STATE OF CALIFORNIA
NATURAL RESOURCES AGENCY
DEPARTMENT OF CONSERVATION
DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES

ORDER TO:
PLUG AND ABANDON WELL,
DECOMMISSION ATTENDANT FACILITIES, AND
RESTORE WELL SITE

NO. 1124
Dated: July 16, 2018
Operators: E.S. Arnn (02468), Wayne Ballinger (B0930)

BY
Kenneth A. Harris Jr.
STATE OIL AND GAS SUPERVISOR

ORDER TO: PLUG AND ABANDON WELL, NO. 1124
I. Introduction

The State Oil and Gas Supervisor (Supervisor), acting through the Division of Oil, Gas, and Geothermal Resources (Division), may order the plugging and abandonment of a well that he has determined, upon credible evidence, to be deserted, whether or not any damage is occurring, or threatened, by reason of that deserted well. (Public Resources Code [PRC], § 3237, subdivision (a)(1).) Based on the Division’s records, E.S. Arnn (Arnn, Division operator code 02468) and Wayne Ballinger (Ballinger, Division operator code B0930) are each a responsible “operator” (Operator) (as defined in PRC section 3009) and are responsible (as specified in PRC section 3237, subdivision (c)(1)), for the plugging and abandonment of the well “Drake” 1 (API No. 037-09298; Long Beach Oil Field) (the Well), the decommissioning of the attendant production facilities (the Facilities), and the restoration of the well site (the Well and Facilities). Herein, the Supervisor is ordering Operator to do so because the Supervisor has determined, based on information, belief, and the evidence detailed below, that Operator has deserted the Well and Facilities.

Therefore, pursuant to PRC sections 3106, 3224, 3226, and 3237, and as set forth below, the Supervisor is ordering Operator to plug and abandon the Well and decommission the Facilities according to PRC sections 3208, 3228, 3229, and 3230, California Code of Regulations, title 14, (Regulations) sections 1722, 1723 through 1724.1, 1760, 1775, and 1776, and the conditions included in any permit the Division may issue pursuant to PRC section 3229.

II. Definitions

PRC section 3008, subdivision (a), defines “Well” to mean “any oil or gas well or well for the discovery of oil or gas; any well on lands producing or reasonably presumed to contain oil or gas,” among others.

PRC section 3009 defines “Operator” to mean “a person who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control a well or production facility.”
Regulations section 1760, subdivision (k), defines “Production facility” to mean “any equipment attendant to oil and gas production...including, but not limited to, tanks, flowlines, headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection equipment, production safety systems, separators, manifolds, and pipelines that are not under the jurisdiction of the State Fire Marshal pursuant to Section 51010 of the Government Code, excluding fire suppressant equipment.”

III. State Oil and Gas Supervisor Authority

PRC section 3106 authorizes the Supervisor to supervise the drilling, operation, maintenance, and abandonment of oil and gas wells to “prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil and gas deposits from infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of, detrimental substances.”

PRC section 3224 mandates that the Supervisor “order such tests or remedial work as in his judgment are necessary to prevent damage to life, health, property, and natural resources; to protect oil and gas deposits from damage by underground water; or to prevent the escape of water into underground formations, or to prevent the infiltration of detrimental substances into underground or surface water suitable for irrigation or domestic purposes, to the best interests of the neighboring property owners and the public.”

PRC section 3226 authorizes the Supervisor, based the Supervisor’s final or affirmed order, to appoint agents who may enter the well premises and perform necessary remedial work if the operator did not complete the remedial work as ordered. Any amount the Supervisor expends to complete the necessary remedial work constitutes a lien against the operator’s real or personal property according to PRC section 3423.

PRC section 3237, subdivision (a)(1), authorizes the Supervisor to “order the plugging and abandonment of a well...that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well.” The Supervisor or district deputy “shall determine from credible evidence whether a well...is deserted.”

ORDER TO: PLUG AND ABANDON WELL, NO. 1124
IV. **Idle Well Testing Requirements**

Regulations section 1723.9 requires an operator to test any well that has not produced oil or natural gas, or has not been used for fluid injection for a continuous six-month period during any consecutive five-year period. The operator must test the well to determine the fluid level using acoustical, mechanical, or other reliable methods, and perform other diagnostic tests that the Supervisor may require. The operator must notify the appropriate Division district office before the tests are done so a Division inspector may witness the operations.

V. **Conclusive Evidence of Desertion**

The Division’s records show that the Well is a “long-term idle well” that went idle in or around 1974. (See, former, Pub. Resources Code, § 3008, subd. (e).) Operator has not paid the fees required for idle wells under PRC section 3206 (former or current), and has an outstanding balance of approximately $10,500.00 in idle well fees. Operator’s failure to pay the required idle well fees for the Well is conclusive evidence of desertion. (Pub. Resources Code, § 3206, subd. (c).)

The Supervisor also determined that neither Operator Ballinger nor Operator Arnn has a bond on file for the Well. A bond was required upon any transfer of the Well from Arnn to Ballinger, under PRC section 3202. Operator Ballinger’s failure to file a bond for the Well, upon and after transfer, is conclusive evidence of desertion. (See, former, Pub. Resources Code, § 3206, subd. (c) [Repealed January 1, 2018].)

VI. **Rebuttable Presumption of Desertion**

A. **Removal of Production Facilities or Injection Equipment**

Production equipment was removed from the Well at an unknown date. The Division’s records show that no production facility or injection equipment has been present at the location since June 1987. Under PRC section 3237, subdivision (a), a rebuttable presumption of desertion arises if a well’s production facilities or injection equipment has been removed from the well site for at least two years. Based on the Division’s records, no equipment has been present at the Well for more than 30 years. The Supervisor has determined that Operator’s production facilities and injection equipment has been removed from the Well for over two
years, thereby creating a rebuttable presumption of desertion. (Pub. Resources Code, § 3237, subd. (a)(3).)

B. Failure to Designate an Agent

The Supervisor has determined that Operator Ballinger failed to notify the Division of its change of agent, and re-designate an agent, in violation of PRC section 3200 because Operator’s initial agent (Bob Grayson, Jr.; 3712 San Anseline, Long Beach, California 90808; (562) 244-2434) is no longer a viable agent. Operator’s violation of PRC section 3200 creates a rebuttable presumption of desertion. (Pub. Resources Code, § 3237, subd. (a)(3)(D).)

C. Failure to Comply with PRC section 3202 (Acquisition of Property Interest)

The Supervisor has determined that Operator Ballinger failed to notify the Division of a potential change in ownership of the Well at the time of acquisition, in violation of PRC section 3202. On May 6, 2004, the Division received by facsimile a Notice of Intention to Abandon the Well, which identified Wayne Ballinger as Operator and Bob Grayson, Jr. as agent. However, the Division never received written notice of Ballinger’s acquisition. Operator’s violation of PRC section 3202 creates a rebuttable presumption of desertion. (See Pub. Resources Code, § 3237, subd. (a)(3)(E).)

VII. Credible Evidence of Desertion

The Supervisor has determined that Operator failed to submit the required well production data under PRC section 3227 for the Well and failed to conduct the required idle well testing (see Regulations section 1723.9). Both failings are “credible evidence” of desertion since such evidence includes “the extent of compliance by the operator” with oil and gas conservation requirements. (Pub. Resources Code, § 3237, subd. (a)(1) & (2).)

PRC section 3227 requires monthly well production reports, including reporting “zero” production (an idle or potential idle well). Division records indicate that Operator has not submitted production records since at least 1974, in violation of PRC section 3227. The lack of production records is credible evidence that Operator deserted well “Drake” 1.

Regulations section 1723.9 requires an operator to test any well that has not produced oil or natural gas, or has not been used for fluid injection for a continuous six-month period during
any consecutive five-year period. The Division has no record of any idle well testing at the Well. Operator failed to comply with Regulations section 1723.9 because it did not perform the required idle well tests for the Well. This is also credible evidence that Operator deserted well “Drake” 1.

The Supervisor has determined that Operator failed to properly abandon the Well, in violation of PRC section 3208. The Division received a Notice of Intention to Plug and Abandon the Well from Operator Ballinger in May 2004, and issued a permit to complete the work. However, no plugging work was initiated and the Division revoked the permit on August 10, 2005. No production equipment is present at the well site; the chain-link fence is rusting and a large tree has grown into the enclosure. Operator failed to conduct the plugging and abandonment work required by PRC section 3208. This is credible evidence that Operator deserted well “Drake” 1. (Pub. Resources Code, § 3237, subd. (a)(2).)

Based on all of the allegations above, the Supervisor determined that credible evidence that Operator deserted the Well exists. The Supervisor is authorized to order Operator to plug and abandon the Well.

VIII. Operator’s Required Actions

For the reasons stated above, the Division has determined that Operator has deserted the Well and Facilities. Therefore, IT IS HEREBY ORDERED that Operator plug and abandon the Well and decommission the Facilities according to PRC sections 3208, 3228, 3229, and 3230, Regulations sections 1722, 1723 through 1724.1, 1760, 1775, and 1776, and the conditions included in any permit the Division may issue pursuant to PRC section 3229.
IX. Operator’s Appeal Rights

PRC section 3237, subdivision (b), entitles an operator to appeal a Supervisor’s order to plug and abandon a deserted well. A notice of appeal must be timely made, in writing, and filed with the Director. (See Public Resources Code beginning at PRC section 3350.) To file an appeal, a written notice of appeal may be mailed to the following address:

Department of Conservation
Director’s Office of Appeals
801 K Street, MS 24-03 (Legal Office)
Sacramento, California 95814-3530

If Operator does not file a timely written notice of appeal, this Order will become a final order and the Division may contract for performance of the work, pursuant to PRC section 3226, if, within 30 days of this Order, Operator has not, in good faith, commenced the work ordered. Any costs incurred by the Supervisor to obtain compliance with this Order will constitute a lien against Operator’s real or personal property per PRC section 3423.

If Operator submits a timely written notice of appeal, it, and interested parties, will receive notice of the appeal hearing date, time, and place. Following the hearing, Operator, and interested parties, will receive a written decision that affirms, sets aside, or modifies the appealed order.

X. Other Potential Actions to Enforce This Order

Failing to comply with Section VIII (Operator’s Required Actions) of this Order could subject Operator to further enforcement action. For example, the Supervisor could deny approval of proposed well operations until compliance is achieved. (PRC, § 3203, subd. (c).)

In addition, PRC section 3236.5 authorizes the Supervisor to impose a civil penalty on a person who violates any provision in Chapter 1 of Division 3 of the PRC or any regulation that implements those statutes, and the Supervisor may in the future impose a civil penalty based on the facts and omissions underlying this Order.
Further, PRC section 3236 makes it a misdemeanor for any person who violates, fails, neglects, or refuses to comply with any of the provisions of the oil and gas law. The misdemeanor is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment not exceeding six months, or by both the fine and imprisonment for each separate offense. PRC section 3359 makes it a misdemeanor to fail or neglect to comply with an order of the Supervisor. Each day’s further failure, refusal, or neglect is a separate and distinct offense. (PRC, § 3359.)

DATED: July 16, 2018

[Signature]
Kenneth A. Harris Jr.
State Oil and Gas Supervisor

See attached PROOF OF SERVICE for distribution list
PROOF OF SERVICE BY CERTIFIED U.S. MAIL

I declare that I am employed in the County of Sacramento, California. I am over the age of 18 and not a party to the within captioned cause. My business address is 801 K Street, MS 18-05, Sacramento, California 95814. On July 16, 2018, I served the following document(s):

ORDER TO: PLUG AND ABANDON WELL, DECOMMISSION ATTENDANT FACILITIES, AND RESTORE WELL SITE, ORDER NO. 1124

by enclosing them in an envelope and placing the envelope for collection and mailing by certified U.S. mail on the date and at the below listed address(es) following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

I served the documents on the person or persons below, as follows:

E.S. Arnn, Operator
7442 West 80th Street
Los Angeles, CA 90045
Cert mail: 7016 1370 0000 0837 9750

Ray H. Overacker, Agent
E.S. Arnn
412 Olive Avenue
Huntington Beach, CA 92648
Cert mail: 7016 1370 0000 0837 9767

Wayne Ballinger, Operator
3712 San Anseline Avenue
Long Beach, CA 90808
Cert mail: 7016 1370 0000 0837 9774

Wayne Ballinger, Operator
3300 Lewis Avenue
Signal Hill, CA 90807
Cert mail: 7016 1370 0000 0837 9781

Wayne Ballinger, Operator
3647 Country Club Drive
Long Beach, CA 90807
Cert mail: 7016 1370 0000 0837 9798

Bob Grayson, Agent
Ballinger
4004 South Enos Lane
Bakersfield, CA 93314
Cert mail: 7014 1370 0000 0837 9804

Bob Grayson, Agent
Ballinger
P.O. Box 12620
Bakersfield, CA 93389
Cert mail: 7016 0750 0000 3520 2507

Rodney & Richard C. Nakashima
7026 Kamilo Street
Honolulu, HI 96825-1607
Cert mail: 7016 0750 0000 3520 5010

William Curtis
4545 Willis Avenue
Sherman Oaks, CA 91403
Cert mail: 7014 2120 0000 5989 3591

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 16, 2018, at Sacramento, CA.

Rachael Tadlock