

Getting Ready for SB 4: California's New Well Stimulation Permitting Law

Presented by:
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Well Stimulation Treatment is...

- “Any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation.”

- SB 4 applies to all well stimulation activities, including hydraulic fracturing and acid matrix stimulation.

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Activities that Do Not Require a Permit

- Routine Operations
 - Routine well cleanout
 - Well maintenance
 - Removal of formation damage from drilling
 - Bottom hole pressure surveys
- Treatment that does not go more than 36 inches into the formation



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Activities that Do Not Require a Permit

- Routine acid matrix stimulation at or below a 7% concentration
- Does not apply to Subsurface Injection projects



2014

- DOGGR must allow well stimulation activities until regulations are finalized and implemented.

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2014

- DOGGR will issue emergency regulations on or before December 13, 2013 to facilitate operator compliance during the 2014 interim period prior to finalizing and implementing permanent regulations.

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2014 Interim Well Stimulation Notice ("Interim Authorization")

- Must complete Interim Well Stimulation Treatment Notice – send to DOGGR and property owners/tenants
- Still required to complete Notice of Intention to Drill and/or Notice of Intention to Rework

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2014 Interim Authorization

- 1) Complete list of chemical constituents
- 2) Water Management Plan
- 3) Locations of existing wells that might be impacted by well stimulation treatment
- 4) Groundwater Monitoring Plan
- 5) Certification of compliance with:
 - Required notification procedures prior to treatment
 - Public disclosures 60 days after treatment

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2014 Interim Authorization – Notice

- Must provide Interim Authorization and testing information to property owners and tenants.

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2014 Interim Authorization – Testing

- Property owner can request testing once provided with notification.
- Tenant “may independently contract” for testing.

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2014 Interim Authorization – Testing

- Contractor hired to conduct testing must be SWRCB certified.

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2014 Interim Authorization – Testing

- A property owner may request testing on any water well or any surface water suitable for drinking or irrigation purposes.

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2014 Interim Authorization – Testing

- The results of water quality testing must be reported to:
 - DOGGR
 - Appropriate California Regional Quality Control Board
 - Property owner
 - Any tenant of the property owner to the extent authorized by the tenant's lease

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2014 Interim Authorization – Notifying DOGGR

- SB 4 requires operators to provide DOGGR with 72 hours of notice prior to well stimulation activities
- Not called out as a requirement for compliance in 2014 or in the Interim Authorization
 - Is the operator required to comply with this provision in 2014?

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2014 Interim Period – Website Disclosures

- DOGGR is required to create its own independent website for well stimulation disclosures (due no later than Jan 1, 2016).
- Until such time, operators will post on FracFocus.org:
 - Water quality data
 - Disclosures required under § 3160(b), per § 3161(b)

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2015

- On November 15, 2013, DOGGR issued its Draft Permanent Regulations to take effect January 1, 2015.
- Rulemaking process will unfold during 2014.

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2015 Permit Application

- The 2015 Permit Application may be combined into a single authorization for well stimulation and notice of intent to drill/rework.

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2015 Permit Application

- DOGGR is exploring group permitting options based on Governor Brown's signing message (and draft regulations to implement group permitting under SB 4 are expected in March 2014)

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2015 Well History

- PRC § 3161(b) sets out conditions for operators to continue WST in 2014.
- One condition is that the operator provides a complete well history by March 1, 2015.
- PRC § 3160(i) contemplates revising the permanent regulations based on data collected concerning geologic data and features.

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Penalties

- For violations of the statute or regulations:
 - Not less than \$10,000/day
 - Not more than \$25,000/day
- Proceeds “shall be used exclusively for the support and maintenance of the department charged with the supervision of oil and gas.”

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Questions?

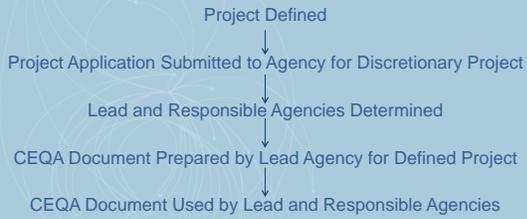
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CEQA – Normal Process



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CEQA – 2014 Interim Period

- Until regulations adopted, DOGGR shall allow well stimulation
- Accordingly, DOGGR “approval” is ministerial in 2014

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CEQA – 2014 Interim Period

- SB4 does not preempt local agencies CUP process
- SB 4 does not preempt other discretionary approvals (e.g., Notice of Intent to Drill)

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CEQA – 2014 Interim Period

- CEQA triggered by discretionary approval
- But CEQA requires analysis of whole Project (Discretionary & Ministerial Activities)
- Opponents may argue well stimulation must still be analyzed in CEQA review

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CEQA – 2015 Permit Program

- CEQA applies to all well stimulation activities
- DOGGR Permits may be combined, but only one CEQA document anyway

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CEQA – 2015 Permit Approval

- Section 3160(d)(2)(B): "Where the supervisor determines that activities proposed in the well stimulation treatment permit or combined authorization have met all of the requirements of [CEQA], and have been fully described, analyzed, evaluated, and mitigated, no additional review or mitigation shall be required."
- Unclear how this will apply –
 - Can DOGGR rely on the Kern County EIR?

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CEQA – Other Provisions & Issues

- January 1, 2015: Regulations due (adoption of regulations are subject to CEQA)
- July 1, 2015: SB 4 EIR due
- January 1, 2015: Independent Scientific Study Due (from Natural Resources Agency)

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Questions?

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Water Management Plan and Ground Water Monitoring

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Water Management Plan

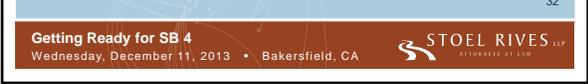
- Estimate of the amount of water to be used
- Source of water
- Disposal method for recovered water



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2014 Interim Authorization – Groundwater Monitoring Plans

- Must develop and certify compliance with one of the three types of plans:
 - Existing oil-or-gas field specific or regional plan (**State-developed**)
 - Existing oil or gas field-specific or regional (**Operator-developed & State Approved**)
 - A well-specific monitoring plan (**Operator-developed & Submitted to State**)



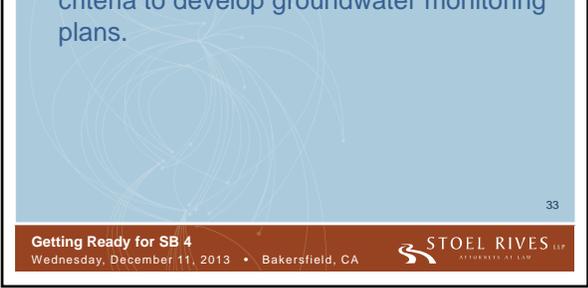
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2014 Interim Authorization – Groundwater Monitoring Plans

- Emergency Regulations will address criteria to develop groundwater monitoring plans.



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Section 10783

- By July 1, 2015, State Board shall develop model groundwater modeling criteria to be implemented either on a case by case basis for a well subject to well stimulation treatment, or on a regional scale
- Prioritize monitoring of groundwater that is or has the potential to be a source of drinking water, but shall protect all waters designated for any beneficial use

Section 10783

- Scope and nature of the model groundwater monitoring criteria:
 - Assessment of areas to conduct monitoring and appropriate boundaries
 - List of constituents to measure and assess groundwater quality
 - Location, depth and number of monitoring wells
 - Frequency and duration of monitoring

Section 10783

- Threshold criteria to transition from well-by-well to regional monitoring program
- Data collection and reporting requirements
- Public access to data

Factors to Consider

- Existing quality and existing and potential use of groundwater
- Groundwater that is not a source of drinking water consistent with US EPA definition of containing less than 10,000 milligrams per liter total dissolved solids
- Proximity to human population, public water service wells, and private groundwater use



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Factors to Consider

- Presence of existing oil and gas production fields
- Events that have the potential to contaminate groundwater



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Factors to Consider

- By January 1, 2016, the state board or appropriate regional board shall begin implementation of regional groundwater monitoring programs
- In the absence of state program, a well owner or operator may develop and implement area-specific groundwater monitoring programs



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Factors to Consider

- All groundwater quality data collected shall be submitted to the state board compatible with GeoTracker

Additional Requirements

- Depth of base of fresh water
- Results of evaluation and modeling
 - Cement in the well
 - Potential conduits for the fluids to escape
 - Geologic and Hydrologic isolation

Implementation

- How do we expect the SWRCB and RWQCBs to implement SB-4?

Water Management Plan

- Document
- Document
- Document
- Most of the requirements are already being done by industry, just be sure to document



Groundwater Monitoring

- Will the RWQCB need to “approve” the groundwater monitoring plan?
 - SB-4 states that the RWQCB prepare criteria but does not explicitly require approval



Groundwater Monitoring

- Will groundwater monitoring wells need to be installed?
 - Likely to be listed in the criteria as an option
 - Possible for regional evaluation



Groundwater Monitoring

- Regional monitoring vs. well-by-well
 - Using the IRLP example, the RWQCB is more likely to push for regional monitoring



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Questions?



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Disclosures & Trade Secrets

- SB 4 requires certain disclosures by suppliers (or drilling service providers) to DOGGR even if they are trade secrets
- After disclosure, however, DOGGR may choose to grant trade secret status



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“Trade Secret” Defined

Information (e.g. a formula, pattern, compilation, program, device, method, technique or process) that:

- (1) Derives independent economic value from not being generally known to the public or other persons who can obtain economic value from its disclosure or use; and
- (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

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Exemptions from SB 4’s Trade Secret Protection

- Chemical constituency of additives, including CAS numbers
- Concentrations of additives in well stimulation fluids
- Air or other pollution monitoring data
- Health and safety data associated with fluids
- Chemical composition of flowback fluid

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Concerns About Exemptions

- Potential market impact since trade secret protection is not extended to fracking fluid concentrations
- Concern that suppliers will not want to lose commercial advantages obtained from research & development efforts and will avoid California

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Designating a Trade Secret

Supplier must provide DOGGR with the following information about the trade secret:

- Extent to which it is known by employees or outside the business;
- Measures taken to guard it (including money and effort expended);
- Value of the trade secret; and
- Degree of difficulty for others to acquire it.

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Options if DOGGR rejects trade secret designation

DOGGR will notify the supplier by mail and will make the information public in **60 days** unless supplier goes to Court and obtains:

- A declaratory judgment that the information is subject to protection; or
- A preliminary injunction prohibiting disclosure of the information.

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Implement best practices to protect your trade secrets

- Develop a plan, including identifying the person responsible for overseeing trade secret issues;
- Conduct a trade secrets audit;
- Implement appropriate policies and procedures;
- Review document retention and record keeping policies;
- Make sure access to trade secrets is limited to those who have a need to know.

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Methods for limiting access to trade secrets

- Designating certain materials as “confidential”
- Segregating confidential information
- Using password protection for electronic documents and keeping hard copies in locked files
- Using coded ingredients/concentrations

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