



## NOTICE TO OPERATORS

2023-06

(Restating and Supplementing NOTICE TO OPERATORS 2023-02)

May 31, 2023

### **NOTICE OF APPELLATE ORDER REGARDING KERN COUNTY CODE CHAPTER 19.98; GUIDANCE FOR CEQA COMPLIANCE FOR PROPOSED OPERATIONS IN UNINCORPORATED KERN COUNTY**

This Notice to Operators restates and updates NTO 2023-02, distributed on February 2, 2023. Additions are shown in underline.

On January 26, 2023, the Court of Appeal for the Fifth District suspended operation of Kern County's Oil and Gas Ordinance, Kern County Code Chapter 19.98 (Ordinance), pending further order of the Court of Appeal. As a result, the California Geologic Energy Management Division's (CalGEM) processes to carry out its responsibilities under the California Environmental Quality Act (CEQA) in reviewing pending and future Notices of Intention (NOIs) or applications for oil and gas activities in unincorporated Kern County, based on job cards issued under the Ordinance, have changed. Until further notice, CalGEM will be the CEQA lead agency for all such reviews.

#### Background:

On October 22, 2021, the court in *Vaquero Energy Inc. v. County of Kern*, Kern County Superior Court Nos. BCV-15-101645-GP (consolidated with 10053-GP, and 100536-GP), ordered Kern County to suspend operations under the Ordinance, and ordered Kern County to cease reviewing and approving oil and gas permits ("job cards") under the Ordinance unless and until the court determines that the Ordinance complies with CEQA requirements. This resulted in CalGEM becoming the CEQA lead agency for reviewing oil and gas applications based on job cards issued under the Ordinance.

On November 2, 2022, the Superior Court issued a new order lifting the previously ordered suspension of the operation of the Ordinance. Accordingly, Kern County resumed permitting of oil and gas operations as

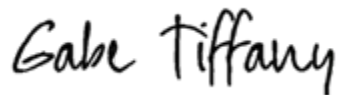
the CEQA lead agency in unincorporated Kern County. CalGEM resumed acting as a responsible agency under CEQA for NOIs and applications based on job cards issued under the Ordinance.

In response to the January 26, 2023 court order, this Notice is to inform operators of the following:

1. Operators who submitted an NOI or application associated with a well within the jurisdiction of Kern County, with a job card issued by Kern County and recognizing CalGEM as the responsible agency, and for which a permit to conduct well operations has not been received, will have their NOIs returned in the WellSTAR system, starting February 2, 2023. Operators should resubmit their NOIs or applications designating CalGEM as the lead agency and with revised information to support CalGEM's review. When revising the information in WellSTAR, follow the guidance documents listed under CEQA Guidance for Operators, located on the California Department of Conservation's California Environmental Quality Act webpage: <https://www.conservation.ca.gov/calgem/CEQA>. Failure to submit accurate and complete information, or follow direction or guidance from CalGEM staff, will delay the review process and potential permit issuance.
2. Projects will be processed in the order received as first in, first out. CalGEM will consider reprioritizing projects that are necessary to prevent damage to life, health, property, and natural resources, and to protect public health, safety, and environmental quality.
3. Operators who submit an NOI or application associated with a well within the jurisdiction of Kern County, with a valid job card issued by Kern County and recognizing CalGEM as the responsible agency, and for which a permit to conduct well operations has not been received, may request a conditional approval or disapproval, pursuant to Public Resources Code section 21167.3, subdivision (a), rather than have their NOIs returned in the WellSTAR system, and re-submitting with CalGEM as lead agency. Operators must contact the CalGEM CEQA Program at [CEQA@conservation.ca.gov](mailto:CEQA@conservation.ca.gov). Operators seeking conditional permits should be aware that:
  - a. A conditional approval under Section 21167.3(a) constitutes permission to proceed when and only when the pending litigation results in a final determination that the Environmental Impact Report (EIR) in support of the Ordinance complies with CEQA.

- b. Operators who receive a conditional approval will be required to contact CalGEM and receive written confirmation from CalGEM's CEQA Program that the pending litigation has resulted in a final determination that the EIR in support of the Ordinance complies with CEQA, before they undertake any conditionally approved work.

If you have questions or concerns regarding compliance with this notice, please contact CalGEM Headquarters at (916) 445-9686 for referral to the CEQA Program or [CEQA@conservation.ca.gov](mailto:CEQA@conservation.ca.gov).



---

**Gabe Tiffany**

Acting State Oil and Gas Supervisor