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8 **STATE OF CALIFORNIA**  
9 **NATURAL RESOURCES AGENCY**  
10 **DEPARTMENT OF CONSERVATION**  
11 **GEOLOGIC ENERGY MANAGEMENT DIVISION**

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14 **ORDER TO PAY CIVIL PENALTY**  
15 **NO. 1309**

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19 **Operators: Kenneth E. Kerr and Laura J. Kerr D.B.A. K&L Equipment Sales (a.k.a. K and L**  
20 **Equipment Sales), and K&L Energy, LLC**  
21 **Field: Midway-Sunset**  
22 **Central District, Kern County**

1 I. **Introduction**

2 The State Oil and Gas Supervisor (**Supervisor**), acting through the Geologic Energy  
3 Management Division (**CalGEM**), and under the authority of Division 3 of the Public Resources  
4 Code (**PRC**; commencing with PRC section 3000) and title 14 of the California Code of  
5 Regulations (**Regulations**), may impose a civil penalty on a person who violates any statutory  
6 provision of the PRC, or any regulation that implements those statutory provisions. (PRC, §  
7 3236.5)

8 Based on CalGEM's records, Kenneth E. Kerr and Laura J. Kerr D.B.A. K&L Equipment  
9 Sales (a.k.a. K and L Equipment Sales), and K&L Energy, LLC, a California limited liability  
10 company, (collectively "**Operator**"), are each an "operator" (as defined in the PRC section  
11 3009) and collectively responsible (as specified in the PRC section 3204) for submitting  
12 appropriate indemnity bonding with CalGEM for the nineteen (19) wells identified on  
13 **Attachment A**, incorporated herein (**the Wells**), and associated production facilities (**the**  
14 **Facilities**).

15 Pursuant to PRC section 3204, Operator was required to submit to CalGEM individual  
16 indemnity bonding for the Wells at the time of acquisition of the Wells. Alternatively, Operator  
17 could post a form of security acceptable to the Supervisor, in accordance with the PRC  
18 section 3205.5. Operator has failed to submit to CalGEM any individual indemnity bonds or  
19 alternative form of security for the Wells. Operator's failure to timely submit the required  
20 indemnity bonding or alternative form of security for the Wells constitutes a violation of PRC  
21 section 3204.

22 Therefore, pursuant to the PRC sections 3013, 3106, 3202, 3204, and 3236.5, the  
23 Supervisor is ordering Operator to within thirty (30) days of this Order: (1) submit nineteen (19)  
24 individual indemnity bonds or alternative form of security acceptable to the Supervisor in the  
25 amount of twenty-five thousand dollars (\$25,000) for each of the Wells, in accordance with  
26 PRC sections 3204 and 3205.5; and (2) to pay a civil penalty, totaling ninety-three thousand  
27 four hundred and thirty-eight dollars and thirty-six cents (\$93,438.36), imposed for failing to  
28 timely submit the required bonding.

1           **Attachment B** contains a list of definitions and authorities that are applicable to this  
2 Order.

3                           **II.       Failure to Submit Indemnity Bonds or Alternative Security**

4           Based on CalGEM's records, at all times relevant to this Order, Operator was the  
5 "operator," as defined in PRC section 3009, of the Wells. An operator, who, on or after January  
6 1, 2018, acquires a well less than ten thousand (10,000) feet deep, must submit an individual  
7 indemnity bond for each well acquired in the amount of twenty-five thousand dollars  
8 (\$25,000). (PRC, § 3204, subd. (a)(1).) In lieu of the indemnity bond required by PRC section  
9 3204, subdivision (a)(1), an operator may post a form of security acceptable to the Supervisor.  
10 (PRC, § 3205.5.)

11           In correspondence dated July 25, 2019, Operator confirmed to CalGEM that the right to  
12 operate the Wells had transferred to Operator. (**Attachment C**, incorporated herein.) Each of  
13 the Wells is less than 10,000 feet deep. Upon acquiring the right to operate the Wells, Operator  
14 did not seek written approval from the Supervisor to submit an alternative form of security for  
15 the Wells. Operator was, therefore, required to submit individual indemnity bonds in the  
16 amount of twenty-five thousand dollars (\$25,000) for each of the Wells, for a total of four  
17 hundred seventy-five thousand dollars (\$475,000). Despite multiple outreach attempts by  
18 CalGEM staff regarding the bonding requirements, Operator failed to submit the required  
19 indemnity bonds for each of the Wells. On December 8, 2022, CalGEM notified Operator of its  
20 failure to timely submit appropriate indemnity bonding. (**Attachment D**, incorporated herein.)

21           As of the date of this Order, CalGEM has not received the appropriate indemnity  
22 bonding from Operator.

23                           **III.       Civil Penalty**

24           Based on information, belief, and a review of CalGEM's records, Operator is the current  
25 operator of the Wells and the Facilities. Operator's failure to timely submit indemnity bonding  
26 or an alternative form of security on or before July 25, 2019, is a violation of PRC section 3204.  
27 This failure to submit the required indemnity bonding or alternative form of security constitutes  
28 a single violation for each of the Wells, and each day of Operator's violation of PRC section

1 3204 constitutes a separate violation, in accordance with PRC section 3236.5, subdivision  
2 (b)(4). Because of these violations, and based on consideration of relevant circumstances,  
3 consistent with PRC section 3236.5, subdivision (a), by this Order the Supervisor is imposing on  
4 Operator a civil penalty totaling ninety-three thousand four hundred and thirty-eight dollars  
5 and thirty-six cents (\$93,438.36).

6 Following is an explanation of how the civil penalty amount was determined.

7 **Civil Penalty Determination Methodology**

8 For purposes of this Order, the Supervisor considered relevant circumstances, including  
9 whether to characterize the violations as "major," "minor," or "well stimulation" (as defined in  
10 the PRC section 3236.5, subdivision (b)) and setting a penalty amount proportionate to the  
11 importance of all factors identified in PRC section 3236.5, subdivision (a).

12 The statutory penalty range for a minor violation is between zero dollars (\$0) and two  
13 thousand five hundred dollars (\$2,500). (PRC, § 3236.5, subd. (b)(2)(B). In determining the civil  
14 penalty amount for each of Operator's violations, the Supervisor determined that each  
15 violation to be "minor," pursuant to the PRC section 3236.5, subdivision (b)(2)(B), and the  
16 Supervisor further determined that each day of noncompliance with PRC section 3204  
17 constitutes a separate violation, in accordance with PRC section 3236.5, subdivision (b)(4).

18 The Supervisor determined that there has been 1,436 days of noncompliance, with  
19 each day constituting a separate violation. For each of these violations, the Supervisor  
20 determined an appropriate civil penalty amount to be sixty-five dollars and seven cents  
21 (\$65.07), which is within the zero dollar (\$0) and two thousand five hundred (\$2,500) statutory  
22 penalty range for a minor violation.

23 For each day following the issuance of this Order, failure to post adequate bonding  
24 constitutes a separate violation for which an additional civil penalty may incur.

25 In determining the civil penalty amount, the Supervisor considered the economic  
26 benefit received by Operator by failing to timely submit a bond for each of the Wells, and  
27 other relevant circumstances. Namely, imposing a civil penalty that would deter the violations.  
28 As such, to ensure that the civil penalty creates a disincentive for Operator's violations of the

1 bonding requirements, the Supervisor is imposing a civil penalty that is based upon the  
2 economic benefit received by Operator.

3 The economic benefit Operator received from not securing indemnity bonds for each  
4 of the Wells, in the amount of four hundred seventy-five thousand dollars (\$475,000), was the  
5 Supervisor's primary consideration in determining the amount of the civil penalty. (PRC, §  
6 3236.5, subd. (a)(6).) CalGEM estimated the annual cost to acquire indemnity bonds totaling  
7 four hundred seventy-five thousand dollars (\$475,000) for the Wells to be twenty-three  
8 thousand seven hundred and fifty dollars (\$23,750) per annual indemnity bond premium and  
9 that the annual indemnity bond premium should be prorated for the total number of days  
10 Operator has failed to comply with the bonding requirements. The prorated daily rate was  
11 calculated by dividing the annual indemnity bond premium by three hundred sixty-five (365)  
12 days to arrive at an estimated economic benefit of sixty-five dollars and seven cents (\$65.07)  
13 per day, per violation. The Supervisor's consideration of other factors listed in PRC section  
14 3236.5, subdivision (a), did not affect the determination of the appropriate civil penalty  
15 amount. Accordingly, the civil penalty imposed for each daily occurrence of the violation is  
16 sixty-five dollars and seven cents (\$65.07).

17 Based on the above allegations, and with appropriate consideration of the factors as  
18 described in PRC section 3236.5, the Supervisor hereby imposes a total civil penalty of ninety-  
19 three thousand four hundred thirty-eight dollars and thirty-six cents (\$93,438.36) for the 1,436  
20 daily violations of PRC section 3204 that occurred between July 25, 2019, and June 30, 2023.

#### 21 **IV. Operator's Required Actions**

22 For the reasons stated herein, pursuant to the PRC sections 3013, 3106, 3202, 3204, and  
23 3236.5, **IT IS HEREBY ORDERED** that Operator:

- 24 (1) Submit nineteen (19) individual indemnity bonds or alternative form of security  
25 acceptable to the Supervisor in the amount of twenty-five thousand dollars  
26 (\$25,000) for each of the Wells, in accordance with the PRC sections 3204 and  
27 3205.5; and

28 ///

1 (2) Pay a civil penalty, totaling ninety-three thousand four hundred and thirty-eight  
2 dollars and thirty-six cents (\$93,438.36), imposed for failing to timely submit the  
3 required bonding.

4 A continuing failure to submit indemnity bonding or security and pay the civil penalty  
5 amount may subject Operator to additional civil penalties even if this Order is appealed.

6 To submit the indemnity bonding, please mail a complete Oil and Gas Bond Form (OG  
7 160) to cover each of the Wells to:

8 Department of Conservation  
9 Geologic Energy Management Division  
Enterprise Risk Unit  
10 Attention: Todd Fukunaga  
715 P Street, MS 18-03  
11 Sacramento, California 95814

12 To remit payment of the civil penalty, please send a check payable to "Department of  
13 Conservation" to the following address:

14 Department of Conservation  
15 Geologic Energy Management Division  
Attention: Operational Management Unit  
715 P Street, MS 18-03  
16 Sacramento, California 95814

17 Please include the Operator name, Order number, and phrase "Oil and Gas Environmental  
18 Remediation Account" on the check itself.

19 **V. Operator's Appeal Rights**

20 Operator may appeal this Order by filing a timely written notice of appeal with the  
21 Director as described in Article 6 (Appeals and Review) of Division 3 of the PRC, commencing  
22 with the PRC section 3350. (PRC, §§ 3225, subd. (d).) If this Order is mailed to you, the Director  
23 must receive the appeal within fifteen (15) days from the date the Supervisor mails the Order.

24 To file an appeal, a written notice of appeal may be sent via U.S. mail to:

25 Department of Conservation  
26 Director's Office of Appeals  
715 P Street, MS 19-06 (Legal Office, Chief Counsel)  
27 Sacramento, California 95814  
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1 Or via electronic mail to:

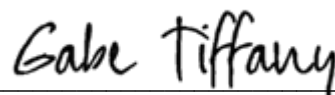
2 [CalGEMAppeals@conservation.ca.gov](mailto:CalGEMAppeals@conservation.ca.gov).

3 If Operator files a timely written notice of appeal, Operator will be informed of the  
4 appeal hearing date, time, and place. Following the hearing, Operator will receive a written  
5 decision that affirms, sets aside, or modifies the appealed order.

6 **VI. Other Potential Actions to Enforce This Order**

7 Failure to comply with Section IV (Operator's Required Actions) of this Order could  
8 subject Operator to further enforcement action. PRC section 3236 makes it a misdemeanor for  
9 any person who violates, fails, neglects, or refuses to comply with any of the provisions of the  
10 oil and gas conservation laws commencing at the PRC section 3000. PRC section 3236.5  
11 authorizes the Supervisor to impose a civil penalty on a person who violates any provision in  
12 Chapter 1 of Division 3 of the PRC or any regulation that implements those statutes, and the  
13 Supervisor may in the future impose further civil penalties based on the facts and omissions  
14 underlying this Order. PRC section 3237 authorizes the Supervisor to order the plugging and  
15 abandonment of a well or the decommissioning of a production facility if an operator has  
16 failed to comply with an order of the Supervisor within the time provided by the order or has  
17 failed to challenge the order on a timely basis. PRC section 3359 makes it a misdemeanor to  
18 fail or neglect to comply with an order of the Supervisor. Each day's further failure, refusal, or  
19 neglect is a separate and distinct offense. (PRC, § 3359.)  
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21  
22 DATED: July 11, 2023



23 Gabe Tiffany  
24 Acting State Oil and Gas Supervisor  
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