Docket:	:	I.19-06-016
Exhibit Number	:	SED-334
Commissioner	:	Rechtschaffen
Admin. Law Judge	:	Hecht/Poirier
Witness	:	

SAFETY AND ENFORCEMENT DIVISION
California Public Utilities Commission

SED's Filing in Compliance with the Administrative Law Judges' Ruling Addressing Two Motions to Compel (December 8, 2021), Filing and Declaration of Mahmoud Intably only

San Francisco, California
April 15, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
12/08/21
04:59 PM

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Gas Company with Respect to the Aliso Canyon storage facility and the release of natural gas, and Order to Show Cause Why Southern California Gas Company Should Not Be Sanctioned for Allowing the Uncontrolled Release of Natural Gas from its Aliso Canyon Storage Facility. (U904G)	Investigation 19-06-016

SAFETY AND ENFORCEMENT DIVISION'S FILING IN COMPLIANCE WITH THE ADMINISTRATIVE LAW JUDGES' RULING ADDRESSING TWO MOTIONS TO COMPEL, DATED NOVEMBER 29, 2021

Safety and Enforcement Division (SED) makes this filing pursuant to the Administrative Law Judges' (ALJs) November 29, 2021 Ruling Addressing Two Motions to Compel (Ruling). The Ruling required that:

If no version of the March, 2020 engineer's status report from the specified May 1 to June 27, 2019 time period is found by SED, SED shall file a sworn declaration in which a management-level or higher SED representative attests, based on his or her personal knowledge, that he or she oversaw the search, that the search was undertaken in good faith as required by the Ruling, and that no copies of the report were found in any format dating from the period of May 1 through June 27, 2021. The Ruling also required that this sworn declaration include a detailed description of the specific actions (including at least those listed in the Ruling) undertaken during the course of the search.[1]

[1] Administrative Law Judges' Ruling Addressing Two Motions to Compel, pp. 22-23, Ruling Paragraph 5.

In compliance with the Ruling, SED provides the attached Declaration, and supporting exhibits.

Respectfully submitted,

/s/ DARRYL GRUEN
DARRYL GRUEN
Attorney for the

Safety And Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102
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Email: Darryl.Gruen@cpuc.ca.gov

December 8, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Gas Company with Respect to the Aliso Canyon storage facility and the release of natural gas, and Order to Show Cause Why Southern California Gas Company Should Not Be Sanctioned for Allowing the Uncontrolled Release of Natural Gas from its Aliso Canyon Storage Facility. (U904G)	Investigation 19-06-016

DECLARATION OF MAHMOUD (STEVE) INTABLY IN COMPLIANCE WITH ADMINISTRATIVE LAW JUDGES' RULING ADDRESSING TWO MOTIONS TO COMPEL, DATED NOVEMBER 29, 2021.

I, Mahmoud (Steve) Intably, declare that the following is true and correct to the best of my knowledge and belief:

1. My title is Program and Project Supervisor in the Safety and Enforcement Division's (SED) gas Safety and Reliability Branch.
2. In Compliance with the Administrative Law Judge's November 29, 2021 ruling in Investigation (I.) 19-06-016 (Ruling), I am a management-level SED representative.
3. The facts set forth herein are within my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
4. In compliance with the Ruling, I have personally overseen the thorough search SED undertook in good faith for the engineer's status report, or substantially similar documents differing only in title or formatting, that were created, prepared, updated, modified, saved, shared or dated between May 1 and June 27, 2019 ("SED's good faith and thorough search").

Mr. Holter Prepared the Only Aliso Canyon Engineer's Status Report After June 27, 2020:

5. Mr. Holter's former supervisor, Kan Wai Tong, assigned him as investigating engineer on October 25, 2015 by email.

6. On December 13, 2019, and March 9, 2020, I emailed my only two requests to Mr. Holter related to the Aliso Canyon incident engineer's status report.

7. I did not include SED's counsel in my requests to Mr. Holter.

8. Other SED staff supported Mr. Holter's preparation of the engineer's status report but did not themselves produce versions of the engineer's status report.

9. The engineer's status report that Mr. Holter emailed me on March 23, 2020 was dated March 17, 2020, (hereafter called "March 17, 2020 engineer's status report"), and matches the Exhibit C of SED's Motion for Contempt, filed September 8, 2021.

10. Mr. Holter's March 23, 2020 submittal of the March 17, 2020 engineer's status report is shown on Exhibit A, a page from SED's "Gas Incident Report" database.

11. The March 17, 2020 engineer's status report is SED's only version of an engineer's status report or any substantially similar documents related to the Aliso incident.

12. I explain why Mr. Holter prepared the only version of the March 17, 2020 engineer's status report, in points 13 through 17.

13. SED receives funding and is delegated certain responsibility from its federal government partner, the United States Department of Transportation's Pipeline and Hazardous Materials and Safety Administration (PHMSA), to investigate reportable incidents in California.

14. One of the responsibilities that SED has to PHMSA is to provide annual updates of natural gas incidents for which SED's investigations are pending.

15. SED's investigation into the Aliso incident will remain pending until the Commission issues final decisions in I.19-06-016.

16. My requests to Mr. Holter for the March 17, 2020 engineer's status report were part of the larger effort that SED does each year to have such reports available to respond to PHMSA's specific requests for engineer's status reports of incidents that are under SED's investigations.

17. SED did not produce an engineer's status report related to the Aliso incident before the completion of the Blade Energy Partners (Blade) Root Cause Analysis, issued May, 2019, because SED relied upon the expertise of Blade to inform the engineer's status report.

18. SED has not provided the March 17, 2020 engineer's status report to PHMSA yet because PHMSA has not requested it at this time.

19. On page 146 of the deposition transcripts of Mr. Holter, lines 14-19 provide as follows:

> "Q. (By Mr. Stoddard) Mr. Holter, for the engineer's status report which was, to the best to your recollection, submitted to management after issuance of the Blade report, did draft versions of that exist prior to issuance of the Blade report?
>
> A. They may have existed, yes."

20. In light of the quoted statement from Mr. Holter's deposition in item 19, under my supervision, SED confirmed that no draft versions of the engineer's status report existed prior to the issuance of the Blade report.

SED Did Not Share the Engineer's Status Report With Margaret Felts

21. SED did not create, prepare, update, modify, save, or share an engineer's status report, or any substantially similar documents related to the incident at the Aliso Canyon Natural Gas Storage Facility that SoCalGas discovered October 23, 2015 (Aliso incident) on or before June 27, 2019.

22. On page 165 of the deposition transcripts of Mr. Holter (deposition transcripts), lines 11 to 20 provide as follows:

> "Q: (By Mr. Stoddard) Are you aware whether – did you ever provide Ms. Phelps (sic) with a copy of the engineer's status report?
>
> A: I do not recall.
>
> Q: (By Mr. Stoddard) You don't recall whether you provided it to her?
>
> A: My answer is no, I don't, and – and I don't recall otherwise."

23. On page 166 of the deposition transcripts, lines 3-6 provide as follows:

"Q. (By Mr. Stoddard) Okay. Do you know whether anybody else at SED provided Ms. Phelps (sic) a copy of -- of the engineer's status report?

A. I do not."

24. As shown in Exhibit B, SED confirmed with Ms. Margaret Felts that no one at SED provided her with a copy of the engineer's status report, and that she did not see it until December 7, 2021.

25. Exhibit B is a true and correct copy of Ms. Felts' confirmation described in item 25.

Description of SED's Good Faith and Thorough Search For Other Versions of the Engineer's Status Report

26. SED's good faith and thorough search consisted of the steps described in items 27 through 37.

27. Under my supervision, Mr. Holter checked his Outlook inbox and sent items folder, each dating back to October 23, 2015, for versions of the engineer's status report with dates other than March 17, 2020. Mr. Holter informs me that he did not find any other version of the engineer's status report.

28. Mr. Holter and I checked a folder on SED's server entitled "incident folder" with ID number G20151025-01-RH3, which is associated with the Aliso incident.

29. As a general rule, an "incident folder" on SED's server includes the following related to each incident: an initial report from the utility, correspondence between SED and the utility, a final report from the utility up to 30 days after the incident, supporting documents and supporting information from those other than the utility, and an SED report such as the "engineer's status report."

30. In the "incident folder", I only found one MS Word version and one PDF version of the engineer's status report related to the Aliso incident, both dated March 17, 2020, and both identical to each other.

31. The PDF and MS Word versions of the engineer's status report that I found in the "incident folder" match the March 17, 2020 engineer's status report.

32. When staff submit their engineer's status report, I include it in my "pending items" folder in my email for review, corrections, and requests for additional information.

33. I checked the folder titled “pending items” to see if there were any other versions of the March 17, 2020 engineer’s status report or substantially similar documents. I did not find other versions of the March 17, 2020 engineer’s status report or substantially similar documents.

34. I asked Mr. Holter to check for other prior distinct versions of the engineer’s status report. He reported he also found no other versions of the March 17, 2020 engineer’s status report or substantially similar documents.

35. There are no division and individual employee records and documents in locations that could reasonably contain a copy of the engineer’s status report because SED did not create any hard copy versions of the engineer’s status report, or any hard copy versions of any substantially similar documents related to the Aliso incident.

36. I oversaw a request with the Commission’s Information Technology department to do data pulls with subject searches, as shown in Exhibit C.

37. The team I oversaw reviewed the emails and attachments from these data pulls but found no other versions of the March 17, 2020 engineer’s status report or substantially similar documents.

38. Exhibit C is a true and correct copy of the data pull that SED requested of the Commission’s Information Technology Department on December 1, 2021 in compliance with the Ruling.

Dated: December 8, 2021

/s/ *Mahmoud (Steve) Intably…….*
Mahmoud (Steve) Intably

Exhibit A – The Aliso Canyon Incident Page of Safety and Enforcement Division's Gas Incident Report Database

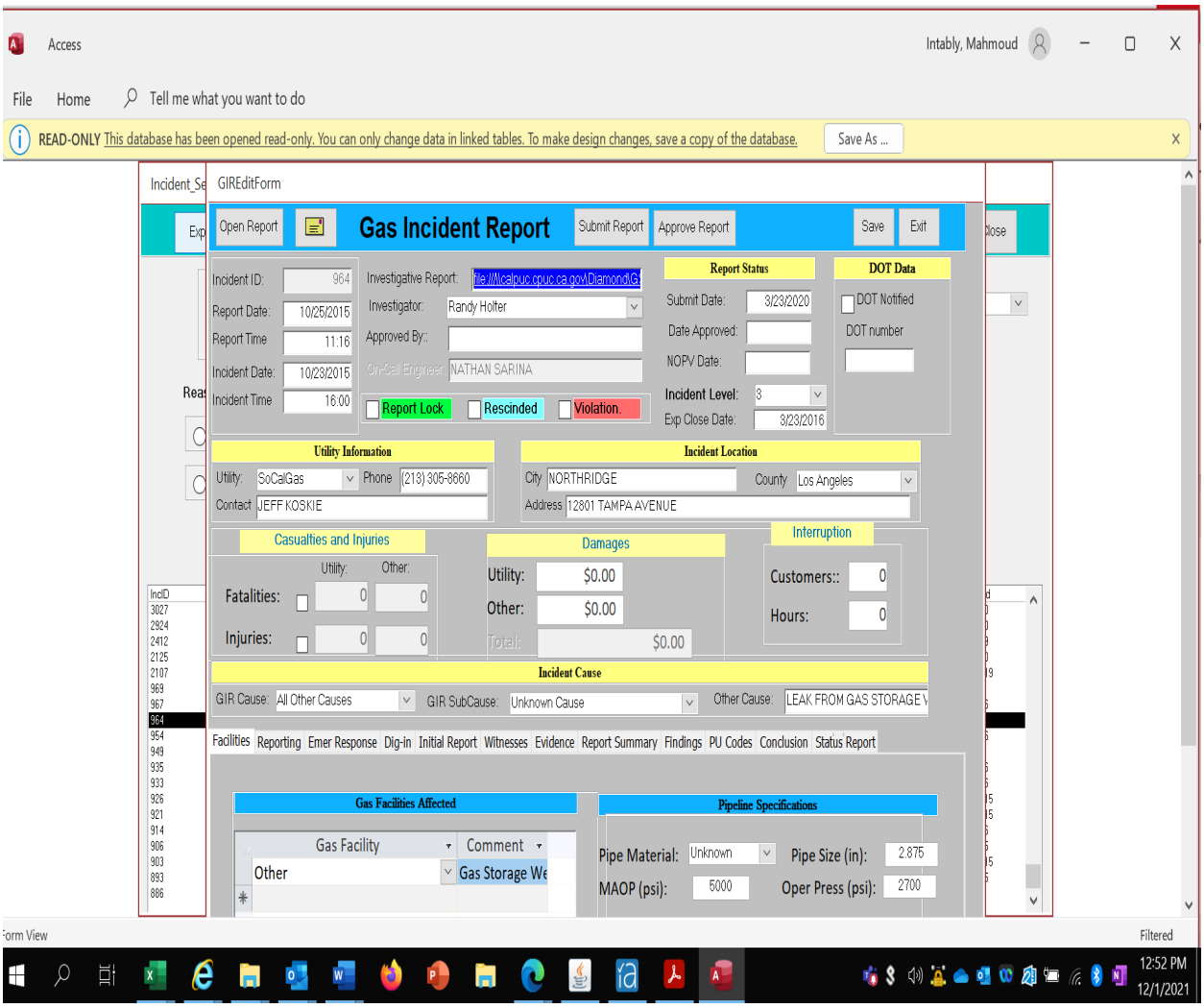

Exhibit B-Confirmation from Ms. Margaret Felts that No one from Safety and Enforcement Division Provided Her with a Copy of the Engineer's Status Report of the Aliso Incident

From: margaret@mfelts.com <margaret@mfelts.com>
Sent: Tuesday, December 07, 2021 2:16 PM
To: Gruen, Darryl <darryl.gruen@cpuc.ca.gov>
Cc: margaret@mfelts.com
Subject: [EXTERNAL] RE: Clarification that Margaret Felts Did Not See the Engineer's Status Report Regarding the Aliso Incident Until After SED's September 8, 2021 Motion

Darryl,

I did not receive a copy of the Engineer's Status Report from anyone in SED or at the Commission.

In fact, today is the first time I have seen it.

Margaret

From: Gruen, Darryl <darryl.gruen@cpuc.ca.gov>
Sent: 07 December 2021 02:41 PM
To: Margaret Felts <margaret@mfelts.com>
Subject: Clarification that Margaret Felts Did Not See the Engineer's Status Report Regarding the Aliso Incident Until After SED's September 8, 2021 Motion

Hi Margaret,

Attached is SED's Motion to Find SoCalGas in Contempt and in Violation of Rule 1.1, dated September 8, 2021.

Exhibit C on pdf page 123 of this document is the Engineer's Status Report from March, 2020 related to the Aliso incident. The Administrative Law Judges' Ruling from November 29, 2021 requires us to search for other versions of this document.

Before seeing the Engineer's Status Report in this document, did you ever receive a copy of an engineer's status report related to the Aliso incident from anyone at SED?

Darryl

Darryl Gruen

Staff Counsel

California Public Utilities Commission

505 Van Ness Ave. - San Francisco, CA 94102

(415) 703-1973 - djg@cpuc.ca.gov

Exhibit C – SED request to Information Technology Department to do a Data Pull in Compliance with ALJ Hecht's November 29, 2021 Ruling

1. All emails and attachments *from* Randy Holter, dated May 1, 2019 to June 27, 2019, with the following subject headings:
    a. engineer's status report
    b. engineer status report
    c. Aliso status report
    d. incident investigation report
    e. incident report SS-25
    f. G20151025-01.964
    g. G 20151025-01.8173
    h. 151025-8173
    i. Southern California Gas Company Incident No: 151025-8173
    j. G20151025
    k. G20151025-01
    l. G20151025-01 Los Angeles
    m. Incident ID #20151025-01
    n. G20191015-2924 Los Angeles
    o. 12801 Tampa Avenue
    p. Open Incidents
2. All emails and attachments to Randy Holter, dated May 1, 2019 to June 27, 2019, with the following subject headings:
    a. engineer's status report
    b. engineer status report
    c. Aliso status report
    d. incident investigation report
    e. incident report SS-25
    f. G20151025-01.964
    g. G 20151025-01.8173

h. 151025-8173

i. Southern California Gas Company Incident No: 151025-8173

j. G20151025

k. G20151025-01

l. G20151025-01 Los Angeles

m. Incident ID #20151025-01

n. G20191015-2924 Los Angeles

o. 12801 Tampa Avenue

p. Open Incidents

3. All emails and attachments from Randy Holter, dated October 25, 2015 to April 30, 2019, with the following subject headings:

a. engineer's status report

b. engineer status report

c. Aliso status report

d. incident investigation report

e. incident report SS-25

f. G20151025-01.964

g. G 20151025-01.8173

h. 151025-8173

i. Southern California Gas Company Incident No: 151025-8173

j. G20151025

k. G20151025-01

l. G20151025-01 Los Angeles

m. Incident ID #20151025-01

n. G20191015-2924 Los Angeles

o. 12801 Tampa Avenue

p. Open Incidents

4. All emails and attachments to Randy Holter, dated October 25, 2015 to April 30, 2019, with the following subject headings:

a. engineer's status report

b. engineer status report

c. Aliso status report
d. incident investigation report
e. incident report SS-25
f. G20151025-01.964
g. G 20151025-01.8173
h. 151025-8173
i. Southern California Gas Company Incident No: 151025-8173
j. G20151025
k. G20151025-01
l. G20151025-01 Los Angeles
m. Incident ID #20151025-01
n. G20191015-2924 Los Angeles
o. 12801 Tampa Avenue
p. Open Incidents