

Oil producers line up against anti-spill law

John Cox, Bakersfield Californian, 1-9-10

It's almost ironic. Kern oilman Arthur McAdams finally persuades one of his three daughters to take over the family business -- just as new rules are being crafted in Sacramento that he fears could ruin the industry for small operations like his.

What worries him most is how much money he (and eventually, the 34-year-old daughter he's still training) might have to spend to comply with a new law intended to contain and prevent oil spills.

"What they're going to ask us to do is going to be very difficult financially for a lot of guys. I mean, draining your tanks, electronically surveying them. That's downtime. That's a lot of expense. I don't know," said McAdams, who owns about 70 oil wells in the state, many of them just north of Bakersfield.

"This I can see could put some people out of business."

That sentiment is spreading fast among local oil producers, especially the small independents with the least amount of money to spend on facility upgrades.

The ambitious nature of the new law, known as AB 1960, may have destined it for controversy. Never in the 90-year history of the state Division of Oil, Gas & Geothermal Resources has there been so extensive a reworking of state oil regulations.

AB 1960 expands DOGGR's oversight of oil production facilities. It gives the division new enforcement authority, including the power to shut down operations with a history of violations.

Industry leaders agree that companies in the habit of spilling oil need to be disciplined. But they say the rules should not put responsible producers out of business.

"We're not trying to stop the regulations, but we're trying to make them make sense," said Rock Zierman, CEO of CIPA, the California Independent Petroleum Association.

Some industry groups assert that the burden of AB 1960 would fall hardest on small producers, the ranks of which are fairly common in Kern County. They point out that replacing an oil storage tank -- one of the most common measures envisioned by the industry under the law -- costs between a few thousand dollars and tens of thousands. Though bearable for a large producer, they say, that kind of outlay could prompt a small independent to close down an oil well rather than pay the expense.

The California Independent Petroleum Association estimates that 17 percent of California's oil production comes from small operations that produce less than 10 barrels a day.

But small producers are not alone in pushing for changes to the draft regulations. A spokesman for Chevron stated that the draft rules "seem to add red tape," and a spokeswoman for Bakersfield-based Aera Energy LLC sent an e-mail saying that the proposed regulations may be "overly bureaucratic," too prescriptive without setting performance standards, and "not cost effective."

Part of the industry's anxiety relates to the fact that AB 1960 is but the latest actual or proposed legislative imposition on California oil production. A separate law intended to reduce greenhouse gas emissions has yet to

be translated into enforceable rules. Meanwhile, the state Legislature is considering two separate proposals to levy new taxes on oil produced in the state.

Requesting input, not resistance

The industry's increasingly vocal opposition to the draft rules frustrates the state's new oil and gas supervisor, Elena M. Miller, a lawyer viewed by some as an outsider unfamiliar with the technical aspects of the oil industry. She said producers and the trade groups representing them are rushing to judgment at a time when they ought to be focused on providing useful testimony.

Among the misconceptions Miller said she is battling within the industry is the idea that draft regulations released last year are final. In fact, her team is still accepting public comments on the regulations. Last week she extended the comment period one additional week, until Thursday.

The next step will be to sift through hundreds of oral and written comments presented by the industry and general public, which she said will take months.

"Through the months of culling through them, the division will begin to learn what we've got right and what we need to reconsider," Miller said. "Any number of things can happen."

"If any changes are made (to the draft regulations), then we would put those out to the public, and another public comment period could begin, and we would go through this all over again," she continued. "So you see, this could go on for a long period of time."

Miller declined to estimate when new rules would take effect, saying, "I have no idea."

No sitting down together

A point of disagreement between her and some industry groups is how the rule-making process should proceed. As Miller sees it, AB 1960 requires her division to issue new rules. But industry associations say the preferred way has been to convene an existing working group composed of regulators and industry that would then hash out a compromise.

"We have a history of working together in a positive way," said CIPA's Zierman.

"We regret that they didn't use this process this time," he added.

Miller said it wasn't up to her.

"There's no discretion," she said, "and so therefore it's not something that we could go to our industry friends and say, 'Help us with this.' Because we're mandated."

Strategizing opposition

The industry's sense of helplessness has prompted strategies for fighting the proposed rules.

For example, producers and their representatives have reached out to state Assemblywoman Jean Fuller, R-Bakersfield, who indicated that she is "reviewing the situation" and may yet intervene.

"If there is something I can do to mediate the situation and ensure that independent producers across the state are fairly represented, I will work diligently on their behalf, as CIPA's member producers are critical contributors to California's economy and our national efforts to achieve energy independence," Fuller wrote in an e-mail.

Another possible measure, Zierman said, might be to object to the regulations when they reach the State Office of Administrative Law, which reviews rules to make sure they are clear and legally enforceable.

Earlier this month, local oil producer David Hartley, president of Kern-based Sacramento Energy Inc., and his brother, Roger Hartley formed a group of producers called California Oil Producers Association with the purpose of opposing AB 1960 as well as the proposed tax on oil production. David Hartley said the group still has fewer than 20 members and that it's open to any oil producer across the state.

Bureaucratic takeover?

In his opinion, AB 1960 is nothing less than an attempt by state bureaucrats to close down California oil production.

"They're not stupid, they're not misguided," David Hartley said. "They may not know the oil business, but they certainly know how to eliminate it."

For her part, Miller said the industry's conflict is not with her division but with the Legislature and the law's author, state Assemblyman Pedro Nava, D-Santa Barbara. A spokesman for Nava could not be reached for comment last week.

Added division spokesman Don Drysdale: "We're working on what we're told to work on."