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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 A CIVIL PENALTY**
15 **NO. 1347**

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18 **Operator: HOC CA, LLC (11564)**
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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 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, HOC CA, LLC (**Operator**) is or was an "operator" (as
9 defined in PRC, § 3009) and is responsible for the 19 wells identified on **Attachment A**,
10 incorporated herein (the **Wells**). Each of the Wells is an idle well as of April 1, 2019. Under
11 applicable provisions of Regulations section 1772.1.4, Operator was required to file an Idle Well
12 Testing Compliance Work Plan within 90 days of its acquisition of the Wells by transfer, and to
13 timely comply with annual testing benchmarks for the Wells according to that Plan, and
14 Operator has not done so. Operator's failure to timely submit an Idle Well Testing Compliance
15 Work Plan and to comply with annual testing benchmarks according to that Plan constitute
16 violations of Regulations sections 1772.1 and 1772.1.4. Therefore, pursuant to PRC sections
17 3013, 3106, 3206.1, 3224, 3236.5, 3270, and Regulations sections 1772.1 and 1772.1.4, the
18 Supervisor is ordering Operator to bring the Wells into compliance with idle well requirements
19 and to pay a civil penalty for each violation.

20 **Attachment B**, incorporated herein, contains a list of definitions and authorities that are
21 applicable to this order.

22 **II. Failure to Submit an Idle Well Testing Compliance Work Plan**

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

26 Operator reported to CalGEM its acquisition of the Wells by transfer on June 1, 2021. As
27 the operator of the Wells, Operator was required to submit an Idle Well Testing Compliance
28 Work Plan for the Wells within 90 days of transfer, as required by Regulations section 1772.1.4,

1 subdivision (d), and Operator failed to do so. CalGEM issued a Notice of Violation to Operator
2 on June 24, 2022 regarding the outstanding Plan. (**Attachment C**, incorporated herein.) As of
3 the date of this order, Operator has not submitted an Idle Well Testing Compliance Work Plan
4 for the Wells.

5 As the operator of the Wells, Operator was required to comply with annual testing
6 benchmarks of the Wells under an Idle Well Testing Compliance Work Plan, as required by
7 Regulations section 1772.1.4, subdivision (b), and operator failed to do so. CalGEM issued a
8 Notice of Violation to Operator on July 28, 2022, regarding the failure to meet testing
9 benchmarks. (**Attachment D**, incorporated herein.) Operator was required to complete testing
10 on at least 30 percent of the Wells by April 1, 2022, which includes a pressure test on each well,
11 and a clean out tag on wells idle for two or more years as of April 1, 2019. (Regulations, §
12 1772.1.4, subd. (b).) Operator was required to complete testing on at least 50 percent of the
13 Wells by April 1, 2023. Operator is required to complete testing on at least 75 percent of the
14 Wells by April 1, 2024, and to complete testing on all the Wells by April 1, 2025. As of the date
15 of this order, Operator has not remedied the outstanding violations for the 10 Wells which are
16 overdue for testing.

17 **III. Civil Penalty**

18 Operator's failure to timely submit an Idle Well Testing Compliance Work Plan for the
19 Wells by June 1, 2019 is a violation of Regulations section 1772.1.4, subdivision (a). Operator's
20 failure to comply with required annual testing benchmarks is a violation of Regulations section
21 1772.1.4, subdivision (b). Operator's failure to submit the required Idle Well Testing Compliance
22 Work Plan constitutes one violation. Operator's failure to complete the required testing on the
23 Wells to meet the annual benchmarks for the Idle Well Testing Compliance Work Plan
24 constitutes 10 separate violations, one for each well Operator failed to test.

25 Because of these violations, and based on consideration of relevant circumstances,
26 consistent with PRC section 3236.5, by this order the Supervisor is imposing on Operator civil
27 penalties totaling \$26,200. Following is an explanation of how the civil penalty amount was
28 determined.

1 For purposes of this order, the Supervisor considered relevant circumstances, including:
2 characterizing the violations as "major," "minor," or "well stimulation" (as defined in PRC
3 section 3236.5, subdivision (b)) and setting a penalty amount proportionate to the
4 circumstantial importance of all relevant factors, including the eight factors identified in PRC
5 section 3236.5, subdivision (a). (PRC, § 3236.5, subd. (a).)

6 **a. Civil Penalty Calculation – Nonsubmittal of a Testing Compliance Work Plan**

7 In determining the civil penalty amount for Operator's first violation, the Supervisor
8 determined the violation to be "minor." The statutory penalty range for a minor violation is
9 between \$0 and \$2,500. After consideration of all relevant factors, the Supervisor determined
10 that a balanced and effective incentive for operator compliance would be a civil penalty
11 which includes an estimate of the cost of preparing a Testing Compliance Work Plan, with a
12 sliding scale to account for the pervasiveness of the violation, with an increasing penalty
13 based on the number of idle wells belonging to Operator. A careful analysis of the eight
14 factors identified in PRC section 3236.5, subdivision (a), did not affect the Supervisor's finding
15 that a sliding scale including the cost of compliance and increasing to reflect the number of
16 idle wells is an effective civil penalty formula. Therefore, the Supervisor determined that it is
17 reasonable to impose a civil penalty which is proportionate to the cost of preparing a Testing
18 Compliance Work Plan, with an increasing penalty based on the number of idle wells in the
19 Plan. (PRC, § 3236.5, subd. (a).)

20 CalGEM estimated the cost to prepare a Testing Compliance Work Plan is
21 approximately \$500. This cost includes the administrative task of assembling the Plan, with
22 historical operation, well status, and location information operators should already possess. To
23 account for the pervasiveness of the violation by operators with multiple idle wells, CalGEM
24 calculated an additional penalty that corresponds with the number of idle wells which should
25 be included in the Plan. Working within the \$0 and \$2,500 statutory penalty range for a minor
26 violation, CalGEM created a sliding scale that includes the cost of preparing a Plan and
27 increases incrementally to assess civil penalties for each operator based on the number of idle
28 wells in the Plan. For operators with six to 20 idle wells, CalGEM established a penalty of \$500

1 for the first five wells, and an additional penalty of \$50 for each additional well up to the
2 twentieth well.

3 Based on the 19 idle wells belonging to Operator, CalGEM estimates that Operator
4 gained an economic benefit of \$1,200 by not preparing a Testing Compliance Work Plan. As
5 such, based on the above allegations, and with appropriate consideration of relevant factors
6 as described in PRC section 3236.5, the Supervisor hereby imposes a civil penalty of one
7 thousand two hundred dollars (\$1,200) for the first violation, failure to submit an Idle Well
8 Testing Compliance Work Plan.

9 **b. Civil Penalty Calculation – Failure to Complete Testing Required to Meet Annual**
10 **Testing Benchmarks Under a Testing Compliance Work Plan**

11 In determining the civil penalty amount for Operator's failure to complete the required
12 testing on the Wells to meet the annual benchmarks for the Idle Well Testing Compliance Work
13 Plan, the Supervisor determined each violation to be "minor." Each of the Wells that Operator
14 failed to test constitutes a separate violation. (Regulations, § 1772.1.4, subd. (f).) The statutory
15 penalty range for a minor violation is between \$0 and \$2,500. After consideration of all
16 relevant factors, the Supervisor determined that a civil penalty which is roughly proportionate
17 to the cost of performing the testing required is a balanced and effective incentive for
18 operator compliance. A careful analysis of the eight factors identified in PRC section 3236.5,
19 subdivision (a), did not affect the Supervisor's finding that the economic benefit from avoiding
20 the cost of compliance is the primary consideration for determining an effective civil penalty
21 amount. Idle wells that lack integrity have the potential to harm air quality and groundwater,
22 in light of which the Supervisor calculated a significant risk of harm. Additionally, an economic
23 analysis of the costs of performing a casing pressure test and clean out tag substantially
24 exceeded the upper limit of the statutory penalty range for a minor violation. CalGEM
25 estimated the cost to perform a casing pressure test and a clean out tag between \$2,871 and
26 \$15,946 per well, depending on the location and condition of the well. Avoidance or deferral
27 of this cost is a significant economic benefit to Operator. Therefore, the Supervisor determined
28 that it is reasonable to impose a civil penalty of \$2,500 per well which is overdue for testing.

1 (PRC, § 3236.5, subd. (a).)

2 Based on Operator's 10 idle wells which are overdue for testing as of April 1, 2023, and
3 with appropriate consideration of relevant factors as described in PRC section 3236.5, the
4 Supervisor hereby imposes a civil penalty totaling twenty-five thousand dollars (\$25,000) for the
5 10 violations for failing to complete the required testing.

6 Taken together, the Supervisor imposes a total civil penalty of twenty-six thousand two
7 hundred dollars (\$26,200).

8 **IV. Remediation of Violations**

9 Regulations section 1772.1.4, subdivision (f), provides that each well Operator failed to
10 test under a Testing Compliance Work Plan is subject to the requirements of Regulations
11 section 1772.1, subdivision (b). Regulations section 1772.1, subdivision (b), requires Operator to
12 do one of the following within 12 months of failing to successfully complete testing on a well:

- 13 1) Bring the well into compliance by performing and passing a casing pressure test
14 and, if the well has been idle for two or more years as of April 1, 2019, performing
15 and passing a clean out tag, as directed in Regulations section 1772.1.4;
- 16 2) Partially plug and abandon the well in accordance with Regulations section
17 1752;
- 18 3) Plug and abandon the well in accordance with PRC section 3208; or
- 19 4) Schedule the well for plugging and abandonment under an approved Idle Well
20 Management Plan or an approved Testing Waiver Plan.

21 Following the testing benchmarks listed in Regulations section 1772.1.4, subdivision (b),
22 30 percent of the Wells were due for testing by April 1, 2022, or earlier, and, as 12 months has
23 already passed since that date, those wells must be brought into compliance immediately. An
24 additional 20 percent of the Wells were due for testing by April 1, 2023; to fully comply with
25 Action 3, those wells must be brought into compliance by April 1, 2024. Therefore, by April 1,
26 2024, 50 percent of the Wells should be in full compliance with Regulations section 1772.1,
27 subdivision (b). Pursuant to PRC section 3224, the Supervisor hereby orders Operator to
28 complete this work to remedy these violations and come into compliance with Regulations

1 sections 1772.1.4, subdivision (f), and 1772.1, subdivision (b).

2 **V. Operator's Required Actions**

3 For the reasons stated herein, pursuant to PRC sections 3013, 3106, 3206, 3206.1, 3224,
4 and 3236.5, and Regulations sections 1772.1 and 1772.1.4, **IT IS HEREBY ORDERED** that Operator:

- 5 **1) Pay a civil penalty totaling twenty-six thousand two hundred dollars (\$26,200);**
6 **2) Submit an Idle Well Testing Compliance Work Plan, prepared as directed in**
7 **Regulations section 1772.1.4; and**
8 **3) In accordance with 1772.1.4, subdivision (b)(3), and 1772.1, subdivision (f), bring**
9 **six of the Wells (30%) into compliance by doing one of the following**
10 **immediately:**
11 **a. Bring the well into compliance by performing and passing a casing**
12 **pressure test and performing and passing a clean out tag if required, as**
13 **directed in Regulations section 1772.1.4;**
14 **b. Partially plug and abandon the well in accordance with Regulations**
15 **section 1752;**
16 **c. Plug and abandon the well in accordance with PRC section 3208; or**
17 **d. Schedule the well for plugging and abandonment under an approved Idle**
18 **Well Management Plan or an approved Testing Waiver Plan.**
19 **4) In accordance with 1772.1.4, subdivision (b)(3), and 1772.1, subdivision (f), bring**
20 **four of the Wells (20%) into compliance by doing one of the following by April 1,**
21 **2024:**
22 **a. Bring the well into compliance by performing and passing a casing**
23 **pressure test and performing and passing a clean out tag if required, as**
24 **directed in Regulations section 1772.1.4;**
25 **b. Partially plug and abandon the well in accordance with Regulations**
26 **section 1752;**
27 **c. Plug and abandon the well in accordance with PRC section 3208; or**

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1 **d. Schedule the well for plugging and abandonment under an approved Idle**
2 **Well Management Plan or an approved Testing Waiver Plan.**

3 Operator is required to submit a Testing Compliance Work Plan and remedy the
4 violations immediately. A continuing failure to submit a Testing Compliance Work Plan and
5 bring the Wells into compliance with Regulations section 1772.1, subdivision (b), may subject
6 Operator to additional civil penalties even if this order is appealed.

7 To remit payment of the civil penalty online, please visit
8 <https://www.govone.com/PAYCAL/Home/SelectAgency> and select "California Department
9 of Conservation Geologic Energy Management Division," then follow the instructions on the
10 screen.

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

13 Department of Conservation
14 CalGEM, Attn: Operational Management Unit
15 715 P Street, MS 1803
16 Sacramento, California 95814

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

19 **VI. 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 PRC section 3350. (PRC, §§ 3225, subd. (d).) If this order is mailed to you, the Director must
23 receive the appeal within (15) days from the date the Supervisor mails the order. To file an
24 appeal, a written notice of appeal may be sent via U.S. mail to:

25 Department of Conservation
26 Director's Office of Appeals
27 715 P Street, MS 19-06 (Legal Office, Chief Counsel)
28 Sacramento, California 95814

1 Or via electronic mail:

2 CalGEMAppeals@conservation.ca.gov

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

7 If Operator does not file a timely written notice of appeal, or if the order is affirmed
8 following an appeal, this order will become a final order and CalGEM may contract for
9 performance of the work, pursuant to PRC section 3226, if, within 30 days of this order,
10 Operator has not, in good faith, commenced the work ordered. Any costs incurred by
11 CalGEM to obtain compliance with this order (which may include penalties and interest) will
12 constitute a lien against Operator's real or personal property per PRC section 3423. (PRC, §
13 3356.)

14 **VII. Other Potential Actions to Enforce This Order**

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

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DATED: December 8, 2023

Douglas Ito

Doug Ito
State Oil and Gas Supervisor