

Exhibit 11a
Public Comment received for
Planning Commission hearing,
September 21, 2023

County of Ventura
Planning Commission Hearing
Case Nos. PL21-0099 and PL21-0100
Exhibit 11b - Public comment received for Planning
Commission hearing, September 21, 2023

Zendejas, Daniela

From: Christina Coulson <christina@meridianhq.com>
Sent: Thursday, September 14, 2023 1:36 PM
To: Oil and Gas Ordinance
Cc: Ward, Dave; Juachon, Luz; Boydstun, Scott; Maggie Kestly; Charles Sandlin; McPhail, Earl; Zimmerman Garcia, Veronica
Subject: For submission to the 9/21 Planning Commission comments on oil and gas ordinances
Attachments: 9.21.23 Oil and Gas Amendments Planning Commission Packet .pdf

WARNING: If you believe this message may be malicious use the Phish Alert Button to report it or forward the message to Email.Security@ventura.org.

Good afternoon, please accept and submit the following sourced documents into the record for the September 21, 2023 Planning Commission meeting related to proposed amendments to the oil and gas zoning ordinances.

Thank you.

VENTURA CITIZENS FOR
ENERGY
INDEPENDENCE

September 14, 2023

To: Chair Scott Boydstun

Cc: Commissioners Veronica Garcia, Charles Sandlin, Earl McPhail, Maggie Kestly; Recording Secretary Luz Juachon, Planning Director Dave Ward; oilandgasord@ventura.org

Re: 09.21.23 Planning Commission Hearing Oil and Gas Coastal and Non-Coastal Zoning Ordinance Amendments

Please accept and submit the following sourced documents into the record for the September 21, 2023 Planning Commission meeting on proposed amendments to the Coastal and Non-Coastal Zoning Ordinances relating to permit terms, surety and insurance requirements for oil and gas operations, and idle well management.

- Fact Sheet - Idle Well Management in California
- Fact Sheet - Idle Wells Highly Regulated by Local and State Agencies
- Fact Sheet - Insurance Bonding for Oil and Gas Sites
- CalGEM Notice to Operators 2023-08: CalGEM's Bonding and Financial Security Program Implementation
- CalGEM Notice of Proposed Rulemaking Action: Cost Estimate Regulations; 2023-08-18
- CalGEM SB 551 FAQ: Cost Estimate Regulations for Oil and Gas Operations; 2023-08
- VC Star Guest column: [California's comprehensive approach for oil and gas wells](#) by Dr. Mark Nechodom
- Comment Letter from Bart LeFevre, an Insurance/Surety Bond industry professional
- Comment Letter from Andy Naworski, an Insurance/Surety Bond industry professional re: Oil and Gas Bonds
- Comment Letter from Andy Naworski, an Insurance/Surety Bond industry professional re: Oil and Gas Insurance Policy Limits
- Comment Letter from Desiree Westmoreland, an Insurance/Surety Bond industry Professional

The materials listed above serve as an update to materials submitted at the July 28, 2022 Planning Commission Hearing and the November 9, 2022 Stakeholder Meeting. Recently rulemaking has commenced at the state level regarding idle well and insurance bonding requirements that will have an impact on the proposed ordinances.

Sincerely,

Ventura Citizens for Energy Independence



Idle Well Management in California

CALGEM IDLE WELL MANAGEMENT PROGRAM

The California Geologic Energy Management Division (CalGEM) within the state Department of Conservation, manages a **robust and well-funded idle well program** to protect public safety and the environment from the potential threats posed by idle wells. CalGEM's recent efforts to accelerate abandonment of idle wells and facilities, and to reduce state liability, are in line with its renewed mission and efforts to strengthen its oversight of oil and gas operations.

Beginning in late 2019, CalGEM implemented major policy and programmatic changes as directed in AB 2729 to help California achieve its climate change and clean energy goals.

AB 2729 aims to sharply reduce the number of, and the risks associated with, idle wells in California. Key provisions of the measure include new fees, increases in required financial assurances, and the imposition of rigorous new testing and remediation requirements for idle wells. Together, these measures have created a major incentive for producers to plug and abandon their idle wells.

These incentives are clearly working, as evidenced by the eight-fold increase in permits issued for idle well plugging and abandonment between the first half of 2018 and the first half of 2022.

2022 PERMITS ISSUED

Plugging and Abandoning: **4,813**

New Drilling: **257**



A healthy energy industry will ensure that resources are available to manage oil and gas assets. State activity to encourage plugging and abandonment of idle wells and fund orphan well remediation is significant and comprehensive. **CalGEM's program is working!**

KEY PROVISIONS OF AB 2729 – CALGEM'S IDLE WELL MANAGEMENT PROGRAM


Imposes blanket indemnity bond requirements starting at \$200,000 for 20 to 50 wells, up to \$3 million for more than 10,000 wells.

Imposes idle well fees starting at \$150 for each well that is idle for 3 years, up to \$1,500 for each well that is idle for 20 years or more. Allows waivers if the producer submits an idle well management plan, agreeing to plug and abandon a specific number of wells each year.

Requires operators to provide a detailed inventory of idle wells to CalGEM, and to conduct progressively more rigorous testing of wells starting within 24 months of when they become idle.

Allows testing waivers for wells that are committed to be plugged and abandoned within 8 years.

What is an idle well? A well may become idle when it is no longer economical to produce oil or gas (often due to global prices and economic influences). But it may become economic in the future. No matter what its operational status, the same safety and testing standards apply, just like any other well.

 [Idle Well Program Annual Report 2021](#)

IDLE WELL MANAGEMENT LEGISLATION ENACTED TO FURTHER PROTECT PUBLIC SAFETY AND THE ENVIRONMENT

AB 2729 Williams 2016	Increases idle oil and natural gas well fees and blanket indemnity bonds to provide incentives for operators to reduce their number of idle wells. It also requires operators to plug between 4-6% of their idle wells annually.
AB 1057 Limón 2019	Allows the State Oil and Gas Supervisor to require any operator in the state to post an additional security bond or alternative compliance mechanism up to \$30 million to cover the future estimated cost of remediating all that operator's wells and facilities.
AB 1328 Holden 2019	Requires an independent study commissioned by CalGEM and the California Air Resources Board (CARB) to review emissions from idle and abandoned wells.
SB 551 Jackson 2019	Requires operators to give CalGEM an estimation of the costs of their future plugging obligations as well as their plan to financially meet those future obligations. CalGEM will review and certify the operator's estimation. CalGEM then has the ability to require bonding for any shortfall, up to \$30 million. Cost analysis models and implementation is in progress.
SB 47 Limon 2021	Raises the cap on CalGEM spending for purposes related to hazardous wells, idle-deserted wells, hazardous facilities, and deserted facilities from \$1 million to \$5 million in any one fiscal year.
AB 896 Bennett 2021	Authorizes CalGEM to impose a claim and lien upon the real property in the state owned by the operator or responsible party of an oil or gas well and attendant facility under specified conditions and in specified amounts. It also requires CalGEM to establish a collections unit responsible for: (1) collection of unpaid idle well fees from an operator, (2) establishing the timelines and criteria for determining if a well has been deserted, and (3) recovering any costs from the operator or responsible party for a well that has been deserted or ordered to undergo well integrity testing or to be plugged and abandoned.
SB 84 Hurtado 2021	Requires CalGEM to clarify the process used by the state to determine that the current operator of a deserted well does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities. It also requires CalGEM to report the location of hazardous wells, idle-deserted wells, deserted facilities, and hazardous facilities remaining, including the county in which they are located, to the Legislature.
SB 1295 Limon 2021	Requires operators to give CalGEM an estimation of the costs of their future plugging obligations as well as their plan to financially meet those future obligations. CalGEM will review and certify the operator's estimation. CalGEM then has the ability to require bonding for any shortfall, up to \$30 million. Cost analysis models and implementation is in progress.



IDLE AND ORPHAN WELL PROGRAM FUNDING

FEDERAL FUNDING

The Federal Bipartisan Infrastructure Law allocated a total of **\$4.7 billion** to create a new federal program to address orphaned wells.

California is eligible for:

\$61 million

in the first phase of federal funding to plug orphaned oil and gas wells.

\$165 million

more will be made available in the next couple of years to plug wells in California.

California To Get Federal Funds To Seal Thousands Of Orphaned Oil Wells

STATE FUNDING (PROPOSED)

\$100 million

to plug and abandon orphaned oil and gas wells and decommission attendant facilities that could pose a danger to life, health, water quality, wildlife, or natural resources.

As of August 2022, the State has over **\$28 million** in two special accounts paid by California oil companies that fund the plugging of orphan wells, which are wells with no known owner. The state, not any county or city, is responsible for remediating these wells with funds from industry.

\$354 Million of Total State and Federal Funding

CALGEM'S BUDGET AND SIZE

CalGEM Total Budget: \$99.2 million in 22-23

All paid for by the industry by a per barrel assessment

CalGEM has increased significantly in size and budget over the last three years:

40% staff increase

125 new positions created

\$23 million per year ongoing

CALGEM APPROVED BY THE LEGISLATURE BUDGET REQUESTS

Data Integrity and Accessibility

- **16** positions requested

Appropriation increase from the Oil, Gas and Geothermal Administrative Fund (3046) to increase functionality of WellSTAR and strengthen data integrity, accessibility, reliability and consistency for internal and external use.

- **\$3,261,000** in FY 2022-23
- **\$3,046,000** ongoing appropriation

AB 2729 Implementation, Idle Well Testing

- **15** positions requested

\$2.5 million ongoing to support testing, inspections, data collection, idle well management plan review, compliance monitoring, enforcement, and reporting to the Legislature.

Mission Transformation and Oversight

- **51** positions requested

The Department of Conservation requests fifty-one (51.0) permanent positions phased in over three years (17.0 in 2022-23, 34.0 in 2023-24, and 51.0 in 2024-25) and an appropriation increase of **\$5,056,000** in 2022-23, **\$7,561,000** in 2023-24, **\$10,842,000** in 2024-25 and **\$10,617,000** ongoing from the Oil, Gas and Geothermal Administrative Fund (3046) to

strengthen enforcement of existing laws and regulations, limit the state's financial liability, improve public transparency, and implement chaptered legislation.

Oil Well Abandonment & Remediation (Proposed), funding only

General Fund funding request to plug and abandon orphaned oil and gas wells and decommission attendant facilities that could pose a danger to life, health, water quality, wildlife, or natural resources. This funding will help mitigate the State's potential liability, and further the Geologic Energy Management Division's focus on public health, safety, and environmental protection.

- **\$100 million** in FY 2022-23 (General Fund)
- **\$100 million** in FY 2023-24 (General Fund)

Plugging and Abandoning Hazardous and Idle-Deserted Wells and Production Facilities (SB 47)

- **6** positions requested

To implement the provisions of SB 47, the Department of Conservation requests annual expenditure authority to plug deserted wells and decommission deserted facilities funded at **\$5 million**.



Idle Wells Highly Regulated by Local and State Agencies

Ventura oil and gas producers, in coordination with local and state agencies, conduct robust monitoring, inspection and testing of idle wells to protect public health, safety and the environment. Idle wells are overseen by local oil and gas producers, the Ventura County Air Pollution Control District and the California Geological Energy Management Division (CalGEM). Additionally, local producers participate in CalGEM's idle well management program which accelerates the safe abandonment of idle wells and facilities.

IDLE WELL MONITORING, INSPECTION AND TESTING ACTIVITIES:

DAILY

Local oil and gas producers conduct visual inspections of the idle wells anywhere from one to five times a week to monitor for pressure and the general condition of the existing infrastructure. A lease operator or "pumper" has a route that is run every day and is familiar with the idle wells on his/her route. This consistency allows for issues to be identified and dealt with quickly.

QUARTERLY

The Ventura County Air Pollution Control District (VCAPCD) requires every idle well to be monitored quarterly with a gas detection unit. Each idle well is checked for fugitive emissions. Company personnel, or outside contractors, approved by the VCAPCD, upload the data directly to the agency for analysis. If fugitive emissions are detected, the VCAPCD contractor will immediately report the emissions. Based on the type of leak, the operator has a set amount of time to fix the issue.

ANNUAL

VCAPCD conducts annual on-site inspections which includes fugitive emission monitoring of all idle and producing wells and equipment. If a leak is identified and it exceeds a certain parameter a violation is immediately issued. Like the quarterly monitoring, the operator has a set amount of time to fix the issue based on the type of leak.

CalGEM's idle well management program was revised in April 2019 to create far more stringent testing requirements to better protect public safety and the environment. The regulations require idle wells to be tested, and if necessary, repaired, or permanently sealed and closed. Testing requirements include the following:

- **Fluid-Level Test.** Determine whether the fluid level is above the base of an underground source of drinking water.
- **Casing Pressure Test.** Conduct a casing pressure test on the idle well to demonstrate mechanical integrity.
- **Clean Out Tag.** Demonstrate the operator's ability to reach the current CalGEM approved depth of the well.
- **15-Year Engineering Analysis.** Provide a 15-Year Engineering Analysis demonstrating that the well is viable to return to operation in the future





Insurance Bonding for Oil and Gas Sites

CALGEM'S ROLE AND AB 1057

The California Geological Energy Management Division (CalGEM,) within the California Department of Conservation, regulates bonding requirements for oil and gas operators in plugging, decommissioning, and remediating oil and gas sites.

In 2018, AB 1057 was signed into law and provides CalGEM the authority to impose new idle oil and natural gas well fees, raises indemnity bonds, and imposes rigorous testing requirements to provide a disincentive for operators to maintain idle wells. Allows waivers for wells that are committed to be plugged and abandoned.



In addition to AB 1057, oil and gas operators are subject to myriad statewide regulations:

SB 551

ABANDONMENT AND DECOMMISSIONING: REPORTING AND INSPECTIONS

Requires operators to give CalGEM an estimation of their future plugging obligations as well as their plan to financially meet those future obligations. CalGEM will review and certify the operator's estimation, can require bonding for any shortfall, up to \$30 million. [📄 FULL BILL TEXT](#)

AB 2729

IDLE WELL PROGRAM

This bill increases idle oil and natural gas well fees and blanket indemnity bonds to provide a disincentive for operators to maintain large numbers of idle wells. It also requires operators to plug between 4-6% of their idle wells annually. [📄 FULL BILL TEXT](#)

SB 1295

HAZARDOUS OR DESERTED WELLS AND FACILITIES: LABOR STANDARDS—PENDING LEGISLATION

Significantly increases the Oil, Gas, and Geothermal Administrative Fund expenditures (funded by operator assessment fees) to address plugging and abandoning hazardous or idle-deserted wells, decommissioning hazardous or deserted facilities, or otherwise remediating well sites of hazardous or idle-deserted wells. [📄 FULL BILL TEXT](#)

AB 1328

NOTICE OF INTENTION TO ABANDON WELLS

This bill requires an independent study commissioned by CalGEM and the California Air Resources Board (CARB) to review emissions from idle and abandoned wells. [📄 FULL BILL TEXT](#)

SB 84

ENHANCED LEGISLATIVE REPORTING REQUIREMENTS OF IDLE WELL PROGRAM

Requires CalGEM's Supervisor to provide the Legislature a report detailing the process used by the state to determine that the current operator of a deserted well does not have the financial resources to fully cover the cost of plugging and abandoning the well or the decommissioning of deserted production facilities. [📄 FULL BILL TEXT](#)

These extensive statewide regulations ensure that there are sufficient funds and resources available to plug, decommission, and remediate oil and gas sites without government or taxpayers paying the bill.

WHY VENTURA COUNTY'S PROPOSED SUPPLEMENTAL BONDING REQUIREMENTS ARE NOT NECESSARY:



PRE-EMPTION

Local legislation is “duplicative” when it is coextensive of state law. The proposed ordinance creates a duplicative program that is unnecessary and could open the County up to potential legal liabilities.

The state, through AB 2729, created several new bonding and fee payment provisions to address the State’s liability to properly plug and abandon wells that are orphaned by operator bankruptcy or failure to act.

Ventura County would be establishing an entirely separate, new program that would require additional County funding and management and would provide minimal public benefit.



BOND PRODUCTS NOT AVAILABLE

The proposed insurance bonds are not available to producers due to the challenging political and regulatory environment in California. It is extremely difficult to find carriers willing to issue bonds and insurance products for oil development activities. As a result, there is unprecedented pricing increases and diminished supply.



CALGEM BONDING AND FINANCIAL SECURITY PROGRAM

In response to concerns related to orphan wells and liabilities for plugging, decommissioning, and remediation of oil and gas sites, Public Resources Code (PRC) section 3205.3, codified in 2018 by AB 1057, provides CalGEM the authority to require an operator subject to CalGEM’s indemnity bond requirements, to provide an additional security, acceptable to CalGEM, based on CalGEM’s evaluation of the risk that the operator will desert its wells and the potential threats the operator’s wells pose to life, health, property, and natural resources.



ADDITIONAL LAYER OF BUREAUCRACY THAT IS NOT NECESSARY

It is audacious and shortsighted of the County to add another layer of bureaucracy to the State’s effective idle well management program. The State has spent years developing comprehensive and meaningful regulations that have begun to accelerate plugging and abandoning of wells. In addition, significant funds have been directed by the State and Federal Government to further accelerate this process. The State’s idle well management program is working. Oil and gas operators are incentivized to plug and abandon wells. Adding another costly and unnecessary layer of bureaucracy will provide little benefit, and only increase the chance of operators going out of business.

Subject matter expert weighs in:

“Based on my experience in procuring surety bonds and insurance policies for oil and gas companies throughout California, including in Ventura County, the required surety and insurance coverages will be prohibitively expensive for the majority of independent oil and gas companies currently operating in Ventura County.

Even if an insurers’ underwriting department approves a bond that would satisfy the proposed zoning amendments, the operator would likely need to provide 100% collateral in order to satisfy the underwriting requirements. This amount of collateral is not feasible for most operators in the County, especially independent operators.

The proposed amendments also do not specify whether a surety bond can be cancellable. When a surety bond is not cancellable, underwriters are extremely reluctant to issue a bond.”

Bart LeFerve, CEO of INpower Global Insurance Services, a specialty insurance brokerage & risk management firm



NOTICE TO OPERATORS

NTO 2023-08

July 31, 2023

CALGEM'S BONDING AND FINANCIAL SECURITY PROGRAM IMPLEMENTATION OF PUBLIC RESOURCES CODE SECTION 3205.3

The Geologic Energy Management Division (CalGEM) of the California Department of Conservation is issuing this notice to inform oil and gas operators that CalGEM is implementing the requirements of Public Resources Code (PRC) §3205.3 (see attachment A). This section was added to the code in 2019 by Assembly Bill 1057 (Limón, chapter 771), which intended to address concerns that as oil production continues to decline, oil and gas infrastructure could be orphaned, potentially leaving taxpayers to address the risks and cover the costs of plugging and abandoning wells, decommissioning attendant facilities, and remediating sites.

This statute authorizes CalGEM to require operators to provide additional financial security beyond the statutory minimums established in PRC §3204 based on CalGEM's evaluation of the risk that an operator may desert its wells and the potential threats the operator's wells pose to life, health, property, and natural resources. The required amount of additional security will be based on CalGEM's estimation of the reasonable costs to the State for properly plugging and abandoning all the operator's wells and decommissioning any attendant production facilities in accordance with PRC § 3208, or \$30 million, whichever is less.

CalGEM will begin contacting operators who may be required to post additional financial security mechanisms in the third quarter of 2023. This notice will include a preliminary estimate of the operator's abandonment costs, a proposed additional financial security requirement, and, as applicable, a description of specific criteria used to estimate the risk of desertion and environmental harm.

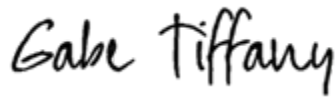
Operators receiving such notice will have an opportunity to submit their cost estimates for plugging, abandonment, and decommissioning of their wells and attendant production facilities and meet with CalGEM staff to discuss proposed additional financial security requirements. The additional security the operator provides could be an indemnity bond, a form of deposit described in Section 995.710 of the Code of Civil Procedure, or any other means of financial assurance approved by CalGEM. As needed, CalGEM will work with operators on their compliance obligations and may accept a combination of financial assurances, including a binding work plan to reduce asset retirement obligations, a sinking fund, or other equally effective assurances approved by the Supervisor. Additionally, after new financial security requirements are in place, an operator may petition CalGEM to reevaluate the operator's risk or cost estimate.

Additional information on bonding and financial security can be found at:
<https://www.conservation.ca.gov/calgem/Pages/Bonding-and-Financial-Security-Program.aspx>.

For questions or concerns, please contact:

Mail: Bonding and Financial Security Unit
California Department of Conservation
715 P Street, MS-1803
Sacramento, CA 95814

Email: calgembondingandfinancialsecurity@conservation.ca.gov



Gabe Tiffany
Acting State Oil and Gas Supervisor

Attachment A: AB 1057 / PRC 3205.3.

Public Resources Code section 3205.3.

(a) The division may require an operator filing an individual indemnity bond pursuant to Section 3204 or a blanket indemnity bond pursuant to Section 3205, as applicable, to provide an additional amount of security acceptable to the division based on the division's evaluation of the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources. The additional security required by the division shall not exceed the lesser of the division's estimation of the reasonable costs of properly plugging and abandoning all of the operator's wells and decommissioning any attendant production facilities in accordance with Section 3208, or thirty million dollars (\$30,000,000).

(b) When making an estimation under this section of the reasonable costs of properly plugging and abandoning an operator's well or wells and decommissioning any attendant production facilities, the division shall provide the operator with an opportunity to submit the operator's own estimation and shall consider all of the following:

- (1) The depth of the well or wells.
- (2) The accessibility and surroundings of the well or wells and any attendant production facilities.
- (3) Available information about the condition of the well or wells and any attendant production facilities.
- (4) Available information about the cost to plug and abandon a comparable well or wells.
- (5) Available information about the cost to decommission production facilities comparable to the production facilities attendant to the well or wells.
- (6) The operator's cost estimates, if provided.
- (7) Whether the operator is a public utility gas corporation, as defined in subdivision (a) of Section 216 of the Public Utilities Code.
- (8) Any other information that the division determines to be relevant to the estimation of cost.

(c) The division, in evaluating the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources, shall consider all of the following:

- (1) The difference between the estimation of reasonable costs of plugging and abandonment under subdivisions (a) and (b) and the total amount of indemnity bonds or other financial assurances in place to ensure funding of the plugging and abandonment of the operator's well or wells.
- (2) The level of current production from the well or wells.
- (3) Available information regarding estimated reserves remaining in place associated with the well or wells.
- (4) Whether the well or wells are "critical," are "environmentally sensitive," or are in an "urban area," as those terms are defined by the division in regulation.

- (5) To the extent that relevant information is available to the division, the financial status of the operator and the operator's financial capacity to plug and abandon all of the operator's wells.
- (6) The past record of compliance by the operator with the division.
- (7) The number of idle wells to be covered by the indemnity bond and the operator's record of compliance with the requirements of Section 3206 and the division's regulations related to the management of idle wells.
- (8) Whether the operator's well or wells are subject to any bonding or financial assurance requirements by a local government.
- (9) Whether the operator's well or wells are already subject to additional bond coverage by the division pursuant to Section 3270.4.
- (10) Any other information that the division determines to be relevant to the evaluation of the risk.

(d) The division shall provide the operator with notice of the requirement to provide additional security, and the notice shall be served by personal service or certified mail. The operator shall provide the additional security within 180 days of service of notice. The notice shall include an explanation of the division's estimation of the reasonable costs to plug and abandon the operator's well or wells and of the basis for the decision to require the operator to provide additional security. The requirements of this subdivision shall also apply to any subsequent increase in the amount of additional security required under subdivision (e).

(e) The division shall increase or decrease the amount of additional security required under this section to account for changed circumstances or new information. The operator may, at any time, petition the division to reevaluate the division's evaluation of the risk or cost estimates, and the division shall respond to the petition in writing within 60 days of receipt of the petition.

- (f) (1) An operator shall provide additional security required under this section in the form of an indemnity bond, a form of deposit described in Section 995.710 of the Code of Civil Procedure, or any other equally effective means of financial assurance approved by the division. Examples of equally effective means of financial assurance that the division may consider for approval include a letter of credit, a corporate guarantee, a trust fund, or a demonstration of self-insurance.
- (2) The division may only approve self-insurance as an equally effective means of financial assurance if the operator provides detailed financial information demonstrating to the division's satisfaction that, based on the considerations under subdivision (c), the risks associated with the operator's potential for desertion of its well or wells are low. If the division approves self-insurance as an equally effective means of financial assurance, at least once every five years the operator shall update the supporting financial information and the division shall reevaluate whether self-insurance continues to be an equally effective means of financial assurance. If an operator provides financial information to the division under this section that is not otherwise publicly available, the division shall maintain the information as confidential.

- (g) (1) Any two or more operators may elect to enter into a liability sharing agreement.
- (2) Operators that elect to participate in a liability sharing agreement shall be jointly and severally liable for all amounts owed under this chapter by all other operators that participate in the liability sharing agreement.
- (3) The division shall treat all operators that participate in a liability sharing agreement as a single operator when requiring additional security under this section, except that the additional security required by the division shall not exceed the lesser of the division's estimation of the reasonable costs of plugging and abandoning all of the participating operators' wells and decommissioning any attendant production facilities in accordance with Section 3208, or thirty million dollars (\$30,000,000).
- (4) A liability sharing agreement is formed when all of the participants have provided the division written notice of intent to participate in the liability sharing agreement with express acknowledgment of all other participants in the agreement.
- (5) An operator may elect to withdraw from a liability sharing agreement at any time, but all participants in the liability sharing agreement, including the withdrawing participant, shall continue to be jointly and severally liable for all amounts owed under this chapter for a period of five years after the withdrawal.

COST ESTIMATE REGULATIONS FOR OIL AND GAS OPERATIONS

NOTICE OF PROPOSED RULEMAKING ACTION

REGARDING

TITLE 14. NATURAL RESOURCES

DIVISION 2. DEPARTMENT OF CONSERVATION

CHAPTER 4. DEVELOPMENT, REGULATION, AND CONSERVATION OF OIL AND GAS RESOURCES

Notice Published August 18, 2023

Office of Administrative Law Notice File Number: Z2023-0802-01

NOTICE IS HEREBY GIVEN that the California Department of Conservation (Department) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD AND PUBLIC COMMENT HEARING

Any person, or his or her authorized representative, may submit written statements, arguments, or comments related to the proposed regulatory action to the Department.

Comments may be submitted by email to:

CalGEMCostEstimates@conservation.ca.gov

or by mail to:

Department of Conservation
715 P Street, MS 1907
Sacramento, CA 95814
ATTN: Cost Estimate Regulations

The written comment period closes at 12 midnight on October 4, 2023. The Department will only consider comments received at the Department's offices by that time.

Public Hearing

Any interested person, or his or her authorized representative, may present, either orally or in writing, comments regarding the proposed action at the virtual public hearing to be held on **October 3, 2023, at 5:30 pm.**

Register for the public hearing on zoom by clicking [HERE](#).

Or join by Telephone: US Toll 213-787-0529
 US Toll Free 888-808-6929
 Conference Code 847183

Accessibility

If you have a disability and require a reasonable accommodation to fully participate in this event, please contact Sarah Rubin, Outreach and Engagement Coordinator as soon as possible to discuss your accessibility needs.

Email: Sarah.Rubin@conservation.ca.gov | PH: (916) 214-5731

[English]

Translation and interpretation services may be provided upon request. To ensure availability of these services, please make your request no later than ten working days prior to the workshop by contacting Sarah Rubin, Outreach and Engagement Coordinator. Email: Sarah.Rubin@conservation.ca.gov | PH: (916) 214-5731

[Spanish]

Se podrán proporcionar servicios de traducción e interpretación a petición previa. Para poder garantizar la disponibilidad de estos servicios, asegúrese de realizar su solicitud a más tardar diez días hábiles antes de la reunión comunitaria comunicándose con Sarah Rubin, Coordinadora de Alcance y Participación.

Correo electrónico: Sarah.Rubin@conservation.ca.gov | Tel: (916) 214-5731

[Vietnamese]

Dịch vụ thông dịch và biên dịch có thể được cung cấp theo yêu cầu. Để đảm bảo khả năng có sẵn của các dịch vụ này, vui lòng đưa ra đề nghị không muộn hơn mười ngày làm việc trước khi buổi họp cộng đồng bắt đầu, bằng cách liên lạc với Sarah Rubin, Điều Phối Viên Tham Gia Và nỗ Lực Hành Động.

Email: Sarah.Rubin@conservation.ca.gov | ĐT: (916) 214-5731

[Chinese – simplified]

如有要求，可提供除西班牙语以为语言的笔译和口译服务。为确保及时这些服务，请在社区会议前十个工作日内 联系外联与参与协调员Sarah Rubin提出请求 电子邮件：

Sarah.Rubin@conservation.ca.gov | 电话：(916) 214-5731

[Tagalog]

Ang mga serbisyo sa pagsasalin at interpretasyon ay maaaring ibigay sa kahilingan. Upang masiguro ang pagkakaroon ng mga serbisyong ito, mangyaring gawin ang iyong kahilingan nang hindi lalampas sa sampung araw ng pagtatrabaho bago ang pagawaan sa pamamagitan ng pagtawag kay Sarah Rubin, Outreach and

Engagement Coordinator.

Email: Sarah.Rubin@conservation.ca.gov | PH: (916) 214-5731

[Punjabi]

ਅਨੁਵਾਦ ਅਤੇ ਵਿਆਖਿਆ ਸੇਵਾਵਾਂ ਬੇਨਤੀ ਕਰਨ ਤੇ ਪ੍ਰਦਾਨ ਕੀਤੀਆਂ ਜਾ ਸਕਦੀਆਂ ਹਨ. ਇਹਨਾਂ ਸੇਵਾਵਾਂ ਦੀ ਉਪਲਬਧਤਾ ਨੂੰ ਯਕੀਨੀ ਬਣਾਉਣ ਲਈ, ਿਕਰਪਾ ਕਰਕੇ ਵਰਕਸ਼ਾਪ ਤੋਂ 10 ਕੰਮਕਾਜੀ ਦਿਨਾਂ ਤੋਂ ਪਿਹਲਾਂ ਆਪਣੀ ਬੇਨਤੀ ਸਾਰਾਹ ਰਿਬਨ, ਆ ਟਰੀਚ ਅਤੇ ਐਂਗ ਜਮੈਂਟ ਕੋਆਰਡੀਨੇਟਰ (916) 214-5731 ਜਾਂ ਸਾਰਾਹ.ਰੂਬੀਨ@ਕਨਜ਼ਰਵੇਸ਼ਨ ਸੀ.ਏ.

[Hmong]

Cov kev pab cuam txhais lus thiab txhais ntaub ntawv (dhau ntawm lus Xab Pees Niv) yuav muaj raws qhov thov tuaj. Los ua kom cov kev pab cuam no muaj siv, thov ua koj li kev thov tsis pub dhau kaum hnuv ua hauj lwm ua ntej lub rooj sib tham hauv zej zog los ntawm txuas lus nrog Sarah Rubin, Outreach thiab Tus Neeg Ua Hauj Lwm Pab Txuas Lus Muab Kev Txhawb Nqa.

Email: Sarah.Rubin@conservation.ca.gov | Xov Tooj: (916) 214-5731

AUTHORITY AND REFERENCE

Pursuant to the authority vested by California Public Resources Code sections 3013 and 3106, and to implement, interpret, or make specific sections 3011, 3106, and 3205.7 of the Public Resources Code, the Department proposes to add sections 1753, 1753.1, 1753.1.1, 1753.1.2, 1753.2, 1753.2.1, 1753.2.2, 1753.3, 1753.3.1, and 1753.3.2 within the California Code of Regulations, title 14, division 2, chapter 4, subchapter 2, article 1.

INFORMATIVE DIGEST / POLICY STATEMENT

Existing Law

The California Geologic Energy Management Division (CalGEM), within the Department of Conservation, supervises and regulates oil, gas, and geothermal well operations, including their attendant facilities, throughout the state. (See Public Resources Code, § 3106). CalGEM carries out its regulatory authority to encourage the wise development of oil and gas resources, while preventing damage to life, health, property, and natural resources. More specifically, per Public Resources Code section 3106, CalGEM supervises the decommissioning and abandonment of both wells and facilities attendant to oil and gas production. CalGEM's duties include the protection of public health and safety and environmental quality, including reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon resources. (Pub. Resources Code, § 3011.)

In 2008, the California State Legislature substantially strengthened and clarified CalGEM's authority to regulate oil and gas production facilities (AB 1960, Nava, Chapter 562, Statutes of 2008, in particular Public Resources Code, §§ 3270 *et seq.*)

In October 2019, Governor Newsom signed into law Senate Bill 551 (Jackson, Chapter 774, Statutes of 2019) adding Public Resources Code section 3205.7, which requires every operator to submit a report demonstrating the total estimated costs related to the plugging and abandonment of all of their wells and decommissioning of all attendant facilities, including any needed site remediation. Legislative history suggests that the bill's authors and supporters were concerned about operator insolvencies leaving the state responsible for decommissioning costs. Author Jackson said we need “to begin assessing these costs in a systematic, wholesale, across-the-board, thorough, comprehensive and regular way, or we risk entering into billions in liabilities with no plan and no recourse.” (Sen. Rules Com., Senate Floor Analysis, S.B. 551 2017-2018 Reg. Sess.) p. 5.)

To implement the new reporting requirement, Public Resources Code section 3205.7 requires CalGEM to establish criteria that operators must adhere to when developing their cost estimates. The statute also requires CalGEM to establish a schedule for operators to submit their initial reports such that at least one-half of the operators are required to submit an initial report by July 1, 2024, and all operators are required to submit an initial report by July 1, 2026. The July 1, 2024 date specified by the statute was not achieved due to delays in the rulemaking process. After initial submission, each operator is required to submit an updated report at least once every five years.

Related to the addition of Public Resources Code section 3205.7, effective January 1, 2020, Public Resources Code section 3205.3 significantly augmented CalGEM's bonding authority. Before adoption of Public Resources Code section 3205.3, operators were generally required to post a bond based upon the number of wells the operator operates and the depth of those wells. (Pub. Resources Code, §§ 3204, 3205.) With the adoption of Public Resources Code section 3205.3, based on CalGEM's evaluation of the operator's risk of desertion, CalGEM has broad authority to require an operator to provide additional security beyond the minimum indemnity bond amounts required under Public Resources Code sections 3204 and 3205. (PRC, § 3205.3, subd. (a).) The additional security cannot exceed the lesser of CalGEM's estimation of the reasonable cost of properly plugging and abandoning all of the operator's wells and decommissioning any attendant production facilities, or thirty million dollars. (Pub. Resources Code, § 3205.3, subd. (a).) Although the reports required under Public Resources Code section 3205.7 are not required for CalGEM to implement the new bonding authority, the cost estimate reports will be a valuable tool for implementation of that authority.

Proposed Regulations

The proposed regulations establish the criteria that operators would be required to use when preparing the cost estimate reports required under Public Resources Code section 3205.7, allowing two different methods for making the required estimates. Method 1 is a prescribed methodology whereby an operator uses values developed by CalGEM to estimate the costs associated with well plugging and abandonment, production facility decommissioning, and site remediation based upon the condition, location, and history of the operator's assets. Method 2 allows for the operator to forego the assumed costs under Method 1 and develop their own site-specific cost estimates, providing the estimates are persuasively supported by detailed documentation.

The proposed regulations also establish a schedule for operators to submit their cost reports, grouping operators by recent per-well production volumes in a manner that is

intended to ensure at least one-half of operators have a submission due date of January 1, 2025, which is the first quarterly date available after the regulations will be finalized. Remaining operators have a submission due date of July 1, 2026.

Objectives and Benefits of the Proposed Regulations

The proposed regulations are necessary to respond to the mandate of Public Resources Code section 3205.7 to establish criteria that operators must utilize when preparing the required cost estimate reports. The two methodologies have complementary benefits. Method 1 will allow operators to complete the reports expeditiously by using conservative default cost amounts that CalGEM believes are unlikely to fall short of actual costs. Method 2 will be more labor intensive to complete but will allow the operator the opportunity to demonstrate that the default cost estimates of Method 1 do not accurately reflect cost associated with its assets.

The establishment of a schedule for operators to submit their cost estimate reports is also necessary to respond to the mandates of Public Resources Code section 3205.7, including establishing staggered reporting deadlines and a five-year recurring reporting cadence. Diminished per-well production volumes can be a risk indicator for potential desertion. Requiring operators with lower per-well production volumes to report first will generally provide for data on higher-risk assets sooner.

The proposed regulations will provide the additional benefits of assisting CalGEM with its implementation of its enhanced bonding authority under Public Resources Code section 3205.3. Public Resources Code section 3205.3, subdivision (b), outlines eight criteria CalGEM must consider in estimating the reasonable costs of properly abandoning an operator's wells and decommissioning the attendant production facilities, including any cost estimate submitted by the operator. The methodology contemplated by these regulations considers the applicable factors from Public Resources Code section 3205.3, subdivision (b), and as such will streamline implementation of Public Resources Code section 3205.3.

The proposed regulations will also have the benefit of furthering CalGEM's mandates under Public Resources Code sections 3011 and 3106 of preventing damage to life, health, property, and natural resources and protecting public health and the environment. By ensuring CalGEM and the state have data and analysis available regarding the costs associated with end-of-life remediation of oil and gas operations, this rulemaking will allow the state to begin assessing these costs in a comprehensive and regular way, help educate stakeholders on potential future costs, allow for identification of changing cost trends over time, and where appropriate, inform

appropriate bonding requirements. Taking these steps now ensures the state can begin to plan the most appropriate approach to managing these risks and costs.

CONSISTENCY WITH COMPARABLE FEDERAL STATUTE AND REGULATION

The proposed regulations are not inconsistent or incompatible with federal statutes or regulations. The Bureau of Land Management (BLM) has overlapping jurisdiction over oil and gas production operations on federal land, but BLM's regulations do not require operators to submit cost estimate reports similar to what is required under Public Resources Code section 3205.7.

The US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) is the federal agency primarily responsible for pipeline regulation and safety. (49 USC, § 108, subd. (b), (f).) It adopts regulations that prescribe minimum pipeline safety standards for the pipeline transportation of natural gas and hazardous liquids. (See 49 CFR, §§ 190-192, 195.) In California, the PHMSA requirements are implemented by the Public Utilities Commission on behalf of PHMSA. These regulations implementing the cost estimate reporting requirements of Public Resources Code section 3205.7 do not conflict with the PHMSA requirements for testing and inspecting pipelines.

CONSISTENCY WITH EXISTING STATE REGULATIONS

CalGEM has determined that the proposed regulations are not inconsistent or incompatible with existing state regulations. No other state agency is implementing the requirements of Public Resources Code section 3205.7 or otherwise requires comparable cost estimate reporting. The additional reporting required by the proposed regulations would be cumulative to the numerous existing state reporting requirements and neither redundant nor incompatible with them.

PLAIN ENGLISH REQUIREMENT

The Department staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code section 11349, subdivision (c), and the plain English requirements of Government Code sections 11342.580 and 11346.2, subdivision (a) (1). The proposed regulations are written in a manner to be easily understood by the persons that will use them.

LOCAL MANDATE

The Department has determined that the proposed action does not impose a mandate on local agencies or school districts.

COST TO LOCAL AGENCIES

This proposed action does not impose costs on any local agency or school district for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code. This proposal does not impose other nondiscretionary costs or savings on local agencies.

COST OR SAVINGS IN FEDERAL FUNDING

This proposal does not result in any costs or savings in federal funding to the state.

COST OR SAVINGS TO STATE AGENCIES

Implementation of the requirements in the proposed regulations would entail CalGEM to incur additional staff hours for support and oversight of operator compliance with the established cost estimate method. Through the five years of initial reporting, CalGEM will incur total expenses estimated to range between \$1.8 million and \$2.5 million from staff hours devoted to support and oversight operator compliance with the proposed regulations. Out of this total amount required, it is anticipated that CalGEM will incur expenses estimated to range between \$390,000 and \$543,000 during the first year of regulatory implementation and an annual average between \$350,000 and \$500,000 from the second year to the fifth year of regulatory implementation. These expenditure ranges depend on the cost estimate method selected by operators.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed regulation will have no significant effect on housing costs.

IMPACT ON BUSINESS

The proposed regulations will affect operators of oil and gas wells. The following reporting and compliance requirements will result from the proposed regulations:

- The proposed regulations will establish criteria that owners and operators of oil and gas wells must adhere to when complying with the requirement of Public Resources Code section 3205.7 to prepare and submit reports with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.
- The proposed regulations will establish a schedule of deadlines for owners and operators of oil and gas wells to submit cost estimate reports in accordance with the requirement of Public Resources Code section 3205.7.

The Department has made an initial determination that the adoption of these regulations will not contribute to the elimination of jobs and businesses in the oil and gas industry and will not create new business nor eliminate business within the State of California.

IMPACT ON SMALL BUSINESS

The Department has determined that the proposed regulations will most likely not affect small business.

COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The Department drafted the proposed regulations after careful consideration of current best practices with regard to cost estimates for plugging and abandoning oil and gas wells, decommissioning attendant facilities, and remediating well sites, as well as similar statutes and regulations implemented by other federal and state agencies.

Additionally, the Department drafted the proposed regulations based on the requirements of Public Resources Code section 3205.7. It has been argued that there is no cost associated with the regulation, that instead all costs are associated with the statutory requirement, but conservatively, the economic impact analysis assumes the economic impact is associated with the criteria being imposed by these regulations.

The following areas of the proposed regulations have been identified by the Department as potentially resulting in economic impact on a representative operator:

- The preparation and submission of an initial report with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.
- The preparation and submission of follow-up reports no less frequently than five years after the initial report and each subsequent report with cost estimates for plugging and abandoning each well, decommissioning each facility, and remediating each well site.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Based upon its analysis, the Department determined:

- The proposed regulations will benefit the health and welfare of California residents, worker safety, and the environment.
- The proposed regulations may affect the creation of jobs within the State of California.

- The proposed regulations will not affect the creation of new businesses nor the elimination of existing businesses within the State of California.
- The proposed regulations will not affect expansion of businesses currently doing business within the state.
- The proposed regulations will most likely not affect the ability of businesses within California to compete with businesses in other states.

The proposed regulations satisfy CalGEM's statutory mandate under Public Resources Code section 3205.7 to:

- Require each operator of an oil or gas well to submit a report to the Supervisor that demonstrates the operator's total liability to plug and abandon all wells and to decommission all attendant production facilities, including site remediation.
- Develop criteria, including certain requirements, to be used by operators for estimating costs to plug and abandon wells and decommission attendant production facilities, including site remediation.

BUSINESS REPORTING REQUIREMENT

These regulations will implement the requirements under Public Resources Code section 3205.7 for the submission of information to the Department by businesses that own or operate oil and gas wells. The Department finds that it is necessary for the health, safety, or welfare of the people of this state that the submission of information required by these regulations applies to the affected businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at any hearing scheduled to take statements or arguments that are relevant to the proposed action.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Conservation
715 P Street, MS 1907
Sacramento CA 95814
Attn: Cost Estimate Regulations

Christine Hansen
Regulations Manager
Christine.Hansen@conservation.ca.gov
Phone: 916-694-7577

Nicholas Pesci
Regulations Analyst
Nicholas.Pesci@conservation.ca.gov
Phone: 916-208-4190

The Department has made available the express terms of the regulation, the Initial Statement of Reasons, and all the information upon which the proposal is based (the rulemaking record). Copies of these documents are available on the Department website at: <https://www.conservation.ca.gov/index/Pages/rulemaking.aspx> and via email from the contact persons listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Department will consider all timely and relevant comments received during the written comment period and at the public hearings above. Thereafter, the Department may adopt the proposed regulations in substantially the same form as described in this Notice.

If the Department makes any modifications to the text of the proposed regulations that are substantial, but sufficiently related to the original proposed text as described in this Notice, the Department will make the modified text (with changes clearly indicated) available to the public for at least 15 days before adopting the proposed regulations as modified. The Department will accept written comments regarding modified regulations for 15 days after the date upon which they are made available to the

public. Please send requests for copies of any modified regulations via email or mail to the persons identified as contact persons in this notice.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by sending an inquiry to one of the contact persons above. The Final Statement of Reasons will also be available on the Department website at:

<https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at:

<https://www.conservation.ca.gov/index/Pages/rulemaking.aspx>.

If you have any questions regarding the process of this proposed action, please contact the Department of Conservation by email at:

CalGEMCostEstimates@conservation.ca.gov.

COST ESTIMATE REGULATIONS FOR OIL AND GAS OPERATIONS

FREQUENTLY ASKED QUESTIONS

1. What are the requirements of Public Resources Code section 3205.7 and how do those requirements help achieve the goal of financial solvency for well abandonment?

Public Resources Code section 3205.7 requires the Department of Conservation's Geologic Energy Management Division (CalGEM) to develop criteria and a reporting schedule for oil and gas operators to submit cost estimates for well plugging and abandonment, production facilities decommissioning, and any required site remediation. The information submitted will assist CalGEM and the state in understanding the liability associated with clean up and remediation of all of the state's oil and gas wells, associated facilities, and sites. It will also provide information on the total liabilities that could potentially fall to the state if operators are unable to meet their financial obligations for asset retirement.

2. How will the operators calculate their cost estimates under the regulations?

The proposed regulations provide two methods for the calculation of cost estimates.

Method 1 provides regional base numbers to which risk multipliers are added to calculate each operator's liability. The regional base numbers provided for use under this method were developed based on state contract data for abandonments and validated against recent independent contractor and operator data. The state contract data was adjusted for inflation using the Consumer Price Index (CPI) for all urban consumers, series CUUR0000SA0, Not seasonally adjusted. The Basis of Reasoning for Base Cost document developed by CalGEM and listed in the Documents Relied Upon section of the Initial Statement of Reasons provides detailed analysis of how the base numbers for Method 1 were calculated.

Method 2 provides operators with a list of the cost elements that must be included in each cost estimate, such as the steps needed to complete a plugging and abandonment work plan consistent with existing legal requirements, or the list of items that must be remediated at a facility site. Operators may use any estimating process to develop their cost estimates provided those estimates are supported with quality data that is documented and verifiable, with accurate costs for all checklist items included in the estimate.

3. Where can more information be found for the Operator Financial Responsibility (OFR) Program?

The Operator Financial Responsibility (OFR) website is linked below and provides information on the cost estimation process and program as implemented by CalGEM. There are instructions and templates on the site that will help operators develop quality cost estimates. The information on this site can also help the public understand the process of cost estimation for better transparency of methodology.

Please visit the OFR webpage at:

<https://www.conservation.ca.gov/calgem/Pages/Operator-Financial-Responsibility-Program.aspx>

4. Are the cost estimates based on an operator's current liability or their future liability?

The cost estimates are based on the costs for assets operated in the reporting year. More specifically, the costs to abandon, decommission, and remediate all sites as if an operator deserted their assets and the liability for asset retirement has fallen to the State. Thus, costs submitted in 2025 should include all assets for 2025 and should reflect the cost if the state were to have to pay a contractor to perform the work if the operator fails to do so.

5. Why can't operators use their best negotiated costs for the Cost Estimate Report?

When the liability for abandonment, decommissioning, and remediation has fallen to the state, because the state does not obtain typically obtain the benefit of operator specific discounts and business relationships, operator specific savings or efficiencies cannot be utilized in estimating the operator's liability to ensure that the cost estimates provide information on the potential cost to the state for doing such work. Thus, these negotiated discounts cannot be incorporated into this mandated reporting which is focused on what the state would have to pay to retire the assets.

6. Will the operator's bond levels increase as a result of their submitted Cost Estimate Report?

The submitted Cost Estimate Report required under this regulation may inform the amount of securities an operator is required to provide.

7. What happens when an operator does not submit the cost estimate reports?

Operators who fail to submit their Cost Estimate Report would be in violation of the requirements of Public Resources Code section 3205.7 and would be subject to potential enforcement action.

8. What happens if the operator submitted cost estimate is not agreed upon with CalGEM?

Where CalGEM determines that the Cost Estimate Report submitted does not meet the requirements of the applicable sections, CalGEM will provide the operator written notice of the basis for that determination and provide the operator at least 30 days to provide additional information to substantiate the Cost Estimate Report and, if necessary, a revised estimate.

If CalGEM determines upon final review of the Cost Estimate Report and any additional information provided by the operator that the cost estimates remain inconsistent with the requirements, then CalGEM will provide the operator written notice that the Cost Estimate Report does not comply with the requirements of the applicable section.

Development of the Method 1 Cost Estimation Methodology

9. What is the basis of the base costs and unit costs utilized in Method 1?

The base costs and unit costs utilized in Method 1 are derived from on state abandonment contracts, which are then adjusted by multipliers based upon the characteristics of each well, production facility, and site that are known to increase the cost of plugging and abandonment, decommissioning, and site remediation.

10. Are the base costs and unit costs escalated to 2023 dollars and will they be updated in the future?

The costs from the state abandonment contracts were escalated to adjust for inflation to the current year, as described above, to develop the base costs and unit costs. to the current year. These costs will be updated via rulemaking as more cost data is derived from state abandonment and decommissioning projects and to adjust for inflation.

Cost Estimate Reporting Deadlines

11. What are the due dates for the cost estimate reporting requirements?

The initial reporting due dates for operators are listed below. The subsequent cost estimate reports will be required every 5 years after the initial report. Initial cost estimate reports will be required on the following schedule:

- Group 1: Operators who were assessed based upon production of less than an average of 3.5 total barrel equivalent per day per well for calendar year 2021. Operators who were not assessed due to lack of production will report with this group.

Reporting date: No later than January 1, 2025

- Group 2: Operators who were assessed upon production of an average of more than 3.5 total barrel equivalent per day per well for calendar year 2021 and for operators assessed in accordance with Public Resources Code section 3403.5 for calendar year 2021.

Reporting date: No later than July 1, 2026

- For offshore wells

Reporting date: No later than July 1, 2027

12. When do operators with only injection wells submit their Cost Estimate Report?

Operators with only injection wells would submit their initial Cost Estimate Report no later than January 1, 2025.

13. When do Underground Gas Storage (UGS) operators report their cost estimates?

UGS operators will submit their initial Cost Estimate Reports no later than January 1, 2026.

Public Access to Cost Estimates

14. Will the public have full access to the Cost Estimate Reports and supporting information submitted by the operators?

The Cost Estimate Reports and supporting information submitted will be available for access on the Department website.

15. When will the submitted cost estimates be available to the public?

After the initial reporting periods, the cost estimates submitted by the operators will be reported on the Department website.



Guest column: California's comprehensive approach for oil and gas wells

Dr. Mark Nechodom

Your Turn

August 19, 2023

California has long been a global leader in traditional oil and gas production, creating the energy we need under the strictest environmental, public health, and safety standards in the world.

But the Golden State's environmental commitments do not end at production: Governor Gavin Newsom, the Legislature, and the California Geologic Energy Management Division (CalGEM) are working to develop a comprehensive set of regulations to strengthen oversight of idle and orphan oil and gas wells.

Recently, the governor strengthened his commitment to fund CalGEM by allocating \$100 million to the division for the 2023-24 fiscal year for decommissioning orphan wells and facilities. CalGEM has also increased its staff by 40%, creating 125 new positions in the last three years to help implement the state's new policy changes. Further, state policymakers are working to implement elements of the federal Bipartisan Infrastructure Law, which allocated a total of \$4.7 billion to address orphaned oil and gas wells, a known challenge across the nation. California is eligible for \$61 million in the first phase of federal funding, with an additional \$61 million in coming years.

In total, more than \$354 million in state and federal funding is dedicated to CalGEM's orphan well programs. This is on top of the substantial fees paid by California's oil and gas producers to ensure the protection of public health, safety, and the environment. Those fees are based on a percentage charged for every barrel produced in California, which pays the entire operating costs of the division, including funds to plug and decommission wells that are not currently managed by a fiscally responsible operator. Two important recent statutes, authored by Central Coast legislators, have gone a long way toward protecting California taxpayers from the potential liabilities of decommissioning oil and gas infrastructure. Assembly Bill 1057 gives CalGEM additional authority to require producers to post a security bond or alternative financial assurances of up to \$30 million to cover the cost of remediating their wells and facilities.

Senate Bill 551 requires oil and gas producers to give CalGEM an analysis of the costs to plug idle and orphan wells to make sure the industry's estimates of decommissioning liability are up to date and accurate.

These two bills, combined with other recent statutes to strengthen the regulation of California's oil and gas production infrastructure, are helping to ensure a safe and sustainable industry that is essential to California's energy stability and future energy transitions to a lower carbon future.

Just last month, CalGEM proposed spending roughly \$80 million in state and federal funds to plug 378 wells, directing 40% of the funds to be spent in disadvantaged communities. In addition, the division is actively issuing permits to plug idle wells. In 2022, 9,664 permits were issued to plug idle wells and, so far in 2023, 4,555 permits have been issued. These are indicators of an active and committed program.

This is why we have offered testimony in recent months that Ventura County's efforts to preempt state programs for idle and orphan wells are duplicative, unnecessary, and premature. The Department of Conservation has long recognized that the economic realities of California's oil and gas production will drive changes in ownership and asset retirement.

As long as 10 years ago, as director of that department, I had discussions with Governor Brown's office and the legislature about increasing the bonding and spending authority of the division to more effectively protect the public from the financial risks of a changing industry. Thankfully, based in part on strong Central Coast legislative efforts, we were successful in passing important bills to increase the division's funding and spending authority for idle well management and plugging orphan wells.

CalGEM, the governor, and the Legislature are quickly making California a national leader on idle and orphan well management. We should let them continue their good work.



Dr. Mark Nechodom is the Senior Director for Upstream Strategy for the Western States Petroleum Association. He was the former director of the California Department of Conservation under Governor Jerry Brown (2012-2015), Deputy Director of the Montana State Department of Agriculture under Governor Bullock, and senior scientist and policy advisor at the U.S. Department of Agriculture in the Bush and Obama administrations.

November 7, 2022

CalNRG Operating, LLC
Attn: Jeff Katersky, Chief Financial Officer
1746-F South Victoria Ave, Suite 245
Ventura, CA 93003

RE: Surety Capacity for Oil and Gas Lease Operators in California

Dear Jeff,

Pursuant to our discussions, INpower has approached surety underwriters who specialize in Oil and Gas bonds, with a request to consider a Site Restoration and Oil and Gas Abandonment Bond as proposed by the County of Ventura.

Our market capabilities analysis can be summarized as follows:

- Outright declinature- terms of obligation are too onerous
- Requirement for CalNRG to provide 100% collateral in the form of a full cash deposit or irrevocable Letter of Credit, plus payment of annual premium.

The challenges with this bond requirement are significant, and it is important to recognize that oil and gas surety companies are very conservative with their underwriting philosophy. Bonding obligations are backed by an agreement, whereby the surety company maintains full recourse against the lease operator, should there be a claim. This factor, coupled with the dollar amount and onerous nature of the bond language, falls outside of our energy surety markets' appetites.

In my 30 years of oil and gas bonding and insurance experience, the above-referenced bonds are not viable when set against traditional oil and gas bond underwriting thought processes.

Should you have any questions, please let us know.

Best regards,



Bart J. LeFevre
Chief Executive Officer & President

November 1, 2022

ABA Energy Corporation
7612 Meany Avenue
Bakersfield, Ca. 93308

Attn: Al Adler

RE: Bonding Capacity – Oil and Gas Bonds

Dear Al,

Per your request, we have approached all of our bond markets in order to provide you with the County of Ventura's requirements for a Site Restoration Bond (per well site) and an additional Oil and Gas Abandonment Bond (per well) over and above the State of California's Oil and Gas Well Bond.

The results have not been encouraging. First, of the eight markets that provide Energy sector Bonds, 6 have outright declined the Oil and Gas Bond requirement and 5 have declined the Site Restoration Bond. The remaining markets have all required 100% collateral for both the Oil and Gas Well Bonds and the Site Restoration Bond.

I believe that the County does not realize the current market environment for bonding of the Energy Sector, nor does it realize that Bond are not like Insurance, Bond claims are paid by the Bonding company and then the Principal is required to repay the Bonding company. Unlike Insurance where the Insured pays a premium for the coverage and any claim is paid by the Insurer with no obligation of the insured to repay the claim.

Please let me know if you have any questions concerning the above.

Sincerely



Andy Naworski
Surety Department Manager

November 1, 2022

ABA Energy Corporation
7612 Meany Avenue
Bakersfield, Ca. 93308

Attn: Al Adler

RE: Oil and Gas Insurance Policy Limits.

Dear Al,

Per your request, we have approached our insurance markets regarding the policy limits requested by the County of Ventura via their proposed ordinance changes.

We have determined that a \$25 Million Excess/Umbrella policy for General Liability would not be obtainable, notwithstanding the fact that in 31 years of operating an oil and gas business, the totality of ABA's claims have been two (2), a chipped tooth and an operator passing out. Also notable is that due to the state of the California Insurance industry, ABA was only able to obtain this year its current \$10 million GL policy by amalgamating (3) tranches of GL coverage (\$1 million, \$4 Million, and \$5 Million).

Further, it is un-clear what the County desires for excess on the other policies as the verbiage is ambiguous and confusing in that they state they want "Excess (or umbrella) Liability Insurance: providing excess coverage for each of the perils insured by the preceding insurance policies with a minimum limit of \$25,000,000". The confusing issue we see is that Excess Liability is just that, excess on the GL policy only, however, the words "***each of the perils insured by the preceding insurance policies (plural)***" seems to infer that the County's ask may include \$25 Million over the top of not only the GL policy, but also Control of well Policy Environmental policy.

In any event, The limits required by the County are not obtainable for ABA.

Please let me know if you have any questions concerning the above.

Sincerely,



Andy Naworski
Commercial Lines Executive Vice President



November 8, 2022

Erich Kirsch
Carbon California Operating Company, LLC
1700 Broadway, Suite 1170
Denver, CO 80290

RE: Ventura County, CA oil and gas reclamation bond increase considerations

Mr. Kirsch,

There is a misconception that surety bonds are underwritten like insurance in that higher limits just translate into higher premiums. While it is true that you will pay more for a larger bond paying those higher premiums does not guarantee that you will be able to get a higher bond amount. Each company and bond request are underwritten separately and not all companies will qualify for additional capacity or have terms from the surety that just include premiums of 3% or lower. Some companies will need to fully secure the surety company with up to 100% cash or letter of credit collateral.

In the case of Carbon Energy Corporation there have been extensive marketing efforts with surety companies that specialize in providing bonds in the Energy space. The latest including 6 markets and all 6 of these markets either declined or would require substantial collateral up to 100% of the request bond amount.

Please let me know if you have any questions.

Thank you,

Desiree Westmoreland, AFSB
Surety Department Manager