LASC) against SoCalGas. These
12 complaints are now coordinated in LASC Department 311. Among the civil
13 complaints is an action by Defendant County, by which the County, unlike other
14 government plaintiffs, seeks to impose and enforce safety standards for the Aliso
15 Canyon natural gas storage facility, as well as other pipelines and underground
16 storage facilities in the County of Los Angeles.

17 39. Separately, Cal/OSHA initiated an administrative proceeding and
18 investigation related to the Aliso Canyon Gas Leak and issued citations to
19 SoCalGas, attempting to enforce pipeline and underground storage safety standards
20 at the Aliso Canyon facility. SoCalGas has objected to these citations, and this
21 administrative proceeding remains pending before Defendant COSHAB. Among
22 other things, SoCalGas asserts in that proceeding that the PSA preempts
23 Cal/OSHA’s actions.

24 **C. Exclusive Federal Jurisdiction to Regulate Natural Gas Pipeline**
25 **Facilities**

26 40. To “provide adequate protection against risks to life and property
27 posed by pipeline transportation and pipeline facilities,” and to ensure uniformity
28 in safety standards, the PSA vests the United States Secretary of Transportation

1 with exclusive control over safety standards for both interstate and intrastate
2 pipelines and underground storage facilities. 49 U.S.C. §§ 60102, 60104. The
3 Secretary has delegated that authority to the Pipeline and Hazardous Materials
4 Safety Administration (“PHMSA”). *See generally* 70 Fed. Reg. 8299.

5 41. State authorities may not impose or enforce safety standards for
6 pipelines or underground storage facilities unless they meet certain conditions
7 governed by federal law. PHMSA is the gatekeeper for state authorities that want
8 to participate in the oversight and regulation of intrastate pipeline and underground
9 storage facility safety. PHMSA may certify a state authority to regulate intrastate
10 pipeline and underground storage facility safety standards upon making the
11 determination that the state authority’s supplemental or additional safety standards
12 are compatible with federal minimum safety standards. 49 U.S.C. § 60104(c).

13 42. All other state and local safety standards for pipelines and
14 underground storage facilities are expressly preempted by the PSA, and state
15 authorities may not purport to impose or enforce safety standards on pipelines and
16 underground storage facilities unless specifically certified by the Secretary of
17 Transportation under the PSA. 49 U.S.C. § 60104(c).

18 43. All underground gas storage facilities, including SoCalGas’
19 underground storage facilities, are defined as “pipeline facilities” under the PSA.
20 *See* 49 U.S.C. § 60101(a)(9), (a)(18), (a)(21), (a)(26). The PSA therefore preempts
21 all state or local safety regulation of such facilities except as specifically
22 authorized by PHMSA under the PSA.

23 44. The PSA provides a private right of action to enjoin conduct of state
24 and local governmental authorities that violates any provision of the PSA.
25 49 U.S.C. § 60121(a). The PSA also preserves all rights to relief at law or at
26 common law that would otherwise exist. 49 U.S.C. § 60121(d).

27
28

1 **D. PHMSA's Certification of the CPUC**

2 45. PHMSA has certified only the CPUC to impose and enforce safety
3 standards for intrastate pipelines and underground storage facilities in California.
4 Public Utilities Code section 955, subdivision (b). Consistent with that
5 certification, the CPUC has general regulatory jurisdiction over natural gas utilities
6 in California under state law. Cal. Pub. Util. Code § 701.

7 46. The CPUC ensures that the state's intrastate pipeline systems,
8 including SoCalGas' systems, are designed, constructed, operated, and maintained
9 according to safety standards set by the CPUC and the federal government.

10 47. CPUC gas pipeline safety engineers are trained and qualified by the
11 federal government.

12 48. The CPUC enforces intrastate natural gas pipeline safety regulations;
13 inspects construction, operation, and maintenance activities; and makes necessary
14 changes to regulations to protect and promote the safety of the public, the utility
15 employees who work on the gas pipeline systems, and the environment.

16 49. PHMSA reviews CPUC reports and inspections for intrastate pipeline
17 facilities within the CPUC's jurisdiction to ensure compliance with federal
18 standards.

19 50. With respect to regulation of safety standards for natural gas wells
20 that are used for the purpose of injecting and withdrawing natural gas located at
21 intrastate underground natural gas storage facilities in California, the CPUC
22 exercises its authority to regulate safety standards, in part, through a Memorandum
23 of Understanding with DOGGR ("Memorandum of Understanding"). A copy of
24 the Memorandum of Understanding is attached hereto as Exhibit B.

25 51. In the Memorandum of Understanding, the CPUC and DOGGR have
26 agreed that responsibility for safety oversight of underground gas storage wells
27 "would be split at the wellhead, relying on DOGGR's expertise over wells and
28 subsurface issues and the CPUC's general regulatory jurisdiction over utilities and

its status as a U.S. Department of Transportation certified pipeline safety inspector.” Ex. B, at 32, ¶ II.1. The Memorandum of Understanding further explicitly acknowledges that, under this arrangement, the CPUC “has and retains all aspects of its existing authority and jurisdiction to ensure the safety of the underground gas storage facilities” in California under the PSA. Ex. B, at 33, ¶ II.1.b.

52. PHMSA has not certified the County or Cal/OSHA to impose or enforce safety standards for intrastate pipelines or underground gas storage facilities.

E. The County’s Unauthorized Attempts to Regulate SoCalGas’ Pipeline Facilities

i. The County’s Civil Complaint for Injunctive Relief Against SoCalGas

53. Since the Aliso Canyon gas leak, the County has taken unilateral action seeking to impose its own unauthorized safety standards on SoCalGas’ pipelines and underground storage facilities.

54. On or about July 25, 2016, the County filed a complaint against SoCalGas in LASC. A copy of that complaint is attached hereto as Exhibit C.

55. In the complaint, the County asserts that it intends by its litigation to obtain injunctive relief imposing new safety standards for the design, operation, maintenance, and inspection of SoCalGas’ pipelines and underground storage facilities: “The purpose of this lawsuit, and a remedy sought herein, is to avoid another disastrous gas leak—and all the attendant harm to people and the environment—by requiring SoCalGas to install sub-surface safety shut-off valves—a modern ‘state of the art’ gas well safety system—on each and every gas well it operates in Los Angeles County.” Ex. C, at 41, ¶ 5.

56. The County seeks a court order “requiring the installation of sub-surface safety shut-off valves and/or other components of a modern ‘state of the

1 art' safety system on all active wells and distribution pipelines in Los Angeles
2 County.” Ex. C, at 69, Prayer for Relief. The County contends that SoCalGas’
3 failure to install such safety devices on wells at its underground storage facilities
4 constitutes a public nuisance and violates California Business & Professions Code
5 section 17200. Ex. C, at 63, ¶¶ 132–33, 136–37.

6 57. The County’s complaint also seeks relief from purported “impending
7 public nuisances” posed by all of SoCalGas’ underground storage facilities, and by
8 SoCalGas’ entire pipeline system within the County of Los Angeles. Ex. C, at
9 46–47, ¶ 32.

10 58. In addition to its common-law and statutory claims, the County
11 alleges violations of its franchise and lease agreements with SoCalGas. The
12 County alleges that these agreements allow it to impose and enforce safety
13 standards on SoCalGas’ pipelines and underground storage facilities. Ex. C,
14 at 65–66, ¶¶ 146, 155.

15 59. In particular, the County alleges that the franchise agreement requires
16 SoCalGas “to maintain and operate its distribution system in a manner necessary to
17 protect life and property,” and that SoCalGas’ “failure to install and maintain
18 adequate sub-surface safety shut-off valves and/or other components of a modern
19 ‘state of the art’ safety system at its wells in Aliso Canyon, Playa del Rey, Honor
20 Rancho-Santa Clarita and Montebello, and throughout its entire pipeline
21 distribution system, violates its obligations under the Franchise Agreement.”
22 Ex. C, at 46, ¶ 30.

23 60. The County further alleges that (a) SoCalGas operates its Honor
24 Rancho-Santa Clarita storage facility on County land; (b) the Honor Rancho-Santa
25 Clarita facility is subject to a lease agreement that “requires SoCalGas to maintain
26 the property and improvements in a safe condition” and “keep its storage reservoirs
27 in good order, condition and repair”; and (c) SoCalGas’ purported “failure to
28 operate and maintain its gas storage field at the highest safety standards, including

1 the use of sub-surface safety shut-off valves and/or other components of a modern
2 ‘state of the art’ safety system, violates its obligations under the Honor Rancho
3 Lease.” Ex. C, at 46, ¶ 31.

4 **ii. The County Oil and Gas “Strike Team”**

5 61. The County’s efforts to regulate SoCalGas’ natural gas pipeline
6 facilities extend beyond the lawsuit described above. The County’s Board of
7 Supervisors also created a “Strike Team” to examine health and safety risks
8 associated with oil and gas fields, including SoCalGas’ underground gas storage
9 facilities, in unincorporated County areas. A copy of an excerpt of the Statement
10 of Proceedings approving the formation of the Strike Team is attached hereto as
11 Exhibit D.

12 62. The Strike Team’s stated purpose is to recommend regulatory or legal
13 actions the County should take “to support the overall safety of these facilities in
14 relation to the surrounding communities.” Ex. D, at 93.

15 63. To that end, the Strike Team is tasked with updating the County’s
16 zoning code to ensure that gas pipeline facilities “may no longer operate by right in
17 the unincorporated portions of the County,” and that all natural gas pipeline
18 facilities operate under regulations that “reflect best practices and current
19 mitigation methods and technologies, minimize environmental impacts and protect
20 sensitive uses and populations.” *Id.* Unlike the CPUC, the Strike Team does not
21 consist of engineers trained by PHMSA; instead, it includes individuals such as a
22 plaintiff personal injury lawyer.

23 64. The County has further passed formal resolutions instructing the
24 Strike Team to “[c]oordinate with cities throughout the County that may be
25 interested in collaborating on the development of regulatory requirements or
26 protocols for monitoring and evaluating their local oil and gas facilities. . . .” *Id.*

1 65. On information and belief, the Strike Team is attempting to
 2 implement the County Board of Supervisors' directives and is presently engaged in
 3 investigative work to support the County's attempts to impose safety standards on
 4 natural gas pipelines and underground storage facilities.

5 **iii. County Interference with the Comprehensive Safety Review of**
 6 **Aliso Canyon**

7 66. SoCalGas ceased injection operations at the Aliso Canyon facility in
 8 October 2015 as part of its response to the leak. Thereafter, on December 10,
 9 2015, DOGGR directed SoCalGas to "[c]ontinue to not inject gas into the gas
 10 storage facility until injection is authorized by [DOGGR]." DOGGR Second
 11 Emergency Order, attached hereto as Exhibit E, at 105, VI(K). SoCalGas has
 12 complied with DOGGR's directive.

13 67. In January 2016, the California Legislature began considering a bill—
 14 Senate Bill No. 380 (2015-2016 Reg. Sess.) ("SB 380")—to require DOGGR to
 15 continue the prohibition against injecting natural gas at the Aliso Canyon Gas
 16 Storage Facility until a comprehensive review of the safety of the gas storage wells
 17 is completed. SB 380 became law on May 10, 2016. *See* Cal. Pub. Res. Code
 18 § 3217, added by Stats. 2016, ch. 14, § 1. The law provides that "[t]he criteria for
 19 the . . . comprehensive safety review shall be determined by the supervisor [of
 20 DOGGR] with input from contracted independent experts and shall include"
 21 certain requirements: (1) testing all gas storage wells "to detect existing leaks"; (2)
 22 stopping and remediating any leaks; (3) testing the "mechanical integrity" of any
 23 storage well "intended to return to service"; and (4) temporarily abandoning and
 24 isolating storage wells "to be taken out of service." Cal. Pub. Res. Code
 25 § 3217(c)(1)–(4).

26 68. Even after the comprehensive safety review is complete, the
 27 prohibition on injection operations continues until: (1) the DOGGR supervisor
 28 "determines that well integrity has been ensured by the review, the risks of failures

1 identified in the review have been addressed, and the supervisor’s duty to prevent
2 damage to life, health, property, and natural resources . . . is satisfied”
3 (§ 3217(a)(1)); (2) DOGGR “hold[s] at least one duly noticed public meeting”—
4 after the comprehensive safety review is complete (§ 3217(d)); (3) the supervisor
5 approves reservoir pressure limits to be used once operations resume (§ 3217(e));
6 and (4) the Executive Director of the CPUC “has concurred via letter with the
7 supervisor regarding his or her determination of safety” in view of the CPUC’s
8 regulatory jurisdiction as the only federally certified state authority to regulate
9 safety for underground gas storage facilities (§ 3217(a)(1)).

10 69. The joint CPUC/DOGGR comprehensive safety review of the Aliso
11 Canyon facility is complete, and CPUC and DOGGR have determined that the
12 wells at Aliso Canyon that are intended to be returned to service have satisfied all
13 testing requirements. CPUC and DOGGR have not yet authorized SoCalGas to
14 resume injection operations at Aliso Canyon, pending completion of remaining
15 statutory requirements.

16 70. Nevertheless, on March 8, 2017, the County filed a separate petition
17 for writ of mandate and civil action in state superior court against DOGGR to
18 challenge the determination that the comprehensive safety review of Aliso Canyon
19 is complete, and on May 31, 2017 the County filed an amended petition. A copy
20 of the County’s amended petition is attached hereto as Exhibit F. The County’s
21 amended petition does not name the CPUC as a defendant/respondent, nor
22 otherwise acknowledge the CPUC’s role as the only certified state authority under
23 federal law.

24 71. The County’s amended petition seeks an order of the Superior Court
25 precluding SoCalGas from resuming injection operations at Aliso Canyon on the
26 grounds that (i) there has not yet been a finalized analysis of the root cause of the
27 leak (Ex. F, at 116–18, ¶¶ 47–58); (ii) SoCalGas allegedly has not yet prepared,
28 and DOGGR has not yet approved, a “risk management plan” and an updated

1 “emergency response program” (Ex. F, at 118–19, ¶¶ 59–66); and (iii) DOGGR
 2 has not yet tested the Aliso Canyon facility for “seismic risks” and addressed any
 3 risks identified (Ex. F, at 119–23, ¶¶ 67–91). The County alleges that it would
 4 prefer that these additional safety measures be required before SoCalGas resumes
 5 injection operations at Aliso Canyon.

6 72. The County’s preferred additional requirements are not required by
 7 state law, federal law, or any regulation or rule of the certified state authority—the
 8 CPUC. Instead, the County seeks to impose additional safety requirements of its
 9 own invention, without federal certification to impose or enforce safety standards,
 10 and outside of the CPUC’s procedures.

11 73. Through these efforts, through its civil litigation against SoCalGas,
 12 and through the regulatory efforts of the County Strike Team, the County is
 13 seeking to impose its own safety standards on SoCalGas’ pipelines and
 14 underground storage facilities—without federal authorization. The County’s
 15 actions violate the PSA’s prohibition against unauthorized state and local safety
 16 regulation and are preempted.

17 **F. Cal/OSHA’s Unauthorized Attempts to Regulate Safety of SoCalGas’**
 18 **Facilities**

19 74. Cal/OSHA has taken unilateral action to impose its own safety
 20 standards on SoCalGas’ pipelines and underground storage facilities.

21 75. On June 10, 2016, Cal/OSHA issued four administrative citations
 22 alleging that SoCalGas violated various California regulations related to
 23 occupational health and safety at its Aliso Canyon underground storage facility.
 24 Copies of the Cal/OSHA Citations are attached hereto as Exhibit G. In the
 25 citations, Cal/OSHA alleges, in summary:

- 26 (a) that SoCalGas violated California Code of Regulations, title
 27 8, § 5192(q)(6)(E) when it “failed to ensure that the Incident
 28 Commander (IC) was trained to the first responder operations level

and did not certify that the IC knew how to implement the Employer's incident command system" (Ex. G, at 161–62);

(b) that SoCalGas violated California Code of Regulations, title 8, § 6845(a) by failing "to ensure that the testing and inspection of the piping consisting of casing and tubing of [SoCalGas'] storage wells at its Aliso Canyon underground natural gas storage facility, including the well designated as Standard Sesnon 25 (SS25), complied with testing and inspection requirements of API [American Petroleum Institute] 570, Piping Inspection Code" (Ex. G, at 163);

(c) that SoCalGas violated California Code of Regulations, title 8, § 6851(a) by failing to "make reasonable efforts by inspection and maintenance to prevent the possible occurrence of leaks from piping consisting of casing and tubing of the [SoCalGas'] wells at its Aliso Canyon underground natural gas storage facility" (Ex. G, at 164); and

(d) that SoCalGas violated various other California Code of Regulations sections governing safety-related equipment and conditions during efforts to stop the gas leak (Ex. G, at 158–60).

76. Through these citations, Cal/OSHA seeks to impose new safety standards on SoCalGas' pipelines and underground storage facilities—without PHMSA authorization. Cal/OSHA's actions violate the PSA's prohibition against unauthorized state and local regulation and are preempted.

77. To preserve its rights, SoCalGas has objected to the citations to Defendant COSHAB asserting various defenses, including federal preemption.

G. Defendants' Unauthorized Attempts to Regulate SoCalGas' Pipeline Facilities

78. Defendants' efforts to subject SoCalGas to unauthorized state

1 regulation would, if successful, disrupt the uniformity and predictability of the
 2 safety standards applicable to SoCalGas' intrastate pipelines and underground
 3 storage facilities. Such disruption would adversely affect the safety of the
 4 Southern California community and the ratepayers who rely on SoCalGas for safe,
 5 cost-effective, efficient delivery of natural gas.

6 79. If SoCalGas were subjected to a patchwork of requirements imposed
 7 by multiple state and local authorities, as Defendants intend, there would be a
 8 substantial risk of inconsistent safety obligations. As a result, intrastate pipeline
 9 and underground storage facility safety would suffer, and the increased costs to
 10 SoCalGas' customers would outweigh any potential benefits. It was to avoid
 11 precisely this result that Congress passed the PSA.

12 **V. CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF**

14 **Violation of the Pipeline Safety Act – 49 U.S.C. § 60101 et seq.**

15 80. SoCalGas repeats and incorporates herein the allegations in
 16 paragraphs 1–79.

17 81. The PSA expressly preempts all regulation of safety standards for
 18 interstate natural gas pipeline and underground storage facilities by state or local
 19 authorities. Specifically, the PSA states: “A State authority [including a
 20 municipality] may not adopt or continue in force safety standards for interstate
 21 pipeline facilities. . . .” 49 U.S.C. § 60104(c).

22 82. The PSA expressly preempts all regulation of safety standards for
 23 intrastate pipelines and underground facilities, unless a state authority has been
 24 certified by PHMSA to regulate such safety standards. Specifically, the PSA states
 25 only “a State authority that has submitted a current certification under section
 26 60105(a) of this title [49 of the U.S. Code] may adopt additional or more stringent
 27 safety standards for intrastate pipeline facilities and intrastate pipeline
 28

1 transportation only if those standards are compatible with the minimum standards
2 prescribed under this chapter.” *Id.*

3 83. The express preemption provisions of the PSA apply equally to all
4 attempts by uncertified and unauthorized state and local authorities to regulate
5 safety standards for the operation of pipelines and underground natural gas storage
6 facilities. *See* 49 U.S.C. § 60141(c) (“The Secretary may authorize a State
7 authority (including a municipality) to participate in the oversight of underground
8 natural gas storage facilities in the same manner as provided in sections 60105 and
9 60106.”); 49 U.S.C. § 60141(e) (“A State authority may adopt additional or more
10 stringent safety standards for intrastate underground natural gas storage facilities if
11 such standards are compatible with the minimum standards prescribed under this
12 section.”).

13 84. SoCalGas’ pipelines and underground storage facilities are interstate
14 or intrastate natural gas pipeline facilities within the meaning of the PSA.

15 85. None of the Defendants has submitted to the U.S. Secretary of
16 Transportation a current certification under 49 U.S.C. § 60105.

17 86. None of the Defendants has been certified to regulate the safety of
18 intrastate natural gas pipeline or underground storage facilities.

19 87. Defendants have attempted and continue to attempt to impose and
20 enforce safety standards on SoCalGas’ pipelines and underground storage
21 facilities, through the activities and conduct described herein.

22 88. Defendants’ efforts to impose and enforce safety standards on
23 SoCalGas’ pipelines and underground storage facilities violate the express
24 preemption provisions of the PSA. *See* 49 U.S.C. § 60104.

25 89. SoCalGas has been and continues to be injured as a result of
26 Defendants’ efforts to, without lawful authority, impose and enforce safety
27 standards on SoCalGas’ pipelines and underground storage facilities.
28

1 90. Defendants' efforts to regulate safety at SoCalGas' pipelines and
2 underground storage facilities undermine the exclusive, federally controlled safety
3 regime established by the PSA.

4 91. The PSA provides a private right of action to sue in federal court for
5 "an injunction against another person (including the United States Government and
6 other governmental authorities to the extent permitted under the 11th amendment
7 to the Constitution) for a violation" of the PSA or any "regulation prescribed or
8 order issued under" the PSA. 49 U.S.C. § 60121(a).

9 92. The notice of violation required under 49 U.S.C. § 60121(a)(1)(A)
10 was provided on September 19, 2016. *See* Ex. A.

11 93. SoCalGas seeks preliminary and permanent injunctive relief, pursuant
12 to 49 U.S.C. § 60121(a), to remedy Defendants' violations of the PSA.
13 Specifically, SoCalGas seeks injunctions to prevent Defendants from imposing or
14 enforcing safety standards on SoCalGas' pipelines and storage facilities, whether
15 through litigation, regulation, legislation, administrative citation, or by any other
16 means.

17 94. A real and actual controversy has developed between SoCalGas and
18 Defendants concerning Defendants' authority to impose and enforce safety
19 standards on SoCalGas' pipelines and underground storage facilities. The County
20 is attempting to impose and enforce such safety standards through litigation and
21 the efforts of the "Strike Team." Cal/OSHA is attempting to impose and enforce
22 such safety standards through administrative proceedings and citations. SoCalGas
23 maintains that, under the PSA, Defendants have no authority to engage in any of
24 these actions.

25 95. SoCalGas seeks declaratory relief to remedy Defendants' violations of
26 the PSA. The Declaratory Judgment Act, 28 U.S.C. § 2201, authorizes this Court
27 to remedy Defendants' violations of the PSA with a declaratory judgment.
28 SoCalGas seeks a judgment from this Court declaring that the PSA preempts

1 Defendants' efforts to control, dictate, or otherwise regulate the safety, design,
 2 construction, installation, testing, inspection, training, staffing, maintenance, and
 3 operations of SoCalGas' pipelines and underground storage facilities, whether
 4 through litigation, regulation, legislation, administrative citation, or by any other
 5 means.

6 **SECOND CLAIM FOR RELIEF**

7 **Violation of the Pipeline Safety Act – The *Ex Parte Young* Doctrine**

8 96. SoCalGas repeats and incorporates herein the allegations in
 9 paragraphs 1–95.

10 97. The PSA expressly preempts all regulation of safety standards for
 11 interstate natural gas pipeline facilities by State or local authorities. Specifically,
 12 the PSA states: “A State authority [including a municipality] may not adopt or
 13 continue in force safety standards for interstate pipeline facilities. . . .” 49 U.S.C.
 14 § 60104(c).

15 98. The PSA expressly preempts all regulation of safety standards for
 16 intrastate pipelines and underground storage facilities, unless a state or local
 17 authority has been certified by PHMSA to regulate such safety standards.
 18 Specifically, the PSA states only “a State authority that has submitted a current
 19 certification under section 60105(a) of this title [49 of the U.S. Code] may adopt
 20 additional or more stringent safety standards for intrastate pipeline facilities and
 21 intrastate pipeline transportation only if those standards are compatible with the
 22 minimum standards prescribed under this chapter.” *Id.*

23 99. The express preemption provisions of the PSA apply equally to all
 24 attempts by uncertified and unauthorized state and local authorities to regulate
 25 safety standards for the operation of underground natural gas storage facilities. *See*
 26 49 U.S.C. § 60141(c) (“The Secretary may authorize a State authority (including a
 27 municipality) to participate in the oversight of underground natural gas storage
 28 facilities in the same manner as provided in sections 60105 and 60106.”); 49 U.S.C

1 § 60141(e) (“A State authority may adopt additional or more stringent safety
2 standards for intrastate underground natural gas storage facilities if such standards
3 are compatible with the minimum standards prescribed under this section.”).

4 100. SoCalGas’ pipelines and underground gas storage facilities are
5 interstate or intrastate natural gas pipeline facilities within the meaning of the PSA.

6 101. None of the Defendants has submitted to the U.S. Secretary of
7 Transportation a current certification under 49 U.S.C. § 60105.

8 102. None of the Defendants has been certified to regulate the safety of
9 intrastate pipelines and gas storage facilities.

10 103. Defendants have attempted and continue to attempt to impose and
11 enforce safety standards on SoCalGas’ pipelines and underground storage
12 facilities, through the activities and conduct described herein.

13 104. Defendants’ efforts to impose and enforce safety standards on
14 SoCalGas’ pipelines and underground storage facilities violate the express
15 preemption provisions of the PSA. *See* 49 U.S.C. § 60104.

16 105. SoCalGas has been and continues to be injured as a result of
17 Defendants’ efforts to, without lawful authority, impose and enforce safety
18 standards on SoCalGas’ pipelines and underground gas storage facilities.

19 106. Defendants are state actors.

20 107. Under *Ex Parte Young*, 209 U.S. 123 (1908), and its progeny, suits
21 against state actors who are violating, or planning to violate, federal law may
22 proceed in equity. The *Ex Parte Young* doctrine empowers federal courts to enjoin
23 state actors from violating federal law.

24 108. Defendants, by the various acts and conduct alleged herein, seek to
25 impose and enforce safety standards on SoCalGas’ intrastate pipelines and
26 underground storage facilities in violation of the PSA’s express preemption
27 provisions.
28

109. SoCalGas seeks preliminary and permanent injunctive relief. Specifically, SoCalGas seeks injunctions to prevent Defendants from imposing or enforcing safety standards on SoCalGas' natural gas pipelines and underground storage facilities, whether through litigation, regulation, legislation, administrative citation, or by any other means.

110. A real and actual controversy has developed between SoCalGas and Defendants concerning Defendants' authority to impose and enforce safety standards on SoCalGas' pipelines and underground storage facilities. The County is attempting to impose and enforce such safety standards through litigation and the efforts of the "Strike Team." Cal/OSHA is attempting to impose and enforce such safety standards through administrative proceedings and citations. SoCalGas maintains that, under the PSA, Defendants have no authority to engage in any of these actions.

111. SoCalGas seeks declaratory relief to remedy Defendants' violations of the PSA. The Declaratory Judgment Act, 28 U.S.C. § 2201, authorizes this Court to remedy Defendants' violations of the PSA with a declaratory judgment. SoCalGas seeks a judgment from this court declaring that the PSA preempts Defendants' efforts to control, dictate, or otherwise regulate the safety, design, construction, installation, testing, inspection, training, staffing, maintenance, and operations of SoCalGas' pipelines and underground storage facilities, whether through litigation, regulation, legislation, administrative citation, or by any other means.

VI. PRAYER FOR RELIEF

WHEREFORE, SoCalGas demands judgment as follows:

1. A declaration that Defendants' unauthorized efforts to impose or enforce safety standards on SoCalGas' pipelines and underground storage facilities violate the federal Pipeline Safety Act, 49 U.S.C. § 60101 et seq., which preempts Defendants' efforts to control, dictate, or otherwise regulate the safety, design,

1 construction, installation, testing, inspection, training, staffing, maintenance, and
2 operations of SoCalGas' gas storage and pipeline facilities.

3 2. A permanent injunction or other equitable relief as may be necessary
4 to restrain Defendants' continuing and threatened violation of the Pipeline Safety
5 Act and the Supremacy Clause of the United States Constitution.

6 3. An award of SoCalGas' costs and attorneys' fees incurred in bringing
7 this action.

8 4. Such other and further relief as the Court deems just and appropriate.

9 Respectfully submitted,

10 MORGAN, LEWIS & BOCKIUS LLP
11

12 July 12, 2017

By /s/ David L. Schrader

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