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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 PLUG AND ABANDON WELLS, PAY IDLE WELL FEES, AND**  
15 **PAY CIVIL PENALTIES**  
16 **NO. 1170**

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18 **Operator: Citadel Exploration, Inc.**  
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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 California Code of Regulations, title 14  
5 (**Regulations**), may order the plugging and abandonment of a well or the decommissioning of  
6 a production facility that has been deserted, whether or not any damage is occurring, or  
7 threatened, by reason of that deserted well. (PRC, § 3237, subd. (a).) An operator's failure to  
8 timely pay required annual fees for any idle well is conclusive evidence of desertion. (PRC, §  
9 3206, subds. (a) and (c).) Further, the Supervisor may impose a civil penalty on any person who  
10 violates a requirement of the various statutes and regulations that comprise the oil and gas  
11 law overseen by CalGEM. (PRC, § 3236.5.)

12 Based on CalGEM's records, Citadel Exploration Inc. (**Operator**) is the "operator" (as  
13 defined in PRC section 3009) of the wells identified on **Attachment A**, incorporated herein (**the**  
14 **Wells**), and is responsible (as specified in PRC section 3237, subdivision (c)(1)) for the plugging  
15 and abandonment of the Wells, the decommissioning of the production facilities attendant to  
16 the Wells (**the Facilities**), and the restoration of the well sites for the Wells. CalGEM's records  
17 indicate that, under applicable provisions of PRC section 3206, Operator was required to  
18 timely pay idle well fees for the Wells for years 2017 and 2018, and that Operator has not done  
19 so. This failure to timely pay idle well fees is conclusive evidence of desertion, based upon  
20 which the Supervisor has determined that the Wells and the Facilities are deserted. Therefore,  
21 pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, and as set forth below, the  
22 Supervisor is ordering Operator to plug and abandon the Wells, to decommission the Facilities,  
23 and to restore the well sites for the Wells, consistent with all applicable requirements, including  
24 PRC sections 3208, 3228, 3229, and 3230; Regulations sections 1722, 1723 through 1723.8, 1724  
25 through 1724.1, 1760, 1775, and 1776; and the conditions included in any permit/approval  
26 CalGEM may issue pursuant to PRC section 3229.

27 Further, Operator's failures to timely pay the required idle well fees for the Wells  
28 constitute violations of PRC section 3206. Therefore, pursuant to PRC sections 3013, 3106, 3206,

and 3236.5, the Supervisor is also ordering Operator: (1) to pay the overdue idle well fees for the Wells, totaling twenty seven thousand one hundred and fifty dollars (\$27,150), and; (2) to pay civil penalties, totaling seventeen thousand four hundred and seven dollars (\$17,407), imposed for violations of the requirement to timely pay the idle well fees for the Wells.

## II. Definitions

**PRC section 3008, subdivision (a)**, defines "well" to mean, among other things, "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."

**PRC section 3008, subdivision (d)**, defines "idle well" as any well that for a period of 24 consecutive months has not either produced oil or natural gas, produced water to be used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. For the purpose of determining whether a well is an idle well, production or injection is subject to verification by the division. An idle well continues to be an idle well until it has been properly abandoned in accordance with Section 3208 or it has been shown to the division's satisfaction that, since the well became an idle well, the well has for a continuous six-month period either maintained production of oil or natural gas, maintained production of water used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection. An idle well does not include an active observation well."

**PRC section 3008, subdivision (e)**, defines "long-term idle well" to mean "any well that has been an idle well for eight or more years."

**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 3013** states that the oil and gas conservation laws (commencing with PRC section 3000) "shall be liberally construed to meet its purposes" and grants the Supervisor "all powers" that may be necessary to carry out those purposes.

**PRC section 3106, subdivision (a)**, authorizes the Supervisor to "supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities attendant to oil and gas production ... so as to prevent, as far as possible, damage to life, health, property, and natural resources[.]"

**PRC section 3206, subdivision (a)**, requires "[t]he operator of any idle well shall do either of the following:

(1) No later than May 1 of each year, for each idle well that was an idle well at any time in the last calendar year, file with the supervisor an annual fee equal to the sum of the following amounts:

(A) One hundred fifty dollars (\$150) for each idle well that has been an idle well for three years or longer, but less than eight years.

(B) Three hundred dollars (\$300) for each idle well that has been an idle well for eight years or longer, but less than 15 years.

(C) Seven hundred fifty dollars (\$750) for each idle well that has been an idle well for 15 years or longer, but less than 20 years.

(D) One thousand five hundred dollars (\$1,500) for each idle well that has been an idle well for 20 years or longer.

(2) File a plan with the supervisor to provide for the management and elimination of all long-term idle wells."

**PRC section 3206, subdivision (a)(2)(B)(v)**, provides "[a]n operator who fails to comply with the plan, as determined by the supervisor after the annual performance review, is not eligible to use the requirements of this paragraph, for purposes of compliance with this section,

1 for any of its idle wells. That operator may not propose a new idle well plan for the next five  
2 years. An operator may appeal to the director pursuant to Article 6 (commencing with Section  
3 3350) regarding the supervisor's rejection of a plan and plan amendments and the supervisor's  
4 determination of the operator's failure to comply with a plan. If the supervisor's determination  
5 that the operator failed to comply with the plan is not timely appealed, or if the director  
6 upholds the supervisor's determination upon appeal, then the operator shall immediately file  
7 the fees required under paragraph (1) for each year that the operator failed to comply with  
8 the plan."

9 **PRC section 3206, subdivision (c)**, provides "Failure to file, for any well, the fee required  
10 under this section shall be conclusive evidence of desertion of the well, permitting the  
11 supervisor to order the abandoned pursuant to Section 3237."

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

18 **PRC section 3226**, provides that "within 30 days after service of an order pursuant to  
19 Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the order to the  
20 director, within 30 days after service of the decision of the director, or if a review has been  
21 taken of the order of the director, within 10 days after affirmance of the order, the owner or  
22 operator shall commence in good faith the work ordered and continue it until completion. If  
23 the work has not been commenced and continued to completion, the supervisor may  
24 appoint necessary agents to enter the premises and perform the work. An accurate account  
25 of the expenditures shall be kept. Any amount so expended shall constitute a lien against real  
26 or personal property of the operator pursuant to the provisions of Section 3423.

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1 Notwithstanding any other provisions of Section 3224, 3225, or 3237, if the supervisor  
2 determines that an emergency exists, the supervisor may order or undertake the actions he or  
3 she deems necessary to protect life, health, property, or natural resources."

4 **PRC section 3236.5** authorizes the Supervisor to impose a civil penalty on a person who  
5 violates any statutory provision in Chapter 1 of Division 3 of the PRC (PRC sections 3000 through  
6 3473), or any regulation that implements those statutory provisions. Subject to the Supervisor's  
7 discretion, the penalty amount may be up to \$25,000 per violation, per day.

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

#### 12 **IV. Conclusive Evidence of Desertion**

13 Based on CalGEM's records, at all times relevant to this order, Operator was the  
14 "operator," as defined in PRC section 3009, of the Wells. At all times relevant to this order, the  
15 Wells were "idle wells" as defined in PRC section 3008, subdivision (d).

16 As the operator of the Wells, following the process for idle well management set forth in  
17 PRC section 3206, subdivision (a), Operator submitted an Idle Well Management Plan in lieu of  
18 paying idle well fees. Operator failed to eliminate the number of long-term idle wells required  
19 under its Idle Well Management Plan. Accordingly, on January 24, 2019, after an annual  
20 performance review, and consistent with the process outlined in PRC section 3206, subdivision  
21 (a)(2)(B)(v), the Supervisor issued Notice of Cancellation Number 003. (**Attachment B**,  
22 incorporated herein.) This Notice of Cancellation informed Operator of:

- 23 1) the Supervisor's determination that Operator had failed to comply with the  
24 requirements their Idle Well Management Plan;
- 25 2) Operator's option to appeal the Supervisor's determination and the deadline by  
26 which an appeal must be filed to be timely, and;
- 27 3) Operator's obligation to pay immediately the required idle well fees for each  
28 year of failed compliance with the Idle Well Management Plan if the appeal is

not timely filed or if the Supervisor's determination is upheld after a hearing on the appeal.

Operator failed to timely appeal the Notice of Cancellation. Taking into account Operator's time to file an appeal, Operator was required to pay an idle well fee by February 9, 2018 for each of its idle wells that were idle in 2017, as provided in the 2018 Idle Well Fee Invoice prepared by CalGEM. (PRC, § 3206, subds. (a) & (a)(2)(B)(v).) (**Attachment C**, incorporated herein.) Operator failed to timely pay its fees. CalGEM sent a follow up letter reminding Operator that it was required to pay idle well fees and provided a grace period until May 13, 2019 for Operator to pay. (**Attachment D**, incorporated herein.) As of the date of this order, Operator has not paid its idle well fees for wells idle in 2017.

Operator was also required to pay an idle well fee for each of its idle wells that were idle in 2018 by May 1, 2019, as provided in the 2019 Idle Well Fee Invoice prepared by CalGEM. (PRC, § 3206, subds. (a) & (a)(2)(B)(v).) (**Attachment E**, incorporated herein.) As of the date of this order, Operator has not paid its idle well fees for well idle in 2018.

Operator's failure to pay the required idle well fees for the Wells is conclusive evidence of desertion. (PRC, § 3206, subd. (c).)

#### **V. Civil Penalty**

Operator's failure to timely pay the required idle well fees for the Wells for years 2017 and 2018 is in violation of PRC section 3206, subdivision (a), generally, and specifically subdivision (a)(2)(B)(v). Each instance of failure to pay the required idle well fee, for each idle well, each year, constitutes a separate violation. This means there are a total of 53 violations: 26 for Operator's failure to timely pay the idle well fees due in 2018 and required for each of Operator's 26 idle wells that were idle in 2017; 27 for Operator's failure to timely pay the idle well fees due in 2019 and required for each of Operator's 27 idle wells that were idle in 2018.

Because of these violations, and based on consideration of relevant circumstances, consistent with PRC section 3236.5, by this order the Supervisor is imposing on Operator civil penalties totaling seventeen thousand four hundred and seven dollars (\$17,407). **Attachment F**, incorporated herein, is an itemized list of the specific penalty amount assigned to each of

the 53 violations. Following is an explanation of how the civil penalty amounts were determined.

### **Summary of Penalty Determination Methodology**

The Supervisor exercises discretionary civil penalty authority to incentive compliance. The Supervisor's fundamental policy objective is to set a penalty amount that is appropriately proportioned to the violation at issue. PRC section 3236.5 provides that, in establishing a civil penalty amount, "the supervisor shall consider, in addition to other relevant circumstances, all of the following: (1) The extent of harm caused by the violation; (2) The persistence of the violation; (3) The pervasiveness of the violation; (4) The number of prior violations by the same violator; (5) The degree of culpability of the violator; (6) Any economic benefit to the violator resulting from the violation; (7) The violator's ability to pay the civil penalty amount, as determined based on information publicly available to the division; and (8) The supervisor's prosecution costs."

For purposes of this order, the Supervisor considered relevant circumstances, including: characterizing the violations as "major," "minor," or "well stimulation" (as defined in PRC section 3236.5, subdivision (b)); setting a penalty amount proportionate to the idle well fees owed; and setting a penalty amount proportionate to the circumstantial importance of the remaining factors identified in PRC section 3236.5, subdivision (a). (PRC, § 3236.5, subd. (a).)

For each violation, determination of the penalty followed a basic formula:

Step One: A maximum possible penalty amount was determined based on characterization of the violation as "major," "minor," or "well stimulation."

Step Two: The maximum possible penalty amount determined in Step One was multiplied by a fraction to scale the penalty amount down in proportion to the amount of the actual idle well fee owed. This fraction is equal to the actual idle well fee owed divided by the maximum idle well fee provided in statute (i.e., \$1500). For every violation, the fraction had a value of either 1/10, 1/5, 1/2, or 1.

Step Three: The number resulting from Step Two was multiplied by another fraction to further scale the penalty amount down in proportion to how many of the other eight factors



1 identified in PRC section 3236.5, subdivision (a), were determined to be important for purposes  
2 of setting an appropriately incentivizing penalty. This fraction is equal to the total count of how  
3 many of the eight factors the Supervisor determined to be "important" divided by eight. For  
4 the unpaid 2017 idle well fees, that fraction is two eighths, as the only two important factors  
5 were the degree of culpability and the economic benefit of the violation. For unpaid 2018 idle  
6 well fees, that fraction is four eighths, as prior violations and persistence were also important  
7 factors (with one exception for a well that was not subject to an idle well fee for 2017).

#### 8 **Discussion of Supervisor's Considerations**

##### 9 Characterization: "major," "minor," or "well stimulation"

10 The Supervisor determined that each of the 53 violations addressed by this order is a  
11 "minor violation" as defined in PRC section 3236.5, subdivision (b)(3)(A); consequently, the  
12 range of the potential penalty amount for each violation is between \$0 and \$2,500. Taking all  
13 53 violations together, the range of the potential penalty amount is between \$0 and \$132,500.

##### 14 Idle Well Fee Owed

15 When an idle well fee is required, the amount of the fee owed for each well each year  
16 is set by statute and ranges from \$150 to \$1500, depending on how long the well in question  
17 has been an idle well. (PRC, § 3206, subd. (a).) Here, the amount of required well fees owed  
18 by Operator spanned the range from \$150 to \$1,500 per well per year. The specific idle well  
19 fee owed for each pertinent well during each year is presented in the idle well fee invoices  
20 attached hereto Attachments C and D, and is also presented as a summary list in Attachment  
21 E.

##### 22 Other PRC Section 3236.5, subdivision (a), Factors

23 The Supervisor also considered the eight statutory factors under identified in PRC section  
24 3236.5, subdivision (a), to determine which were important for setting a penalty amount  
25 calibrated to incentivize compliance in a manner appropriately proportional to the  
26 circumstances:

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- 1) "Extent of harm" was not an important factor in setting the penalty amount. The Supervisor determined the violations did not pose a significant threat of harm to life, health, property, or natural resources.
- 2) **"Persistence" was an important factor in setting the penalty amount only for the 2018 idle well fee violations (except the violation of nonpayment of the 2018 idle well fee for well API 06920082 due in year 2019).** The Supervisor determined that Operator's failure to pay its 2017 idle well fees was not persistent because when these violations occurred, effective February 9, 2018, this was the first instance of failure to comply with the idle well fee requirement. The Supervisor determined the Operator's failure to pay its 2018 idle well fees is persistent because when these violations occurred, effective May 1, 2019, this was akin to a continuation of not paying required idle well fees for each of those wells—with the exception of well API 06920082, because 2018 was the first year the idle well fee was required for this well.
- 3) "Pervasiveness" was not an important factor in setting the penalty amount. The Supervisor determined that Operator's failure to pay its 2017 and 2018 idle well fees was not pervasive because each violation occurred at one well and not throughout an area.
- 4) **"Prior violations" was an important factor in setting the penalty amount only for violations occurring in 2018.** In calculating the civil penalty for Operator's failure to pay its 2017 idle well fees, the Supervisor determined prior violations were not an important factor because this was the first instance of Operator failing to comply with the requirement to pay idle well fees. However, in calculating the civil penalty for Operator's failure to pay its 2018 idle well fees, the Supervisor determined that Operator's failure to pay its 2017 idle well fees is "prior violation" conduct relevant to determining the appropriate penalty amount.
- 5) **"Culpability" was an important factor in setting the penalty amount.** The Supervisor determined that Operator is culpable for failing to pay its idle well

fees, because Operator submitted an Idle Well Management Plan committing to the elimination of its long-term idle wells, failed to comply with the Idle Well Management Plan it submitted, and then further failed to pay the required idle well fees for wells idle in 2017 and 2018.

6) **"Economic benefit" was an important factor in setting the penalty amount.** The Supervisor determined that Operator received an economic benefit by not timely paying the \$12,450 owed for 2017 idle well fees and the \$14,700 owed for 2018 idle well fees.

7) **"Ability to pay" was not an important factor in setting the penalty amount.** The Supervisor determined that adjustment of the penalty amount based on ability to pay is unnecessary in this instance. This determination was informed by Operator's assessable oil production.

"Prosecution costs" was not an important factor in setting the penalty amount. The Supervisor determined that adjustment of the penalty amount based on prosecution costs is unnecessary in this instance.

#### **VI. Operator's Required Actions**

For the reasons stated herein, CalGEM has determined that the Well and the Facilities are deserted. Therefore, pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, **IT IS HEREBY ORDERED** that Operator:

1) plug and abandon the Wells, decommission the Facilities, and restore the well sites for the Wells consistent with all applicable requirements of PRC sections 3208, 3224, 3228, 3229, and 3230; Regulations sections 1722, 1723 through 1723.8, 1724 through 1724.1, 1760, 1775, and 1776; and the conditions included in any permit CalGEM may issue pursuant to PRC section 3229.

For the reasons stated herein, pursuant to PRC sections 3013, 3106, 3206, and 3236.5, **IT IS HEREBY FURTHER ORDERED** that Operator:

2) pay its 2017 idle well fees in the amount of twelve thousand four hundred and fifty dollars (\$12,450);

3) pay its 2018 idle well fees in the amount of fourteen thousand seven hundred dollars (\$14,700);

pay civil penalties in the amount of (seventeen thousand four hundred seven dollars) (\$17,407). Operator is required to pay these amounts immediately. A continuing failure to pay the overdue idle well fees, for 2017 and 2018, may subject Operator to additional civil penalties even if this order is appealed.

## VII. Operator's Appeal Rights

Operator may appeal this Order by filing a timely written notice of appeal with the Director as described in Article 6 (Appeals and Review) of Division 3 of the PRC, commencing with PRC section 3350. (PRC, §§ 3225, subd. (d); 3236.5, subd. (c); 3237, subd. (b).) If this Order is mailed to you, the Director must receive the appeal within (15) days from the date the Supervisor mails the Order. To file an appeal, a written notice of appeal may be sent via U.S. mail to:

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

Or via electronic mail:

CalGEMAppeals@conservation.ca.gov

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

If Operator does not file a timely written notice of appeal, or if the order is affirmed following an appeal, this order will become a final order and CalGEM 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 CalGEM to obtain compliance with this order (which may include penalties and interest) will

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1 constitute a lien against Operator's real or personal property per PRC section 3423. (PRC, §  
2 3356.)

3 **VIII. Other Potential Actions to Enforce This Order**

4 Failure to comply with Section VI (Operator's Required Actions) of this order could  
5 subject Operator to further enforcement action, including additional civil penalties, as  
6 appropriate. PRC section 3236 makes it a misdemeanor for any person who violates, fails,  
7 neglects, or refuses to comply with any of the provisions of the oil and gas conservation laws  
8 commencing at PRC section 3000. PRC section 3359 makes it a misdemeanor to fail or  
9 neglect to comply with an order of the Supervisor. Each day's further failure, refusal, or  
10 neglect is a separate and distinct offense. (PRC, §3359).

11  
12 DATED: April 10, 2020



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14 State Oil and Gas Supervisor  
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