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NOTICE TO OPERATORS NTO 2018-10

SEPTEMBER 4, 2018 CEQA COMPLIANCE

This Notice to Operators (NTO) provides details on documenting compliance with the California Environmental Quality Act (CEQA) when requesting a permit or project approval from the Department of Conservation's, Division of Oil, Gas, and Geothermal Resources (DOGGR) for any oil, gas, or geothermal activity.

CEQA and its implementing Guidelines require state and local public agencies to identify the potential for environmental impacts that may result from their actions, and to avoid or mitigate those impacts, where feasible. Since DOGGR is a public agency, it is required to comply with CEQA when it undertakes an activity or makes a discretionary decision on a permit or approval, which is defined as a "project" by CEQA (CEQA Guidelines § 15378). A "project" refers to the whole of an action that has the potential to cause a physical change to the environment (direct or indirect), and requires discretionary action from the public agency (exercises its judgment in deciding whether and how to approve or carry out a project). This includes all phases of a project that are reasonably foreseeable, and all related activities that are directly linked to the project. For DOGGR, typical "projects" would include issuing of permits or project approval letters for oil, gas, and geothermal activities (inside and outside administrative field boundaries). Prior to approval, all submitted permit requests and applications ("projects") that involve a discretionary approval from DOGGR will require some level of environmental review (or "CEQA review"), pursuant to CEQA (Public Resource Code § 21065; CEQA Guidelines § 15002(i)). In performing that review, DOGGR acts as either a: (1) Responsible Agency under CEQA, relying on the local lead agency's environmental document that includes the proposed project within its scope; or (2) Lead Agency, determining whether the proposed project is exempt or the type of environmental document that may be required, if an environmental document was not initially prepared by the local jurisdiction.

CEQA REVIEW PROCESS:

To facilitate its CEQA review process, DOGGR developed a *CEQA Operator Checklist* for operators to complete that will assist in identifying and collecting the types of information that DOGGR will typically need to comply with CEQA. Detailed information on the CEQA review process can be found in the *CEQA Guidance for Operators: CEQA Compliance* on DOGGR's CEQA website.

How DOGGR conducts its CEQA review depends on our CEQA agency role as either *Lead Agency* or

Responsible Agency.

Where a local jurisdiction or other state agency must issue a permit, generally, it would be considered the *Lead Agency*. When the local jurisdiction or another state agency is the *Lead Agency*, then DOGGR assumes the *Responsible Agency* role in its CEQA review, relying on the Lead Agency's environmental document. However, if there is no other *Lead Agency*, and no environmental document to rely on, DOGGR assumes the *Lead Agency* role in its CEQA review. DOGGR's CEQA review as a *Lead Agency* is a more complex review and may require more time to complete (e.g.; estimated times range from a few days for an exemption determination, and up to 180 days for a Negative Declaration, or one year for an Environmental Impact Report).

CEQA OPERATOR CHECKLIST:

The purpose of DOGGR's CEQA Operator Checklist (Checklist) is to assist Operators to identify and collect the documents necessary for DOGGR to evaluate the application and to comply with CEQA. Ultimately, the Checklist will ensure that DOGGR's CEQA review is consistent and completed in an efficient and timely manner.

All operators applying for a permit or project approval should submit a completed Checklist at the same time as the NOI or Application. A single Checklist may be used for projects that involve multiple wells and may be submitted as either an upload into WellSTAR or mailed directly to DOGGR. The Checklist itemizes documents typically needed for DOGGR's CEQA review, some of which may be familiar and some of which may not, such as the following:

- **Indemnity Agreement.** All operators must submit a signed Indemnity Agreement (IA) when the NOI or Application is submitted to DOGGR. Only one IA needs to be submitted per project, which may consist of either one or multiple wells. The IA is for the operator (or applicant) to indemnify DOGGR for costs incurred when defending any lawsuit brought against DOGGR under CEQA resulting from permit or project approvals.
- **CEQA Filing Fees.** The California Department of Fish and Wildlife (CDFW) requires CEQA Filing Fees to defray the costs of managing and protecting California's fish and wildlife resources (Fish & Game Code, §711.4). The CEQA Filing Fee may be waived if a project has no effect on fish and wildlife; therefore, an operator may request a *No Effect Determination* (NED) from CDFW, in lieu of paying the filing fee. Additional information on the CEQA Filing Fee and NED process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees/>. Projects that are exempt from CEQA are not subject to the filing fee and do not require an NED; therefore, this requirement is only applicable when DOGGR is the *Lead Agency* and files a Notice of Determination (NOD) with the State Clearinghouse. The Filing Fee or NED must be submitted with the NOD at the same time of its filing, which is within 5 working days after project approval; therefore, the operator will be notified when it is time to submit their NED or payment for the CEQA Filing Fee to DOGGR, about one week before the permit or project is scheduled to be approved.

- **NEPA Documents.** DOGGR published NTO 2017-03 to clarify its legal authority to issue permits and approvals for oil, gas, and geothermal activities in California, including oilfield operations on land administered by the Bureau of Land Management (BLM). When DOGGR issues permits or approvals for oilfield activities on lands that the BLM owns in total (both surface and mineral rights), it will act as the State CEQA *Lead Agency*, while BLM will act as the Federal National Environmental Policy Act (NEPA) *Lead Agency*. Operators will need to submit any required Federal permit(s) and associated NEPA documents to DOGGR, along with the NOI or Application package. As the CEQA *Lead Agency*, DOGGR typically uses the NEPA documents in lieu of preparing a separate CEQA document for the same project, as applicable, thereby reducing time and costs when conducting our own CEQA reviews and in issuing the permits.

A CEQA Compliance Workshop for operators is scheduled to be held in conjunction with the Sensitive Gas Pipelines Compliance Workshop, on the same dates and at the same locations. The CEQA workshop will be held on:

- **September 18, 2018** from 1:00 - 4:00 PM in the Ronald Reagan State Building Auditorium, located at 300 South Spring Street, Los Angeles
- **September 19, 2018** from 5:00 PM- 8:00 PM in the Four Points by Sheraton, located at 5101 California Avenue, Bakersfield

This NTO, CEQA Operator Checklist, CEQA Guidance for Operators, Indemnity Agreement, and all other CEQA-related materials are available to view and download from the CEQA Website, located at <http://www.conservation.ca.gov/dog/CEQA/>. Be sure to check our website regularly, as additional CEQA Guidance documents will be developed and uploaded onto our website to help facilitate the CEQA review process.



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