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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, PAY IDLE WELL FEES, AND**
15 **PAY CIVIL PENALTIES**
16 **NO. 1178**
17

18 **Operator: Valid Energy Group Inc. (V0175)**
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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, Valid Energy Group 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. While Operator has
17 submitted records under the name "Valid Energy Company," "Valid Energy Group Inc.," and
18 "Valid Energy Inc.," neither "Valid Energy Company" nor "Valid Energy Inc." are valid entities.
19 As such, "Valid Energy Group Inc." must be the Operator of the Wells, and Operator failed to
20 submit the appropriate transfer documentation as required under PRC sections 3201 and 3202.

21 CalGEM's records indicate that, under applicable provisions of PRC section 3206,
22 Operator was required to timely pay idle well fees for the Wells for years 2017 and 2018, and
23 that Operator has not done so. This failure to timely pay idle well fees is conclusive evidence of
24 desertion, based upon which the Supervisor has determined that the Wells and the Facilities
25 are deserted. Therefore, pursuant to PRC sections 3106, 3206, 3224, 3226, and 3237, and as set
26 forth below, the Supervisor is ordering Operator to plug and abandon the Wells, to
27 decommission the Facilities, and to restore the well site for the Wells, consistent with all
28 applicable requirements, including PRC sections 3208, 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/approval CalGEM may issue pursuant to PRC section 3229.

Further, Operator's failures to timely pay the required idle well fees for the Wells 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 seven thousand two hundred dollars (\$7,200), and; (2) to pay civil penalties, totaling six thousand and five dollars (\$6,005), 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."

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

7 **III. State Oil and Gas Supervisor Authority**

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

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

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

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

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

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

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

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

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

3 **PRC section 3206, subdivision (a)(2)(B)(v)**, provides "[a]n operator who fails to comply
4 with the plan, as determined by the supervisor after the annual performance review, is not
5 eligible to use the requirements of this paragraph, for purposes of compliance with this section,
6 for any of its idle wells. That operator may not propose a new idle well plan for the next five
7 years. An operator may appeal to the director pursuant to Article 6 (commencing with Section
8 3350) regarding the supervisor's rejection of a plan and plan amendments and the supervisor's
9 determination of the operator's failure to comply with a plan. If the supervisor's determination
10 that the operator failed to comply with the plan is not timely appealed, or if the director
11 upholds the supervisor's determination upon appeal, then the operator shall immediately file
12 the fees required under paragraph (1) for each year that the operator failed to comply with
13 the plan."

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

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

23 **PRC section 3226**, provides that "within 30 days after service of an order pursuant to
24 Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the order to the
25 director, within 30 days after service of the decision of the director, or if a review has been
26 taken of the order of the director, within 10 days after affirmance of the order, the owner or
27 operator shall commence in good faith the work ordered and continue it until completion. If
28 the work has not been commenced and continued to completion, the supervisor may

1 appoint necessary agents to enter the premises and perform the work. An accurate account
2 of the expenditures shall be kept. Any amount so expended shall constitute a lien against real
3 or personal property of the operator pursuant to the provisions of Section 3423.
4 Notwithstanding any other provisions of Section 3224, 3225, or 3237, if the supervisor determines
5 that an emergency exists, the supervisor may order or undertake the actions he or she deems
6 necessary to protect life, health, property, or natural resources."

7 **PRC section 3236.5** authorizes the Supervisor to impose a civil penalty on a person who
8 violates any statutory provision in Chapter 1 of Division 3 of the PRC (PRC sections 3000 through
9 3473), or any regulation that implements those statutory provisions. Subject to the Supervisor's
10 discretion, the penalty amount may be up to \$25,000 per violation, per day.

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

15 **IV. Conclusive Evidence of Desertion**

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

19 As the operator of the Well, following the process for idle well management set forth in
20 PRC section 3206, subdivision (a), Operator submitted an Idle Well Management Plan in lieu of
21 paying idle well fees. Operator failed to eliminate the number of long-term idle wells required
22 under its Idle Well Management Plan. Accordingly, on February 5, 2019, after an annual
23 performance review, and consistent with the process outlined in PRC section 3206, subdivision
24 (a)(2)(B)(v), the Supervisor issued Notice of Cancellation Number 0012. (**Attachment B**,
25 incorporated herein.) This Notice of Cancellation informed Operator of:

- 26 1) the Supervisor's determination that Operator had failed to comply with the
27 requirements their Idle Well Management Plan;

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1 Because of these violations, and based on consideration of relevant circumstances,
2 consistent with PRC section 3236.5, by this order the Supervisor is imposing on Operator civil
3 penalties totaling six thousand and five dollars (\$6,005). **Attachment F**, incorporated herein, is
4 an itemized list of the specific penalty amount assigned to each of the ten violations. Following
5 is an explanation of how the civil penalty amounts were determined.

6 **Summary of Penalty Determination Methodology**

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

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

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

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

25 Step Two: The maximum possible penalty amount determined in Step One was
26 multiplied by a fraction to scale the penalty amount down in proportion to the amount of the
27 actual idle well fee owed. This fraction is equal to the actual idle well fee owed divided by the
28 maximum idle well fee provided in statute (i.e., \$1500). For every violation, the fraction had a

1 value of either 1/10, 1/5, 1/2, or 1.

2 Step Three: The number resulting from Step Two was multiplied by another fraction to
3 further scale the penalty amount down in proportion to how many of the other eight factors
4 identified in PRC section 3236.5, subdivision (a), were determined to be important for purposes
5 of setting an appropriately incentivizing penalty. This fraction is equal to the total count of how
6 many of the eight factors the Supervisor determined to be "important" divided by eight. For
7 the unpaid 2017 idle well fees, that fraction is three eighths, as the only three important factors
8 were the degree of culpability, the economic benefit of the violation, and the Operator's
9 ability to pay. For unpaid 2018 idle well fees, that fraction is five eighths, as prior violations and
10 persistence were also important factors.

11 **Discussion of Supervisor's Considerations**

12 Characterization: "major," "minor," or "well stimulation"

13 The Supervisor determined that each of the ten violations addressed by this order is a
14 "minor violation" as defined in PRC section 3236.5, subdivision (b)(3)(A); consequently, the
15 range of the potential penalty amount for each violation is between \$0 and \$2,500. Taking all
16 ten violations together, the range of the potential penalty amount is between \$0 and \$25,000.

17 Idle Well Fee Owed

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

24 Other PRC Section 3236.5, subdivision (a), Factors

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

- 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 violation.** The Supervisor determined that Operator's failure to pay its 2017 idle well fees was not persistent because when these violations occurred, effective February 25, 2019, 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 the 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 the violation 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 well, failed to comply with the Idle Well

Management Plan it submitted, and then further failed to pay the required idle well fees for its 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 \$3,600 owed for 2017 idle well fees and the \$3,600 owed for 2018 idle well fees.

7) **“Ability to pay” was an important factor in setting the penalty amount.** The Supervisor determined that adjustment of the penalty amount based on ability to pay is applicable in this instance. This determination was informed by an analysis of Operator's future earning potential.

8) **“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 Wells 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 three thousand and six hundred dollars (\$3,600);

3) pay its 2018 idle well fees in the amount of three thousand and six hundred dollars (\$3,600); and

4) pay civil penalties in the amount of six thousand and five dollars (\$6,005).

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 within 30 days after service of the order or 10 days after the order is affirmed in the case of an appeal, Operator shall in good faith commence the work ordered and continue to completion. (PRC, § 3226.) If Operator fails to do so, CalGEM may contract for performance of the work, pursuant to PRC section 3226. 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.)

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

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

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11 DATED: June 5, 2020



Uduak-Joe Ntuk
State Oil and Gas Supervisor