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AB-896 Oil and gas wells and facilities: liens: collections unit. (2021-2022)

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Assembly Bill No. 896

CHAPTER 707

An act to amend Sections 3206.3, 3226, and 3420 of, and to add Sections 3243 and 3417.5 to, the Public Resources Code, relating to oil and gas wells.

[Approved by Governor October 08, 2021. Filed with Secretary of State October 08, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 896, Bennett. Oil and gas wells and facilities: liens: collections unit.

Existing law establishes the Geologic Energy Management Division in the Department of Conservation, under the direction of the State Oil and Gas Supervisor, who is required to supervise the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field, so as to prevent damage to life, health, property, and natural resources. Existing law requires the supervisor to order those tests or remedial work that in the judgment of the supervisor are necessary to prevent damage to life, health, property, and natural resources, to protect oil and gas deposits from damage by underground water, to prevent the escape of water into underground formations, or to prevent the infiltration of detrimental substances into underground or surface water suitable for irrigation or domestic purposes, to the best interests of the neighboring property owners and the public. Existing law authorizes the supervisor or district deputy to order the plugging and abandonment of a well or the decommissioning of a production facility that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well or production facility. Existing law requires the owner or operator to commence, in good faith, the work ordered and continue it until completion and, if the work has not been commenced and continued to completion, authorizes the supervisor to appoint necessary agents to enter the premises and perform the work and provides that any amounts expended are a perfected and enforceable state tax lien against real or personal property of the operator.

This bill would authorize the division, before performing the work ordered by the supervisor or district deputy, to impose a lien against the real or personal property of the operator in an amount equal to an estimate of the cost of the work based on a bid from a contractor or previous costs to perform comparable work. The bill would require the division's accounting of actual or estimated costs to perform work ordered to be served upon the operator by personal service or certified mail. The bill would require the supervisor, on or before July 1, 2022, to establish a collections unit within the division to be responsible for identifying persons responsible for specified charges, locating assets belonging to those persons, and fully implementing all of the division's authorities for collecting the amounts owed. Until January 1, 2027, to the extent feasible, the bill would require the division to use existing resources and personnel in establishing the collections unit.

Existing law requires the operator of any idle well to either (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, or (2) file a plan with the supervisor to provide for the management and elimination of all long-term idle wells.

This bill would require the division, by April 1 of each year, to send a notice to the operator of an idle well identifying the amount of the annual fee due no later than May 1 of that year and stating that if the fee amount in the notice is in error, the operator may apply to the division before May 1 of that year to have the fee amount corrected.

Existing law requires the supervisor, on or before July 1, 2019, and annually thereafter until July 1, 2026, to prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year that includes specified information. For the report due on or before July 1, 2021, and for each report thereafter, existing law requires the division to conduct inspections of production facilities attendant to long-term idle wells and requires that information summarizing violations and pertinent findings in these inspections be included in each report.

For the report due on or before July 1, 2023, and each report thereafter, this bill would require the division to provide a description of activities undertaken by the division's collections unit, as specified.

This bill would incorporate additional changes to Section 3206.3 of the Public Resources Code proposed by SB 84 to be operative only if this bill and SB 84 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature that the State Oil and Gas Supervisor and applicable Geologic Energy Management Division personnel take consistent and proactive steps to minimize any future potential financial liability to the oil and gas industry and the state from an owner or operator deserting an oil or gas well or attendant facilities. This includes ensuring that applicable fees are paid in a timely manner, and seeking cost recovery, as feasible, for actions undertaken by the Geologic Energy Management Division to address orphan wells and deserted attendant facilities.

SEC. 2. Section 3206.3 of the Public Resources Code is amended to read:

3206.3. (a) (1) Notwithstanding Section 10231.5 of the Government Code, on or before July 1, 2019, and annually thereafter until July 1, 2026, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year. The report shall include all of the following:

(A) A list of all idle and long-term idle wells in the state by American Petroleum Institute identification number and indicating the operator, field, and pool.

(B) A list of all wells whose idle or long-term idle status changed in the preceding year by American Petroleum Institute identification number with the disposition and current status of each well.

(C) A list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. Idle and long-term idle wells that have become orphan wells shall be identified in the list. For the purposes of this report, an orphan well is a well that has no party responsible for it, leaving the state to plug and abandon it.

(D) A list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans.

(E) Any additional relevant information as determined by the supervisor.

(2) The report shall be made publicly available and an electronic version shall be available on the division's internet website.

(b) For the report due on or before July 1, 2021, and each report thereafter, the division shall conduct inspections of production facilities attendant to long-term idle wells to ensure compliance with the requirements of this chapter. Information summarizing violations and pertinent findings in these inspections shall be included in the applicable report required to be prepared and transmitted pursuant to subdivision (a).

(c) For the report due on or before July 1, 2023, and each report thereafter, the division shall provide a description of activities undertaken by the division's collections unit established pursuant to Section 3243. This description shall include the number of operators and amounts of idle well fees collected by the collections unit in the preceding year, the criteria, including timelines, used by the collections unit to determine a well or attendant facility is deserted, and the amount of costs recovered from operators or responsible parties for work ordered by the supervisor or undertaken by the division. Information related to the division's use of liens, including, but not limited to, the number of wells and facilities eligible to be subject to a lien, the number of liens placed by the supervisor, and the number of liens released by the supervisor, shall also be provided.

(d) Information on how to access the plans described in subparagraph (D) of paragraph (1) of subdivision (a) shall be made readily available on the division's internet website.

(e) After July 1, 2026, the division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 2.5. Section 3206.3 of the Public Resources Code is amended to read:

3206.3. (a) (1) Notwithstanding Section 10231.5 of the Government Code, on or before July 1, 2019, and annually thereafter until July 1, 2026, the supervisor shall, in compliance with Section 9795 of the Government Code, prepare and transmit to the Legislature a comprehensive report on the status of idle and long-term idle wells for the preceding calendar year. The report shall include all of the following:

(A) A list of all idle and long-term idle wells in the state by American Petroleum Institute identification number and indicating the operator, field, and pool.

(B) A list of all wells whose idle or long-term idle status changed in the preceding year by American Petroleum Institute identification number with the disposition and current status of each well.

(C) A list of orphan wells remaining, the estimated costs of abandoning those orphan wells, and a timeline for future orphan well abandonment with a specific schedule of goals. Idle and long-term idle wells that have become orphan wells shall be identified in the list. For the purposes of this report, an orphan well is a well that has no party responsible for it, leaving the state to plug and abandon it.

(D) A list of all operators with plans filed with the supervisor for the management and elimination of all long-term idle wells and the status of those plans.

(E) Any additional relevant information as determined by the supervisor.

(2) The report shall be made publicly available and an electronic version shall be available on the division's internet website.

(b) For the report due on or before July 1, 2022, and each report thereafter, the division shall do both of the following:

(1) Conduct inspections of production facilities attendant to long-term idle wells to ensure compliance with the requirements of this chapter. Information summarizing violations and pertinent findings in these inspections shall be included in the applicable report required to be prepared and transmitted pursuant to subdivision (a).

(2) Identify idle wells by the American Petroleum Institute identification number that are registered to an operator and that have met the definition of an idle well for three years where neither the required annual fee has been paid or the well is part of a valid idle well management plan on file with the supervisor pursuant to subdivision (a) of Section 3206.

(c) For the report due on or before July 1, 2023, and each report thereafter, the division shall provide a description of activities undertaken by the division's collections unit established pursuant to Section 3243. This description shall include the number of operators and amounts of idle well fees collected by the collections unit in the preceding year, the criteria, including timelines, used by the collections unit to determine a well or attendant facility is deserted, and the amount of costs recovered from operators or responsible parties for work ordered by the supervisor or undertaken by the division. Information related to the division's use of liens, including, but not limited to, the number of wells and facilities eligible to be subject to a lien, the number of liens placed by the supervisor, and the number of liens released by the supervisor, shall also be provided.

(d) Information on how to access the plans described in subparagraph (D) of paragraph (1) of subdivision (a) shall be made readily available on the division's internet website.

(e) After July 1, 2026, the division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 3. Section 3226 of the Public Resources Code is amended to read:

3226. (a) Within 30 days after service of an order pursuant to Sections 3224 and 3225, or Section 3237, or if there has been an appeal from the order to the director, within 30 days after service of the decision of the director, or if a review has been taken of the order of the director, within 10 days after affirmance of the order, the owner or operator shall commence in good faith the work ordered and continue it until completion. If the work has not been commenced and continued to completion, the supervisor may appoint necessary agents to enter the premises and perform the work. An accurate account of the expenditures shall be kept. Any amount so expended shall constitute a lien against real or personal property of the operator pursuant to the provisions of Section 3423. Before performing such work, the division may impose a lien against the real or personal property of the operator pursuant

to Section 3423 in an amount equal to an estimate of the cost of the work based on a bid from a contractor or previous costs to perform comparable work.

(b) Notwithstanding any other provisions of Section 3224, 3225, or 3237, if the supervisor determines that an emergency exists, the supervisor may order or undertake the actions the supervisor deems necessary to protect life, health, property, or natural resources.

(c) The division's accounting of actual or estimated costs to perform work ordered shall be served upon the operator by personal service or certified mail. For purposes of Section 3420, charges to an operator pursuant to this section for actual or estimated costs to perform work ordered are delinquent if not paid within 30 days after service of the accounting of costs.

SEC. 4. Section 3243 is added to the Public Resources Code, to read:

3243. (a) On or before July 1, 2022, the supervisor shall establish a collections unit within the division.

(b) The collections unit shall be responsible for identifying persons responsible for charges under this chapter, locating assets belonging to those persons, and fully implementing all of the division's authorities for collecting the amounts owed.

(c) (1) To the extent feasible, the division shall use existing resources and personnel in establishing a collections unit.

(2) The requirement imposed by paragraph (1) shall remain operative until January 1, 2027.

SEC. 5. Section 3417.5 is added to the Public Resources Code, to read:

3417.5. (a) The division shall send a notice to each operator subject to a fee pursuant to Section 3206 by April 1 of each year. The notice shall do both of the following:

(1) Identify the amount of the annual fee due no later than May 1 of that year.

(2) State that if the fee amount in the notice is in error, the operator may apply to the division before May 1 of that year to have the fee amount corrected.

(b) The failure to send a notice shall not affect the validity or amount of the fee owed pursuant to Section 3206.

(c) The notice shall be sent by mail or by electronic means deemed appropriate by the division, including, but not limited to, electronic mail or an alternative electronic system that persons opt into for receiving notice.

SEC. 6. Section 3420 of the Public Resources Code is amended to read:

3420. (a) (1) No charges shall be levied for assessments on oil and gas production of less than ten dollars (\$10).

(2) The charges levied for assessments are due and payable on the first of July in each year for assessments of more than ten dollars (\$10), but less than five hundred dollars (\$500). The charges shall be delinquent if not paid on or before August 15th of each year.

(3) The charges levied for assessments are due and payable on the first of July in each year for assessments of five hundred dollars (\$500) or more. One-half of the charges shall be delinquent if not paid on or before August 15th of each year. The remaining one-half of the charges shall be delinquent if not paid on or before the first of February of the following year.

(b) Idle well fee charges pursuant to Section 3206 are due and payable as specified pursuant to that section and are immediately delinquent if not paid as required.

(c) Charges to an operator pursuant to Section 3226 for actual or estimated costs to perform work ordered are delinquent if not paid within 30 days after service of the accounting of costs.

(d) Any person who fails to pay any charge within the time required shall pay a penalty of 10 percent of the amount due, plus interest at the rate of $1\frac{1}{2}$ percent per month, or fraction thereof, computed from the delinquent date of the assessment, idle well fee, or other charge pursuant to this chapter until and including the date of payment.

SEC. 7. Section 2.5 of this bill incorporates amendments to Section 3206.3 of the Public Resources Code proposed by both this bill and Senate Bill 84. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 3206.3 of the Public Resources Code, and (3) this bill is enacted after Senate Bill 84, in which case Section 2 of this bill shall not become operative.