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8 **STATE OF CALIFORNIA**
9 **NATURAL RESOURCES AGENCY**
10 **DEPARTMENT OF CONSERVATION**
11 **GEOLOGIC ENERGY MANAGEMENT DIVISION**
12

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14 **ORDER TO PLUG AND ABANDON WELLS**
15 **NO. 1238**
16

17 **Operator: Windrush Operating Company, LLC.**
18 **Tulare Lake/Kings Oil Field**
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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).) In addition, credible evidence of desertion includes, but is not limited
10 to, the extent of compliance by the operator with the requirements of PRC and Regulations.
11 (PRC, § 3237, subd. (a)(3)(D).)

12 Based on CalGEM's records, Windrush Operating Company, LLC. (**Operator**) is the
13 "operator" (as defined in PRC section 3009) of the wells identified on **Attachment A**,
14 incorporated herein (**the Wells**), and is responsible (as specified in PRC section 3237,
15 subdivision (c)(1)) for the plugging and abandonment of the Wells, the decommissioning of
16 the production facilities attendant to the Wells (**the Facilities**), and the restoration of the well
17 sites for the Wells. CalGEM's records indicate that, under applicable provisions of PRC section
18 3206, Operator was required to timely pay idle well fees for the Wells for years 2018 through
19 2021, and that Operator has not done so. Failure to timely pay idle well fees is conclusive
20 evidence of desertion, and Operator's failure to comply with Regulations is credible evidence
21 of desertion, based upon which the Supervisor has determined that the Wells and the Facilities
22 are deserted. Therefore, pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, and as set
23 forth below, the Supervisor is ordering Operator to plug and abandon the Wells, to
24 decommission the Facilities, and to restore the well site for the Wells, consistent with all
25 applicable requirements, including PRC sections 3208, 3228, 3229, and 3230; Regulations
26 sections 1722, 1723 through 1723.8, 1724 through 1724.1, 1760, 1775, and 1776; and the
27 conditions included in any permit/approval CalGEM may issue pursuant to PRC section 3229;

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1 and until that work is complete, perform remedial work and testing as necessary to prevent
2 damage to life, health, property, and natural resources.

3 **II. Definitions**

4 **PRC section 3008, subdivision (a)**, defines "well" to mean, among other things, "any oil
5 or gas well or well for the discovery of oil or gas; any well on lands producing or reasonably
6 presumed to contain oil or gas."

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

18 **PRC section 3009**, defines "operator" to mean "a person who, by virtue of ownership, or
19 under the authority of a lease or any other agreement, has the right to drill, operate, maintain,
20 or control a well or production facility."

21 **Regulations section 1760, subdivision (r)**, defines "production facility" to mean "any
22 equipment attendant to oil and gas production...including, but not limited to, tanks, flowlines,
23 headers, gathering lines, wellheads, heater treaters, pumps, valves, compressors, injection
24 equipment, production safety systems, separators, manifolds, and pipelines that are not under
25 the jurisdiction of the State Fire Marshal pursuant to Section 51010 of the Government Code,
26 excluding fire suppressant equipment."

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

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;

1 to protect oil and gas deposits from damage by underground water; or to prevent the escape
2 of water into underground formations, or to prevent the infiltration of detrimental substances
3 into underground or surface water suitable for irrigation or domestic purposes, to the best
4 interests of the neighboring property owners and the public."

5 **PRC section 3226**, provides that "within 30 days after service of an order pursuant to
6 Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the order to the
7 director, within 30 days after service of the decision of the director, or if a review has been
8 taken of the order of the director, within 10 days after affirmance of the order, the owner or
9 operator shall commence in good faith the work ordered and continue it until completion. If
10 the work has not been commenced and continued to completion, the supervisor may
11 appoint necessary agents to enter the premises and perform the work. An accurate account
12 of the expenditures shall be kept. Any amount so expended shall constitute a lien against real
13 or personal property of the operator pursuant to the provisions of Section 3423.
14 Notwithstanding any other provisions of Section 3224, 3225, or 3237, if the supervisor determines
15 that an emergency exists, the supervisor may order or undertake the actions he or she deems
16 necessary to protect life, health, property, or natural resources."

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

21 **PRC section 3270** mandates that CalGEM prescribe by regulation minimum facility
22 maintenance standards for all production facilities in the state.

23 **Regulations section 1774.2** provides that operators shall prepare a pipeline
24 management plan for all pipelines. Current operators as of October 1, 2018 shall submit a
25 copy of the plan to the Supervisor no later than October 1, 2019. The operator shall maintain
26 an up-to-date copy and provide it to the Supervisor upon request. The plan shall be updated
27 within 90 days whenever pipelines are acquired, installed, altered, or at the request of the
28 Supervisor.

1 **IV. Conclusive Evidence of Desertion**

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

5 As the operator of the Wells, following the process for idle well management set forth in
6 PRC section 3206, subdivision (a), Operator did not submit an Idle Well Management Plan in
7 lieu of paying idle well fees. Operator was therefore required to pay an idle well fee for each
8 of its idle wells that were idle in 2018 by May 1, 2019, as provided in the 2019 Idle Well Fee
9 Invoice prepared by CalGEM; idle in 2019 by May 1, 2020, as provided in the 2020 Idle Well Fee
10 Invoice prepared by CalGEM; and idle in 2020 by May 1, 2021, as provided in the 2021 Idle
11 Well Fee Invoice prepared by CalGEM. (PRC, § 3206, subds. (a) & (a)(2)(B)(v).) (**Attachments B,**
12 **C, D and E** incorporated herein.) As of the date of this order, Operator has not paid its idle well
13 fees for its Wells idle in 2018, 2019, and 2020. Operator's failure to pay the required idle well
14 fees for the Wells is conclusive evidence of desertion. (PRC, § 3206, subd. (c).)

15 **V. Credible Evidence of Desertion**

16 Credible evidence of desertion includes, but is not limited to, the extent of compliance
17 by the operator with the requirements of PRC and Regulations. (PRC, § 3237, subd. (a)(2).)
18 Under applicable provisions of Regulations section 1774.2, Operator was required to submit a
19 copy of its pipeline management plan for all pipelines to CalGEM by October 1, 2019, and
20 Operator has not done so. Operator's failure to timely submit the pipeline management plan
21 constitutes a violation of Regulations section 1774.2. CalGEM notified Operator
22 that its pipeline management plan consistent with Regulations section 1774.2 was past due on
23 November 18, 2019 and provided a new date for submission by December 18,
24 2019. **Attachment F**, incorporated herein, is a Notice of Violation that CalGEM sent
25 on November 18, 2019, with a deadline to submit the pipeline management plan
26 by December 18, 2019. To date, CalGEM has not received a pipeline management plan from
27 Operator. Operator's failure to comply with the requirements of Regulations section 1774.2 is
28 credible evidence of desertion. (PRC, § 3237, subd. (a).)

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

2 For the reasons stated herein, CalGEM has determined that the Wells and the Facilities
3 are deserted. Therefore, pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, **IT IS HEREBY**
4 **ORDERED** that Operator plug and abandon the Wells, decommission the Facilities, and restore
5 the well site for the Well consistent with all applicable requirements of PRC sections 3208, 3224,
6 3228, 3229, and 3230; Regulations sections 1722, 1723 through 1723.8, 1724 through 1724.1,
7 1760, 1775, and 1776; and the conditions included in any permit CalGEM may issue pursuant
8 to PRC section 3229. Until that work is complete, Operator is ordered to perform remedial work
9 and testing on the Wells and the Facilities as necessary to prevent damage to life, health,
10 property, and natural resources.

11 **VII. Operator's Appeal Rights**

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

17 Department of Conservation
18 Director's Office of Appeals
19 715 P Street, MS 1906 (Legal Office, Chief Counsel)
20 Sacramento, California 95814-3530

21 Or via electronic mail:

22 CalGEMAppeals@conservation.ca.gov

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

26 If Operator does not file a timely written notice of appeal, or if the order is affirmed
27 following an appeal, this order will become a final order and CalGEM may contract for
28 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 constitute a lien against Operator's real or personal property per PRC section 3423. (PRC, § 3356.)

VIII. Consequences of Non-Compliance

Failure to comply with Section VI (Operator's Required Actions) of this order could subject Operator to further enforcement action, including additional civil penalties, as appropriate. 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 conservation laws commencing at PRC section 3000. 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: February 2, 2022



Uduak-Joe Ntuk
State Oil and Gas Supervisor

1 Service List

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