

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: August 14, 2023

TO: Honorable Members of the Rules, Elections, and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 23-0002-S70
Assignment No: 23-06-0363

SUBJECT: Resolution to SUPPORT AB 1167 (Carrillo)

CLA RECOMMENDATION: Adopt Resolution (Hutt – Blumenfield – Yaroslavsky) to include in the City’s 2023-2024 State Legislative Program, support for AB 1167 (Carrillo), the Orphan Well Prevention Act, which requires that buyers and operators of oil and gas wells post a bond sufficient to cover the full cost of plugging, abandonment and site restoration after production stops.

SUMMARY

The Resolution (Hutt – Blumenfield – Yaroslavsky), introduced June 28, 2023, states that, in 2017, California was the seventh largest producer of crude oil (US EIA), and the United States Environmental Protection Agency estimates that in 2019, approximately 6.6 million metric tons equivalent of carbon dioxide (CO₂) were emitted nationally from idle wells. The Resolution notes that there are about 107,000 active and nonproductive (idle) oil wells in California, and that at the end of their productive life, operators/owners of the well will be required to carefully plug the well with cement and decommission the production facilities, resorting the well site to its prior condition. The Resolution further notes that orphan wells that are not properly plugged and abandoned pose a threat to public health, safety, and the environment; potentially leaking oil, injected fluids, or formation water into nearby underground sources of drinking water or surface waters and releasing methane, volatile organic compounds, hydrogen sulfide or other gases into groundwater or the atmosphere.

The Resolution further states that AB 1167 (Carrillo), the Orphan Well Prevention Act, seeks to protect Californians by requiring anyone acquiring the rights to operate a well or production facility to file a bond commensurate with the full costs of plugging, abandonment and site restoration of the well once operation ceases. The Resolution references the California Geologic Energy Management Division (CalGEM) of the California Department of Conservation, which estimated that there are already more than 5,300 idle wells across the state that are likely “orphaned” without a solvent operator to properly plug and abandon them, including approximately 1,400 across Los Angeles County. The Resolution notes that current levels of bond funding collected by the State are entirely inadequate to cover the costs of properly plugging, abandonment and site restoration of orphan wells, such that liability to conduct these activities will fall to the State and its taxpayers, which does not have the funds available to remediate as compared to the profits of the oil and gas production industry.

Therefore, the Resolution requests that the City support AB 1167 (Carrillo), the Orphan Well Prevention Act, which would require buyers and operators of oil and gas wells post a bond sufficient to cover the full cost of plugging, abandonment and site restoration after production stops.

BACKGROUND

California Department of Conservation, Geologic Energy Management Division (CalGEM)

Per CalGEM's Idle Well Program:

“In California, an idle well is a well that has not been used for two years or more and has not yet been properly plugged and abandoned (sealed and closed). Plugging and abandonment involves permanently sealing the well with a cement plug to isolate the hydrocarbon-bearing formation from water sources and prevent leakage to the surface. If a well is not properly sealed and closed, it may provide a pathway for hydrocarbons or other contaminants to migrate into drinking water or to the surface. Improved reporting shows there are approximately 35,000 wells in California categorized as idle.”

“[CalGEM] revised its idle well regulations in April 2019 to create far more stringent testing requirements that better protect public safety and the environment from the potential threats posed by idle wells. The regulations require idle wells to be tested and, if necessary, repaired, or permanently sealed and closed.”

“If an operator becomes insolvent or deserts their idle wells, responsibility for permanently sealing and closing these wells may fall to the State. Since 1977, CalGEM has plugged and abandoned 1,400 wells at a cost of \$29.5 million. To reduce the number of idle wells for which the State may become responsible, legislative and regulatory changes have been made to create incentives for operators to manage and eliminate their idle wells by entering into Idle Well Management Plans (IWMPs). If an operator does not have an IWMP, the annual idle well fees the operator must pay for each of the operator's idle wells have been increased to reflect the potential costs associated with those wells. These fees are deposited into the Hazardous and Idle-Deserted Well Abatement Fund to help fund permanent sealing and closure of deserted wells.”

Per CalGEM's *State Abandonment Draft Expenditure Plan, July 2023*:

“Orphan wells have no responsible, solvent operator to maintain, repair, or plug and abandon the wells and attendant facilities. Orphan wells can leak oil, emit air emissions, including methane – a potent greenhouse gas – and pose physical hazards, potentially threatening public health, safety, and the environment.”

“CalGEM has estimated that there are currently more than 5,300 orphan or likely orphan wells across the State and created an inventory of these wells. With limited state and federal dollars available to tackle such a large inventory of orphan wells, CalGEM must prioritize projects that efficiently minimize health and safety hazards presented by orphan wells.”

Comments from City Departments & Offices:

Office of Petroleum and Natural Gas Administration

The Office of Petroleum and Natural Gas Administration supports the bill, AB 1167 (Carrillo), stating that it “dovetails well with CalGEM’s upcoming Rulemaking ‘Cost Estimates Regulations For Oil and Gas Operations,’ which are based on SB 511 (Jackson), which was signed into law in October 2019. SB 551 required the establishment of criteria that an operator will use to prepare the cost estimates for plugging and abandoning all of its wells, decommission all attendant production facilities, and complete site remediation as well as establishing the schedule for submitting the cost reports to CalGEM.

Los Angeles Fire Department (LAFD)

The LAFD raised a couple of points of concern and inquiry regarding AB 1167 (Carrillo). Firstly, the LAFD questions whether the State will take full control of a well that is orphaned in the City. Secondly, if a well is orphaned, it is also uncertain whether the State will handle the full costs, subsidize the City, or let the City handle the full costs regarding plugging and abandonment.

AB 1167 (Carrillo)

According to the Natural Resources Defense Council (NRDC), AB 1167 is designed to intervene before wells become ‘orphaned’ without a solvent operator, by prohibiting the transfer of a well unless the transferee puts up financial security to pay for the full cost of plugging and abandoning.

Existing law is designed to ensure that there is money available to pay for plugging and abandoning wells even when operators go bankrupt, but what is on the books right now has not been sufficient in practice. While operators are required to post a bond to pay for cleanup before they can drill, the bonding amounts required are inadequate to cover the actual cost of plug and abandonment. Operators of multiple wells are given the option of filing a single blanket bond covering all of the wells, but not covering them nearly enough.

The California Council on Science & Technology estimates that the average cost of cleaning up a well in California is \$68,000, while also estimating that the available bond funding per well in the state is just above \$1,000. The NRDC notes that as oil production rates continue to fall, well operators offload their increasingly unproductive assets to others that are often in less of a position to pay the full cleanup bill and more in a position to simply declare bankruptcy. The NRDC points to the situation of Rincon Island, where the owner of the large well filed for bankruptcy with less than \$28,000 in its bank account, leaving California taxpayers to front the \$45 million cost of the cleanup’s first phase.

AB 1167 requires a person who acquires the right to operate a well or production facility to file with the State Oil and Gas Supervisor/CalGEM (supervisor) a bond for the well or production facility in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment and site restoration. Major provisions of the bill include:

1. Requiring a person who acquires the right to operate a well or production facility to, among other requirements, obtain an indemnity bond for each well consistent with specified requirements.

2. Requiring the supervisor to maintain records of all transfers recognized as complete, including all materials required to be provided by the new operator, and to make those records available in a searchable and agreeable format on the CalGEM website.
3. Requiring a person who acquires the right to operate a well or production facility to, as soon as possible, but not later than the date when the acquisition of the well or production facility becomes final, file with the supervisor a bond for the well or production facility in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment and site restoration and regulations implementing this chapter.
4. Requiring the supervisor to determine the amount of indemnity bond required based on the supervisor's determination of the full costs of plugging and abandonment and site restoration consistent with the criteria developed.

In opposition to the bill, the Western States Petroleum Organization wrote that "AB 1167 will place an impediment to the sale of oil and gas wells to operators who are willing and capable of posting blanket bonds, as currently allowed, but who are less inclined to purchase wells if they must incur the higher costs of individual bonds. This will force operators who might want to sell their wells so they can exit the industry to instead hold them because they can find no buyers. With no ability to sell and diminishing interest in production, the risk of those wells becoming orphans increases."

DEPARTMENTS NOTIFIED

Office of Petroleum and Natural Gas Administration
Los Angeles Fire Department

BILL STATUS

02/16/23	Introduced
03/02/23	Referred to Assembly Committee on Natural Resources
03/28/23	Re-referred to Assembly Committee on Appropriations
05/25/23	Passed in Assembly. Ordered to the Senate
06/07/23	Referred to Senate Committee on Natural Resources & Water
07/03/23	Re-referred to Senate Committee on Appropriations

CD Fields

Christopher Fields
Analyst

Attachment: 1. Resolution (Hutt – Blumenfield – Yaroslavsky)
2. AB 1167 (Carrillo)

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council; and

WHEREAS, in 2017, California was the seventh largest producer of crude oil (US EIA), and the US EPA estimates that in 2019, approximately 6.6 million metric tons equivalent of CO2 were emitted nationally from idle wells in 2019; and

WHEREAS, there is a large number of nonproductive wells in the state, known as idle wells, which have not produced oil for at least two years and have not been plugged and decommissioned; and an additionally large number of marginally-producing wells; and

WHEREAS, there are about 107,000 active and idle oil wells in California. At some point all of these wells will end their productive life and the operator/owner of the well will be required to carefully plug the well with cement and decommission the production facilities, restoring the well site to its prior condition; and

WHEREAS, orphan wells that are not properly plugged and abandoned pose a threat to public health, safety, and environment, potentially leaking oil, injected fluids, or formation water into nearby underground sources of drinking water or surface waters and releasing methane, volatile organic compounds, hydrogen sulfide or other gases into groundwater or the atmosphere; and

WHEREAS, Assembly Bill 1167 (W. Carrillo) seeks to protect Californians by introducing the Orphan Well Prevention Act, which will require anyone acquiring the rights to operate a well or production facility to file a bond commensurate with the full costs of plugging, abandonment and site restoration of the well once operation ceases; and

WHEREAS, the California Geologic Energy Management Division (CalGEM) of the California Department of Conservation has estimated that there are already more than 5,300 idle wells across the state that are likely "orphaned" without a solvent operator to properly plug and abandon them, including approximately 1,400 across Los Angeles County; and

WHEREAS, there is an ongoing significant risk that more wells will become orphaned in the future if idle and marginal wells are transferred to less solvent operators who are unable to fulfill their obligations to properly plug and abandon them; and

WHEREAS, current levels of bond funding collected by the state are entirely inadequate to cover the costs of properly plugging, abandonment and site restoration of orphan wells, such that liability to conduct these activities will fall to the state and its taxpayers, which does not have the funds available to remediate as compared to the profits of the oil and gas production industry;

NOW, THEREFORE, BE IT RESOLVED, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2023-2024 State Legislative Program SUPPORT for AB 1167 (W. Carrillo), the Orphan Well Prevention Act, which requires that buyers and operators of oil and gas wells post a bond sufficient to cover the full cost of plugging, abandonment and site restoration after production stops.

PRESENTED BY:

HEATHER HUTT
Councilwoman, 10TH District

SECONDED BY:

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ORIGINAL

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JUN 28 2023

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ASSEMBLY BILL

No. 1167

Introduced by Assembly Member Wendy Carrillo

February 16, 2023

An act to amend Sections 3202 and 3204 of, and to add Sections 3017 and 3205.8 to, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 1167, as introduced, Wendy Carrillo. Oil and gas: acquisition: bonding requirements.

Existing law requires a person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, to submit to the State Oil and Gas Supervisor or a district deputy certain materials, including either an individual indemnity bond or a blanket indemnity bond in certain amounts.

This bill would require a person who acquires the right to operate a well or production facility, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, to instead file with the supervisor a bond for the well or production facility in an amount determined by the supervisor to be sufficient to cover, in full, all costs of plugging and abandonment and site restoration, as provided. Because the bill would change the bonding requirement for the acquisition of a well or production facility, and, thereby would change the scope of a crime, this bill would impose a state-mandated local program. The bill would require the supervisor to maintain records of all transfers recognized as complete, including all materials required to be provided by the new operator, and to make those records available in a searchable

and aggregable format on the Geologic Energy Management Division's internet website.

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: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) As California transitions to a decarbonized economy, an
4 increasing number of oil producing wells are becoming idle. There
5 are approximately 107,000 active and idle oil and gas wells in the
6 state, all of which will at some point end their productive life and
7 will require plugging and abandonment and site restoration under
8 existing law.

9 (b) Analysis performed in 2018 by the California Council on
10 Science and Technology found that more than 5,000 wells in the
11 state may already either be "orphaned" without a responsible party
12 who can pay for plugging and abandonment, or be at high risk of
13 being orphaned, resulting in a potential net liability to the state of
14 \$500,000,000. The council's analysis further found that more than
15 69,000 additional wells are economically marginal or idle, and
16 hence could become orphan wells in the future as their production
17 declines or as they are acquired by financially weaker operators,
18 or both.

19 (c) Well owners, including those who own idle and marginally
20 producing wells, frequently transfer those wells to less solvent
21 entities. These transfers increase the likelihood that public funds
22 will be needed to pay for plugging and abandonment of those wells,
23 because funds available through existing bonds are inadequate to
24 pay the cost of plugging and abandonment of those wells. The
25 council's analysis concluded that while the average cost to
26 remediate an onshore well is close to \$68,000, the average bond
27 funding available per well is close to \$1,000.

1 SEC. 2. Section 3017 is added to the Public Resources Code,
2 to read:

3 3017. (a) It is the intent of the Legislature that the oil and gas
4 industry pay for all necessary costs of plugging and abandonment
5 and site restoration of oil and gas wells.

6 (b) It is the intent of the legislature that, to minimize the risk
7 that the state will be liable for costs of plugging and abandonment,
8 no well be transferred to another owner until and unless a bond
9 has been filed that would cover the full cost of plugging and
10 abandonment and site restoration.

11 SEC. 3. Section 3202 of the Public Resources Code is amended
12 to read:

13 3202. (a) A person who acquires the right to operate a well or
14 production facility, whether by purchase, transfer, assignment,
15 conveyance, exchange, or other disposition, shall, as soon as it is
16 reasonably possible, but not later than the date when the acquisition
17 of the well or production facility becomes final, notify the
18 supervisor or the district deputy, in writing, of the person's
19 operation. The acquisition of a well or production facility shall not
20 be recognized as complete by the supervisor or the district deputy
21 until the new operator provides all of the following material:

22 (1) The name and address of the person from whom the well or
23 production facility was acquired.

24 (2) The name and location of the well or production facility,
25 and a description of the land upon which the well or production
26 facility is situated.

27 (3) The date when the acquisition becomes final.

28 (4) The date when possession was or will be acquired.

29 (5) An indemnity bond for each well ~~as required under Section~~
30 ~~3204 or 3205; consistent with Section 3205.8.~~

31 (b) (1) Upon request of the supervisor, the new operator shall,
32 within 15 days, provide to the division copies of the documents
33 recorded with a governmental office involving the sale, assignment,
34 transfer, conveyance, exchange, or other disposition of the well
35 or production facility.

36 (2) If after reviewing the documents submitted pursuant to
37 paragraph (1) the division determines additional documentation
38 is needed to validate the sale, assignment, transfer, conveyance,
39 exchange, or other disposition of the well or production facility,
40 the division shall notify the new operator.

(3) Upon receiving notice pursuant to paragraph (2), the new operator shall, within 30 days, provide to the division documents necessary to identify the operator of the well or production facility. If the documents are not otherwise publicly available, the new operator may redact information from the documents before submitting them to the division if the division agrees the information is not relevant to identification of the current operator of the well or production facility.

(c) After notice is given pursuant to subdivision (a) and until another person acquires the well or production facility, the new operator shall notify the supervisor whether any of the rights have changed. That notification shall be in writing and occur every other year by July 1.

(d) The new operator shall also notify the supervisor within 30 days of any quitclaim of a well or production facility.

(e) The supervisor shall maintain records of all transfers recognized as complete pursuant to subdivision (a), including all materials required to be provided by the new operator under that subdivision, and shall make those records available in a searchable and aggregable format on the division's internet website.

SEC. 4. Section 3204 of the Public Resources Code is amended to read:

3204. (a) An operator who, on or after January 1, 2018, engages in the drilling, redrilling, deepening, or in any operation permanently altering the casing, of a well, ~~or who acquires a well,~~ shall file with the supervisor an individual indemnity bond for each well so drilled, redrilled, deepened, or permanently ~~altered,~~ ~~or acquired~~ *altered* in the following amount:

(1) Twenty-five thousand dollars (\$25,000) for each well that is less than 10,000 feet deep.

(2) Forty thousand dollars (\$40,000) for each well that is 10,000 or more feet deep.

(b) The bond shall be filed with the supervisor at the time of the filing of the notice of intention to perform work on the well, as provided in Section 3203, or at the time of acquisition of the well, as provided in Section 3202. The bond shall be executed by the operator, as principal, and by an authorized surety company, as surety, on the condition that the principal named in the bond shall faithfully comply with all the provisions of this chapter, in drilling, redrilling, deepening, or permanently altering the casing

1 in any well or wells covered by the bond, and shall secure the state
2 against all losses, charges, and expenses incurred by it to obtain
3 the compliance by the principal named in the bond.

4 (c) The conditions of the bond shall be stated in substantially
5 the following language: "If the _____, the above bounden principal,
6 shall well and truly comply with all the provisions of Division 3
7 (commencing with Section 3000) of the Public Resources Code
8 and shall obey all lawful orders of the State Oil and Gas Supervisor
9 or the district deputy or deputies, subject to subsequent appeal as
10 provided in that division, and shall pay all charges, costs, and
11 expenses incurred by the supervisor or the district deputy or
12 deputies in respect of the well or wells or the property or properties
13 of the principal, or assessed against the well or wells or the property
14 or properties of the principal, in pursuance of the provisions of
15 that division, then this obligation shall be void; otherwise, it shall
16 remain in full force and effect."

17 ~~(d) This section shall become operative on January 1, 2018.~~

18 SEC. 5. Section 3205.8 is added to the Public Resources Code,
19 to read:

20 3205.8. (a) Notwithstanding any other provision of this chapter,
21 a person who acquires the right to operate a well or production
22 facility, by purchase, transfer, assignment, conveyance, exchange,
23 or other disposition, shall, as soon as possible, but not later than
24 the date when the acquisition of the well or production facility
25 becomes final, file with the supervisor a bond for the well or
26 production facility in an amount determined by the supervisor to
27 be sufficient to cover, in full, all costs of plugging and
28 abandonment and site restoration pursuant to Section 3208 and
29 regulations implementing this chapter.

30 (b) The supervisor shall determine the amount of the bond
31 required pursuant to subdivision (a) based on the supervisor's
32 determination of the full costs of plugging and abandonment and
33 site restoration consistent with the criteria developed pursuant to
34 Section 3205.7.

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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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