

November 22, 2013

Saundra McDaniel  
Clerk of the Board  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

**Re: Review of SCAQMD Rule 1148.2**

Dear Ms. McDaniel:

The Center for Biological Diversity, Physicians for Social Responsibility—Los Angeles, Communities for a Better Environment, Baldwin Hills Oil Watch, and Citizens Coalition for a Safe Community, respectfully write to urge the South Coast Air Quality Management District (SCAQMD) Governing Board to adopt certain changes as part of its six-month working group review of SCAQMD Rule 1148.2, scheduled to occur on in January or February 2014.<sup>1</sup> These suggested changes are essential if Rule 1148.2 is to have any effect improving air quality and protecting citizens from harmful air pollution.

Thus far, Rule 1148.2 has failed to provide the public with critical information to protect their health. Its implementation has been problematic in many respects. The current rule does not provide comprehensive, accessible, or reliable information regarding the chemicals being used for oil and gas activity in the South Coast air basin. As a result, the public is left with an incomplete understanding of the potential risks posed by exposure to these chemicals.

Despite the lack of full disclosure, the information that has been disclosed indicates that public health is being put at serious risk of harm by allowing oil and gas activities to continue. SCAQMD is required to prohibit “discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public....” SCAQMD Rule 402. We urge SCAQMD to comply with Rule 402 and protect public health from air pollution by prohibiting these harmful activities. With the increasing number of nearby residents that have shown negative health effects, the best way to protect public health is to prohibit the very activity that is the unquestionable source of multiple air toxics.

Failing a prohibition on the oil and gas activity, there are numerous ways in which Rule 1148.2 can and must be improved.

**I. SCAQMD must conduct its own air monitoring**

Self-reporting on paper only has proven to be an unreliable way to obtain accurate information about the type and the amount of pollution that is being released. Currently, Rule 1148.2 relies solely on

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<sup>1</sup>Rule 1148.2 was adopted April 5, 2013. The Board resolved to convene a working group no later than 6 months after the first emissions report was received. The first emissions report was received on June 4, 2013, making the deadline for review December 4, 2013. AQMD has since stated that it considers the first *Chemical Report* to trigger the six-month timeline. Since the first Chemical Report was submitted July 2, 2013, the deadline for the working group to meet would be January 2, 2014.

operators and suppliers to self-report information to SCAQMD. SCAQMD has no way of verifying that the submitted information is complete and accurate. It also cannot adequately assess what portion of the chemicals used are escaping into the air and affecting air quality. Without measuring air quality for the chemicals used in oil and gas activity, SCAQMD is not capable of evaluating the full nature, scope, and magnitude of risk posed by exposure to harmful air toxics.

The inadequacy of reporting requirements has been made abundantly clear through reporting by the Los Angeles Times documenting the human health effects of air pollution in one Los Angeles community. Despite over 250 complaints submitted to SCAQMD over the last three years, SCAQMD failed to adequately monitor air quality surrounding Allenco Energy Inc.'s ten active oil wells. At a public hearing on October 16, 2013, SCAQMD was unable to state definitively whether air quality was safe for nearby residents, many of whom have reported dizziness, chronic fatigue, severe headaches and nose bleeds.

The Rule should be amended to require SCAQMD to collect air samples and monitor air quality in and around oil and gas development sites, as well as near vulnerable communities that may be subject to air toxics exposure. Self-reporting requirements alone cannot guarantee the safety of nearby residents. Knowing the volume and type of chemicals used does not provide enough information to know whether residents are at risk. Rule 1148.2 does not measure the amount of each chemical in the air, nor does it set limits for where or how much of those chemicals can be used.

The SCAQMD must conduct its own air monitoring to provide the public information on exactly which chemicals are in the air and at what concentrations.

## **II. The SCAQMD should expedite its review, and provide proper notice to the public**

The Governing Board resolved to direct the staff to report to the Stationary Source Committee, beginning six months after the receipt of the first "emissions report," the impacts of Rule 1148.2.<sup>2</sup> The Stationary Source Committee, however, will not convene again until January 24, 2014, well after the six-month time period expires. Furthermore, SCAQMD has not determined whether Rule 1148.2 will be a part of the January 2014 meeting's agenda. This could mean that Rule 1148.2 will not be discussed until February or later. The committee should comply with the Governing Board's resolution and prepare to discuss Rule 1148.2 as part of the January meeting's agenda. Given the significant interest from the public on this matter, we ask that the public be provided with as much advanced notice as possible that Rule 1148.2 will be on the agenda

## **III. The SCAQMD must make good on its promise to report information to communities**

In April 2013 at a Governing Board meeting, community members from Wilmington requested that the Governing Board hold a community meeting after implementation of Rule 1148.2 in order to present to the community information submitted under the Rule in a meaningful and understandable way. This request was first made at a public workshop held two months prior to the Rule's adoption. The SCAQMD informed the community at the public workshop, and again at the Governing Board meeting, that its staff would return to community of Wilmington to hold an additional public workshop. Yet six months after the implementation of Rule 1148.2, SCAQMD has made no indication that it intends to return to Wilmington to hold another public meeting.

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<sup>2</sup> April 5, 2013 SCAQMD Board Meeting Minutes.

It is time for the District to make good on its commitment to hold this meeting, not only in Wilmington, but in other communities that are impacted by both conventional drilling and Fracking. Such communities include but are not limited to: communities in and around Culver City, Ladera Heights and the Baldwin Hills area, Long Beach, including Harbor City, Carson, and Wilmington, and the communities in and around the Whittier hills, including Santa Fe Springs, and other, unincorporated communities of Los Angeles, including Los Nietos and East Whittier.

The SCAQMD should hold this meeting at a date and time to maximize and encourage community participation. Thus, the meeting should not be held during the month of December 2013, or in early January of 2014. Moreover, we urge the District to consider holding the meeting on a weekend, or in the evening when working parents and caretakers, and youth attending school are also more likely to attend.

#### **IV. So-called “trade secret” exemptions should be rescinded**

The current Rule also instructs SCAQMD to keep certain chemical information hidden from the public. Chemical suppliers who claim that chemical ingredients constitute “trade secrets” are able to prevent those chemicals from appearing on the SCAQMD reporting website. Instead, vague descriptions such as “mixture” or “solvent” appear on Chemical Reports with no further information as to what the chemical is, how much was used, or what the potential human health and safety risks are. It is impossible for the public to fully assess the risk of harm with so many obstacles to disclosure.

The use of trade secrets has proliferated. In the first two months of reporting, 328 trade secret claims were included with Chemical Reports. In the 90 days that followed, 940 new trade secret claims were submitted in Chemical Reports. To date, over 2,000 chemicals have been withheld from public disclosure by virtue of a claim of trade secrecy by oil and gas operators. The trade secret exemption has thus removed a significant portion of information from public disclosure. Further, it is unclear what portion of these trade secret claims have sufficient basis to meet Rule 1148.2’s definition of a “trade secret.” The rule does not require that SCAQMD evaluate or verify claims of trade secrets. The supplier and operator’s claims remain unchallenged until the SCAQMD receives a request for documents under the California Public Records Act. Before a request, the SCAQMD presumes the trade secret claim is justified without applying any scrutiny. This is contrary to the presumption applied in California courts, where a document is presumed to be a public document until the trade secret claimant substantiates a claim and passes judicial scrutiny.

The use of trade secret protection also runs counter to newly passed state legislation, which requires full disclosure of chemical constituents used in acidization, fracking, and all other types of well stimulation. Under Senate Bill 4, operators and suppliers are required to submit a full list of chemicals used in well stimulation to the Division of Oil, Gas, and Geothermal Resources. The law explicitly states that chemical identities and the concentrations of those chemicals in well stimulation fluid are not trade secrets. Thus, under the new state law, all chemical information will be made available to the public, regardless of whether an operator or supplier considers it a trade secret. There is no reason for SCAQMD to continue trade secret protection where the state has unambiguously closed the loophole to full disclosure for trade secret claims.

The Rule should be amended to require full disclosure of all chemicals used in oil and gas operations. The exemption for claimed trade secrets is an enormous loophole that prevents the public from knowing what chemicals are being introduced into the environment.

## V. The SCAQMD reporting website must be improved

SCAQMD's website that allows some search of well activity reports marks an important step towards making critical information available and accessible to the public. Already, in the first few months of reporting, the website has been a useful tool in evaluating the nature and extent of oil and gas activity in the South Coast air basin. For example, by searching chemical reports, it is now known that several harmful air toxics have been used dozens—in some cases, hundreds—of times in just the time since the introduction of SCAQMD's reporting requirements.<sup>3</sup>

The website has, however, fallen short of providing the public with full access to the information required to ensure complete disclosure. Because the public relies on the website to obtain timely, comprehensive, and accurate information, the SCAQMD should make an effort to correct for the following problems as early as possible.

- **Website should be compatible with multiple internet browsers:** Currently, the website is incompatible with several commonly used internet browsers such as Safari, Firefox, and Chrome.
- **Website should provide a map of reported activity:** The website should offer users a map of all reported oil and gas activity, similar to the Google Map created by Baldwin Hills Oil Watch (available at <http://baldwinhillsoilwatch.org/action-center/sc-aqmd-rule-1148-2-maps/>). The map should be automatically updated to reflect the most recent information regarding the location of wells.
- **Reports should be individually printable and downloadable:** The website does not appear to allow a user to download or print an individual Event Report or Chemical Report. It is important for users to be able to have the reports available in hardcopy and offline.
- **Chemical Reports do not state the purpose of the Report:** The SCAQMD should require that Chemical Reports include information on whether the listed chemicals were used for acidization, gravel packing, or hydraulic fracturing. Currently, a user must note the cross-referenced Event Report number and search for that second report to understand what how the chemicals were used.
- **Reports should include the address of the well in addition to the coordinates:** While global coordinates are useful and should be retained, public users often prefer to have a street address where the well activity is taking place. Both Event Reports and Chemical Reports should add an additional field so that operators report the well's street address in addition to the global coordinates. In addition, the longitude and latitude coordinates listed on reports have varying degrees of specificity. Some reports only list global coordinates to the third or fourth decimal places. Coordinates should extend to the sixth decimal to ensure accuracy of the location of the well.
- **Reports do not state the unit of measurement being used:** The reports do not indicate a unit of measurement for volume, mass, or density.
- **Downloading to Excel/CSV formats produce errors:** There have been several problems with the information when downloaded to Excel/CSV file format. Though some of the errors, such as misaligned columns, seem to have been fixed, at least one major problem remains: the air toxic status of trade secret chemicals is inconsistent. When downloaded into CSV format, some trade secret chemicals are marked with a "Y" in the Air Toxic Indicator Column (Column T). Yet when the individual Chemical Report does not have a checkmark next to the trade secret claim. (See,

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<sup>3</sup> For list of the most frequently used air toxics, see Attachment A.

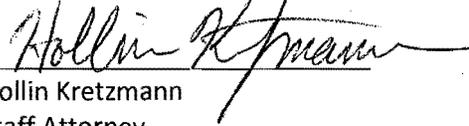
e.g. Chemical Report for Event ID 767, Aromatic Hydrocarbon, Modified Thiourea Polymer, Aldehyde). There is a serious problem if the certain chemicals are air toxics while the Chemical Reports fail to describe them as such. Furthermore, air toxics information must be disclosed as a public record pursuant to Section 6254.7(e) of the Public Records Act and do not receive trade secret protection (“Notwithstanding any other provision of law, all air pollution emission data, including those emission data which constitute trade secrets as defined in subdivision (d), are public records.”)

- **Inconsistent labeling of Air Toxics:** Some chemicals are marked as air toxics in certain Chemical Reports and remain unmarked in others. For example, Chemical Report 692 lists 2 butoxy ethanol as an air toxic, but Chemical Report 652 states the same chemical is not an air toxic. Whenever inconsistencies arise, SCAQMD should investigate and penalize operators for misreported information.
- **Missing Information:** Chemical Reports are often missing information, such as Facility ID or API number. Event Reports are also often missing information, such as Facility ID and API number, and in some cases the activity description is unclear.
- **Missing Chemical Reports:** Several Event Reports have no corresponding Chemical Report, even though the oil and gas extraction event occurred over 60 days ago. SCAQMD should inquire why there has been no Chemical Report filed and penalize the operator and supplier if appropriate. Other Chemical Reports list surprisingly few chemicals. Chemical Report 329, for example, lists only three chemicals for a gravel packing and acidization event.
- **Unnecessary Session Timeout:** The website disconnects a user from the database unless the user clicks a button requesting to continue the session. Because individual reports cannot be downloaded or printed, it is necessary to keep these windows open on a computer when searching reports. It is highly inconvenient and altogether unnecessary to log out a user so quickly. This function should be extended to significantly longer times or eliminated entirely.
- **Event Reports Start at No. 243:** It is unclear why the first Event Report is given “243” as a number. The question arises as to whether there are other, earlier reports that have not been made available to the public. If that is the case, earlier reports should be made available via SCAQMD’s website immediately.
- **Email Notification System is Insufficient:** Currently, the email notifications only include minimal information and force a recipient to click a link to see what activity will take place and other pertinent information. The email notifications should simply include all the information in the Event or Chemical Report.
- **Acidization Category Is Too Vague:** Acidization conceptually covers both matrix acidizing and Fracture acidizing, which pose distinct risks to public health and safety. SCAQMD should create two separate categories for each of these processes and require operators to specify which method they intend to use.
- **Operator Name Inconsistencies:** In several instances, the operator’s company name is spelled differently, inconsistently uses abbreviations (e.g. “Co.” versus “Company”) or includes a different suffix. Operators should be required to submit their name exactly as it is registered, and SCAQMD should not allow for variations on a name. Consistent naming minimizes confusion and also allows for comprehensive data searches.
- **Rework or Completion Work Needs Greater Detail:** The current reports make it difficult to know what the scale of the well rework or completion is. Requiring the report of additional information, such as the volume of produced oil after rework or completion, would allow the public to determine which projects are large and which projects are smaller in scale.

We hope that you will give the changes in this letter strong consideration when evaluating the efficacy of Rule 1148.2. We look forward to discussing these issues with you in greater depth at the public hearing in December.

November \_\_, 2013

Respectfully submitted,



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*On behalf of:*  
Baldwin Hills Oil Watch  
Citizens Coalition for a Safe Community

## Attachment A

<b>The Most Commonly Used Air Toxins in Unconventional Oil Production in the L.A. Basin (updated through Nov. 18, 2013)</b>			
Rank	Chemical	Number of Instances Used <sup>4</sup>	Known Health Effects <sup>5</sup>
1	Methanol	329	Harmful to skin, eyes, and sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive and cardiovascular system; mutagen, developmental inhibitor and endocrine disruptor.
2	Crystalline Silica, Silica, Quartz	287	Harmful to skin, eyes, and sensory organs, respiratory system, immune system and kidneys; mutagen.
3	Hydrochloric Acid	197	Harmful to skin, eyes, and sensory organs, respiratory system, gastrointestinal system and liver, immune system, cardiovascular system and blood.
4	Hydrofluoric Acid	81	Harmful to skin, eyes, and sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive system and cardiovascular system; mutagen, developmental inhibitor.
5	Alumina, Aluminum, Aluminum Oxide	58	Harmful to skin, eyes and other sensory organs, respiratory system, and brain and nervous system.
6	Xylene	50	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive and cardiovascular system; developmental inhibitor and endocrine disruptor.
7	2-Butoxy Ethanol	47	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive system and cardiovascular system; mutagen, developmental inhibitor and endocrine disruptor; linked to liver cancer. Also linked to adrenal tumors. <sup>6</sup>

<sup>4</sup> In some cases, the same chemical ingredient was listed as being used multiple times in the same chemical report for different purposes. In such cases, each use is counted separately.

<sup>5</sup> Unless otherwise noted, health effects are documented by TEDX Endocrine Disruptor Exchange. Spreadsheet of health effects listed by chemical is available at <http://endocrinedisruption.org/assets/media/documents/HERA12-137NGAirQualityManuscriptforwebwithfigures.pdf>

<sup>6</sup> U.S. EPA Integrated Risk Information System, Ethylene glycol monobutyl ether (EGBE)(2-Butoxyethanol) (CASRN 111-76-2), available at <http://www.epa.gov/iris/subst/0500.htm>; See also Abraham Lustgarten, ProPublica, Buried Secrets: Is Natural Gas Drilling Endangering US Water Supplies?

8	Ethylbenzene	45	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, kidneys, reproductive system and cardiovascular system; mutagen, developmental inhibitor and endocrine disruptor.
9	Naphthalene	43	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive system and cardiovascular system; mutagen, suspected carcinogen, developmental inhibitor and endocrine disruptor.
10	Formaldehyde	41	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive system and cardiovascular system; mutagen, carcinogen, developmental inhibitor and endocrine disruptor.
11	Amorphous Silica Fume	39	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver; linked to lung cancer.
12	2-Propanol	35	Harmful to skin, eyes and other sensory organs, nervous system. <sup>7</sup>
13	Cumene	34	Harmful to skin and eyes, kidneys, respiratory system, liver, nervous system. <sup>8</sup>
14	Ethyl Glycol (Monobutyl Ether)	33	Harmful to skin, eyes and other sensory organs, respiratory system, gastrointestinal system and liver, brain and nervous system, immune system, kidneys, reproductive system and cardiovascular system; mutagen, developmental inhibitor, and endocrine disruptor; linked to liver cancer.

<sup>7</sup> U.S. Occupational Safety and Health Administration, Isopropyl Alcohol (2-Propanol) available at [https://www.osha.gov/dts/chemicalsampling/data/CH\\_248400.html](https://www.osha.gov/dts/chemicalsampling/data/CH_248400.html);

<sup>8</sup> U.S. EPA, Technology Transfer Network, Air Toxics Web Site, available at <http://www.epa.gov/airtoxics/hlthef/cumene.html>.