



Crews work on a relief well at the Aliso Canyon facility above the Porter Ranch area of Los Angeles in December 2015. (Dean Musgrove / Associated Press)

The massive leak from Southern California Gas Company's Aliso Canyon natural gas field in northwestern Los Angeles County was discovered on October 23rd of last year and, more than three months later, shows no sign of abating. Public prosecutors have pretty clearly lost patience with SoCal gas and its ineffective remediation efforts to date. This week, those prosecutors have "gone to the mattresses," filing two major environmental enforcement actions against the company.

On Tuesday, Los Angeles District Attorney Jackie Lacey filed criminal charges against the company—four misdemeanor counts charging SoCal Gas with failure to immediately report to authorities a release of hazardous materials from October 23-26 as required by law, and illegal discharge of air contaminants since the releases began on October 23rd. The D.A. is seeking potentially massive fines against the company, and there's the possibility that SoCal officials could be facing jail time.



California Attorney General
Kamala Harris

On the same day, California Attorney General Kamala Harris filed a parallel civil enforcement action against SoCal Gas on behalf of both the people of the State of California and the California Air Resources Board. The Attorney General's lawsuit alleges that SoCal Gas is liable for creating a public nuisance, an unfair business practice, illegal discharge of air contaminants, unlawful release of hazardous materials and impairment of the state's natural resources. Central to the Attorney General's case is the fact that SoCal Gas' Aliso Canyon gas leak has reportedly resulted in the release of at least 80,000 metric tons of methane—an especially potent greenhouse gas—that compromises California's multifaceted efforts to reduce the state's aggregate GHG emissions as required by the landmark Global Warming Solutions Act of 2006 (AB 32).

These are not the first lawsuits arising out of the Porter Ranch-area disaster, and they certainly won't be the last. Los Angeles City Attorney Mike Feuer filed his own civil lawsuit against SoCal Gas in December, while private attorneys representing some of the thousands of residents who've had to evacuate their Porter Ranch homes due to the disaster have already filed private damage actions against the company. The U.S. Environmental Protection Agency is reportedly conducting its own investigation, which could result in EPA pursuing an administrative action against SoCal Gas, the U.S. Department of Justice filing criminal and/or civil charges against the company, or both.

The legal and political response to SoCal Gas' natural gas release bears an uncanny resemblance to that which followed the 2010 Deepwater Horizon blowout and resulting, massive oil spill in the Gulf of Mexico. There, government regulators initially let British Petroleum and its contractors take the lead in efforts to seal the offshore oil well and clean up the spilled crude oil. But it quickly became apparent that BP had no strategy in place to staunch the platform blowout and was grossly underestimating the scope of the oil spill. So federal and state officials shunted BP aside, assumed responsibility for overseeing the Deepwater Horizon disaster response efforts, and eventually filed criminal and civil lawsuits against BP and its affiliated contractors. Those prosecutions resulted in criminal sentences for some of the key corporate officers deemed responsible for the blowout and oil spill-the worst in American history-and multi-billion dollar criminal and civil penalties for the companies involved.

We're seeing a similar pattern play out with respect to the Aliso Canyon natural gas disaster. If and when the gas leak is finally halted, the focus will quickly turn to the public and private lawsuits against SoCal Gas and others charged with responsibility for the disaster.



Los Angeles County District Attorney Jackie Lacey

There are two likely, future developments on the SoCal Gas disaster litigation front: first,

the job of coordinating the public prosecutions and the inevitable flood of private lawsuits will be a daunting challenge. It seems likely—and advisable—that California’s Judicial Council will order the state court lawsuits consolidated and appoint a judge to oversee and coordinate their disposition. That judge will have to be skilled in complex litigation, while possessing the patience of Job. (The federal judicial system appointed a talented district judge to coordinate the multifaceted federal litigation arising out of the Deepwater Horizon disaster, and his masterful efforts proved key to resolving those many cases).

Second, it will be particularly important to coordinate the L.A. District Attorney’s just-filed criminal prosecution with the multitude of already-pending and future civil lawsuits filed by public and private litigants alike. The general pattern in such circumstances is for the criminal case to proceed first, with the civil lawsuits following, or “trailing,” the criminal prosecution. Doing otherwise can compromise the success of the criminal case, for various reasons.

The immediate priority, of course, is to cap SoCal Gas’ Aliso Canyon natural gas leak before further hazardous air emissions, and resulting public health problems and social dislocations, occur. Thereafter, public attention will turn to what may well be the most complex and wide-ranging set of environmental enforcement proceedings in California state history.