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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,**
15 **DECOMMISSION ATTENDANT FACILITIES,**
16 **AND RESTORE WELL SITES**
17 **NO. 1304**
18

19 **Operator: Peak Operator, LLC. (P1650)**

20 **Field: Oxnard**

21 **Northern District, Ventura County**
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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).)

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

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1 II. Definitions

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

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

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

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

25 III. State Oil and Gas Supervisor Authority

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

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

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

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

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

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

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

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

18 2. File a plan with the supervisor to provide for the management and elimination of all
19 long-term idle wells.”

20 **PRC section 3206, subdivision (c)**, provides “Failure to file, for any well, the fee required
21 under this section shall be conclusive evidence of desertion of the well, permitting the
22 supervisor to order the abandoned pursuant to Section 3237.”

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

1 **PRC section 3226, subdivision (a)**, provides that "within 30 days after service of an order
2 pursuant to Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the
3 order to the director, within 30 days after service of the decision of the director, or if a review
4 has been taken of the order of the director, within 10 days after affirmance of the order, the
5 owner or operator shall commence in good faith the work ordered and continue it until
6 completion. If the work has not been commenced and continued to completion, the
7 supervisor may appoint necessary agents to enter the premises and perform the work. An
8 accurate account of the expenditures shall be kept. Any amount so expended shall constitute
9 a lien against real or personal property of the operator pursuant to the provisions of Section
10 3423. Before performing such work, the division may impose a lien against the real or personal
11 property of the operator pursuant to Section 3423 in an amount equal to an estimate of the
12 cost of the work based on a bid from a contractor or previous costs to perform comparable
13 work."

14 **PRC section 3226, subdivision (b)**, provides that "notwithstanding any other provisions of
15 Section 3224, 3225, or 3237, if the supervisor determines that an emergency exists, the
16 supervisor may order or undertake the actions he or she deems necessary to protect life,
17 health, property, or natural resources."

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

22 **PRC section 3237, subdivision (a)(2)**, states that "credible evidence" includes, but is not
23 limited to, the operational history of the well or production facility, the response or lack of
24 response of the operator to inquiries and requests from the Supervisor or district deputy, the
25 extent of compliance by the operator with the requirements of this chapter, and other actions
26 of the operator with regard to the well or production facility.

27 **PRC section 3237, subdivision (a)(3)**, states that a rebuttable presumption of desertion
28 arises in any of the following situations: (C) If an operator has failed to comply with an order of

the supervisor within the time provided by the order or has failed to challenge the order on a timely basis.

Regulation, section 1772.5, subdivision (a) and (c), requires operators to conduct casing pressure test in accordance with the parameters specified in Regulation, Section 1772.1.1. The casing shall be tested from the surface to a depth that is 100 feet measured feet above the uppermost perforation, immediately above the casing shoe of the deepest cemented casing, or immediately above the top of the landed liner, whichever is highest. If the top of the landed liner is 100 feet or more above the cemented casing shoe, then the pressure test shall be to a depth specified by the Division on a case-by-case basis. The operator shall repeat this testing at least once every 60 months while the well is an observation well. (c) For wells approved as active observation wells as of April 1, 2019, the operator is required to conduct initial testing on at least half of them by April 1, 2021 and conduct such testing on all the observation wells by April 1, 2023.

IV. Conclusive Evidence of Desertion

Based on CalGEM's records, at all times relevant to this order, Operator was the "operator," as defined in PRC section 3009, of the Wells. At all times relevant to this order, not including the active observation wells, the Wells were an "idle well" as defined in PRC section 3008, subdivision (d).

As the operator of the Wells, following the process for idle well management set forth in PRC section 3206, subdivision (a), Operator did not submit an Idle Well Management Plan in lieu of paying idle well fees. Operator was therefore 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; idle in 2019 by May 1, 2020, as provided in the 2020 Idle Well Fee Invoice prepared by CalGEM; idle in 2020 by May 1, 2021, as provided in the 2021 Idle Well Fee Invoice prepared by CalGEM; and idle in 2021 by May 1, 2022, as provided in the 2022 Idle Well Fee Invoice prepared by CalGEM. (PRC, § 3206, subds. (a) & (a)(2)(B)(v).) (**Attachments B, C, D, and E**, incorporated herein.) As of the date of this order, Operator has not paid its idle well fees for its Wells idle in 2018, 2019, 2020 and 2021. Operator's failure to pay the required

idle well fees for the Wells is conclusive evidence of desertion. (PRC, § 3206, subd. (c).)

V. Rebuttable Presumption of Desertion

A rebuttable presumption of desertion arises if an operator has failed to comply with an order of the supervisor within the time provided by the order within the time provided by the order or has failed to challenge the order on a timely basis. (PRC, § 3237, subd. (a)(3)(C).) CalGEM Order No. 1254 issued on March 16, 2022, was not appealed by Operator and became final on August 8, 2022. (**Attachment F**, incorporated herein.) Order No. 1254 required the Operator to: Plug and Abandon Wells, Decommission Attendant Facilities, and Restore Well Sites. As of the date of this order, Operator has not complied with the terms of the Order. Operator's failure to comply with Order No. 1254 is a rebuttable presumption of desertion. (PRC, § 3237, subd. (a)(3)(C).)

VI. Credible Evidence of Desertion

Credible evidence of desertion includes, but is not limited to, the operational history of the well or production facility, the response or lack of response of the operator to inquiries and requests from the Supervisor or district deputy, the extent of compliance by the operator with the requirements of PRC and Regulations, and other actions of the operator with regard to the well or production facility. (PRC, § 3237, subd. (a)(2).)

a. The Extent of Compliance by the Operator with the Requirements of this Chapter.

Operator has not maintained compliance with applicable requirements for operation of the Wells and the Facilities. CalGEM records reflect failure to address cited violations. Recent violations are identified below:

1. Failure to conduct casing pressure testing of observation wells in accordance with Regulations, § 1772.5, subdivision (a).

Based on CalGEM records, Operator has the following approved observation wells:

API	Well #	Date of Approval
0411122203	Peak-HBH 1TO-A4	04/17/2013

0411122204	Peak-HBH 2TO-C4	05/14/2013
0411122226	Peak-HBH 3TO-D5	05/29/2013
0411122227	Peak-HBH 4TO-C5	06/14/2013

For observation wells approved as of April 1, 2019, Regulations, section 1772.5. requires operators to conduct casing pressure testing on all approved active observation wells by April 1, 2023. CalGEM does not have records from Operator demonstrating casing pressure testing was conducted on observation wells. Failure to comply with Regulations, section 1772.5 is credible evidence of desertion.

b. Operational History of the Wells and Facilities

CalGEM conducted inspections on or about March 24, 2023, and observed all essential production, injection, and well monitoring equipment, was no longer at the well sites. Based on CalGEM records, including observations made during inspections of the well sites conducted on or about March 24, 2023, the operational history presents credible evidence that the Wells and facilities are deserted.

VII. Operator's Required Actions

For the reasons stated herein, CalGEM has determined that the Wells and the Facilities are deserted. Therefore, pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, **IT IS HEREBY ORDERED** that Operator 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. Until that work is complete, Operator is ordered to perform remedial work and testing on the Wells and the Facilities as necessary to prevent damage to life, health, property, and natural resources.

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1 **VIII. Operator's Appeal Rights**

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

8 Department of Conservation
9 Director's Office of Appeals
10 715 P Street, MS 19-06 (Legal Office, Chief Counsel)
11 Sacramento, California 95814

12 Or via electronic mail:

13 CalGEMAppeals@conservation.ca.gov

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

17 If Operator does not file a timely written notice of appeal, or if the order is affirmed
18 following an appeal, this order will become a final order and CalGEM may contract for
19 performance of the work, pursuant to PRC section 3226, if, within 30 days of this order,
20 Operator has not, in good faith, commenced the work ordered. Any costs incurred by
21 CalGEM to obtain compliance with this order (which may include penalties and interest) will
22 constitute a lien against Operator's real or personal property per PRC section 3423. (PRC, §
23 3356.)

24 **IX. Consequences of Non-Compliance**

25 Failure to comply with Section V (Operator's Required Actions) of this order could
26 subject Operator to further enforcement action, including additional civil penalties, as
27 appropriate. PRC section 3236 makes it a misdemeanor for any person who violates, fails,
28 neglects, or refuses to comply with any of the provisions of the oil and gas conservation laws

1 commencing at PRC section 3000. PRC section 3359 makes it a misdemeanor to fail or neglect
2 to comply with an order of the Supervisor. Each day's further failure, refusal, or neglect is a
3 separate and distinct offense. (PRC, §3359).

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6 DATED: June 2, 2023

Gabe Tiffany

Gabe Tiffany
Acting State Oil and Gas Supervisor