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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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13 **ORDER TO PAY CIVIL PENALTY**
14 **NO. 1416**

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17 **Operator: LBTH Inc. (L0875)**
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I. Introduction

The State Oil and Gas Supervisor (**Supervisor**), acting through the Geologic Energy Management Division (**CalGEM**), and under the authority of Division 3 of the Public Resources Code (**PRC**) (commencing with PRC section 3000) and title 14 of the California Code of Regulations (**Regulations**), may impose a civil penalty on a person who violates any statutory provision of the PRC, or any regulation that implements those statutory provisions. (PRC, § 3236.5.)

Based on CalGEM's records, LBTH Inc. (**Operator**) is the "operator" (as defined in PRC section 3009) of the well identified on **Attachment A**, incorporated herein (**the Well**), and the production facility attendant to the Well identified on **Attachment B**, incorporated herein (**the Facility**). As described in more detail below, Operator discharged water from the Facility into the secondary containment area in violation of Regulations section 1775, subdivision (a). Operator's failure to adhere to maintenance requirements and properly dispose of oilfield wastewater poses a potential threat to life, health, property, and/or natural resources.

Therefore, pursuant to PRC sections 3013, 3106, 3224, 3236.5, and 3270 and Regulations sections 1775, the Supervisor is ordering Operator to pay a civil penalty, totaling two thousand five hundred dollars (\$2,500.00), imposed for violation of Regulations section 1775, within thirty (30) days of this Order.

Attachment C contains a list of definitions and authorities that are applicable to this Order.

II. Alleged Acts/Omissions

Based on CalGEM's records, at all times relevant to this Order, Operator was the "operator" of the Well and the Facility, as defined in PRC section 3009.

Regulations section 1775, subdivision (a) requires that "[o]ilfield wastes, including but not limited to oil, water, chemicals, mud, and cement, shall be disposed of in such a manner as not to cause damage to life, health, property, freshwater aquifers or surface waters, or natural resources, or be a menace to public safety."

1 On March 14, 2024, CalGEM staff conducted an inspection of the Well and the Facility
2 and observed that oilfield wastewater was being discharged from a pipe connected to the
3 Facility into the secondary containment area in violation of Regulations section 1775,
4 subdivision (a). On March 15, 2024, CalGEM staff conducted a follow-up inspection of the
5 Facility and observed water pooled between the berm of the Facility's secondary
6 containment area. (See **Attachment D**, incorporated herein.)

7 On March 28, 2024, CalGEM issued a Notice of Violation (NOV) regarding the observed
8 discharge requiring Operator to:

- 9 1. Maintain production facilities in a manner to prevent leakage.
- 10 2. Provide a sample of the produced water and of the impacted soil to CalGEM and
11 the Regional Water Quality Control Board.
- 12 3. Remediate or properly dispose of any contaminated soils.
- 13 4. Provide CalGEM 24-hour notice to perform a final site inspection.

14 (**Attachment E**, incorporated herein.) In correspondence dated May 3, 2024, Operator
15 provided water and soil analyses as well as confirmation that the subject pipe had been
16 removed.

17 Failure to properly dispose of or prevent leaks of oilfield wastewater poses a potential
18 threat to life, health, property, and/or natural resources, because it could contaminate soil,
19 groundwater and/or drinking water, or otherwise present a public nuisance. Acceptable
20 methods for disposing of oilfield wastewater include injection into an approved injection or
21 disposal well or transfer to another operator capable of carrying out proper disposal.

22 III. Civil Penalty

23 PRC section 3236.5 authorizes the Supervisor to impose a civil penalty for each violation
24 of the oil and gas conservation laws and regulations. Operator's failure to properly dispose of
25 oilfield wastewater in violation of Regulation section 1775 constitutes one (1) violation.

26 Because of this violation, and based on consideration of relevant circumstances,
27 consistent with PRC section 3236.5, subdivisions (a), by this Order the Supervisor is imposing on
28 Operator a civil penalty totaling two thousand five hundred dollars (\$2,500.00).

1 Following is an explanation of how the civil penalty amount were determined.

2 **A. Civil Penalty Determination Methodology**

3 The Supervisor exercises discretionary civil penalty authority to incentivize compliance.
4 The Supervisor's fundamental policy objective is to set a penalty amount that is appropriately
5 proportioned to the violation at issue. PRC section 3236.5, subdivision (a), provides that:

6 When establishing the amount of the penalty pursuant to this section, the
7 supervisor shall consider, in addition to other relevant circumstances, all of the
8 following:

- 9 (1) The extent of harm caused by the violation;
- 10 (2) The persistence of the violation;
- 11 (3) The pervasiveness of the violation;
- 12 (4) The number of prior violations by the same violator;
- 13 (5) The degree of culpability of the violator;
- 14 (6) Any economic benefit to the violator resulting from the violation;
- 15 (7) The violator's ability to pay the civil penalty amount, as determined
16 based on information publicly available to the division; and
- 17 (8) The supervisor's prosecution costs.

18 For purposes of this Order, the Supervisor considered relevant circumstances, including
19 whether to characterize the violation as "major," "minor," or "well stimulation" (as defined in
20 PRC section 3236.5, subdivision (b)) and setting a penalty amount proportionate to the
21 circumstantial importance of all relevant factors identified in PRC section 3236.5, subdivision
22 (a), above.

23 A major violation is a violation that is not a well stimulation violation and that is one or
24 more of the following: (i) a violation that results in harm to persons or property or presents a
25 significant threat to human health or the environment; (ii) a knowing, willful, or intentional
26 violation; (iii) a chronic violation or one that is committed by a recalcitrant violator, indicated
27 by the violator engaging in a pattern of neglect or disregard with respect to applicable
28 requirements; and/or, (iv) a violation where the violator derived significant economic benefit,

1 either by significantly reduced costs or a significant competitive advantage. The civil penalty
2 amount for a major violation shall be not less than two thousand five hundred dollars
3 (\$2,500.00) per violation and not more than twenty-five thousand (\$25,000.00) per violation. A
4 minor violation is a violation that is neither a well stimulation violation nor a major violation. The
5 statutory civil penalty range for a minor violation is between zero dollars (\$0.00) and two
6 thousand five hundred dollars (\$2,500.00).

7 In determining the civil penalty amount for Operator's violation, the Supervisor
8 determined the violation to be "minor," pursuant to PRC section 3236.5, subdivision (b)(3)(A).

9 **B. PRC Section 3236.5 Factor Analysis**

10 In determining penalty amount calibrated to incentivize compliance in a manner
11 appropriately proportional to the circumstances and specific violation, the Supervisor
12 considered the eight statutory factors identified in PRC section 3236.5, subdivision (a), to
13 determine which were important for setting appropriate penalty amount for Operator's
14 violation. The Supervisor determined that:

- 15 1) "Extent of harm" was an important factor in setting the penalty amount. The
16 Supervisor determined that the improper disposal of oilfield wastewater from the
17 Facility poses a threat of harm to life, health, property, or natural resources.
- 18 2) "Persistence" was not an important factor in setting the penalty amount. The
19 Supervisor determined that the violation was not persistent because the
20 violation was observed for the first time on March 14, 2024.
- 21 3) "Pervasiveness" was not an important factor in setting the penalty amount. The
22 Supervisor determined that the violation was not pervasive because only a
23 single facility is involved.
- 24 4) "Prior violations" was not an important factor in setting the penalty amount. In
25 calculating the penalty amount, the Supervisor did not consider the violation to
26 be the same as prior violations.

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1 5) "Culpability" was an important factor in setting the penalty amount. The
2 Supervisor determined that Operator is culpable for the improper disposal of
3 oilfield wastewater.

4 6) "Economic benefit" was an important factor in setting the penalty amount. The
5 Supervisor determined that Operator received an economic benefit by not
6 expending employee time and financial resources on proper oilfield wastewater
7 disposal.

8 7) "Ability to pay" was an important factor in setting the penalty amount. The
9 Supervisor determined that, based on production data and other CalGEM
10 records, Operator continues to operate and has a future earning potential to
11 pay the civil penalty.

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

15 Working within the zero dollars (\$0.00) and two thousand five hundred dollars (\$2,500.00)
16 statutory penalty range for a minor violation, the Supervisor assessed the civil penalty for the
17 one (1) violation based upon a careful analysis of the above eight (8) factors and determined
18 that a civil penalty amount of two thousand five hundred dollars (\$2,500.00) is appropriately
19 proportional to the circumstances and specific violation.

20 As indicated above, compliance with waste disposal requirements is critical to
21 preventing harm to life, health, property, and natural resources. While several of the above
22 eight (8) factors were important for setting the penalty amount for the violation, there are no
23 other documented instances of similar violations concerning the Facility or other equipment
24 warranting a higher civil penalty amount. As such, the Supervisor has determined that a civil
25 penalty in the amount of two thousand five hundred dollars (\$2,500.00) for the violation is a
26 balanced and effective incentive for achieving compliance.

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

2 For the reasons stated herein, pursuant to the PRC sections 3013, 3106, 3224, 3236.5, and
3 3270 and Regulation section 1775, **IT IS HEREBY ORDERED** that Operator pay a civil penalty in
4 the amount of two thousand five hundred dollars (\$2,500.00). Operator is required to pay the
5 civil penalty amount within **thirty (30) days** from the date this Order is issued.

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

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

12 Department of Conservation
13 Geologic Energy Management Division
14 Attention: Operational Management Unit
15 715 P Street, MS 18-03
16 Sacramento, California 95814

17 Please include the Operator name, Order number, and phrase "Oil, Gas, and Geothermal
18 Administrative Fund" on the check itself.

19 **V. 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 the PRC section 3350. (PRC, § 3225, subd. (d).) If this Order is mailed to you, the Director
23 must receive the appeal within fifteen (15) days from the date the Supervisor mails the Order.

24 To file an 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

Or via electronic mail:

CalGEMAppeals@conservation.ca.gov.

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

4 **VI. Other Potential Actions to Enforce This Order**

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

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20 DATED: 7/25/2024

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