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2 STATE OIL AND GAS SUPERVISOR  
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4 Sacramento, California 95814-3530  
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9 **STATE OF CALIFORNIA**  
10 **NATURAL RESOURCES AGENCY**  
11 **DEPARTMENT OF CONSERVATION**  
12 **DIVISION OF OIL, GAS, AND GEOTHERMAL RESOURCES**  
13

14 **ORDER TO:**  
15 **PLUG AND ABANDON WELL,**  
16 **DECOMMISSION ATTENDANT FACILITIES, AND**  
17 **RESTORE WELL SITE**  
18

19 **NO. 1124**

20 **Dated: July 16, 2018**

21 **Operators: E.S. Arnn (02468), Wayne Ballinger (B0930)**  
22  
23

24 **BY**

25 **Kenneth A. Harris Jr.**

26 **STATE OIL AND GAS SUPERVISOR**  
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1 **I. Introduction**

2 The State Oil and Gas Supervisor (Supervisor), acting through the Division of Oil, Gas,  
3 and Geothermal Resources (Division), may order the plugging and abandonment of a well that  
4 he has determined, upon credible evidence, to be deserted, whether or not any damage is  
5 occurring, or threatened, by reason of that deserted well. (**Public Resources Code [PRC], §**  
6 **3237, subdivision (a)(1).**) Based on the Division’s records, **E.S. Arnn** (Arnn, Division operator  
7 code 02468) and **Wayne Ballinger** (Ballinger, Division operator code B0930) are each a  
8 responsible “operator” (Operator) (as defined in **PRC section 3009**) and are responsible (as  
9 specified in **PRC section 3237, subdivision (c)(1)**), for the plugging and abandonment of the  
10 well “**Drake**” 1 (API No. **037-09298; Long Beach Oil Field**) (**the Well**), the decommissioning  
11 of the attendant production facilities (**the Facilities**), and the restoration of the well site (**the**  
12 **Well and Facilities**). Herein, the Supervisor is ordering Operator to do so because the  
13 Supervisor has determined, based on information, belief, and the evidence detailed below, that  
14 Operator has deserted **the Well and Facilities**.

15 Therefore, pursuant to **PRC sections 3106, 3224, 3226, and 3237**, and as set forth below,  
16 the Supervisor is ordering Operator to plug and abandon **the Well** and decommission **the**  
17 **Facilities** according to **PRC sections 3208, 3228, 3229, and 3230, California Code of**  
18 **Regulations, title 14, (Regulations) sections 1722, 1723 through 1724.1, 1760, 1775, and**  
19 **1776**, and the conditions included in any permit the Division may issue pursuant to **PRC section**  
20 **3229**.

21 **II. Definitions**

22 **PRC section 3008, subdivision (a)**, defines “Well” to mean “any oil or gas well or well  
23 for the discovery of oil or gas; any well on lands producing or reasonably presumed to contain  
24 oil or gas,” among others.

25 **PRC section 3009** defines “Operator” to mean “a person who, by virtue of ownership, or  
26 under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or  
27 control a well or production facility.”

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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 the  
5 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 3106** authorizes the Supervisor to supervise the drilling, operation,  
9 maintenance, and abandonment of oil and gas wells to “prevent, as far as possible, damage to  
10 life, health, property, and natural resources; damage to underground oil and gas deposits from  
11 infiltrating water and other causes; loss of oil, gas, or reservoir energy, and damage to  
12 underground and surface waters suitable for irrigation or domestic purposes by the infiltration  
13 of, or the addition of, detrimental substances.”

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

20           **PRC section 3226** authorizes the Supervisor, based the Supervisor’s final or affirmed  
21 order, to appoint agents who may enter the well premises and perform necessary remedial work  
22 if the operator did not complete the remedial work as ordered. Any amount the Supervisor  
23 expends to complete the necessary remedial work constitutes a lien against the operator’s real or  
24 personal property according to **PRC section 3423**.

25           **PRC section 3237, subdivision (a)(1)**, authorizes the Supervisor to “order the plugging  
26 and abandonment of a well...that has been deserted whether or not any damage is occurring or  
27 threatened by reason of that deserted well.” The Supervisor or district deputy “shall determine  
28 from credible evidence whether a well...is deserted.”

1 **IV. Idle Well Testing Requirements**

2 **Regulations section 1723.9** requires an operator to test any well that has not produced oil  
3 or natural gas, or has not been used for fluid injection for a continuous six-month period during  
4 any consecutive five-year period. The operator must test the well to determine the fluid level  
5 using acoustical, mechanical, or other reliable methods, and perform other diagnostic tests that  
6 the Supervisor may require. The operator must notify the appropriate Division district office  
7 before the tests are done so a Division inspector may witness the operations.

8 **V. Conclusive Evidence of Desertion**

9 The Division's records show that **the Well** is a "long-term idle well" that went idle in or  
10 around 1974. (See, former, **Pub. Resources Code, § 3008, subd. (e).**) Operator has not paid  
11 the fees required for idle wells under **PRC section 3206** (former or current), and has an  
12 outstanding balance of approximately \$10,500.00 in idle well fees. Operator's failure to pay the  
13 required idle well fees for **the Well** is conclusive evidence of desertion. (**Pub. Resources Code,**  
14 **§ 3206, subd. (c).**)

15 The Supervisor also determined that neither Operator Ballinger nor Operator Arnn has a  
16 bond on file for **the Well**. A bond was required upon any transfer of **the Well** from Arnn to  
17 Ballinger, under **PRC section 3202**. Operator Ballinger's failure to file a bond for **the Well**,  
18 upon and after transfer, is conclusive evidence of desertion. (See, former, **Pub. Resources**  
19 **Code, § 3206, subd. (c)** [Repealed January 1, 2018].)

20 **VI. Rebuttable Presumption of Desertion**

21 **A. Removal of Production Facilities or Injection Equipment**

22 Production equipment was removed from **the Well** at an unknown date. The Division's  
23 records show that no production facility or injection equipment has been present at the location  
24 since June 1987. Under **PRC section 3237, subdivision (a)**, a rebuttable presumption of  
25 desertion arises if a well's production facilities or injection equipment has been removed from  
26 the well site for at least two years. Based on the Division's records, no equipment has been  
27 present at **the Well** for more than 30 years. The Supervisor has determined that Operator's  
28 production facilities and injection equipment has been removed from **the Well** for over two

1 years, thereby creating a rebuttable presumption of desertion. (**Pub. Resources Code, § 3237,**  
2 **subd. (a)(3).**)

3 **B. Failure to Designate an Agent**

4 The Supervisor has determined that Operator Ballinger failed to notify the Division of its  
5 change of agent, and re-designate an agent, in violation of **PRC section 3200** because  
6 Operator's initial agent (Bob Grayson, Jr.; 3712 San Anseline, Long Beach, California 90808;  
7 (562) 244-2434) is no longer a viable agent. Operator's violation of **PRC section 3200** creates a  
8 rebuttable presumption of desertion. (**Pub. Resources Code, § 3237, subd. (a)(3)(D).**)

9 **C. Failure to Comply with PRC section 3202 (Acquisition of Property Interest)**

10 The Supervisor has determined that Operator Ballinger failed to notify the Division of a  
11 potential change in ownership of **the Well** at the time of acquisition, in violation of **PRC**  
12 **section 3202**. On May 6, 2004, the Division received by facsimile a Notice of Intention to  
13 Abandon the Well, which identified Wayne Ballinger as Operator and Bob Grayson, Jr. as agent.  
14 However, the Division never received written notice of Ballinger's acquisition. Operator's  
15 violation of **PRC section 3202** creates a rebuttable presumption of desertion. (**See Pub.**  
16 **Resources Code, § 3237, subd. (a)(3)(E).**)

17 **VII. Credible Evidence of Desertion**

18 The Supervisor has determined that Operator failed to submit the required well  
19 production data under **PRC section 3227** for **the Well** and failed to conduct the required idle  
20 well testing (see **Regulations section 1723.9**). Both failings are "credible evidence" of  
21 desertion since such evidence includes "the extent of compliance by the operator" with oil and  
22 gas conservation requirements. (**Pub. Resources Code, § 3237, subd. (a)(1) & (2).**)

23 **PRC section 3227** requires monthly well production reports, including reporting "zero"  
24 production (an idle or potential idle well). Division records indicate that Operator has not  
25 submitted production records since at least 1974, in violation of **PRC section 3227**. The lack of  
26 production records is credible evidence that Operator deserted well "Drake" 1.

27 **Regulations section 1723.9** requires an operator to test any well that has not produced oil  
28 or natural gas, or has not been used for fluid injection for a continuous six-month period during

1 any consecutive five-year period. The Division has no record of any idle well testing at **the**  
2 **Well**. Operator failed to comply with **Regulations section 1723.9** because it did not perform  
3 the required idle well tests for **the Well**. This is also credible evidence that Operator deserted  
4 well "Drake" 1.

5 The Supervisor has determined that Operator failed to properly abandon **the Well**, in  
6 violation of **PRC section 3208**. The Division received a Notice of Intention to Plug and  
7 Abandon **the Well** from Operator Ballinger in May 2004, and issued a permit to complete the  
8 work. However, no plugging work was initiated and the Division revoked the permit on August  
9 10, 2005. No production equipment is present at the well site; the chain-link fence is rusting and  
10 a large tree has grown into the enclosure. Operator failed to conduct the plugging and  
11 abandonment work required by **PRC section 3208**. This is credible evidence that Operator  
12 deserted well "Drake" 1. (**Pub. Resources Code, § 3237, subd. (a)(2).**)

13 Based on all of the allegations above, the Supervisor determined that credible evidence  
14 that Operator deserted **the Well** exists. The Supervisor is authorized to order Operator to plug  
15 and abandon **the Well**.

#### 16 **VIII. Operator's Required Actions**

17 For the reasons stated above, the Division has determined that Operator has deserted **the**  
18 **Well and Facilities**. Therefore, **IT IS HEREBY ORDERED** that Operator plug and abandon  
19 **the Well** and decommission **the Facilities** according to **PRC sections 3208, 3228, 3229, and**  
20 **3230, Regulations sections 1722, 1723 through 1724.1, 1760, 1775, and 1776, and the**  
21 conditions included in any permit the Division may issue pursuant to **PRC section 3229**.

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1 **IX. Operator's Appeal Rights**

2 **PRC section 3237, subdivision (b)**, entitles an operator to appeal a Supervisor's order to  
3 plug and abandon a deserted well. A notice of appeal must be timely made, in writing, and filed  
4 with the Director. (See **Public Resources Code beginning at PRC section 3350.**) To file an  
5 appeal, a written notice of appeal may be mailed to the following address:

6  
7 Department of Conservation  
8 Director's Office of Appeals  
9 801 K Street, MS 24-03 (Legal Office)  
10 Sacramento, California 95814-3530

11 If Operator does not file a timely written notice of appeal, this Order will become a final  
12 order and the Division may contract for performance of the work, pursuant to **PRC section**  
13 **3226**, if, within 30 days of this Order, Operator has not, in good faith, commenced the work  
14 ordered. Any costs incurred by the Supervisor to obtain compliance with this Order will  
15 constitute a lien against Operator's real or personal property per **PRC section 3423**.

16 If Operator submits a timely written notice of appeal, it, and interested parties, will  
17 receive notice of the appeal hearing date, time, and place. Following the hearing, Operator, and  
18 interested parties, will receive a written decision that affirms, sets aside, or modifies the  
19 appealed order.


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21 **X. Other Potential Actions to Enforce This Order**

22 Failing to comply with **Section VIII** (Operator's Required Actions) of this Order could  
23 subject Operator to further enforcement action. For example, the Supervisor could deny  
24 approval of proposed well operations until compliance is achieved. (**PRC, § 3203, subd. (c).**)

25 In addition, **PRC section 3236.5** authorizes the Supervisor to impose a civil penalty on a  
26 person who violates any provision in Chapter 1 of Division 3 of the PRC or any regulation that  
27 implements those statutes, and the Supervisor may in the future impose a civil penalty based on  
28 the facts and omissions underlying this Order.

1 Further, **PRC section 3236** makes it a misdemeanor for any person who violates, fails,  
2 neglects, or refuses to comply with any of the provisions of the oil and gas law. The  
3 misdemeanor is punishable by a fine of not less than one hundred dollars (\$100) nor more than  
4 one thousand dollars (\$1,000), or by imprisonment not exceeding six months, or by both the fine  
5 and imprisonment for each separate offense. **PRC section 3359** makes it a misdemeanor to fail  
6 or neglect to comply with an order of the Supervisor. Each day's further failure, refusal, or  
7 neglect is a separate and distinct offense. (**PRC, § 3359.**)

8  
9 DATED: July 16, 2018

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13 Kenneth A. Harris Jr.  
14 State Oil and Gas Supervisor

15 See attached PROOF OF SERVICE for distribution list  
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1 **PROOF OF SERVICE BY CERTIFIED U.S. MAIL**

2 I declare that I am employed in the County of Sacramento, California. I am over the age of 18  
3 and not a party to the within captioned cause. My business address is 801 K Street, MS 18-05,  
Sacramento, California 95814. On July 16, 2018, I served the following document(s):

4 **ORDER TO: PLUG AND ABANDON WELL, DECOMMISSION ATTENDANT FACILITIES, AND**  
5 **RESTORE WELL SITE, ORDER NO. 1124**

6 by enclosing them in an envelope and placing the envelope for collection and mailing by certified U.S.  
7 mail on the date and at the below listed address(es) following our ordinary business practices. I am  
8 readily familiar with this business's practice for collecting and processing correspondence for mailing.  
On the same day that correspondence is placed for collection and mailing, it is deposited in the  
ordinary course of business with the United States Postal Service in a sealed envelope with postage  
fully prepaid.

9 I served the documents on the person or persons below, as follows:

10 E.S. Arnn, Operator  
11 7442 West 80<sup>th</sup> Street  
12 Lost Angeles, CA 90045  
Cert mail: 7016 1370 0000 0837 9750

Ray H. Overacker, Agent  
E.S. Arnn  
412 Olive Avenue  
Huntington Beach, CA 92648  
Cert mail: 7016 1370 0000 0837 9767

13 Wayne Ballinger, Operator  
14 3712 San Anseline Avenue  
15 Long Beach, CA 90808  
Cert mail: 7016 1370 0000 0837 9774

Wayne Ballinger, Operator  
3300 Lewis Avenue  
Signal Hill, CA 90807  
Cert mail: 7016 1370 0000 0837 9781

16 Wayne Ballinger, Operator  
17 3647 Country Club Drive  
18 Long Beach, CA 90807  
Cert mail: 7016 1370 0000 0837 9798

Bob Grayson, Agent  
Ballinger  
4004 South Enos Lane  
Bakersfield, CA 93314  
Cert mail: 7014 1370 0000 0837 9804

19 Bob Grayson, Agent  
20 Ballinger  
18812 Highway 65  
Bakersfield, CA 93308  
Cert mail: 7016 1370 0000 0837 9811

Bob Grayson, Agent  
Ballinger  
P.O. Box 12620  
Bakersfield, CA 93389  
Cert mail: 7016 0750 0000 3520 2507

22 Rodney & Richard C. Nakashima  
23 7026 Kamilo Street  
Honolulu, HI 96825-1607  
Cert mail: 7016 0750 0000 3520 5010

William Curtis  
4545 Willis Avenue  
Sherman Oaks, CA 91403  
Cert mail: 7014 2120 0000 5989 3591

24  
25 I declare under penalty of perjury of the laws of the State of California that the foregoing is  
true and correct, and that this declaration was executed on July 16, 2018, at Sacramento, CA.

26  
27   
28 Rachael Tadlock