

AMENDED IN ASSEMBLY MAY 11, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2756**

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**Introduced by Assembly Members Thurmond and Williams**

February 19, 2016

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An act to amend Sections 3236.5, 3350, 3351, 3352, 3356, and 3357 of, and to repeal and add Article 4.3 (commencing with Section 3260) of Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

AB 2756, as amended, Thurmond. Oil and gas operations: enforcement actions.

(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. Existing law provides that a person who violates certain requirements related to the regulation of oil and gas is subject to a civil penalty not to exceed \$25,000 for each violation. Existing law requires the State Oil and Gas Supervisor to consider specified circumstances when establishing the amount of the civil penalty.

This bill ~~instead~~ would ~~authorize~~ *require* the supervisor to consider specified *additional* circumstances when establishing the amount of the civil penalty. *The bill would set ranges of civil penalty amounts depending on whether the violation is a well stimulation violation, a major violation, or a minor violation, as defined.* The bill would authorize the supervisor, in his or her discretion, to treat each day a

*major or minor* violation continues or is not cured as a separate violation. The bill would authorize the supervisor to allow a supplemental environmental project, as defined, in lieu of a portion of the civil penalty amount, not to exceed 50% of the civil penalty amount, as specified. The bill would require that the civil penalties assessed under these provisions be deposited in the Oil and Gas Environmental Remediation Account. The bill would establish that account in the Oil, Gas, and Geothermal Administrative Fund to be administered and managed by the division, and would require that the moneys in the account be used, upon appropriation by the Legislature, to plug and abandon oil and gas wells, decommission attendant facilities, or otherwise remediate sites that the supervisor determines could pose a danger to life, health, water quality, wildlife, or natural resources if there is no operator determined by the supervisor to be responsible for ~~plugging and abandoning the well~~ *remediation* or who is able to respond. The bill would authorize the division to adopt regulations to implement these provisions, and would repeal obsolete provisions related to the Acute Orphan Well Account.

(2) Existing law establishes procedures for an operator of a well or production facility to appeal to the Director of Conservation from an order of the supervisor or a district deputy. Existing law requires a notice of appeal to be filed with supervisor or with the district deputy who issued the order.

This bill would make numerous changes to the appeal process and procedures. The bill would, among other things, require the notice of appeal to be filed with the director, revise exceptions for when the notice of appeal operates as a stay of the order, revise what costs will be refunded if an emergency order is set aside or modified on appeal, and revise the circumstances in which appeals are to be heard in a formal hearing process before an administrative law judge, instead of in an informal hearing before the director.

This bill would make numerous changes to the process and procedures for an informal hearing before the director. The bill would, among other things, authorize the director to extend the date of the hearing for good cause upon his or her own motion, ~~remove~~ *revise* the authorization for the hearing to be electronically recorded by either party, revise the timeline in which the director is required to grant or deny a petition to order the testimony of a witness at the hearing, and provide that obtaining subpoenas may be considered good cause to extend the date of the hearing.

(3) Existing law sets forth numerous provisions governing discovery in the context of an informal hearing before the director. Existing law authorizes the supervisor or the director, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, to obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in these provisions.

This bill would make numerous changes to these discovery provisions. The bill would, among other things, require a judge of the superior court, upon application by the supervisor or director, to assign a case number for the proceeding or investigation, to issue an order prescribing the nature and scope of the proceeding or investigation, and to retain jurisdiction for the limited purpose of enforcing subpoenas issued in the proceeding or investigation; authorize the attorney of record for the supervisor or director, upon the assigning of a case number, to issue subpoenas compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts for certain pending proceeding or investigation in the manner specified; authorize the supervisor or director, or his or her inspector, to inspect the well site or production facilities of any owner or operator to ascertain whether the owner or operator is complying with the certain requirements; authorize the supervisor or director to require any owner or operator to furnish, under penalty of perjury, technical or monitoring reports that the supervisor or director require; and prohibit the division and the department from making available to the public for inspection portions of a report that might disclose trade secrets, well data granted confidential status, or other confidential or privileged information, when requested by the owner or operator furnishing the report. Because the bill would expand the crime of perjury, it would impose a state-mandated local program.

(4) Existing law provides if the operator does not appeal an order, seek judicial review of a decision affirming or modifying an order within the time provided in law, or if the court has affirmed the decision, then any charge, including penalty and interest, that the decision permits the supervisor to impose constitutes a state tax lien against the real and personal property of the operator.

This bill additionally would include any civil penalties imposed by the supervisor for violations of certain requirements related to the regulation of oil and gas in these provisions. The bill would authorize

the supervisor to apply to the appropriate superior court for a clerk’s judgment, in addition to the state tax lien, and would provide provisions related to obtaining the clerk’s judgment.

(5) 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. Section 3236.5 of the Public Resources Code is  
2 amended to read:

3 3236.5. (a) A person who violates this chapter or a regulation  
4 implementing this chapter ~~is is, at the supervisor’s discretion,~~  
5 subject to a civil penalty ~~not to exceed twenty-five thousand dollars~~  
6 ~~(\$25,000) as described in subdivision (b) for each violation. At~~  
7 ~~the supervisor’s discretion, each day a violation continues or is~~  
8 ~~not cured may be treated as a separate violation. For each day a~~  
9 ~~violation of Article 3 (commencing with Section 3150) continues~~  
10 ~~or is not cured, the civil penalty amount shall be not less than ten~~  
11 ~~thousand dollars (\$10,000). An act of God and an act of vandalism~~  
12 beyond the reasonable control of the operator shall not be  
13 considered a violation. The civil penalty shall be imposed by an  
14 order of the supervisor pursuant to Section 3225 upon a  
15 determination that a violation has been committed by the person  
16 charged. The imposition of a civil penalty under this section shall  
17 be in addition to any other penalty provided by law for the  
18 violation. When establishing the amount of the civil penalty  
19 pursuant to this section, the supervisor ~~may shall~~ consider, in  
20 addition to other relevant circumstances, all of the following:

- 21 (1) The extent of harm ~~or potential harm~~ caused by the violation.
- 22 (2) The persistence of the violation.
- 23 (3) The pervasiveness of the violation.
- 24 (4) The number of prior violations by the same violator.
- 25 (5) The degree of culpability of the violator.
- 26 (6) Any economic benefit to the violator resulting from the  
27 violation.

1 (7) The violator's ~~assets, liabilities, and net worth.~~ *ability to pay*  
2 *the civil penalty amount, as determined based on information*  
3 *publicly available to the division.*

4 (8) The supervisor's prosecution costs.

5 (b) (1) (A) A "well stimulation violation" is a violation of  
6 Article 3 (commencing with Section 3150) or the regulations  
7 implementing that article.

8 (B) The civil penalty amount for a well stimulation violation  
9 shall be not less than ten thousand dollars (\$10,000) per day per  
10 violation and not more than twenty-five thousand dollars (\$25,000)  
11 per day per violation.

12 (2) (A) A "major violation" is a violation that is not a well  
13 stimulation violation and that is one or more of the following:

14 (i) A violation that results in harm to persons or property or  
15 presents a significant threat to human health or the environment.

16 (ii) A knowing, willful, or intentional violation.

17 (iii) A chronic violation or one that is committed by a  
18 recalcitrant violator. In determining whether a violation is chronic  
19 or a violator is recalcitrant, the supervisor shall consider whether  
20 there is evidence indicating that the violator has engaged in a  
21 pattern of neglect or disregard with respect to applicable  
22 requirements.

23 (iv) A violation where the violator derived significant economic  
24 benefit, either by significantly reduced costs or a significant  
25 competitive advantage.

26 (B) The civil penalty amount for a major violation shall be not  
27 less than two thousand five hundred dollars (\$2,500) per violation  
28 and not more than twenty-five thousand dollars (\$25,000) per  
29 violation.

30 (3) (A) A "minor violation" is a violation that is neither a well  
31 stimulation violation nor a major violation.

32 (B) The civil penalty amount for a minor violation shall be not  
33 more than five thousand dollars (\$5,000) per violation.

34 (4) At the supervisor's discretion, each day a major or minor  
35 violation continues or is not cured may be treated as a separate  
36 violation.

37 ~~(b)~~

38 (c) An order of the supervisor imposing a civil penalty shall be  
39 reviewable pursuant to Article 6 (commencing with Section 3350).

40 When the order of the supervisor has become final and the penalty

1 has not been paid, the supervisor may apply to the appropriate  
2 superior court for an order directing payment of the civil penalty.  
3 The supervisor may also seek from the court an order directing  
4 that production from the well or use of the production facility that  
5 is the subject of the civil penalty order be discontinued until the  
6 violation has been remedied to the satisfaction of the supervisor  
7 and the civil penalty has been paid.

8 (e)

9 (d) The supervisor may allow a supplemental environmental  
10 project in lieu of a portion of the civil penalty amount. The  
11 supplemental environmental project may not be more than 50  
12 percent of the total civil penalty amount. Any amount collected  
13 under this section that is not allocated for a supplemental  
14 environmental project shall be deposited in the ~~Oil, Gas, and~~  
15 ~~Geothermal Administrative Fund.~~ *Oil and Gas Environmental*  
16 *Remediation Account established pursuant to Section 3261.*

17 (d)

18 (e) “Supplemental environmental project” means an  
19 environmentally beneficial project that a person, subject to an order  
20 of the supervisor imposing a civil penalty, voluntarily agrees to  
21 undertake in settlement of the action and to offset a portion of a  
22 civil penalty.

23 ~~(e) Civil penalties assessed pursuant to this section shall be~~  
24 ~~deposited in the Oil and Gas Environmental Remediation Account~~  
25 ~~established pursuant to Section 3261.~~

26 SEC. 2. Article 4.3 (commencing with Section 3260) of Chapter  
27 1 of Division 3 of the Public Resources Code is repealed.

28 SEC. 3. Article 4.3 (commencing with Section 3260) is added  
29 to Chapter 1 of Division 3 of the Public Resources Code, to read:

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31 Article 4.3. Oil and Gas Environmental Remediation Account

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33 3260. For purposes of this article, “account” means the Oil and  
34 Gas Environmental Remediation Account established under Section  
35 3261.

36 3261. (a) Notwithstanding any other provision of this chapter,  
37 including the expenditure limitations of Section 3258, the division  
38 shall administer and manage the Oil and Gas Environmental  
39 Remediation Account, which is hereby established in the Oil, Gas,  
40 and Geothermal Administrative Fund.

1 (b) Moneys in the account shall be used, upon appropriation by  
2 the Legislature, to plug and abandon oil and gas wells,  
3 decommission attendant facilities, or otherwise remediate sites  
4 that the supervisor determines could pose a danger to life, health,  
5 water quality, wildlife, or natural resources if there is no operator  
6 determined by the supervisor to be responsible for ~~plugging and~~  
7 ~~abandoning the well~~ *remediation* pursuant to subdivision (c) of  
8 Section 3237 or who is able to respond.

9 3262. The division may adopt regulations to implement this  
10 article.

11 SEC. 4. Section 3350 of the Public Resources Code is amended  
12 to read:

13 3350. (a) The operator of a well or a production facility to  
14 whom the supervisor or district deputy has issued an order pursuant  
15 to this chapter may file a notice of appeal from that order. The  
16 notice of appeal shall be in writing and shall be filed with the  
17 director. The operator shall file the appeal within 10 days of the  
18 service of the order, or within 10 days of the posting of a copy of  
19 an order made pursuant to Section 3308. Failure of the operator  
20 to file an appeal from the order within the 10-day period shall be  
21 a waiver by the operator of its rights to challenge the order. If the  
22 order, other than an order made pursuant to Section 3308, is served  
23 by mail, the time for responding shall be determined as provided  
24 in Section 1013 of the Code of Civil Procedure.

25 (b) (1) The filing of a written notice of appeal shall operate as  
26 a stay of the order, except when an order for testing or remedial  
27 work or an order to cease and desist production facility operations  
28 is issued as an emergency order pursuant to Section 3226, or when  
29 the order is to cease injection operations. If the order is an order  
30 to cease injection operations, then the operator shall cease injection  
31 as soon as it is safe to do so. If the order is an emergency order,  
32 the operator shall immediately cease and desist the specified  
33 production facility operations and shall perform whatever work is  
34 required by the order to alleviate the emergency or shall permit  
35 the agents appointed by the supervisor to perform that work.

36 (2) If an emergency order for testing or remedial work is set  
37 aside or modified on appeal, the supervisor shall refund the  
38 reasonable costs incurred by the operator for whatever work is not  
39 required by the set-aside or modified order or shall not impose  
40 costs for work performed by the supervisor or the supervisor's

1 agents if the work is excluded from the modified order or the order  
2 is set aside. Only the costs of remedial work performed shall be  
3 refunded, and there shall be no reimbursement for lost profits or  
4 increased production costs.

5 (3) (A) The costs to be refunded pursuant to paragraph (2) by  
6 the supervisor shall be determined in a hearing before the director  
7 after the exhaustion of appeals. The operator shall have the burden  
8 of proving the amount of costs to be refunded.

9 (B) A determination by the director as to the amount of costs  
10 to be refunded pursuant to paragraph (2) may be appealed by the  
11 operator pursuant to subdivision (a) of Section 3354.

12 (4) If the operator believes that it will be irretrievably injured  
13 by the performance of the work required *to cease injection*  
14 *operations* or to alleviate the emergency pending the outcome of  
15 the appeal, the operator may seek an order from the appropriate  
16 superior court restraining the enforcement of the order pending  
17 the outcome of the appeal.

18 SEC. 5. Section 3351 of the Public Resources Code is amended  
19 to read:

20 3351. (a) A hearing shall be provided in accordance with  
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
22 3 of Title 2 of the Government Code only in an appeal from an  
23 order in the following circumstances:

24 (1) Issued pursuant to a Section 3237 finding that the operator's  
25 wells are deserted and should be plugged and abandoned.

26 (2) Imposing civil penalties totaling more than twenty-five  
27 thousand dollars (\$25,000).

28 (3) Rescinding an entire injection project approval for a project  
29 that has already commenced.

30 (4) Imposing a life-of-well bond or a life-of-production facility  
31 bond.

32 (b) An order issued pursuant to Section 3225 shall satisfy the  
33 substantive requirements of an accusation pursuant to Section  
34 11503 of the Government Code and may be filed when scheduling  
35 a formal hearing in accordance with this chapter and Chapter 5  
36 (commencing with Section 11500) of Part 1 of Division 3 of Title  
37 2 of the Government Code. All applicable formal hearing deadlines  
38 do not commence until a formal hearing is scheduled. When  
39 scheduling a formal hearing after an appeal from an order under  
40 this chapter, the supervisor is not required to send a Notice of

1 Defense statement and the operator is not required to request a  
2 hearing.

3 (c) For an appeal of an order that is not described in subdivision  
4 (a), a hearing shall be conducted by the director in accordance with  
5 Sections 3352 and 3353.

6 (d) For an appeal of an order that is described in subdivision  
7 (a) and is also an emergency order for testing or remedial work or  
8 to cease and desist production facility operations, a hearing shall  
9 be conducted by the director in accordance with Sections 3352  
10 and 3353 for the limited purpose of considering the reasonableness  
11 of the supervisor's determination that an emergency exists. All  
12 other penalties and requirements imposed by the order shall be  
13 considered at a hearing provided in accordance with Chapter 5  
14 (commencing with Section 11500) of Part 1 of Division 3 of Title  
15 2 of the Government Code.

16 SEC. 6. Section 3352 of the Public Resources Code is amended  
17 to read:

18 3352. (a) A hearing conducted by the director shall adhere to  
19 the following:

20 (1) When an order is not issued as an emergency order, within  
21 30 days from the date of the service of the notice of appeal, the  
22 director shall provide to the operator notice of the time and place  
23 of the hearing. The hearing shall take place within 30 days after  
24 the date of the director's notice. The notice shall inform the  
25 operator that the director may extend the date of the hearing for  
26 up to 60 days for good cause upon his or her own motion, or an  
27 application of the operator or the supervisor.

28 (2) When an order has been issued as an emergency ~~order~~, *order*  
29 *or when the order is to cease injection operations* within 10 days  
30 from the date of the service of the notice of appeal, the director  
31 shall provide to the operator notice of the time and place of the  
32 hearing. The hearing shall take place within 20 days after the date  
33 of the director's notice. The notice shall inform the operator that  
34 the director may extend the date of the hearing for up to 30 days  
35 for good cause upon his or her own motion, or an application of  
36 the operator or the supervisor.

37 (b) The director shall conduct the hearing within the district  
38 where the majority of the wells or production facilities that are the  
39 subject of the order are located, or the hearing may be conducted

1 at a location outside of that district upon application of the operator.

2 The hearing shall be reported by a stenographic reporter.

3 (c) The notice of hearing shall inform the operator of its right  
4 to file a written answer to the charges no later than 10 days before  
5 the date of the hearing. The notice also shall inform the operator  
6 that it has the right to present oral and documentary evidence at  
7 the hearing.

8 (d) Upon a verified and timely petition of the operator, the  
9 director may order the testimony of a witness at the hearing. The  
10 petition shall be served upon the director and the other party within  
11 five days after the filing of an appeal and shall set forth the name  
12 and address of the witness whose testimony is requested, to the  
13 extent known; a showing of the materiality of the testimony; and  
14 a showing that the witness cannot be compelled to testify absent  
15 an order of the director. The supervisor may file an opposition to  
16 the petition within five days after the petition is served. The director  
17 shall either deny or grant the petition within 10 days after receipt  
18 of the petition. Upon granting a petition, the director shall issue a  
19 subpoena pursuant to Section 3357 compelling the testimony of  
20 the witness at the hearing. Obtaining subpoenas may be considered  
21 good cause to extend the date of the hearing under paragraph (1)  
22 or (2) of subdivision (a).

23 (e) The director may convert a hearing pursuant to this section  
24 to a formal hearing conducted in accordance with Chapter 5  
25 (commencing with Section 11500) of Part 1 of Division 3 of Title  
26 2 of the Government Code in any of the following circumstances:

27 (1) The operator makes a showing satisfactory to the director  
28 that the order being appealed is likely to result in termination of  
29 an established oil or gas producing or injection operation.

30 (2) It appears to the director that the hearing will involve  
31 complex evidentiary or procedural issues that will cause more than  
32 minimal delay or burdens.

33 (3) The operator and the supervisor agree and stipulate to convert  
34 the hearing to a formal hearing.

35 (f) The conversion of a hearing pursuant to this section to a  
36 formal hearing shall be conducted in accordance with Article 15  
37 (commencing with Section 11470.10) of Chapter 4.5 of Part 1 of  
38 Division 3 of Title 2 of the Government Code. If a hearing for an  
39 appeal of an emergency order *or an order to cease injection*  
40 *operations* is converted to a formal hearing, the supervisor shall

1 endeavor to schedule and notice a formal emergency hearing as  
2 soon as reasonably possible and, notwithstanding Section 11517  
3 of the Government Code, the director shall only have 30 days from  
4 receipt of the administrative law judge's proposed emergency  
5 hearing decision to act as prescribed in subparagraphs (A) to (E),  
6 inclusive, of paragraph (2) of subdivision (c) of Section 11517 of  
7 the Government Code.

8 *(g) The director or his or her designee shall permit*  
9 *inconspicuous personal recording devices to be used by persons*  
10 *during a hearing pursuant to this section to make sound recordings*  
11 *as personal notes of the proceedings. A person proposing to use*  
12 *a recording device shall provide advance notice to the director or*  
13 *his or her designee. The recordings may not be used for any*  
14 *purpose other than as personal notes.*

15 SEC. 7. Section 3356 of the Public Resources Code is amended  
16 to read:

17 3356. (a) If the operator does not appeal an order, if the  
18 operator does not timely seek judicial review of a decision  
19 affirming or modifying an order within the time provided in Section  
20 3354, or if the operator has timely sought and obtained judicial  
21 review and the court has affirmed the decision, then any charge,  
22 including penalty and interest, that the decision permits the  
23 supervisor to impose on the operator for work performed by the  
24 supervisor or the supervisor's agents, and any civil penalties  
25 imposed under Section 3236.5 shall constitute a state tax lien  
26 against the real and personal property of the operator pursuant to  
27 Section 3423.

28 (b) In addition to a state tax lien, the supervisor may apply to  
29 the appropriate superior court for a clerk's judgment. The  
30 application, which shall include a certified copy of the final agency  
31 order or decision, shall constitute a sufficient showing to warrant  
32 the issuance of the judgment. The court clerk shall enter the  
33 judgment immediately in conformity with the application. The  
34 judgment so entered shall have the same force and effect as, and  
35 shall be subject to all the provisions of law relating to, a judgment  
36 in a civil action, and may be enforced in the same manner as any  
37 other judgment of the court. The court shall make enforcement of  
38 the judgment a priority.

39 SEC. 8. Section 3357 of the Public Resources Code is amended  
40 to read:

1 3357. (a) In any proceeding before the director, and in any  
2 proceeding instituted by the supervisor for the purpose of enforcing  
3 or carrying out the provisions of this division, or for the purpose  
4 of holding an investigation to ascertain the condition of any well  
5 or wells complained of, or which in the opinion of the supervisor  
6 may reasonably be presumed to be improperly located, drilled,  
7 operated, maintained, or conducted, the supervisor and the director  
8 shall have the power to administer oaths and may apply to a judge  
9 of the superior court of the county in which the proceeding or  
10 investigation is pending for subpoenas for witnesses to attend the  
11 proceeding or investigation. Upon the application of the supervisor  
12 or the director, the judge of the superior court shall assign a case  
13 number for the proceeding or investigation, shall issue an order  
14 prescribing the nature and scope of the proceeding or investigation,  
15 and shall retain jurisdiction for the limited purpose of enforcing  
16 subpoenas issued in the proceeding or investigation. Upon the  
17 assigning of a case number, the attorney of record for the supervisor  
18 or director may issue subpoenas directing witnesses to attend the  
19 proceeding or investigation, and those persons shall be required  
20 to produce, when directed, all records, surveys, documents, books,  
21 or accounts in the witness' custody or under the witness' control;  
22 except that no person shall be required to attend upon the  
23 proceeding unless the person resides within the same county or  
24 within 100 miles of the place of attendance. The attorney of record  
25 for the supervisor or the director may in that case cause the  
26 depositions of witnesses residing within or without the state to be  
27 taken in the manner prescribed by law for like depositions in civil  
28 actions in superior courts of this state under Title 4 (commencing  
29 with Section 2016.010) of Part 4 of the Code of Civil Procedure,  
30 and may issue subpoenas compelling the attendance of witnesses  
31 and the production of records, surveys, documents, books, or  
32 accounts at designated places within the limits prescribed in this  
33 section.

34 (b) (1) In conducting a proceeding or investigation specified  
35 in subdivision (a), the supervisor or director may require an owner  
36 or operator to furnish, under penalty of perjury, technical or  
37 monitoring reports that the supervisor or director requires. The  
38 burden, including costs, of any report shall bear a reasonable  
39 relationship to the need for the report and the benefits to be  
40 obtained from the report. In requiring a report, the supervisor or

1 director shall explain in writing to the owner or operator the need  
2 for the report, and shall identify the ~~evidence~~ *rationale* that  
3 supports requiring that owner or operator to provide the report.

4 (2) When requested by the owner or operator furnishing the  
5 report, neither the division nor the department shall make available  
6 to the public for inspection portions of a report that might disclose  
7 trade secrets, well data granted confidential status pursuant to  
8 Section 3234, or other confidential or privileged information. The  
9 division or department shall make that confidential or privileged  
10 information available to other public agencies as needed for  
11 regulatory purposes and in accordance with a written agreement  
12 with the other public agency regarding the sharing of the  
13 information.

14 (c) In conducting a proceeding or investigation pursuant to  
15 subdivision (a), the supervisor or director, or his or her inspector,  
16 may inspect the well site or production facilities of any owner or  
17 operator to ascertain whether the owner or operator is complying  
18 with the requirements of or authorized by this division. The  
19 inspection shall be made with the consent of the owner or operator  
20 or, if consent is withheld, with a warrant duly issued pursuant to  
21 the procedure set forth in Title 13 (commencing with Section  
22 1822.50) of Part 3 of the Code of Civil Procedure. In the event of  
23 an emergency affecting the public health or safety, an inspection  
24 may be performed without consent or a warrant. This subdivision  
25 is in addition to any other inspection authority granted or authorized  
26 by this division.

27 ~~(d) As used in this section, "evidence" means any relevant~~  
28 ~~evidence on which responsible persons are accustomed to rely in~~  
29 ~~the conduct of serious affairs, regardless of the existence of any~~  
30 ~~common law or statutory rule that might make improper the~~  
31 ~~admission of the evidence over objection in a civil action.~~

32 SEC. 9. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution because  
34 the only costs that may be incurred by a local agency or school  
35 district will be incurred because this act creates a new crime or  
36 infraction, eliminates a crime or infraction, or changes the penalty  
37 for a crime or infraction, within the meaning of Section 17556 of  
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O