

AMENDED IN ASSEMBLY AUGUST 5, 1996

AMENDED IN ASSEMBLY JUNE 25, 1996

SENATE BILL

No. 2007

Introduced by Senator Costa

February 23, 1996

An act to amend Sections 3009, 3201, 3202, 3208.1, 3237, 3251, 3352, 3353, and 3354 of, to add Section 3238 to, and to repeal Sections 3010 and 3011 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 2007, as amended, Costa. Oil and gas wells.

(1) Existing law regulates the drilling, operation, maintenance, and abandonment of oil or gas wells, and defines an operator to mean any person drilling, maintaining, operating, pumping, or in control of a well.

This bill would revise that definition to specify that an operator means any 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.

(2) Under existing law, a person who acquires ownership or operation of an oil or gas well is required to notify the State Oil and Gas Supervisor or the district deputy, in writing. Acquisition of the well is not final until the operator provides specified information and a bond or deposit for any well that has not produced oil or gas or has not been used for injection for 5 years prior to the date of acquisition.

This bill would specify that the operator is not relieved of responsibility for a well, ~~and the facilities attendant to the well,~~ until the supervisor or district deputy acknowledges the change of ownership in writing, and the person acquiring the well ~~or facilities~~ provides the required information and bond or deposit.

(3) Existing law authorizes the supervisor, to prevent damage to life, health, and property, to order the reabandonment of any previously abandoned oil or gas well when the future construction of any structure over or in the proximity of the well could result in a hazard, and requires that the owner of the property upon which the structure will be located be responsible for the cost of the reabandonment operations. Existing law further provides that, if the well was not abandoned in accordance with specified procedures in effect at the time of the abandonment, the last operator having an economic interest in, or receiving any benefit from, the well, if still in business in this state, is responsible for those costs associated with reabandonment.

This bill would authorize the supervisor or district deputy to instead order the plugging and reabandonment of any previously abandoned well if the supervisor or district deputy has reason to question the integrity of the previous abandonment and proposed construction, if any, as specified.

(4) Existing law authorizes the supervisor or district deputy to order the abandonment of any well that has been deserted whether or not any damage is occurring or threatened by reason of that well, and specifies that the suspension of drilling operations and removal of drilling machinery is prima facie evidence of desertion after the elapse of 6 months, except as specified.

This bill would delete those provisions pertaining to prima facie evidence of desertion and would require the supervisor or district deputy to instead determine from credible evidence, as specified, whether a well is deserted. The bill would specify that, if the supervisor determines that the current operator of a well does not have the financial resources to fully cover the cost of plugging and abandoning the well, the immediately preceding operator shall be responsible for the costs if the operator acquired ownership of



the well after January 1, 1996, except as provided. The bill would authorize the supervisor to undertake the plugging and abandoning of a well if the supervisor is unable to determine that an operator that acquired ownership of the well after January 1, 1996, has the financial resources to fully cover the costs of plugging and abandoning the well.

(5) Existing law requires that an annual production charge on oil and gas be imposed upon the person operating each oil or gas well in the state, based on a specified formula for computing the rate of the production charge.

This bill would require the production charge to be reduced to zero for a period of 10 years for specified types of wells, or wells that have been inactive for a period of *at least 5 consecutive* years.

(6) Existing law provides procedures for the appeal of orders issued by the supervisor or a district deputy, and requires the Director of Conservation, within 10 days from the taking of the appeal, to give an appellant 10 days notice in writing of the time and place of a hearing, except for good cause, and requires the director to make a written decision with respect to the order appealed from within 10 days after hearing the evidence.

This bill would increase to *a minimum of 20* days the time period for that written notice, except in cases where the director determines that there is an immediate threat to human health and safety or to the environment, and increase to 20 days the time period after hearing evidence within which the director is required to make a written decision on an order that has been appealed from, *except as specified*.

The bill would make various technical and clarifying changes in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3009 of the Public Resources
- 2 Code is amended to read:
- 3 3009. "Operator" means any person who, by virtue of
- 4 ownership, or under the authority of a lease or any other



1 agreement, has the right to drill, operate, maintain, or
2 control a well.

3 SEC. 2. Section 3010 of the Public Resources Code is
4 repealed.

5 SEC. 3. Section 3011 of the Public Resources Code is
6 repealed.

7 SEC. 4. Section 3201 of the Public Resources Code is
8 amended to read:

9 3201. The operator *of any well* shall notify the
10 supervisor or the district deputy, in writing, in such form
11 as the supervisor or the district deputy may direct, of the
12 sale, assignment, transfer, conveyance, exchange, or
13 other disposition of the well ~~or facilities attendant to the~~
14 ~~well~~ by the operator *of the well* as soon as is reasonably
15 possible, but in no event later than the date that the sale,
16 assignment, transfer, conveyance, exchange, or other
17 disposition becomes final. The operator shall not be
18 relieved of responsibility for the well ~~and the facilities~~
19 ~~attendant to the well~~ until the supervisor or the district
20 deputy acknowledges the sale, assignment, transfer,
21 conveyance, *exchange*, or other disposition, in writing,
22 and the person acquiring the well ~~or facilities~~ is in
23 compliance with Section 3202. The operator's notice shall
24 contain all of the following:

25 (a) The name and address of the person to whom the
26 well ~~or facilities~~ *was or* will be sold, assigned, transferred,
27 conveyed, exchanged, or otherwise disposed.

28 (b) The name and location of the well, and a
29 description of the land upon which the well is situated.

30 (c) The date that the sale, assignment, transfer,
31 conveyance, exchange, or other disposition ~~became~~
32 *becomes* final.

33 (d) The date when possession *was or* will be
34 relinquished by the operator as a result of that disposition.

35 SEC. 5. Section 3202 of the Public Resources Code is
36 amended to read:

37 3202. Every person who acquires the right to operate
38 a well, whether by purchase, transfer, assignment,
39 conveyance, exchange, or other disposition, shall, as soon
40 as it's reasonably possible, but in no event later than the



1 date that the acquisition of the well ~~or facilities~~ attendant
2 ~~to the well~~ becomes final, notify the supervisor or the
3 district deputy, in writing, of the person's operation. The
4 acquisition of a well ~~or facilities~~ shall not be recognized as
5 complete by the supervisor or the district deputy until the
6 new operator provides all of the following:

7 (a) The name and address of the person from whom
8 the well ~~or facilities~~ was acquired.

9 (b) The name and location of the well, and a
10 description of the land upon which the well is situated.

11 (c) The date that the acquisition ~~became~~ *becomes*
12 final.

13 (d) The date when possession was *or will be* acquired.

14 (e) A bond or deposit for any well that has not
15 produced oil or gas or has not been used for injection
16 during the five years immediately prior to the date of
17 acquisition. The bond or deposit shall be in an amount as
18 provided in Section 3204 or 3205. The conditions of the
19 bond or deposit shall be the same as the conditions stated
20 in Section 3204. An operator that has provided the bond
21 required by this subdivision shall not be required
22 additionally to provide the bond or pay the fee required
23 by Section 3206. However, the bond or fee required by
24 Section 3206 shall not be substituted for the bond
25 required by this subdivision.

26 SEC. 6. Section 3208.1 of the Public Resources Code
27 is amended to read:

28 3208.1. (a) To prevent, as far as possible, damage to
29 life, health, and property, the supervisor or district
30 deputy may order the reabandonment of any previously
31 abandoned well if the supervisor or the district deputy
32 has reason to question the integrity of the previous
33 abandonment and any proposed construction, including
34 the erection of a structure or the placement of fill over or
35 near the ~~abandoned~~ well that may prevent or impede
36 access to the ~~abandoned~~ well for purposes of remedying
37 any hazard. The cost of the reabandonment operations
38 shall be the responsibility of the owner of the property
39 upon which the ~~abandoned well~~ or proposed construction
40 will be located. However, if the well was not abandoned



1 in accordance with the requirements of the division in
2 effect at the time of the abandonment, the last operator
3 having an economic interest in, or receiving any benefit
4 from, the well, if the operator is still in business in this
5 state, shall be responsible for the reabandonment;
6 otherwise the owner of the property shall be responsible.

7 (b) This section does not preclude the application of
8 Article 4.2 (commencing with Section 3250), except in
9 the following cases:

10 (1) To remedy any problem posing a danger to life,
11 health, or property from a previously abandoned well
12 where construction over or near the well has ~~been~~
13 ~~permitted~~ *begun on or after January 1, 1988*, and the
14 property owner, developer, or local agency permitting
15 the construction failed to obtain an opinion from the
16 supervisor or district deputy as to whether the previously
17 abandoned well is required to be reabandoned. In those
18 situations, responsibility for correcting problems posing
19 a danger to life, health, or property from the previously
20 abandoned well shall rest with the developer or the
21 owner of the property at the time of construction, unless
22 that developer or owner is deceased, defunct, or no
23 longer in business in, or a resident of, this state.

24 (2) To remedy any problems posing danger to life,
25 health, or property, if the supervisor or district deputy
26 finds, from evidence obtained by, or made available to,
27 the supervisor or district deputy, that (A) after the well
28 was properly abandoned, development of the surface of
29 the property on which the well is located by someone
30 other than the operator or an affiliate of the operator
31 likely disturbed the integrity of the abandonment, and
32 (B) the supervisor can identify the party or parties
33 responsible for disturbing the integrity of the
34 abandonment.

35 SEC. 7. Section 3237 of the Public Resources Code is
36 amended to read:

37 3237. (a) (1) The supervisor or district deputy may
38 order the plugging and abandonment of any well that has
39 been deserted whether or not any damage is occurring or
40 threatened by reason of that deserted well. The



1 supervisor or district deputy shall determine from
2 credible evidence whether a well is deserted.

3 (2) For purposes of paragraph (1), “credible
4 evidence” includes, but is not limited to, the operational
5 history of the well, the response or lack of response of the
6 operator to inquiries and requests from the supervisor or
7 district deputy, the extent of compliance by the operator
8 with the requirements of this chapter, and other actions
9 of the operator with regard to the well.

10 (3) A rebuttable presumption of desertion shall arise
11 in any of the following situations:

12 (A) If a well has not been completed to production ~~and~~
13 ~~drilling machinery has~~ or *injection and drilling*
14 *machinery have* been removed from the well site for at
15 least six months.

16 (B) If a well’s production ~~equipment or facilities have~~
17 *or injection equipment has* been removed from the well
18 site for at least two years.

19 (C) If an operator has failed to comply with an order
20 of the supervisor within the time provided by the order
21 or has failed to challenge the order on a timely basis.

22 (D) If an operator fails to designate an agent as
23 required by Section 3200.

24 (E) If a person who is to acquire a well that is subject
25 to a purchase, transfer, assignment, conveyance,
26 exchange, or other disposition fails to comply with Section
27 3202.

28 (4) The operator may rebut the presumptions of
29 desertion set forth in paragraph (3) by demonstrating
30 with credible evidence *compliance with the division and*
31 that the well has the potential for commercial production,
32 including specific and detailed plans for future
33 operations, and by providing a reasonable timetable for
34 putting those plans into effect.

35 (b) An order to plug and abandon a deserted well may
36 be appealed to the director pursuant to the procedures
37 specified in Article 6 (commencing with Section 3350).

38 (c) (1) The current operator, as determined by the
39 records of the supervisor, of a deserted well that
40 produced oil, gas, or other hydrocarbons or was used for



1 injection shall be responsible for the proper plugging and
2 abandonment of the well. If the supervisor determines
3 that the current operator does not have the financial
4 resources to fully cover the cost of plugging and
5 abandoning the well, the immediately preceding
6 operator shall be responsible for the cost of plugging and
7 abandoning the well.

8 (2) The supervisor may continue to look seriatim to
9 previous operators until an operator is found that the
10 supervisor determines has the financial resources to
11 cover the cost of plugging and abandoning the well.
12 However, the supervisor may not hold an operator
13 responsible that has made a valid transfer of ownership of
14 the well prior to January 1, 1996.

15 (3) For purposes of this subdivision, “operator” shall
16 include a mineral interest owner who shall be held jointly
17 liable for the well if the mineral interest owner has or had
18 leased or otherwise conveyed the working interest in the
19 well to another person if in the lease or other conveyance
20 the mineral interest owner retained a right to control the
21 well operations that exceeds the scope of an interest
22 customarily reserved in a lease or other conveyance in the
23 event of a default.

24 (4) No prior operator shall be liable for any of the costs
25 of plugging and abandoning a well by a subsequent
26 operator if those costs are necessitated by the subsequent
27 operator’s illegal operation of a well.

28 (5) If the supervisor is unable to determine that an
29 operator that acquired ownership of a well after January
30 1, 1996, has the financial resources to fully cover the costs
31 of plugging and abandonment, the supervisor may
32 undertake plugging and abandonment pursuant to
33 Article 4.2 (commencing with Section 3250).

34 SEC. 8. Section 3238 is added to the Public Resources
35 Code, to read:

36 3238. (a) For oil and gas produced in this state from
37 a well that qualifies under Section 3251 or which has been
38 inactive for a period of ~~five or more~~ *at least the preceding*
39 *five* consecutive years, the rate of the charges imposed
40 pursuant to Sections 3402 and 3403 shall be reduced to



1 zero for a period of 10 years. The supervisor or district
2 deputy shall not permit an operator to undertake any
3 work on wells qualifying under Section 3251 unless the
4 mineral rights owner consents, in writing, to the work
5 plan.

6 (b) An operator who undertakes any work on a well
7 qualifying under Section 3251 shall have up to 90 days
8 from the date the operator receives written consent from
9 the supervisor to evaluate the well. On or before the ~~the~~
10 90 day evaluation period ends, the operator shall file with
11 the supervisor a bond or deposit in an amount specified
12 in Section 3204, 3205, or 3205.1, in accordance with the
13 requirements of whichever of those sections is applicable
14 to the well. ~~If, if~~ the well operations are to continue for a
15 period in excess of the 90 day evaluation period, ~~the~~. *The*
16 conditions of the bond shall be the same as the conditions
17 stated in Section 3204.

18 SEC. 9. Section 3251 of the Public Resources Code is
19 amended to read:

20 3251. For the purposes of this article, an oil or gas well
21 is a “hazardous well” if the supervisor determines that the
22 well is a potential danger to life, health, or natural
23 resources and there is no operator determined by the
24 supervisor to be responsible for plugging and abandoning
25 the well under subdivision (c) of Section 3237. Also, for
26 the purposes of this article, an oil or gas well is an
27 “idle-deserted well” if the *supervisor determines that the*
28 well is deserted under Section 3237 and there is no
29 operator responsible for its plugging and abandonment
30 under Section 3237.

31 SEC. 10. Section 3352 of the Public Resources Code is
32 amended to read:

33 3352. Within 10 days from the date of the taking of the
34 appeal, *a minimum* 20 days notice in writing shall be
35 given to the appellant of the time and place of the
36 hearing. In cases where the director determines that
37 there is an immediate threat to human health and safety
38 or to the environment, the director may shorten the
39 notice period to 10 days. For good cause, and if the
40 director determines that there is not such an immediate



1 threat, the director may postpone the hearing, on the
2 application of the appellant, the supervisor, or the district

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1 ~~is continued, but no continuance shall be permitted for a~~
2 ~~longer period than 30 days..~~

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