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AB-1866 Oil and gas: idle wells. (2023-2024)

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Date Published: 09/26/2024 10:00 AM

Assembly Bill No. 1866

CHAPTER 548

An act to amend Sections 3206 and 3206.3 of the Public Resources Code, relating to oil and gas, and making an appropriation therefor.

[Approved by Governor September 25, 2024. Filed with Secretary of State September 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1866, Hart. Oil and gas: idle wells.

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 oil and gas wells, as provided. A person who violates or fails, neglects, or refuses to comply with any of the oil and gas laws is guilty of a crime.

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 according to a specified schedule of fees based on the length of time a well has been idle, applicable to wells that have been idle wells for 3 years or longer, or (2) file a plan with the supervisor to provide for the management and elimination of all long-term idle wells, as provided. Existing law also establishes the Hazardous and Idle-Deserted Well Abatement Fund, a continuously appropriated fund, for the deposit of all fees received pursuant to these provisions.

This bill would revise and recast these provisions. The bill would, among other things, increase the fees for idle wells, and additionally impose fees for each idle well that has been an idle well for less than 3 years, as provided. By increasing the fees collected from operators of idle wells that are deposited into a continuously appropriated fund, the bill would make an appropriation.

The bill would also revise and recast the provisions of the idle well plan. The bill would, among other things, require operators who do not file the above-described idle well fees to, no later than May 1 of each year, file a plan with the supervisor to provide for the management and elimination of all idle wells, instead of all long-term idle wells. The bill would require the plan to require the operator to consider specified factors when prioritizing idle wells for plugging and abandonment. The bill would revise the provision requiring operators to eliminate a specified percentage of long-term idle wells by making it applicable to all idle wells and by increasing the minimum percentages of idle wells that operators would be required to eliminate each year, as provided. By expanding the scope of crimes, the bill would impose a state-mandated local program.

The bill would exempt from its provisions an idle well (1) for which an operator has made a diligent effort to locate and access the well and has provided documentation demonstrating that it is infeasible to locate or physically access the wellbore, subject to the approval of the division, or (2) that is the subject of a court-approved settlement agreement entered into on or before December

31, 2024, between a local governmental entity and the operator of the idle well, if that settlement agreement imposes more stringent requirements relating to the management and elimination of idle wells than the requirements imposed by this bill.

Existing law requires the supervisor to submit to the Legislature an annual comprehensive report, as specified, on the status of idle and long-term idle wells for the preceding calendar year.

This bill would require that report to also include a list of wells that the division has approved as being inaccessible, as described above.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 3206 of the Public Resources Code is amended to read:

3206. (a) No later than May 1 of each year, the operator of any idle well shall do either of the following:

(1) For each idle well that was an idle well at any time in the last calendar year, file with the supervisor an annual fee equal to the sum of the following amounts:

(A) One thousand dollars (\$1,000) for each idle well that has been an idle well for less than three years.

(B) Two thousand five hundred dollars (\$2,500) for each idle well that has been an idle well for three years or longer, but less than eight years.

(C) Five thousand dollars (\$5,000) for each idle well that has been an idle well for eight years or longer, but less than 15 years.

(D) Twelve thousand five hundred dollars (\$12,500) for each idle well that has been an idle well 15 years or longer, but less than 20 years.

(E) (i) Until January 1, 2029, twenty-two thousand five hundred dollars (\$22,500) for each idle well that has been an idle well for 20 years or longer.

(ii) On and after January 1, 2029, twenty-two thousand five hundred dollars (\$22,500) for each idle well that has been an idle well for 20 years or longer, but less than 25 years.

(F) On and after January 1, 2029, sixty thousand dollars (\$60,000) for each idle well that has been an idle well for 25 years or longer.

(2) File a plan with the supervisor to provide for the management and elimination of all idle wells. For purposes of the plan, elimination of an idle well shall be accomplished when the well 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 maintained production of oil or gas, maintained production of water used in production stimulation, or been used for enhanced oil recovery, reservoir pressure management, or injection for a continuous six-month period. The plan shall comply with all of the following:

(A) Specify the calendar year or years that it covers. The plan and any renewal of the plan shall cover a time period of up to eight years.

(B) Require the operator to consider all of the following when prioritizing idle wells for plugging and abandonment, in addition to priorities identified by the supervisor in regulations:

(i) The age of the idle well.

(ii) Any indication that the idle well potentially poses a threat to life, health, property, or natural resources.

(iii) Wells that are located within 3,200 feet of a sensitive receptor, as defined in Section 3280.

(C) Include notes indicating the basis for prioritizing wells.

(D) Be subject to approval by the supervisor, who may prioritize the order in which idle wells are addressed.

(E) Be reviewed for performance annually by the supervisor, and be subject to amendment by the supervisor, or by the operator with the approval of the supervisor. An updated plan shall be required if there is a change in ownership or holdings of the operator.

(F) The required rate of idle well elimination shall be based upon the number of idle wells under the control of an operator on January 1 of each year, as specified in subparagraph (G). If the operator has eliminated more wells than required in calendar year 2024 or any subsequent calendar year, the supervisor may deduct from the new requirement the number of idle wells eliminated in excess of those previously required. In addition, the supervisor may require additional well testing requirements as part of the plan.

(G) (i) For calendar years 2025 to 2027, inclusive, unless and until the operator has no idle wells, require that operators with 250 or fewer idle wells eliminate at least 5 percent of their idle wells each year, and, in no case, less than one idle well; operators with 251 to 1,250, inclusive, idle wells eliminate at least 6 percent of their idle wells each year; operators with 1,251 to 3,000, inclusive, idle wells eliminate at least 7 percent of their idle wells each year; and operators with more than 3,000 idle wells eliminate at least 15 percent of their idle wells each year.

(ii) For calendar years 2028 and 2029, unless and until the operator has no idle wells, require that operators with 250 or fewer idle wells eliminate at least 6 percent of their idle wells each year, and, in no case, less than one idle well; operators with 251 to 1,250, inclusive, idle wells eliminate at least 8 percent of their idle wells each year; operators with 1,251 to 3,000, inclusive, idle wells eliminate at least 10 percent of their idle wells each year; and operators with more than 3,000 idle wells eliminate at least 18 percent of their idle wells each year.

(iii) For calendar year 2030 and all subsequent calendar years, unless and until the operator has no idle wells, require that operators with 250 or fewer idle wells eliminate at least 8 percent of their idle wells each year, and, in no case, less than one idle well; operators with 251 to 1,250, inclusive, idle wells eliminate at least 10 percent of their idle wells each year; operators with 1,251 to 3,000, inclusive, idle wells eliminate at least 15 percent of their idle wells each year; and operators with more than 3,000 idle wells eliminate at least 20 percent of their idle wells each year.

(H) An operator who fails to comply with the plan, as determined by the supervisor after the annual performance review, is not eligible to use the requirements of this paragraph, for purposes of compliance with this section, for any of its idle wells. An operator may appeal to the director pursuant to Article 6 (commencing with Section 3350) regarding the supervisor's rejection of a plan and plan amendments and the supervisor's determination of the operator's failure to comply with a plan. If the supervisor's determination that the operator failed to comply with the plan is not timely appealed, or if the director upholds the supervisor's determination upon appeal, the operator shall immediately file the fees required under paragraph (1) for each year that the operator failed to comply with the plan. That operator may not propose a new idle well plan under this paragraph for the next two years and then only if the operator has paid all required idle well fees and any associated late payment penalties and interest.

(b) All fees received under this section shall be deposited in the Hazardous and Idle-Deserted Well Abatement Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the moneys in the Hazardous and Idle-Deserted Well Abatement Fund are hereby continuously appropriated to the department for expenditure without regard to fiscal year, to mitigate a hazardous or potentially hazardous condition, by well plugging and abandonment, decommissioning the production facilities, or both, at a well of an operator subject to the requirements of this section.

(c) The failure to file, for any well, the fee required under this section shall be conclusive evidence of desertion of the well, permitting the supervisor to order the well abandoned pursuant to Section 3237.

(d) This section does not prohibit a local agency from collecting a fee for regulation of wells.

(e) Subject to the approval of the division, an idle well shall not be subject to the requirements of this section if the operator has made a diligent effort to locate and access the well, and provided documentation of those efforts demonstrating that it is infeasible to locate or physically access the wellbore.

(f) This section does not apply to an idle well that is the subject of a court-approved settlement agreement entered into on or before December 31, 2024, between a local governmental entity and the operator of the idle well, if that settlement agreement imposes more stringent requirements relating to the management and elimination of idle wells than the requirements imposed by the amendments to this section made by Assembly Bill 1866 of the 2023–24 Regular Session of the Legislature.

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, 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) A list of all wells for which the division has approved a demonstration of inaccessibility under subdivision (e) of Section 3206.

(F) 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) The division shall continue to regularly provide updated information describing idle and long-term idle wells on the division's internet website.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.